

# **The Building and Development Control (Exemptions) (Alderney) (Amendment) Ordinance, 2018**

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 14<sup>th</sup> March 2018, and in exercise of the powers conferred on them by sections 4(2) and 75 of the Building and Development Control (Alderney) Law, 2002<sup>a</sup> and all other provisions enabling them in that behalf, hereby order:-

## **Amendment of the Exemptions Ordinance.**

1. The Building and Development Control (Exemptions) (Alderney) Ordinance, 2007<sup>b</sup> is amended as follows.

2. For each reference in sections 1(2), 2(2)(b) and the Schedule to "development" substitute "regulated development".

3. In section 1(2) (exempt development) –

(a) for "paragraphs 12 to 15" substitute "paragraphs 12, 13 and 15", and

(b) the words ", erection of freestanding garage or other outbuilding" are omitted.

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<sup>a</sup> Order in Council No. XII of 2003 as amended by Order in Council No. XV of 2004, Alderney Ordinances No. III of 2007, No. III of 2014 and Nos. X and XIV of 2016, No. II of 2017 and the Building and Development Control (Alderney) (Amendment) Ordinance, 2018.

<sup>b</sup> Alderney Ordinance No. XIV of 2007.

4. In section 2 (interpretation and construction) –

(a) in subsection (1) –

(i) the definitions of "**extension**", "**outline permission**" and "**public utility service**" are repealed, and

(ii) insert the following definitions in the appropriate places –

""**Alderney Electricity Limited**" means Alderney Electricity Limited, a company referred to in the Alderney Electricity Concession Law, 1953 and registered in Alderney under company number C/7 and whose registered office is situated at Maison des Venelles, Venelles des Gaudion, Alderney GY9 3TW,"

""**Alderney Miniature Railway**" means the miniature railway on the Island operating at the Mannez Quarry,"

""**Alderney Railway**" means the railway on the Island operating between Braye Road Station and Mannez Station together with the disused railway track running between Braye

Road Station and the breakwater in Braye Harbour,"

**""Guernsey Airtel Limited"** means Guernsey Airtel Limited, a company registered in Guernsey under company number 45232, whose registered office is situated at 45 High Street, St. Peter Port, Guernsey, GY1 2JT,"

**""Guernsey Post Limited"** means Guernsey Post Limited, a company registered in Guernsey under company number 38693 and whose registered office is situated at Envoy House, La Vrangué, St Peter Port, Guernsey GY1 1AA,"

**""JT (Guernsey) Limited"** means JT (Guernsey) Limited, a company registered in Guernsey under company number 39971, whose registered office is situated at PO Box 296, Sarnia House, Le Truchot, St. Peter Port, Guernsey GY1 4NA,"

**""Sure (Guernsey) Limited"** means Sure (Guernsey) Limited, a company registered in Guernsey under company number 38694 and whose registered office is situated at Centenary House, La Vrangué, St. Peter Port, Guernsey GY1 2EY," and

- (b) in subsection (2)(e), after "projection" in each place it occurs, insert "(however expressed)".

5. In Category 1 of the Schedule (development within the curtilage of a dwelling-house) –

- (a) in paragraph 2(c) (satellite dish antennas), for "does not face" substitute "the satellite dish antenna does not face",
- (b) in paragraph 4 (replacement of a door or window in existing aperture), after "before 1900," insert "provided that",
- (c) in paragraph 5 (installation of a door or window in new aperture), item (d) is repealed,
- (d) in paragraph 7 (installation of roof-light), item (d) is repealed,
- (e) in paragraph 8 (installation of dormer) –
  - (i) in item (a), for "1.10 metres" substitute "0.90 metres", and
  - (ii) item (e) is repealed,
- (f) in paragraph 9 (replacement porch) –

- (i) in item (b), for "is located" substitute "the porch is located", and
- (ii) for item (c), substitute –
  - "(c) the porch is approximately the same size as the one it replaces.",
- (g) in paragraph 10 (new porch), item (f) is repealed,
- (h) paragraph 14 (erection of freestanding garage or other outbuilding) is repealed,
- (i) in paragraph 15 (hard-surfaced areas) –
  - (i) in item (d), for "50 centimetres" substitute "40 centimetres",
  - (ii) in item (e), for "the Designated Area" substitute "a designated area", and
  - (iii) item (f) is repealed,
- (j) in paragraph 16(a) (gates, fences, walls and earthbanks), for "1.5 metres" substitute " 2 metres",
- (k) paragraph 19 (installation of a swimming pool or other pool/water storage) is repealed, and

- (l) in paragraph 21 (installation of a flag pole), omit the words ", including where such house or its curtilage is within a conservation area or designated area".

