

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE

ENVIRONMENTAL POLLUTION (GUERNSEY) LAW, 2004

PART VI – WATER POLLUTION

SUPPLEMENTARY POLICY LETTER

The States are asked to decide whether, after consideration of the Policy Letter entitled "Environmental Pollution (Guernsey) Law, 2004, Part VI – Water Pollution – Supplementary Policy Letter", dated 18th August 2022, they are of the opinion:

1. To approve the amended maximum limits for the concentration of pollutants in surface water and groundwater as set out in Part I of Table 1 in Appendix 1, Part A to the policy letter.
2. To approve:
 - a. the changes to the categories of polluting works or other activities having to comply with listed requirements, breach of which will be an offence, from the broad works and other activities currently requiring a permit under the States Water Supply (Prevention of Pollution) Ordinance, 1966 to more specific works or other activities considered to give rise to a particular risk of water pollution as further detailed in paragraph 5 of, and Appendix 1, Part B to, the policy letter; and
 - b. that the Director of Environmental Health and Pollution Regulation has a power by Regulations to amend the list of polluting works and other activities and the related technical requirements.
3. To approve giving the Director of Environmental Health and Pollution Regulation a power in the new water pollution legislation, to take action to deal with water pollution, or a risk of the same, where works need to be carried out without delay or no person can be found on whom to serve an enforcement notice, so as to replace the current equivalent power held by the States' Trading Supervisory Board which will be repealed when the new water pollution legislation comes into force, as further detailed in paragraph 6 of the policy letter.

4. To rescind resolution 1(e) of the 1st November, 2012 following Article VI of Billet d'État No XX1 of 2012, relating to providing an exemption from the licensing requirement under the Food and Environmental Protection Act 1985.
5. Only if propositions 1 to 4 have been approved, to approve the draft Ordinance entitled "The Environmental Pollution (Guernsey) Law, 2004 (Commencement) Ordinance, 2022", as set out in Appendix 2 to the policy letter and to direct that the same shall have effect as an Ordinance of the States.
6. Only if propositions 1 to 5 have been approved, to approve the draft Ordinance entitled "The Environmental Pollution (Water Pollution) Ordinance, 2022", as set out in Appendix 3 to the policy letter and to direct that the same shall have effect as an Ordinance of the States.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1)(c) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

The Environmental Pollution (Guernsey) Law, 2004 (Commencement) Ordinance, 2022

This Ordinance commences Part VI (Water Pollution) of the Environmental Pollution (Guernsey) Law, 2004 on 3rd October, 2022. Some of the provisions of the Environmental Pollution (Water Pollution) Ordinance, 2022 are made under Ordinance powers under Part VI.

Part VI also contains substantive provisions relating to water pollution including certain definitions relevant to water pollution and enforcement powers for the Director of Environmental Health and Pollution Regulation in relation to water pollution; these include powers to take samples and serve anti-pollution notices and a definition of the water catchment area which replace comparable provisions in the Prevention of Pollution (Guernsey) Law, 1989 which is to repealed when Part VI comes into force.

The Water Pollution (Guernsey) Ordinance, 2022

This Ordinance is the third main Ordinance under the Environmental Pollution (Guernsey) Law, 2004 ("2004 Law") and modernises water pollution legislation in Guernsey. Earlier Ordinances under the 2004 Law were made in 2010 in relation to regulation of waste operations and in 2019 in relation to activities likely to result in air pollution. The Ordinance provides for the first time for the licensing of discharges of trade effluent or sewage effluent

into inland waters or the sea and the establishment of water quality standards for surface water and groundwater. It also repeals and replaces the current legislation controlling water pollution under the Prevention of Pollution (Guernsey) Law, 1989 ("the 1989 Law") and makes consequential amendments to other legislation under the 2004 Law. A contravention of a provision of the Ordinance or the carrying on of an activity prescribed as requiring a licence, other than in accordance with a licence, is an offence under section 66, and may result in an offence under section 65, of the 2004 Law.

Section 1(1) prescribes the discharge of sewage effluent or trade effluent into the sea or other waters as operations requiring a licence from the Director of Environmental Health and Pollution Regulation ("the Director") under the 2004 Law subject to certain exclusions. The exclusions include a discharge made in the course of carrying on an activity regulated under section 4 and operations given an exemption from licensing by the Director; those given an exemption will include discharges falling within section 1(1) of the Ordinance which require a licence under the Food and Environment Protection Act 1985 as extended to the Bailiwick; that Act requires a licence, subject to exceptions, for deposits of substances in particular from ships and marine structures into the sea although in practice it is unlikely there would be deposits of sewage effluent or trade effluent from the same in Guernsey. There is a transitional provision in section 12 and Schedule 5 which provides for persons making discharges prescribed under section 1 when the Ordinance comes into force to be treated as licensees provided that they make an application for a licence to the Director within two months of the commencement of section 1.

Section 2 applies certain licensing provisions set out in the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010 to the operations prescribed under section 1(1).

Section 3 and Schedule 1 establish standards for water quality for surface water and groundwater comprising maximum limits for the concentration of listed pollutants in those waters and characteristics which those waters are required to have.

Section 4 regulates activities which are considered likely to present a threat of water pollution but not to require a licence under the 2004 Law. A person must not carry on the activity unless he or she complies with all the requirements for that activity set out in Schedule 2. Section 4 replaces current requirements for permits from the States Trading Supervisory Board (Guernsey Water division) under the States Water Supply (Prevention of Pollution) Ordinance, 1966 for activities within the water catchment area including erection of buildings, construction of works, installation of oil-fired boilers and related equipment and use of premises for carrying on of a trade or business where trade effluent may be discharged. The scope of activities has been changed to cover those in all locations and to give more exact descriptions of activities giving rise to a threat of water pollution.

Section 5 prohibits a person from causing or permitting the contravention of a standard specified under section 3 and from causing or permitting the occurrence of water pollution or the risk of the same. The second prohibition replaces the current, very similar prohibition in section 1 of the 1989 Law. Section 9 sets out defences to offences concerning contraventions of the prohibitions in sections 4 and 5.

Part V and Schedules 3 and 4 provide for consequential amendments and a modification to the enforcement provisions made under the 2004 Law, consequential on the new Ordinance being made and Part VI of the Law relating to water pollution being commenced. Schedule 3 in particular adds provisions to the Environmental Pollution (Enforcement and Appeals) Ordinance, 2019 concerning the content of enforcement notices relating to breaches under the Law in relation to water pollution. It also adds a new section 9A to that Ordinance to give the Director power to take action himself in certain circumstances where action needs to be taken without delay or no person can be found on whom to serve a notice. This will replace the broadly similar power currently held by the States' Trading Supervisory Board under section 7(1) of the 1989 Law except that it will also apply outside the water catchment area.

Part VI makes standard general provisions including the interpretation and repeal provisions.

The Ordinance comes into force on 3rd October, 2022 except for section 4 and certain related provisions which come into force six months later on 3rd April, 2023.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE

ENVIRONMENTAL POLLUTION (GUERNSEY) LAW, 2004
PART VI – WATER POLLUTION
LEGISLATION AND SUPPLEMENTARY POLICY LETTER

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

18th August 2022

Dear Sir

1 Executive Summary

- 1.1 This supplementary Policy Letter seeks approval for amendments to the proposals agreed in November 2012, when the States of Deliberation directed the drafting of legislation proposed to modernise Water Pollution legislation¹. The current legislation in force dates from 1989 or earlier and provides for no standards for the Island's water resources.

- 1.2 The drafting directed included amendments to Part VI of the Environmental Pollution (Guernsey) Law, 2004 ("2004 Law"), in particular to confer functions in relation to regulation of water pollution on the Director of Environmental Health and Pollution Regulation and to extend enforcement powers in relation to water pollution from the water catchment area to the whole island. These amendments were drafted as part of the Environmental Pollution (Guernsey) (Amendment) Law, 2015 and took effect at the end of that year. Although the amendments were made, Part VI was not brought into force as the other legislation directed needs to be in force at the same time before the water pollution legislation currently in force is repealed.

¹ See Article VI of Billet d'État No. XXI of 2012.

1.3 The other drafting directed included:

- the establishment of standards for the Island's water resources. Those standards were listed in the Director's report attached to the Policy Letter (the Director's report)²;
- replacing the permitting and other provisions under the current Prevention of Pollution (Guernsey) Law, 1989 ("1989 Law") with provisions requiring the same to comply with listed requirements breach of which would be an offence³; and
- providing for an exemption for licensing requirements under the Food and Environment Protection Act 1985, as extended to Guernsey, to avoid a need for two licences when operations giving rise to a risk of water pollution are prescribed as requiring a licence under the directed legislation⁴.

2 The Proposed Changes

2.1 The principle of the above proposals remains the same but this policy letter seeks approval for the following changes on points of detail identified in the drafting process:

- amendments to the maximum limits for the concentration of pollutants in surface water and ground water to meet concerns raised by Guernsey Water to adapt the proposed limits to local circumstances and, given the passage of time, following a review by the Director of Environmental Health and Pollution Regulation (the Director) of limits in other jurisdictions;
- changes to the potentially polluting works or activities having to meet listed requirements, the breach of which would be an offence, from those currently requiring a permit under the 1989 Law (Schedule 2 activities);
- giving the Director a power to enter premises to take action to deal with water pollution or a risk of the same where works need to be carried out without delay or no person can be found on whom to serve an enforcement notice; there is a similar power held by the STSB (Guernsey Water) under the current 1989 Law⁵ but only in the water catchment area. It is proposed this power could be

² See resolution 1(c) following the debate.

³ See resolution 1(g) following the debate.

⁴ See resolutions 1(d) and (e) following the debate.

⁵ See section 7(1).

exercised island wide consistent with the other amendments already made to the 2004 Law in 2015; and

- rescinding resolution 1(e), following the 2012 debate, in relation to an exemption from licensing requirements under the Food and Environment Protection Act 1985 (as extended to Guernsey with modifications) whilst still achieving the policy aim of avoiding double licensing remains under existing legislative provisions.

2.2 This policy letter also provides details on the proposed:

- statutory guidance to be issued to those carrying on potentially polluting works or activities which do not require a licence under the 2004 Law but have to meet the requirements listed in the legislation; and
- the later commencement of this Part of the legislation to give people more time to make practical arrangements to meet the listed requirements.

3 The Ordinances

3.1 As the principle of the water pollution legislation was approved and the drafting directed in 2012, approval of the policy for the amendments and approval of the Ordinances are being sought at the same time as set out in paragraph 5.1 of the Directive relating to submission of propositions to the States⁶. The proposed draft Ordinances are attached to the Policy Letter at Appendices 2 and 3.

3.2 The Ordinances provide for:

- Commencement of the Water Pollution Part of the 2004 Law as directed under the 2012 policy⁷; and
- The main water pollution provisions directed in 2012 and as proposed to be amended.

3.3 This Policy Letter is being brought to the Assembly by the Committee *for the Environment & Infrastructure (CfE&I)*. Although the Director of Environmental Health and Pollution Regulation is the independent statutory official appointed to carry out the functions, exercise the powers and perform the regulatory functions

⁶ See Directive No. 1 of 2021 issued by the States' Greffier.

