

# ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

## The Alderney Water Supply (Amendment) Law, 1999

---

(Registered on the Records of the Island of Guernsey  
on the 17th August, 1999.)

---



1999

**VII**  
**1999**

## ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 17th day of August, 1999 before de Vic Graham Carey, Esquire, Bailiff; present:- Leonard Arthur Moss, Esquire, O.B.E., Lawrence Oscar Ozanne, John Richard Rowe Henry, David Charles Lowe, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Richard, O.B.E., Esquires, and The Reverend Peter Gerald Lane, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 22nd day of June, 1999 approving and ratifying a *Projet de Loi* entitled "The Alderney Water Supply (Amendment Law) 1999", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ORDERED:-

1. That the said Order in Council be registered on the records of this Island; and
2. That an extract of this present Act together with a copy of the said Order in Council be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island of which Order in Council the tenor followeth:-

## At the Court at Windsor Castle

The 22nd day of June 1999

PRESENT:

### The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 27th day of May 1999 in the words following, viz.:-

"YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of Jon Kay-Mouat, Esquire, president of the States of Alderney, setting forth:-

"That at a meeting of the States of Alderney held on the 16th day of December 1998, the States adopted a Resolution that a Projet de Loi entitled "The Alderney Water Supply (Amendment) Law, 1999" be approved: That at the meeting of the States aforesaid Your Humble Petitioner was authorised to present to Your Majesty in Council a Petition that the said Projet de Loi be sanctioned: That the said Projet de Loi is as set forth in the Schedule hereunto annexed: And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Projet de Loi entitled "The Alderney Water Supply (Amendment) Law, 1999" and order that the same shall have force of Law within the Island of Alderney.";

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the Projet de Loi annexed thereto into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and to ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Island of Alderney.

AND HER MAJESTY doth further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being, of the said Island of Guernsey, and also the Jurats of the said Island of Alderney, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*A. K. Galloway*

## **The Alderney Water Supply (Amendment) Law, 1999**

**THE STATES**, in pursuance of their Resolution of the 16th day of December, 1998, 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 Alderney.

### **Power to undertake works.**

1. For section 8 of the Alderney Water Supply Law, 1954, as amended<sup>a</sup>, substitute the following sections-

#### **"Power of Board to undertake works.**

8. (1) The Board may exercise any of the powers referred to in subsection (2) upon or in relation to any land where it decides that it is necessary or expedient to do so for the purposes of-

- (a) supplying water to the inhabitants of the Island or any of them; or
- (b) increasing, improving or protecting the Island's water storage capacity or the quantity or quality of water available for public consumption or supply.

(2) The powers referred to in subsection (1) which the Board may exercise upon or in relation to the land are as follows-

- (a) the Board may instal and subsequently use, maintain, repair, modify, replace, extend or improve any pipes, conduits, plant, machinery or equipment whatsoever whereby water or additional quantities of water may be abstracted, conveyed, pumped, treated or stored;

---

<sup>a</sup> Ordres en Conseil Vol. XVI, p. 129; Vol. XXIII, p. 523; and Vol. XXIV, p. 59.

- (b) for the purposes of exercising the powers mentioned in paragraph (a) or for any purpose ancillary or incidental thereto, the Board may carry out and subsequently maintain, repair, modify, replace, extend or improve such works, whether of excavation, construction or otherwise, as the Board may think fit;
- (c) for the purposes of exercising the powers referred to in paragraphs (a) and (b), but subject to the provisions of section 8E, the Board may, with its officers, servants, agents, workmen and contractors and all necessary equipment and materials, at all reasonable times enter and remain upon the land.

**Other powers not prejudiced.**

**8A.** The powers referred to in section 8(2) are in addition to and not in derogation from the powers conferred-

- (a) upon the Board by any other provision of this Law or by the Water (Control) (Alderney) Law, 1994<sup>b</sup>; or
- (b) upon the States by the Compulsory Purchase (Alderney) Law, 1986<sup>c</sup>.

