

Jersey Law 11/1996

RESERVOIRS (JERSEY) LAW 1996

ARRANGEMENT OF ARTICLES

PART I – PRELIMINARY

1. Interpretation
2. Meaning of “reservoir”, “raised reservoir” and “large raised reservoir”
3. Ambit of Law

PART II – SUPERVISION OF RESERVOIRS

4. Registration of large raised reservoirs by Committee
5. Qualification of engineers
6. Construction or enlargement of reservoirs
7. Certificates of construction engineers
8. Non-compliance with requirements as to construction or enlargement of reservoirs
9. Re-use of abandoned reservoirs
10. Periodical inspection of large raised reservoirs
11. Monitoring of water levels etc.
12. Supervision of large raised reservoirs
13. Discontinuance of large raised reservoirs
14. Abandonment of large raised reservoirs

PART III – ENFORCEMENT

15. Reserve powers
16. Emergency powers
17. Powers of entry

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

18. Compensation to third parties for damage or disturbance

PART IV – SUPPLEMENTARY

19. Reference of disputed recommendations to arbitrator
20. General provisions as to reports, certificates etc. of engineers
21. Duty of undertakers to furnish information
22. Criminal liability of undertakers and their employees
23. Civil liability of undertakers

PART V – MISCELLANEOUS AND FINAL PROVISIONS

24. Notification to Committee of existing reservoirs
25. Inspection of existing reservoirs
26. Reservoirs in course of construction or alteration
27. Compliance with other enactments
28. Service of notices
29. Orders
30. Rules of Court
31. Short title and commencement

Jersey Law 11/1996

Reservoirs (Jersey) Law 1996

RESERVOIRS (JERSEY) LAW 1996

A LAW to make provision against escapes of water from large reservoirs; and for connected purposes, sanctioned by Order of Her Majesty in Council of the

24th day of APRIL 1996

(Registered on the 24th day of May 1996)

STATES OF JERSEY

The 7th day of November 1995

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

PART I

PRELIMINARY

ARTICLE 1

Interpretation

(1) In this Law unless the context otherwise requires –

“the Committee” means the Public Services Committee;

“construction engineer” has the meaning assigned to it by Article 6;

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

“the Court” means the Royal Court;

“final certificate”, “interim certificate” and “preliminary certificate” have the meanings respectively assigned to them by Article 7;

“inspecting engineer” has the meaning assigned to it by Article 10;

“prescribed” means prescribed by an Order made by the Committee;

“qualified civil engineer” has the meaning assigned to it by Article 12;

“supervising engineer” has the meaning assigned to it by Article 12;

“undertakers” in relation to any reservoir means –

- (a) in the case of a reservoir that is or, when constructed, is to be managed and operated by The Jersey New Waterworks Company Limited, that Company; and
- (b) in any other case –
 - (i) if the reservoir is used or intended to be used for the purposes of any undertaking, the persons for the time being carrying on that undertaking, or
 - (ii) if the reservoir is not so used or intended to be used, the owners or lessees of the reservoir.

(2) A reference in this Law to a Part or Article by number only, and without further identification, is a reference to the Part or Article of that number in this Law.

(3) A reference in an Article or other division of this Law to a paragraph, sub-paragraph or clause by number or letter only, and

without further identification, is a reference to the paragraph, sub-paragraph or clause of that number or letter contained in the Article or other division of this Law in which that reference occurs.

(4) Unless the context otherwise requires, where this Law refers to an enactment, the reference is to that enactment as amended from time to time, and includes a reference to that enactment as extended or applied by or under another enactment, including any other provision of that enactment.

ARTICLE 2

Meaning of “reservoir”, “raised reservoir” and “large raised reservoir”

(1) For the purposes of this Law, “reservoir” means a reservoir for water as such (but does not include a reservoir which is wholly or partly below the high water mark); and –

- (a) a reservoir is a “raised reservoir” if it is designed to hold, or capable of holding, water above the natural level of any part of the land adjoining the reservoir; and
- (b) a raised reservoir is a “large raised reservoir” if it is designed to hold, or capable of holding, more than 10,000 cubic metres of water above that level.

(2) The States may by Regulations alter the capacity specified in sub-paragraph (b) of paragraph (1) in relation to a large raised reservoir.

(3) Regulations made under this Article may contain such incidental, supplemental or transitional provisions or savings as the States may consider necessary or expedient.

ARTICLE 3

Ambit of Law

(1) The provision made by this Law in relation to reservoirs shall, unless otherwise stated, extend to any place where water is artificially retained, whether or not use is, or is intended to be, made of the water and references in this Law to a reservoir shall be construed accordingly.

(2) The provision made by this Law in relation to large raised reservoirs shall, unless otherwise stated, extend as well to those constructed under statutory powers as to those not so constructed.

(3) This Law shall not be taken as conferring on any person a claim to damages in respect of a breach by undertakers of their obligations under this Law.

PART II

SUPERVISION OF RESERVOIRS

ARTICLE 4

Registration of large raised reservoirs by Committee

The Committee shall establish and maintain a register showing the large raised reservoirs in the Island and giving the prescribed information about each of them; and –

- (a) the register maintained by the Committee under this Article and copies of it or a prescribed part of it shall be kept at such place or places as may be prescribed; and
- (b) the register so maintained, and any copy required under sub-paragraph (a) to be kept at any place, shall be available for inspection at all reasonable times by any person.