⁷ Resolution 1(b) following the 2012 debate.

under the 2004 Law, CfE&I has the policy mandate for the protection of the natural environment.

4 Proposed Amendments to the Standards for the Island's Water Resources

- 4.1 A technical overview of the amendments is provided in Appendix 1, Part A; the parameters that have been included have been done based on a locally-focused risk assessment, taking into account local activities, water source characteristics and drinking water treatments. Parameters have largely been kept the same but some have been removed (where their inclusion was out-dated, unnecessary or based on drinking water standards rather than environmental standards).
- 4.2 The draft legislation provides powers to the Director (as per the 2012 policy) to amend by Regulations the Water Quality Standards for Surface Water and Groundwater. This will allow any new pollutants to be added to the table of maximum limits or amendments to be made to the limits, as necessary, including to reflect scientific progress or technical developments.

5 Additional categories of potentially polluting works or activities which must comply with listed requirements

- 5.1 The Director's report and 2012 resolutions stated that the States Water Supply (Prevention of Pollution) Ordinance, 1966 and the 1989 Law would be repealed with the permitting provisions they contained being replaced under the new legislation.
- 5.2 It is proposed that the categories of potentially polluting works in the new legislation are more specifically worded than those in the 1966 Ordinance, in order to identify works or other activities considered to raise a particular risk of water pollution, whilst still covering most of the activities currently requiring a permit. This approach aligns with the 2012 policy and similar provisions within UK water pollution legislation (whilst being Guernsey-specific). Details of the proposed changes are provided in Appendix 1, Part B.
- 5.3 It is proposed that activities are covered anywhere on the island and not just in the water catchment area (consistent with the 2012 policy) and that potentially polluting activities carried on by any party are included (not being limited to trade or business activities) in order to be able to address more diverse risks of pollution to any of the island's water bodies.
- 5.4 Discharges of trade effluent or sewage effluent giving rise to the greatest risk of water pollution are prescribed in the main draft Ordinance as requiring a licence

from the Director under the 2004 Law⁸. This reflects resolution 1(d) following the 2012 debate. Certain other works or activities, which give rise to significant risk of water pollution, but are considered not to require control by licence, must instead meet listed requirements set out in Schedule 2 of the draft Ordinance⁹ ("Schedule 2 activities").

- 5.5 It is also proposed that the Director has a power to amend Schedule 2 setting out the works or other activities and relevant requirements by Regulations, in view of its technical nature.
- 5.6 The Committee recommends that the States approves the above proposals in relation to controls on potentially polluting works or other activities which will not require a licence under the 2004 Law.

6 Power for Director to take action to deal with water pollution or the risk of the same

- 6.1 During the drafting stage, it was identified that the Water Pollution Part of the 2004 Law does not include an equivalent to the current power of STSB (Guernsey Water) to enter premises to take action to protect the island's water resources against water pollution or the risk of the same. This power currently only applies in the water catchment area and will be repealed when the new Ordinance comes into force¹⁰.
- 6.2 Therefore, it was considered that a similar power needed to be given to the Director to enter premises to take action to deal with water pollution or a risk of the same where works need to be carried out without delay or no person can be found on whom to serve an enforcement notice. As in the current provision in the 1989 Law, it is proposed that the States have a power to recover expenses incurred by the States in the Director taking such action from the person who caused or permitted the relevant water pollution or risk of the same.
- 6.3 Consistent with the 2012 policy, it is proposed that such provisions apply to the whole island and not just in the water catchment area¹¹. The Committee therefore proposes that the States approve adding these provisions to the enforcement provisions in the legislation.

⁸ See section 1 of the draft Environmental Pollution (Water Pollution) Ordinance, 2022.

⁹ See section 4 and Schedule 2 to the draft Environmental Pollution (Water Pollution) Ordinance, 2022.

¹⁰ See section 7(1) of the 1989 Law.

¹¹ See Schedule 3 to the draft Environmental Pollution (Water Pollution) Ordinance, 2022, paragraph 4.

7 Avoiding a need for two licences under the 2004 Law and the Food and Environment Protection Act 1985 as extended to the Bailiwick

- 7.1 The 2012 policy identified that a licence might be required for a deposit of a substance into the sea under the Food and Environment Protection Act 1985 ("FEPA") as extended with modifications to the Bailiwick and for a discharge prescribed as requiring a licence under the new water pollution Ordinance.
- 7.2 Resolution 1(e), following the 2012 debate therefore, approved the proposal to provide an exemption from the licensing requirements under FEPA for operations depositing substances into the sea, within the territorial waters, which are prescribed under the new Water Pollution Ordinance.
- 7.3 The policy aim of avoiding a need for two licences remains the same but during the drafting process it was decided that it would be preferable to do this by means of providing for an exemption from the licensing requirements under the 2004 Law for a deposit also requiring a licence under FEPA.
- 7.4 The main reasons for this are:
 - that FEPA applies throughout the Bailiwick and implements international conventions relating to dumping at sea so that it is preferable to maintain a uniform approach throughout the Bailiwick; and
 - the Provisions in the Water Pollution part of the 2004 Law assume that FEPA will operate alongside the licence requirements under the 2004 Law so that this approach is more consistent with the 2004 Law¹². In particular, the Committee for Health and Social Care, will have to comply with the duties in section 47 of the 2004 Law when carrying out its FEPA licensing functions including a requirement to act generally with a view to promoting the purposes and objectives of the 2004 Law and to consult with the Director.
- 7.5 Therefore, the Committee proposes that Resolution 1(e), following the 2012 debate is rescinded as double licensing will be avoided by an exemption from the licensing requirement under the 2004 Law using current Regulation making powers of the Director.

¹² See in particular section 47 of the 2004 Law.

8 Transitional arrangements and guidance

- 8.1 To provide businesses and members of the public with an opportunity to be fully informed and make practical arrangements it is proposed that the parts of the Water Pollution Ordinance relating to Schedule 2 activities are not commenced until 6-months after the rest of the Ordinance. During this six-month period the States Water Supply (Prevention of Pollution) Ordinance, 1966 will remain in force to provide for some regulation of the activities requiring a permit under it.
- 8.2 To assist those affected, the Director proposes to issue guidance on the listed requirements. There was a consultation with the DPA, Guernsey Water and oil providers on the requirements in relation to oil installations and with the States Vet on activities affecting farming and horticulture.
- 8.3 This guidance is intended to assist both businesses and members of the public to ensure that there is a clear understanding of the nature and extent of the requirements that have to be met to prevent water pollution in relation to the activities listed in the schedule. There will also be non-statutory guidance on the proposed approach to enforcement which will be in line with best practice including a proportionate approach.

9 Compliance with Rule 4

- 9.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 9.2 In accordance with Rule 4(1):
 - a) The Propositions contribute to the States' objectives and policy plans by discharging the Government Work Plan priority of 'meeting international standards' and CfE&I's policy mandate for the protection of the natural environment.
 - b) In preparing the Propositions, consultation has been undertaken with Guernsey Water, the Development and Planning Authority, the States Analytical Laboratory, the States Vets, local oil providers and the Law Officers of the Crown.
 - c) The Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

d) The financial implications to the States of carrying the proposals into effect are detailed within sections 9.4 – 9.8 below.

9.3 In accordance with Rule 4(2):

a) The propositions relate to the purpose and policy responsibilities of CfE&I, as the Committee with the policy mandate for the protection of the natural environment.

b) The propositions have the unanimous support of the Committee.

9.4 In accordance with Rule 4(1)(d), it is confirmed that the position remains as stated at paragraph 10 of the 2012 Policy Letter i.e. that licence fees will cover the costs of the new prescribed operations relating to discharges of trade effluence or sewage effluent and the costs of administering other new provisions would be met from normal departmental budgetary allocations.

9.5 However, it is recognised that the implementation of the proposed Ordinances will result in new legal requirements for the Director of Environmental Health and Pollution Regulation ("the DEHPR") to administer and it will generate considerable extra workload requiring additional staff time. The DEHPR must be able to administer and enforce the Water Pollution Ordinance once it has come into effect, but the DEHPR currently does not have the staff resources to be able to do so alongside his other functions and other functions carried out by the same officers at the Office of Environmental Health and Pollution Regulation.

9.6 Failing to have qualified and competent staff in place ready to discharge the duties required by the 2004 Law could lead to detrimental impacts on the environment and failure to discharge statutory duties with associated reputational damage both to the DEHPR and the States of Guernsey and also to increased risk of challenge by way of judicial review. One officer was recruited to discharge the Waste functions when they were enacted in 2010 but no other staff were appointed in relation to the Air Pollution functions. The DEHPR is in the process of submitting a request for a new full time equivalent (FTE) post to discharge Environmental Pollution (EP) functions, with a focus or specialism relating to the water environment.

9.7 Licence fees are charged for applications in relation to prescribed operations under the 2004 Law (prescribed under Waste and Air Pollution Ordinances) and additional fees will be collected for applications in relation to operations prescribed under the Water Pollution Ordinance. Annual licences fees are also charged for existing prescribed operations other than waste transport operations to cover the cost of

monitoring and enforcement of licences.

- 9.8 Having considered various options the DEHPR proposes to use the licensing income received (in a transparent form) to offset the wages of the staff that discharge all of the EP functions; fee income would only be used to the extent it reflects work carried out by staff on the relevant types of licence. EP licence fee money is proposed to be used to offset the cost of a new FTE (although the money will be used to counterbalance the resources expended by multiple officers to carry out EP work).
- 9.9 In the event that additional resources are required at a later stage to discharge the functions under the legislation then consideration will be made as to whether changes can be made to the fees that are levied for work in relation to licence applications or whether new fees should be charged for other work. It is also noted that the Policy & Resources Committee has a duty under section 4(2) of the 2004 Law to "ensure that adequate resources are provided for the DEHPR so that he may carry out the functions, exercise the powers and perform the duties created or arising under the Law" and the DEHPR has legal provision to request this funding through the standard States' financial and budgeting arrangements.

Yours faithfully

H L de Saumarez
President, CfE&I

Sam Haskins
Vice-President, CfE&I

A Cameron
S Fairclough
A Gabriel
Members, CfE&I

Appendix 1 – Technical Annex Detailing Certain of the Proposed Amendments

Part A

Proposed Amendments to the Standards for the Island's Water Resources

Resolution 1(c) following the debate on the 2012 Policy Letter approved proposals to “set standards for the Island’s water resources as set out in Appendix 2” of the Director’s report.

During the drafting process new staff at Guernsey Water raised concerns regarding the approved standards and considered that the maximum limits specified for certain pollutants required adjustment for the particular circumstances in Guernsey. The Director then decided to review the approved standards including consideration of standards for surface water and groundwater in other jurisdictions.

Guernsey Water and the States Analytical Laboratory were consulted on the amendments to the standards and comments and their views were considered when making the amendments.

