

# ORDER IN COUNCIL

V  
2003

ratifying a Projet de Loi

ENTITLED

## The Fire Services (Alderney) Law, 2002

(Registered on the Records of the Island of Guernsey  
on the 14th April, 2003.)



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2003

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 14th day of April, 2003 before Geoffrey Robert Rowland, Esquire, Deputy Bailiff; present:— David Charles Lowe, Esquire, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael Henry De La Mare and Michael John Tanguy, Esquires, Jurats.*

The Deputy Bailiff having this day placed before the Court a copy of an Order of Her Majesty in Council dated the 27th day of February, 2003, approving and ratifying a *Projet de Loi* of the States of Alderney entitled “The Fire Services (Alderney) Law, 2002”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED:—

1. That the said Order in Council be registered on the records of this Island.
2. That an extract of this present Act, together with a copy of the said Order in Council be sent by Her Majesty’s Greffier to the Clerk of the Court of Alderney for registration on the records of those Islands.

# At the Court at Buckingham Palace

The 27th day of February, 2003

PRESENT,

## The Queen's Most Excellent Majesty in Council

THE FOLLOWING, report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“IN ACCORDANCE WITH YOUR MAJESTY’S General Order of Reference of the 22nd day of February 1952 the Committee have considered a petition of the States of Alderney:”

“That, at a meeting of the States of Alderney on 23rd October, 2003, the States approved a Projet de Loi entitled “The Fire Services (Alderney) Law, 2002” and requested the President to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the Projet de Loi is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction “The Fire Services (Alderney) Law, 2002” and to order that it shall have force of law in the Island of Alderney.”

“THE COMMITTEE have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

HER MAJESTY, having taken the Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Island of Alderney; and shall be entered on the Register of the Island of Guernsey and observed accordingly.

HER MAJESTY'S Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

*A. K. Galloway*

# PROJET DE LOI

ENTITLED

## **The Fire Services (Alderney) Law, 2002**

**THE STATES OF ALDERNEY**, in pursuance of their Resolution of the 11th day of September, 2002, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

### PART 1

#### FIRE SERVICES

##### **Provision of fire-fighting services.**

1. Neither the States nor any committee of the States shall have any duty to provide fire-fighting services in Alderney, but the Committee may make such arrangements for the provision of fire-fighting services as it thinks fit, having regard to -

- (a) the need for the provision of such services in the circumstances of Alderney; and
- (b) the availability of funding with which to meet the cost of such services.

##### **Agreements for the provision of fire-fighting services.**

2 (1) Arrangements under section 1 may include agreements (“section 2 agreements”) entered into by the Committee on behalf of the States with

such persons as it thinks fit for the purpose of the provision of fire-fighting services in Alderney.

(2) Without limiting the generality of the powers under this Part , a section 2 agreement may be entered into with any provider of fire-fighting services within or outside Alderney under the terms of which persons, who are not members of the fire brigade, may provide operational, advisory or any other manner of fire-fighting services in Alderney.

(3) Any person providing fire-fighting services under or pursuant to a section 2 agreement -

(a) shall, unless otherwise provided under the terms of that agreement, be subject to the authority and under the control of -

(i) the Chief Fire Officer; or

(ii) such other person as the Chief Fire Officer may from time to time appoint for the purposes;

(b) shall possess the powers and privileges of a member of the fire brigade under Part II; and

(c) shall at all times be subject to the authority and jurisdiction of the courts of Alderney in respect of their conduct in Alderney.



PART II  
POWERS AND PRIVILEGES

**Powers of members of fire brigade and police.**

3. (1) Any member of the fire brigade, when providing fire-fighting services, or any officer of police, may enter, by force if necessary, any premises -

- (a) in which a fire is or is reasonably believed to have broken out;
- (b) in which he reasonably believes there to be an immediate danger of fire breaking out;
- (c) which it is necessary to enter for the purpose of fire-fighting or preventing fire or the spread thereof;
- (d) which it is necessary to enter for the purpose of preventing the premises from any act done for the purpose of fire-fighting or preventing fire or the spread thereof,

and may do anything he reasonably believes to be necessary for the purpose of fire-fighting, preventing fire or the spread thereof, or protecting any such premises from any act done for the purpose of fire-fighting or preventing fire or the spread thereof.