ARTICLE 5

Qualification of engineers

(1) The Committee shall establish and maintain a register of civil engineers approved by it for the purposes of this Law, or such number of different registers of engineers approved for different purposes of this Law or for different classes of reservoir; and any reference in this Law to a qualified civil engineer is a reference to an engineer who is registered in the register established under this Article or, if there is more than one such register, who is registered in the appropriate register.

(2) The Committee shall from time to time review the register, or registers, established under this Article and shall make such amendments thereto as it considers necessary or appropriate.

ARTICLE 6

Construction or enlargement of reservoirs

(1) No large raised reservoir shall be constructed (whether as a new reservoir or by the alteration of an existing reservoir that is not a large raised reservoir) or shall be altered so as to increase its capacity, unless a qualified civil engineer (“the construction engineer”) is employed to design and supervise the construction or alteration; and where the use of a reservoir as a reservoir has been abandoned, and the reservoir is to be brought back into use after being altered so as to increase its capacity, that shall be treated for purposes of this Law as the construction of a new reservoir.

(2) Where a large raised reservoir is constructed as a new reservoir, it shall not be used for the storage of water, or be filled wholly or partially with water, otherwise than in accordance with the certificate of the construction engineer responsible for its construction (or, in the event of any alteration to it, in accordance with paragraph (4)).

(3) Where a large raised reservoir is constructed by the alteration of an existing reservoir that is not a large raised reservoir, the addition to the reservoir shall not be used for the storage of water, or be

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

filled wholly or partially with water, otherwise than in accordance with the certificate of the construction engineer responsible for the construction of the reservoir (or, in the event of any alteration to it, in accordance with paragraph (4)).

(4) Where a large raised reservoir is altered so as to increase its capacity, then from the time when the construction engineer responsible for the alteration gives any certificate for the reservoir, the reservoir shall not be used for the storage of water, or be filled wholly or partially with water, otherwise than in accordance with the certificate of that construction engineer (or, in the event of any further alteration to it, in accordance with this paragraph as it applies to that alteration).

(5) Where the construction or alteration of a reservoir is by this Article required to be supervised by a construction engineer, the reservoir shall be under the supervision of the construction engineer until he gives his final certificate for the reservoir.

(6) References in this Law to an addition to a reservoir refer to that part of the reservoir which, as a result of alterations to the reservoir, provides or will provide additional capacity.

ARTICLE 7

Certificates of construction engineers

(1) As soon as the construction engineer responsible for any large raised reservoir or addition to a large raised reservoir considers that the construction of the reservoir or addition has reached a stage at which the reservoir or addition can properly be filled wholly or partially with water, he shall give a certificate (“the preliminary certificate”) specifying the level up to which it may be filled and the conditions (if any) subject to which it may be so filled; and the construction engineer may from time to time supersede a preliminary certificate by the issue of a further preliminary certificate varying the previous certificate, whether as to water level or as to conditions.

(2) Where the construction engineer responsible for an addition to a large raised reservoir considers at any time during the

carrying out of the alteration to the reservoir that the reservoir ought not to be filled with water up to the level or subject to the conditions that would be lawful apart from this paragraph, he may give a certificate (“an interim certificate”) specifying the level up to which it may be filled until the issue of a preliminary certificate, and the conditions (if any) subject to which it may be so filled; and the construction engineer may from time to time supersede an interim certificate by the issue of a further interim certificate varying the previous certificate, whether as to water level or as to conditions.

(3) If, at the end of three years after a preliminary certificate is first issued for a reservoir or addition to a reservoir or at any time thereafter, the construction engineer is satisfied that the reservoir or, as the case may be, the reservoir with the addition is sound and satisfactory and may safely be used for the storage of water, he shall give a certificate (“the final certificate”) to that effect, and the final certificate shall specify the level up to which water may be stored and the conditions (if any) subject to which it may be so stored.

(4) If at the end of five years after a preliminary certificate is first issued for a reservoir or addition to a reservoir the construction engineer has not issued his final certificate, he shall give the undertakers a written explanation of his reasons for deferring the issue of the final certificate.

(5) The construction engineer giving a final certificate for a reservoir shall consider the matters (if any) that need to be watched by a supervising engineer during the period before there is an inspection of the reservoir under this Law and shall include in an annex to the certificate a note of any such matters.

(6) The construction engineer for any reservoir or addition to a reservoir shall also, as soon as practicable after the completion of the works and in any event not later than the giving of the final certificate, give a certificate that the works have been efficiently executed in accordance with the drawings and descriptions annexed to the certificate, and shall annex to the certificate detailed drawings and descriptions giving full information of the works actually constructed, including dimensions and levels and details of the geological strata or deposits

encountered in trial holes or excavations made in connexion with the works.

(7) References in this Law to a final certificate or to a certificate under paragraph (6) include the annex to the certificate, where there is one.

ARTICLE 8

Non-compliance with requirements as to construction or enlargement of reservoirs

- (1) Where it appears to the Committee either –
- (a) that a large raised reservoir is being constructed (whether as a new reservoir or by the alteration of an existing reservoir that is not a large raised reservoir) or is being altered so as to increase its capacity; or
 - (b) that a large raised reservoir having been so constructed or altered, no final certificate has yet been given for the reservoir on the construction or alteration, as the case may be,

but that no qualified civil engineer is responsible for the reservoir or addition as construction engineer, the Committee may by written notice served on the undertakers require them within twenty-eight days after the date when the notice is served to appoint a qualified civil engineer for the purposes of this Article unless an appointment has already been made, and (in either case) to notify the Committee of the appointment.