6. In Category 2 of the Schedule (development within the curtilage of non-domestic buildings) –

- (a) in paragraph 2 (re-roofing), omit the sentence "Permission to be obtained from the States Engineer to ensure re-roofing meets Building Regulations", and
- (b) in paragraph 3 (hard-surfaced areas) –
  - (i) in item (c), for "50 centimetres" substitute "40 centimetres",
  - (ii) in item (d), for "the Designated Area" substitute "a designated area", and
  - (iii) item (e) is repealed.

7. In Category 3 of the Schedule (maintenance, repair, minor alterations and temporary structures and uses) –

- (a) in the headings to the category and to paragraph 1 (maintenance, repair, and minor alterations) omit ", repair",

(b) in paragraph 1 (maintenance, repair, and minor alterations) omit the words –

(i) "or repair", and

(ii) "including where such dwelling house, non domestic building or structure is within a conservation area or designated area, or was substantially constructed before 1900", and

(c) in paragraph 2 (temporary development required during approved operations) –

(i) renumber paragraph 2 as paragraph 2(1),

(ii) in renumbered subparagraph(1)(a), for "a planning permission" substitute –

"the terms and conditions of –

(i) a development permission, and

(ii) any approval of plans and licence issued under the building regulations", and

(iii) after renumbered subparagraph (1) add the following subparagraph –

"(2) For the avoidance of doubt, this exemption applies where building operations are currently taking place so that it will not apply where, taking into account all the relevant circumstances, it reasonably appears that those operations have not commenced or have ceased on a site."

8. For Category 5 of the Schedule (development by the States and public utility providers) substitute the Category 5 set out in the Schedule to this Ordinance.

9. In Category 6 of the Schedule (signs and advertisements) –

- (a) in paragraph 1(a) (contractors' signs), for "any planning permission" substitute "any development permission",
- (b) in paragraph 2(d) (nameplates), for "the Conservation/Designated Area" substitute "a conservation area or designated area",
- (c) in paragraph 3 (signs for charity and public events), omit the words "Display on a building of a nameplate identifying any individual, company or firm carrying", and
- (d) in paragraph 5 (signs advertising garden produce), omit the words ", including where such house or its curtilage is within the Designated Area,"



10. After Category 6 of the Schedule insert –

"CATEGORY 7

ALDERNEY RAILWAYS

**Regulated development in relation to Alderney Railways**

1. Any regulated development which is necessary for the maintenance or replacement of railway track, track equipment (including signal boxes, signaling equipment and other appliances), railway stations, level crossings, railway bridges, embankments, sidings, engine sheds or other structures, infrastructure or equipment forming part of or used principally for the purposes of the Alderney Railway or the Alderney Miniature Railway, provided that any hard surface which is disturbed by the regulated development is-

- (a) in the case of a hard surface consisting of granite flags or cobbles, restored with the same materials,
- (b) in all other cases, restored with a finish which is not significantly different from the existing finish, and
- (c) otherwise restored to its former condition (or such condition as is agreed in writing with the Committee)."

**Interpretation.**

11. (1) In this Ordinance -

"**Committee**" means the States of Alderney Building and Development Control Committee,

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**regulated development**" has the meaning in the Building and

Development Control (Exemptions) Ordinance, 2007, and

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

(2) The Interpretation (Guernsey) Law, 1948<sup>c</sup> applies to the interpretation of this Ordinance.

(3) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Transitional provisions and savings.**

12. The lawfulness of any regulated development carried out before the commencement of this Ordinance without the permission of the Committee but in accordance with the Building and Development Control (Exemptions) Ordinance, 2007, as in force immediately before the commencement of this Ordinance, is not affected by the amendments set out in this Ordinance and any such development commenced but not completed as at the date of commencement of this Ordinance may be continued provided that it is completed within 12 months of the date of commencement of this Ordinance.

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<sup>c</sup> Ordres en Conseil Vol. XIII, p. 355.