(2) When a fire breaks out, or there is an immediate danger of a fire breaking out -

- (a) the senior member of the fire brigade present shall

have sole charge and control of all operations for the purpose of fire-fighting or preventing fire or the spread thereof including, without limiting the generality of the same -

- (i) the fixing of fire engines and apparatus;
  - (ii) the attaching of hoses to any fire hydrant or water pipe;
  - (iii) the use of any water supply; and
  - (iv) the control of the direction of the water;
- (b) the senior officer of police present, or in the absence of any officer of police, the senior member of the fire brigade present, may close to traffic any street or other place and may stop or regulate the movement or flow of traffic in any street or other place whenever he reasonably believes it to be necessary to do so for the purpose of fire-fighting or preventing fire or the spread thereof; and if the presence of any person or vehicle in any street or other place prevents or hinders operations for the purpose of fire-fighting or preventing fire or the spread thereof, the person or the vehicle may be removed by any officer of police or member of the fire brigade present;
- (c) the States Water Board on being required by the senior member of the fire brigade present to provide a



greater supply and pressure of water for the purpose of fire-fighting or preventing fire or the spread thereof, shall take all steps which it is able to take to comply with that requirement and may for that purpose, shut off the water from the mains and the pipes in any area.

(3) The States Water Board is not liable in law to any penalty or claim by reason of any interruption in the supply of any water, for which supply it is or may be responsible, occasioned only by compliance with a requirement under subsection (2)(c).

(4) Any person, other than the States Water Board, who by virtue of subsection (2)(a) is required to provide water for the purpose of fire-fighting or preventing fire or the spread thereof in the property of another person, is entitled to be compensated by the States for any pecuniary loss arising therefrom.

(5) Damage caused to any person or property by any members of the fire brigade or officers of police engaged in operations for the purpose of fire-fighting or preventing fire or the spread thereof, or exercising any power conferred by this section, shall be deemed, for the purposes of any policy of insurance against fire, to be damage caused by fire.

(6) Nothing in this section derogates from the power of officers of police arising independently of this Law to assist members of the fire brigade in the exercise of the powers conferred by this section.

(7) In this section -

**“premises”** includes any building or part thereof, place, vessel,

vehicle or aircraft; and

“**water supply**” includes a supply of water located, stored or flowing upon, below the surface of or through any privately owned land.

### PART III

#### FIRE PRECAUTIONS IN CONTROLLED PREMISES

**Premises to which fire precautions apply.**

4. (1) Subject to section 5, this Part of this Law applies to any premises put to a designated use (“**controlled premises**”).

(2) A designated use is any of the following –

- (a) use as, or as part of, a place of work in which at least 10 persons are employed to work;
- (b) use as, or for any purpose involving the provision of, sleeping accommodation for at least 10 persons;
- (c) use as, or as part of, an institution providing treatment or care for at least 10 persons;
- (d) use for the purposes of, or for any purpose involving –
  - (i) entertainment or recreation;
  - (ii) any club, society or association;
  - (iii) teaching, training, or research;

- (iv) access to the premises by members of the public, whether on payment or otherwise; or
- (v) the sale of food and drink for immediate consumption,

where seating or facilities are provided for at least 40 persons, or where it is reasonable to suppose that, on any occasion, at least 40 persons will be present;

- (e) use as, or as part of, a place –
  - (i) for the retail or wholesale trade;
  - (ii) to which the public are invited to resort for the purpose of delivering goods for repair or treatment, or for the purpose of hiring goods; or
  - (iii) for auctions,

where the combined area of the sales floor and public floor is at least 200 square metres;

- (f) use as, or as part of, a place in which are stored or used not less than-
  - (i) 1,000 litres of flammable liquid with a flash point of 21 degrees Celsius;

- (ii) 3,000 litres of flammable liquid with a flash point of 21 degrees Celsius or above;
  - (iii) 250 kilograms of toxic or flammable gases (including liquefied gases); or
  - (iv) 25 kilograms of fireworks or pyrotechnics;
- (g) use as, or as part of, a place in which space is provided for tented or other temporary accommodation for at least 100 persons;
  - (h) use as, or as part of, a place in which child minding facilities are provided for at least 5 children;
  - (i) use for the purpose of obtaining access to controlled premises.

