



Jersey

WATER POLLUTION (AMENDMENT No. 2) (JERSEY) LAW 2007

Arrangement

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A LAW to amend further the Water Pollution (Jersey) Law 2000.

Adopted by the States 28th March 2006

Sanctioned by Order of Her Majesty in Council 14th December 2006

Registered by the Royal Court 5th January 2007

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law, “principal Law” means the Water Pollution (Jersey) Law 2000¹.

2 Article 1 amended

In Article 1(1) of the principal Law, the definition “person” shall be deleted.

3 Article 2 amended

In Article 2(1)(c) of the principal Law, after the words “surface water sewers” there shall be inserted the words “, surface water drains”.

4 Article 4 amended

In Article 4 of the principal Law, the following paragraph shall be added as paragraph (2), and the paragraph preceding it shall be renumbered accordingly as paragraph 1 –

“(2) However, ‘pollution’ does not include a discharge by the Minister or by a person acting on his or her behalf, for the purposes of the

exercise of a regulatory power or the performing of a regulatory duty under this Law.”.

5 Article 9 replaced

For Article 9 of the principal Law there shall be substituted the following Article –

“9 Consultation with other persons

- (1) Before proceeding on any proposal to make a Water Quality Order –
 - (a) the Minister shall consult the Minister for Health and Social Services and the Company; and
 - (b) the Minister shall also consult such other Ministers, and other persons, as he or she considers appropriate.
- (2) Before proceeding on –
 - (a) any proposal to make a Water Catchment Management Order;
 - (b) any proposal to approve a code of practice under Article 16; or
 - (c) any proposal to prescribe charges under Article 28,the Minister shall consult such other Ministers, and other persons, as he or she considers appropriate.”.

6 Article 10 amended

- (1) In Article 10 of the principal Law, in paragraphs (1), (3), (7) and (9), for the words “on his or her own behalf” in each place where they appear there shall be substituted the words “of his or her own motion”.
- (2) For Article 10(4) of the principal Law there shall be substituted the following paragraph –
 - “(4) In the case of an application for the grant or variation of a discharge permit, or of a proposal by the Minister of his or her own motion to vary a permit or to issue or vary a discharge certificate –
 - (a) the Minister shall send a copy of the proposal to the Minister for Health and Social Services; and
 - (b) the Minister shall also send copies to such other Ministers, and other persons, as he or she considers appropriate.”.

7 Article 17 replaced

For Article 17 of the principal Law there shall be substituted the following Article –

“17 Pollution offences

- (1) Any person who causes or knowingly permits the pollution of any controlled waters shall be guilty of an offence and –
 - (a) if the person is a Minister (whether or not he or she is the Minister for Planning and Environment), liable to a fine; or
 - (b) in any other case, liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (2) Where –
 - (a) the Minister for Transport and Technical Services in his or her capacity as the sewerage undertaker for Jersey receives anything into a public sewer,
 - (b) it passes subsequently from any public sewer into controlled waters, and
 - (c) its introduction into controlled waters constitutes pollution,he or she shall be guilty of an offence and liable to a fine.
- (3) Any person who, being the holder of a discharge permit, contravenes any condition of the permit shall be guilty of an offence and –
 - (a) if the person is a Minister, liable to a fine; or
 - (b) in any other case, liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (4) Where the Minister contravenes any condition of a discharge certificate, he or she shall be guilty of an offence and liable to a fine.”.

8 Article 18 amended

- (1) In Article 18(3) of the principal Law, for the figure “(4)” there shall be substituted the figure “(3)”.
- (2) For Article 18(4) of the principal Law there shall be substituted the following paragraph –
 - “(4) Where a person is charged with an offence under either of Article 17(1) and (2), it shall be a defence to prove –
 - (a) that the person took all reasonable precautions and exercised due diligence to avoid the commission of the offence; and
 - (b) that the person took all steps that were reasonably practicable for minimizing the extent of pollution of controlled waters,and, if the person is not the Minister, that the person gave full details of the occurrence to the Minister, or ensured that they were given to the Minister, as soon as was reasonably practicable.”.
- (3) For Article 18(6) of the principal Law there shall be substituted the following paragraph –

“(6) Where a person is charged with an offence under any of Article 17(1), (2), (3) and (4) by reason of the introduction of anything into controlled waters, it shall be a defence to prove –

- (a) that it was introduced in consequence of a decision to do so in an emergency that arose in circumstances beyond the person’s control;
- (b) that the decision was reasonable; and
- (c) that the person took all steps that were reasonably practicable for minimizing the extent of pollution of controlled waters,

and, if the person is not the Minister, that the person gave full details of the occurrence to the Minister, or ensured that they were given to the Minister, as soon as was reasonably practicable.”.

9 Article 23 amended

- (1) In Article 23(1) of the principal Law, for the words “on his or her own behalf” there shall be substituted the words “of his or her own motion”.
- (2) In Article 23(2) of the principal Law –
 - (a) for the words “on his or her own behalf” there shall be substituted the words “of his or her own motion”;
 - (b) in sub-paragraph (a), for the words “which shall specify the proposal and inform” there shall be substituted the words “, specifying the proposal and informing”.

10 Article 26 amended

In Article 26(1) of the principal Law, for the words “either the Minister or the Minister for Transport and Technical Services” there shall be substituted the word “the Minister”.

11 Article 27 amended

- (1) In Article 27(1)(b) of the principal Law, for the words “on his or her own behalf” there shall be substituted the words “of his or her own motion”.
- (2) For Article 27(2)(b) of the principal Law there shall be substituted the following sub-paragraph –
 - “(b) the Minister for Health and Social Services;”.

12 Article 28 amended

In Article 28(2) of the principal Law, for the words “the expenditure incurred by the Minister for the purpose of” there shall be substituted the words “the Minister’s expenditure in”.

13 Article 50 amended

In Article 50(1) of the principal Law –

- (a) for the words “nor any of the Minister’s officers, servants or agents” there shall be substituted the words “nor any officer nor any of the Minister’s servants or agents”;
- (b) for the words “the Minister or he or she (as the case requires)” there shall be substituted the words “he or she”.

14 Schedule 1 amended

In Schedule 1 to the principal Law, the following paragraph shall be added as paragraph 2, and the paragraph preceding it shall be renumbered accordingly as paragraph 1 –

- “2. In this Schedule, a reference to a public authority includes a reference to the Council of Ministers, the Chief Minister and any Minister of the States.”.

15 Schedule 3 amended

- (1) In Schedule 3 to the principal Law, in paragraph 1, the words “by the Minister” shall be deleted in both places where they appear.
- (2) In Schedule 3 to the principal Law, after paragraph 3, there shall be inserted the following paragraph –

- “3A.(1) This paragraph applies to a discharge certificate that –
 - (a) has been issued under Article 26 in respect of an introduction into controlled waters by the Minister for Transport and Technical Services; and
 - (b) is in effect immediately before the commencement of the Water Pollution (Amendment No. 2) (Jersey) Law 200-.
- (2) From the commencement of the Water Pollution (Amendment No. 2) (Jersey) Law 200-, each discharge certificate to which this paragraph applies shall for the purposes of this Law have effect, subject to the provisions of this Law relating to discharge permits but otherwise according to the certificate’s tenor, as if the certificate were a permit issued under Article 21.”.

16 Citation and commencement

- (1) This Law may be cited as the Water Pollution (Amendment No. 2) (Jersey) Law 2007.
- (2) This Law shall come into force on the seventh day after its registration.

M.N. DE LA HAYE

Greffier of the States

¹ *chapter 27.800*