



Jersey

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WATER (AMENDMENT No. 2) (JERSEY) LAW 2003

Arrangement

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WATER (AMENDMENT No. 2) (JERSEY) LAW 2003

A LAW to amend further the Water (Jersey) Law 1972.

Adopted by the States 29th April 2003

Sanctioned by Order of Her Majesty in Council 8th October 2003

Registered by the Royal Court 7th November 2003

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 (Jersey) Law 1972,¹ as amended.²

2 Article 1 amended

(1) In Article 1(1) of the principal Law³ –

(a) after the definition “cut off” there shall be inserted the following definition –

“ ‘dispensation period’ means a period for which the Committee grants a dispensation under Article 9D of this Law;”;

(b) after the definition “main” there shall be inserted the following definition –

“ ‘micro-organism’ includes any microscopic, biological entity which is capable of replication;”;

(c) after the definition “prescribe” there shall be inserted the following definition –

“ ‘risk assessment’, in relation to a treatment works, means an assessment for that treatment works, to establish whether there is or continues to be a potential danger to human health from any micro-organism, parasite or substance, in water supplied or to be supplied from the works;”;

- (d) after the definition “service pipe” there shall be inserted the following definition –
 - “ ‘specified area’ means an area of the Island to which sub-paragraph (b) of paragraph (1) of Article 9C of this Law refers;”;
 - (e) in the definition “water fittings”, for the full stop there shall be substituted a semicolon;
 - (f) after the definition “water fittings” (as so amended) there shall be added the following definitions –
 - “ ‘wholesome water’ means water which is to be regarded as wholesome according to the criteria in the Schedule to this Law;
 - ‘year’ means a calendar year.”.
- (2) After Article 1(2) of the principal Law⁴ there shall be inserted the following paragraph –
- “(2A) The States may by Regulations amend the Schedule to this Law.”.

3 New Articles 9A - 9J inserted

After Article 9 of the principal Law⁵ there shall be inserted the following Articles –

“9A DUTY OF COMPANY TO MONITOR

- (1) In the year 2005 and in each subsequent year the Company shall in accordance with a programme of yearly monitoring, to be formulated by the Company and subject to the approval of the Committee, sample the water supplied by the Company.
- (2) The purpose of the sampling shall be to determine whether the requirements of paragraph 2 of the Schedule to this Law are complied with.
- (3) A monitoring programme under this Article may provide for the taking of samples –
 - (a) on land which is not in the ownership of the Company; or
 - (b) from pipes or taps which are not in the ownership of the Company.
- (4) The Company shall submit its monitoring programme for each year to the Committee for its approval.
- (5) The Company shall comply with paragraph (4) of this Article by the first day of July in the year immediately preceding the one in which the monitoring programme is to apply.
- (6) If required by the Committee to do so, the Company shall submit a report in writing of its monitoring under this Article (including the results of the analysis of any samples taken) to the Committee.

9B RISK ASSESSMENT

- (1) If the Company proposes to bring into operation on or after the first day of July 2004 a treatment works from which it intends to supply water for domestic purposes, it shall carry out a risk assessment in respect of that works before bringing the works into operation.
- (2) The Committee may at any time by notice in writing to the Company require it to carry out a risk assessment, by a date specified in the notice, in respect of any treatment works from which water is supplied for domestic purposes.
- (3) If the Company becomes aware of any factor which makes it more likely that a risk assessment will establish that there is a potential danger to human health from any micro-organism, parasite or substance in water supplied or to be supplied by the Company for domestic purposes, it shall immediately notify the Committee in writing.
- (4) If the Company carries out a risk assessment, it shall submit a report in writing of the assessment to the Committee as soon as reasonably practicable.