(2) An engineer appointed for the purposes of this Article shall be appointed to inspect the reservoir and make a report on the construction or alteration and to supervise the reservoir until he gives a final certificate under this Article.

(3) An engineer acting under this Article shall include in his report any recommendations he sees fit to make as to measures to be taken in the interests of safety; and, subject to any reference of the matter

to an arbitrator in accordance with Article 19, the undertakers shall carry any such recommendation into effect.

(4) Except as provided by paragraphs (5) and (6), an engineer acting under this Article shall have the same powers and duties in relation to the giving of preliminary certificates, interim certificates and final certificates as if he were the construction engineer responsible for the reservoir or, as the case may be, the addition to it; and certificates under this paragraph shall have effect for purposes of this Law as if they were certificates of a construction engineer.

(5) A final certificate under this Article may be given less than three years after the first issue of a preliminary certificate, or without the previous issue of a preliminary certificate, if the engineer is satisfied that the reservoir or addition has for a period of three years or more been filled with water up to the level that is specified in the preliminary certificate or, if no preliminary certificate has been issued, up to the level that is specified in the final certificate, and that the reservoir or, as the case may be, the reservoir with the addition is sound and satisfactory and may safely be used for the storage of water.

(6) A final certificate under this Article, other than one given by virtue of paragraph (5) shall not be required to state the engineer is satisfied the reservoir or, as the case may be, the reservoir with the addition is sound and satisfactory; but, if it does not do so and the engineer's report includes any recommendations as to measures to be taken in the interests of safety, the certificate shall instead state that those recommendations have been carried into effect.

(7) In addition to certificates under paragraph (4), an engineer acting under this Article shall, as soon as practicable after the completion of the works and in any event not later than the giving of the final certificate, give a certificate that, so far as he has been able to ascertain, the works have been efficiently executed in accordance with the drawings and descriptions annexed to the certificate, and shall annex to the certificate detailed drawings and descriptions giving such information as he can of the works actually constructed, including dimensions and levels and details of the geological strata or deposits

encountered in trial holes or excavations made in connexion with the works.

ARTICLE 9

Re-use of abandoned reservoirs

(1) Where the use of a large raised reservoir as a reservoir has been abandoned (whether before or after the commencement of this Law) the reservoir shall not again be used as a reservoir unless a qualified civil engineer has been employed to inspect the reservoir and make a report on it, and to supervise the reservoir until he gives a final certificate for the reservoir under this Article.

(2) Where a large raised reservoir is brought back into use as a reservoir after that use had been abandoned, it shall not be used for the storage of water, or be filled wholly or partially with water, otherwise than in accordance with the certificate of the engineer acting under this Article (unless, on a subsequent alteration to it, paragraph (4) of Article 6 applies).

(3) An engineer acting under this Article shall include in his report any recommendations he sees fit to make as to measures to be taken in the interests of safety; and, subject to any reference of the matter to an arbitrator in accordance with Article 19 of this Law, the reservoir shall not be used as such if any such recommendation has not been carried into effect.

(4) Except as provided by paragraph (5), an engineer acting under this Article shall have the same powers and duties in relation to the giving of preliminary certificates and final certificates as if he were the construction engineer responsible for the construction of the reservoir; and certificates under this paragraph shall have effect for purposes of this Law as if they were certificates of a construction engineer.

(5) A final certificate under this Article shall not be required to state that the engineer is satisfied that the reservoir is sound and satisfactory; but, if it does not do so and the engineer's report

includes any recommendations as to measures to be taken in the interests of safety, the certificate shall instead state that those recommendations have been carried into effect.

(6) Nothing in this Article shall apply in relation to a reservoir, if before it is brought back into use, either –

- (a) it is altered in such manner as is to be treated for the purposes of this Law as the construction of a new reservoir; or
- (b) it is altered under the supervision of a qualified civil engineer so as not to be a large raised reservoir when brought back into use.

(7) Where it appears to the Committee –

- (a) that a large raised reservoir has been brought back into use as a reservoir after that use had been abandoned but that a report has not been obtained as required by this Article; or
- (b) that a report obtained under this Article on a reservoir includes a recommendation as to measures to be taken in the interests of safety that has not been carried into effect as required by this Article,

the Committee may by written notice served on the undertakers require them –

- (i) within twenty-eight days after the notice is served to appoint a qualified civil engineer to make a report for the purposes of this Article, and to notify the Committee of the appointment, or
- (ii) within a time specified in the notice to carry into effect any recommendation included in a report obtained for the purposes of this Article.

(8) Where the Committee proposes to serve a notice under paragraph (7) requiring undertakers to carry a recommendation into effect, the Committee shall consult a civil engineer, being a qualified civil engineer for the purpose of inspecting and supervising the reservoir under this Article, as to the time to be specified in the notice.

ARTICLE 10

Periodical inspection of large raised reservoirs

(1) The undertakers shall have any large raised reservoir inspected from time to time by an independent qualified civil engineer (“the inspecting engineer”) and obtain from him a report of the result of his inspection.

(2) Unless it is at the time under the supervision of a construction engineer (or of an engineer acting under Article 8 or 9) a large raised reservoir shall be inspected under this Article –

- (a) within two years at most from the date of any final certificate for the reservoir given by the construction engineer responsible for the construction of the reservoir or for any alteration to it;
- (b) as soon as practicable after the carrying out of any alterations to the reservoir which do not increase its capacity but are such as might affect its safety and which have not been designed and supervised by a qualified civil engineer;
- (c) at any time when the supervising engineer so recommends;
- (d) within ten years at most from the last inspection or within any less interval that may have been recommended in the report of the inspecting engineer on the last inspection.

