



Jersey

L.3/2005

DRAINAGE (JERSEY) LAW 2005

Arrangement

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Jersey

DRAINAGE (JERSEY) LAW 2005

A LAW to consolidate and revise the law relating to sewerage, drainage and flood defence, and for consequential and incidental matters.

<i>Adopted by the States</i>	<i>12th October 2004</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>16th December 2004</i>
<i>Registered by the Royal Court</i>	<i>21st January 2005</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“accessories” includes –

(a) any manholes, chambers, ventilating shafts, settling tanks, wash-out pipes, pumps, valves, machinery, equipment or other apparatus, designed or adapted for the use or maintenance of any drain, sewer, sewage disposal works or outfall or of another accessory for such a facility; and

(b) any associated cabling or telemetry apparatus;

“apparatus” includes a cable, conduit, duct, main or pipe;

“authorized person” means a person who is appointed as an authorized person under Article 7(1);

“business” includes a trade, an industrial or commercial activity and a profession;

“Committee” means the Environment and Public Services Committee;

“construct” includes to install or to alter;

“contravene”, when used in respect of the conduct of a person who must comply with a requirement in or under this Law, includes to fail to comply with it;

“Crown land” means any land belonging to Her Majesty or to any Department of Her Majesty’s Government or to any other instrument or agency of the Crown;

“day”, in Schedule 1, means a period of 24 hours commencing at midnight;

“designated flood defence works” means flood defence works that are for the time being designated as a facility of general significance for the purposes of flood defence, by an Order made under Article 29;

“designated watercourse” means a watercourse that is for the time being designated as a facility of general significance for the purposes of flood defence, by an Order made under Article 29;

“drain” means a drain that –

(a) is used for the drainage of one set of premises only, or for the drainage of a yard that is appurtenant to one set of premises only; and

(b) is within the same curtilage as those premises,

and also means such a drain’s outfalls and accessories;

“flood defence” includes –

(a) the drainage of land;

(b) the defence of land against surface water, sea water or coastal erosion; and

(c) the provision of flood warning systems;

“foul sewer” means a public sewer that is reserved under Article 13 for foul sewage;

“land” includes –

(a) a house, building or other premises;

(b) land under water; and

(c) an interest in land,

and the expression “on land” means on, in or under land;

“maintain” includes to inspect, clean, repair, remove an obstruction from, improve or replace and, when used in respect of any watercourse or flood defence works, also includes to dredge, deepen, widen, straighten, raise or divert;

“outfall” includes an outfall’s accessories;

“person” includes a Committee of the States;

“prescribed” means prescribed by an Order made under this Law;

“public outfall” means an outfall –

(a) that, immediately before the commencement of this Law, was vested in or maintained by the Committee in its capacity as the sewerage undertaker for Jersey; or

(b) that the Committee constructs under Article 9 or Article 10, or adopts under Article 12, after the commencement of this Law,

being in either case an outfall lying outside and downstream of any sewage disposal works;

“public sewage disposal works” means sewage disposal works –

(a) that, immediately before the commencement of this Law, were vested in or maintained by the Committee in its capacity as the sewerage undertaker for Jersey; or

(b) that the Committee constructs under Article 11, or adopts under Article 12, after the commencement of this Law;

“public sewer” means a sewer –

(a) that, immediately before the commencement of this Law, was or was deemed to be a public sewer;

(b) that, immediately before the commencement of this Law, was vested in or maintained by the Committee in its capacity as the sewerage undertaker for Jersey; or

(c) that the Committee constructs under Article 9 or Article 10, or adopts under Article 12, after the commencement of this Law;

“public utility undertaking” has the same meaning as it has in Article 1 of the Public Utilities Undertakings (Guarantee on Loans) (Jersey) Law 1963;¹

“rateable value”, when used in respect of land, has the same meaning as it has in Article 1(1) of the Parish Rate (Administration) (Jersey) Law 2003;²

“Rates List”, when used in respect of a Parish, has the same meaning as it has in Article 1(1) of the Parish Rate (Administration) (Jersey) Law 2003;³

“routine maintenance” means any maintenance that does not involve the improvement or replacement of the thing that is being maintained and, in the case of any watercourse or flood defence works, does not involve the widening, straightening, raising or diversion of that facility;

“sewage disposal works” does not include a sewer or an outfall that is a public outfall, but otherwise includes –

(a) pumping stations (and their outfalls and accessories); and

(b) any other works (and their outfalls and accessories),

that are used for the reception, treatment, handling or disposal of foul sewage or surface water;

“sewer” means –

(a) a sewer, pumping main, tunnel, conduit, culvert or outfall; or

(b) an accessory to anything described in sub-paragraph (a),

that is used for the conveying or disposal of foul sewage or surface water, and is not a drain;

“surface water” includes water from roofs;

“surface water sewer” means a public sewer that is reserved under Article 13 for surface water;

“trade effluent” means a liquid (whether or not it contains particles of matter in suspension) that is wholly or partly produced on trade premises, and is not domestic sewage;

“trade effluent discharge consent” and “discharge consent” mean a trade effluent discharge consent that is granted under Article 22;

“trade premises” means any premises that are used or are intended to be used –

- (a) for carrying on a business; or
- (b) for an educational, medical, public, recreational or scientific purpose, or for the purpose of providing an amenity,

and are not premises specified in Schedule 1;

“vary” when used in respect of a trade effluent discharge consent, means to vary a term or condition of the discharge consent;

“watercourse” includes –

- (a) a brook, culvert, cut, ditch, dyke, lavoire, passage, sluice or stream, through which water flows; and
- (b) the outfall of anything described in sub-paragraph (a),

but does not include a sewer or drain.

- (2) In this Law, references to land in public ownership do not include references to land that is owned or administered by or on behalf of a Parish.
- (3) For the purposes of this Law, it is immaterial –
 - (a) that trade premises are or are not used for profit; and
 - (b) that a watercourse is natural or artificial, or that it is for the time being dry.

PART 1

ADMINISTRATION

2 General functions of Committee

- (1) The Committee shall be the sewerage undertaker and flood defence authority for Jersey.
- (2) It shall be responsible for the administration, control and maintenance of –
 - (a) public sewers, public sewage disposal works and public outfalls;

- (b) the property belonging to the public situated at Moulin de la Ville and all other property belonging to the public that was formerly under the administration of the Committee set up in virtue of the “Règlement relatif à la construction d’Égouts en la Ville de St. Héliér” passed by the States on 30th July 1846, and confirmed by Order of Her Majesty in Council, dated 27th August 1846;⁴
 - (c) designated watercourses and designated flood defence works; and
 - (d) all land acquired, purchased or expropriated under this Law or in virtue of any enactment repealed or amended by Article 54(1).
- (3) In the discharge of its functions, the Committee may –
- (a) provide, maintain, improve and extend a system of public sewerage facilities, so that Jersey is and continues to be effectively drained;
 - (b) provide for the emptying of public sewers, and make any further provision that is necessary for effectively dealing with their contents by public sewage disposal works or other means; and
 - (c) provide, maintain, improve and extend facilities and measures to protect Jersey from flooding.

3 Services by agreement

- (1) The Committee may, by agreement with any person, provide services, facilities and materials to the person for the purposes of this Law.
- (2) If a fee or charge is prescribed under Article 4 for a service, facility or material, that fee or charge shall be payable for its provision.
- (3) If a fee or charge is not prescribed under that Article, any amount that is to be payable for the provision of the service, facility or material shall be determined by agreement between the Committee and the person concerned.
- (4) The Committee may engage any person as a contractor, on such terms as it may agree with him or her, to execute any work or perform any other function on its behalf under or for the purposes of this Law.

4 Prescription of fees and charges

- (1) The Committee may by Order prescribe fees and charges that shall be payable to the Committee by any of the following persons –
 - (a) persons to whom the Committee provides sewerage services or facilities;
 - (b) applicants for trade effluent discharge consents or the variation, transfer or revocation of discharge consents;
 - (c) the holders of discharge consents that are for the time being in effect; and
 - (d) persons to whom the Committee provides any other services, facilities or materials under this Law, or for whose benefit the Committee takes any other measures under this Law.

