



Government of Jersey
Infrastructure and Environment | Regulation | PO Box 228 | Jersey | JE4 9SS

**STATUTORY NUISANCES (JERSEY) LAW 1999
ABATEMENT NOTICE IN RESPECT OF A STATUTORY NUISANCE**

To: HAND PICKED HOTELS LIMITED **Reference Number: WK/020222791**
The Old Library, The Drive, Sevenoaks, Kent, TN13 3AB

TAKE NOTICE that under the provisions of Article 5 of the Statutory Nuisances (Jersey) Law 1999 ("the Law"), the Minister for the Environment ("the Minister") being satisfied that a statutory nuisance is occurring at:-

L'HORIZON BEACH HOTEL & SPA, La Route de la Baie, St Brelade, Jersey, JE3 8EF.

Arising from noise at the premises

Being the following category of statutory nuisance under Article 2 (1) (h) of the law, namely

noise emitted from premises so as to be prejudicial to health or a nuisance;

HEREBY REQUIRES you as the occupier of the premises on which the nuisance arises within 56 days from the service of this Notice, abate the same and prohibit the recurrence

NOTES:

1. Your attention is directed to the Schedule to the Law (overleaf) detailing your right to appeal to the Royal Court against this Notice within the period of twenty-one days beginning with the day on which this Notice was served on you. A copy of the Law (L.34/99) or any legislation made thereunder is available from the States Bookshop, Morier House, St Helier, JE1 IDD.
2. If without reasonable excuse you contravene or fail to comply with any requirement or prohibition imposed by this Notice, you will be guilty of an offence and liable to a fine together with a further fine not exceeding £1000 for each day on which the offence continues after conviction for that offence. A person who commits such an offence on industrial, agricultural, trade or business premises is liable to a fine in the discretion of the court.
3. If this Notice is not complied with, the Minister may abate the nuisance and do whatever may be necessary in execution of this Notice and may recover from you any expenses reasonably incurred in so doing. The Minister may also take proceedings in the Royal Court for the purpose of securing the abatement, prohibition or restriction of the nuisance.

Dated the 22nd day of June 2023

Signed

Alison de Bourcier

Head of Environmental and Consumer Protection, Regulation, Infrastructure and Environment.

SCHEDULE (Article 9) APPEALS

- (1) A person served with an abatement notice under Article 5 may appeal against the notice to the Court within the period of twenty-one days beginning with the day on which he was served the notice.
- (2) A person referred to in paragraph (1) may appeal on any one or more of the grounds set out in paragraph (3) that are appropriate in the circumstances of the particular case.
- (3) The grounds referred to in paragraph (2) are -
- (a) that the abatement notice is not justified by Article 5;
 - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under paragraph (3) of Article 6;
 - (c) that the Minister has refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
 - (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
 - (e) where the nuisance to which the notice relates -
 - (i) is a nuisance falling within sub-paragraph (a), (d), (e), (f), (g) or (h) of paragraph (1) of Article 2 and arises on industrial, agricultural, trade or business premises; or
 - (ii) is a nuisance falling within sub-paragraph (b) of that paragraph and the smoke is emitted from a chimney; or
 - (iii) is a nuisance falling within sub-paragraph (j) of that paragraph and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, agricultural, trade or business purposes, that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
 - (f) that the abatement notice should have been served on some person instead of the appellant, being -
 - (i) the person responsible for the nuisance; or
 - (ii) the person responsible for the vehicle, machinery or equipment; or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises; or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
 - (g) that the abatement notice might lawfully have been served on some person instead of the appellant being -
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises; or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
 - (h) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - (i) a person also responsible for the nuisance; or
 - (ii) a person who is also owner of the premises; or
 - (iii) a person who is also an occupier of the premises; or
 - (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (4) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under paragraph (3) of Article 6, the Court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (5) Where the grounds upon which an appeal is brought include a ground specified in sub-paragraph (g) or (h) of paragraph (3), the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (6) On the hearing of the appeal the Court may -
- (a) quash the abatement notice to which the appeal relates; or
 - (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit; or
 - (c) dismiss the appeal,
- and an abatement notice that is varied under sub-paragraph (b) shall be final and shall otherwise have effect, as so varied, as if it had been so made by the Minister.
- (7) Subject to paragraph (8), on the hearing of an appeal the Court may make such order as it thinks fit -
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work; or
 - (b) as to the proportions in which any expenses which may become recoverable by the Minister under the Law are to be borne by the appellant and by any other person.
- (8) In exercising its powers under paragraph (7) the Court -
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions of any relevant tenancy and to the nature of the works required; and
 - (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (5).
- (9) Where -
- (a) an appeal is brought against an abatement notice served under Article 5 or 6; and
 - (b) either -
 - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal; or
 - (ii) in the case of a nuisance under sub-paragraph (h) of paragraph (1) of Article 2, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant; and
 - (c) either paragraph (10) does not apply, or it does apply but the requirements of paragraph (11) have not been met,
- the abatement notice shall be suspended until the appeal has been abandoned or decided by the Court.
- (10) This paragraph applies where -
- (a) the nuisance to which the abatement notice relates -
 - (i) is injurious to health; or
 - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect; or
 - (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (11) Where paragraph (10) applies the abatement notice -
- (a) shall include a statement that paragraph (10) applies, and that as a consequence it shall have effect notwithstanding any appeal to the Court which has not been decided by the Court; and
 - (b) shall include a statement as to which of the grounds set out in paragraph (10) apply.