**Works to be carried out quickly, etc.**

**8B.** The Board shall, when exercising any power referred to in section 8(2), take all reasonable steps to ensure that-

- (a) it causes the least possible inconvenience to the owner or occupier of the land in question;
- (b) makes good any damage caused to the land; and

---

<sup>b</sup> Order in Council No. XII of 1994.

<sup>c</sup> Ordres en Conseil Vol. XXIX, p. 156.

- (c) carries out any works as quickly and efficiently as possible and in a good and workmanlike manner.

**Compensation.**

**8C.** (1) The Board shall, if it exercises any power referred to in section 8(2) upon or in relation to any land which is not in the ownership of the States, pay compensation in accordance with the provisions of this section.

(2) The amount of compensation shall be the sum of the following heads of loss to the extent only that such heads of loss are sustained by the owner or occupier of the land upon or in relation to which the power was exercised-

- (a) the amount of any diminution in the value of the land;
- (b) compensation for any other loss, damage or injury;

and, in assessing the amount of compensation, there shall be taken into account the amount, if any, by which the value of the land has been enhanced by the works in question, which amount may be set off against the amount of compensation.

(3) No compensation shall be paid in respect of any head of loss referred to in subsection (2)-

- (a) unless the loss was sustained by the owner or occupier of the land in question as a direct consequence of the exercise by the Board of the powers referred to in section 8(2); or
- (b) as to which the owner or occupier has himself been in default.

(4) In the absence of agreement, the amount of compensation shall be determined by a single arbitrator.



(5) The Arbitration (Alderney) Law, 1983, as amended<sup>d</sup>, shall apply to an arbitration under this section.

**Proof of identity.**

**8D.** Any person seeking to enter or remain upon any land by virtue of the powers conferred by section 8(2) shall, whenever so requested by the owner or occupier of the land, furnish such proof of his identity as is necessary to establish that he is entitled to enter the land.

**Notice to be served.**

**8E.** (1) The Board shall, not less than 28 days before exercising the powers conferred by section 8(2)(c), except in cases of emergency, serve notice in writing on the owner or occupier of the land in question-

- (a) specifying the land upon which, and the period during which it is anticipated that, the powers are to be exercised;
- (b) stating the purpose mentioned in section 8(1) for which the powers are to be exercised and the action mentioned in section 8(2) which the Board intends to take.

(2) The Board may at any time withdraw or vary a notice under subsection (1); and the Board shall serve written notification of any such withdrawal or variation upon the owner or occupier of the land in question.

**Private agreements not affected.**

**8F.** Nothing in this Part of this Law affects the power of the States or the Board to make any agreement which they could otherwise have made.

**Offences.**

**8G.** A person who without reasonable excuse, proof whereof shall lie on him, obstructs any person acting or purporting to act in the exercise of any

---

<sup>d</sup> Ordres en Conseil Vol. XXVIII, p. 236; and Vol. XXIX, p. 171.



power conferred by section 8(2) shall be guilty of an offence and liable on conviction to a fine not exceeding level 5 on the Alderney uniform scale.

**Service of notices.**

**8H.** (1) Any notice or document to be served for the purposes of this Law it may be served-

- (a) on an individual, by being delivered to him, or by being left at, or sent by registered post or recorded delivery service to, his usual or last known place of abode;
- (b) on a body corporate with a registered office in the Island, by being left at, or sent by registered post or recorded delivery service to, the registered office;
- (c) on a body corporate without a registered office in the Island, by being left at, or sent by registered post or recorded delivery service to, the body's principal or last known principal place of business in the Island;
- (d) on an unincorporated body, by being served on any partner, manager or other similar officer thereof in accordance with paragraph (a), or by being left at, or sent by registered post or recorded delivery service to, the body's principal or last known principal place of business in the Island;
- (e) on the Board or the Chairman thereof, by being left at, or sent by registered post or recorded delivery service to, the States Office.

