

ORDER IN COUNCIL

XV

1974

ratifying a Projet de Loi

ENTITLED

The Sewerage (Guernsey) Law, 1974

(Registered on the Records of the Island of Guernsey
on the 5th day of November, 1974.)



1974.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 5th day of November, 1974, before John Henry Loveridge, Esquire, C.B.E., Bailiff; present:— Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Walter Francis Robin, Richard Alan Kinnersly, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Brook Sutcliffe, Richard Oliver Symons and Albert Richard McCartney Straw, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 16th day of October, 1974, ratifying a *Projet de Loi* entitled "The Sewerage (Guernsey) Law, 1974", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 16th day of October 1974

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 4th day of October 1974, 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 the States of the Island of Guernsey, setting forth:—

‘1. That, in pursuance of their Resolution of the 31st day of January 1973, the States of Deliberation at a meeting held on the 29th day of May 1974, approved a Bill or “Projet de Loi” entitled “The Sewerage (Guernsey) Law, 1974” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto: 2. That the said Bill or “Projet de Loi” is in the words and figures 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 Bill or “Projet de Loi” of the States of Guernsey entitled “The Sewerage (Guernsey) Law, 1974” and to order that the same shall have force of law in the Island of Guernsey.’

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi 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 ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HER MAJESTY doth hereby 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 in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. E. Leigh

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Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Sewerage (Guernsey) Law, 1974

ARRANGEMENT OF SECTIONS

Section

1. General duty of the Committee to provide for sewerage.
2. Provision of public sewers by the Committee.
3. Adoption of sewers by the Committee.
4. Power of the Committee to require that proposed sewer be so constructed as to form part of general system.
5. Meaning of public sewer.
6. Power of the Committee to alter or close public sewers.
7. Duty of the Committee to maintain public sewers.
8. Right of owners to drain into public sewers.
9. Right of the Committee to undertake the making of connections with public sewers.
10. New buildings to be provided with any necessary drains, etc.
11. Provisions as to drainage, etc., of existing buildings.
12. Power of the Committee to alter drainage system of premises and to provide connection with public sewers.
13. Disconnection of drains.
14. Duty of the Committee to keep map of public sewers.

Section

15. Buildings not to be erected without consent over public sewer.
16. Certain matter not to be passed into public sewers.
17. Power to enter premises.
18. Penalty for obstruction.
19. Offences by bodies corporate.
20. Continuing offences and penalties.
21. Compensation for damage resulting from exercise of powers under this Law.
22. Mode of reference to arbitration.
23. Service of notices.
24. Appeals.
25. Work in default under sections 4, 11, 12, 13 and 15.
26. Power to require occupier to permit work to be executed by owner.
27. Power of the Committee as to breaking open of public highways.
28. Variation and repeal of Ordinances.
29. Interpretation.
30. Repeal.
31. Citation.
32. Commencement.

PROJET DE LOI

ENTITLED

The Sewerage (Guernsey) Law, 1974

THE STATES, in pursuance of their Resolution of the thirty-first day of January, nineteen hundred and seventy-three, 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.

1. It shall be the duty of the Committee to provide such public sewers as the Committee may, from time to time, deem necessary and to make such provision by means of sewage disposal works or otherwise as may be necessary for effectually dealing with the contents of such sewers.

General
duty of the
Committee
to provide
for sewerage.

2. (1) Subject to the succeeding provisions of this section, where the Committee is satisfied that it is expedient for the carrying out of any of its duties under this Law, the Committee may construct a public sewer—

Provision of
public
sewers
by the
Committee.

(a) in, under or over any public highway;

(b) in, on or over any land not forming part of a public highway with the approval of the States signified in that behalf by Resolution of the States.

(2) The Committee shall, before submitting a recommendation to the States for their approval under the provisions of paragraph (b) of the last preceding subsection, serve a notice in writing on the owner and occupier of the land in, on or over which the proposed sewer is to be constructed notifying them of the Committee's proposal to construct

a public sewer and of their right to claim compensation for damage in accordance with the provisions of section twenty-one of this Law in the event of the exercise by the Committee of its powers to construct such public sewer under the provisions of the said subsection.