Table 1 sets out the proposed revised maximum limits for the concentration of pollutants in surface water and groundwater (Part I). Part II shows the required characteristics for surface water and groundwater which are unchanged from those approved in 2012. The notes at the end of the Table explain the changes made to the maximum limits from those approved in 2012 following the comprehensive review by the Director¹³.

In summary amendments are proposed –

- i. to remove certain proposed limits in particular where those pollutants are unlikely to give rise to significant water pollution locally; and
- ii. to change certain limits specified having had regard to changes in limits in other jurisdictions.

The 2012 policy proposed that the Director would be given a power to amend by Regulations the Water Quality Standards for Surface Water and Groundwater. This will allow any new pollutants to be added to the table of maximum limits or amendments to be made to the limits, as necessary, including to reflect scientific progress or technical developments¹⁴. It should also be highlighted that any pollutant that is present in ground or surface water that presents a significant risk of water pollution can be addressed using the

¹³ See Part I of Schedule 1 to the draft Environmental Pollution (Water Pollution) Ordinance, 2022.

¹⁴ See Part I of Schedule 1 to the draft Environmental Pollution (Water Pollution) Ordinance, 2022 and paragraph 22 and Appendix 2 to the 2012 Director’s report.

enforcement provisions under the Law irrespective of whether it is a pollutant for which a maximum limit is specified.

The Committee recommends that the States approve the amended maximum limits for the concentration of pollutants in surface water and groundwater as set out in Part I of Table 1.

Table 1 – Water Quality Standards for Surface Water and Groundwater

Part I – Maximum Limits for the Concentration of Pollutants in Surface Water and Groundwater

Pollutant	Unit of measurement	Standard relating to concentration of pollutant in surface water or groundwater
Aluminium	µg/l	150
Ammonium (as Nitrogen)	mg/l	0.29
Benzene	µg/l	0.75
Cadmium	µg/l	3.75
Chloride	mg/l	188
Chlorine	mg/l	0.5
Chromium	µg/l	37.5
Copper	µg/l	1500
Ethylbenzene	µg/l	300
Fluoride	mg/l	1.13
Glyphosate	ug/l	0.075
Lead	µg/l	7.5
Manganese	mg/l	0.1
Mercury	µg/l	0.75
Nickel	µg/l	15
Nitrate (as NO ₃)	mg/l	42
Perfluorooctanoic acid (PFOA)	µg/l	1
Perfluorooctane sulphonate (PFOS)	µg/l	1

Pesticides individual	µg/l	0.075
Pesticides total (including glyphosate)	µg/l	0.4
Radiation: gross alpha	Bq/l	0.1
Radiation: gross beta	Bq/l	1
Sodium	mg/l	150
Sulphate	mg/l	188
Surfactants (reacting with methyl blue)	mg/l	0.2
Total organic carbon	mg/l	5
Toluene	µg/l	40
Total iron	mg/l	1

Part II – Required Characteristics for Surface Water and Groundwater

Required characteristic	Unit of Measurement	Standard for required characteristic
Biochemical oxygen demand (5 day test)	mg O ₂ /l	3
Colour	mg/1 Pt/Co	50
Chemical oxygen demand, permanganate method	mg O ₂ /l	7
Conductivity	µS/cm	1250
Dissolved oxygen	mg O ₂ /l	7 (minimum)
Odour	Natural odour	Natural odour
Oil products (total)	mg/1	No visible film
pH	pH	6.5-8.5
Turbidity	NTU	20
Water temperature	°C	Natural temperature variations

Notes to Table 1, Part I – Amendments to original Policy Letter

Parameter / substance	Unit	Level	Retained / removed / amended	Reason
Aluminium	µg/l	150	Retained	In line with WFD ¹⁵ & UK groundwater standards
Ammonium (as N)	mg/l	0.29	Retained	In line with WFD & UK groundwater standards
Anthracene	µg/l	N/A	Removed	Unlikely to be an issue locally
Arsenic	µg/l	N/A	Removed	Only naturally occurring and not a local issue
Benzene	µg/l	0.75	Retained	In line with WFD & UK groundwater standards
Boron	µg/l	750	Removed	Only naturally occurring and not a local issue
Bromate	µg/l	N/A	Removed	Unlikely to be an issue locally
Bromine	mg/l	N/A	Removed	Will be included in pesticide analysis
Cadmium	µg/l	3.75	Retained	In line with WFD & UK groundwater standards
Chloride	mg/l	188	Retained	In line with WFD & UK groundwater standards
Chlorine	mg/l	0.5	Retained	Drinking water leaves the main at a level of 1 mg/l. Included as not naturally occurring
Chromium	µg/l	37.5	Retained	In line with WFD & UK groundwater standards
Coliforms faecal	No./100 ml	N/A	Removed	Naturally occurring and may relate to the natural environment. The presence related to sewage contamination (or similar) can be addressed through enforcement provisions
Coliforms total	No./100 ml	N/A	Removed	Naturally occurring and may relate to the natural environment. The presence related to sewage contamination (or similar) can be

¹⁵ Directive 2000/60/EC of the European Parliament and of the Council of 23rd October, 2000 establishing a framework for Community action in the field of water policy as amended – the ‘Water Framework Directive’ (WFD)

				addressed through enforcement provisions
Copper	µg/l	1500	Retained	In line with WFD & UK groundwater standards
Dichloromethane	µg/l	N/A	Removed	Unlikely to be an issue locally
Ethylbenzene	µg/l	300	Retained	Found in petrol, insecticides, paint, ink etc. and included as precautionary measure
Fluoranthene	µg/l	N/A	Removed	Unlikely to be an issue locally
Fluoride	mg/l	1.13	Retained	In line with WFD & UK groundwater standards
Glyphosate*	µg/l	0.075	Retained	Included in original policy letter as an individual pesticide; due to local circumstances individually listed for absolute clarity
Lead	µg/l	7.5	Retained	In line with WFD & UK groundwater standards
Manganese	mg/l	0.1	Retained	Naturally occurring and retained from original Policy Letter
Mercury	µg/l	0.75	Retained	In line with WFD & UK groundwater standards
Naphthalene	µg/l	N/A	Removed	Unlikely to be an issue locally
Nickel	µg/l	15	Retained	In line with WFD & UK groundwater standards
Nitrate (as NO ₃)	mg/l	42	Retained and amended	To account for varying levels across the island
Perfluoroctanoic acid (PFOA)**	µg/l	1	Retained and amended	Reflects DWI levels (see additional note)
Perfluoroctane sulphonate (PFOS)**	µg/l	1	Retained and amended	Reflects DWI levels (see additional note)
Pesticides individual (i)(ii)	µg/l	0.075	Retained	Potential local risk due to collection in drinking water catchment area
Pesticides total (iii)	µg/l	0.4	Retained	Potential local risk due to collection in drinking water catchment area
Phenol	µg/l	N/A	Removed	Unlikely to be an issue locally
Phosphate	µg/l	N/A	Removed	Unlikely to be an issue locally

Radiation: gross alpha	Bq/l	0.1	Retained and amended	In line with Private Water Supply (England) Regulations 2016
Radiation: gross beta	Bq/l	1	Retained and amended	In line with Private Water Supply (England) Regulations 2016
Sodium	mg/l	150	Retained and amended	In line with WFD & UK groundwater standards
Sulphate	mg/l	188	Retained	In line with WFD & UK groundwater standards
Surfactants (reacting with methyl blue)	mg/l	0.2	Retained	In line with original Policy Letter
Suspended solids	mg/l	N/A	Removed	Unlikely to be a local issue
Total organic carbon	mg/l	5	Retained	In line with original Policy Letter
Toluene	µg/l	40	Retained and amended	In line with UK Technical Advisory Group (UKTAG) lowest proposed PNEC (predicted no-effect concentration) level
Total iron	mg/l	1	Retained	Naturally occurring and in line with original Policy Letter
Tritium	Bq/l	N/A	Removed	Unlikely to be a local issue
Xylene	µg/l	N/A	Removed	Unlikely to be a local issue
Zinc	µg/l	N/A	Removed	Unlikely to be a local issue

*Whilst individual and total pesticide levels have been set (0.075µg/l and 0.4µg/l respectively), glyphosate has been included separately (in line with 2012 proposals) to recognise the impact that this specific pesticide has locally and to allow this parameter to be amended in isolation (as necessary) via the Director's powers should this be locally proportionate. It is noted that this level has been set in accordance with the individual pesticide limit, rather than a lower level or a zero tolerance, in line with the Director of Environmental Health and Pollution Regulation's risk assessment, with support by Guernsey Water and in line with the 2019 States policy direction (<https://www.gov.gg/article/169722/States-Meeting-on-16-October-2019-Billet-dtat-XIX--XX>). From 31 October 2022 retailers will no longer be able to sell products containing glyphosate for use in the garden or as an amateur product therefore the local risk should be reduced but inclusion of this parameter facilitates future amendments as necessary and proportionate. Pesticides individual and pesticides total levels have been set in accordance with the original Policy Letter and incorporate a local reduction (based on the UK drinking water standard) due to the sensitivity of water collection in the drinking water catchment area.

**Perfluorooctanoic acid (PFOA), Perfluorooctane sulphonate (PFOS) notes: it should be noted that the levels for PFOA and PFOS have been determined taking into account advice from the UK Technical Advisory Group which states that "the concentration in groundwater below which the danger of deterioration in the quality of the receiving groundwater is avoided is an annual mean of 1 µg/l". This level also aligns with that provided by

the Drinking Water Inspectorate within the Guidance on the Water Supply (Water Quality) Regulations 2016 specific to PFOS (perfluorooctane sulphonate) and PFOA (perfluorooctanoic acid) concentrations in drinking water. The environmental quality standards (EQS) for priority substances and other pollutants used to clarify chemical status stipulates a level for inland surface waters of 0.00065 µg/l. The annual average EQS for PFOS is based on secondary poisoning (humans eating fish) rather than ecotoxicity, due to the potential for PFOS to bio accumulate in the food chain. This level has not been adopted as a groundwater standard as the impact on drinking water is more relevant. Regulatory levels for PFOS and PFOA are continuing to be evolve globally and therefore the Director will continue to closely monitor other jurisdictions in relation to PFOA and PFOS levels and ensure that the Water Quality Standards for Surface Water and Groundwater of the Environmental Pollution (Water Pollution) Ordinance, 2022 are amended by Regulations made by the Director where necessary and appropriate.

Part B

Proposed Amendments to Schedule 2 Activities

The current States Water Supply (Prevention of Pollution) Ordinance, 1966, which has effect as if it had been made under the 1989 Law, prohibits a wide range of works and other activities not to be carried out in the water catchment area except in accordance with a permit issued by the STSB (Guernsey Water).

Resolution 1(g) following the 2012 States debate approved proposals to replace the current permitting provisions under the 1989 Law with provisions requiring such works or activities to comply with listed requirements the breach of which would be an offence.

The Director's report stated that the 1989 Law and 1966 Ordinance would be repealed as the new legislation would include the necessary provisions to prevent risk from harm and to protect water resources and that the requirement for a permit would be removed.

