

PROJET DE LOI

ENTITLED

The States Water Supply (Amendment) (Guernsey) Law, 1991 *

[CONSOLIDATED TEXT]

NOTE

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* No. VII of 1991 (Ordres en Conseil Vol. XXXIII, p. 133); as amended by 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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ARRANGEMENT OF SECTIONS

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THE STATES, in pursuance of their Resolutions of the 28th day of January, 1988 and the 25th day of July, 1990, 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.

Liability for water damage.

1. (1) Where there is an escape of water from a main or service pipe, however caused, the States [States' Trading Supervisory Board] ("**the Board**") is liable, subject to subsections (2) and (3), for any damage done by the escaping water.

(2) The Board is not liable under subsection (1) if the escape is due wholly to the fault of the person who suffers the damage or his servants, agents or contractors.

(3) The States may by Ordinance limit the Board's liability under subsection (1) in respect of any one escape of water to the amount specified in the Ordinance.

(4) For the purposes of the provisions of the Fatal Accidents (Guernsey) Laws, 1900 and 1960^a and Parts I, II and IV of the Law Reform (Tort) (Guernsey) Law, 1979^b, the Board's liability under subsection (1) shall be deemed to have arisen by reason of the Board's negligence; and those provisions shall apply accordingly.

^a Ordres en Conseil Vol. III, p. 235; Vol. XVIII, p. 281.

^b Ordres en Conseil Vol. XXVII, p. 50.

(5) This section does not affect any liability of the Board arising independently of this section.

(6) An Ordinance under subsection (3) –

- (a) shall not have effect in respect of an escape of water occurring before the commencement of the Ordinance,
- (b) may contain incidental, supplemental, consequential and transitional provisions,
- (c) may be amended or repealed by a subsequent Ordinance thereunder.

NOTE

In section 1, the words in square brackets 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, 2016.¹

Section 2.

2. In section 1 –

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

"damage" means physical damage to property, death or personal injury (including any disease and any impairment of physical or mental condition),

"fault" means negligence, breach of statutory duty or other acts or omissions which give rise to a liability in tort or which would, apart from Part I of the Law Reform (Tort) (Guernsey) Law, 1979, give rise to a defence of contributory negligence,

"main" means a pipe vested in the Board and used by the Board for

the purpose of making a general supply of water available to customers of the Board (as opposed to the purpose of providing a supply to particular customers),

"service pipe" means a pipe (other than a main) connected to a main, vested in the Board and used by the Board for the purpose of supplying water from the main to any property, but only includes such part thereof –

- (a) as is subject to water pressure from the main (or would be so subject but for the closing of some valve), and
- (b) as lies between the main and the boundary of the first property supplied by the service pipe.

NOTES

In section 2, 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, 2016.²

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, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.³

Amendment to 1927 Law.

3. In 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 7th May, 1927, as amended^c –

- (a) in article 6 –

^c Ordres en Conseil Vol. VIII, p. 112; Vol. XI, p. 236; Vol. XV, p. 274; Vol. XXVI, p. 536; and Nos. VII and XVI of 1987.

- (i) after "and may do all other acts" insert "which are incidental to the exercise of those powers and",
 - (ii) for "damage which may be done in the execution of such powers" substitute "physical damage done at the time of and in the course of the execution of those powers (other than damage done by escaping water)",
- (b) after article 12 insert –

"Liability of Board for interruptions of supply."

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

Citation.

4. This Law may be cited as the States Water Supply (Amendment) [(Gunersey)] Law, 1991.

NOTE

The word in square brackets shown, incorrectly, in the printed version of this section as "(Gunersey)" should read "(Guernsey)".

Collective title.

5. This Law and the States Water Supply Laws, 1927 to 1987, may be cited together as the States Water Supply Laws, 1927 to 1991.

Commencement.

6. This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions.

NOTE

The Law was brought into force on 1st July, 2004 by the States Water Supply Amendment) (Guernsey) Law, 1991 (Commencement) Ordinance, 2004, section 1.

¹ The words "States' Trading Supervisory Board" 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.

² 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.

³ 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.