(3) A recommendation to the States for their approval under the provisions of paragraph (b) of subsection (1) of this section shall indicate the land in, on or over which the proposed sewer is to be constructed by reference to a plan, either with or without descriptive matter, to be signed by the President of the States and deposited at the Greffe, and a copy of which plan shall be exhibited by Her Majesty's Greffier in the Vestibule of the Royal Court for not less than one week immediately preceding the date of the meeting of the States at which the recommendation of the Committee is to be considered.

(4) A Resolution passed by the States giving their approval under the provisions of paragraph (b) of subsection (1) of this section shall be registered by Her Majesty's Greffier in the "Livre des Contrats" on the passing of such Resolution.

(5) The Committee shall, as soon as may be after the passing of a Resolution of the States giving their approval under the provisions of paragraph (b) of subsection (1) of this section, cause a copy of such Resolution to be served on the persons who were the owner and occupier of the land in, on or over which the proposed sewer is to be constructed immediately before the passing of the Resolution and the Committee shall not construct such sewer in, on or over such land until a copy of such Resolution has been served on such persons.

3. (1) Subject to the succeeding provisions of this section, the Committee may at any time declare that the title to any private sewer shall, as from the date specified in the declaration, become vested in the States.

Adoption of
sewers
by the
Committee.

(2) Where the Committee proposes to make a declaration under the provisions of this section, the Committee shall serve a notice in writing on the owner of such sewer, notifying him of the Committee's proposal to make a declaration, and the Committee shall take no further action in the matter until either two months have elapsed without an appeal against the Committee's proposal being made under the next succeeding subsection, or, as the case may be, until any appeal so made has been determined.

(3) Any owner aggrieved by a proposal of the Committee to make a declaration under the provisions of this section may, within two months from the date of the service on him of a notice of such proposal, appeal to the Royal Court; and on the hearing of an appeal under this subsection, the Royal Court may either disallow the proposal of the Committee or allow it with or without conditions imposed upon the Committee, including conditions as to the payment of compensation by the States and the Court may in addition order that the declaration proposed to be made by the Committee shall be of no effect until any conditions so imposed are complied with by the Committee.

(4) A declaration under the provisions of this section shall be made by the Committee by means of an entry signed by the President of the Committee in a book which may be a loose-leaf book (hereinafter referred to as "the Register of Adopted Sewers") kept solely for the purpose by the Committee.

(5) The Committee shall, as soon as may be after the making of a declaration under the provisions of this section, cause a copy of the entry in the Register of Adopted Sewers relating thereto, signed by the President of the Committee, to be served on the person who was the owner of such sewer immediately before the making of such declaration.

(6) Any person who, immediately before the making of a declaration under the provisions of this section, was entitled to use such sewer shall be entitled to use it, or any sewer substituted therefor, to the same extent as if such declaration had not been made.

(7) A declaration under this section may be made with respect to part only of a sewer.

Power of the Committee to require that proposed sewer be so constructed as to form part of general system.

4. (1) Where a person proposes to construct a private sewer, the Committee may, if it considers that the proposed sewer is, or is likely to be, needed to form part of a general sewerage system which is in existence or which the Committee proposes to provide, serve a notice in writing on that person requiring him to construct the sewer in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall, or otherwise, from the manner in which he proposes, or could otherwise be required under regulations made under the Building (Guernsey) Law, 1956(a), to construct it.

(2) Any person aggrieved by a requirement of the Committee under the provisions of the last preceding subsection may, within twenty-eight days from the date of the service on him of a notice of such requirement, appeal to the Royal Court,

which may either disallow the requirement of the Committee or allow it with or without modifications.