(3) Premises used as, or as part of, a place of work are put to a designated use, and accordingly are controlled premises, notwithstanding that less than the minimum number of persons mentioned in subsection (2)(a) are employed to work in them if in the building in which the premises are comprised there are other premises used as, or as part of, a place of work and the total number of persons employed to work in the building is at least that minimum number.

(4) A building shall be deemed to be put to a designated use, and shall accordingly be deemed to be controlled premises, if, irrespective of the number of premises within the building –

- (a) the building as a whole is used as, or for any purpose involving the provision of, sleeping accommodation for at least 10 persons; or
  - (b) any part of the building below ground floor level or above first floor level is used as, or for any purpose involving the provision of, sleeping accommodation.
- (5) In the case of any controlled premises in multiple occupation-
- (a) the duty to ensure that the premises are provided with the means referred to in section 6(1), which duty would (apart from this subsection) be imposed by section 6(1) upon the occupier, shall instead be imposed jointly and severally upon –
    - (i) the persons who are the owners of the controlled premises in multiple occupation; or
    - (ii) where the requirement or obligation applies only to a particular part of the controlled premises in multiple occupation, the persons who are the owners of that particular part;
- whether, in either case, those persons own the whole of the controlled premises in multiple occupation or the particular part, or only a share therein or a part thereof; and
- (b) the duty to ensure that the means referred to in section

6(1) are kept free from obstruction and properly maintained so that they can be safely and effectively used at all material times, which duty would (apart from this subsection) be imposed by section 6(1) upon the occupier, shall instead be imposed jointly and severally upon –

- (i) the persons described in paragraph (a) of this subsection; and
- (ii) the occupier.

(6) The provisions of subsection (5) are without prejudice to any right of indemnity or contribution or other civil law right or remedy (including, without limitation, any right or remedy under section 20) which may subsist or arise in respect of the mutual dealings of the occupiers or owners of, or other persons interested in, the controlled premises in multiple occupation or the particular part thereof.

(7) In this section the expression “**controlled premises in multiple occupation**” means –

- (a) any building which is deemed by subsection (4) to be put to a designated use and to be controlled premises;
- (b) any controlled premises comprising or comprised within a building which contains more than one set of premises; or
- (c) any premises used for the purpose of obtaining access to –

- (i) any building or controlled premises described in paragraph (a) or (b); or
- (ii) any part of any such building or premises.

**Exempt premises.**

5. This Part of this Law does not apply to premises consisting of or comprised in a house which is occupied solely as a single private dwelling.

**Occupiers to provide means of escape, etc.**

6. (1) An occupier of controlled premises shall ensure that the premises are provided with –

- (a) such means of escape in case of fire;
- (b) such means for securing that the means of escape can be safely and effectively used at all material times;
- (c) such means for fighting fire (whether the fire affects the premises or the means of escape) for use in case of fire; and
- (d) such means for giving to persons in the premises warning in case of fire,

as may reasonably be required in the circumstances of the case, and shall ensure that such means are kept free from obstruction and properly maintained so that they can be safely and effectively used at all material times.



(2) In determining, in respect of any premises, what means referred to in subsection (1) are reasonably required in the circumstances of the case, regard shall be had (amongst other things) to the number of persons who may reasonably be expected to be resorting to the premises at any time.

**Action where means of escape, etc., not satisfactory.**

7. (1) Where the Committee is satisfied on the written report of the Chief Fire Officer that, in respect of controlled premises, there has been a contravention of section 6, the Committee shall serve on the person in default a notice requiring him, within the time specified in the notice, to take the steps specified therein (whether by way of making structural alterations to the premises or otherwise), being steps which, in the opinion of the Committee, are necessary to remedy the contravention.

(2) Where the steps required to be taken by a notice served under subsection (1) include the provision of any of the means referred to in section 6, the notice may, in addition, require the means specified in the notice to be kept free from obstruction and properly maintained so that they can be safely and effectively used at all material times.