(3) As soon as practicable after an inspection under this Article, the inspecting engineer shall make a report of the result of the inspection, including in it any recommendation he sees fit to make as to

the time of the next inspection, or as to measures that should be taken in the interests of safety.

(4) An inspecting engineer shall consider the matters (if any) that need to be watched by the supervising engineer during the period before the next inspection of the reservoir under this Article, and shall include in his report a note of any such matters.

(5) An inspecting engineer, when he makes his report, shall give a certificate stating that the report does or does not include recommendations as to measures to be taken in the interests of safety and, if it includes a recommendation as to the time of the next inspection, stating also the period within which he recommends the inspection should be made.

(6) Where an inspecting engineer includes in his report any recommendation as to measures to be taken in the interests of safety, then subject to any reference of the matter to an arbitrator in accordance with Article 19 the undertakers shall as soon as practicable carry the recommendation into effect under the supervision of a qualified civil engineer; and that engineer shall give a certificate as soon as he is satisfied that the recommendation has been carried into effect.

(7) Where it appears to the Committee, in the case of any large raised reservoir –

- (a) that an inspection and report thereon have not been made as required by this Article; or
- (b) that the latest report of the inspecting engineer includes a recommendation as to measures to be taken in the interests of safety that has not been carried into effect as so required,

the Committee may by written notice served on the undertakers require them –

- (i) within twenty-eight days after the notice is served to appoint a qualified civil engineer to make a report for the

purposes of this Article, and to notify the Committee of the appointment, or

- (ii) within a time specified in the notice to carry into effect any recommendation included in a report obtained for the purposes of this Article.

(8) Where the Committee propose to serve a notice under paragraph (7) requiring the undertakers to carry a recommendation into effect, the Committee shall consult a civil engineer, being a qualified civil engineer for the purpose of supervising under paragraph (6) the carrying into effect of the recommendation, as to the time to be specified in the notice.

(9) For the purposes of this Law, “independent” when used of a civil engineer in relation to a reservoir means –

- (a) that he is not in the employment of the undertakers otherwise than in a consultant capacity; and
- (b) that he was not the engineer responsible for the reservoir or any addition to it as construction engineer, nor is connected with any such engineer as his partner, employer, employee or fellow employee in a civil engineering business.

(10) The reference in paragraph (9) to a construction engineer includes an engineer acting under Article 8 or 9.

(11) Where at the commencement of this Law a large raised reservoir is in course of construction, this Article shall from that commencement apply to that reservoir as it applies to a large raised reservoir constructed wholly after that commencement.

ARTICLE 11

Monitoring of water levels, etc

(1) For every large raised reservoir the undertakers shall keep a record in the prescribed form of –

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

- (a) water levels and depth of water, including the flow of water over the waste weir or overflow;
- (b) leakages, settlements of walls or other works, and repairs;
- (c) such other matters as may be prescribed,

and shall install and maintain such instruments as may be needed to provide the information to be recorded.

(2) The record to be kept for a reservoir under this Article shall give such information as may be prescribed of any of the matters to be included in the record, and shall give it at such intervals and in such manner as may from time to time be required by any directions of the construction engineer or inspecting engineer.

ARTICLE 12

Supervision of large raised reservoirs

(1) At all times when a large raised reservoir is not under the supervision of a construction engineer, a qualified civil engineer (“the supervising engineer”) shall be employed to supervise the reservoir and keep the undertakers advised of its behaviour in any respect that might affect safety, and to watch that the provisions of paragraphs (2) to (4) of Article 6 or paragraph (2) of Article 9 and of Article 11 are observed and complied with and draw the attention of the undertakers to any breach of those provisions.

(2) It shall be the duty of the supervising engineer, so long as any matters are noted as matters that need to be watched by him in any annex to the final certificate for the reservoir or in the latest report of an inspecting engineer, to pay attention in particular to those matters and to give the undertakers not less often than once a year a written statement of the action he has taken to do so.

(3) The supervising engineer shall recommend to the undertakers that the reservoir be inspected under Article 10, if at any time he thinks that such an inspection is called for.

(4) Where it appears to the Committee that a large raised reservoir is not for the time being under the supervision either of a construction engineer or of a supervising engineer, the Committee may by written notice served on the undertakers require them within twenty-eight days after the date the notice is served to appoint a supervising engineer and to notify the Committee of the appointment or, if the reservoir is at that date under the supervision of a construction engineer or of a supervising engineer, to notify the Committee of that fact.

(5) References in this Article to a construction engineer include an engineer acting under Article 8 or 9.

ARTICLE 13

Discontinuance of large raised reservoirs

(1) No large raised reservoir shall be altered in order to render it incapable of holding more than the specified capacity of water above the natural level of any part of the land adjoining the reservoir, unless a qualified civil engineer is employed to design or approve and to supervise the alteration.

(2) An engineer employed for the purposes of paragraph (1) shall give a certificate as soon as he is satisfied that the alteration has been completed and has been efficiently executed.

(3) Where a certificate is given under paragraph (2) the Committee on receipt of the certificate or a copy of it shall remove the reservoir from their register of large raised reservoirs; but a reservoir that has been a large raised reservoir but is altered so as no longer to be capable of holding more than the specified capacity of water above the natural level of any part of the land adjoining the reservoir shall nevertheless continue for purposes of this Law to be a large raised reservoir, unless the alteration is made and a certificate given in accordance with this Article.

(4) In this Article, “specified capacity” means the capacity specified in sub-paragraph (b) of paragraph (1) of Article 2 in relation to a large raised reservoir.

