

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Coast Protection Ordinance, 1949 \***

[CONSOLIDATED TEXT]

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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 X, p. 11; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

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ARRANGEMENT OF SECTIONS

1. Repeal.
2. Definitions.
3. Removal, etc. of shore material.
4. Quarries, sandpits, etc.
5. Appeals.
6. Penalty.
7. Saving of certain rights.
8. Commencement.

*(Made on the 13th April, 1949.)*

## **The Coast Protection Ordinance, 1949**

**THE STATES LEGISLATION COMMITTEE**, under and by virtue of the powers conferred on them by paragraph (3) of Article 66 of the Reform (Guernsey) Law, 1948, and in pursuance of the Resolution of the States of the 13<sup>th</sup> day of April, 1949, hereby order: –

### **Repeal.**

1. The Ordonnance provisoire relative aux Côtes de l'Île, of the 26<sup>th</sup> day of November, 1938, is hereby repealed.

### **Definitions.**

2. In this Ordinance the following expressions shall have the meanings hereby respectively assigned to them –

"**beach**" means any place lying between the lines of high water and low water at equinoctial spring tides,

"**cartage**" includes the loading into any vehicle,

"**[Committee]**" means the States [Committee for the Environment & Infrastructure],

"**dune**" means any ridge, hillock or other accumulation composed wholly or partly of sand situate on any part of the shore other than a beach,

"**shore**" means every part of a beach and so much of the surface and subjacent strata (however composed) of land as is situate within a distance, measured horizontally, of one hundred and fifty feet from the line of high water at equinoctial spring tides and is not at a level in excess of twenty feet above sea level at high water at equinoctial spring tides,

"**shore material**" includes turf, peat, clay, earth, mud, sand (including black sand), gravel, shingle and every kind of stone.

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**NOTES**

*In section 2, the words in the first and second pairs of square brackets in the definition of the expression "Committee" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 5 and section 2, Schedule 1, paragraph 4(a), with effect from 1st May, 2016.<sup>1</sup>*

*The functions, rights and liabilities of the Environment Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for the Environment & Infrastructure and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 4(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.<sup>2</sup>*

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**Removal, etc. of shore material.**

3. (1) A person shall not, without the written permission of the [Committee] –

- (a) remove or attempt to remove any shore material from the shore,
- (b) cut or break, at any place below the line of high water mark at equinoctial spring tides, any stone or rock,
- (c) cart on any public road shore material removed from the shore except between sunrise and one and a half hours after sunset.

(2) For the purposes of any legal proceedings in respect of a contravention of any of the provisions of this section it shall not be necessary to specify the kind of shore material alleged to have been removed or attempted to have been removed.

(3) A permission given hereunder by the [Committee] may be either conditional or unconditional, and a breach of any condition so imposed by the [Committee] shall be deemed to be a breach of the provisions of this section.

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**NOTE**

*In section 3, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.*

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**Quarries, sandpits, etc.**

4. (1) It is forbidden, without a permit in writing so to do from the [Committee] –

- (a) to cut, break or remove at or from any place which, not being part of a beach, forms part of the shore, any stone or rock naturally forming part of that place, or
- (b) to open or work any stone quarry at any place forming part of the shore, or
- (c) after the date of commencement of this Ordinance, to open or work any sandpit or gravel pit which is within a distance, measured horizontally, of two hundred feet from the line of high water at equinoctial spring tides and is not at a level in excess of twenty feet above sea-level at high water at equinoctial spring tides.

(2) The [Committee] may attach to the grant of a permit under this section such conditions (including a condition that the permit shall only be operative during such period as shall be therein specified) as it may deem necessary or expedient and any person failing to comply with or contravening any of the conditions attached to the grant of a permit under this section shall be deemed to have contravened this section.

(3) A place to which a permit granted by the [Committee] under this section applies shall not, while such permit remains operative, be deemed to form part of the shore nor shall material taken, removed or carted therefrom be deemed to be shore material.

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**NOTE**

*In section 4, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.*

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**Appeals.**

5. (1) An appeal shall lie to the Royal Court sitting as a Full Court from any decision of the [Committee] refusing to grant a permit under either of the two last preceding sections or attaching any condition to the grant of a permit thereunder.

(2) An appeal to the Royal Court under this section shall be instituted by way of summons against the [President] or Acting [President] of the [Committee] and such appeal shall be instituted within the ninety days next following the receipt by the appellant of notification of the decision of the [Committee] which is appealed from.

(3) The only grounds of appeal under this section shall be –

- (a) that the [Committee] have wrongly decided a question of law, or
- (b) that the [Committee] have acted in a manner contrary to natural justice.

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**NOTES**

*In section 5,*

*the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016;*

*the word "President" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 4(a), with effect from 1st May, 2016.<sup>3</sup>*

**Penalty.**

6. Any person contravening or assisting in or permitting the contravention of any of the provisions of this Ordinance shall be liable on conviction to a fine not exceeding [level 2 on the uniform scale].

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**NOTE**

*In section 6, the words 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.*

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**Saving of certain rights.**

7. Nothing contained in this Ordinance shall –
- (a) restrict the right to prevent the removal of shore material from any place which any person may be entitled to exercise, or
  - (b) restrict the right of any person as regards any place, other than a beach, which, for the purposes of this Ordinance, forms part of the shore, in relation to –
    - (i) the cultivation of that place and any change of soil thereon which is incidental to such cultivation, or
    - (ii) the laying of the foundations of any building or the construction of any cesspit, septic tank, drain, cistern or other usual appurtenance to domestic or business premises.

**Commencement.**

8. This Ordinance shall come into force on the 14<sup>th</sup> day of April, 1949.

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<sup>1</sup> The words "Committee for the Environment & Infrastructure" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(c), Schedule 2, paragraph 2(c), with effect from 6th May, 2004.

<sup>2</sup> The functions, rights and liabilities of the Environment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Board of Administration and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(c), Schedule 2, paragraph 2(c), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

<sup>3</sup> This word was previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(c), Schedule 2, paragraph 2(c), with effect from 6th May, 2004.