(3) Where the Committee exercises the powers conferred on it by subsection (1) of this section, the States shall pay to the person constructing the sewer the extra expenses reasonably incurred by him in complying with the Committee's requirement; and, until the sewer becomes vested in the States under the provisions of this Law, the States shall in addition from time to time pay to such person so much of any expenses reasonably incurred by him in repairing or maintaining such sewer as may be attributable to the Committee's requirement having been complied with.

(4) Any dispute arising as to the amount of any payment to be made under the provisions of the last preceding subsection shall be determined by arbitration in accordance with the provisions of section twenty-two of this Law.

5. (1) Subject to the provisions of the next succeeding subsection, a sewer which by virtue of this Law continues to be, or becomes, vested in the States shall be known as, and is in this Law referred to as, "a public sewer".

Meaning
of public
sewer.

(2) A sewer constructed or acquired by the States, whether before or after the commencement of this Law, for the purpose only of serving property belonging to the States shall not be deemed to be a public sewer for the purposes of this Law until such sewer has been declared by the Committee to be a public sewer; and the provisions of subsection (4) of section three of this Law shall apply in relation to a declaration made under this subsection as they apply in relation to a declaration made under that section.

Power of the
Committee
to alter
or close
public
sewers.

6. The Committee may alter the size or course of any public sewer or may discontinue, prohibit or restrict, the use of any such sewer, but, before any person who is lawfully using the sewer for any purpose is deprived by the Committee of the use of the sewer for that purpose, the Committee shall provide a sewer equally effective for his use for that purpose and shall at the expense of the States carry out any work necessary to make his sewers connect with the sewer so provided.

Duty of the
Committee
to maintain
public
sewers.

7. It shall be the duty of the Committee to repair, maintain, cleanse and empty all public sewers in this Island.

Right of
owners to
drain into
public
sewers.

8. (1) Subject to the succeeding provisions of this section, the owner of any premises, or the owner of any private sewer, shall be entitled to have the drains from those premises or such private sewer, as the case may be, made to connect with the public sewers in the public highway and thereby to discharge foul water and surface water from those premises or such private sewer:

Provided that nothing in this subsection shall entitle any person—

- (a) to discharge directly or indirectly into any public sewer—
 - (i) except with the consent of the Committee, any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or
 - (ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any enactment, including this Law; or

- (b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—
 - (i) foul water into a sewer provided for surface water; or
 - (ii) except with the consent of the Committee, surface water into a sewer provided for foul water; or
- (c) to have his drains or sewers made to connect directly with a storm-water overflow sewer.

(2) Subject to the provisions of the Public Thoroughfares (Guernsey) Law, 1958(b), with respect to the breaking open of public highways, the owner of any premises, or the owner of any private sewer, may, with the consent of the Committee, break open any public highway for the purpose of exercising his rights under this section and for the purpose of examining, repairing or renewing any drain or private sewer draining his premises into a public sewer.

(3) The owner of any premises, or the owner of any private sewer, desirous of having the drains from those premises or such private sewer, as the case may be, made to connect with a public sewer under the provisions of this section shall give to the Committee notice in writing of his proposals, and at any time within twenty-one days from the date of the receipt of such notice, the Committee may by notice in writing to such owner refuse to permit the connection to be made, if it appears to the Committee that—

- (a) the public sewer with which the connection is proposed to be made is insufficient to deal effectively with such drainage; or

- (b) the mode of construction or condition of the drain or sewer is such that the making of the connection would be prejudicial to its sewerage system;

and for the purpose of examining the mode of construction and condition of the drain or sewer the Committee may, if necessary, require it to be laid open for inspection.

- (4) Any owner aggrieved by a decision of the Committee refusing to permit any connection to be made with a public sewer under the provisions of the last preceding subsection may, within twenty-eight days from the date of the service on him of a notice of such refusal, appeal to the Royal Court, which may either confirm the decision of the Committee refusing to permit the connection to be made or permit the connection to be made with or without conditions.

- (5) Where the Committee does not under the provisions of the next succeeding section elect itself to make the connection, the person making it shall, before commencing the work, give reasonable notice to the Committee and afford any person directed by the Committee to superintend the execution of the work all reasonable facilities for superintending the execution thereof.