- (2) In prescribing fees or charges under this Article, the Committee shall have regard to the amounts that are needed to meet its expenditure in carrying out its functions under this Law to which those fees or charges relate.
- (3) An Order made under this Article may provide for any of the following matters –
- (a) in respect of services, facilities or other measures undertaken by the Committee on a continuing or periodic basis, the periodical payment of fees or charges;
 - (b) in respect of trade effluent discharge consents, the periodical payment of fees or charges while discharge consents remain in effect;
 - (c) in respect of discharge consents, different fees or charges in respect of different periods during which discharge consents remain in effect;
 - (d) in respect of discharge consents, different fees or charges according to the kinds or scale of activities, the kinds or amounts of matter, the localities or circumstances and the number of different activities to which discharge consents relate;
 - (e) the assessment of the amounts of fees or charges by reference to the rateable value of land, or by reference to any other criteria by which amounts can be calculated with certainty; and
 - (f) the appointment or authorizing of persons or bodies to act as agents of the Committee in the billing and collection of fees or charges payable under the Order.
- (4) Paragraph (3) does not limit the generality of paragraph (1).
- (5) If –
- (a) the Committee in writing, for the purposes of or in connection with the assessment of the amounts of fees or charges in accordance with paragraph (3)(e), requests the Connétable of a Parish to furnish to the Committee a copy of the Rates List of the Parish or of any part of that list; and
 - (b) the Committee pays the reasonable costs of the Parish of complying with the request,
- the Connétable shall comply with the request.
- (6) Nothing in the Data Protection (Jersey) Law 1987 shall preclude the Committee or any of its officers, employees or agents –
- (a) from using, for the assessment of the amount of any prescribed fee or charge, any information in the Rates List of a Parish;
 - (b) from furnishing such information to any person or body mentioned in paragraph (3)(f); or
 - (c) from furnishing such information to an officer, employee or agent of any person or body mentioned in paragraph (3)(f).
- (7) If any fee or charge is prescribed by an Order made under this Article, the Committee may refuse until it is paid to do anything for which it is payable.

5 Maps and records

- (1) The Committee shall deposit at one of its public offices a map or record showing, as such –
 - (a) all public sewers;
 - (b) all public sewage disposal works;
 - (c) all public outfalls;
 - (d) all designated watercourses; and
 - (e) all designated flood defence works.
- (2) If a public sewer is reserved under Article 13 for foul sewage or for surface water, the map or record shall show that it is so reserved.
- (3) The map or record shall be available for inspection by any person at any reasonable time during office hours free of charge.
- (4) A copy of the map or record that is certified by the Greffier of the States as a true copy shall be sufficient evidence, unless the contrary is proved, that –
 - (a) a sewer shown on it as a public sewer is a public sewer;
 - (b) a sewer shown on it as a foul sewer is a foul sewer;
 - (c) a sewer shown on it as a surface water sewer is a surface water sewer;
 - (d) any sewage disposal works shown on it as public sewage disposal works are public sewage disposal works;
 - (e) an outfall shown on it as a public outfall is a public outfall;
 - (f) a watercourse shown on it as a designated watercourse is a designated watercourse; and
 - (g) any flood defence works shown on it as designated flood defence works are designated flood defence works.

6 Consents and approvals

- (1) Before giving any consent or approval under this Law, the Committee may require the applicant to submit to it plans and specifications and other details of any work or matter for which the consent or approval is sought.
- (2) In giving any consent or approval under this Law, the Committee may do so unconditionally or on such conditions as it may specify in its decision.
- (3) If a person to whom the Committee has given consent or approval under this Law contravenes any condition on which that consent or approval is given, he or she shall be guilty of an offence and liable to the same penalty as provided by this Law for doing, without such consent or approval, the act for which that consent or approval is required.

7 Authorized persons

- (1) The Committee may in writing appoint –
-

- (a) any person who is employed in the service of the States; or
 - (b) any other individual who is a contractor engaged by the Committee to execute any work or perform any other function on its behalf under or for the purposes of this Law, or who is a director, partner or manager or other responsible employee of a contractor so engaged by the Committee,
- to be an authorized person for the purposes of this Law.
- (2) An authorized person who is exercising or proposing to exercise a power under this Law shall produce, on request, evidence of the person's authority to do so.
 - (3) An authorized person shall also, on request –
 - (a) state his or her name; and
 - (b) specify the power that he or she proposes to exercise.
 - (4) In exercising a power under this Law (including a power conferred by a warrant granted under Article 49), an authorized person may be accompanied by –
 - (a) such assistants, advisers and other persons; and
 - (b) such vehicles, equipment and materials,as are reasonably necessary or expedient for the purpose.
 - (5) A person who accompanies an authorized person under paragraph (4) may perform any of the authorized person's functions under this Law, but only under the latter's supervision.

PART 2

SEWERAGE

8 Sewers and drains to the sea

- (1) No person shall construct a sewer or drain, or an outfall, that has an outlet that is capable of discharging foul sewage or surface water on to the sea shore or into the sea, unless he or she has the written consent of the Committee to do so.
- (2) No person shall –
 - (a) connect any land to a sewer or drain, or an outfall, that has an outlet that is capable of discharging foul sewage or surface water on to the sea shore or into the sea; or
 - (b) alter such a connection,unless he or she has the written consent of the Committee to do so.
- (3) There shall be a right of appeal, in accordance with Article 42, against a decision of the Committee on an application for consent under this Article.

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- (4) Any person who contravenes paragraph (1) or paragraph (2) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
 - (5) Any person who causes or knowingly permits surface water to be discharged on to the sea shore or into the sea, otherwise than through an authorized sewer, drain or outfall shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
 - (6) For the purposes of paragraph (5), a sewer, drain or outfall is authorized if –
 - (a) it was in existence, and surface water could be discharged lawfully through it on to the sea shore or into the sea, immediately before the commencement of this Law; or
 - (b) the Committee has given its consent under this Article to its construction and, if the surface water is discharged on to the sea shore or into the sea in consequence of having entered the sewer, drain or outfall from any land that is connected to it, the Committee has also given its consent under this Article to that connection.
 - (7) If any person carries out any works in contravention of this Article, or causes or knowingly permits surface water to be discharged in contravention of this Article, the Committee may –
 - (a) remove those works; or
 - (b) stop the discharge,and recover from that person the costs incurred by it in doing so.

9 Public sewers on land in public ownership

The Committee may construct and maintain –

- (a) a public sewer; or
- (b) a public outfall,

on or over any land in public ownership.

10 Public sewers on other land

(1) The Committee may construct and maintain –

- (a) a public sewer; or
- (b) a public outfall,

in accordance with this Article, on or over any land that is not in public ownership.

(2) At least 28 days before exercising its powers under paragraph (1), the Committee shall serve a notice in writing of its intention to do so on every person who is an owner or occupier of the land.

(3) The notice shall include the following information –

- (a) a description of the land that is sufficient to identify it;
 - (b) a description of the site or proposed site of the sewer or outfall that is sufficient to show where it will be situated on or over the land; and
 - (c) details of any works that the Committee proposes to carry out in connection with the construction or maintenance of the sewer or outfall.
- (4) The Committee need not comply with paragraph (2) in a case of emergency or routine maintenance.
- (5) As soon as reasonably practicable after serving a notice under paragraph (2) for the construction of a public sewer or a public outfall, the Committee shall apply to the Royal Court for an order that the notice be registered in the Public Registry of Contracts.
- (6) The registration of the notice in the Public Registry of Contracts shall vest in the Committee –
- (a) the right to construct and maintain the public sewer or public outfall; and
 - (b) the right to have access to it at all reasonable times for the purposes of this Law.
- (7) This Article is subject to Article 38.

11 Public sewage disposal works on land in public ownership

The Committee may construct and maintain public sewage disposal works on or over any land in public ownership.

12 Adoption of other sewerage facilities

- (1) The Committee may, by agreement with the owner of any sewer, sewage disposal works or outfall, or by making a declaration in accordance with this Article –
- (a) adopt the sewer as a public sewer;
 - (b) adopt the sewage disposal works as public sewage disposal works; or
 - (c) adopt the outfall as a public outfall.
- (2) If the Committee proposes to make a declaration under this Article, it shall first give notice in writing of its proposal to the owner.
- (3) After giving notice to the owner, the Committee shall not make the declaration before 28 days have elapsed.
- (4) In deciding whether to adopt any sewer, sewage disposal works or outfall under this Article, the Committee shall have regard to all the circumstances of the case, and in particular –
- (a) whether the facility is to be adapted or required for any general system of sewerage or sewage disposal that the Committee has provided or proposes to provide;

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- (b) the location of the facility, and the means of access to it;
 - (c) the number of premises that the facility is intended to serve;
 - (d) whether, having regard to the proximity of other premises or the prospect of further development, there may be a requirement to serve additional premises;
 - (e) the mode of construction, state of repair and capacity of the facility; and
 - (f) in any case where an owner objects to the adoption of the facility, whether its adoption would be seriously detrimental to the owner.
- (5) Before any land is deprived of the lawful use of any facility by reason of its adoption by the making of a declaration under this Article –
- (a) the Committee shall, at its own cost, carry out any work that is necessary to connect that land to some other public sewer, public sewage disposal works or public outfall (as the case requires); or
 - (b) it shall, at its own cost, provide an alternative facility.
- (6) On the making of an agreement or declaration under this Article by the Committee, the facility in respect of which it is made shall become a public sewer, public sewage disposal works or a public outfall (as the case may be).
- (7) As soon as reasonably practicable after making an agreement or declaration under this Article, the Committee shall apply to the Royal Court for an order that the agreement or declaration be registered in the Public Registry of Contracts.
- (8) The registration of the agreement or declaration in the Public Registry of Contracts shall vest in the Committee –
- (a) the right to maintain or alter the facility as a public sewer, public sewage disposal works or a public outfall (as the case may be); and
 - (b) the right to have access to the facility at all reasonable times for the purposes of this Law.
- (9) There shall be a right of appeal, in accordance with Article 42, against a decision by the Committee to adopt a sewer, sewage disposal works or an outfall, by a declaration under this Article.
- (10) This Article is subject to Article 38.