9C APPLICATION FOR DISPENSATION

- (1) The Company may in writing apply to the Committee for a dispensation from the requirements of paragraph 2 of the Schedule to this Law, as far as they relate to –
 - (a) a parameter specified in Table A or Table B in the Annex to that Schedule; and
 - (b) the supply of water by the Company to any specified area of the Island,
on the grounds specified in paragraph (2) of this Article.
- (2) The grounds to which this paragraph refers are –
 - (a) that the dispensation is necessary to maintain a supply of water for domestic purposes;
 - (b) that a supply of water for those purposes cannot be maintained in the specified area by any other reasonably practicable means; and
 - (c) that the supply of water in accordance with the dispensation does not constitute a potential danger to human health.
- (3) The Company shall provide with its application –
 - (a) the Company's proposals as to the duration of the period for which the dispensation is sought;
 - (b) a summary of the steps which the Company proposes to take in order to secure that the supply to the specified area will at the end of the dispensation period fully satisfy the requirements of paragraph 2 of the Schedule to this Law;

- (c) a scheme for monitoring the quality of water supplied in the specified area during the period for which the dispensation is sought; and
 - (d) any other supporting information which the Committee may reasonably require to determine the application.
- (4) The summary shall include an estimate of the costs of any works involved, and a timetable for those works.
 - (5) The requirements of this Article for monitoring are additional to those in Article 9A of this Law.
 - (6) An application under this Article may be made more than once in the same circumstances.

9D GRANTING OF DISPENSATION

- (1) The Committee may grant an application under Article 9C of this Law for a dispensation if (but only if) –
 - (a) it is satisfied that each of the grounds specified in paragraph (2) of that Article is established; and
 - (b) it approves the scheme for monitoring provided with the application.
- (2) When considering the application, the Committee shall have regard to any relevant Water Catchment Management Order made under the Water Pollution (Jersey) Law 2000.⁶
- (3) In granting the application, the Committee shall specify –
 - (a) the parameters and the area to which the dispensation applies; and
 - (b) the period for which it shall have effect.
- (4) The period shall be one which is in the Committee's opinion reasonably required for securing a supply of water that fully satisfies the requirements of paragraph 2 of the Schedule to this Law.
- (5) Paragraph (4) does not prevent the Committee, on another application under Article 9C of this Law, from granting a further dispensation under this Article in the same circumstances.

9E CONDITIONS OF DISPENSATION

- (1) A dispensation under Article 9D of this Law shall be subject to the following conditions –
 - (a) the Company must implement the approved scheme for monitoring during the dispensation period the quality of water supplied in the specified area;
 - (b) the Company must carry out such steps as it is, in the opinion of the Committee, reasonably practicable for the Company to take in order to secure that the supply will at the

end of the dispensation period fully satisfy the requirements of paragraph 2 of the Schedule to this Law; and

- (c) if required by the Committee to do so, the Company shall submit a report in writing of its monitoring under this Article (including the results of the analysis of any samples taken) to the Committee.

- (2) A monitoring scheme under this Article may provide for the taking of samples –

- (a) on land which is not in the ownership of the Company; or
- (b) from pipes or taps which are not in the ownership of the Company.

9F EFFECT OF DISPENSATION

- (1) If the Company is granted a dispensation under Article 9D of this Law and it complies with the conditions in Article 9E of this Law in respect of that dispensation, it shall not during the dispensation period be guilty of an offence under paragraph (2) of Article 9 of this Law by reason only that it fails to comply with a relevant requirement of paragraph (1) of Article 9 of this Law.
- (2) In paragraph (1) of this Article, “a relevant requirement” means a requirement in paragraph 2 of the Schedule to this Law to which the dispensation relates.

9G MODIFICATION AND REVOCATION OF DISPENSATION

- (1) The Committee may modify or revoke a dispensation granted under Article 9D of this Law.
- (2) Before doing so, the Committee shall give at least six months’ notice in writing to the Company.
- (3) Paragraph (2) of this Article does not apply if it appears to the Committee that immediate modification or revocation is required in the interests of public health.

