

ORDINANCE OF THE STATES OF ALDERNEY

ENTITLED

The States Water Supply (Prevention of Pollution) (Alderney) Ordinance, 1973 *

[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 the Greffier, The Court of Alderney, Queen Elizabeth II Street, Alderney, GY9 3TB.

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* Alderney Ordinance No. III of 1973; as amended by the Uniform Scale of Fines (Alderney) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 306); the States Water Supply (Prevention of Pollution) (Alderney) (Amendment) Ordinance, 1980 (Alderney Ordinance No. X of 1980); the States Water Supply (Prevention of Pollution) (Alderney) (Amendment) Ordinance, 1981 (Alderney Ordinance No. II of 1981); the States Water Supply (Prevention of Pollution) (Alderney) Ordinance, 1989 (Alderney Ordinance No. VII of 1989); the States Water Supply (Prevention of Pollution) (Alderney) (Amendment) Ordinance, 1991 (Alderney Ordinance No. VI of 1991); the States Water Supply (Prevention of Pollution) (Alderney) (Amendment) Ordinance, 1994 (Alderney Ordinance No. XIII of 1994); the Building and Development Control (Alderney) (Amendment and Fees) Ordinance, 2014 (Alderney Ordinance No. III of 2014).

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ARRANGEMENT OF SECTIONS

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(Made on 7th March, 1973.)

The States Water Supply (Prevention of Pollution) (Alderney) Ordinance, 1973

THE STATES, in pursuance of their Resolution of the fourteenth day of December, nineteen hundred and seventy-one, and in exercise of the powers conferred upon them by section two and section nine of the States Water Supply (Prevention of Pollution) (Alderney) Law, 1972^a, and of all other powers thereunto them enabling, hereby order: –

Interpretation.

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

["**building**" includes any well, bore hole, cistern, cesspit, cellar or other excavation below surface levels whether containing structure or not but does not include any wall or permanent hoarding,]

["**the controlled area**" means the areas of the Island shown coloured red on the map dated the 5th October, 1994, signed by the President of the States of Alderney and deposited at the States Office,]

["**domestic building**" means a house, shop, office building or any other building which is neither a public building nor a warehouse building but includes a dwelling used in connection with, but not being structurally part of, any public building,]

^a Ordres en Conseil No XXII of 1972.

"farm building" means a building intended for use in connection with the keeping of any cattle, horses, goats, swine or poultry and includes a building intended for use for the purposes of a boarding establishment for dogs or cats or for the purposes of a zoological establishment,

"the Law" means the States Water Supply (Prevention of Pollution) (Alderney) Law, 1972,

"oil" means oil of any description and includes spirit produced from oil of any description,

[**"public building"** has the meaning assigned to it by regulation 2(1) of the Building (Alderney) Regulations, 2014,]

"public sewer" means a sewer the ownership of which is vested in the States by virtue of the Sewerage (Alderney) Law, 1970^b,

"trade effluent" includes any liquid (either with or without particles of matter in suspension therein) which is or may be discharged in or from premises used for carrying on any trade or business, other than surface water and domestic sewage),

and any other expressions have the same meaning as in the Law.

(2) Except where the context otherwise requires, any reference in this Ordinance to any enactment or regulations shall be construed as including a reference to that enactment or those regulations, as the case may be, as amended,

^b Ordres en Conseil No. XIX of 1970.

extended, repealed, replaced or revoked by or under any other enactment or by any regulations.

NOTES

In section 1,

the definition of the expression "building" in subsection (1) was substituted by the States Water Supply (Prevention of Pollution) (Alderney) (Amendment) Ordinance, 1981, section 1, with effect from 4th March, 1981;

the definition of the expression "the controlled area" in subsection (1) was substituted by the States Water Supply (Prevention of Pollution) (Alderney) (Amendment) Ordinance, 1994, section 1, with effect from 5th October, 1994;¹

the definitions of the expressions "domestic building" and "public building" in subsection (1) were, respectively, substituted and inserted by the Building and Development Control (Alderney) (Amendment and Fees) Ordinance, 2014, section 8(a) and section 8(b), with effect from 10th February, 2014.²

Restrictions in the controlled area.

2. (1) Subject to the provisions of this section, a person shall not –
- (a) erect or re-erect any building or construct any works within the controlled area,
 - (b) instal permanently within the controlled area any oil fired boiler, any internal combustion engine or any tank, pipes or other apparatus intended to be used in connection with the storage or supply of oil or heating by oil,
 - (c) use any premises within the controlled area for

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carrying on any trade or business in any case where trade effluent may be discharged on or from those premises in the course of the carrying on of that trade or business,

- (d) use, apply or discharge any poisonous, noxious or polluting substance or any substance containing or which may contain a poisonous, noxious or polluting substance or place or leave with intent to abandon any tank or other container which may have been used for the storage of any such substance on any land within the controlled area,

except under and in accordance with a permit granted by the Board under section four of this Ordinance.