ARTICLE 14

Abandonment of large raised reservoirs

(1) Where the use of a large raised reservoir as a reservoir is to be abandoned, the undertakers shall obtain from a qualified civil engineer a report as to the measures (if any) that ought to be taken in the interests of safety to secure that the reservoir is incapable of filling accidentally or naturally with water above the natural level of any part of the land adjoining the reservoir or is only capable of doing so to an extent that does not constitute a risk.

(2) Where the report of an engineer under this Article makes any recommendation as to measures to be taken in the interests of safety, then subject to any reference of the matter to an arbitrator in accordance with Article 19 of this Law the undertakers obtaining the report shall, before the use of the reservoir as a reservoir is abandoned or as soon as practicable afterwards, carry the recommendation into effect; and if the recommendation involves any alteration of the reservoir, Article 13 shall apply accordingly.

(3) The engineer from whom a report is obtained under this Article shall give with it a certificate stating that the report does or does not make recommendations for measures to be taken in the interests of safety.

(4) Where it appears to the Committee, in the case of any large raised reservoir –

- (a) that the use of the reservoir as a reservoir has been abandoned but that a report has not been obtained as required by this Article; or
- (b) that a report obtained under this Article includes a recommendation as to measures to be taken in the interests of safety that has not been carried into effect as required by this Article,

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

the Committee may by written notice served on the undertakers require them—

- (i) within twenty-eight days after the notice is served to appoint a qualified civil engineer to make a report for the purposes of this Article, and to notify the Committee of the appointment, or
- (ii) within a time specified in the notice to carry into effect any recommendation included in a report obtained for the purposes of this Law.

(5) References in paragraph (4), and in any other provision of this Law as it operates in relation thereto, to the Committee or to the undertakers shall have effect as at the time when the use of the reservoir as such is abandoned.

(6) Where the Committee proposes to serve a notice under paragraph (4) requiring undertakers to carry a recommendation into effect, it shall consult, as to the time to be specified in the notice, a civil engineer, who, if the recommendation involves any alteration of the reservoir, shall be a qualified civil engineer for the purpose of supervising the alteration under Article 13.

PART III

ENFORCEMENT

ARTICLE 15

Reserve powers

(1) Where undertakers are required by a notice from the Committee under Article 8, 9, 10, 12 or 14 to appoint an engineer for any purpose of this Law and the undertakers fail to make the appointment, the Committee may appoint an engineer for that purpose, being a person eligible for appointment by the undertakers and unless otherwise provided, the provisions of this Law shall apply in relation to any person

appointed under this Article and to anything done by him as if he had been duly appointed by the undertakers.

(2) Where undertakers are required by a notice from the Committee under Article 9, 10 or 14 to carry into effect any recommendation as to measures to be taken in the interests of safety, and the undertakers fail to comply with that requirement, the Committee may cause the recommendation to be carried into effect under the supervision of a qualified civil engineer appointed by it, who shall give a certificate as soon as he is satisfied that the recommendation has been carried into effect.

(3) Where the Committee is unable after reasonable enquiry to ascertain the name or address of the undertakers for any large raised reservoir, then for the purposes of this Article a notice relating to the reservoir shall be deemed to have been duly served on the undertakers if it has been left in the hands of a person who is or appears to be resident or employed at the reservoir or if it has been left conspicuously affixed to some building or object at the reservoir.

(4) Where the Committee makes any appointment under paragraph (1) or exercises powers conferred by paragraph (2), the undertakers shall pay the amount of the expenses reasonably incurred by the Committee by reason of the appointment or, as the case may be, in the exercise of those powers.

ARTICLE 16

Emergency powers

(1) Where it appears to the Committee, in the case of any large raised reservoir, that the reservoir is unsafe and that immediate action is needed to protect persons or property against an escape of water from the reservoir, it may take at the reservoir such measures as it considers proper to remove or reduce the risk or to mitigate the effects of an escape.

(2) Where it appears to the Committee, in the case of any large raised reservoir, that the use of the reservoir as a reservoir has been

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

abandoned, but that there may from time to time be an undue accumulation of water there and immediate action is needed to protect persons or property against an escape of water, it may take there such measures as it considers proper to remove or reduce the risk or to mitigate the effects of an escape.

(3) Where the Committee proposes to exercise the powers conferred by this Article it shall appoint a qualified civil engineer to make recommendations as to the measures to be taken in exercise of those powers; and any measures so taken shall be carried into effect under the supervision of a qualified civil engineer appointed by the Committee.

(4) Subject to paragraph (5), when the Committee exercises or proposes to exercise at a reservoir the powers conferred by this Article it shall, as early as practicable, serve on the undertakers a notice giving full information of the measures that are being or are to be taken in the exercise of those powers; and if that notice cannot be given before the work is begun, the Committee shall notify the undertakers as early as practicable thereafter.

(5) Paragraph (4) shall not require the Committee to serve any notice on the undertakers after work is begun at the reservoir, if the Committee is unable after reasonable enquiry to ascertain the name or address of the undertakers; and in relation to notices served before work is begun paragraph (4) of Article 15 shall apply for the purposes of this Article as it applies for the purposes of that.

(6) Where the Committee exercises the powers conferred by this Article, the undertakers shall pay it the amount of the expenses reasonably incurred by it in the exercise of those powers.

(7) For the purposes of paragraph (2) references in this Article and in any other provision of this Law as it operates in relation thereto, to the Committee or to the undertakers shall have effect as at the time when the use of the reservoir as such is abandoned.