- (6) A person causing a drain or sewer to connect with a public sewer without complying with, or in contravention of, any of the provisions of this section, or before the expiration of the period mentioned in subsection (3) of this section, shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds and, whether proceedings have or have not been taken in respect of that offence, the Committee may close

any connection made in contravention of any of those provisions and recover from such person any expenses reasonably incurred by it in so doing as a civil debt due to the States.

9. (1) Where under the provisions of the last preceding section the owner of any premises, or the owner of any private sewer, gives to the Committee notice of his proposal to have the drains from those premises or such private sewer, as the case may be, made to connect with a public sewer, the Committee may, within fourteen days from the date of the receipt of such notice, give notice in writing to such person that the Committee intends itself to make the connection and, if after such a notice has been given to him, he proceeds himself to make the connection, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds and, whether proceedings have or have not been taken in respect of that offence, the Committee may close any connection made in contravention of the provisions of this subsection and recover from such person any expenses reasonably incurred by it as a civil debt due to the States.

Right of the Committee to undertake the making of connections with public sewers.

(2) Where the Committee has given a notice under the provisions of the last preceding subsection, the Committee shall have all such rights in respect of the making of the connection as the person desiring it to be made would have, but it shall not be obligatory on the Committee to make the connection until the cost of the work, as estimated by the Committee, has been paid to the States.

(3) If any payment made under the provisions of the last preceding subsection exceeds the expenses reasonably incurred by the Committee in the execution of the work, the excess shall be repaid by the

States to the person concerned and, if and so far as those expenses are not covered by the payment, if any, made to the States, the States may recover the expenses, or the balance thereof, from the person for whom the work was done as a civil debt due to the States.

(4) For the purposes of this section, the making of the connection between a drain or private sewer and a public sewer includes all such work as involves the breaking open and re-instating of a public highway.

New buildings to be provided with any necessary drains, etc.

10. (1) Where plans of a building or an extension of a building are, in accordance with regulations made under the Building (Guernsey) Law, 1956, deposited with the Authority, the Authority shall reject the plans unless either the plans show to the satisfaction of the Authority that satisfactory provision will be made for the drainage of the building or of the extension, as the case may be, or the Authority is satisfied that in the case of the particular building or extension it may properly dispense with any provision for drainage.

(2) Any person aggrieved by a decision of the Authority rejecting any plans under the provisions of the last preceding subsection may, within twenty-eight days from the date of the service on him of a notice of such rejection, appeal to the Royal Court, which may either confirm the decision of the Committee rejecting such plans or order that any provision for drainage be dispensed with, or, as the case may be, that the provision for drainage proposed to be provided be accepted as satisfactory.

(3) A proposed drain shall not be deemed to be a satisfactory drain for the purposes of this section unless it is proposed to be made as the Authority, or as the Royal Court on an appeal made under

the provisions of the last preceding subsection, may require, either to connect with a sewer, or to discharge into a cesspool or into some other place:

Provided that, subject to the provisions of the next succeeding subsection, a drain shall not be required to be made to connect with a public sewer unless—

- (a) that sewer is within one hundred feet of the site of the building or, in the case of an extension, the site either of the extension or of the original building, and is at a level which makes it reasonably practicable to construct a drain to connect therewith; and
- (b) the intervening land is land through which that person is entitled to construct a drain.

(4) Notwithstanding anything in proviso (a) to the last preceding subsection, a drain may be required to be made to connect with a public sewer which is not within the distance mentioned in that proviso if the Committee undertakes to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, the drain as may be attributable to the fact that the distance of the public sewer exceeds the distance so mentioned.

(5) Any dispute arising as to the amount of any payment to be made to a person under the last preceding subsection shall be determined by arbitration in accordance with the provisions of section twenty-two of this Law.

11. (1) If it appears to the Committee that in the case of any building—

- (a) satisfactory provision has not been, and ought to be, made for drainage; or

Provisions
as to
drainage,
etc. of
existing
buildings.