The current works and other activities requiring a permit from Guernsey Water are broadly worded in the 1966 Ordinance to include –

- erection of buildings;
- construction of works;
- permanent installation of oil fired boilers and other equipment intended to be used in connection with the supply or storage of oil or heating by oil; and
- use of any premises within the water catchment area for the carrying on of any trade or business where trade effluent may be discharged; the provisions clarify that trade or business premises include those used for agriculture or horticulture.

Certain activities in relation to construction works, oil installations and certain use of premises where trade effluent may be discharged, such as keeping of livestock or cultivation of land, are covered by the new Schedule 2 activities but it is proposed that the categories are more specifically worded than those in the 1966 Ordinance to identify works or other activities considered to raise a particular risk of water pollution.

The list of Schedule 2 activities was identified having regard to provisions in other British jurisdictions and focussed on risk and so it is proposed to add certain activities not clearly included in the 1966 Ordinance. Inclusion in the list also means that the works or activity will not be subject to the more onerous licensing requirement applying to discharges of trade effluent or sewage effluent into water. It is proposed the list now clearly includes the following –

- specified abstraction or dredging works and works to maintain or remove specified structures near certain waters;
- the laying of pipelines or cables by boring beneath water courses and works to control erosion of banks or ditches;
- operation of vehicles or other equipment for specified purposes near water courses;
- discharge of water run off in certain locations;
- discharges of substances into surface water drainage systems;
- discharges of pollutants into groundwaters;
- storage or application of fertiliser or pesticides or operation of sheep-dipping facilities, and
- private burials carried out on private land and not at the crematorium, a parish church or burial ground.

It is proposed that activities are covered anywhere in the island and not just in the water catchment area consistent with the 2012 policy. Also, potentially polluting activities not carried on as a trade or business are also proposed to be included but in practice the requirements will mainly affect activities carried on during construction activities, works relating to or affecting ditches, streams or ditches, carried on in the course of farming or horticulture or in relation to the installation of domestic oil installations. Commercial oil installations are not proposed to be included as it was considered, in consultation with officers at the Development & Planning Authority, that these activities are sufficiently regulated under land planning and building control requirements which provide for more detailed regulation than in relation to domestic oil installations.

The abstraction and subsequent return of groundwater for the purpose of extracting geothermal energy from the extracted water is included as (11) of Part I of Schedule 2. This commonly applies to ground source heat pumps. There is a requirement that '(d) the temperature of the returned water must be reflective of the seasonal ambient ground water temperature'. There are two types of ground source heat pumps that can utilize boreholes; closed loop and open loop systems. Closed loop systems rely on a closed circuit containing a heat transfer fluid. These systems do not abstract groundwater and would therefore fall outside the stated requirements. Open loop systems abstract water which is filtered through a heat pump via a borehole or straight pipe. This water is then discharged back to a distant section of the water source or another acceptable discharge area via a second borehole or open loop straight pipe. This type of system would need to comply with the stated requirements. Open loop systems typically use a larger land area due to the requirement to discharge the abstracted water and land of this size could utilize closed loop horizontal ground source heat pumps as an alternative.

The Environmental Pollution (Guernsey) Law, 2004 (Commencement) Ordinance, 2022

THE STATES, in exercise of the powers conferred on them by section 76 of the Environmental Pollution (Guernsey) Law, 2004^a and of all other powers enabling them in that behalf, hereby order:-

Commencement of Part VI of the Environmental Pollution Law.

1. Part VI (Water Pollution) of the Environmental Pollution (Guernsey) Law, 2004 shall come into force on the 3rd October, 2022.

Citation.

2. This Ordinance may be cited as the Environmental Pollution (Guernsey) Law, 2004 (Commencement) Ordinance, 2022.

^a Order in Council No. XIII of 2004. This enactment has been amended.

The Environmental Pollution (Water Pollution) Ordinance, 2022

ARRANGEMENT OF SECTIONS

PART I PRESCRIBED OPERATIONS AND LICENSING

1. Discharges into Guernsey's water resources to be prescribed operations.
2. Application of licensing provisions in 2010 Ordinance.

PART II SURFACE WATER AND GROUNDWATER QUALITY STANDARDS

3. Establishment of water quality standards for surface water and groundwater.

PART III OTHER ACTIVITIES LIKELY TO PRESENT A THREAT OF WATER POLLUTION

4. General requirements for other activities likely to present a threat of water pollution.

PART IV PROHIBITIONS IN RELATION TO WATER POLLUTION

5. Prohibitions in relation to water pollution.

PART V CONSEQUENTIAL AMENDMENTS AND MODIFICATION

6. Modification of the Enforcement and Appeals Ordinance.
7. Amendment of the Enforcement and Appeals Ordinance.
8. Other consequential amendments.

PART VI
INTERPRETATION AND GENERAL PROVISIONS

9. Defence to offences concerning contraventions of sections 4 or 5.
10. Interpretation.
11. Relationship with public health legislation.
12. Transitional provisions.
13. Repeals.
14. Extent.
15. Citation.
16. Commencement.

SCHEDULE 1: Water quality standards for surface water and groundwater.

SCHEDULE 2: General requirements for activities likely to present a threat of water pollution.

SCHEDULE 3: Amendment of the Enforcement and Appeals Ordinance.

SCHEDULE 4: Other consequential amendments.

SCHEDULE 5: Transitional provisions.

SCHEDULE 6: Repeals.

The Environmental Pollution (Water Pollution)

Ordinance, 2022

THE STATES, in pursuance of their Resolutions of the 1st November, 2012^a and the ** September, 2022^b, and in exercise of the powers conferred on them by sections 3, 13, 14, 22, 34, 39, 41, 58 to 62, 64, 69(2) and 72 of the Environmental Pollution (Guernsey) Law, 2004^c and all other powers enabling them in that behalf, hereby order:-

PART I

PRESCRIBED OPERATIONS AND LICENSING

Discharges into Guernsey's water resources to be prescribed operations.

1. (1) The following, being operations which, in the opinion of the States, may involve a risk of environmental pollution, are prescribed as operations for the carrying on of which a licence is required under Part III of the Law –

- (a) the discharge into the sea of trade effluent or sewage effluent, and
- (b) the discharge into any water (other than the sea) on or below the surface of the ground including, without limitation, into –

^a Article VI of Billet d'Etat No. XXI of 2012.

^b Billet d'Etat No. ** of 2022.

^c Order in Council No. XIII of 2004; this enactment has been amended.

(i) a lake, pond, reservoir, stream, doulit or other watercourse (whether natural or artificial), and

(ii) a well or borehole,

of trade effluent or sewage effluent.

(2) Subsection (1) –

(a) is subject to any exemption provided for under section 3 of the 2010 Ordinance, as applied by section 2(1)(a),

(b) does not include a discharge of trade effluent or sewage effluent to the extent that it is made into water within –

(i) a sewer or drain, or

(ii) a water fitting,

but, for the avoidance of doubt, includes the onward discharge of effluent from a sewer, drain or water fitting into other water,

(c) does not include, subject to subsection (3), a discharge made in the course of the carrying out of an activity described in column 1 of the table in Part I of Schedule 2.

(3) For the avoidance of doubt, for the purposes of subsection (2)(c), a discharge into the sea or any other water from a combined sewer overflow is to be treated as falling within subsection (1).

(4) If any operation falls within a description in subsection (1) and in Schedule 2 to the Air Pollution Ordinance it shall, subject to subsection (5), be treated as only being prescribed under the Air Pollution Ordinance.

(5) If any discharge of effluent falls within a description in subsection (1) and in section 1 of the 2010 Ordinance, including an operation treated as being prescribed only under the 2010 Ordinance under section 2(2) of the Air Pollution Ordinance, it shall be treated as –

(a) falling only within section 1 of the 2010 Ordinance where the principal operations on the site in question relate to disposal of waste in or on land, and

(b) in any other case, as only being prescribed under this Ordinance.

Application of licensing provisions in 2010 Ordinance.

2. (1) Despite any provisions of the 2010 Ordinance to the contrary, the following licensing provisions of the 2010 Ordinance apply in relation to a description of operation prescribed under section 1 –

(a) section 3 (exemptions),

(b) section 4 (licence and related applications and fees),

and

- (c) section 5 (requirements for applications, accompanying plans, maps and other documents),

except that the reference to "environmental pollution" in section 3(1) is to be read as also including water pollution.

(2) For the avoidance of doubt, the Director may specify different requirements under sections 4 and 5 of the 2010 Ordinance in relation to different descriptions of operation set out in section 1.

PART II

SURFACE WATER AND GROUNDWATER QUALITY STANDARDS

Establishment of water quality standards for surface water and groundwater.

3. (1) The standards for water quality for surface water and groundwater in Schedule 1 are established for the purposes of sections 3(3) to (5) and 41 of the Law.

(2) The standards comprise –

- (a) maximum limits for the concentration of pollutants in surface water and groundwater in Part I of Schedule 1, and

- (b) required characteristics for surface water and groundwater in Part II of Schedule 1.

(3) The maximum limit for the concentration in surface water or groundwater of a pollutant described in column 1 of the table in Part I of Schedule 1 is set out in the corresponding entry in column 3 of the table in Part I of Schedule 1 per unit of measurement of water specified in the corresponding entry in column 2 of the table in Part I of that Schedule.

(4) The standard for the required characteristics for surface water or groundwater described in column 1 of the table in Part II of Schedule 1 is set out in the corresponding entry in column 3 of the table in Part II of Schedule 1 per unit of measurement for that required characteristic specified in the corresponding entry in column 2 of the table in Part II of that Schedule.

(5) The Director –

(a) is required to take into account any relevant requirements or maximum limits established under this section in considering an application for a licence in accordance with section 14(3)(b) of the Law, and

(b) may attach to a licence, conditions intended to ensure the attainment of maximum limits prescribed under subsection (3) in accordance with section 16(2)(b) of the Law.

(6) The Director may by regulations amend Schedule 1.

PART III

OTHER ACTIVITIES LIKELY TO PRESENT A THREAT OF WATER POLLUTION

General requirements for other activities likely to present a threat of water pollution.

4. (1) A person must not carry out any works or other activities specified in column 1 of the table in Part I of Schedule 2 unless they are carried on in accordance with all the requirements specified for those works or that activity in the corresponding entry in column 2 of the table in Part I of that Schedule.

(2) Part II of Schedule 2 has effect for the purposes of the interpretation of that Schedule.

(3) A person carrying on any works or other activity specified under subsection (1), must have regard to any guidance the Director may issue under this subsection in relation to any requirement specified in relation to that work or activity.

(4) The Director may by regulations amend Schedule 2.

PART IV

PROHIBITIONS IN RELATION TO WATER POLLUTION

Prohibitions in relation to water pollution.

5. (1) A person must not cause or permit the contravention of a standard specified under section 3.

(2) A person must not cause or permit -

- (a) the occurrence of water pollution, or
- (b) a risk of water pollution to arise.

PART V
CONSEQUENTIAL AMENDMENTS AND MODIFICATION

Modification of the Enforcement and Appeals Ordinance.