13 Separation of foul and surface water sewers

The Committee may reserve a public sewer for foul sewage only or for surface water only.

14 Obligation to connect to public sewer

- (1) If –
 - (a) it appears to the Committee on reasonable grounds that in the interests of public health or the environment, or for reasons of

amenity, the discharge of sewage from any land should be effected by means of a connection to a public sewer; and

- (b) it is reasonably practicable to connect that land to a public sewer, the Committee may require the owner of the land to construct for that purpose a satisfactory sewer or drain (including any associated pumping arrangements) to connect the land to the public sewer.
- (2) Before making a requirement under paragraph (1) in the interests of public health, the Committee shall consult the Health and Social Services Committee.
- (3) A requirement under paragraph (1) shall not specify a period of time within which the sewer or drain must be constructed that is sooner than 28 days after the Committee serves notice in writing of the requirement on the owner in accordance with Article 36, but this paragraph is without prejudice to the requirement in paragraph (2) of that Article that the period for compliance must in any event be reasonable in the circumstances.
- (4) To the extent that any part of the sewer or drain is to be constructed on the land of the owner, the Committee may –
 - (a) require the owner to undertake that part of the work; or
 - (b) undertake that part of the work itself.
- (5) However, the Committee shall not require the owner to construct any part of a sewer or drain on land that he or she does not own.
- (6) The Committee may recover from the owner the costs incurred by the Committee in undertaking –
 - (a) any work under paragraph (4); or
 - (b) any work undertaken by it for the purposes of this Article on land that he or she does not own,but this paragraph is without prejudice to its right under Article 37(2) to recover its costs for undertaking any work in default of compliance by the owner with a requirement under paragraph (4) of this Article.
- (7) There shall be a right of appeal, in accordance with Article 42, against the making of a requirement by the Committee under this Article.
- (8) The Committee may exercise its powers under this Article whether any premises on the land were constructed or the public sewer was constructed before or after the commencement of this Law.
- (9) This Article is subject to Article 38.

15 Repair of sewers and drains by owners

- (1) If it appears to the Committee that a sewer or drain connecting any land directly or indirectly to a public sewer –
 - (a) may be in a condition that is injurious to or likely to cause injury to public health or to the environment;
 - (b) prejudicially affects or is likely to prejudicially affect any amenity;

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- (c) may be in such a condition as to damage, obstruct or otherwise prejudicially affect any public sewer, public sewage disposal works or public outfall; or
 - (d) may be admitting subsoil water,
the Committee may examine the condition of the sewer or drain.
- (2) Before exercising a power under paragraph (1) in the interests of public health, the Committee shall consult the Health and Social Services Committee.
 - (3) For the purposes of paragraph (1) –
 - (a) the Committee may carry out any test; and
 - (b) if it considers it necessary to do so, the Committee may open the ground.
 - (4) If the sewer or drain is found to be in proper condition, the Committee shall reinstate any ground that it has opened and make good any damage that it has done, at its own expense and as soon as possible afterwards.
 - (5) If the sewer or drain is found not to be in proper condition, the Committee may require the owner of the land to repair or replace it at his or her own expense.
 - (6) However, the Committee shall not require the owner to repair or replace any part of the sewer or drain that is constructed on land that he or she does not own.
 - (7) There shall be a right of appeal, in accordance with Article 42, against the making of a requirement by the Committee under this Article.
 - (8) Subject to paragraph (4), the Committee may recover from the owner the costs incurred by the Committee in undertaking any work under this Article, but this paragraph is without prejudice to its right under Article 37(2) to recover its costs for undertaking any work in default of compliance by the owner with a requirement under paragraph (5) of this Article.
 - (9) This Article is subject to Article 38.

16 Restricted discharges into sewers and drains

- (1) No person shall cause or knowingly permit to be introduced into any public sewer, or into any sewer or drain connecting to a public sewer, or into any public outfall –
 - (a) any matter that is likely to injure a person, or to damage or interfere with the free flow of the contents of the public sewer or public outfall, or to exceed its capacity or to impede its maintenance or to prejudicially affect the treatment or disposal of its contents; or
 - (b) any petroleum-spirit, or any substance that in its pure state is flammable, or steam, or any liquid of a temperature higher than 43.3 degrees Celsius.

- (2) In this Article, “petroleum-spirit” means any of the following things that, when tested in the manner described in the definition of that expression in section 23 of the Petroleum (Consolidation) Act, 1928 (c.32) of the United Kingdom, gives off a flammable vapour at a temperature of less than 21 degrees Celsius, namely –
 - (a) crude petroleum;
 - (b) oil made from petroleum or from coal, shale, peat or other bituminous substances; and
 - (c) a product of petroleum or mixture containing petroleum.
- (3) No person shall cause or knowingly permit surface water to be discharged into a public sewer that is not a surface water sewer unless –
 - (a) he or she has the written consent of the Committee to do so; or
 - (b) the person was lawfully doing so before the commencement of this Law, and the volumetric rate at which he or she does so after the commencement of this Law does not exceed that at which the person was lawfully discharging the water into the sewer before this Law came into force.
- (4) There shall be a right of appeal, in accordance with Article 42, against a decision of the Committee on an application for consent under this Article.
- (5) Any person who contravenes paragraph (1) or paragraph (3) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (6) Paragraph (1) does not apply to an act done or an omission made in accordance with a trade effluent discharge consent.

17 Disturbance of public sewers

- (1) No person shall construct, demolish or remove –
 - (a) a building or other structure on or over a public sewer or public outfall, or within 5 metres of a public sewer or public outfall; or
 - (b) any apparatus on or over a public sewer or public outfall, or within one metre of a public sewer or public outfall,unless he or she has the written consent of the Committee to do so.
- (2) Paragraph (1) does not apply to anything that is reasonably done by a public utility undertaking in the course of performing its functions in an emergency, but the undertaking shall inform the Committee promptly of anything so done.
- (3) No person shall –
 - (a) open a public sewer or public outfall;
 - (b) make a connection directly or indirectly with a public sewer or public outfall; or
 - (c) alter such a connection,unless he or she has the written consent of the Committee to do so.

- (4) The Committee shall not give its consent to the making or altering of a connection between –
 - (a) a sewer or drain that carries surface water; and
 - (b) a public sewer that is not a surface water sewer,unless there are exceptional circumstances.
- (5) There shall be a right of appeal, in accordance with Article 42, against a decision of the Committee on an application for consent under this Article.
- (6) Any person who contravenes paragraph (1) or paragraph (3) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (7) If a person has constructed, demolished or removed any building or other structure or any apparatus, in contravention of paragraph (1), the Committee may require him or her to remove it or (as the case may be) to restore it to its condition before the contravention.
- (8) If a person has in contravention of paragraph (3) opened or made a connection directly or indirectly with a public sewer or public outfall, or altered such a connection, the Committee may require him or her to do any of the following things, namely –
 - (a) to keep or lay the public sewer or public outfall, or any sewer or drain that he or she has connected to it, open for a specified period so as to enable the Committee to inspect it and examine its mode of construction or condition;
 - (b) to stop temporarily, for that purpose, any work that he or she is doing in relation to the public sewer, public outfall, other sewer or drain; and
 - (c) if it appears to the Committee on reasonable grounds that the mode of construction or condition of the connection or alteration is such as to be prejudicial to the public sewer or public outfall, to remedy that situation.
- (9) The States may by Regulations amend paragraph (1) by varying any distance specified in that paragraph.

18 Septic tanks

- (1) An owner or occupier of land that is connected to a public sewer shall not use any cesspool, septic tank, soakaway or similar construction for the reception of foul sewage or other impurities from the person's property unless he or she has the written consent of the Committee to do so.
- (2) There shall be a right of appeal, in accordance with Article 42, against a decision of the Committee on an application for consent under this Article.
- (3) A person who causes or knowingly permits a cesspool, septic tank, soakaway or similar construction to be used in contravention of

paragraph (1) shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale.⁵

- (4) If a person contravenes paragraph (1), the Committee may require him or her to fill in that cesspool, septic tank, soakaway or other construction.