**Power of Committee to make regulations and codes.**

8. (1) The Committee may –
- (a) by regulations specify precautions which the occupiers or owners of controlled premises put to any specified designated use, or any specified class of such premises, are to take or observe to reduce the risk of fire and the risk to persons in case of fire;
  - (b) prepare codes for the guidance of such occupiers or

owners containing recommendations as to the precautions which ought to be taken or observed to eliminate or reduce the risk of fire and the risk to persons in case of fire.

(2) Without prejudice to the generality of sub-section (1)(a), regulations under this section may in particular, in respect of any premises to which they apply, make provision –

- (a) as to the standards which must be met by, and as to the provision, keeping free from obstruction, maintenance, testing and examination of –
  - (i) means of escape in case of fire;
  - (ii) means of securing that any means of escape can be safely and effectively used at all material times;
  - (iii) means for fighting fire;
  - (iv) means of giving warning in case of fire;
- (b) for prohibiting the presence or use in the premises of materials, substances, furniture or equipment of any specified description, or prohibiting its presence or use unless specified standards or conditions are complied with;
- (c) for securing that persons employed to work in the

premises –

- (i) receive appropriate instruction or training in what to do in case of fire;
  - (ii) are familiar with the means of escape from the premises in case of fire and with the routine to be followed in case of fire;
- (d) for securing that, in specified circumstances, specified numbers of attendants are stationed in specified parts of the premises;
- (e) as to the keeping of records of instruction or training given, or other things done, in pursuance of the regulations; and
- (f) as to the procedures to be observed and the precautions to be taken during the installation, removal or demolition of tanks or other containers of oil, liquid petroleum gas, or other explosive or flammable liquids or gases.
- (3) Regulations under this section
- (a) may impose requirements on person other than occupiers or owners of premises to which they apply;
  - (b) may, in respect of any of their provisions, specify who is to be responsible for any contravention thereof.

(4) Regulations and codes under this section shall be laid before a meeting of the States as soon as possible, and if at that or the next meeting the States resolve to annul them, they shall cease to have effect, but without prejudice to anything done under them or to the making of any new regulations or codes.

(5) Regulations and codes under this section –

(a) may be amended or repealed by subsequent regulations or codes, as the case may be;

(b) may contain such supplementary and incidental provision as in the opinion of the Committee, is necessary or expedient for the purposes of the regulations or codes, as the case may be.

(6) The provisions of regulations and codes under this section are in addition to, and not in derogation from, the provisions of section 6.

(7) The Committee shall cause any code under this section to be printed, and may cause it to be put on sale (at such price as the Committee may determine) or distributed free of charge.

(8) Regulations and codes under this section may adopt or incorporate (by reference, annexation or otherwise), and may make provision by reference to, the provisions of codes of practice, circulars and other materials issued by Her Majesty's Government in the United Kingdom, which provisions shall thereupon have the same force and effect as regulations or codes, as the case may be, under this section.

**Action where regulations contravened.**

9. (1) Where the Committee is satisfied on the written report of the Chief Fire Officer that, in respect of any controlled premises, there has been a contravention of regulations under section 8, the Committee shall without prejudice to any proceedings under section 13 in respect of the contravention, serve on the person in default (or the person who, by virtue of regulations under section 8(3)(b) is responsible for the contravention) a notice requiring him, within the time specified in the notice, to take the steps specified therein (whether by way of making structural alterations to the premises or otherwise), being steps which, in the opinion of the committee, are necessary to remedy the contravention.

(2) Where the steps required to be taken by a notice served under subsection (1) include the provision of any of the means referred to in section 8(2)(a), the notice may, in addition, require the means specified in the notice to be kept free from obstruction and properly maintained so that they can be safely and effectively used at all material times.

**Power to prohibit use of dangerous premises.**

10. (1) Where the Chief Fire Officer is satisfied that, in respect of any controlled premises, the risk of fire or the risk to persons in case of fire is so serious that, until steps have been taken to reduce the risk to a reasonable level, the use of the premises ought to be prohibited or restricted, he shall, without prejudice to any proceedings under section 13 in respect of the premises, serve on the occupier of the premises and on such other persons as he thinks fit (including, without limitation, the owner) a notice prohibiting their use, or restricting their use to the extent appropriate in the circumstances of the case, until the steps specified in the notice, being steps which in his opinion are necessary to reduce the risk to a reasonable level, have been taken.

