



Jersey

WATER POLLUTION (AMENDMENT No. 3) (JERSEY) LAW 201-

Explanatory Note

This Law would amend the Water Pollution (Jersey) Law 2000 (the “Law”) to change the provisions with respect to water management. These have never had effect because the requisite Regulations and Order under the existing provisions have never been made.

Article 1 provides for the Law to be amended by this Law.

Article 2 substitutes definitions of the new terms “Water Management Area” and “Water Management Order” instead of “Water Catchment Management Area” and “Water Catchment Management Order”. The new terms are substituted also in Article 8 of the Law by *Article 3* and in Article 9 by *Article 4*.

Article 5 adds a proposal to make a Water Management Order to the public notice proposals in Article 10 of the Law. These require publication of a notice of a proposal to make the Order and the affording of an opportunity for a person to make representations in respect of it.

Article 6 removes the reference to Article 15 in Article 13(a) of the Law, reflecting the fact that the Minister will no longer have functions under this Article.

Article 7 substitutes new Articles 14 and 15 of the Law. Instead of the power for the Minister by Order to designate any land as a Water Catchment Area there is now power for the Minister by Order to designate all or any land in Jersey to be part of a Water Management Area in respect of which certain conditions may be imposed. Instead of these conditions having to be specified in Regulations made by the States, the conditions are specified in Article 14(2) with a power for the States to amend the conditions by Regulations. The notice provisions requiring notice to be given to every landowner are deleted because of the amendment made by Article 5. The offence provision is modified and a defence of due diligence is added.

Article 8 amends Article 45 of the Law in a way that is consequential on the other changes made.

Article 9 names the Law and provides for it to come into force 7 days after it is registered.



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Arrangement

Article

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

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

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

1 Water Pollution (Jersey) Law 2000 amended

The Water Pollution (Jersey) Law 2000 is amended in accordance with the following provisions of this Law.

2 Article 1 amended

In Article 1(1) for the definitions “Water Catchment Management Area” and “Water Catchment Management Order” there shall be substituted the following definitions –

“ ‘Water Management Area’ means a geographical area designated by a Water Management Order;

‘Water Management Order’ means an Order made under Article 14(1)”.

3 Article 8 amended

For Article 8(2)(d) there shall be substituted the following sub-paragraph –

“(d) Water Management Areas and Water Management Orders;”.

4 Article 9 amended

In Article 9(2)(a) the word “Catchment” shall be deleted.

5 Article 10 amended

In Article 10(1) after sub-paragraph (a) there shall be inserted the following sub-paragraph –

“(aa) a proposal to make a Water Management Order;”.

6 Article 13 amended

In Article 13(a) for the words “Articles 14, 15 and 16” there shall be substituted the words “Articles 14 and 16”.

7 Articles 14 and 15 substituted

For Articles 14 and 15 there shall be substituted the following Articles –

“14 Water Management Orders

- (1) The Minister may by an Order known as a “Water Management Order” –
 - (a) designate all or any land in Jersey to be part of one or more geographical areas for the purposes of this Law, to be known as ‘Water Management Areas’; and
 - (b) impose in respect of –
 - (i) a Water Management Area, or
 - (ii) any part of such an Area,restrictions and requirements on business activities or operations for the prevention, control, reduction or elimination of pollution in controlled waters or of the risk of pollution in controlled waters.
- (2) However, the restrictions and requirements that the Minister may impose in a Water Management Order must consist of or relate to any of the following –
 - (a) the importation, sale or purchase of fertilizers;
 - (b) the storage of fertilizers;
 - (c) measures concerned with or that implement the planning, and management of the use of fertilizers;
 - (d) the calibration of equipment to be used for the application of fertilizers;
 - (e) the application or use of fertilizers on land, including the permitted concentration of fertilizers, the times of the year when fertilizers may be used and any geographical, terrestrial or meteorological conditions affecting their use;
 - (f) the establishing of protection zones in the vicinity of controlled waters where the application or use of fertilizers may be restricted or prohibited;
 - (g) soil management measures;
 - (h) the training of individuals involved in any relevant matter;

- (i) the keeping of adequate records to be available for inspection by the Minister in relation to any relevant matter; or
- (j) the making of returns to the Minister in respect of any relevant matter.

(3) The States may by Regulations amend paragraph (2) so as to amend any matter to which a restriction or requirement must consist of or relate to.

(4) In this Article –

‘fertilizer’ means a chemical or natural substance that is added to soil to improve its productivity;

‘relevant matter’ means a matter mentioned in paragraph (2)(a) to (g).

15 Contravention of Water Management Orders

(1) A person who intentionally contravenes a Water Management Order is guilty of an offence and liable to imprisonment for 2 years and to a fine.

(2) Where a person is charged with an offence under paragraph (1) it shall be a defence for the person to prove that he or she took all reasonable precautions and exercised due diligence to avoid the commission of the offence.

(3) For the purposes of paragraph (2) –

(a) the fact that a person conforms in a material way to an approved code of practice is admissible as evidence that the person is conducting himself or herself reasonably and with due diligence in that way; and

(b) the fact that a person fails in a material way to conform to an approved code of practice is admissible as evidence that the person is not conducting himself or herself reasonably and with due diligence in that way.”.

8 Article 45 amended

In Article 45 –

(a) for paragraph (1)(a) there shall be substituted the following sub-paragraph –

“(a) any person with a proprietary interest in any land suffers any loss by way of reduction in the value of the person’s interest or by way of the disturbance of business carried on by the person on that land, in consequence of a Water Management Order; or”;

(b) in paragraph (5)(b) for the words “condition in respect of land by a Water Catchment Management Order” there shall be substituted the words “restriction or requirement in respect of land by a Water Management Order”.

9 Citation and commencement

This Law may be cited as the Water Pollution (Amendment No. 3) (Jersey) Law 201- and shall come into force on the 7th day after its registration.