**Citation and commencement.**

13. This Ordinance may be cited as the Building and Development Control (Exemptions) (Alderney) (Amendment) Ordinance, 2018 and shall come into force on the 14<sup>th</sup> March 2018.

SCHEDULE

Section 8

"CATEGORY 5

REGULATED DEVELOPMENT BY THE STATES AND OTHER PUBLIC UTILITY  
UNDERTAKINGS

**Installation etc. of mains, drains, sewers, lines, pipes and cables**

1. (1) Any regulated development referred to in subparagraph (2) which is carried out by or on behalf of a person listed in subparagraph (4) for the corresponding purpose specified in relation to that person in subparagraph (4).

(2) The regulated development referred to in subparagraph (1) is any development, not falling within paragraphs 4 to 7 or 13, which is necessary for the –

(a) inspection, maintenance or renewal of mains, drains, sewers, pipes, cables or lines, or

(b) making of connections to anything referred to in item (a) other than in a designated area,

provided that the provisos in subparagraph (3) are met.

(3) The provisos referred to in subparagraph (2) are that any hard surface which is disturbed by the regulated development is–

(a) in the case of a hard surface consisting of granite flags or cobbles, restored with the same materials,

(b) in all other cases, restored with a finish which is not significantly different from the existing finish, and

(c) otherwise restored to its former condition (or such condition as is agreed in writing with the Committee).

(4) The persons and corresponding purposes referred to in subparagraph (1) are –

(a) the States for the purpose of the supply of services to the public,

(b) Alderney Electricity Limited for the purpose of the supply of electricity to the public or the delivery of heat to more than one premises through pipes or conduits,

(c) Guernsey Post Limited for the purpose of the provision of postal services to the public,

(d) JT (Guernsey) Limited, Sure (Guernsey) Limited or Guernsey Airtel Limited for the purpose of the supply of telecommunications services to the public, and

(e) such other person prescribed by Ordinance under paragraph 15 (definition of "**public utility undertaking**") of Schedule 1 to the Law for the purposes of paragraph 11 of that Schedule.

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<b>Maintenance and the prevention of the obstruction of highways</b>
<p>2. (1) Any regulated development by or on behalf of the States which is necessary –</p> <ul style="list-style-type: none"><li>(a) for the maintenance of any highway or any private pedestrian road, street, track or path, however named, provided that such maintenance does not involve-<ul style="list-style-type: none"><li>(i) the hard surfacing of any lane, track or path that was not previously hard-surfaced, or</li><li>(ii) the creation, laying out or material widening of a means of access to that highway or pedestrian road, street, clos, track or path, or</li></ul></li><li>(b) to avoid the obstruction of any highway or any private pedestrian road, street, clos, track or path, however named, by any tree or other vegetation,</li></ul> <p>provided that the provisos in subparagraph (2) are met.</p> <p>(2) The provisos referred to in subparagraph (1) are that any hard surface which is disturbed by the regulated development is-</p> <ul style="list-style-type: none"><li>(a) in the case of a hard surface consisting of granite flags or cobbles, restored with the same materials,</li><li>(b) in all other cases, restored with a finish which is not significantly different from the existing finish, and</li><li>(c) otherwise restored to its former condition (or such condition as is agreed in writing with the Committee).</li></ul>

<b>Maintenance of water courses, outfalls or carrying out of land drainage works</b>
<p>3. Any regulated development by or on behalf of the States which is necessary for the maintenance of water courses or outfalls or for the carrying out of land drainage.</p>

<b>Regulated development in relation to minor equipment by suppliers of electricity and telecommunications services</b>
<p>4. (1) Any regulated development which –</p> <ul style="list-style-type: none"><li>(a) is necessary for the purpose of the supply of -<ul style="list-style-type: none"><li>(i) electricity to the public and is carried out by or on behalf of Alderney Electricity Limited, or</li><li>(ii) telecommunications services to the public and is carried out by or on behalf of Sure (Guernsey) Limited, JT (Guernsey) Limited or Guernsey Airtel Limited, and</li></ul></li><li>(b) is necessary for the maintenance or replacement of overhead lines, cables, surface wiring, block terminals or dish or multiple rod aerials,</li></ul> <p>provided that the provisos in subparagraph (2) are met.</p>

- (2) The provisos referred to in subparagraph (1) are that –
- (a) any replacement is not significantly different in terms of its siting to the equipment that it replaced, and
  - (b) any hard surface which is disturbed by the regulated development is-
    - (i) in the case of a hard surface consisting of granite flags or cobbles, restored with the same materials,
    - (ii) in all other cases, restored with a finish which is not significantly different from the existing finish, and
    - (iii) otherwise restored to its former condition (or such condition as is agreed in writing with the Committee).