9H APPEALS UNDER THIS PART

If the Company is aggrieved by –

- (a) a refusal by the Committee to approve a monitoring programme under Article 9A;
- (b) a refusal by the Committee to grant a dispensation under Article 9D or to modify a dispensation under Article 9G; or
- (c) the modification or revocation of a dispensation under Article 9G,

the Company may, within 28 days of the date on which it is informed by the Committee of the Committee’s decision, appeal to

the Royal Court and the Royal Court may, as it thinks fit, uphold or dismiss the appeal.

9I PUBLIC NOTICE OF DISPENSATION

- (1) If a dispensation –
 - (a) is granted under Article 9D or Article 9H of this Law; or
 - (b) is modified or revoked under Article 9G or 9H of this Law,the Committee shall as soon as reasonably practicable give public notice (whether by notice in the Jersey Gazette or otherwise) of that fact.
- (2) In the case of a grant or modification of a dispensation, the notice shall include a summary of the terms of the dispensation or its modification.

9J CONSULTATION ON HEALTH ISSUES

- (1) If any question of human health or public health or of any other health-related issue arises on a consideration by the Committee of any matter under any of Articles 9A, 9B, 9C, 9D, 9E and 9G of this Law, the Committee shall consult the Health and Social Services Committee.
- (2) If a dispensation –
 - (a) is granted under Article 9D or Article 9H of this Law; or
 - (b) is modified or revoked under Article 9G or Article 9H of this Law,the Committee shall as soon as reasonably practicable notify the Health and Social Services Committee in writing of the terms and conditions of the dispensation.”.

4 Article 21 amended

In Article 21(2) of the principal Law,⁷ the words “either in term or in vacation” shall be deleted.

5 Schedule added

After Article 33 of the principal Law⁸ there shall be added the Schedule set out in the Schedule to this Law.

6 Saving

- (1) Notwithstanding any provision in the principal Law (as amended by this Law) restricting the concentration of nitrate in water, if –
 - (a) the Company applies under Article 9C of the principal Law, before the first day of January 2004, for a dispensation in respect of any supply of water; and

- (b) the Committee has not determined the application, the Company may pending the determination of the application supply that water for domestic purposes with a concentration of nitrate not exceeding the limits specified in paragraph (2).
- (2) The limits to which this paragraph refers are as follows –
- (a) the concentration of nitrate in samples of the water supplied, as measured by the States Analyst on a weekly basis, shall not exceed 50mg/1 (as nitrate) in more than 33 per cent of the samples taken in any year; and
- (b) the concentration of nitrate in any sample, as measured by the States Analyst, shall not exceed in any event 70mg/1 (as nitrate).
- (3) In this Article, words have the same meaning as they have in the principal Law.

7 Citation and commencement

- (1) This Law may be cited as the Water (Amendment No. 2) (Jersey) Law 2003.
- (2) Article 3 of this Law, so far as it inserts new Articles 9C, 9D, 9E, 9G, 9H, 9I and 9J in the principal Law, shall come into force on the seventh day after the registration of this Law.
- (3) Except as provided in paragraph (2) of this Article, this Law shall come into force on 1st January 2004.

M.N. DE LA HAYE

Greffier of the States.

SCHEDULE

(Article 5)

ADDITION OF SCHEDULE TO PRINCIPAL LAW**“SCHEDULE**

(Article 1(1), (2A))

MEANING OF ‘WHOLESOME WATER’

1. In this Schedule and its Annex, unless the context otherwise requires –

‘indicator parameter’ means a parameter listed in Table C in the Annex;

‘parameter’ means a property, element, organism or substance listed in the second column of Table A, Table B or Table C in the Annex (as read, where appropriate, with the notes);

‘pesticides and related products’ means –

- (a) any organic insecticide;
- (b) any organic herbicide;
- (c) any organic fungicide;
- (d) any organic nematocide;
- (e) any organic acaricide;
- (f) any organic algicide;
- (g) any organic rodenticide;
- (h) any organic slimicide; and
- (i) any product related to any of sub-paragraphs (a) to (h) (inclusive) of this definition (including any growth regulator),

and also means their relevant metabolites, degradation and reaction products;

‘prescribed concentrations or values’, in relation to any parameter, means the maximum or minimum concentration or value specified in relation to that parameter in Table A or Table B in the Annex, as measured by reference to the unit of measurement so specified (as read, where appropriate, with the notes);

‘relevant metabolite, degradation and reaction products’ mean any metabolites, degradation and reaction products which exhibit similar or enhanced pesticidal properties to their parent pesticide or exhibit significant toxicological properties.