19 Abandonment of public sewerage facilities

- (1) The Committee may discontinue or prohibit the use of any public sewer, public sewage disposal works or public outfall.
- (2) A discontinuance or prohibition under paragraph (1) may be permanent or temporary.
- (3) At least 28 days before exercising its powers under paragraph (1), the Committee shall serve a notice in writing of its intention to do so on every person specified in paragraph (4).
- (4) The persons to whom paragraph (3) refers are –
- (a) every owner or occupier of land that will be deprived of a sewerage facility because of the discontinuance of the sewer, sewage disposal works or outfall; and
 - (b) if the sewer or outfall is or the works are not situated on land in public ownership, every other person who is an owner or occupier of the land on which the facility is situated.
- (5) The notice shall include the following information –
- (a) a description of the sewer, sewage disposal works or outfall that is sufficient to identify the facility;
 - (b) the date of the discontinuance of the facility;
 - (c) whether its discontinuance is permanent or temporary and, if it is temporary, its expected duration; and
 - (d) details of any works that the Committee proposes to carry out in connection with the discontinuance.
- (6) The Committee need not comply with paragraph (3) in a case of emergency.
- (7) Before any land is deprived of a sewerage facility because of the discontinuance of any sewer, sewage disposal works or outfall under this Article –
- (a) the Committee shall, at its own cost, carry out any work that is necessary to connect that land to some other public sewer, public sewage disposal works or public outfall (as the case requires); or
 - (b) it shall, at its own cost, provide an alternative facility.
- (8) A person who causes or knowingly permits a public sewer, public sewage disposal works or public outfall to be used while its use is prohibited under paragraph (1) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (9) This Article is subject to Article 38.

PART 3**TRADE EFFLUENT****20 Prohibited discharges of trade effluents**

- (1) No person shall cause or knowingly permit a trade effluent to be discharged from any trade premises –
 - (a) into any public sewer or public outfall; or
 - (b) into a sewer, or drain, that discharges directly or indirectly into any public sewer or public outfall,unless he or she is the owner or occupier of the premises and is acting in accordance with a trade effluent discharge consent.
- (2) Any person who contravenes paragraph (1) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

21 Applications in respect of trade effluent discharge consents

- (1) An application for a trade effluent discharge consent, or for its variation, transfer or revocation, shall be made in writing to the Committee.
- (2) An application for a trade effluent discharge consent may only be made by and granted to the owner or occupier of the trade premises from which the discharge is to be made.
- (3) An application for the variation, transfer or revocation of a trade effluent discharge consent may only be made by the holder of the discharge consent.
- (4) An application for the transfer of a trade effluent discharge consent shall include the written agreement of the proposed transferee to becoming the holder of the discharge consent.
- (5) Every application shall be in such form and shall contain such particulars as the Committee may prescribe or otherwise reasonably require.

22 Trade effluent discharge consents

- (1) On considering an application for a trade effluent discharge consent –
 - (a) the Committee shall grant the application, unconditionally or on such conditions as it may specify in its decision, and issue the discharge consent to the applicant; or
 - (b) it shall refuse the application.
- (2) Without prejudice to the generality of the conditions that the Committee may impose in granting an application for a trade effluent discharge consent, they may relate to any of the following matters –
 - (a) the times at or between which the trade effluent may be discharged;

- (b) the sewer, drain or outfall into which the trade effluent may be discharged;
- (c) the volume of trade effluent that may be discharged, and the highest rate at which it may be discharged;
- (d) the exclusion of cooling water from the trade effluent;
- (e) the elimination, before the trade effluent enters the sewer, drain or outfall of any constituents of the effluent that in the opinion of the Committee would (either alone or in combination with any matter with which the effluent is likely to come into contact while passing through any sewer, drain or outfall) injure any person or prejudicially affect or otherwise damage or obstruct any public sewer, public sewage disposal works or public outfall or render the treatment or disposal of sewage particularly difficult or expensive;
- (f) the elimination, as far as reasonably practicable, of acids and alkalis from the trade effluent before it is discharged;
- (g) the provision and maintenance of inspection chambers, manholes or other sampling points that will enable persons to take readily, at any time, samples of the trade effluent;
- (h) the provision and maintenance of any meters that are required to measure the volume of the trade effluent that is being discharged or the rate at which it is being discharged;
- (i) the provision and maintenance of any apparatus that is required for determining the nature, composition or quality of the trade effluent that is being discharged;
- (j) the keeping of proper records of the volume or rate of discharge, nature, composition or quality of the trade effluent and, in particular, proper records of readings of meters and other recording apparatus provided in compliance with any other conditions of the discharge consent;
- (k) the making of any returns that may reasonably be required by the Committee and the giving to the Committee of such other information as it may reasonably require about the volume or rate of discharge, nature, composition or quality of the trade effluent being discharged;
- (l) the provision of one or more separate discharge points;
- (m) the application of treatments or processes, approved in writing by the Committee, to minimize the risk of any prejudicial effects or injury to persons or damage to any public sewer, public sewage disposal works or public outfall because of the discharge of the trade effluent;
- (n) the payment to the Committee in respect of the discharge consent of such fees and charges as are prescribed by any Order made under Article 4; and
- (o) the prohibiting of the alteration of the nature, composition or quality of the trade effluent to be discharged, unless the Committee has given its written consent.

- (3) There shall be a right of appeal, in accordance with Article 42, against a decision of the Committee on an application for a trade effluent discharge consent.

23 Production of plans and furnishing of information

- (1) The Committee may require an owner or occupier of any trade premises –
 - (a) to produce to the Committee any plan or specification that he or she possesses, or is able without unreasonable expense to obtain, in respect of any facility specified in paragraph (2);
 - (b) to allow copies of the plan or specification to be made by or under the directions of the Committee; and
 - (c) to furnish to the Committee any information that he or she can reasonably be expected to supply with respect to the location, size and condition of the facility.
- (2) The facilities to which paragraph (1) refers are any sewer, drain, pipe, channel or outlet that (in any such case) is situated on the trade premises and is used or is to be used for discharging trade effluent –
 - (a) into a public sewer or public outfall; or
 - (b) into a sewer, or drain, that discharges directly or indirectly into a public sewer or public outfall.
- (3) There shall be a right of appeal, in accordance with Article 42, against the making of a requirement by the Committee under this Article.

24 Variation, suspension and revocation

- (1) The Committee may at any time of its own motion or on the application of the holder of a trade effluent discharge consent, vary, suspend or revoke the discharge consent.
- (2) If the Committee proposes of its own motion to vary, suspend or revoke a trade effluent discharge consent –
 - (a) it shall serve a notice in writing on the holder, specifying its proposal and informing the person that he or she may make representations in writing to the Committee in respect of the proposal within 21 days after the notice is served on the person; and
 - (b) in determining whether or not to proceed with the proposal, it shall consider all representations so made by the person.
- (3) A variation, suspension or revocation of a trade effluent discharge consent shall take effect –
 - (a) when notice in writing of the decision is served on the holder, if the Committee does not specify a later date in the notice; or
 - (b) if the Committee does specify a later date in the notice, on that later date.

- (4) However, if the effect of a variation of a trade effluent discharge consent made of the Committee's own motion is to impose any new restriction, obligation or requirement on the holder, the variation in that respect shall take effect on a date to be specified by the Committee in the notice of the variation, being not sooner than 6 months after the notice is served on the holder.
- (5) The Committee need not comply with paragraph (4) if –
 - (a) there are exceptional circumstances; and
 - (b) it specifies those circumstances in its decision.
- (6) There shall be a right of appeal, in accordance with Article 42, against a decision of the Committee under this Article.

25 Transfers

- (1) With the written approval of the Committee on an application made in accordance with Article 21, the holder of a trade effluent discharge consent may transfer it to another person.
- (2) However, the Committee shall refuse to give its approval unless it is satisfied that, on the day on which such approval is to take effect, the proposed transferee will be an owner or occupier of the trade premises in respect of which the trade effluent discharge consent has been granted.
- (3) With effect from the date of approval, or from any later date that the Committee specifies in the approval –
 - (a) the transferor shall cease to be the holder of the trade effluent discharge consent; and
 - (b) the transferee shall be the holder.
- (4) There shall be a right of appeal, in accordance with Article 42, against a decision of the Committee under this Article.

26 Information about harmful effluent

- (1) If it appears to the Committee on reasonable grounds that a person has any trade effluent in his or her custody or control in any case described in paragraph (2), the Committee may require the person –
 - (a) to deliver to it in writing such information as the Committee may reasonably require about the trade effluent and the circumstances in which it is in his or her custody or control (including details as to its nature, origin, volume, composition, properties, radioactivity, temperature and other qualities and, where appropriate, any methods of transportation used by the person in respect of it);
 - (b) to deliver to it in writing such other information as the Committee may reasonably require in order to determine the extent of the risk envisaged, and how best to prevent or deal with any occurrence or consequence described in paragraph (2); and
 - (c) to keep proper records for the purposes of sub-paragraphs (a) and (b) of this paragraph.

