

Island of  Guernsey

Ordinance of the States **XXXV**

1959

Made 9th December, 1959.

Coming into Operation .. . 10th December, 1959.

**The Natural Beauty and Land Control
(Implementation) Ordinance, 1959**

ARRANGEMENT OF SECTIONS

Section

PART I

CONTROL OF AGRICULTURAL LAND

1. Permission required to develop agricultural land.
2. Applications for permission to develop agricultural land.
3. Grant or refusal of permission.
4. Consideration to be taken into account by Committee.

Section

5. Removal of surface or subsoil subject to conditions as to restoration.
6. Removal of turf, soil or sand for horticultural purposes.
7. Penalties, etc.

PART II

PRESERVATION OF NATURAL BEAUTY

8. Permission to carry out certain works.
9. Application for permission to carry out certain works.
10. Grant or refusal of permission.
11. Power of Committee to serve notices.
12. Exemptions.
13. Contraventions of section eight.
14. Contraventions of section eight in relation to movable structures.
15. Contraventions of section eight in relation to placing and attachment of signs.
16. Contraventions of paragraph (a) of section eleven.
17. Contraventions of paragraphs (b), (c) or (d) of section eleven.
18. Contraventions of conditions attached to permission under this Part.
19. Power of the Court to make orders requiring work to be done.

Section

PART III

GENERAL

20. Notification of refusals.
21. Definition.
22. Commencement.



The Natural Beauty and Land Control (Implementation) Ordinance, 1959

THE STATES, in pursuance of the powers conferred upon them by sections three, six and eleven of the Natural Beauty and Land Control Law, 1959, and of all other powers enabling them in that behalf, hereby order:—

PART I

Control of Agricultural Land

1. A person shall not, without the permission in writing of the Committee in that behalf, carry out any development of agricultural land in this Island. Permission required to develop agricultural land.

2. (1) Any person desirous of obtaining permission to carry out any development of agricultural land in this Island shall make application in that behalf to the Committee and such application shall be in such form and shall be accompanied by such information, including site plans, as the Committee may, from time to time, require. Applications for permission to develop agricultural land.

- (2) Upon receipt of an application under the provisions of the last preceding subsection, or at any time thereafter, the Committee may require an applicant to supply the Committee with such information, including site plans, in addition to any information or site plans supplied in accordance with the provisions of the last preceding subsection, as the Committee may require.

3. (1) Upon the receipt of an application under the provisions of the last preceding section, the Committee may either— Grant or refusal of permission.

- (a) grant permission for the applicant to carry out the development concerned;
- (b) refuse such permission; or
- (c) grant such permission subject to such conditions as the Committee may think it necessary or expedient to impose.

(2) The Committee may, from time to time, revoke or vary any conditions attached to any permission granted in accordance with the provisions of the last preceding subsection upon application being made to it in writing in that behalf by the person to whom such permission was granted.

Consideration to be taken into account by Committee.

4. In the exercise of its powers under the provisions of the last preceding section the Committee shall take into account, as an important factor, the degree of suitability of the land which is the subject of the application and upon which the development is to take place, as agricultural land.

Removal of surface or subsoil subject to conditions as to restoration.

5. Where any development of agricultural land entails the removal from that land of any materials forming part of the surface or of the subsoil thereof permission granted under the provisions of section three of this Ordinance to carry out that development, if granted by the Committee, may be granted subject to the condition that the land shall be restored when, in the opinion of the Committee, such restoration is possible, in such manner and with such materials as may be necessary to render the land capable of being cultivated as agricultural land.

Removal of turf, soil or sand for horticultural purposes.

6. (1) Permission under the provisions of section three of this Ordinance shall not be required for the development of agricultural land which consists of the removal of any turf, soil or sand from that land for use by the occupier thereof for horticultural purposes save that, if, in the opinion of the Committee,

as the result of such removal otherwise than for the purpose of constructing a road or path the land is thereby rendered incapable of being cultivated as agricultural land the Committee may serve a notice on any person who removed or caused or permitted to be removed that turf, soil or sand requiring that person to effect the restoration of the land before the expiration of twelve months from the date of such notice, in such manner and with such materials as may be necessary to render the land capable of being cultivated as agricultural land.

(2) If the person upon whom a notice has been served under the provisions of the last preceding subsection fails to comply with that notice within the period specified therein, the Royal Court, sitting as an Ordinary Court (hereinafter referred to as "the Ordinary Court") may, on application being made to it in that behalf by the Committee, make an order authorising the Committee to effect the restoration and any expenses reasonably incurred by the Committee in carrying out such restoration, including any incidental and legal expenses, shall be recoverable by the Committee as a civil debt from the person on whom such notice was served.