ARTICLE 17

Powers of entry

- (1) Subject to the following provisions of this Article a person duly authorized by the Committee may at any reasonable time enter upon the land on which a reservoir is situated –
- (a) for the purpose of carrying out any survey or other operation needed to determine whether the reservoir is a large raised reservoir or is being constructed or altered so as to be one, whether the reservoir being a large raised reservoir is being altered so as to increase its capacity, or whether the reservoir is or is not in use as a reservoir;
 - (b) for the purpose of carrying out any survey or other operation needed to determine whether any recommendation as to measures to be taken in the interests of safety has been carried into effect as required by Article 9, 10 or 14 or what period should be specified in a notice under Article 9, 10 or 14 requiring the undertakers to carry such a recommendation into effect;
 - (c) for the purpose of carrying out any inspection of the reservoir that he has been appointed under paragraph (1) of Article 15 to carry out, or any survey or other operation needed for the purpose of a report that he has been appointed under paragraph (1) of Article 15 to make;
 - (d) for any purpose connected with the carrying into effect under paragraph (2) of Article 15 of a recommendation as to measures to be taken in the interests of safety;
 - (e) for the purpose of carrying out any survey or other operation needed to determine whether any or what measures should be taken under Article 16, or for any purpose connected with the carrying into effect of any measures taken under that Article.

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

(2) Where the entry is for a purpose within sub-paragraph (e) of paragraph (1), the power to enter upon the land on which a reservoir is situated shall extend also to any neighbouring land.

(3) Where the use of a large raised reservoir as a reservoir is abandoned, paragraph (1) (so far as material) shall continue to apply in relation to the site of the reservoir as land on which a reservoir is situated; and for this purpose references in paragraph (1), and in any other provision of this Law as it operates in relation thereto, to the Committee or to the undertakers shall have effect as at the time when the use of the reservoir as such is abandoned.

(4) Except for a purpose within sub-paragraph (e) of paragraph (1), a person may not under this Article demand admission as of right to any land that is occupied, unless at least seven days' notice in writing of the intended entry has been given to the occupier or the entry is authorized by a warrant granted under paragraph (6).

(5) A notice under paragraph (4) shall specify the purpose for which entry is required and shall indicate so far as practicable the nature of any works to be executed on the land.

(6) If it is shown to the satisfaction of the Bailiff on information on oath –

- (a) that admission to any land on which any person is entitled to enter under this Article has been refused to that person, or that a refusal is apprehended, or that the occupier is temporarily absent; and
- (b) that there is reasonable ground for entry on to the land for the purpose for which entry is required,

the Bailiff may by warrant under his hand authorize that person to enter on the land, if need be by force; but such a warrant shall not be issued on the ground that entry has been refused or that a refusal of entry is apprehended unless the Bailiff is satisfied that notice in writing of the intention to apply for a warrant has been given to the occupier.

(7) Every warrant granted under this Article shall continue in force until the purpose for which the entry is required has been satisfied.

(8) A person duly authorized to enter on any land by virtue of this Article shall, if so required, produce evidence of his authority before so entering and may take with him on to the land such other persons and such equipment as may be necessary.

(9) Any person who wilfully obstructs a person entitled to enter on land by virtue of this Article shall be liable to a fine not exceeding level 2 on the standard scale.¹

ARTICLE 18

Compensation to third parties for damage or disturbance

(1) Where in the exercise in relation to any reservoir of powers conferred by Article 17 –

- (a) any land on which entry is made and which is not in the occupation of the undertakers is damaged; or
- (b) any person is disturbed in his enjoyment of any such land,

any person interested in the land which is damaged or, as the case may be, the person whose enjoyment of the land is disturbed shall be entitled to receive compensation from the Committee in respect of the damage or disturbance.

(2) Any dispute as to a right to compensation under this Article or as to the amount of any such compensation shall be referred to and determined by two arbitrators one of whom shall be appointed by the Committee and the other by the person claiming the compensation, save that if an arbitrator is not appointed by the person claiming the compensation, then he shall be nominated by the Committee and any

¹ Volume 1992–1993, page 437.

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

arbitrator so nominated shall be deemed to be the arbitrator appointed by the person claiming the compensation.

(3) Arbitrators appointed under paragraph (2) shall, before commencing to determine any matter referred to them under this Article nominate an umpire who shall determine the matter if the arbitrators disagree.

(4) The arbitrators or umpire, as the case may be, may refer to the Court any question of law or of law mixed with fact arising in connection with the matter referred to them or him.

(5) Subject to paragraph (4) the decision of the arbitrator or of the umpire, as the case may be, shall be final.

(6) Compensation payable under this Article by the Committee shall for the purpose of recovery from the undertakers be treated as an expense incurred in the exercise of the powers conferred by Article 16.

PART IV

SUPPLEMENTARY

ARTICLE 19

Reference of disputed recommendations to arbitrator

- (1) Where –
- (a) an inspecting engineer includes in his report recommendations as to measures to be taken in the interests of safety or as to the time of the next inspection; or
 - (b) an engineer acting under Article 8, 9 or 14 includes in his report recommendations as to measures to be taken in the interests of safety,

the undertakers if aggrieved by any recommendation may, in accordance with this Article, refer their complaint to an arbitrator.

(2) An arbitrator under this Article shall be an independent qualified civil engineer appointed by agreement between the undertakers and the engineer making the recommendation complained of, or in default of their agreement shall be a person appointed by the Judicial Greffier.