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- 2-(1) Water shall be regarded as wholesome if but only if the requirements of sub-paragraph (2) of this paragraph are satisfied, but this sub-paragraph is subject to sub-paragraphs (3) and (4) of this paragraph.
- (2) The requirements of this sub-paragraph are that –
- (a) the water does not contain any micro-organism (other than a parameter) or parasite, or any substance (other than a parameter), at a concentration or value which would constitute a potential danger to human health;
 - (b) the water does not contain any substance (whether or not a parameter) at a concentration or value which, in conjunction with any other substance it contains (whether or not a parameter), would constitute a potential danger to human health;
 - (c) the water does not contain concentrations or values of the parameters listed in Tables A and B in the Annex in excess of, or as the case may be, less than the prescribed concentrations or values; and
 - (d) the water satisfies the formula $[\text{nitrate}]/50 + [\text{nitrite}]/3 < 1$, where the square brackets signify the concentrations in mg/l for nitrate (NO₃) and nitrite (NO₂) respectively.
- (3) Water shall not be regarded as wholesome if, on transfer from a treatment works for supply for domestic purposes –
- (a) it contains a concentration of the coliform bacteria or E. coli parameter (items 3 and 4 in Table A in the Annex) in excess of the prescribed concentrations; or
 - (b) it contains a concentration of nitrite in excess of 0.1mgNO₂/l.
- (4) Water shall not be regarded as wholesome if, on transfer from a service reservoir for supply for domestic purposes, it contains a concentration of the coliform bacteria or E. coli parameter in excess of the prescribed concentrations.
- (5) However, water transferred from a service reservoir shall not be regarded as unwholesome because the maximum concentration for the coliform bacteria parameter is exceeded if, as regards the samples taken in any year in which the reservoir in question is in use, the results of analysis for that parameter establish that in at least 95 per cent of those samples coliforms were absent.

ANNEX

TABLE A

Microbiological Parameters

Item	Parameters	Concentration or value (maximum)	Units of Measurement
1.	Enterococci	0	number/100ml
2.	Escherichia Coli (<i>E. coli</i>)	0	number/100ml
3.	Coliform bacteria	0	number/100ml
4.	Escherichia coli (<i>E. coli</i>)	0	number/100ml

TABLE B

Chemical Parameters

Item	Parameters	Concentration or value (maximum)	Units of Measurement	Notes
1.	Acrylamide	0.10	µg/l	<i>a</i>
2.	Antimony	5.0	µgSb/l	
3.	Arsenic	10	µgAs/l	
4.	Benzene	1.0	µg/l	
5.	Benzo(a)pyrene	0.010	µg/l	
6.	Boron	1.0	mgB/l	
7.	Bromate	10	µgBrO ₃ /l	
8.	Cadmium	5.0	µgCd/l	
9.	Chromium	50	µgCr/l	
10.	Copper	2.0	mgCu/l	
11.	Cyanide	50	µgCN/l	
12.	1,2 dichloroethane	3.0	µg/l	

