



Jersey

DRAINAGE (AMENDMENT) (JERSEY) LAW 2014

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DRAINAGE (AMENDMENT) (JERSEY) LAW 2014

A LAW to amend the Drainage (Jersey) Law 2005

<i>Adopted by the States</i>	<i>4th March 2014</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>27th May 2014</i>
<i>Registered by the Royal Court</i>	<i>6th June 2014</i>

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

1 Interpretation

In this Law “principal Law” means the Drainage (Jersey) Law 2005¹.

2 Article 1 amended

In Article 1(1) of the principal Law –

- (a) after the definition “trade effluent” there shall be inserted the following definition –
 - “ ‘trade effluent discharge certificate’ means a trade effluent discharge certificate that is issued by the Minister under Part 3A;”;
- (b) for the definition “vary”, there shall be substituted the following definition –
 - “ ‘vary’, when used in respect of a trade effluent discharge consent or a trade effluent discharge certificate, means to vary a term or condition of the trade effluent discharge consent or the trade effluent discharge certificate, as the case may be;”.

3 Article 16 amended

In Article 16 of the principal Law –

- (a) for paragraph (2) there shall be substituted the following paragraph –

“(2) In this Article, ‘petroleum-spirit’ has the same meaning as in section 23 of the Petroleum (Consolidation) Act 1928 (c.32) of the United Kingdom.”.

(b) for paragraph (6) there shall be substituted the following paragraph –

“(6) Paragraph (1) does not apply to an act done or an omission made in accordance with a trade effluent discharge consent or a trade effluent discharge certificate.”.

4 Part 3 of Law not to apply to trade premises vested in or operated by the Minister

(1) In the Sub-heading to Part 3 of the principal Law after the words “TRADE EFFLUENT” there shall be added the words “EXCEPT TRADE EFFLUENT AT TRADE PREMISES VESTED IN OR OPERATED BY THE MINISTER”.

(2) Immediately before Article 20 there shall be inserted the following Article –

“19A Application of Part 3

This Part shall not apply in respect of trade effluent at any trade premises vested in or operated by the Minister.”.

5 Part 3A inserted

After Article 27 of the principal Law there shall be inserted the following Part –

“PART 3A

TRADE EFFLUENT AT TRADE PREMISES VESTED IN OR OPERATED BY THE MINISTER

27A Trade effluent discharge certificate required

(1) This Part applies in respect of trade effluent at any trade premises vested in or operated by the Minister.

(2) No person shall cause or knowingly permit trade effluent to be discharged from any trade premises vested in or operated by the Minister –

(a) into a 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 the discharge is authorized by a trade effluent discharge certificate issued by the Minister in accordance with this Part.

- (3) Any person who contravenes paragraph (2) shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years and a fine.

27B Public notice of Minister's proposals for discharge of effluent

- (1) If the Minister proposes to issue a trade effluent discharge certificate, or to vary a trade effluent discharge certificate, in respect of any trade premises vested in or operated by the Minister, the Minister shall publish a notice in the Jersey Gazette –
- (a) stating that a copy of the proposal will be available for inspection free of charge at a place specified in the notice;
 - (b) specifying the period for which it will be available for inspection (being a period of not less than 21 days beginning after the notice is published in the Jersey Gazette);
 - (c) specifying times, during reasonable office hours, when it may be inspected; and
 - (d) explaining the effect of paragraphs (4) and (5),
- and the Minister shall make a copy of the proposal available accordingly for inspection.
- (2) The Minister's proposal to issue or vary a trade effluent discharge certificate shall contain the information referred to in Article 27C, together with any conditions that the Minister proposes to impose in respect of the discharge authorized by the certificate.
- (3) The Minister shall send a copy of the proposal to such persons as he or she considers appropriate.
- (4) Any person who wishes to make representations in respect of the proposal may do so by delivering them in writing to the Minister –
- (a) at any time before the expiry of 7 days following the period for inspection; or
 - (b) within 21 days after receiving under paragraph (3) a copy of the proposal,
- whichever is the later date.
- (5) If a person who delivers such representations wishes to have the right under Article 27D(5) to apply to the Court to review a decision made by the Minister in respect of a trade effluent discharge certificate or a variation of such a certificate, the person shall also provide in writing, to the Minister, an address for service in Jersey.
- (6) The Minister –
- (a) shall not proceed to make a decision on the proposal until the time limits for making representations under this Law have elapsed; and

- (b) in determining the proposal, shall consider all representations made under this Law in respect of the proposal.

