

# The Land Amenity Improvement Notices Ordinance, 2024

THE STATES, in pursuance of their Resolutions of 30<sup>th</sup> March, 2023<sup>a</sup>, and in exercise of the powers conferred on them by sections 46, 81 and 89 of the Land Planning and Development (Guernsey) Law, 2005<sup>b</sup>, and all other powers enabling them in that behalf, hereby order:-

## Land amenity improvement notices.

1. (1) Subject to subsection (2), if it appears to the Authority that the amenity of an area of Guernsey is adversely affected by the condition of land, it may serve on the owner and occupier of the land a notice under this section ("**a land amenity improvement notice**").

(2) A land amenity improvement notice may not be served in relation to –

- (a) land forming part of a dwelling house or which is within the curtilage of a dwelling house,
- (b) land forming part of a redundant glasshouse site as defined in the Authority's Supplementary Planning Guidance document "Defining Redundant Glasshouse

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**a** Article III of Billet d'État No. IV of 2023.

**b** Order in Council No. XVI of 2005; this enactment has been amended.

Sites"<sup>c</sup> as from time to time amended, re-issued or replaced, or

(c) the removal of turf from any agricultural land.

(3) The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.

(4) Subject to the following provisions of this Ordinance, the notice shall take effect at the end of such period as may be specified in the notice, which period shall be not less than 28 days after the service of the notice.

(5) For the avoidance of doubt, section 88 (service of notices) of the Law shall apply in relation to the service of a land amenity improvement notice.

(6) Where a land amenity improvement notice has been served –

(a) on the owner of land but not the occupier, the failure to serve on the occupier does not invalidate the notice in relation to the owner,

(b) on the occupier of land but not the owner, the failure to serve on the owner does not invalidate the notice in relation to the occupier.

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<sup>c</sup> Published in December 2018.

**Variation or withdrawal of land amenity improvement notice.**

2. (1) A land amenity improvement notice may be withdrawn after it has been served.

(2) A requirement (including in particular, but not limited to, any period specified for the undertaking of work) in a land amenity notice may be relaxed or waived.

(3) Notice of the relaxation or waiver shall immediately be served on each person who was served with the notice.

(4) The withdrawal of a land amenity notice or the relaxation or withdrawal of a requirement in a notice shall not prejudice a further exercise of the power to serve another such notice.

**Penalty for failure to comply with land amenity improvement notice.**

3. (1) A person who fails to undertake the work specified in a land amenity improvement notice served on the person in accordance with this Ordinance before the end of the compliance period shall be guilty of an offence and liable to a fine.

(2) In proceedings against a person (D) for an offence under subsection (1) it shall be a defence for D to prove on the balance of probabilities that –

(a) D took all reasonable measures to secure compliance with the notice, or

(b) D ceased to be the owner or occupier of the relevant land before the end of the compliance period, and

- (i) before the end of the compliance period D –
  - (A) agreed in writing with the person (B) who took ownership or occupation of the relevant land that B would take all reasonable measures to secure compliance with the notice,
  - (B) provided B with a copy of the notice, and
  - (C) provided the Authority with a copy of the agreement, or
- (ii) it was not reasonably practicable for D to comply with the notice prior to the cessation of D's ownership or occupation of the relevant land.

(3) In the circumstances set out in subsection (2)(b)(i), B shall be guilty of an offence if B fails to undertake the work specified in the notice before the end of the compliance period, and shall be liable to a fine.

(4) After a person (P) has been convicted of an offence under subsection (1) or (3), if P does not as soon as practicable do everything in P's power to secure compliance with the land amenity improvement notice in question, P shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £500 for each day following P's first conviction on which any of the requirements of the notice remain unfulfilled.

(5) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue or could have accrued to the person in consequence of the offence.

(6) Any reference in this section to the compliance period, in relation to a land amenity improvement notice, is a reference to the period specified in the notice for compliance with it or such extended period as the Authority may allow for compliance.