- (2) Paragraph (1) refers to the following cases –
 - (a) any case in which there is a risk that trade effluent may unlawfully enter a public sewer or public outfall, and that its entry may result in injury to any person or in any public sewer, public sewage disposal works or public outfall being damaged, obstructed or otherwise prejudicially affected;
 - (b) any case in which trade effluent has unlawfully entered a public sewer or public outfall, giving rise to the risk that its entry may result in any consequence to which sub-paragraph (a) refers; or
 - (c) any case in which trade effluent has unlawfully entered a public sewer or public outfall, and its entry has resulted in such a consequence.
- (3) There shall be a right of appeal, in accordance with Article 42, against the making of a requirement by the Committee under this Article.

27 Control of harmful effluent

- (1) If it appears to the Committee on reasonable grounds that a person has a trade effluent in his or her custody or control in any case described in Article 26(2), the Committee may require the person –
 - (a) to take reasonable precautions and undertake appropriate works and other measures (including monitoring); and
 - (b) to comply with reasonable conditions,for the prevention or in anticipation of the control, reduction or elimination of any occurrence or consequence described in Article 26(2).
- (2) If it appears to the Committee on reasonable grounds that a person has a trade effluent in his or her custody or control in the case described in Article 26(2)(a), and that –
 - (a) it is not reasonably practicable by any other means to take adequate precautions against any occurrence or consequence described in that sub-paragraph; and
 - (b) the circumstances are sufficiently serious to justify it in doing so,the Committee may require the person to dispose of the trade effluent.
- (3) There shall be a right of appeal, in accordance with Article 42, against the making of a requirement by the Committee under this Article.

PART 4

FLOOD DEFENCE

28 Flood defences on land in public ownership

The Committee may construct and maintain –

- (a) a watercourse; or

- (b) flood defence works,
for the purposes of flood defence, on or over any land in public ownership.

29 Designation of flood defences of general significance

- (1) The Committee may by Order designate any watercourse or flood defence works as being a facility of general significance for the purposes of flood defence.
- (2) If a facility that is for the time being so designated is situated wholly or partly on or over land that is not in public ownership, the Committee shall have for the purposes of this Law the following rights in respect of the watercourse or flood defence works –
- (a) the right to have access to the watercourse or flood defence works at all reasonable times;
 - (b) the right to maintain or alter the watercourse or flood defence works;
 - (c) the right, for the purposes of maintaining the watercourse or flood defence works, to erect any machinery on or adjacent to the facility, or to do anything else that is reasonably necessary for or incidental to those purposes;
 - (d) the right to appropriate and dispose of any matter removed in the course of the carrying out of any maintenance by way of dredging, deepening, widening, straightening, raising or diverting the watercourse or flood defence works; and
 - (e) the right, in the case of a watercourse, in any reasonable manner to deposit any matter so removed on the banks of that watercourse.
- (3) The Committee shall, at least 28 days before exercising any right to which paragraph (2) refers, serve on every person who is an owner or occupier of the land concerned a notice in writing of its intention to exercise that right.
- (4) The notice shall include the details of any works that the Committee proposes to carry out in connection with the maintenance or alteration of the designated watercourse or designated flood defence works.
- (5) The Committee need not comply with paragraph (3) in a case of emergency or routine maintenance.
- (6) This Article is subject to Article 38.

30 Alteration of designated flood defences

- (1) No person shall carry out any work to any designated watercourse or designated flood defence works, unless he or she has the written consent of the Committee to do so.
- (2) No person shall construct, demolish or remove –
- (a) a building or other structure on or over any designated watercourse or designated flood defence works, or within 5 metres of any designated watercourse or designated flood defence works; or

- (b) any apparatus on or over any designated watercourse or designated flood defence works, or within one metre of any designated watercourse or designated flood defence works,

unless he or she has the written consent of the Committee to do so.

- (3) No person shall create –

- (a) an obstruction that affects or may affect the flow of any designated watercourse or designated flood defence works;
- (b) an obstruction that affects or may affect the maintenance of any designated watercourse or designated flood defence works; or
- (c) an obstruction that affects or may affect access to any designated watercourse or designated flood defence works for the purposes of maintenance,

unless he or she has the written consent of the Committee to do so.

- (4) Paragraphs (2) and (3) do not apply to anything that is reasonably done by a public utility undertaking in the course of performing its functions in an emergency, but the undertaking shall inform the Committee promptly of anything so done.
- (5) There shall be a right of appeal, in accordance with Article 42, against a decision of the Committee on an application for consent under this Article.
- (6) Any person who contravenes any of paragraphs (1), (2) and (3) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (7) If a person –
- (a) has carried out any work in contravention of paragraph (1);
- (b) has constructed, demolished or removed any building or other structure, or any apparatus, in contravention of paragraph (2); or
- (c) has created an obstruction in contravention of paragraph (3),
- the Committee may require the person to undo the work, or to remove the building, structure, apparatus or obstruction or to restore the building or structure to its condition before the contravention.
- (8) The States may by Regulations amend paragraph (2) by varying any distance specified in that paragraph.

31 Repair of other flood defences

- (1) This Article does not apply to designated watercourses or designated flood defence works, but does apply to all other watercourses and flood defence works.
- (2) If it appears to the Committee on reasonable grounds that –
- (a) any watercourse is or any flood defence works are in such a condition that, in a way that is material for the purposes of this Law, the proper flow of water is or may be impeded; or

- (b) by reason of the condition of any watercourse or flood defence works, or of any obstruction in any watercourse or flood defence works, land is being or may be injured by water,
the Committee may require the person responsible for the maintenance of the watercourse or flood defence works to carry out remedial work.
- (3) There shall be a right of appeal, in accordance with Article 42, against the making of a requirement by the Committee under this Article.

PART 5

OTHER PROVISIONS

32 Control of development

- (1) When considering an application under Article 6 of the Island Planning (Jersey) Law 1964 for permission to develop land, the Committee shall with a view to –
 - (a) the prevention of damage to any facilities specified in paragraph (2);
 - (b) the prevention of the obstruction of those facilities; and
 - (c) the limitation of flooding of any kind,take into account the effect of the development on those facilities.
- (2) The facilities to which this paragraph refers are –
 - (a) public sewers;
 - (b) public sewage disposal works;
 - (c) public outfalls;
 - (d) watercourses; and
 - (e) flood defence works.

33 Acquisition of land

- (1) If it appears to the States that any land should be acquired for the purpose of carrying into effect any of the provisions of this Law, the States may acquire that land –
 - (a) by agreement with the owner; or
 - (b) by compulsory purchase on behalf of the public in accordance with the provisions of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961.⁶
- (2) For the purposes of that Law, the Committee shall be the acquiring authority in relation to the acquisition of any land.
- (3) In assessing the amount of compensation payable to any person in relation to a compulsory purchase the Board of Arbitrators, in addition to acting in accordance with the rules set out in Article 9 of that Law, shall if satisfied that the value of the land to be acquired has been or will be enhanced by reason of the expenditure or proposed expenditure of public

money in connection with the purpose for which the land is to be acquired, set off against the value used to assess the compensation any increase in the value attributable to the expenditure.

- (4) The power to acquire land by compulsory purchase to which paragraph (1) refers shall include the power –
- (a) to acquire any interest in land or a servitude or other right on or over land by the creation of a new interest, servitude or right; and
 - (b) to extinguish or modify any interest in land or a servitude or other right on or over land.

34 Exercise of ancillary powers

- (1) A power under paragraph (3) shall not be exercised in respect of residential land unless –
- (a) at least 48 hours' notice in writing has been given to the occupier; or
 - (b) the power is being exercised in a case of emergency.
- (2) A power under paragraph (3) shall only be exercised –
- (a) if there are reasonable grounds for doing so; and
 - (b) in a manner that is proportionate and otherwise reasonable.
- (3) The Committee or an authorized person may, for the purposes of executing any work or performing any other function or exercising any other power under or for the purposes of this Law, do any of the following things at any reasonable hour or in an emergency, namely –
- (a) enter on any land in order to inspect it;
 - (b) take or carry out any measurements, surveys, tests, investigations or photographs on the land;
 - (c) construct, maintain or operate any monitoring equipment or other apparatus on the land;
 - (d) take or remove from the land, for analysis, samples of any substance, article or other thing found there;
 - (e) take or remove from the land, for the purposes of evidence in any civil or criminal proceedings under this Law, any substance, article or other thing; or
 - (f) enter on any land to obtain access to any other land.
- (4) The Committee or an authorized person may, for the purposes of Part 3, exercise any power under paragraph (3) on or in respect of a vehicle.
- (5) A person who is exercising or lawfully proposing to exercise any power under paragraph (3) in respect of any land or vehicle may require any other person present who is or appears to the first person to be –
- (a) the owner or occupier of the land concerned;
 - (b) the driver or other person in charge of the vehicle concerned; or
 - (c) some other responsible person,

to render any assistance that the first person reasonably requires of the other person in order that the first person can carry out more effectively the purposes for which the power is being or is to be exercised.