- (b) any cesspool, private sewer, drain, soil pipe, rain water pipe, spout, sink or other necessary appliance provided for the building, is insufficient or, in the case of a private sewer or drain connecting directly or indirectly with a public sewer, is so defective as to admit subsoil water; or
- (c) any cesspool or other such work or appliance as aforesaid provided for the building is in such a condition as to be prejudicial to health or a nuisance; or
- (d) any cesspool, private sewer or drain formerly used for the drainage of the building, but no longer used therefor, is prejudicial to health or a nuisance;

the Committee may by notice in writing require the owner of the building to make satisfactory provision for the drainage of the building, or, as the case may be, require such owner to do, within such time as shall be specified in such notice, such work as may be necessary for renewing, repairing or cleansing the existing cesspool, sewer, drain, pipe, spout, sink or other appliance, or for filling up, removing or otherwise rendering innocuous the disused cesspool, sewer or drain.

(2) Any owner aggrieved by a requirement of the Committee under the provisions of the last preceding subsection may, within twenty-eight days from the date of the service on him of a notice of such requirement, appeal to the Royal Court, which may either disallow the requirement of the Committee or allow it with or without modifications.

12. (1) Where any premises have a drain or sewer connecting with a public sewer or a cesspool, but that system of drainage, though sufficient for the effectual drainage of the premises, is not adapted to the general sewerage system of the area in which the premises are situate, or is, in the opinion of the Committee, otherwise objectionable, the Committee may, after giving reasonable notice of the proposal to the owner of such premises and subject to the provisions of subsection (3) of this section relating to appeals, at its own expense and on condition that it first provides in a position equally convenient to such owner a drain or sewer equally effectual for the drainage of such premises and connecting with a public sewer, close the existing drain or sewer and fill up the cesspool, if any, and do any work necessary for that purpose.

Power of the Committee to alter drainage system of premises and to provide connection with public sewers.

(2) Notwithstanding the provisions of the last preceding subsection, where the drains of a building are not connected with a public sewer the Committee may in its discretion by notice in writing require the owner of the building to make satisfactory provision for the connection thereof with a public sewer where—

- (a) the expense of effecting such connection will not exceed the sum of one hundred and twenty pounds, or such other sum as the States may from time to time by Ordinance prescribe; and
- (b) a loan to meet such expense is available to such owner from the Authority.

(3) Any owner aggrieved by a proposal of the Committee to execute any work under the provisions of subsection (1) of this section or by a requirement of the Committee for the connection of the drains of his building with a public sewer under the pro-

visions of the last preceding subsection may, within twenty-eight days from the date of the service on him of a notice of such proposal or requirement, as the case may be, appeal to the Royal Court, which may either disallow the proposal or requirement of the Committee or allow such proposal or requirement with or without modifications.

Disconnection of drains.

13. (1) Where any person—

- (a) reconstructs in the same or in a new position a drain which connects with a sewer or another drain; or
- (b) executes any work to such a drain so as permanently to discontinue its use; or
- (c) executes any work on premises served by such a drain so as permanently to discontinue its use;

he shall give reasonable notice in writing of such work to the Committee and shall cause any drains or parts of drains thereby becoming disused or unnecessary to be disconnected and sealed at such points as the Committee may by notice in writing to such person reasonably require.

(2) Any person aggrieved by a requirement of the Committee under the provisions of the last preceding subsection may, within twenty-eight days from the date of the service on him of a notice of such requirement, appeal to the Royal Court, which may either disallow the requirement of the Committee or allow it with or without modifications.

(3) A person shall not be required under this section to carry out any work in land outside the premises served by such drain if he has no right to carry out that work.

(4) Before a person complies with any requirement of the Committee under this section he shall give at least forty-eight hours' notice to the Committee, and a person who fails to comply with this subsection shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds.

(5) A person who knowingly fails to comply with the provisions of subsection (1) of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds and to a further fine not exceeding twenty-five pounds for every day during which the offence is continued after conviction.