**Appeal against land amenity improvement notice.**

4. (1) A person on whom a land amenity improvement notice is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice to the Planning Tribunal on any of the following grounds –

- (a) that the condition of the land to which the notice relates does not adversely affect the amenity of the area,
- (b) that the condition of the land to which the notice relates is attributable to, and results in the ordinary course of events from, the carrying on of operations which are not in contravention of any provision under Part III or Part IV of the Law,

- (c) that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of the area,
- (d) that the period specified in the notice as the period within which any steps required by the notice are to be taken is unreasonable,
- (e) that the issue of the notice is otherwise unreasonable, or
- (f) that the notice is ultra vires.

(2) Where an appeal is brought under this section –

- (a) the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal, and
- (b) the Planning Tribunal may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material.

(3) On the determination of an appeal under this section the Planning Tribunal shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

(4) Where any person has appealed under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(5) The sections of the Law listed in subsection (6) shall apply with any necessary modifications to an appeal under this section as they apply to an appeal under section 68 or section 70 of the Law and for these purposes, section 76 of the Law (general application of Law to the States) shall be construed accordingly.

(6) The sections of the Law referred to in subsection (5) are -

- (a) section 69(5),
- (b) section 72(1) to (5), and
- (c) sections 73 and 74.

**Authority may undertake work and create a charge over land, etc.**

5. (1) The sections of the Law listed in subsection (2) shall apply with any necessary modifications in respect of a land amenity improvement notice as they do to a compliance notice under the Law; and for such purposes the references to an appeal under section 70 of the Law in sections 51(a) and 56(1)(c) of the Law shall be construed as a reference to an appeal under section 4 of this Ordinance.

(2) The sections referred to in subsection (1) are –

- (a) section 50(1) – (5),

- (b) section 51(1)(a), (3) and (4),
- (c) section 55(1) and (2), and
- (d) section 56(1)(a), (b) (c) and (e), and (2)(a).

**No compensation payable.**

6. (1) Anything done or omitted to be done by the Authority under this Ordinance does not give any person the right to claim compensation in respect of any loss or damage the person may suffer as a result of that action or omission, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000<sup>d</sup>.

**Authority to maintain register of land amenity improvement notices.**

7. (1) The Authority shall maintain a register, called the Register of Land Amenity Improvement Notices, in such form as the Authority thinks fit, containing details of each land amenity improvement notice served by the Authority.

(2) The Authority shall make the register available for inspection by the public at all reasonable hours.

(3) On an application being made for an immunity certificate in connection with the purchase of any land under section 3 of the Land Planning and

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<sup>d</sup> Order in Council No. XIV of 2000; this enactment has been amended.

Development (Enforcement) Ordinance, 2007<sup>e</sup>, the Authority shall disclose to the applicant a copy of any land amenity improvement notice issued in respect of the land in question.

**Interpretation.**

8. In this Ordinance –

"**agricultural land**" includes land used for dairy farming, livestock breeding and keeping, horticulture, fruit growing, seed growing, the use of land as an orchard or as grazing land, osier land, meadow land, market gardens and nursery grounds,

"**dwelling house**" has the meaning given in the Land Planning and Development (Exemptions) Ordinance, 2023<sup>f</sup>,

"**the Law**" means the Land Planning and Development (Guernsey) Law, 2005,

and other words and expressions shall have the meanings given in the Law.

**Consequential Amendments.**

9. (1) The Schedule (Consequential Amendments) has effect.

(2) The Authority may amend the Schedule by regulations for the purpose of making such further or different consequential amendments to any other

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<sup>e</sup> Ordinance No. XXVII of 2007; this enactment has been amended.

<sup>f</sup> Ordinance No. II of 2023.

enactment as may appear to the Authority to be necessary or expedient.

**Citation.**

10. This Ordinance may be cited as the Land Amenity Improvement Notices Ordinance, 2024.

**Commencement.**

11. This Ordinance shall come into force on the day appointed by regulations of the Authority, and different dates may be appointed for different provisions and for different purposes.

## SCHEDULE

Section 9

### CONSEQUENTIAL AMENDMENTS

#### Amendments to the Land Planning and Development (Appeals) Ordinance, 2007.

1. (1) The Land Planning and Development (Appeals) Ordinance, 2007<sup>§</sup> is amended as follows.