- (6) If a person enters on any land or boards any vehicle in the exercise of a power under paragraph (3), and it is for the time being unoccupied or unmanned, the person exercising the power shall leave it secured as effectually as that person found it.
- (7) If a person has exercised any power under paragraph (3) in respect of any land or vehicle, and any person specified in paragraph (8) so requests, the person exercising that power shall as soon as reasonably practicable and in any event within 21 days inform the other person in writing of –
 - (a) the power so exercised; and
 - (b) everything taken or removed in the course of its exercise.
- (8) The persons to whom paragraph (7) refers are –
 - (a) the owner or occupier of the land concerned;
 - (b) the driver or other person in charge of the vehicle concerned; and
 - (c) any other person of whom a requirement is made under paragraph (5) in respect of the matter.
- (9) Any person who without reasonable excuse contravenes a requirement made of him or her under paragraph (5) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (10) This Article is subject to Article 38.

35 Remedial action by person causing damage

- (1) If a person –
 - (a) causes; or
 - (b) knowingly permits the causing of,any damage to any public sewer, public sewage disposal works, public outfall, designated watercourse or designated flood defence works, the Committee may require the person to take such steps as are reasonably practicable to remedy or mitigate the effects of the damage and to restore the facility to its condition immediately before the damage occurred.
- (2) There shall be a right of appeal, in accordance with Article 42, against the making of a requirement by the Committee under this Article.

36 Notice of requirements

- (1) A requirement by the Committee in the exercise of any power to which any of Articles 14(1), 14(4), 15(5), 17(7), 17(8), 18(4), 23(1), 26(1), 27(1), 27(2), 30(7), 31(2) and 35(1) refers shall be made by a notice in writing served on the person to whom it relates.
- (2) The notice shall specify –

- (a) the information to be delivered, the action to be taken or the conditions to be complied with (as the case may be); and
 - (b) a period of time, being reasonable in the circumstances, within which the notice is to be complied with.
- (3) The notice may specify the means by which the person is to comply with it.
 - (4) Paragraph (2), as far as it requires a period of time to be specified in the notice, is subject to Article 14(3) (which specifies a minimum period of time in the case to which it relates).
 - (5) Any person who without reasonable excuse fails to comply with a notice served on him or her by the Committee in the exercise of any power under any of Articles 23(1), 26(1), 27(1), 27(2) and 31(2) shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

37 Remedial action by Committee

- (1) If –
 - (a) a person fails to comply with a notice in writing served on him or her by the Committee in the exercise of a power to which any of the following Articles refers, namely Articles 14(1), 14(4), 15(5), 17(7), and 17(8) (so far as it relates to the action described in Article 17(8)(c)) and Articles 18(4), 27(1), 27(2), 30(7), 31(2) and 35(1);
 - (b) it appears to the Committee on reasonable grounds, in any case in which there are grounds for serving that notice, that the person on whom it is to be served cannot be found; or
 - (c) it appears to the Committee on reasonable grounds, in any case in which there are grounds for serving that notice, that the situation is one of urgency that warrants action under this Article,the Committee may itself do anything that it has so required or could have so required the person to do.
- (2) If the Committee takes action under paragraph (1), it may recover from the person the costs incurred by it in doing so.

38 Compensation

- (1) If a person has an interest in land that is reduced in value in consequence of the exercise by the Committee or an authorized person of a power under any of Articles 10, 12, 19, 29 and 34, the person shall be entitled to receive compensation from the Committee in accordance with this Article in respect of the reduction in value of that interest.
- (2) If the interest in land is subject to a hypothec –
 - (a) any compensation payable under this Article in respect of the reduction in its value shall be assessed as if the interest were not subject to the hypothec;

- (b) a claim for compensation may be made by any hypothecary creditor of the interest, but without prejudice to the making of a claim by the person entitled to the interest; and
 - (c) a hypothecary creditor shall not be entitled to claim compensation in respect of his or her interest as such.
- (3) Any person who sustains damage by being disturbed in the enjoyment of any right in land in consequence of the exercise by the Committee or an authorized person of a power under any of Articles 10, 12, 14, 15, 19, 29 and 34 (not being damage that consists of a reduction in the value of an interest in land) shall be entitled to receive compensation from the Committee in respect of that damage.
- (4) A claim for compensation under this Article shall be made –
 - (a) if the power to which the claim relates is exercised during the undertaking of any works by the Committee, within 3 years after the completion of those works; and
 - (b) in any other case, within 3 years after the exercising of the power.
- (5) Any dispute as to the entitlement of any person to the payment of compensation under this Article, or as to the amount of that compensation –
 - (a) shall be referred to and determined by the arbitration of a single arbitrator appointed by agreement between the Committee and the claimant; or
 - (b) in default of that agreement shall be referred to and determined by the Board of Arbitrators appointed in accordance with Articles 7 and 8 of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961.⁷
- (6) In the determination of a dispute under paragraph (5), the provisions of Articles 9, 10, 11, 12, 14, 14A, and 16A of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961⁸ shall apply, so far as those provisions are capable of being applied to the circumstances of the case.
- (7) In the application of those Articles (other than Article 11) for the purposes of this Article, the references in them to the Board of Arbitrators shall be read as including a reference to a single arbitrator appointed under paragraph (5)(a) of this Article.
- (8) For the purposes of assessing compensation under this Article in so far as it is payable in respect of a reduction in the value of an interest in land, account shall be taken of the extent to which the value of the land has been enhanced by reason of the exercise of the power to which the claim relates.
- (9) Compensation shall not be payable under this Law to the extent that –
 - (a) a reduction in the value of an interest in land or damage is attributable to the fault of the claimant; or
 - (b) such compensation is payable under any other enactment or rule of law.

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- (10) Compensation shall not be payable under this Law for loss of profits, unless the claim arises from the exercise of a power directly in respect of land in which the claimant has an interest or right.
 - (11) Interest at the rate specified in Article 9A(4) of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961⁹ and calculated in accordance with that paragraph from the date on which the reduction in value or damage occurred until the date of payment shall be added to the amount of any compensation assessed under this Article.

39 Application for protection of trade secret

- (1) A person specified in paragraph (2) may apply to the Committee for a certificate of confidentiality in respect of any information described in that paragraph, on the ground that its disclosure will reveal a trade secret.
- (2) The persons who may apply for certificates of confidentiality, and the information in respect of which they may so apply, are –
 - (a) an applicant for the grant, variation, transfer or revocation of a trade effluent discharge consent, in respect of any information that he or she is required or wishes to give to the Committee in support of the application;
 - (b) any person, in respect of any other information that he or she is required or wishes to give under the provisions of Part 3; and
 - (c) any person, in respect of any information relating to him or her, or to any business, including any research or experiment, carried on by the person, that the Committee or an authorized person or other person specified in Article 7 may obtain directly or indirectly in the course of the exercise of a power under any of Articles 10, 12, 14, 15, 17(8), 19(7), 29 and 34.
- (3) An application under this Article shall be made in writing.
- (4) However, in a case to which paragraph (2)(b) or paragraph (2)(c) refers, the application may in the first instance be made –
 - (a) orally; and
 - (b) either to the person who has required or obtained the information, or to the Committee directly,but in that event, on the expiry of the period of 14 days following the day on which it was made, it shall cease to be an application made in accordance with this Article unless the applicant has put it in writing and delivered the written application to the Committee.
- (5) If the Committee is satisfied that the disclosure of the information will reveal a trade secret, it shall grant a certificate of confidentiality in respect of that information.
- (6) Within 14 days after determining an application for a certificate of confidentiality, the Committee shall serve on the applicant a written copy of its decision.

- (7) There shall be a right of appeal, in accordance with Article 42, against a decision of the Committee under this Article.

40 Information that is protected

- (1) While –
- (a) an application for a certificate of confidentiality, having been made in accordance with Article 39, has not been determined by the Committee;
 - (b) any time allowed for appealing to the Royal Court against the decision of the Committee in respect of the application has not expired, and the Royal Court has not dismissed the appeal;
 - (c) any time allowed for a further appeal has not expired, and the court concerned has not dismissed the appeal; or
 - (d) any appeal, having been lodged, has not been determined,
- the information in respect of which the application for a certificate of confidentiality was made shall be confidential, unless it is information described in Article 41.
- (2) If a certificate of confidentiality is granted, whether by the Committee itself, or on appeal, the information in respect of which it is granted shall be confidential, unless it is information described in Article 41.
- (3) Any person who knowingly or recklessly –
- (a) discloses to any other person any information that is confidential by virtue of paragraph (1) or paragraph (2); or
 - (b) uses that information otherwise than for the purposes of this Law,
- shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (4) Paragraph (3) does not apply to –
- (a) any disclosure by the applicant for the certificate of confidentiality, or with his or her consent;
 - (b) any disclosure to the Environment and Public Services Committee or to any other Committee of the States or to any public officer or to any other person specified in Article 7, for the purposes of this Law; or
 - (c) any disclosure to a court or any party, in any civil or criminal proceedings under this Law, in private and for the purposes of those proceedings.