14. (1) Subject to the provisions of the next succeeding subsection the Committee shall keep deposited at the Greffe, for inspection by any person free of charge, a map showing and distinguishing all sewers which are—

Duty of the Committee to keep map of public sewers.

(a) public sewers; and

(b) sewers with respect to which a declaration of vesting has been made under section three of this Law but has not yet taken effect;

and showing also the purposes which each such sewer serves or is intended to serve.

(2) It shall not be obligatory on the Committee to show on the map required to be kept under this section a public sewer which was vested in the States before the commencement of this Law.

15. (1) A person shall not erect any building over any public sewer except with the consent in writing of the Committee and in accordance with such conditions as may be specified in the Committee's consent.

Buildings not to be erected without consent over public sewers.

(2) If the Committee has reason to believe that a building has been or is being erected in contravention of the provisions of the last preceding subsection, the Committee may serve a notice in writing on the owner of such building requiring him, within such time as shall be specified in such notice, to pull it down and remove it or alter it in such manner as may, in the opinion of the Committee, be necessary.

(3) Any owner aggrieved by a requirement of the Committee under the provisions of the last preceding subsection may, within twenty-eight days from the date of the service on him of a notice of such requirement, appeal to the Royal Court, which may either disallow the requirement of the Committee or allow it with or without modifications.

Certain
matters
not to be
passed into
public
sewers.

16. (1) A person shall not throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any sewer communicating with a public sewer—

(a) any matter likely to injure the sewer or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or

(b) any chemical refuse or waste steam, or any liquid of a temperature higher than 44 degrees Centigrade, being refuse or steam which, or liquid which when so heated, is, either alone or in combination with the contents of the sewer, dangerous, or the cause of a nuisance, or prejudicial to health; or

(c) any petroleum spirit or carbide of calcium.

(2) Any person who contravenes any of the provisions of the last preceding subsection shall be

guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds and to a further fine not exceeding twenty-five pounds for every day during which the offence is continued after conviction.

(3) In this section the expression "petroleum spirit" means—

- (a) any crude petroleum;
- (b) any oil made from petroleum, or from coal, shale, peat or other bituminous substance;
or
- (c) any product of petroleum or mixture containing petroleum;

which gives off an inflammable vapour at a temperature of less than 23 degrees Centigrade when tested in the manner prescribed by the Acts of the United Kingdom relating to petroleum.

17. (1) A person authorised in that behalf by the Committee, shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

Power to
enter
premises.

- (a) for the purpose of surveying land in connection with the exercise or proposed exercise by the Committee of its duties under this Law;
- (b) for the purpose of ascertaining whether there is, or has been, on or in connection with such premises any contravention of the provisions of this Law;
- (c) for the purpose of ascertaining whether or not circumstances exist which would authorise or require the Committee to take any action, or execute any work, under this Law;

- (d) for the purpose of taking any action, or executing any work, authorised or required by this Law to be taken or executed by the Committee;
- (e) generally for the purpose of the performance by the Committee of its duties under this Law:

Provided that—

- (i) in the case of entry under paragraph (a) of this subsection admission to any land shall not be demanded as of right unless one week's notice in writing of the intended entry has been given by the Committee to the owner and occupier;
- (ii) in the case of entry under paragraphs (b), (c), (d) and (e) of this subsection admission to any premises used only as a private dwelling-house shall not be demanded as of right unless twenty-four hours' notice in writing of the intended entry has been given by the Committee to the occupier.

(2) A person entitled under the provisions of the last preceding subsection to enter any premises may take with him such other persons and such vehicles, materials and equipment as may be necessary.

(3) Any power conferred under the provisions of subsection (1) of this section to survey land shall be construed as including the power to bore for the purpose of ascertaining the nature of the subsoil: Provided that a person shall not carry out any work authorised by this subsection unless the notice required by paragraph (i) of the proviso to the said subsection (1) includes notice of the intention so to do and the right to claim compensation for damage in accordance with the provisions of section twenty-four of this Law.