(2) If service of a notice or document cannot, after reasonable enquiry, be effected in accordance with subsection (1), the notice or document may be served by being-

- (a) published in the Alderney Official Gazette; and

(b) affixed to the notice board outside the Court House.

(3) If a person upon whom a notice or document is to be served under this Law is an infant or person under guardianship, the notice or document shall be served on his guardian; and if there is no guardian, the States may apply to the Court of Alderney for the appointment of a person to act as guardian for the purposes of this Law.

(4) Subsections (1) and (2) are without prejudice to any other lawful method of service.

**Interpretation.**

**8I.** In sections 8 to 8E-

**"land"** includes houses and buildings;

**"owner"**, in relation to any land, means-

- (a) where the land is the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour the order has been made;
- (b) where the land is not the subject of such saisie proceedings but is the subject of a vested right of usufruct, the usufructuary;
- (c) where the land is not the subject of such saisie proceedings or vested right of usufruct-
  - (i) where the land is held in trust, the trustees and the cestui que trust; or
  - (ii) where the land is not held in trust, the person in whom there is for the time being

vested, whether solely or jointly with another person, an estate of inheritance therein."

**Charges for supply of water.**

2. For section 14 of the Alderney Water Supply Law, 1954, as amended<sup>e</sup>, substitute the following section-

**"Supply of water and charges therefor.**

14. (1) The Board shall, at the request of the owner or occupier of any property in any street, road or public place in which any water pipe of the Board is laid, furnish to such property a sufficient supply of water for domestic purposes subject to the provisions of any Ordinance for the time being in force under the provisions of this section.

(2) The Board shall, at the request of any person desirous of having such supply, supply water for other than domestic purposes subject to the provisions of any Ordinance for the time being in force under the provisions of this section.

(3) The States may, from time to time, by Ordinance make such provision as they may deem necessary or expedient for all or any of the following matters-

- (a) the manner in which the charges for the supply of water by the Board shall be calculated;
- (b) fixing the charges which, save in so far as they are the subject of an agreement between the Board and a person desirous of having water supplied by the Board, may be made by the Board for the supply of water by the Board;

---

<sup>e</sup> Section 14 was substituted by Vol. XXIV, p. 59.

- (c) such other terms and conditions which are to be applicable to the supply of water by the Board.

(4) An Ordinance under the provisions of this section may make different provisions-

- (a) for the manner in which the supply of water, or the charges for the supply of water, by the Board for different purposes or cases or in different circumstances shall be calculated;
- (b) for the charges which may be made by the Board for the supply of water by the Board for different purposes or cases or in different circumstances;
- (c) for such other terms and conditions which are to be applicable to the supply of water by the Board for different purposes or cases or in different circumstances.

(5) The Board may from time to time vary water charges by Order, but not so as to result in an increase in those charges as last fixed by an Ordinance of the States under this section which exceeds the percentage increase if any in the Guernsey Retail Price Index during the period commencing nine months prior to the effective date of that Ordinance and ending on the most recent date for which that Index has been published in a Billet d'État of the States of Deliberation.

(6) Any Order made under this section shall be published in the Alderney Official Gazette as soon as possible after being made; but a failure to comply with this subsection shall not invalidate the order."

**Other minor amendments.**

3. (1) After section 12 of the Alderney Water Supply Law, 1954, as amended, insert the following section-

**"Liability for interruptions of supply."**

**12A.** The Board is not liable for any loss, injury or damage caused by a restriction or interruption of the water supply."

(2) In section 14A of the Alderney Water Supply Law, 1954, as amended<sup>f</sup> after the words "in accordance with the provisions of" insert "any Ordinance for the time being in force under".

**Citation.**

**4.** This Law may be cited as the Alderney Water Supply (Amendment) Law, 1999.

---

<sup>f</sup> Section 14A was inserted by Vol. XXIV, p. 59.