41 Information that is not protected

Article 40 does not apply to the following information –

- (a) the name and address of the applicant for the certificate of confidentiality; and

-
- (b) the fact that the applicant has applied for or been granted such a certificate, or that an appeal to the Royal Court, or any further appeal, is pending in respect of his or her application for it.

42 Appeals

- (1) The following persons shall have a right of appeal to the Royal Court under this Law –
 - (a) an applicant for consent under any of Articles 8(1), 8(2), 16(3), 17(1), 17(3), 18(1), 30(1), 30(2) or 30(3), against a refusal by the Committee of the application or against any condition imposed by the Committee in granting the application;
 - (b) the owner of any sewer, sewage disposal works or outfall, against a decision by the Committee under Article 12 to adopt the facility by a declaration under that Article;
 - (c) an applicant for a trade effluent discharge consent, against a refusal of the application under Article 22(1) by the Committee, or against any condition imposed by the Committee under Article 22(1) in granting the application;
 - (d) the holder of a discharge consent, against a variation, suspension or revocation of the discharge consent by the Committee under Article 24, or against a refusal by the Committee of an application under that Article to vary or revoke the discharge consent, or against a refusal by the Committee under Article 25(1) of an application for approval to transfer the discharge consent or against any condition imposed by the Committee in giving such approval;
 - (e) a person of whom a requirement is made by the Committee under any of Articles 14(1), 14(4), 15(5), 23(1), 26(1), 27(1), 27(2), 31(2) or 35(1), against the making of the requirement; and
 - (f) an applicant for the grant of a certificate of confidentiality, against a refusal of the application (wholly or partly) by the Committee under Article 39.
- (2) An appeal shall be brought within 21 days after the appellant is served with a written copy of the decision or requirement against which the appeal is brought, or within any further time that the Royal Court may allow.
- (3) Unless the Royal Court so orders, the lodging of an appeal shall not operate to stay the effect of a decision or requirement pending the determination of the appeal.
- (4) On hearing the appeal –
 - (a) the Royal Court may confirm, reverse or vary the decision or requirement against which the appeal is brought; and
 - (b) it may make any order as to the costs of the appeal as it thinks fit.

43 False information

Any person who –

- (a) in connection with an application under any provision of this Law; or
- (b) on being required under a condition of a trade effluent discharge consent or under Article 23(1) or Article 26(1), to give or deliver any information to the Committee or to any other person,

knowingly or recklessly makes a statement that is false or misleading in any material particular shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

44 Interference with operations

- (1) Any person who intentionally and without reasonable excuse obstructs –
 - (a) the carrying out of any work under or for the purposes of this Law by the Committee, or by any of its officers, employees or agents, or by any authorized person; or
 - (b) the carrying out of any work by any person who is required under this Law by the Committee to carry out that work;
 - (c) the exercising or the proposed exercise of any lawful power under this Law by any person; or
 - (d) any person who is lawfully accompanying an authorized person, or performing any function under his or her supervision, under Article 7,

shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

- (2) Any person who intentionally or recklessly damages –
 - (a) any public sewer, public sewage disposal works or public outfall, or any drain or other facility or plant or equipment that is vested in or maintained by the Committee for the purposes of this Law;
 - (b) any designated watercourse; or
 - (c) any designated flood defence works,

shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

- (3) Any person who maliciously or dishonestly interferes or tampers with any meter or other apparatus that is installed on or in any land or vehicle –
 - (a) by the Committee, for the purposes of this Law; or
 - (b) by any other person, in accordance with a requirement of or under this Law,

shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

45 Criminal liability

- (1) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.
- (2) Where an offence under this Law committed by a body corporate or limited liability partnership is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of –
 - (a) a person who is a director, manager, secretary or other similar officer of the body corporate, or a partner of the partnership; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the body corporate or partnership to the penalty provided for that offence.
- (3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to acts and defaults of a member in connection with his or her functions of management as if the member were a director of the body corporate.

46 Evidence

- (1) Where in any civil or criminal proceedings under this Law, evidence is adduced of information recorded by a meter or other apparatus that for the purposes of this Law is approved in writing or used by the Committee, it shall be presumed unless the contrary is proved that the meter or apparatus has at all material times recorded information accurately.
- (2) In any civil or criminal proceedings under this Law, information that is provided by or obtained from any person under any condition of a trade effluent discharge consent shall be admissible in evidence against that person.

47 Subsequent purchasers

- (1) A “*Tenant après dégrèvement*” shall pay all costs that, by virtue of this Law, are owed by a “*cessionnaire*” at the time when the “*héritages*” of the latter were placed “*en dégrèvement*”.
- (2) The purchaser of land shall pay all costs that may, by virtue of this Law, be due from any previous owner, but the purchaser shall have the right of recourse against any previous owner for any payment that he or she makes and for which the previous owner was liable.

48 Recovery of money owing under Law

- (1) Any fee, charge or other money that is due and payable by a person to the Committee under this Law, or costs that the Committee may recover from a person under this Law, may be recovered by it as a civil debt in any court of competent jurisdiction.
- (2) Paragraph (1) is without prejudice to any other mode of recovery.

49 Warrants

- (1) If the Bailiff or a Jurat is satisfied on sworn information that –
 - (a) there are reasonable grounds for the exercise of any power by the Committee or by an authorized person under this Law; and
 - (b) in the circumstances of the case, it is desirable to grant a warrant under this paragraph,he or she may grant a warrant authorizing the Committee by its officers, employees and agents or the authorized person at any time to enter on any land, or board any vehicle, specified in the warrant, and there exercise any such other power and in doing so to use any reasonable force that is necessary.
- (2) A warrant shall continue in force until –
 - (a) the purposes for which the warrant is granted have been fulfilled; or
 - (b) the expiry of the period of one month following its grant, according to its tenor.

50 Orders

- (1) The Committee may make Orders –
 - (a) prescribing forms of application for the grant, variation, transfer and revocation of trade effluent discharge consents, and information to be provided in support of those applications;
 - (b) prescribing standard conditions in trade effluent discharge consents;
 - (c) prescribing forms in which records shall be kept and returns shall be made under this Law;
 - (d) prescribing the form of applications for certificates of confidentiality;
 - (e) amending Schedule 1;
 - (f) providing for any matters that are to be or may be prescribed by the Committee under any other provisions of this Law;
 - (g) providing that contravention of provisions of Orders made under this Law shall be offences; and
 - (h) providing for any other matters that are reasonably necessary for or incidental to the purpose of carrying this Law into effect.

- (2) Any person who commits an offence under any Order made under this Law shall be liable to a fine not exceeding level 4 on the standard scale.¹⁰

51 Service of documents

- (1) Without prejudice to any other mode of service that is permitted under any rule of law, a document may be served under this Law in any of the following ways –
- (a) on an individual, by delivering it to him or her personally or by leaving it at his or her proper address or by sending it by recorded delivery post to the person at that address;
 - (b) on a body corporate, by serving it in accordance with sub-paragraph (a) on the secretary or clerk of that body;
 - (c) on a partnership, by serving it in accordance with sub-paragraph (a) on a partner or a person having the control or management of the partnership business; or
 - (d) on an unincorporated body or association of persons, by serving it in accordance with sub-paragraph (a) on any person having the control or management of its affairs.
- (2) For the purposes of this Article, and of Article 12 of the Interpretation (Jersey) Law 1954¹¹ in its application to this Article, the proper address of any person or body on whom a document is to be served shall be his, hers or its last known address, except that –
- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body; or
 - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership.
- (3) In the case of a company registered outside Jersey or of a partnership carrying out business outside Jersey, its principal office in Jersey shall be its principal office for the purposes of paragraph (2).
- (4) Where a person who is to be served under this Law with any document has specified an address in Jersey other than his or her proper address, as determined in accordance with paragraph (2), as the one at which the person or someone on his or her behalf will accept service of documents, that address may be treated as the proper address for the purposes of this Article.
- (5) Where a document is to be served under this Law on the owner or occupier of any land or the driver or person in charge of any vehicle, and after reasonable enquiry he or she cannot be found and his or her name and address cannot be ascertained, and the document relates to the land or vehicle –
- (a) the document may be served by leaving it with any other responsible person who is or appears on reasonable grounds to be

resident or employed on the land, or employed in connection with the vehicle; or

- (b) it may be served by affixing it, or a copy, conspicuously to a part of the land or vehicle.
- (6) This Article shall not apply to any document for which provision for service is made by Rules of Court.