18. Any person who wilfully obstructs any person in the exercise of his powers under this Law shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds. Penalty for obstruction.

19. Where a person convicted of an offence under this Law is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence. Offences by bodies corporate.

20. Where provision is made in this Law for the imposition of a daily penalty in respect of a continuing offence, the Court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by such person with any order given by the Court and, where the Court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration thereof. Continuing offences and penalties.

21. (1) Subject to the succeeding provisions of this section, the States shall make full compensation to any person who has sustained damage by reason of the exercise by the Committee of any of its powers under this Law in relation to any matter as to which he has not himself been in default. Compensation for damage resulting from exercise of powers under this Law.

(2) Any dispute arising under the provisions of this section as to the fact of damage, or as to the amount of compensation, shall be determined by arbitration in accordance with the provisions of section twenty-two of this Law. Arbitration.

(3) A person shall not be entitled by virtue of the provisions of this section to claim compensation on the ground that the Committee has, by a declaration made under the provisions of section three of this Law, declared any sewer to be vested in the States.

(4) Where an owner of land claims compensation in respect of damage sustained by reason of the Committee having, in the exercise of its powers under the provisions of section two of this Law, constructed a sewer in, on or over his land, the arbitrator or umpire, as the case may be, appointed in accordance with the provisions of the next succeeding section, in determining the amount of the compensation, shall in addition determine by what amount, if any, the value to such owner of any land belonging to him has been enhanced by the construction of the sewer, and the States shall be entitled to set that amount against the amount of any compensation awarded.

Mode of
reference to
arbitration.

22. In any arbitration under the provisions of this Law, the reference shall be to two arbitrators, one appointed by the Committee and one appointed by the claimant against the States, which arbitrators shall appoint an umpire immediately after they themselves are appointed to determine the question referred to them should they fail to agree, and the decision of such arbitrators or umpire, as the case may be, shall be final and binding on the parties and persons claiming through them.

Service of
notices.

23. (1) Subject to the succeeding provisions of this section, any notice which may be served for the purposes of this Law shall be validly served—

(a) on any person, if delivered to him, left, or sent by registered post or by recorded

delivery service to him, at his usual or last known place of abode;

(b) on any firm if delivered to any partner of the firm or left at, or sent by registered post or by recorded delivery service to, the principal or last known principal place of business of the firm;

(c) on any body corporate, if left at, or sent by registered post or by recorded delivery service to, its registered office if situate in this Island or, if its registered office is not so situate, its principal or last known principal place of business in this Island;

or if notice on any such person, firm or body corporate cannot be served as aforesaid, or if it is not practicable after reasonable enquiry to ascertain the name of the person on whom the notice is to be served, notice shall be published on at least two occasions in "La Gazette Officielle" and such publication shall constitute sufficient service of the notice on any such person, firm or body corporate, as the case may be.

(2) Where two or more persons are the owners or occupiers of any premises or the owners of any sewer, or where two or more persons jointly propose to construct a sewer, any notice served on one of those persons in accordance with the provisions of this section shall, for the purposes of this Law, be deemed to be service on all of those persons.

(3) Where the owner or occupier of any premises or the owner of any sewer is an infant or a person under guardianship, any notice to be served in respect of those premises or that sewer for the purposes of this Law shall be served on the guardian of that infant or person, as the case may be, and in any case in which there is no guardian, the Committee

may apply to the Royal Court for the appointment of a guardian to act as such for the purposes of this Law.

Appeals.

24. (1) An appeal under this Law shall be instituted by way of summons which shall set out the material facts upon which the appellant relies and which shall be served on the President of the Committee or the President of the Authority, as the case may be, to show cause why the decision appealed from should not be set aside or varied.

(2) The decision of the Royal Court on any appeal under this Law shall be final and conclusive.

Work in default under sections 4, 11, 12, 13 and 15.