- (2) A notice served under subsection (1) –
  - (a) has effect immediately upon service;
  - (b) ceases to have effect on the expiration of 7 days after the day of service, unless previously confirmed by the Committee.

**Powers of fire inspector.**

**11.** (1) A fire inspector, on production of his authority if so required, may, subject to subsection (2), at any reasonable time enter any controlled premises, or any premises which he has reasonable cause to believe to be controlled premises and –

- (a) inspect the whole or any part of the premises and anything in them;
- (b) make such enquiry as is necessary to ascertain –
  - (i) whether the premises are controlled premises;
  - (ii) whether there is or has been, in respect of the premises, a contravention of section 6, any regulations under section 8, or any notice served under section 7(1), 9(1), or 10(1);
  - (iii) the identity of the occupier or owner of the premises;
- (c) require any person in the premises to render such

facilities and assistance as that person is able to render to enable the fire inspector to exercise his powers under this subsection;

- (d) take samples of any material or substance found thereon for the purposes of analysis.

(2) The power of entry conferred by subsection (1) is not exercisable in respect of a bedroom unless 24 hours' notice is given to the occupier.

**Register of controlled premises.**

12. (1) The Committee shall prepare and maintain a register to be called the Register of Controlled Premises (“**the Register**”).

(2) The Register shall contain, in respect of controlled premises, the information required to be stated under subsection (5), and such other information relating to controlled premises as the Committee considers necessary or expedient for the purposes of this Law.

(3) The Register is to be available for public inspection.

(4) A person who –

- (a) at the commencement of this section, is an occupier of controlled premises;

- (b) at any time thereafter –

- (i) becomes, or ceases to be, an occupier of controlled premises;



- (ii) is an occupier of premises which become or cease to be controlled premises,

shall, as soon as is reasonably practicable, serve written notice of the fact on the Committee.

(5) In the case of controlled premises in multiple occupation, any reference in subsection (4) to an occupier shall be construed as a reference to an owner.

(6) A notice under subsection (4) shall state the address of the controlled premises in respect of which the notice is given, the name and address of the occupier or, in the case of controlled premises in multiple occupation, the owner of the premises, and the use to which the premises are put.

#### PART IV GENERAL PROVISIONS

##### **Offences.**

**13.** A person who –

- (a) intentionally obstructs or impedes -
  - (i) a member of the fire brigade;,
  - (ii) an officer of police; or
  - (iii) any other person,

engaged in operations for the purpose of fire-fighting or preventing fire or the spread thereof and exercising any power conferred by section 3;

- (b) without reasonable excuse gives or causes to be given a false alarm of fire to the fire brigade or to a member thereof;
- (c) contravenes a requirement of a notice served on him under section 7(1) or 9(1) or a requirement of such a notice as modified on his appeal against the notice under section 19;
- (d) contravenes a provision or requirement of regulations under section 8;
- (e) where there has been a contravention of a provision or requirement of regulations under section 8, is responsible for the contravention by virtue of regulations under section 8(3)(b);
- (f) being a person upon whom a notice under section 10(1) has been served, uses the premises, or causes or permits them to be used, in contravention of any prohibition or restriction imposed by the notice;
- (g) intentionally obstructs or impedes a fire inspector exercising any power conferred by section 11(1);
- (h) without reasonable excuse fails to reply to any enquiry

made by a fire inspector under section 11(1)(b);

- (i) without reasonable excuse contravenes any requirement of a fire inspector under section 11(1)(c);
- (j) in reply to an enquiry made by a fire inspector under section 11(1)(b), or in a notice served on the Committee under section 12(4), gives any information which is false in any material particular;
- (k) discloses, otherwise than -
  - (i) in the performance of his duty; or
  - (ii) for the purposes of any legal proceedings (including an arbitration) or report of such proceedings;

any information obtained by him in any premises entered by him in the exercise of any power conferred by this Law;

- (l) without reasonable excuse, fails to serve notice in accordance with section 12(4) or serves such notice which does not state the information required to be stated under section 12(6); or
- (m) intentionally obstructs access by -
  - (i) a member of the fire brigade; or

- (ii) a person providing fire-fighting services under or pursuant to a section 2 agreement,

to a fire hydrant,

is, subject to section 17, guilty of an offence under this section and liable, on summary conviction, to a fine not exceeding level 5 on the Alderney uniform scale or, on conviction on indictment, to a fine, to imprisonment for a term not exceeding 2 years, or to both.