52 Relationship to other enactments

Nothing in or done under this Law shall relieve any person from an obligation to obtain any authorization, consent, permit or permission required under any other enactment for the time being in force.

53 Application to the Crown

- (1) Subject to this Article, this Law (other than the provisions of Article 33 relating to the compulsory purchase of land) shall bind the Crown.
- (2) No contravention by the Crown of any provision of this Law shall make the Crown criminally liable.
- (3) However, –
 - (a) the Royal Court may, on the application of the Committee, declare unlawful any act or omission of the Crown that contravenes a provision of this Law; and
 - (b) the provisions of this Law apply in any event to persons in the public service of the Crown as they apply to other persons.
- (4) The powers of the Committee or of an authorized person under this Law shall not be exercised in respect of any Crown land unless the Lieutenant-Governor consents or they are so exercised in a case of emergency.
- (5) If the Committee considers it necessary or desirable to carry out any work under Part 4 on any Crown land to protect the coast of Jersey against erosion or encroachment by the sea, the Lieutenant-Governor shall not withhold his or her consent under paragraph (4) unreasonably.
- (6) Notwithstanding paragraph (4) or paragraph (5), if the Lieutenant-Governor certifies that it appears to him or her that in the interests of national security any powers in or under this Law that are specified in the certificate should not be exercisable in relation to any Crown land specified in the certificate, those powers shall not be exercisable in respect of that land.
- (7) This Law does not apply to Her Majesty in her private capacity.

54 Repeals, amendments, savings and transitional provisions

- (1) Subject to the savings and transitional provisions in paragraphs (2) and (3) of this Article –
 - (a) the enactments specified in Schedule 2 shall be repealed; and

- (b) the enactments specified in column (1) of Schedule 3 shall be amended in the manner specified in column (2) of that Schedule.
- (2) If –
- (a) this Law requires the consent or approval of the Committee for a matter;
 - (b) permission for such a matter (whether by way of authority, authorization, consent or other approval) has been obtained, before the commencement of this Law, under any enactment specified in Schedule 2 or Schedule 3; and
 - (c) such permission was in effect immediately before the commencement of this Law,

that permission shall continue in force according to its tenor, after the commencement of this Law, as if it were a consent or approval given by the Committee under this Law.

- (3) If –
- (a) this Law requires the consent or approval of the Committee for a matter; and
 - (b) an application for permission for such a matter (whether by way of authority, authorization, consent or other approval) was pending, immediately before the commencement of this Law, under any enactment specified in Schedule 2 or Schedule 3,

that application shall be determined as if it were an application for the consent or approval of the Committee under this Law for the matter.

55 Citation and commencement

- (1) This Law may be cited as the Drainage (Jersey) Law 2005.
- (2) Article 4 shall come into force on such day or days as the States may by Act appoint, and different days may be appointed for different provisions or different purposes of that Article.
- (3) Except as provided in paragraph (2), this Law shall come into force on the seventh day following its registration.

A.H. HARRIS

Deputy Greffier of the States.

SCHEDULE 1

(Article 1(1))

PREMISES THAT ARE NOT TRADE PREMISES

- 1 Hotels, guest houses, lodging houses, public houses, camp sites, leisure centres, restaurants, cafes and takeaway food shops, other than those parts of any such premises that –
 - (a) are used to brew alcohol;
 - (b) are used as a laundry, or laundrette, discharging more than 500 cubic metres per annum or more than 30 litres per minute of trade effluent;
 - (c) are used to process photographic film;
 - (d) are used to wash more than 5 motor vehicles per day; or
 - (e) are swimming pools that exceed 50 cubic metres in capacity or discharge water at more than 60 litres per minute.
- 2 Laundries or laundrettes (other than those in premises to which paragraph 1 refers) discharging less than 500 cubic metres per annum and less than 30 litres per minute of trade effluent.
- 3 Premises (other than those to which paragraph 1 refers) that are used solely to wash not more than 5 motor vehicles per day.
- 4 Swimming pools (other than those in premises to which paragraph 1 refers) that do not exceed 50 cubic metres in capacity and do not discharge water at more than 60 litres per minute.
- 5 Medical, dental and veterinary surgeries.
- 6 Funeral directors' and morticians' premises.
- 7 School laboratories.
- 8 Pharmacies.
- 9 Pet shops.
- 10 Garden centres.

SCHEDULE 2

(Article 54(1))

ENACTMENTS REPEALED

Sewerage (Amendment) (Jersey) Law 1953¹²

Loi (1954) (Amendement No. 3) sur les Egouts¹³

Sewerage (Amendment No. 5) (Jersey) Law 1961¹⁴

Sea Defence (Jersey) Law 1970¹⁵

SCHEDULE 3

(Article 54(1))

ENACTMENTS AMENDED

(1)	(2)
<i>Enactment</i>	<i>Extent of amendment</i>
Loi (1937) sur les Egouts	<p>(a) By repealing Articles 1, 3, 4 and 5.¹⁶</p> <p>(b) In Article 9(2),¹⁷ by substituting for the words “dix livres sterling” the words “le niveau 4 selon la Cedula de la Loi dite ‘Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993’¹⁸”.</p> <p>(c) By repealing Articles 13, 14, 15, 16, 17, 18, 33, 34, 36, 47, 49, 50, 51, 52, 54, 56, 59, 61, 62 and 64.¹⁹</p>
Drainage (Jersey) Law 1962	<p>(a) In Article 1(1),²⁰ by deleting the definitions “culvert”, “drainage”, “the Drainage Laws”, “highway authority”, “road”, “land” and “watercourse”.</p> <p>(b) By repealing paragraphs (2) and (3) of Article 1.²¹</p> <p>(c) By repealing Articles 2, 3, 4 and 5.²²</p> <p>(d) By deleting paragraphs (a) and (b) of Article 6.²³</p> <p>(e) By repealing Articles 8, 9, 10, 11, 12, 13 and 14.²⁴</p> <p>(f) By repealing the First Schedule and the Second Schedule.²⁵</p>
Island Planning (Jersey) Law 1964	By repealing Article 6(7). ²⁶
Water Pollution (Jersey) Law 2000	(a) In Article 1(1), ²⁷ by deleting sub-paragraph (a) of the definition “public sewer” and substituting the following sub-paragraph –

“(a) means a public sewer or public outfall as defined in Article 1(1) of the Drainage (Jersey) Law 2005:²⁸ and”.

(b) By deleting Article 1(2)²⁹ and substituting the following paragraph –

“(2) In this Law, references to the Committee in its capacity as the sewerage undertaker for the Island are references to it in that capacity by reason of Article 2 of the Drainage (Jersey) Law 2005.³⁰”

¹ *Volume 1963-1965, page 141.*

² *Volume 2003, page 192.*

³ *Volume 2003, page 192.*

⁴ *Tome I, page 492 (repealed 1.7.1937 by Tome 1937-1938, page 253: see now Tome VII, page 227).*

⁵ *Volume 1992-1993, page 437.*

⁶ *Volume 1961-1962, page 391, Volume 1963-1965, page 171, Volume 1970-1972, page 179, Volume 1979-1981, page 373, Volume 1990-1991, page 851 and Volume 1994-1995, pages 69 and 379.*

⁷ *Volume 1961-1962, page 395 and Volume 1994-1995, page 69.*

⁸ *Volume 1961-1962, pages 396, 397, 398, 399, 400 and 401, Volume 1963-1965, page 172, Volume 1970-1972, page 179, Volume 1979-1981, page 374, Volume 1990-1991, page 852 and Volume 1994-1995, page 69.*

⁹ *Volume 1961-1962, page 397 and Volume 1979-1981, page 375.*

¹⁰ *Volume 1992-1993, page 437.*

¹¹ *Tome VIII, page 381.*

¹² *Tome VIII, page 309.*

¹³ *This amending Law does not appear in the published Laws in force as it has lapsed, although it has not yet been formally repealed.*

¹⁴ *Volume 1961-1962, page 79.*

¹⁵ *Volume 1970-1972, page 155.*

¹⁶ *Tome VII, pages 218, 219 and 220.*

¹⁷ *Tome VII, page 220.*

¹⁸ *Volume 1992-1993, page 437.*

¹⁹ *Tome VII, pages 221 to 227 and 229.*

²⁰ *Volume 1961-1962, pages 459 and 460.*

²¹ *Volume 1961-1962, page 460.*

²² *Volume 1961-1962, pages 460 and 461.*

²³ *Volume 1961-1962, page 462.*

²⁴ *Volume 1961-1962, pages 463 to 465 and 468 to 469.*

²⁵ *Volume 1961-1962, page 470.*

²⁶ *Volume 1963-1965, page 357.*

²⁷ *Volume 2000, page 156.*

²⁸ *Volume 2005, page 125.*

²⁹ *Volume 2000, page 158.*

³⁰ *Volume 2005, page 126.*