

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

Ordonnance relative aux Douits et Barrats sous le contrôle du Conseil des Eaux des États *

[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 VIII, p. 86; 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). See also the Reform (Guernsey) Law, 1948 (Ordres en Conseil Vol. XIII, p. 288).

ORDINANCE OF THE STATES OF DELIBERATION

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Ordonnance relative aux Douits et Barrats sous le contrôle du Conseil des Eaux des États

ARRANGEMENT OF SECTIONS

1. Streams controlled by the States Committee for the Environment & Infrastructure.
2. Powers of the States Committee for the Environment & Infrastructure.
3. Officials of States Committee for the Environment & Infrastructure entitled to enter premises to ascertain state of stream. Penalty for obstruction.

(Made on 11th June, 1938.)

Ordonnance relative aux Douits et Barrats sous le contrôle du Conseil des Eaux des États

ATTENDU QUE le devoir de réparer les bords de tout douit et barrats et de curer le lit de tout douit et barrats incombe aux riverains:

VU LES représentations du Conseil des Eaux des États à l'effet que le libre cours des eaux écoulant dans les douits et barrats contrôlés par le dit Conseil et les douits et barrats y communiquant est en partie retardé et empêché à raison de la non-exécution par des riverains des devoirs qui leur incombent en ce qui concerne tels douits et barrats:

LA COUR, pour à ce remédier, ouïes les conclusions des Officiers du Roi, a ordonné et ordonne comme suit, savoir: –

Streams controlled by the States [Committee for the Environment & Infrastructure].

1. Every person who, having the duty of –
 - (a) maintaining in repair any part of the banks, or
 - (b) cleaning and keeping clear of obstruction any part of the bed,

of any stream which is a stream controlled by the States [Committee for the Environment & Infrastructure] or flowing into a stream so controlled, fails to maintain in repair that part of the banks of that stream or fails to clean or keep clear of obstructions that part of the bed of that stream shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding [level 1 on the uniform scale] or, in the case of a second or subsequent offence, to a fine not exceeding [level 2 on the uniform scale].

NOTES

In section 1,

the words in the first pair of square brackets, and in the square brackets in the marginal note thereto, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 12(a), with effect from 1st May, 2016;¹

the words and figures in the second and third pairs of square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, respectively section 2(2) and section 2(4), with effect from 1st July, 1989.

The functions, rights and liabilities of the Public Services 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 12(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

In accordance with the provisions of the Reform (Guernsey) Law, 1948, Article 70(3), with effect from 1st January, 1950, this formerly Provisional Ordinance of the Royal Court became a Permanent Ordinance of the States.

Powers of the States [Committee for the Environment & Infrastructure].

2. Upon the conviction of any person under the provisions of the preceding section, it shall be lawful for the States [Committee for the Environment & Infrastructure] to proceed with the work of maintenance or of cleaning or clearing of obstructions in respect of the failure to perform which that person has been convicted and to recover from that person the reasonable cost of the performance of such work and, for the purpose of the performance thereof, the employees of the States [Committee for the Environment & Infrastructure] shall be entitled, under the supervision of some person bearing the authority in writing in that behalf of the Manager or acting Manager of the States Waterworks Department, upon production of such authority on the reasonable request of any person having an interest in the premises entered, to enter upon private premises whereon any such work as is authorised by this section is to be performed in regard to any stream and such other premises as it is necessary to enter for the purpose of access to that stream.

NOTES

In section 2, and the marginal note thereto, the words in square brackets

were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 12(a), with effect from 1st May, 2016.³

The functions, rights and liabilities of the Public Services 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 12(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁴

Officials of States [Committee for the Environment & Infrastructure] entitled to enter premises to ascertain state of stream. Penalty for obstruction.

3. (a) An official appointed by the States [Committee for the Environment & Infrastructure] bearing a general or special authority in writing in that behalf of the Manager or acting Manager of the States Waterworks Department, upon production of such authority on the reasonable request of any person having an interest in the premises entered, shall be entitled on weekdays during the hours of daylight to enter any premises for the purpose of visiting any part of any such stream as is mentioned in section 1 of this Ordinance in order to ascertain the state of repair of the banks of such stream and the condition of the bed thereof.

(b) Every person shall be liable upon conviction to a fine not exceeding [level 1 on the uniform scale] or, in respect of a second or subsequent offence, to a fine not exceeding [level 2 on the uniform scale], who wilfully obstructs or impedes any official or employee of the States [Committee for the Environment & Infrastructure] in the execution of his duty under this Ordinance.

NOTES

In section 3,

the words in the first and fourth pairs of square brackets, and in the square brackets in the marginal note thereto, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 12(a), with effect from 1st May, 2016;⁵

the words and figures in the second and third pairs of square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, respectively section 2(2) and section 2(4), with effect from 1st July, 1989.

The Ordinance was made and came into operation on 11th June, 1938.

The functions, rights and liabilities of the Public Services 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 12(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁶

¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 31, with effect from 6th May, 2004.

² The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Water Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 31, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

³ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 31, with effect from 6th May, 2004.

⁴ The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Water Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 31, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁵ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 31, with effect from 6th May, 2004.

⁶ The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Water Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 31, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.