(2) For the heading of section 1 substitute "Period for making an appeal against compliance notices, completion notices and land amenity improvement notices", and after subsection (2) of section 1 insert –

"(3) An appeal to the Planning Tribunal against a land amenity improvement notice under section 4 of the Land Amenity Improvement Notices Ordinance, 2024 ("**the LAIN Ordinance**") must be made within 28 days beginning with the date on which a copy of that notice was served under section 1(1) of the LAIN Ordinance."

(3) In section 2 (notice of appeal), at the end of subsection (3)(d)(ii) delete "and", at the end of subsection (3)(e) for "." substitute ", and", and after subsection (3)(e) insert -

"(f) in relation to an appeal against a land amenity improvement notice –

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<sup>§</sup> Ordinance No. XXVIII of 2007; this enactment has been amended.

- (i) the notice issued by the Authority which occasioned the appeal, and
- (ii) all correspondence with the Authority relating to the notice."

(4) After section 8 (determination by Planning Tribunal of appeals made under the Special Controls Ordinance), insert –

**"Determination by Planning Tribunal of appeals made under the LAIN Ordinance.**

8A. On an appeal against a land amenity improvement notice, the Planning Tribunal must –

- (a) if the appellant satisfies it of one of the grounds mentioned in paragraph (a), (b), (e) or (f) of section 4(1) of the LAIN Ordinance, quash the notice,
- (b) if the appellant satisfies it of the ground mentioned in paragraph (c) of section 4(1) of the LAIN Ordinance, modify the notice to substitute for the requirements only such requirements as it regards as necessary for preventing the condition of the land from adversely affecting the amenity of the area,
- (c) if the appellant satisfies it of the ground mentioned in paragraph (d) of section 4(1) of

the LAIN Ordinance, modify the notice to substitute such period as appears to it to be reasonable, and

(d) otherwise, uphold the notice."

(5) In subsection (1) of section 21 (interpretation) –

(a) in paragraph (a) of the definition of "appeal", for the second "or" substitute "," and at the end insert "or section 4 of the LAIN Ordinance",

(b) in paragraph (a) of the definition of "Appellate Body", after "the Law" insert ", section 4 of the LAIN Ordinance",

(c) in the definition of "interested party", after paragraph (b) insert –

"(ba) in relation to an appeal made under section 4 of the LAIN Ordinance, any person, other than the appellant, who is the owner or occupier of the land, and any other person appearing to the Authority to have an interest in the land to which the appeal relates", and

(d) and after the definition of "the Law" insert –

""the LAIN Ordinance" means the Land Amenity

Improvement Notices Ordinance, 2024,".

**Amendments to the Land Planning and Development (Fees and Commencement) Ordinance, 2008.**

2. (1) The Land Planning and Development (Fees and Commencement) Ordinance, 2008<sup>h</sup> is amended as follows.

(2) In section 4A (application of this Part), at the end insert –

"(3) This Part shall apply in relation to an appeal to the Planning Tribunal made under section 4 of the Land Amenity Improvement Notices Ordinance, 2024 against a land amenity improvement notice."

(3) After section 4C (fee payable in respect of an appeal in relation to a rejection of full plans under the building regulations), insert –

**"Fee payable in respect of an appeal in relation to a land amenity improvement notice.**

**4CA.** (1) A fee of £250 is payable in respect of an appeal in relation to a land amenity improvement notice made under section 4 of the Land Amenity Improvement Notices Ordinance, 2024.

(2) The Committee for the Environment & Infrastructure may by regulations amend subsection (1) so as to substitute the fee payable."

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<sup>h</sup> Ordinance No. XLI of 2008; this enactment has been amended.

**Amendments to the Land Planning and Development (Enforcement) Ordinance, 2007.**

3. (1) The Land Planning and Development (Enforcement) Ordinance, 2007 is amended as follows.

(2) At the end of subsection (8) of section 3 (modification of section 48(4) of the Law), insert "; nor shall it prevent the Authority from serving a land amenity improvement notice under section 1 of the Land Amenity Improvement Notices Ordinance, 2024 in respect of the land to which the immunity certificate relates".