

The Public Health (Amendment) Ordinance, 1998

THE STATES, in pursuance of their Resolution of 26th February, 1997^a and in exercise of the powers conferred on them by Article 4 of the Law entitled "Loi relative à la Santé Publique, 1934"^b and section 1 of the Alderney (Application of Legislation) Law, 1948^c.

Amendments to Ordinance of 1936

1. In the Public Health Ordinance, 1936^d:

(a) in Article I.2:

(i) immediately before the definition of "Board" there is inserted:

" "Authorised officer" means a person authorised in writing by the Board to act for the purposes of the Law either generally, in matters of specified kinds, or in any specified matter. ";

^a on Billet d'État No. II of 1997.

^b Ordres en Conseil Vol. IX, p.386; Vol. XIX, p.213; Vol. XXIX, p.329; Order in Council No. of 1998.

^c Ordres en Conseil Vol. XIII, p.448.

^d Recueil d'Ordonnances Tome VIII, p.316; Tome X, pp.35 and 61; Tome XIII, p.264; Tome XV, pp.239 and 387; Tome XIX, p.91; Tome XXIII, p.427.

- (ii) in the definition of "Sanitary Inspector" immediately after "duties of inspection," there is inserted "an authorised officer,";
 - (iii) at the end of the definition of "the Law" there is inserted "and includes all amendments thereto together with this and all other Ordinances made thereunder".
- (b) the proviso to Article III.1 is repealed;
- (c) for Article III.3 there is substituted:

"Abatement in cases of imminent danger"

3 (1) If in the opinion of an authorised officer a nuisance involving imminent danger to public health has arisen from any premises he may serve on either the owner or the occupier of those premises, or on any other person appearing to that officer to be responsible for the nuisance, a notice

- (a) requiring that person forthwith to take such measures as are specified in the notice (by way of cessation and/or action and/or works);

(b) stating the effect of subsections (2) and (3) of this section.

(2) If a person on whom a notice under this section is served fails to comply with its requirements forthwith, the authorised officer may himself cause to be taken any action and/or works specified in the notice; and if he does so then, subject to subsection (3) of this section, the Board may recover any costs thereby incurred as a civil debt due to the States from any person responsible for creating the nuisance.

(3) The Board shall compensate any person who incurs expense or suffers financial loss as a direct result of complying with a notice served under this section unless:

(a) within seven days after service of the notice the Board causes the person on whom it was served, and, if not the same person, the owner and any occupier of the premises in respect of which it was served, to appear before the Magistrate's Court to show

cause why the notice should not be confirmed; and

- (b) the Magistrate's Court, having heard the Board and any such person who wishes to be heard, declares itself satisfied that when the notice was served a nuisance involving imminent danger to public health had arisen from the premises concerned.

PROVIDED that the total compensation payable under this subsection in respect of any one notice shall in no case exceed £1,000,000.

(4) When an authorised officer has caused a nuisance to be abated under this section he shall notify the Constables of the Parish concerned of the action taken.";

(d) in Article III.4^e:

^e Article III.4 was substituted by the Public Health Ordinance, 1936, Amendment Ordinance, 1950 (Recueil d'Ordonnances Tome X, p.61) and amended by the Public Health (Amendment) Ordinance, 1967 (Recueil d'Ordonnances Tome XV, p.239).

- (i) for the marginal note there is substituted "Abatement in other cases";
 - (ii) for "the Medical Officer of Health has ascertained" substitute "an authorised officer is of the opinion";
 - (iii) for "exists on any premises" there is substituted "has arisen on any premises";
 - (iv) for "the premises on which the nuisance exists" there is substituted "those premises, or on any other person appearing to that officer to be responsible for the nuisance,";
- (e) immediately after Article III.4 there is inserted:

"Prevention of recurrence of nuisances"

5. Where an authorised officer is of the opinion

- (a) that a nuisance has arisen from any premises, whether or not the nuisance is subsisting at the time, and if it is not then subsisting whether or not its abatement followed a notice served

under any other provision of this Article; and

- (b) that the nuisance is likely to recur unless some particular activity ceases, action is taken, and/or works are executed,

he may serve on the owner of those premises, or, except where the nuisance arises from the want or defective construction of any structure or structural convenience, on the occupier of those premises, or in any case on any other person appearing to that officer to be responsible for the nuisance, a notice (in the form set out in the First Schedule to this Ordinance with appropriate adaptations) requiring the cessation of that activity, the taking of that action, and/or the execution of those works.";

(f) in Article III.6:

- (i) immediately after "the cost of abating" there is inserted ", or of preventing the recurrence of,";
- (ii) for "a notice requiring the abatement of such nuisance" there is substituted "a notice served under section 4 or section 5 of this Article";

- (g) in Article III.7:
 - (i) for "a notice to abate a nuisance" there is substituted "a notice served under section 4 or section 5 of this Article";
 - (ii) immediately after "the person liable to abate" there is inserted "or prevent the recurrence of";
- (h) in Article III.8 for "a notice to abate a nuisance" there is substituted "a notice served under section 4 or section 5 of this Article";
- (i) in Article IV:
 - (i) the words "Requisition and Execution of necessary works" in the marginal note,
 - (ii) paragraph (a) of section 1, and
 - (iii) section 2are repealed;
- (j) in Article V:

- (i) for "the Medical Officer of Health", wherever appearing, substitute "an authorised officer";
 - (ii) in section 6, immediately after "injurious to health" there is inserted "or likely to cause injury to health".
- (k) in Article XI:
- (i) in section 2, for "the Medical Officer of Health in respect of the abatement of a nuisance or the prevention of the spread of infection" there is substituted "an authorised officer in respect of the abatement of a nuisance or the Medical Officer of Health in respect of prevention of the spread of infection";
 - (ii) section 3 is repealed.

Citation

2. This Ordinance may be cited as the Public Health (Amendment) Ordinance, 1998.

Extent of Amendment Law and Ordinance

3. (1) The Public Health (Amendment) (Guernsey) Law, 1988^f shall have effect in Alderney subject to the modifications set out in Part VII of the First Schedule to the Alderney (Application of Legislation) Ordinance, 1948^g in relation to the Law entitled "Loi relative à la Santé Publique, 1934".

(2) This Ordinance shall apply in Guernsey, Herm and Jethou, and shall have effect in Alderney subject to the modifications set out in Part VII of the First Schedule to the Alderney (Application of Legislation) Ordinance, 1948^(f) in relation to the Public Health Ordinance 1936.

Commencement

4. This Ordinance shall come into force on the same day as section 8 of the Public Health (Amendment) (Guernsey) Law, 1998 subject to any transitional provisions contained in an Ordinance made under section 10 of that Law.

^f Order in Council No. of 1998.

^g Recueil d'Ordonnances Tome IX, p.280.