27C Trade effluent discharge proposal

A trade effluent discharge proposal shall include such of the following information as is relevant to the proposal –

- (a) the times at or between which it is proposed to discharge the trade effluent;
- (b) the location of the sewer, drain or outfall into which it is proposed to discharge the trade effluent, together with a plan that shows the route by which the trade effluent would be discharged from the trade premises;
- (c) the proposed volume of trade effluent to be discharged, and the highest rate at which it is proposed to be discharged;
- (d) whether it is proposed that cooling water will be excluded from the trade effluent;
- (e) how it is proposed to eliminate, before the trade effluent enters the sewer, drain or outfall, any constituents of the effluent that the Minister considers 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) how it is proposed to eliminate acids and alkalis from the trade effluent before it is discharged;
- (g) how it is proposed that persons would be able to take samples of the trade effluent, and what provision is proposed in respect of the maintenance of inspection chambers, manholes or other sampling points that would enable persons to take readily, at any time, such samples;
- (h) the proposed 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 proposed 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 proposal for keeping 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;
- (k) the proposal for the provision of one or more separate discharge points; and

- (1) the proposal for applying any treatments or processes, 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.

27D Trade effluent discharge certificate

- (1) The Minister may issue, vary, suspend or cancel a trade effluent discharge certificate.
- (2) Within 14 days after the Minister has issued or varied a trade effluent discharge certificate the Minister shall serve a written copy of the certificate on –
 - (a) any persons to whom he or she sent a copy of the proposal under Article 27(B)(3); and
 - (b) every person who has made representations under Article 27B(4).
- (3) The Minister shall specify in the trade effluent discharge certificate the conditions (if any) on which the discharge will be made.
- (4) A trade effluent discharge certificate or a decision to vary a trade effluent discharge certificate shall take effect from a date to be specified in the certificate or the variation, by the Minister (being not sooner than 21 days after the Minister complies with paragraph (1) in respect of his or her decision).
- (5) Where the Minister issues or varies a trade effluent discharge certificate, any person who –
 - (a) has made representations under Article 27B(4) in respect of the proposal to do so; and
 - (b) has provided an address for service in Jersey,may apply to the Court to review the decision.
- (6) An application under paragraph (5) shall be made –
 - (a) within 21 days after the applicant is served with a written copy of the trade effluent discharge certificate or its variation (or within such further time as the Court may allow); and
 - (b) on written notice to the Minister.
- (7) Where the Minister issues or varies a trade effluent discharge certificate, the Attorney General may apply to the Court at any time, on notice to the Minister, to review the decision.
- (8) Rules of Court may provide for the manner in which applications for review under this Article shall be brought, heard and determined.
- (9) Unless the Court so orders, the lodging of an application for review under this Article shall not operate to stay the effect of a trade

effluent discharge certificate, or its variation, pending the determination of the application.

- (10) On hearing an application for review, the Court –
 - (a) may in its own judgment confirm, reverse or vary the Minister's decision to issue a trade effluent discharge certificate or to vary such a certificate; and
 - (b) may make such order as to the costs of the review as it thinks fit.
- (11) The Attorney General shall have a right of appeal to the Court of Appeal against a decision of the Royal Court under this Article.
- (12) A person who contravenes any condition contained in a trade effluent discharge certificate issued under this Part shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years and a fine.