(2) The provisions of subsection (1) of this section shall not apply in relation to –

- (a) any work, whether commenced before or after the commencement of this Ordinance, in respect of which notice was given to the Board in compliance with the provisions of subsection (5) of section six of the Law of 1954 and which had been approved by the Board before the commencement of this Ordinance,
- (b) any work commenced before the commencement of this Ordinance and in respect of which notice was not required to be given under the said subsection (5),

- (c) the use of any part of any premises for carrying on any trade or business if such part of such premises was being used for carrying on that trade or business immediately before the commencement of this Ordinance.

(3) For the purposes of this section, any premises intended to be used, whether for profit or not, for agricultural or horticultural purposes or for scientific research or experiment shall be deemed to be premises intended to be used for carrying on a trade or business.

(4) A person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 3 on the Alderney uniform scale].

NOTE

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

Application for permit, etc.

3. An application for a permit under the next succeeding section shall be made to the Board in writing and the applicant shall furnish to the Board such particulars and plans as the Board may require.

Grant of permit and conditions which may be attached thereto.

4. (1) Where an application is made to the Board for a permit under this section and the provisions of the last preceding section have been complied with, the Board may grant the permit and may attach thereto such conditions as the

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Board may consider necessary so as to ensure –

- (a) in the case where the permit is to erect any domestic building –
 - (i) that the building shall be so sited as not to render liable to pollution by reason of the use and occupation of the building any water under the control of the Board,
 - (ii) that all drains, other than drains for rain water, shall be connected to a public sewer or to a cesspool of a type approved by the Board, or shall discharge in such other manner as the Board thinks fit,
 - (iii) that all rain water which may fall onto the building and which may be allowed to flow or percolate into any water which is under the control of the Board shall not be polluted,
- (b) in the case where the permit is to erect any farm building or to construct a yard for use by animals (including a poultry run) –
 - (i) that the building or yard shall be so sited as not to render liable to pollution by reason of the use of the building or yard any water under the control of the Board,

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- (ii) that any floor of the building or any surface of the yard as the case may be, which may be liable to be fouled by any animals or which may require to be disinfected shall be so constructed as to be impervious to liquid,
 - (iii) that all drains, other than drains for rain water, shall be connected to a watertight pit or other receptacle of a type approved by the Board, or shall discharge in such other manner as the Board thinks fit,
 - (iv) that all rain water which may fall on to any covered part of the building or yard and which may be allowed to flow or percolate into any water which is under the control of the Board shall not be polluted,
- (c) in the case where the permit is to instal permanently in any premises any oil fired boiler, internal combustion engine or any tank, pipes or other apparatus intended to be used in connection with the storage or supply of oil or heating by oil –
- (i) that, as respects such tank, a receptacle of a type approved by the Board shall be so placed that any leakage of oil from the tank, any overflow of oil from the tank and any oil spilled in the course of filling or emptying the tank, shall discharge directly into such

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receptacle,

- (ii) that such boiler, engine, tank, pipes or other apparatus shall be of such size, nature, materials, strength, workmanship or otherwise as the Board may consider necessary to comply with the appropriate British Standard or British Standard Code of Practice,
 - (iii) that adequate provision shall be made for any leakage of oil from such boiler, engine, pipes or other apparatus to discharge directly into a receptacle of sufficient capacity and suitable material,
 - (iv) that no such pipe shall be laid under ground unless it is protected by an exterior oil tight tube or sleeve so that any leakage of oil from the pipe shall discharge directly from such tube or sleeve into an oil tight sump,
- (d) in the case where the permit is to use any premises for carrying on any trade or business, that any trade effluent shall be discharged by such means as to prevent the pollution of any water under the control of the Board and to prevent any rain water which may fall on to or about those premises and which may be allowed to flow or percolate into any water which is under the control of the Board from being polluted,

(e) in any other case, that any water under the control of the Board is not rendered liable to pollution.

(2) A person to whom a permit has been granted under this section shall comply with every condition attached to the permit.

(3) A person who contravenes the provisions of the last preceding subsection shall be guilty of an offence and liable, on conviction, to a fine not exceeding two hundred pounds.

(4) The reference in sub-paragraph (ii) of paragraph (c) of subsection (1) of this section to the appropriate British Standard or British Standard Code of Practice shall be construed as a reference to such Standard or Code, including any amendments thereof, current for the time being.

Oil fired boilers, etc, brought on to premises within the controlled area for temporary use.