6. Where any provision of the Enforcement and Appeals Ordinance is exercised in relation to –

- (a) a prescribed operation prescribed under section 1, or
- (b) a prohibition, restriction, requirement or condition imposed under this Ordinance,

any reference to "environmental pollution" in the Enforcement and Appeals Ordinance is to be construed as if it also includes "water pollution" and any reference to "pollutant" is to be construed as if it means a pollutant falling within section 2(3) or section 40(1)(c) of the Law.

Amendment of the Enforcement and Appeals Ordinance.

7. The Enforcement and Appeals Ordinance is amended as set out in Schedule 3.

Other consequential amendments.

8. Schedule 4, which provides for consequential amendments, has effect.

PART VI
INTERPRETATION AND GENERAL PROVISIONS

Defence to offences concerning contraventions of sections 4 or 5.

9. (1) The following defences are available in addition to that under section 69(1) of the Law.

(2) In any proceedings for an offence relating to a contravention of section 4(1) or 5(1) or (2), it shall be a defence for the accused to prove –

(a) that the accused acted under instructions from the accused's employer and neither knew, nor had reason to suppose, that the acts done by the accused contravened sections 4(1), 5(1) or (2), as the case may be, or

(b) that the acts alleged to constitute the offence were done in an emergency in order to avoid danger to the public and that as soon as reasonably practicable after they were done, particulars of the acts were furnished to the Director in writing.

(3) In any proceedings for an offence relating to the contravention of section 4(1), it shall be a defence for the accused to prove, in relation to a requirement (however worded) in the table in Part I of Schedule 2 ("the table"), not to locate or do anything, or to prevent something occurring, within a specified distance of –

- (a) a spring that supplies water for human consumption,
or
- (b) a well or borehole that is not capped in such a way so
as to prevent the ingress of water,

that the accused has taken reasonable measures to ascertain whether or not there is such a spring, well or borehole within the specified distance and has found no evidence of the same.

(4) In any proceedings for an offence relating to a contravention of section 5(1) or (2), it shall be a defence for the accused to prove that the contravention of a standard or the introduction of a pollutant or the risk of the same, as the case may be, occurred under and in accordance with, or as a result of any act or omission under and in accordance with –

- (a) a licence to carry on a prescribed operation granted under section 15 of the Law, or
- (b) a licence granted under Part II of the Food and Environment Protection Act 1985^d.

(5) In any proceedings for an offence relating to a contravention of section 5(1) or (2), it shall be a defence for the accused to prove that –

- (a) the contravention of a standard or the introduction of a pollutant or the risk of the same, as the case may be,

^d An Act of Parliament, c. 48.

occurred in the course of the carrying on of works or another activity specified in column 1 of the table, and

- (b) that the works or other activity was carried on in accordance with all the requirements for those works or other activity specified in the corresponding entry in column 2 of the table.

Interpretation.

10. (1) In this Ordinance, unless the context requires otherwise -

"the Air Pollution Ordinance" means the Environmental Pollution (Air Pollution) Ordinance, 2019^e,

"combined sewer overflow" means an overflow from a combined sewer system, into the sea or other water, usually during times of heavy precipitation, of a mix of stormwater and untreated waste water to prevent upstream flooding,

"combined sewer system" means a sewer system that it used to convey both waste water and stormwater in a single pipe to a treatment plant,

"domestic sewage" includes –

- (a) the contents of lavatories,
- (b) water used for washing or cooking (except for water

^e Ordinance No. XXXVIII of 2019.

used for the business of a laundry or for a business of preparing food or drink), and

- (c) surface water except where it is mixed with any effluent falling within paragraph (a) of the definition of trade effluent,

"**drain**" has the meaning given by section 29(1) of the Sewerage (Guernsey) Law, 1974^f,

"**effluent**" means any liquid, including particles of matter and other substances in suspension in the liquid,

"**the Enforcement and Appeals Ordinance**" means the Environmental Pollution (Enforcement and Appeals) Ordinance, 2019^g,

"**groundwater**" means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or the subsoil,

"**Guernsey**" includes the Islands of Guernsey, Herm and Jethou, all other islands, islets and rocks around the coast of those Islands, whether or not attached at low water, and all of the territorial waters adjacent thereto,

"**the Law**" means the Environmental Pollution (Guernsey) Law, 2004,

^f Ordres en Conseil Vol. XXIV, p. 372; this enactment has been amended.

^g Ordinance No. XXXIX of 2019.

"the 2010 Ordinance" means the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010^h,

"pollutant" means a pollutant falling within section 2(3) or section 40(1)(c) of the Law,

"sewage effluent" includes any effluent from the sewage disposal or sewerage works of the Guernsey Water division of the States' Trading Supervisory Board but does not include surface water,

"surface water" means any water on the surface of the ground including water which has drained from roofs and other structures,

"trade effluent" -

(a) means any effluent, which is wholly or partly produced in the course of any trade or industry carried on at trade premises, and

(b) in relation to any trade premises, means any such effluent which is so produced in the course of any trade or industry carried on at those premises,

but does not include domestic sewage,

"trade premises" means, subject to subsection (2), any premises used or

^h Ordinance No. XVIII of 2010; this enactment has been amended.

intended to be used for carrying on any trade or industry,

"**waste**" has the meaning in the Law except that it does not include -

- (a) radioactive waste, or
- (b) any substance which is explosive within the meaning of the Explosives (Guernsey) Law, 1905ⁱ,

"**water**": see section 2(4) of the Law,

"**water fitting**" means a water fitting (including, without limitation, a pipe, tap, cistern, bath, sink, water closet or soil pan) installed or used to convey or receive water but, for the avoidance of doubt, does not include a well or a borehole, and

"**water pollution**" means introduction into Guernsey's water resources of any pollutant.

(2) For the purposes of this Ordinance any land or premises used or intended for use (in whole or in part and whether or not for profit) -

- (a) for agricultural or horticultural purposes or for the purposes of fish farming,
- (b) for scientific research or experiment, or

ⁱ Ordres en Conseil Vol. III, p. 414; this enactment has been amended.

(c) for the carrying on of a hospital,

are deemed to be premises used for carrying on a trade or industry; and the references to a trade or industry in the definition of "trade effluent" in subsection (1) include references to agriculture, horticulture, fish farming, scientific research or experiment and the carrying on of a hospital.

Relationship with public health legislation.

11. For the avoidance of doubt, nothing in this Ordinance affects the operation of the Loi relative à la Santé Publique, 1934^j or any enactment made under it.

Transitional provisions.

12. Schedule 5, which makes transitional provision, has effect.

Repeals.

13. Schedule 6, which makes repeals, has effect.

Extent.

14. This Ordinance has effect in Guernsey.

Citation.

15. This Ordinance may be cited as the Environmental Pollution (Water Pollution) Ordinance, 2022.

Commencement.

16. (1) This Ordinance shall, subject to subsection (2), come into force

^j Ordres en Conseil Vol. IX, p.386; this enactment has been amended.

on the 3rd October, 2022.

(2) The following provisions of this Ordinance shall come into force on the 3rd April, 2023 –

- (a) section 4(1) to (3) and Schedule 2, and
- (b) section 13 and paragraph 1 of Schedule 6, insofar as they repeal the States Water Supply (Prevention of Pollution) Ordinance, 1966^k and the States Water Supply (Prevention of Pollution) (Amendment) Ordinance, 1977^l.

^k Recueil d'Ordonnances Tome XIV, p.311; this enactment has been amended.

^l Recueil d'Ordonnances Tome XXI, p.6.

SCHEDULE 1

Section 3

WATER QUALITY STANDARDS FOR SURFACE WATER AND GROUNDWATER

PART I

MAXIMUM LIMITS FOR THE CONCENTRATION OF POLLUTANTS IN SURFACE WATER AND GROUNDWATER

Pollutant	Unit of measurement	Standard relating to concentration of pollutant in surface water or groundwater
Aluminium	µg/l	150
Ammonium (as Nitrogen)	mg/l	0.29
Benzene	µg/l	0.75
Cadmium	µg/l	3.75
Chloride	mg/l	188
Chlorine	mg/l	0.5
Chromium	µg/l	37.5
Copper	µg/l	1500
Ethylbenzene	µg/l	300
Fluoride	mg/l	1.13
Glyphosate	µg/l	0.075
Lead	µg/l	7.5
Manganese	mg/l	0.1
Mercury	µg/l	0.75
Nickel	µg/l	15
Nitrate (as N0 ₃)	mg/l	42

Perfluorooctanoic acid (PFOA)	µg/l	1
Perfluorooctane sulphonate (PFOS)	µg/l	1
Pesticides individual	µg/l	0.075
Pesticides total (including glyphosate)	µg/l	0.4
Radiation: gross alpha	Bq/l	0.1
Radiation: gross beta	Bq/l	1
Sodium	mg/l	150
Sulphate	mg/l	188
Surfactants (reacting with methyl blue)	mg/l	0.2
Total organic carbon	mg/l	5
Toluene	µg/l	40
Total iron	mg/l	1

PART II

REQUIRED CHARACTERISTICS FOR SURFACE WATER AND GROUNDWATER

Required characteristic	Unit of Measurement	Standard for required characteristic
Biochemical oxygen demand (5 day test)	mg O ₂ /l	3
Colour	mg/1 Pt/Co	50
Chemical oxygen demand, permanganate method	mg O ₂ /l	7
Conductivity	µS/cm	1250
Dissolved oxygen	mg O ₂ /l	7 (minimum)
Odour	Natural odour	Natural odour

Oil products (total)	mg/l	No visible film
pH	pH	6.5-8.5
Turbidity	NTU	20
Water temperature	°C	Natural temperature variations

Notes to the Schedule.

1. In this schedule, unless the context requires otherwise -

"MCPA" means 2-methyl-chlorophenoxyacetic acid,

"Pesticides" means –

- (a) any organic insecticide,
- (b) any organic herbicide,
- (c) any organic fungicide,
- (d) any organic nematocide,
- (e) any organic acaricide,
- (f) any organic algicide,
- (g) any organic rodenticide,

- (h) any organic slimicide, and
- (i) any substance related to any of those set out in items (a) to (h) including a growth regulator and any substance which is a relevant metabolite, degradation product or reaction product of a substance falling within items (a) to (h), and

"Pesticides total" means the sum of the concentrations of the individual pesticides detected and quantified.

- (2) In this Schedule, unless the context requires otherwise –
 - (a) "**Bq/l**" means becquerels per litre,
 - (b) "**Mg/l**" means milligrams per litre,
 - (c) "**Mg O₂/l**" means the mass of dissolved oxygen consumed per litre of water,
 - (d) "**Mg/1 Pt/Co**" means 1 miligram per litre of platinum as chloroplantinate ion,
 - (e) "**NTU**" means Nephelometric Turbidity Units,
 - (f) "**pH**" means a figure expressing acidity or alkalinity on a logarithmic scale on which 7 is neutral, lower values are more acid and higher values more alkaline,

- (g) "µg/l" means micrograms per litre, and
- (h) "µS/cm" means micro-siemens per centimetre.