(3) An arbitrator under this Article, after investigating the complaint, shall have power to make such modifications as he thinks fit in the report containing the recommendation complained of, and the report shall for the purposes of this Law have effect accordingly.

(4) An arbitrator under this Article, when he gives his decision on a report, shall also give a certificate stating that the decision does or does not modify the report, and (if necessary in consequence of any modification) revising accordingly any certificate given with reference to the report by the engineer making the report.

(5) The States may by Regulations make provision as to the time within which and the manner in which a request for the appointment of an arbitrator under this Article may be made to the Judicial Greffier as to the procedure before the arbitrator and as to the costs of the proceedings before, and investigation by, the arbitrator (including the remuneration of the arbitrator) so however that these costs (including the remuneration of the arbitrator) shall be paid by the undertakers.

ARTICLE 20

General provisions as to reports, certificates etc. of engineers

(1) Any report or certificate of an engineer acting for any purpose of this Law, including an arbitrator under Article 19, shall be in the prescribed form.

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

(2) Any such report or certificate, unless the engineer in question is appointed to act by the Committee, shall be delivered to and kept by the undertakers.

(3) Any such report or certificate where the engineer in question is appointed to act by the Committee shall be delivered to the Committee but a copy of it shall be sent by the engineer at the same time to the undertakers and shall be kept by them.

(4) Where any document to which this paragraph applies is delivered by the engineer in question to the undertakers, the engineer shall within twenty-eight days after he delivers it to the undertakers send a copy of it to the Committee.

- (5) The documents to which paragraph (4) applies are –
- (a) any certificate of an engineer acting for any purpose of this Law;
 - (b) any report made by an inspecting engineer or an engineer acting for purposes of Article 14 and stated in his certificate to include a recommendation as to measures to be taken in the interests of safety, and any report made by an engineer acting under Article 8 or 9;
 - (c) any decision of an arbitrator under Article 19 modifying any such report as is mentioned in sub-paragraph (b);
 - (d) any written explanation given by a construction engineer to the undertakers of his reasons for deferring the issue of his final certificate;
 - (e) any advice given by a supervising engineer to the undertakers which either –
 - (i) recommends them to have the reservoir inspected under Article 10 or to take any other action; or

- (ii) draws their attention to a breach of any provision of paragraphs (2) to (4) of Article 6, paragraph (2) of Article 9 or Article 11.

ARTICLE 21

Duty of undertakers to furnish information

- (1) Where undertakers intend –
 - (a) to construct a large raised reservoir (whether as a new reservoir or by alteration of an existing reservoir that is not a large raised reservoir), or to alter a large raised reservoir so as to increase its capacity; or
 - (b) to bring a large raised reservoir back into use as a reservoir after that use has been abandoned;

the undertakers shall serve notice of their intention, giving the prescribed information, on the Committee.

(2) A notice under paragraph (1) shall be served not less than twenty-eight days before any work on the construction or alteration of the reservoir is begun or, if the case is within sub-paragraph (b) of paragraph (1) and the reservoir is to be brought back into use without alteration, not less than twenty-eight days before it is brought back into use.

(3) Where the use of a large raised reservoir as a reservoir is abandoned, the undertakers shall within twenty-eight days notify the Committee in writing.

(4) Whenever a person is appointed to be, or ceases to be, supervising engineer for a large raised reservoir, the undertakers shall within twenty-eight days notify the Committee in writing; and the notice of an appointment shall include the date on which the appointment will take effect, if it has not done so.

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

(5) On the appointment of an inspecting engineer for a large raised reservoir the undertakers shall within twenty-eight days notify the Committee in writing of the appointment.

(6) The supervising engineer and every inspecting engineer for a large raised reservoir, and any civil engineer employed by the undertakers for purposes of Article 8, 9, paragraph (6) of Article 10 or Article 14 or appointed by the Committee under paragraph (2) of Article 15 or paragraph (3) of Article 16, shall be afforded by the undertakers all reasonable facilities for the effective performance of his functions; and the undertakers shall furnish him –

- (a) with the statutory record required to be kept for the reservoir; and
- (b) with copies of any statutory certificates relating to the reservoir, with their annexes (if any); and
- (c) with copies of the reports made by inspecting engineers on any statutory inspection of the reservoir; and
- (d) with such further information and particulars as he may require.

(7) In this Article, “statutory” refers to matters provided for by this Law.

ARTICLE 22

Criminal liability of undertakers and their employees

- (1) If –
 - (a) by the wilful default of the undertakers any of the provisions of Article 6, paragraph (3) of Article 8, paragraphs (1) to (3) of Article 9, paragraph (1) or (6) of Article 10, Article 11, paragraph (1) of Article 12, Article 13, or paragraph (1) or (2) of Article 14 is not observed or complied with in relation to a large raised reservoir; or

- (b) the undertakers fail to comply with a notice from the Committee under Article 8, 9, 10, 12 or 14,

then unless there is reasonable excuse for the default or failure, the undertakers shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale.

(2) If, in the case of any large raised reservoir, the undertakers fail without reasonable excuse to give the Committee in due time any notice required by this Law to be given by them to the Committee, the undertakers shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

(3) If, in the case of any large raised reservoir, the undertakers or persons employed by them without reasonable excuse refuse or knowingly fail to afford to any person the facilities required by paragraph (6) of Article 21 or to furnish to any person the information and particulars so required, the undertakers shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

(4) If for the purposes of paragraph (6) of Article 21 a person makes use of any document or furnishes any information or particulars which he knows to be false in a material respect, or recklessly makes use of any document or furnishes any information or particulars which is or are false in a material respect, he shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale.