5. (1) The occupier of any premises within the controlled area shall not cause or permit –

(a) any oil fired boiler, any internal combustion engine or any tank, pipes or other apparatus intended to be used temporarily on those premises in connection with the storage or supply of oil or heating by oil,

(b) any tank or other container used for the storage of any poisonous, noxious, or polluting substance intended to be used as a pesticide, insecticide, fungicide, sterilant or other purpose,

to be kept on those premises unless receptacles of sufficient capacity and suitable material are so placed that any leakage of oil or of such substance, as the case may be, shall discharge directly into such receptacles.

(2) A person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the Alderney uniform scale].

NOTE

In section 5, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Alderney) Law, 1989, section 2(2), with effect from 1st October, 1989.

Entry and inspection of premises, etc.

6. (1) Any person duly authorised in writing by the Board may, on producing, if so required, some duly authenticated document showing his authority, enter any premises –

(a) for the purpose of making such inspections, examinations and inquiries as may be necessary to ascertain –

(i) whether anything on or in connection with those premises is polluting or is likely to pollute any water under the control of the Board,

(ii) whether any requirement made on the owner or occupier of those premises under subsection (1)

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of section three of the Law or any order served on such owner or occupier under subsection (1) of section four of the Law has been complied with,

(iii) whether there is, or has been, on or in connection with those premises any contravention of the provisions of this Ordinance,

(b) for the purpose of executing any work authorised by the Law to be executed by the Board or for the purpose of taking any steps authorised by the Law to be taken at the instance of the Board.

(2) A person authorised as aforesaid entering any premises by virtue of this section may take with him such other persons and such materials as may be necessary for the purpose of exercising any of his powers under this section.

(3) The occupier of any premises, his agents and servants, shall furnish the means required by a person authorised as aforesaid as may be necessary for the purpose of exercising any of his powers under this section in relation to those premises.

(4) A person who fails to comply with any requirement imposed under the last preceding subsection by any person authorised as aforesaid shall be liable, on conviction, to a fine not exceeding [level 2 on the Alderney uniform scale].

NOTE

In section 6, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Alderney) Law, 1989, section 2(2), with effect from 1st October, 1989.

Power of the Court to order demolition of works, etc.

7. The Court may at the time of conviction of a person of an offence under subsection (4) of section two or subsection (3) of section four or subsection (2) of section five of this Ordinance order the person convicted to demolish or carry out such alterations or modifications to any works to which the conviction relates or to discontinue or change the use of any part of any premises to which the conviction relates as the Court may require.

The Court may allow the Board to execute works in certain cases.

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

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

Appeals.

9. (1) Any person aggrieved by a decision of the Board in pursuance of the provisions of subsection (1) of section four of this Ordinance may, within twenty-eight days, appeal to the Court, on the grounds that the decision of the Board was an unreasonable exercise of its powers.

(2) An appeal under subsection (1) of this section shall be instituted by way of summons served on the Chairman of the Board to show cause why the decision appealed from should not be set aside or varied and such summons shall set out the material facts upon which the appellant relies.

(3) The decision of the Court on an appeal under subsection (1) of this section shall be final and conclusive.

[Pollution of reservoirs etc.]

9A. (1) A person shall not –

- (a) bathe in,
- (b) wash or cleanse anything in,
- (c) permanently deposit in,
- (d) permit filthy water, or the water from any sink, sewer, drain or steam engine boiler, to enter, or
- (e) intentionally or recklessly pollute

any reservoir, aqueduct or other waterworks belonging to the Board.

(2) A person who contravenes subsection (1) of this section is liable, on conviction of an offence under section 9(1) of the States Water Supply (Prevention of Pollution) (Alderney) Law, 1972, to a fine not exceeding level 3 on the Alderney uniform scale.]

NOTE

Section 9A was inserted by the States Water Supply (Prevention of Pollution) (Amendment) (Alderney) Ordinance, 1989, section 1, with effect from 7th September, 1989.

Citation.

10. This Ordinance may be cited as the States Water Supply (Prevention of Pollution) (Alderney) Ordinance, 1973.

Commencement.

11. This Ordinance shall come into force on the seventh day of March, nineteen hundred and seventy-three.

¹ The definition of the expression "the controlled area" in subsection (1) was previously substituted by the States Water Supply (Prevention of Pollution) (Alderney) (Amendment) Ordinance, 1980, section 1, with effect from 3rd September, 1980; the States Water Supply (Prevention of Pollution) (Alderney) (Amendment) Ordinance, 1991, section 1, with effect from 5th March, 1991

² The definition of the expression "domestic building" in subsection (1) was previously substituted by the States Water Supply (Prevention of Pollution) (Alderney) (Amendment) Ordinance, 1981, section 1, with effect from 4th March, 1981.