SCHEDULE 2

Sections 1(2)(c), 4(1) and (2) and 9

GENERAL REQUIREMENTS FOR ACTIVITIES LIKELY TO PRESENT A THREAT OF WATER POLLUTION

PART I

WORKS OR OTHER ACTIVITIES AND RELATED REQUIREMENTS

Category of works or other activity	Requirements
(1) The abstraction from a borehole, or well and any subsequent discharge of the abstracted water.	<ul style="list-style-type: none">(a) the abstraction must not cause the entry of -<ul style="list-style-type: none">(i) pollutants, or(ii) water of a different chemical composition from the body of groundwater it enters, into any body of groundwater, and(b) in the case of abstraction from a borehole, when a borehole is not being used for abstraction, it must be back filled or sealed to the extent necessary to avoid loss of groundwater from any aquifer.
(2) The dredging of a douit, stream or ditch.	<ul style="list-style-type: none">(a) vegetation on any bank of the douit, stream or ditch may be removed or modified only to the extent that the works cannot reasonably be carried out without such removal or modification,(b) any vegetation removed must not be disposed of into the channel,(c) all reasonable steps must be taken to prevent the transport of sediments or other matter disturbed by the works into waters beyond the worked stretch, and(d) all reasonable steps must be taken to avoid increased erosion of the bed or banks of the douit, stream or ditch as a result of the works.
(3) The construction, maintenance or removal of – <ul style="list-style-type: none">(a) a bridge over a douit, stream or ditch, or(b) a surface water	<ul style="list-style-type: none">(a) vegetation on any bank of the douit, stream or ditch must be removed or modified only to the extent necessary to carry out the works,(b) any vegetation removed must not be disposed of into the channel,(c) all reasonable steps must be taken to ensure that the

	<p>drainage system outfall which discharges into a douit, stream or ditch.</p> <p>works do not result in increased erosion of the bed or banks of the douit, stream or ditch,</p> <p>(d) the activity must not result in any water pollution, and</p> <p>(e) in the case of the construction of any outfall, any outfall and associated works must be designed and constructed to be no larger than is necessary for the proper operation of the outfall.</p>
(4) The laying of a pipeline or cable by boring beneath the bed and banks of a douit, stream or ditch.	<p>(a) the bed and banks of the douit, stream or ditch must not be altered as a result of the works other than in accordance with requirements (b) and (d),</p> <p>(b) vegetation on any bank of the douit, stream or ditch may be removed or modified only to the extent that the works cannot reasonably be carried out without such removal or modification,</p> <p>(c) any vegetation removed must not be disposed of into the channel, and</p> <p>(d) as far as reasonably practicable, within 12 months of the commencement of the works, the bed and banks of the douit, stream or ditch must be reinstated to their condition prior to the commencement of the works.</p>
(5) Works to control the erosion of a bank of a douit, stream or ditch by revetment.	<p>(a) all reasonable steps must be taken to ensure that the works do not result in increased erosion of either bank of the douit, stream or ditch,</p> <p>(b) the works must not result in the destabilisation of the bed of the douit, stream or ditch upstream or downstream of the works,</p> <p>(c) vegetation on any bank of the douit, stream or ditch may be removed or modified only to the extent that the works cannot reasonably be carried out without such removal or modification,</p> <p>(d) any vegetation removed must not be disposed of into the channel,</p> <p>(e) revetments must be constructed from one or more of the following: vegetation; geotextiles; wood other than wood treated with preservatives or non-grouted stone rip-rap,</p> <p>(f) the length of any revetment must be no more than 10 metres or one channel width, whichever is the greater,</p> <p>(g) if wood or stone rip-rap is used for a revetment, the wood or rip-rap must be placed at the toe of the bank,</p> <p>(h) the works must not result in the heightening of either bank, and</p> <p>(i) the revetments must be maintained in the state of repair</p>

	required to avoid increased erosion of the banks or destabilisation of the bed.
(6) Operating any vehicle, plant or other equipment for the purpose of undertaking any activity falling within category (2) to (5) of this table.	<p>(a) any vehicle, plant or other equipment must only operate in water where it is impracticable for it to operate on dry land,</p> <p>(b) the refuelling of vehicles, plant or other equipment must be undertaken at least 10 metres from any –</p> <ul style="list-style-type: none"> (i) douit, stream, ditch or pond as measured from the top of the bank, or (ii) wetland, <p>(c) any static plant or equipment used within 10 metres of any –</p> <ul style="list-style-type: none"> (i) douit, stream, ditch or pond as measured from the top of the bank, or (ii) wetland, <p>must be positioned on a suitably sized and maintained impervious drip tray with a capacity equal to 110% of the capacity of the fuel tank which is supplying the tank or equipment,</p> <p>(d) any vehicle, plant or other equipment used in or near any douit, stream, ditch, pond or wetland must not leak any oil, and</p> <p>(e) the washing of vehicles, plant or other equipment must be undertaken at least 10 metres away from any –</p> <ul style="list-style-type: none"> (i) douit, stream, ditch or pond as measured from the top of the bank, or (ii) wetland.
(7) Discharge of water run-off from –	<p>(a) a surface water drainage system into Guernsey's water resources from buildings, roads, yards or any other built structures,</p> <p>(b) construction sites for buildings and other structures falling within category (7)(a), or</p> <p>(c) the construction or maintenance of any</p> <p>(a) all reasonable steps must be taken to ensure that the discharge does not result in water pollution,</p> <p>(b) the discharge must not contain any trade effluent or sewage effluent and must not result in visible discolouration, iridescence, foaming or growth of sewage fungus in Guernsey's water resources,</p> <p>(c) the discharge must not result in the destabilisation of the banks or bed of the receiving waters,</p> <p>(d) the discharge must not contain any water run-off from –</p> <ul style="list-style-type: none"> (i) fuel delivery areas or areas where vehicles, plant or equipment are refueled, (ii) vehicle loading or unloading bays where pollutants are handled, or (iii) oil and chemical storage, handling or delivery areas, <p>(e) in the case of discharge of water run-off from the construction or maintenance of a surface water outfall, all</p>

	water outfall in or near to inland surface water which forms, or will form, part of a surface water drainage system.	reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid water pollution is prevented from entering the drainage system.
(8)	Discharge of any substance into a surface water drainage system.	<ul style="list-style-type: none"> (a) oil, paint, paint thinners, pesticides, detergents, disinfectants or other pollutants must not be disposed of into a surface water drainage system or onto any surface that drains into a surface water drainage system, (b) any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid water pollution must not be disposed of into a surface water drainage system or onto a surface that drains into a surface water drainage system, (c) trade effluent or sewage effluent must not be discharged into any surface water drainage system, and (d) on construction sites – <ul style="list-style-type: none"> (i) any area of exposed soil from which water drains into a surface water drainage system as described category (7)(b), and (ii) the period of time during which such water drains, must be such as is the minimum reasonably required to facilitate the construction works being undertaken at that site.
(9)	The direct discharge of pollutants into groundwater as a result of construction or maintenance works in or on the ground which come into contact with groundwater.	<ul style="list-style-type: none"> (a) no solid or liquid materials coming into contact with groundwater may contain any pollutant which may cause significant water pollution, and (b) despite requirement (a), drilling fluids used during the works may come into contact with groundwater if necessary to facilitate any drilling provided this does not result in water pollution.
(10)	The abstraction and subsequent return of groundwater for the purpose of extracting geothermal energy from the extracted water.	<ul style="list-style-type: none"> (a) the abstracted water must be returned to the same part of the geological formation from which it was abstracted, (b) any volume of water may be abstracted but the volume of water abstracted and not returned must not exceed 10m³ per day, (c) the chemical composition of the abstracted water must not be altered prior to its return to the geological formation, (d) the temperature of the returned water must be reflective

	<p>of the seasonal ambient ground water temperature,</p> <p>(e) there must be a means of demonstrating that the net abstraction is not more than 10m³ in any one day, and</p> <p>(f) water leakage must be kept to a minimum by ensuring that all pipe work, storage tanks and other equipment associated with the abstraction and use of the water are maintained in a good state of repair.</p>
(11) The storage or application of fertiliser other than – (a) that carried out in accordance with a licence granted under section 15 of the Law, (b) that which is exempt from the requirement for a licence granted under section 15 of the Law by virtue of an exemption made by regulations or written notice under section 3 of the 2010 Ordinance, or (c) that which is stored or used in accordance with the Control of Poisonous Substances (Guernsey) Regulations, 2014 ^m .	<p>(a) no fertiliser may be stored, including temporarily in a mobile tank or bowser, on land that –</p> <ul style="list-style-type: none"> (i) is within 10 metres of any douit, stream, ditch or pond, as measured from the top of the bank, or of any wetland, (ii) is within 50 metres of any spring that supplies water for human consumption or any well or borehole that is not capped in such a way so as to prevent the ingress of water, (iii) is waterlogged, or (iv) has an average soil depth of less than 40 centimetres and overlies gravel or fissured rock, unless the fertiliser is stored in an impermeable container, except where the fertiliser is stored in a building which is constructed and maintained to such a standard as is necessary to prevent run-off or seepage of fertiliser from the building, <p>(b) no organic fertiliser may be applied to land that –</p> <ul style="list-style-type: none"> (i) is within 10 metres of any douit, stream, ditch or pond, as measured from the top of the bank, or of any wetland or opening into a surface water drainage system, (ii) is within 50 metres of – <ul style="list-style-type: none"> (A) any spring that supplies water for human consumption, or (B) any well or borehole that is not capped in such a way so as to prevent the ingress of water, (iii) has an average soil depth of less than 40 centimetres and overlies gravel or fissured rock, except where the application is for forestry operations, (iv) is frozen (except where the fertiliser is farm yard manure), waterlogged, or covered with snow, or

^m G.S.I. No. 18 of 2014; this enactment has been amended.

