

# PROJET DE LOI

ENTITLED

## **The Drought (Guernsey) Law, 1978 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* Ordres en Conseil Vol. XXVI, p. 239; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. \*\* of 2016).

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## **The Drought (Guernsey) Law, 1978**

### ARRANGEMENT OF SECTIONS

1. Control of water from private supply.
2. No restriction to be placed on water from a private supply unless a like restriction applies to water supplied by the Board.
3. No compensation payable for prohibition or limitation of use of water from a private supply.
4. Powers of entry, inspection, etc.
5. Burden of proof in certain proceedings.
6. Offences by bodies corporate.
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9. Citation.

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## **The Drought (Guernsey) Law, 1978**

**THE STATES**, in pursuance of their Resolution of the sixth day of October, nineteen hundred and seventy-six, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

### **Control of water from private supply.**

**1.** (1) Notwithstanding the provisions of any other enactment, if at any time the States are satisfied that, by reason of an exceptional shortage of rain or other exceptional circumstances, a serious deficiency of supplies of water exists or is threatened and that the deficiency is such as to be likely to impair the economic or social well-being of persons in the Island, then, subject to the provisions of this Law, the States may by Ordinance make provision for all or any of the following matters –

- (a) prohibiting or limiting the use of water from a private supply for such purposes and in such areas as may be specified in the Ordinance,
- (b) empowering the Board from time to time by order to bring into force all or any of the provisions of any Ordinance made under this subsection for such period and in relation to such area as may be specified in the order,
- (c) such incidental and supplementary matters for which the States may deem it necessary for the purposes of any such Ordinance to provide.

(2) Where the effect of any order made by the Board is to

prohibit or limit the use of water from a private supply, such order shall be laid before a meeting of the States as soon as may be after the making thereof and if, at that meeting or the next subsequent meeting, the States resolve that the order be annulled, the order shall cease to have effect but without prejudice to anything done thereunder or to the making by the Board of a new order.

**No restriction to be placed on water from a private supply unless a like restriction applies to water supplied by the Board.**

2. Notwithstanding the provisions of section one of this Law, no prohibition or limitation upon the use of water from a private supply shall be imposed by or under any Ordinance made under the provisions of the said section unless there is for the time being in force under the provisions of any other enactment a similar prohibition or limitation, as the case may be, upon the use of water supplied by the Board in accordance with the provisions of the States Water Supply Law.

**No compensation payable for prohibition or limitation of use of water from a private supply.**

3. No compensation shall be payable to any person in respect of loss or damage caused by any prohibition or limitation imposed under the provisions of this Law upon the use of water from a private supply.

**Powers of entry, inspection, etc.**

4. (1) Any person duly authorised in writing in that behalf by the Board may on giving reasonable notice and on production of his authority (if so required) enter on any land at any reasonable time for the purpose of making such inspection, examination and enquiry as may be necessary for the effectual operation of this Law or of any Ordinance or order made thereunder.

(2) Any person who wilfully obstructs a person from exercising any of the powers conferred upon him by subsection (1) of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 3 on the uniform scale].

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**NOTE**

*In section 4, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.*

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**Burden of proof in certain proceedings.**

5. If in any proceedings against the owner of a private supply for an offence concerning the unlawful use or abstraction of water from a private supply it is proved that such owner has stored or used water and the question arises as to whether that water is or is not water unlawfully taken from a private supply, the burden of proving that such water is not water unlawfully taken from a private supply shall be on such owner.

**Offences by bodies corporate.**

6. Where an offence under this Law which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

**Offences.**

7. A person who contravenes, or attempts to contravene or fails to comply with any of the provisions of an Ordinance or order made under this Law shall be guilty of an offence under this Law and shall on conviction be liable to a fine not exceeding [level 3 on the uniform scale].

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**NOTE**

*In section 7, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.*

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**Interpretation.**

8. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that

is to say –

**"the Board"** means the States [States' Trading Supervisory Board],

**"owner"** includes the occupier of land on which is situated a private supply and any other person who has a right to take water from such private supply,

**"private supply"** means a supply of water contained in a stream, well, borehole or quarry,

**"the States Water Supply Law"** means the Law entitled "Loi ayant rapport à la Fourniture d'Eau par les États de cette Île aux habitants de la dite Île" registered on the seventh day of May, nineteen hundred and twenty-seven<sup>a</sup>.

(2) Except in so far as the context otherwise requires, any reference in this Law to any other enactment shall be construed as a reference to that enactment as repealed and re-enacted, amended, extended or applied by or under any other enactment including this Law.

(3) Any power conferred by this Law to make any Ordinance or order shall be construed as including a power exercisable in the like manner to vary or repeal the Ordinance or order.

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#### NOTES

*In section 8, the words in square brackets in the definition of the expression "the Board" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016.<sup>1</sup>*

*The functions, rights and liabilities of the Public Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the States' Trading Supervisory Board and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May,*

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<sup>a</sup> Ordres en Conseil Vol. VIII, p. 112.

2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.<sup>2</sup>

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**Citation.**

9. This Law may be cited as the Drought (Guernsey) Law, 1978.

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**NOTE**

*The Law received Royal Sanction on 9th February, 1978 and was registered on the Records of the Island of Guernsey and came into force on 28th February, 1978.*

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<sup>1</sup> These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 31, with effect from 6th May, 2004.

<sup>2</sup> The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Law were transferred to and vested in them, respectively, from the Water Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 31, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.