(5) Where an offence committed by a body corporate under this Article is proved to have been committed with the consent or connivance 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 shall be liable to be proceeded against and punished accordingly.

(6) Where the affairs of a body corporate are managed by its members, this Article shall apply in relation to the acts and defaults of a member in connexion with his functions of management as if he were a director of the body corporate.

ARTICLE 23

Civil liability of undertakers

Where damage or injury is caused by the escape of water from a large raised reservoir constructed after the commencement of this Law under statutory powers granted after that commencement, the fact that the reservoir was so constructed shall not exonerate the undertakers from any action or proceedings to which they would otherwise have been liable.

PART V

MISCELLANEOUS AND FINAL PROVISIONS

ARTICLE 24

Notification to the Committee of existing reservoirs

Where a large raised reservoir has been constructed before, or is in course of construction at, the commencement of this Law, the undertakers shall, not later than three months after the date of that commencement, give to the Committee notice of the situation of the reservoir and of the name and address of the undertakers.

ARTICLE 25

Inspection of existing reservoirs

(1) It shall be the duty of the undertakers to have any large raised reservoir constructed before the date of the commencement of this Law inspected by an independent qualified civil engineer within two years after that date, or if the Committee is satisfied that special circumstances exist in any particular case, within such longer period not exceeding five years after that date as the Committee may specify.

(2) Paragraphs (3) to (10) of Article 10 shall have effect, *mutatis mutandis*, for the purposes of an inspection under this Article.

Jersey Law 11/1996 *Reservoirs (Jersey) Law 1996*

(3) Subsequent inspections of such reservoirs shall be made in accordance with Article 10.

ARTICLE 26

Reservoirs in course of construction or alteration

(1) Subject to paragraphs (2) and (3), where at the commencement of this Law a large raised reservoir is in course of construction or is in course of being altered so as to increase its capacity, Articles 6 to 8 shall from that commencement apply as they apply in the case of a construction or alteration carried out wholly after that commencement.

(2) If in a case to which paragraph (1) applies five years have elapsed since the issue of a preliminary certificate for the reservoir or the addition to it, as the case may be, paragraph (4) of Article 7 shall apply with the substitution of a reference to the commencement of this Law for the reference to the end of five years after a preliminary certificate is first issued.

(3) If in a case to which paragraph (1) applies there is at the commencement of this Law no qualified engineer responsible for the reservoir or addition as construction engineer, the undertakers shall appoint a qualified civil engineer for the purposes of Article 8 without being required by a notice from the Committee; and if they fail to do so within six months after the date of the commencement of this Law, Article 15 and paragraph (1) of Article 22 shall apply as if the undertakers had been served with a notice under Article 8 so as to require them to make the appointment by the end of those six months.

ARTICLE 27

Compliance with other enactments

Nothing in this Law shall relieve undertakers from any obligation to obtain any authorization, consent or permission under any other enactment in respect of the construction, alteration or use of any reservoir.

ARTICLE 28

Service of notices

(1) This Article shall have effect in relation to any notice or other document required or authorized by or under this Law to be given to or served on any person.

(2) Any such document may be given to or served on the person in question –

- (a) by delivering it to him; or
- (b) by leaving it at his proper address; or
- (c) by sending it by post to him at that address.

(3) Any such document may –

- (a) in the case of a company, be given to or served on the secretary, clerk or other similar officer of the company or any person who purports to act in any such capacity, by whatever name called;
- (b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.

(4) For the purposes of this Article and Article 12 of the Interpretation (Jersey) Law 1954 (meaning of service by post) in its application to this Article the proper address of any person to or on whom a document is to be given or served shall be his last known address, except that –

- (a) in the case of a company or its secretary, clerk or other officer or person referred to in sub-paragraph (a) of paragraph (3), it shall be the address of the registered or principal office of the company;

- (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership;

and for the purposes of this paragraph the principal office of a company registered outside the Island or of a partnership carrying on business outside the Island shall be their principal office within the Island.

(5) If the person to be given or served with any document mentioned in paragraph (1) has specified an address within the Island other than his proper address within the meaning of paragraph (4) as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated for the purpose of this Article and Article 12 of the Interpretation (Jersey) Law 1954 as his proper address.

ARTICLE 29

Orders

(1) The Committee may by Order make provision for the purpose of carrying this Law into effect and in particular, but without prejudicing the generality of the foregoing, for prescribing any matter which may be prescribed by this Law.

(2) An Order made under this Law may –

- (a) make different provision in relation to different cases or circumstances;
- (b) contain such incidental, supplemental or transitional provisions or savings as the Committee may consider necessary or expedient.

(3) The Subordinate Legislation (Jersey) Law 1960² shall apply to Orders made under this Law.

² Tome VIII, page 849.

Jersey Law 11/1996 Reservoirs (Jersey) Law 1996

ARTICLE 30

Rules of Court

The power to make Rules of Court under the Royal Court (Jersey) Law 1948³ shall include a power to make Rules for the purposes of this Law and proceedings thereunder.

ARTICLE 31

Short title and commencement

(1) This Law may be cited as the Reservoirs (Jersey) Law 1996.

(2) This Law shall come into force on such day as the States may by Act appoint and different days may be appointed for different purposes or for different provisions of this Law.

(3) A reference in any provision of this Law to its commencement shall be construed for any purpose of that provision as a reference to the coming into force of the provision for that purpose.

C.M. NEWCOMBE

Deputy Greffier of the States

³ Tome VII, page 510.