	<ul style="list-style-type: none"> (v) is sloping, unless it is ensured that any run-off of fertiliser is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any douit, stream, ditch, pond or wetland, towards which the land slopes, (c) no inorganic fertiliser may be applied to land that- <ul style="list-style-type: none"> (i) is within 2 metres of any douit, stream, ditch or pond as measured from the top of the bank or of any wetland or opening into a surface water drainage system, (ii) is within 5 metres of any spring that supplies water for human consumption or any well or borehole that is not capped in such a way so as to prevent the ingress of water, (iii) has an average soil depth of less than 40 centimetres and overlies gravel or fissured rock, except where the application is for forestry operations, (iv) is frozen, waterlogged, or covered with snow, or (v) is sloping, unless it is ensured that any run-off of fertiliser is intercepted (by means of a sufficient buffer zone or otherwise) to prevent it from entering any douit, stream, ditch, pond or wetland, towards which the land slopes, (d) fertilisers must not be applied to land in excess of the nutrient needs of the crop, (e) any equipment used to apply fertiliser must be maintained in a good state of repair, and (f) fertiliser must be applied on land in such a way and at such times that the risk of water pollution is minimised.
(12) Keeping of livestock.	<ul style="list-style-type: none"> (a) significant erosion or poaching of any land which is within 5 metres of any of the following must be prevented- <ul style="list-style-type: none"> (i) a stream, douit, pond or ditch as measured from the top of the bank, (ii) a wetland, (iii) a spring that supplies water for human consumption, or (iv) a well or borehole that is not capped in such a way so as to prevent the ingress of water, and (b) livestock must be prevented from entering any land that is within 5 metres of any spring which supplies water for human consumption or within 5 metres of any well or

	borehole that is not capped in such a way as to prevent ingress of water.
(13) Cultivation of land.	<p>(a) no land may be cultivated for crops that is -</p> <ul style="list-style-type: none"> (i) within 2 metres of any stream, ditch or pond, as measured from the top of the bank, or of any wetland, (ii) within 5 metres of any – <ul style="list-style-type: none"> (A) spring that supplies water for human consumption, or (B) well or borehole that is not capped in such a way so as to prevent the ingress of water, <p>(b) moling of land must not be carried out on slopes that –</p> <ul style="list-style-type: none"> (i) have an overall gradient in excess of 4.5, and (ii) slope towards any douit, stream, ditch, pond or wetland, and <p>(c) land must be cultivated in a way that minimises the risk of water pollution.</p>
(14) The application or storage of pesticides.	<p>(a) the preparation of pesticide for application and the cleaning or maintenance of pesticide application equipment must be undertaken in a manner which prevents any spillages, run-off or washings from entering Guernsey's water resources,</p> <p>(b) pesticide application equipment must be maintained in a good state of repair,</p> <p>(c) pesticide application equipment must not be filled with water taken from any douit, stream, ditch, pond or wetland unless –</p> <ul style="list-style-type: none"> (i) a device preventing back siphoning is fitted to the system, or (ii) the water is first placed in an intermediate container from which the equipment is filled, <p>(d) pesticide-treated plants must not be stored or soaked in any douit, stream, ditch, pond or wetland, and</p> <p>(e) pesticide, including any used packaging that has been stored in contact with pesticide, must not be stored on an impermeable surface draining to a surface water drainage system.</p>
(15) Operating sheep dipping facilities or operating sheep handling facilities where –	<p>(a) a sheep must be prevented from having access to any douit, stream, ditch, pond or wetland while there is a risk of transfer of sheep dip fluid from its fleece to such places,</p> <p>(b) sheep dipping facilities must not discharge underground and must not leak or overspill,</p>

	<p>(b) dipping, pour-on parasite treatments are applied, or</p> <p>(c) sheep are held immediately after the application of pour-on treatments.</p>	<p>(c) sheep dipping facilities must not be filled with water taken from any douit, stream, ditch, pond or wetland unless –</p> <ul style="list-style-type: none"> (i) a device preventing back siphoning is fitted to the system, or (ii) the water is first placed in an intermediate container, and <p>(d) sheep dip facilities must be emptied as soon as is reasonably practicable following completion of dipping.</p>
(16)	The burial of human remains (excluding ashes) except where carried out at a crematorium, cemetery, churchyard or parish burial ground.	<p>(a) no part of the burial site may be located –</p> <ul style="list-style-type: none"> (i) within 50 metres of any well, borehole or spring supplying water for human consumption, (ii) within 30 metres of any spring, douit, stream or other watercourse that is not used for human consumption or the production of food or drink, or (iii) within 10 metres of any field drain, <p>(b) a grave must be dug so that –</p> <ul style="list-style-type: none"> (i) there is at least 1 metre between the base of the grave and the highest level of the water table which is reasonably predictable taking into account seasonal variations in the level of precipitation and the likelihood of extreme weather events, (ii) there is no standing water in the grave when it is dug, and (iii) at least 1 metre of soil will cover the top of the coffin or body, <p>(c) a grave must not be dug –</p> <ul style="list-style-type: none"> (i) in unaltered or unweathered bedrock, or (ii) in areas susceptible to groundwater flooding, <p>(d) the body must –</p> <ul style="list-style-type: none"> (i) not be treated with chemicals such as embalming fluids, and (ii) be placed in a biodegradable coffin or shroud.
(17)	<p>The installation of an oil tank, for the storage of fuel oil, which –</p> <p>(a) is made of plastic, fibreglass, steel or stainless steel, and</p> <p>(b) has a maximum</p>	<p>(a) in the case of the installation of a tank with a top outlet, the tank must be installed so that –</p> <ul style="list-style-type: none"> (i) it has a secondary containment of not less than 110% of the capacity of the tank, and (ii) an isolation valve and anti-siphon device is fitted inside the secondary containment, <p>(b) in the case of the installation of a tank with a bottom outlet or which is single skinned, the tank must be</p>

<p>capacity of no more than 3,500 litres, including testing before first use and installation and testing before first use of any associated equipment including fill pipelines and catchpits, to serve one dwelling for a single household.</p>	<p>installed so that it is sited over a catchpit,</p> <ul style="list-style-type: none"> (c) in the case of the installation of a tank made primarily from plastic or fibreglass, the tank must not be wholly or partly buried below the ground, (d) in the case of the installation of an open-bunded tank, the tank must be installed so that – <ul style="list-style-type: none"> (i) a vent pipe is fitted that it is directed downwards into the bund, (ii) any fixed draw-off line or feed line does not pass through the bund wall, (iii) any flexible draw-off pipe is fitted with an automatic closure device, (iv) a permanent outlet is fitted with an isolation valve and the outlet valve is shut when not in use, and (v) an automatic closing cut-off valve is fitted, (e) in the case of the installation of a totally enclosed bunded tank, the tank must be installed so that – <ul style="list-style-type: none"> (i) there is a fill point cap and an overfill cut-off, (ii) there is a top draw-off with an isolation valve and anti-siphon device, and (iii) it is vented to the outside air, (f) in the case of the installation of a tank over a catchpit, the tank must be installed so that it has adequate support to ensure that – <ul style="list-style-type: none"> (i) the loading on the base of the tank is equally distributed, and (ii) the supports are capable of supporting the weight of the tank at full capacity, (g) where a catchpit is installed with the tank, the catchpit must be installed so that – <ul style="list-style-type: none"> (i) it is watertight, (ii) the joint work between any block work and the base of the catchpit is visible above ground level, (iii) any block work is rendered inside and out, (iv) there is no damp course, (v) in the case of a fibreglass catchpit, it is sited on – <ul style="list-style-type: none"> (A) a concrete pad which is at least 100mm thick, or (B) paving slabs which are at least 40mm thick, and (vi) in the case of an installation of a catchpit below a single skinned oil tank, it has a capacity of 110% of
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	<p>the capacity of the oil tank,</p> <p>(h) oil feed lines running from the oil tank to a boiler must be installed in such a way as to prevent water pollution,</p> <p>(i) where remote offset fill pipelines are installed with the tank, the remote off set fill pipelines must be –</p> <ul style="list-style-type: none"> (i) fitted with an isolating valve, a non-return valve at the fill point and a screw-on cap, (ii) before first use, pressure-tested to 1 Bar and left to stand for 15 minutes, (iii) in the case of remote offset fill pipelines installed above ground – <ul style="list-style-type: none"> (A) made of a material that is considered safe for use delivery of fuel oils having regard to industry good practice from time to time, and (B) resistant to corrosion.
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PART II

INTERPRETATION

1. In this Schedule, unless the context requires otherwise –

"**abstraction**" means the doing of anything whereby any water is removed or diverted by mechanical means, pipe or any engineering structure or works from any part of Guernsey's water resources, whether temporarily or permanently, including anything by which the water is so removed or diverted for the purposes of being transferred to another part of Guernsey's water resources, and includes –

- (a) the construction or extension of any well, borehole, water intake or other work by which water may be abstracted, and
- (b) the installation or modification of any machinery or apparatus by which additional quantities of water may

be abstracted by means of a well, borehole, water intake or other work,

"**channel**" means the course of a douit, stream or ditch,

"**channel width**" means the straight line distance that is between opposite bank tops of a douit, stream or ditch and which spans the bed of a douit, stream or ditch, including any exposed bars or vegetated islands,

"**crop**" includes any plant grown for a commercial purpose,

"**cultivation**" includes the preparation of any land prior to planting and the harvesting of any crop,

"**cut-off valve**" means a valve used for shutting off the flow of oil from a tank,

"**ditch**" means an open channel which collects and conveys drainage water from surface or subsurface drainage to other surface water,

"**draw-off pipe**" means a pipe used to withdraw oil from a tank,

"**farm yard manure**" means a mixture of bedding material and animal excreta in solid form arising from the housing of livestock (except such arising from the keeping of birds for the production of food),

"**fertiliser**" means any substance containing nutrients, excluding forestry brash, which is used on land to enhance plant growth,

"field drain" includes a buried pipe or a dry ditch which drains a field,

"forest" means land of an area of more than 0.5 hectares –

- (a) with a tree canopy of more than 20 per cent,
- (b) which is planted with trees which collectively have the capacity to provide a tree canopy cover of more than 20 per cent, or
- (c) which meets all the following criteria –
 - (i) it was used in the last five years as land described in item (a),
 - (ii) it is to remain fallow of trees for a maximum of four consecutive years, and
 - (iii) when replanted with trees, it will be replanted as land described in item (b),

"forestry operations" means operations carried out on land with a tree canopy cover of more than 10 per cent over an area of land of more than 0.5 hectares,

"fuel oil" includes liquified petroleum gas and kerosene,

"livestock" means –

(a) cattle, sheep, pigs, equines, goats, llamas or alpacas, or poultry, and

(b) any animal kept for the production of food, wool, skin or fur or for use in the farming of land,

"**moling**" means a cultivation method where an implement is used to open a conduit within the soil along which water may flow,

"**oil**" means any kind of liquid oil including fuel oil, waste oil, biofuel mixtures, vegetable oil, plant oil, lubricant oil and hydraulic oil,

"**pesticide**" means any pesticide or other substance declared to be a poisonous substance under regulation 2 of the Control of Poisonous Substances (Guernsey) Regulations, 2014,

"**pesticide application equipment**" means pesticide sprayers and other devices used to apply pesticide,

"**poultry**" means birds of the following species –

(a) domestic fowls, turkeys, geese, ducks, guinea-fowls and pigeons, and

(b) quails, pheasants and partridges,

"**revetment**" means the modification of the bank of a douit, stream or ditch that increases the resistance of the bank to lateral erosion,

"rip-rap" means irregular shaped stones placed along the bank of a douit, stream or ditch for the purposes of increasing the resistance of the bank to erosion,

"secondary containment" means a drip tray, an area surrounded by a bund or catchpit or any other system for preventing fuel oil, which has escaped from an oil storage tank, from escaping further from the place where it is stored,

"surface water drainage system" means a system that is used to collect and drain water run off from premises and transport it to, and discharge it into, Guernsey's water resources, and may include, any surface water sewers and associated inlets, outlets, guillies, manholes, oil interceptors, silt traps, and attenuation, settlement and treatment facilities,

"toe of a bank" means the point where the slope of a bank of a douit, stream or ditch meets the bed of that douit, stream or ditch,

"vent pipe" means a pipe open to the atmosphere which exposes the tank to atmospheric pressure,

"water for human consumption" means water that may be ingested by humans, used in the preparation of food or drink, or used in the cleaning of materials involved in the storage or consumption of food or drink,

"waterlogged" means soil which is at water retaining capacity, except in a forest where it means water which is visible on the soil surface,

"water run-off" means any water from rainfall or any meltwater from ice or snow flowing over or horizontally through the surface of the ground and any matter picked up by that water as it does so,

"well" includes a permeable underground collection tank, and

"wetland" means an area of ground the ecological, chemical and hydrological characteristics of which are attributable to frequent inundation or saturation by water and which is directly dependent, with regard to its water needs, on a body of groundwater or a body of surface water.