#### **Contraventions of codes.**

**14.** A contravention by any person of a provision of a code under section 8 does not of itself render him liable to civil or criminal proceedings, but the contravention may, in any proceedings in which there is in issue a liability or contention in relation to which the provision of the code appears to the court to be relevant, be relied upon by any party to the proceedings as tending to establish or negative the liability or contention.

#### **Offences by bodies corporate.**

**15.** (1) Where an offence under section 13 committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if were a director of the body corporate.

**Offences due to default of another person.**

16. Where the commission by any person of an offence under section 13 is due to the act or default of another person, the latter is guilty of the offence and may be proceeded against and punished accordingly, whether or not proceedings are taken against the former.

**Defences in certain cases.**

17. (1) It is, subject to subsection (2), a defence for a person charged with an offence –

- (a) under section 13 (c), (d), (e) or (f), to prove that he took all reasonable precautions and exercised all due diligence to avoid committing the offence;
- (b) under section 13 (j), to prove that he did not know that the information was false and could not, with reasonable diligence, have obtained knowledge of that fact.

(2) Where the defence provided by subsection (1)(a) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged may not, without the leave of the court, rely on the defence unless, at least 7 days before the hearing, he serves written notice on the Chief Officer of Police giving such information as to the identity of the other person as is in his possession.

(3) A person is not guilty of an offence under section 13 (c) by reason of a contravention of any requirement of the notice in question occurring –

- (a) before the expiration of the time for appealing against the notice under section 19; or
- (b) where an appeal against the notice is instituted, before the determination of the appeal.

**Civil remedies not affected.**

**18.** The provision by this Law of a sanction for a contravention of this Law or any regulation or notice under it does not prejudice any civil remedy or right of action that may arise in respect of the contravention.

**Appeals.**

**19.** (1) A person aggrieved by a notice served on him under section 7(1), 9(1) or 10(1) may, within 28 days of the date of service, appeal against the notice to the Court of Alderney on the grounds that –

- (a) its provisions (or any of them) are ultra vires or unreasonable; or
- (b) the service of the notice on him was ultra vires.

(2) An appeal under this section shall be instituted by way of summons served on the Chairman of the Committee.

(3) The summons shall state the grounds and the material facts upon which the appellant relies.

(4) On an appeal under this section the Court of Alderney may set the notice aside or confirm it, with or without modification.

(5) The decision of the Court of Alderney on an appeal under this section is final.

(6) If a notice served under section 10(1) ceases to have effect by virtue of section 10(2)(b), any appeal under this section in respect of the notice shall be deemed to have been withdrawn.

**Power of Court of Alderney to modify leases.**

20. (1) A person who, by reason of any term or condition of a lease, licence or other agreement, is prevented from executing or doing in respect of controlled premises any works or other thing the execution or doing of which is required by or under this Law may apply to the Court of Alderney which may make such order modifying the lease, licence or agreement as it thinks just in the circumstances of the case.

(2) Where the execution or doing in respect of controlled premises of any works or other thing the execution or doing of which is required by or under this Law would involve a person who has an interest in the premises in expense or in increased expense which he alleges ought to be borne in whole or in part by another person who has an interest in the premises, he may apply to the Court of Alderney which may make such order –

- (a) as to the persons by whom, and the proportions in which, the expense or increase is to be borne; and
- (b) for the modification of any term or condition of a lease, licence or other agreement relating to rent or other amounts payable in respect of the premises, as the Court of Alderney thinks just in the circumstances of the case.



**Service of notices.**

**21.** (1) Subject to the provisions of this section, a notice to be served under this Law is validly served –

- (a) on an individual, if delivered to him, or if left at, or sent by post to, his usual or last known place of abode;
- (b) on an unincorporated body, if served on any partner, manager or other similar officer thereof, or if left at, or sent by post to, its principal or last known principal place of business in Alderney;
- (c) on a body corporate, if left at, or sent by post to, its registered office or its principal or last known principal place of business in Alderney;
- (d) on the Committee, if delivered to, or sent by post to, the office of the Committee.

