

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Parish of Torteval (Control of Moorings)

Ordinance, 1979 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Recueil d'Ordonnances Tome XXI, p. 313; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Parish of Torteval (Control of Moorings) (Amendment) Ordinance, 1994 (Recueil d'Ordonnances Tome XXVI, p. 285).

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ARRANGEMENT OF SECTIONS

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(Made on the 25th July, 1979.)

The Parish of Torteval (Control of Moorings) Ordinance, 1979

THE STATES, in pursuance of their Resolution of the twenty-fifth day of October, nineteen hundred and seventy-two, hereby order: –

Interpretation.

1. In this Ordinance, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"**the Committee**" means the Torteval Moorings Committee constituted under the provisions of section three of this Ordinance,

"**master**", in relation to any vessel, means the person having for the time being the command or charge of that vessel,

"**owner**" includes a charterer and an agent,

"**the Parish**" means the Parish of Torteval,

"**vessel**" means anything made for the conveyance by water of human beings or of property.

Meaning of "the controlled area".

2. In this Ordinance the expression "**the controlled area**" means the area shown [outlined in red on a map lodged at the Greffe and which was signed by

the Bailiff on the 7th day of February, 1994.]

NOTE

In section 2, the words in square brackets were substituted by the Parish of Torteval (Control of Moorings) (Amendment) Ordinance, 1994, section 1, with effect from 27th July, 1994.

Constitution of the Torteval Moorings Committee.

3. (1) There shall be a committee which shall be styled the Torteval Moorings Committee with authority to exercise the powers and perform the duties conferred and imposed upon it by this Ordinance in relation to the mooring of vessels within the controlled area.

(2) The Committee shall consist of –

- (a) the Constables for the time being of the Parish, and
- (b) three other members (hereafter in this section referred to as "**the ordinary members**") appointed by the Douzaine of the Parish.

(3) The ordinary members of the Committee shall hold office for a term of three years; the term of office of the ordinary members first appointed to the Committee to be deemed for the purposes of this subsection to have commenced on the first day of January, nineteen hundred and seventy-nine.

(4) The said Douzaine may –

- (a) at any time remove a person from the office of

ordinary member of the Committee,

- (b) appoint a person as an ordinary member of the Committee to complete the unexpired portion of the term of office as an ordinary member of any other person who has ceased to hold that office otherwise than by effluxion of time.

(5) The senior in office of the said Constables shall be the chairman of the Committee, and in his absence the other Constable shall preside over a meeting of the Committee.

(6) The quorum for a meeting of the Committee shall be three members, one of whom at least shall be one of the said Constables.

(7) Each member of the Committee shall have one vote, and the member presiding at a meeting thereof shall have, in the case of an equality of votes, a second or casting vote; and the decision of a majority of the members of the Committee shall be the decision of the Committee.

(8) Subject to the foregoing provisions of this section, the Committee shall regulate its own procedure.

Restriction on mooring of vessels within the controlled area.

4. The master of any vessel shall not, on or after the first day of October, nineteen hundred and seventy-nine, cause or permit the same to be moored within the controlled area unless the vessel is moored to a mooring in the position allocated by the Committee in respect of that vessel in pursuance of the provisions of the next following section.

Allocation of moorings by the Committee.

5. (1) The Committee shall from time to time allocate to the owners of vessels moorings within the controlled area.

(2) The allocation of a mooring under this section may be made subject to such condition as to the type of mooring which may be used or to such other condition as the Committee thinks proper.

(3) The Committee may at any time, upon giving not less than four weeks' notice in writing to the owner of any vessel –

(a) cancel the allocation of any mooring made under this section in respect of that vessel, or

(b) vary or revoke any condition subject to which such allocation may have been made.

(4) The Committee shall establish and maintain a register for the purpose of recording the allocation of moorings under this section, the cancellation of any such allocation and any condition for the time being affecting any mooring allocated under this section; such register to be in such form and the entries therein to contain such particulars as the Committee shall from time to time determine.

(5) A copy of the entry in the said register signed by one of the Constables of the Parish for the time being and certified by him to be a true and correct copy of that entry shall be conclusive evidence in all legal proceedings of the particulars contained in that entry.

Power of the Committee to order vessels to be removed etc.

6. (1) The Committee may, by notice in writing served on the

owner of any vessel which is moored within the controlled area in contravention of the provisions of section four of this Ordinance, require him, within such time as shall be specified in the notice (not being less than twenty-four hours following the day on which the notice is served), to remove that vessel from the controlled area or to such place within the controlled area as shall be specified in the notice.

(2) Where the owner of a vessel fails to comply with the requirement imposed by a notice served on him in pursuance of the provisions of subsection (1) of this section within the time specified in the notice, the Committee may cause the vessel to be removed to such place as the Committee thinks proper; and the Constables for the time being of the Parish may recover from the owner of the vessel as a simple contract debt any expenses which the Committee may have incurred thereby.

Power of the Committee to cause storepots etc. to be removed.

7. (1) The Committee may cause any storepot or any other thing of any description which is placed, deposited or kept within the controlled area, and which is used or intended to be used in connection with any vessel for any purpose, to be removed from the controlled area or to such place within the controlled area as the Committee thinks proper, if the Committee is of the opinion that such storepot or other thing, as the case may be, is or may become a nuisance or annoyance to the owners of vessels or other persons in the controlled area or that it has been abandoned.

(2) The Committee shall, as soon as may be and whensoever it is reasonably practicable so to do, inform the owner of any storepot or other thing which the Committee has caused to be removed under this section as to the removal of that storepot or other thing.

Offences.

8. (1) The master of a vessel who –
- (a) contravenes the provisions of section four of this Ordinance, or
 - (b) fails to comply with any condition for the time being affecting the mooring allocated under section five of this Ordinance in respect of that vessel,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 2 on the uniform scale] and, if the contravention in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable in respect thereof to a fine not exceeding twenty pounds for each day on which the contravention is continued.

(2) Where an offence under this Ordinance in respect of any vessel is committed by a person other than the owner of that vessel and is proved to have been committed with the connivance of the owner of that vessel, he shall, as well as that person, be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

NOTE

In section 8, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Service of notices.

9. (1) Any notice required or authorised by this Ordinance to be given to or served on any person may be given or served by delivering it to him, or by leaving it at, or sending it by post addressed to him at, his usual or last known place of residence.

(2) Any such notice may –

- (a) in the case of a body corporate, be given or served by leaving it, or sending it by post addressed to it, at its registered office if situated in the Island, or, if its registered office is not so situated, at its principal or last known principal place of business, whether in or outside the Island,
- (b) in the case of a partnership, be given or served as provided in subsection (1) of this section to or on any one of the partners.

(3) If the name and address of the owner of any vessel on or to whom any such notice as aforesaid is to be served or given cannot after reasonable inquiry be ascertained, the notice may be served or given by addressing it to the person on or to whom it is to be served or given by the description of "owner" of the vessel to which the notice relates, and by affixing it to some conspicuous part of the vessel.

Commencement.

10. This Ordinance shall come into force on the first day of August, nineteen hundred and seventy-nine.

Citation.

11. This Ordinance may be cited as the Parish of Torteval (Control of Moorings) Ordinance, 1979.