(3) The Ordinary Court shall not make an order under the provisions of the last preceding subsection unless—

- (a) the Committee has served notice of its intention to apply for the order upon the following person or persons, as the case may be, that is to say—
 - (i) the person upon whom the notice referred to in subsection (1) of this section was served; and
 - (ii) in the case where that person was not, on the date of the service of such

notice, the occupier of the land concerned, the occupier of that land on that date;

- (b) such person or persons has had or have had, as the case may be, a reasonable opportunity of being heard thereon.

Penalties,
etc.

7. (1) Any person who develops agricultural land without first having obtained the permission of the Committee in accordance with the provisions of this Part of this Ordinance or who fails to comply with any condition attached to any permission granted under the provisions of section three of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds.

(2) Where there has been a conviction against any person in respect of—

- (a) any development of agricultural land in contravention of section one of this Ordinance; or
(b) any development of agricultural land in contravention of any condition attached to any permission granted under the provisions of section three of this Ordinance;

the Committee may apply to the Ordinary Court to make an order requiring the convicted person—

- (c) to restore the land concerned in such manner and with such materials as may be necessary to render the land capable of being cultivated as agricultural land; or
(d) to comply with such condition as aforesaid.

(3) If a person in respect of whom an order has been made in pursuance of the last preceding subsection fails to comply with the order within such period as the Ordinary Court may, on his application, allow, the Committee may apply to the Ordinary

Court for permission to enter the premises concerned and there to do such restoration as may be necessary to give effect to the said order and the Ordinary Court, after hearing the evidence as to the estimated cost of such restoration, may make such order as it deems just and the Ordinary Court may, upon application in that behalf by the Committee, as soon as may be after the completion of such restoration, order that any expenses reasonably incurred by the Committee in carrying out such restoration shall be recoverable by the Committee as a civil debt.

(4) The Ordinary Court shall not make an order under this section unless the person against whom such order is sought has been served by the Committee with notice of its intention to apply for such order and unless such person has had a reasonable opportunity of being heard thereon.

PART II

Preservation of Natural Beauty

8. (1) A person shall not, without permission in writing in that behalf of the Committee,—

Permission to carry out certain works.

- (a) place, erect or re-erect on any site, or make any structural alteration to the exterior of, any movable or immovable structure which is visible from any public or other place to which the public has access, or which, when so erected or re-erected, will be so visible;
- (b) place, erect or re-erect on any site, or make any structural alteration to the exterior of, any movable or immovable structure which is situated on the cliffs, or on the land adjacent to the foreshores, of this Island;
- (c) demolish, in whole or in part, any wall, hedge, bank or fence which is visible from

any public or other place to which the public has access;

- (d) place on any site or attach to the exterior of any movable or immovable structure, any sign (which expression shall hereafter in this Ordinance include any poster, bill, notice or advertising banner or flag) whether temporary or permanent;
- (e) paint on or otherwise exhibit on the exterior of any movable or immovable structure, any sign, whether temporary or permanent, where such sign bears references either directly or indirectly to any commercial undertaking.

(2) For the purposes of paragraphs (a) and (b) of the last preceding subsection the expression "movable structure" shall mean any movable structure the cubic capacity of which is not less than one hundred and twenty-five cubic feet.

Application
for permis-
sion to
carry out
certain
works.

9. (1) Any person desirous of obtaining permission to carry out any work referred to in the last preceding section shall make application in that behalf to the Committee and such application shall be in such form and shall be accompanied by such information, including plans, elevations and site plans, as the Committee may, from time to time, require.

(2) Upon receipt of an application under the provisions of the last preceding subsection, or at any time thereafter, the Committee may require an applicant to supply the Committee with such information, including plans, elevations and site plans, in addition to any information, plans, elevations or site plans supplied in accordance with the provisions of the last preceding subsection, as the Committee may require.

10. (1) Upon the receipt of an application under the provisions of the last preceding section, the Committee may either— Grant or refusal of permission.

- (a) grant the permission applied for to carry out the work concerned;
- (b) refuse such permission; or
- (c) grant such permission subject to such conditions as the Committee may think it necessary or expedient to impose.

(2) The Committee may, from time to time, revoke or vary any conditions attached to any permission granted in accordance with the provisions of the last preceding subsection upon application being made to it in writing in that behalf by the person to whom such permission was granted.

11. The Committee may, from time to time, by notice served upon the owner or the occupier of any movable structure, or upon the owner of any immovable structure, order— Power of Committee to serve notices.