13.	Epichlorohydrin	0.10	µg/l	<i>a</i>
14.	Fluoride	1.5	mgF/l	
15.	Lead	(a) 25, from 1st January 2004 until immediately before 25th December 2013	µgPb/l	
		(b) 10, on and after 25th December 2013	µgPb/l	
16.	Mercury	1.0	µgHg/l	
17.	Nickel	20	µgNi/l	
18.	Nitrate	50	mgNO ₃ /l	<i>b</i>
19.	Nitrite	0.50 0.10	mgNO ₂ /l	<i>b</i>
20.	Pesticides aldrin dieldrin heptachlor heptachlor epoxide	0.03 0.03 0.03 0.03	µg/l µg/l µg/l µg/l	<i>c and d</i>
	Other pesticides	0.10	µg/l	
21.	Pesticides: Total	0.50	µg/l	<i>e</i>
22.	Polycyclic aromatic hydrocarbons	0.10	µg/l	<i>f</i>
23.	Selenium	10	µgSe/l	
24.	Tetrachloroethene and Trichloroethene	10	µg/l	<i>g</i>
25.	Trihalomethanes: Total	100	µg/l	<i>h</i>
26.	Vinyl chloride	0.50	µg/l	<i>a</i>

27.	Aluminium	200	µgAl/l	
28.	Colour	20	mg/lPt/Co	
29.	Hydrogen ion	10.0 6.5 (minimum)	pH value pH value	
30.	Iron	200	µgFe/l	
31.	Manganese	50	µgMn/l	
32.	Odour	3 at 25°C	Dilution number	
33.	Sodium	200	mgNa/l	
34.	Taste	3 at 25°C	Dilution number	
35.	Tetrachloromethane	3	µg/l	
36.	Turbidity	4	NTU	

Notes:

- a* The parametric value refers to the residual monomer concentration in the water as calculated according to specifications of the maximum release from the corresponding polymer in contact with the water. This is controlled by product specification.
- b* See also paragraph 2(2)(d).
- c* See the definition 'pesticides and related products' in paragraph 1.
- d* The parametric value applies to each individual pesticide.
- e* 'Pesticides: Total' means the sum of the concentrations of the individual pesticides, and any relevant metabolites, degradation and reaction products, detected and quantified in the samples taken on a particular sampling occasion from the same sample.
- f* The specified compounds are –
 -benzo(b)fluoranthene;
 -benzo(k)fluoranthene;
 -benzo(ghi)perylene; and
 -indeno(1,2,3-cd)pyrene.
- The parametric value applies to the sum of the concentrations of the individual compounds detected and quantified in the monitoring process.
- g* The parametric value applies to the sum of the concentrations of the individual compounds detected and quantified in the monitoring process.
- h* The specified compounds are –
 -chloroform;
 -bromoform;
 -dibromochloromethane; and
 -bromodichloromethane.

The parametric value applies to the sum of the concentrations of the individual compounds detected and quantified in the monitoring process.

TABLE C
Indicator Parameters

Item	Parameters	Concentration or value (maximum) or State	Units of Measurement	Notes
1.	Ammonium	0.50	mgNH ₄ /l	
2.	Chloride	250	mgCl/l	<i>a</i>
3.	Clostridium perfringens (including spores)	0	number/100ml	
4.	Coliform bacteria	0	number/100ml	
5.	Colony counts	No abnormal change	number/1ml at 22°C number/1ml at 37°C	
6.	Conductivity	2500	μ S/cm at 20°C	<i>a</i>
7.	Sulphate	250	mgSO ₄ /l	<i>a</i>
8.	Total indicative dose (for radio-activity)	0.10	mSv/year	<i>b</i>
9.	Total organic carbon (TOC)	No abnormal change	mgC/l	
10.	Tritium (for radioactivity)	100	Bq/l	
11.	Turbidity	1	NTU	

Notes:

- a* The water should not be aggressive.
b Excluding tritium, potassium-40, radon and radon decay products.”.

¹ *Volume 1970-1972, page 307.*

² *Volume 1988-1989, page 217, Volume 1990-1991, page 35 and Volume 2000, page 212.*

³ *Volume 1970-1972, page 308.*

⁴ *Volume 1970-1972, page 310.*

⁵ *Volume 1970-1972, page 318.*

⁶ *Volume 2000, page 149 and Volume 2003, page 127.*

⁷ *Volume 1970-1972, page 327.*

⁸ *Volume 1970-1972, page 332.*