(2) If a notice cannot be served in accordance with subsection (1) or cannot be so served within a reasonable time (regard being had to the circumstances of the case), it is validly served –

- (a) if published on at least two occasions in the Alderney Official Gazette, or
- (b) where the name or address of the person to be served cannot after reasonable enquiry be ascertained or where the circumstances of the case so require if

delivered to some responsible person on the premises in question or, if there is no such person, if affixed to a conspicuous part of the premises.

(3) Where two or more persons are the occupiers or owners of any premises, a notice served on one of them in accordance with this section shall, for the purposes of this Law, be deemed to have been validly served on all of them.

(4) Where the occupier or owner of any premises is an infant or a person under guardianship, a notice to be served on him under this Law shall be served on his guardian; and if there is no guardian, the Committee may apply to the Court of Alderney for the appointment of a guardian to act for the purposes of this Law.

(5) In subsection (1), “**by post**” means by registered post or by recorded delivery service.

**Information to be stated in notice.**

22. A notice under section 7(1), 9(1) or 10(1) shall, in addition to stating the matters which are to be stated under those sections –

- (a) identify the premises in respect of which it is served;
- (b) give particulars of the facts by reason of which it is served;
- (c) state the right of appeal to the Court of Alderney under section 19, and the time within which it may be exercised; and

- (d) state the capacity in which the person served with the notice is served.

**Development and building.**

23. No obligation, requirement, prohibition or restriction imposed by this Law, or by any regulation or notice under it, relieves any person of any obligation, requirement, prohibition or restriction imposed from time to time by or under the Building and Development Control (Alderney) Law, 1975<sup>a</sup>, the Tourist (Alderney) Law, 1956<sup>b</sup> or any other enactment.

**Consultation between committees and other bodies.**

24. (1) When, in accordance with building regulations, plans are deposited with the Building and Development Control Committee -

- (a) in respect of the proposed erection, extension or alteration of any premises; or
- (b) in respect of a proposed change of use of any premises,

and it appears to the Building and Development Control Committee that the premises are to be put to a designated use, or (as the case may be) that the proposed use is a designated use, the Building and Development Control Committee shall (except where the Building and Development Control Committee is also the Committee appointed by resolution of the States under section 27(1)) consult the

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<sup>a</sup> Ordres en Conseil Vol. XXV, p. 8; Vol. XXVI, p. 560; Vol. XXIX, p. 18; Vol. XXX, pp. 21 and 371 and No. XXVI of 1997.

<sup>b</sup> Ordres en Conseil Vol. XVII, p. 29; Vol. XXII, p. 6 and Vol. XXVI, p. 251.

Committee before approving the plans.

(2) When under any enactment or instrument an application is made to an Authority –

- (a) for the grant or renewal of a licence or permit in respect of any premises; or
- (b) for the registration of any premises,

and it appears to the Authority that, if the application succeeds, the premises will be put to a designated use, the Authority shall consult the Committee before granting the application.

(3) When it is proposed to serve a notice under section 7(1) or 9(1) requiring the execution of works on any premises, the Committee shall (except where the Building and Development Control Committee is also the Committee appointed by resolution of the States under section 27 (1)) consult the Building and Development Control Committee before serving the notice.

(4) In subsection (2), “**Authority**” includes -

- (a) any authority, board, committee, council, or like body of the States;
- (b) the Court of Alderney; and
- (c) any body, corporation, commission or like body created by virtue of any enactment or instrument.

**Extent of States' liability.**

**25.** Subject to section 3(4), no liability in law is incurred by the States in respect of anything done or omitted to be done in the discharge or purported discharge of any function under this Law, including the giving of advice, unless –

- (a) the thing is done or omitted to be done maliciously or in bad faith;
- (b) the function is one to be discharged under this Law by an occupier or owner of controlled premises; or
- (c) the thing done comprises the driving of a motor vehicle.