- (a) the removal of any movable structure from any site in any case where, in the opinion of the Committee, its presence detracts from the amenities of the locality;
- (b) the external decoration or redecoration of any movable structure to the satisfaction of the Committee;
- (c) the removal, effacement, renovation or repainting of any sign which, in their opinion, has become dilapidated, out of date or unsightly, attached to the exterior of, or painted on or otherwise exhibited on the exterior of any movable or immovable structure; and
- (d) that that portion of the movable or immovable structure which is exposed

following the removal of any sign as aforesaid be decorated to the satisfaction of the Committee;

within such time as may be specified in the notice.

Exemptions.

12. Nothing in this Part of this Ordinance shall apply to any sign which, under the provisions of any Law or Ordinance for the time being in force, is required to be exhibited on the exterior of any movable or immovable structure.

Contraventions of section eight.

13. Except where otherwise specifically provided, any person who contravenes the provisions of section eight of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds.

Contraventions of section eight in relation to movable structures.

14. Any person who places, erects or re-erects on any site, structurally alters the exterior of, any movable structure in contravention of the provisions of section eight of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds.

Contraventions of section eight in relation to placing and attachment of signs.

15. Any person who places on any site, attaches to the exterior of, paints on or otherwise exhibits on the exterior of, any movable or immovable structure, any sign, in contravention of the provisions of section eight of this Ordinance, shall be guilty of an offence and liable, on conviction, to a fine not exceeding five pounds.

Contraventions of paragraph (a) of section eleven.

16. Any person who fails to comply with a notice served under the provisions of paragraph (a) of section eleven of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding twenty-five pounds.

17. Any person who fails to comply with a notice served under the provisions of paragraphs (b), (c) or (d) of section eleven of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding five pounds.

Contraventions of paragraphs (b), (c) or (d) of section eleven.

18. Any person who fails to comply with any condition attached to the grant of any permission under the provisions of section ten of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding five pounds.

Contraventions of conditions attached to permission under this Part.

19. (1) Where there has been a conviction against any person in respect of—

Power of the Court to make orders requiring work to be done.

(a) any work done in contravention of section eight of this Ordinance; or

(b) any work done in contravention of any condition attached to any permission granted under the provisions of section ten of this Ordinance; or

(c) a failure to comply with any notice served in pursuance of the provisions of section eleven of this Ordinance;

the Committee may apply to the Ordinary Court to make an order requiring the convicted person—

(d) to demolish, carry out such structural alterations or modifications to, any immovable structure, to which the conviction relates, as the Ordinary Court may require; or

(e) to re-site or to remove from any site any movable structure to which the conviction relates; or

(f) to rebuild, in whole or in part, any wall, hedge, bank or fence, to which the conviction relates; or

- (g) to remove from any site, or from the exterior of any movable or immovable structure whether attached thereto or painted or otherwise exhibited thereon, any sign to which the conviction relates; or
- (h) to comply with any conditions, to which the conviction relates, attached to any permission granted under the provisions of section ten of this Ordinance; or
- (i) to comply with the provisions of any notice, to which the conviction relates, served in pursuance of the provisions of section eleven of this Ordinance;

as the case may require.

(2) If a person in respect of whom an order has been made in pursuance of the provisions of the last preceding subsection fails to comply with the order within such period as the Ordinary Court may direct or within such longer period as the Ordinary Court may, on his application, allow, the Committee may apply to the Ordinary Court for permission to enter the premises concerned and there to do such works as may be necessary to give effect to the said order and the Ordinary Court after hearing evidence as to the estimated cost of such works may make such order as it deems just and the Ordinary Court may, upon application in that behalf by the Committee, as soon as may be after the completion of such works order that any expenses reasonably incurred by the Committee in carrying out such works shall be recoverable by the Committee as a civil debt.

(3) The Ordinary Court shall not make any order under this section unless the person against whom such order is sought has been served by the Committee with notice of its intention to apply for

such order and unless such person has had a reasonable opportunity of being heard thereon.

PART III

General

20. If the Committee refuse any permission applied for by any person under the provisions of Part I or Part II of this Ordinance, notice of such refusal shall be served upon the applicant within the eight days next following the date of the meeting of the Committee at which the decision was taken to refuse such permission. Notification of refusals.

21. In this Ordinance the expression "owner", in relation to any immovable structure, includes— Definition.

- (a) where that immovable structure is the subject of a vested right of usufruct, the usufructuary;
- (b) where that immovable structure is held in trust, the trustees thereof.

22. This Ordinance shall come into force on the tenth day of December, nineteen hundred and fifty-nine. Commencement.

R. H. VIDELO,

Her Majesty's Greffier.