25. Where a person has failed to comply with a requirement of the Committee made on him under the provisions of sections four, eleven, twelve, thirteen or fifteen of this Law and—

(a) he has not appealed to the Royal Court against such requirement and the time for appealing has expired; or

(b) his appeal has been dismissed or such requirement has been modified on his appeal and he has failed to comply with such requirement as so modified;

the Committee may execute the work specified in the requirement as originally made or as modified on appeal, as the case may be, and may recover the expenses reasonably incurred by it in so doing from the person in default as a civil debt due to the States.

Power to require occupier to permit work to be executed by owner.

26. (1) Where on an application made to the Royal Court by the owner of any premises, it appears to the Royal Court that the occupier of such premises prevents such owner from executing any work which he is by or under this Law required

to execute, the Royal Court may order the occupier to permit the execution of such work.

(2) An application made under the provisions of the last preceding subsection shall be instituted by way of summons which shall be served on the occupier of such premises.

27. The Committee may for the carrying out of any of its duties under this Law open, break up, tunnel or bore into any public highway for the purpose of placing, constructing, inspecting, maintaining, adjusting, repairing, altering, renewing, removing or changing the position of, any drain or sewer.

Power of the Committee as to breaking open of public highways.

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

Variation and repeal of Ordinances.

29. (1) In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation.

“the Authority” means the States Housing Authority;

“the Committee” means the States Public Thoroughfares Committee;

“drain” means a drain used for the drainage of one building or of any building or yards appurtenant to buildings within the same curtilage;

“drainage” includes the conveyance of refuse water and the conveyance of rain water from roofs;

“erect” includes re-erect and the expression “erected” shall be construed accordingly;

“this Island” means the Island of Guernsey;

“occupier”, in relation to any premises, means the person who, not being the owner of those premises, is in or is entitled to actual possession of those premises;

“owner” in relation to any premises means—

- (a) where the premises are the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour such order has been made;
- (b) where the premises are not the subject of saisie proceedings but are the subject of a vested right of usufruct, the usufructuary;
- (c) where the premises are not the subject of such saisie proceedings or of such right of usufruct—
 - (i) the beneficial owner, if those premises are not held in trust; or
 - (ii) the trustees, if those premises are held in trust;

“prejudicial to health” means injurious, or likely to cause injury, to health;

“premises” includes land;

“private sewer” means a sewer which is not a public sewer;

“public sewer” has the meaning assigned to it by subsection (1) of section five of this Law;

“public highway” includes the carriageway, verges and footpath of any road, street, lane, alley or passage repairable in whole or in part by the States;

“the Royal Court” means the Royal Court sitting as an Ordinary Court;

"sewer" includes sewers of every description used for the drainage of any building or land and also includes sewage disposal works and any other apparatus used in connection with such drainage; and the expression "sewerage" shall be construed accordingly;

"surface water" includes water from roofs.

(2) Any reference in this Law to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Law.

30. The Sewerage (Guernsey) Law, 1948(c), is hereby Repealed.
by repealed:

Provided that nothing in this repeal shall—

- (a) affect any right, title or interest to or in any public sewer situate in this Island vested in the States; or
- (b) affect any responsibility for the construction, reconstruction, alteration, repair, maintenance, cleansing or emptying of public sewers situate in this Island vested in the Committee or any of the powers of the Committee to undertake any work necessary for the execution of any of the duties assigned to the Committee by virtue of any of the provisions of the said enactment hereby repealed;
- (c) affect the previous operation of the said enactment hereby repealed, or of any enactments repealed by the said enactment,

or anything done or suffered thereunder;
or

(d) affect any liability or penalty incurred thereunder; or

(e) affect any legal proceedings or remedy in respect of any such liability or penalty;

and any such legal proceeding or remedy may be instituted or continued, and any such penalty may be imposed, as if the said repeal had not been enacted.

Citation.

31. This Law may be cited as the Sewerage (Guernsey) Law, 1974.

**Commence-
ment.**

32. This Law shall come into force on such day as shall be appointed in that behalf by Ordinance of the States.

R. H. VIDELO,

Her Majesty's Greffier.