SCHEDULE 3

Section 7

AMENDMENT OF THE ENFORCEMENT AND APPEALS ORDINANCE

1. After section 8 (compliance notices in relation to provisions of the Air Pollution Ordinance) insert –

"Content of anti-pollution notice.

8A. A compliance notice which is an anti-pollution notice issued under section 44 of the Law must –

(a) state that the Director considers that the person on whom the notice is served is causing or permitting –

(i) the occurrence of water pollution, or

(ii) a risk of water pollution to arise,

in contravention of section 5(2) of the Water Pollution Ordinance,

(b) specify the –

(i) acts or omissions or proposed acts or omissions, or

(ii) use or proposed use of any thing,

by reason of which the Director considers that the person on whom the notice is served is causing or permitting the occurrence of water pollution or the risk of water pollution to arise,

- (c) specify any steps that must be taken to eliminate or reduce the occurrence of water pollution or eliminate or remove the risk of water pollution arising,
- (d) identify by name or description the person required to take the steps specified under paragraph (c),
- (e) specify the period within which the steps specified under paragraph (c) must be taken, and
- (f) specify that a person who causes or permits the occurrence of water pollution or a risk of water pollution to arise in contravention of section 5(2) of the Water Pollution Ordinance, is guilty of an offence under section 65(1) of the Law.

Compliance notice in relation to provisions of the Water Pollution Ordinance.

8B. (1) If the Director is of the opinion that –

- (a) a person is contravening or is likely to contravene any prohibition, restriction, requirement or condition imposed on that person under the Water Pollution Ordinance, other than one in relation to which a compliance notice may be served under section 7, or
- (b) a person is contravening or is likely to contravene any term, condition or proviso of any exemption or disapplication (however worded) from any prohibition, restriction or requirement under the Water Pollution Ordinance,

the Director may serve a compliance notice on that person.

- (2) A compliance notice issued under subsection (1) must –
 - (a) state that the Director is of the opinion that a contravention of –
 - (i) any prohibition, restriction, requirement or condition referred to in subsection (1)(a), or
 - (ii) any term, condition or proviso of any exemption or disapplication referred to in subsection (1)(b),

as the case may be, is taking place or is likely to take place,

(b) specify the matters -

(i) constituting the contravention, or

(ii) making it likely that a contravention will take place,

(c) specify the steps that must be taken -

(i) to remedy the contravention, or

(ii) to remedy the matters making it likely that the contravention will arise,

(d) identify by name or description the person required to take the steps specified under paragraph (c), and

(e) specify the period within which the steps specified under paragraph (c) must be taken.".

2. For the heading to section 9 substitute -

"General requirements for compliance notices."

3. In section 9 -

- (a) omit "issued under section 7 or 8",
- (b) in paragraph (a) for "this Ordinance" substitute "the Law or this Ordinance",
- (c) in paragraph (b), after the first reference to "the Law" insert "or of that section as applied by section 44 of the Law", and
- (d) in paragraph (b)(i) after "the Law" insert "or under that section as applied by section 44 of the Law".

4. After Part II insert –

"PART IIA

POWERS TO TAKE ACTION IN RELATION TO WATER POLLUTION

Powers of Director to take action in relation to water pollution.

- 9A.** (1) This section applies where it appears to the Director that-
- (a) water pollution has occurred or is occurring, or
 - (b) a risk of water pollution has arisen.

(2) In a case where it appears to the Director that water pollution has occurred or is occurring, the Director is entitled to enter land and take such action as appears necessary for any of the following purposes –

- (a) removing or disposing of a pollutant,
- (b) remedying or mitigating any water pollution caused by the introduction of a pollutant into the water, or
- (c) restoring (so far as is reasonably practicable to do so), the water, including any flora and fauna dependent on the aquatic environment of the water, to its state immediately before the pollutant became introduced into the water.

(3) In a case where it appears to the Director that a risk of water pollution has arisen, the Director is entitled to enter land and take such action as appears necessary for the purpose of preventing water pollution from occurring.

(4) The powers conferred by this section are only exercisable in a case where –

- (a) the Director certifies that it is necessary to carry out the works or other actions without delay, or
- (b) it appears to the Director, after reasonable enquiry, that no person can be found on whom–

(i) an anti-pollution notice under section 44 of the Law, or

(ii) a compliance notice under section 7 or 8B,

may be served in relation to the water pollution, or risk of water pollution, in question.

(5) The expenses reasonably incurred by the States as a consequence of any action taken by the Director under this section are recoverable as a civil debt due to the States from any person who caused or permitted the occurrence of water pollution, or the risk of water pollution, in question.

(6) In this section, "**pollutant**" means a pollutant falling within section 2(3) or section 40(1)(c) of the Law.".

5. In section 21 (interpretation) –

(a) in the definition of "**prescribed operation**" omit "and" and after "Air Pollution Ordinance" insert "and section 1 of the Water Pollution Ordinance",

(b) after the definition of "**specified**" insert –

"**steps**" includes, for the avoidance of doubt, requirements to discontinue or refrain from an action or activity," and

(c) after the definition of "vice-President" omit "and" and
after the definition of "water" insert –

"**water pollution**": see section 10(1) of the Water Pollution
Ordinance , and

"**the Water Pollution Ordinance**" means the Environmental
Pollution (Water Pollution) Ordinance, 2022.".

SCHEDULE 4

Section 8

OTHER CONSEQUENTIAL AMENDMENTS

Amendment of the 2010 Ordinance.

1. After section 1(2) (waste disposal etc. to be prescribed operations) of the 2010 Ordinance insert –

"(3) This section is also to be construed in accordance with section 2(2) of the Environmental Pollution (Air Pollution) Ordinance, 2019 and section 1(5) of the Environmental Pollution (Water Pollution) Ordinance, 2022.".

Amendment of the Air Pollution Ordinance.

2. After section 2(2) (operations in schedule 2 to be prescribed operations) of the Air Pollution Ordinance, insert –

"(2A) This section is also to be construed in accordance with section 1(4) and (5) of the Environmental Pollution (Water Pollution) Ordinance, 2022.".

Amendment of the Environmental Pollution (Public Register) Regulations, 2010.

3. (1) The Environmental Pollution (Public Register) Regulations, 2010ⁿ are amended as follows.

(2) In regulation 1 (particulars to be kept on the register) –

ⁿ G.S.I. No. 52 of 2010; this enactment has been amended.

- (a) in subparagraph (g)(i), after "issued under" insert "section 44 of the Law or",
- (b) in subparagraph (g)(ii), after "the Law" insert "or under that section as applied by section 44 of the Law",
- (c) at the end of subparagraph (h) omit "and" and after that subparagraph insert –
 - "(ha) in relation to enforcement, inspection and monitoring activities concerning water pollution, brief particulars of any water pollution enforcement activities carried out by the Director; and such particulars shall -
 - (i) include the number of occasions in each calendar year in which such activities have been carried out on a particular premises, and
 - (ii) be added to the register as soon as reasonably practicable after the end of the calendar year in question, and".

(3) In regulation 3 (interpretation) –

- (a) for the definition of "**compliance notice**" substitute –

""compliance notice": see sections 44 and 62(1) of the Law and sections 7 to 8B of the Environmental Pollution (Enforcement and Appeals) Ordinance, 2019,",

(b) in the definition of "**a prescribed operation**", for all the words from "and" to the end substitute ", section 2 of the Environmental Pollution (Air Pollution) Ordinance, 2019 and section 1 of the Environmental Pollution (Water Pollution) Ordinance, 2022,", and

(c) after the definition of "**waste**" insert –

""water pollution enforcement activities" means any action taken by the Director–

(a) under section 45 of the Law,

(b) pursuant to a warrant issued by the Bailiff under section 45B of the Law, or

(c) under section 9A of the Environmental Pollution (Enforcement and Appeals) Ordinance, 2019".

SCHEDULE 5

Section 12

TRANSITIONAL PROVISIONS

Transitional provision in relation to operations prescribed under section 1.

1. (1) Subject to subparagraph (2), where an operation prescribed under section 1 is being carried on immediately before the commencement of section 1 of this Ordinance, such operation shall, on or after the commencement of section 1 of this Ordinance, be deemed to be one in respect of which a licence has been issued under Part III of the Law to the person carrying on the operation provided that an application for a licence to carry on such operation is made to the Director -

- (a) in accordance with section 4 and 5 of the 2010 Ordinance as applied by section 2 of this Ordinance, and
- (b) within two months starting from the date of the commencement of section 1 of this Ordinance.

(2) The person carrying on the operation in question shall be treated as a licensee for the operation in question under subparagraph (1) until -

- (a) the application to carry on the prescribed operation in question is granted by the Director (whether or not subject to conditions), or
- (b) if such an application is refused -
 - (i) the expiry of the period for appealing against

the refusal under section 25(5) of the Law, or

- (ii) where an appeal is duly instituted against the refusal, the date the appeal is finally determined or withdrawn; and an appeal is finally determined when the appeal and any further appeal is finally determined.

Permits issued under the States Water Supply (Prevention of Pollution) Ordinance, 1966.

2. For the avoidance of doubt, any permit granted under section 2 of the States Water Supply (Prevention of Pollution) Ordinance, 1966, shall lapse on 3rd April, 2023, when the repeal of that 1966 Ordinance is commenced under section 16(2).

SCHEDULE 6

Section 13

REPEALS

Repeal of the Prevention of Pollution (Guernsey) Law, 1989 and subordinate legislation made under it.

1. The Prevention of Pollution (Guernsey) Law, 1989^o, the States Water Supply (Prevention of Pollution) Ordinance, 1966, the States Water Supply (Prevention of Pollution) (Amendment) Ordinance, 1977 and the Animal Carcasses (Control of Burial) Ordinance, 1998^p are repealed.

Repeal of 1932 Ordinance.

2. The Ordinance relative au dépôt de décombres de carrière, d'immondices et d'autres débris sur les Côtes de cette Ile, 1932 is repealed^q.

^o Ordres en Conseil Vol. XXXI, p. 500; this enactment has been amended.

^p Recueil d'Ordonnances Tome XXVIII, p. 153; this enactment has been amended.

^q Recueil d'Ordonnances Tome VI, p. 128.