**Ordinances.**

**26.** (1) The States may by Ordinance amend any of the provisions of this Law.

(2) An Ordinance under this section –

- (a) may contain such supplementary, incidental and transitional provisions as in the opinion of the States, is necessary or expedient for the purposes of the Ordinance (including provisions making consequential modifications to any provision of this Law); and
- (b) may be amended or repealed by a subsequent Ordinance.

**Interpretation.**

27. (1) In this Law, unless the context otherwise requires -

“**building**” includes a temporary or moveable building, any permanent structure and any temporary structure, other than a moveable one;

“**Chief Fire Officer**” means the chief fire officer of the fire brigade;

“**Chief Officer of Police**” means the chief officer of the salaried police force of the Island of Guernsey;

“**Committee**” means such committee of the States as the States may from time to time by resolution appoint to carry out any functions under this Law;

“**committee of the States**” means a committee of the States appointed under section 49(1) of the Government of Alderney Law 1987<sup>c</sup>;

“**contravention**” includes failure to comply and cognate expressions shall be construed accordingly;

“**controlled premises**” means premises put to a designated use, other than premises specified in section 5;

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<sup>c</sup> Orders en Conseil Vol. XXX, p. 37; Vol. XXXI, pp 83 and 306; No. XI of 1993; No. IX of 1995; No. IV of 1996; No. IV of 1998 and No. I of 2000.

**“designated use”** means any use specified in section 4(2);

**“escape”** in relation to any premises, means escape from the premises to a place of safety beyond which consists of or comprises the premises and any area enclosed by or with the building;

**“fire brigade”** means the fire brigade of Alderney;

**“fire-fighting”** includes -

- (a) the extinction of fire; and
- (b) the protection of life and property in the case of -
  - (i) fire;
  - (ii) the spillage or escape of any noxious substance; or
  - (iii) other emergency circumstances including, by way of example and not limitation, road traffic and other accidents;

**“fire-fighting services”** means services relating to fire fighting;

**“fire inspector”** means the Chief Fire Officer or any person authorised in writing by the Committee to discharge the functions of a fire inspector under this Law;

**“furniture”** includes furnishings, coverings for walls, ceilings and

floors and curtains, drapes and blinds;

**“instrument”** means any order (including any Order of the Royal Court or the Court of Alderney), regulations, rules or other subsidiary legislative instrument;

**“officer of police”** means a member of the salaried police force of the Island of Guernsey, any member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed under the Special Constabulary (Alderney) Ordinance, 2002;

**“owner”**, in relation to any building or premises, or any part of any building or premises, means -

- (a) where the building, premises or part is the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour that order has been made;
- (b) where the building, premises or part is not the subject of such saisie proceedings but is the subject of a vested right of usufruct, the usufructuary;
- (c) where the building, premises or part is not the subject of such saisie proceedings or vested right of usufruct-
  - (i) where the building, premises or part is held in trust, the trustees and any person entitled to a beneficial interest under the trust;



- (ii) otherwise, the person in whom there is vested, solely or jointly, an estate of inheritance therein;

“**premises**” means the building or part of a building, except in relation to section 4(2)(g), when it means land;

“**section 2 agreement**” means an agreement entered into by the Committee under section 2;

“**States**” means the States of Alderney;

“**States of Guernsey Fire Service**” means the fire brigade of the Island of Guernsey provided by the States of Guernsey's Home Affairs Committee under the Fire Services (Guernsey) Law, 1989<sup>d</sup>; and

“**street**” includes any highway, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not.

(2) The provisions of the Interpretation (Guernsey) Law, 1948<sup>e</sup> shall apply to the interpretation of this Law as they apply to the interpretation of a Guernsey enactment.

(3) Unless the context otherwise requires -

(a) any reference in this Law to an enactment or

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<sup>d</sup> Ordres en Conseil Vol. XXXI, p. 432 and No. XXIV of 1997.

<sup>e</sup> Ordres en Conseil Vol. XIII, p. 355.

instrument shall include a reference thereto as from time to time amended, repealed, replaced, extended or applied; and

- (b) any reference in this Law to the carrying out of a function includes the exercise of a power.

**Citation.**

- 28. This Law may be cited as the Fire Services (Alderney) Law, 2002.

**Commencement.**

- 29. This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions or different purposes.