27E Minister to permit access to information

- (1) The Minister shall make available such information as is in the Minister's possession that is relevant to the following matters –
 - (a) representations made to the Minister under Article 27B(4);
 - (b) proposals for and the issue, variation, suspension or cancellation of a trade effluent discharge certificate;
 - (c) the results of analyses of samples taken by the Minister; and
 - (d) records kept under Article 27C(j).
- (2) The information shall be available for inspection by any person during reasonable office hours, as soon as possible after it is requested and in any event within 28 days.
- (3) The Minister shall also provide facilities for copying the information.
- (4) The Minister may by Order prescribe reasonable charges for providing information and facilities for copying under this Article.
- (5) The Minister may refuse to make available under this Article any information specified in Schedule 4.
- (6) Where the Minister refuses any request for information under this Article, the Minister shall give the applicant a statement in writing of his or her reasons for so refusing.
- (7) The States may by Regulations amend Schedule 4.

27F Savings and transitional provisions

- (1) If immediately before the coming into force of this Part a valid trade effluent discharge consent granted by the Minister under Article 22 is in force in respect of any trade premises to which this Part applies, that consent shall continue in force until the earlier of

the date on which it is suspended or revoked under Part 3 and the date which falls 12 months after the commencement of this Part.

- (2) Despite Article 19A, Part 3 shall continue to apply in respect of discharges from trade premises vested in or operated by the Minister until the date on which the Minister has issued a trade effluent discharge certificate under this Part in respect of those premises or the date which falls 12 months after the commencement of this Part.
- (3) Article 27A(2) and (3) shall not have effect in respect of any premises to which paragraph (1) or (2) applies until 12 months after the commencement of this Part.”.

6 Article 34 amended

In Article 34(4) of the principal Law, after the words “Part 3” there shall be inserted the words “or Part 3A”.

7 Article 43 amended

In Article 43 of the principal Law –

- (a) in paragraph (a) after the word “application” there shall be inserted the words “or proposal”; and
- (b) in paragraph (b) after the word “consent” there shall be inserted the words “, or a trade effluent discharge certificate,”.

8 Article 45 amended

For Article 45(2) of the principal Law there shall be substituted the following paragraph –

- “(2) If an offence under this Law committed by a limited liability partnership, a separate limited partnership or a body corporate 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 partner of the partnership, or a director, manager, secretary or other similar officer of the body corporate; 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 partnership or body corporate to the penalty provided for that offence.”.

9 Article 46 amended

In Article 46(2) of the principal Law after the word “consent” there shall be inserted the words “or trade effluent discharge certificate”.

10 Schedule 4 added

After Schedule 3 of the principal Law there shall be inserted the following Schedule –

“SCHEDULE 4

(Article 27E(5))

INFORMATION THAT NEED NOT BE DISCLOSED

1. The Minister shall not be obliged under Article 27E to make available any information –
 - (a) affecting the confidentiality of the deliberations of any public or parish authority;
 - (b) relating to international relations, national defence or public security;
 - (c) relating to matters that are under enquiry (whether or not the enquiry is of a disciplinary nature) or to documents that are still in draft form or to any internal communications of a public or parish authority;
 - (d) relating to matters that are or have been the subject of legal or other proceedings (whether actual or prospective) or to any investigations undertaken with a view to such proceedings;
 - (e) relating to matters to which commercial or industrial confidentiality attaches (including matters of that character relating to intellectual property);
 - (f) relating to matters to which domestic or personal confidentiality attaches;
 - (g) supplied to the Minister by a person who was not under a legal obligation to do so;
 - (h) if the Minister, reasonably, is not satisfied of the reliability of the information;
 - (i) that cannot be separated, for the purpose of making it available, from information specified in any of paragraphs (a) to (h) (inclusive); or
 - (j) if the request for information is manifestly unreasonable or is formulated in too general a manner.
2. In this Schedule, a reference to a public authority includes a reference to the Council of Ministers and any Minister.”.

11 Citation and commencement

This Law may be cited as the Drainage (Amendment) (Jersey) Law 2014 and shall come into force 7 days after it is registered.

M.N. DE LA HAYE

Greffier of the States

¹ *chapter 22.075*