**Regulated development in relation to the supply of electricity**

5. (1) Any regulated development which –
- (a) is carried out by or on behalf of Alderney Electricity Limited, and
  - (b) is necessary –
    - (i) for the replacement of roadside distribution pillars, poles and street cabinets for the purpose of supplying electricity to the public, provided that any replacement is not significantly different in terms of its siting to the equipment that it replaced, or
    - (ii) to avoid contact between any tree or other vegetation and over head power lines,
- provided that the provisos in subparagraph (2) are met.

- (2) The provisos referred to in subparagraph (1) are that any hard surface which is disturbed by the regulated development is-
- (a) in the case of a hard surface consisting of granite flags or cobbles, restored with the same materials,
  - (b) in all other cases, restored with a finish which is not significantly different from the existing finish, and
  - (c) otherwise restored to its former condition (or such condition as is agreed in writing with the Committee).

**Regulated development within the operational areas of water treatment works, foul water treatment works, pumping stations and reservoirs etc.**

6. Any regulated development by or on behalf of the States which is carried out within the operational areas of water treatment works, foul water treatment works, pumping stations, reservoirs or other places where water is stored and which is necessary for -
- (a) the purpose of the supply of water or the supply of sewerage services to the public, or

(b) the maintenance or security of any such place, provided that such regulated development is not carried out in relation to any land or structure forming any part of the perimeter of any such a place.

**Regulated development within the operational area of a power station**

7. Any regulated development by or on behalf of Alderney Electricity Limited within the curtilage of a power station which is necessary for –

- (a) the relocation of pumping equipment and over ground piping within the operational area of a power station provided that there is no significant change to –
  - (i) the siting, and
  - (ii) the visibility from a highway, of such piping or equipment, or
- (b) the security of the power station,

provided that such regulated development is not carried out in relation to any land or structure forming any part of the perimeter of the power station.

**Regulated development within the operational area of an airport**

8. Any regulated development by or on behalf of the States or the States of Guernsey within the operational area of an airport which is necessary for –

- (a) the provision of air traffic control services,
- (b) the safe navigation of aircraft,
- (c) the security of the airport, or
- (d) the maintenance or resurfacing of an airport runway or to make minor alterations to the camber of such a runway,

provided that such regulated development is not carried out in relation to any land or structure forming any part of the perimeter of the airport and that, where carried out in relation to an airport runway, it does not extend that runway.

**Regulated development within the operational area of a harbour**

9. Any regulated development by or on behalf of the States within the operational area of a harbour which is necessary for –

- (a) the provision of harbour control or safe navigation of ships, or
- (b) the security of the harbour,

provided that such regulated development is not carried out in relation to any land or structure forming any part of the perimeter of the harbour.

### **Minor works for navigational purposes**

**10.** (1) Any regulated development by or on behalf of the States or the States of Guernsey outside the operational area of a harbour or an airport (except in either case where the area is within the Ramsar Site) which is necessary to –

- (a) carry out any minor works for the purpose of –
  - (i) the safe navigation of ships or aircraft, or
  - (ii) the safe operation of the port or airport in question, or
- (b) avoid the obstruction of navigation points or navigation lights by any tree or other vegetation,

provided that the provisos in subparagraph (2) are met.

(2) The provisos referred to in subparagraph (1) are that any hard surface which is disturbed by the regulated development is-

- (a) in the case of a hard surface consisting of granite flags or cobbles, restored with the same materials,
- (b) in all other cases, restored with a finish which is not significantly different from the existing finish, and
- (c) otherwise restored to its former condition (or such condition as is agreed in writing with the Committee).

(3) In this paragraph "**minor works**" means –

- (a) minor maintenance work, or
- (b) replacement of fixed plant, which does not involve any work to buildings, walls or fences.

### **Coastal defences**

**11.** Any regulated development by or on behalf of the States or the States of Guernsey which is necessary for the maintenance of existing coastal defences provided that such regulated development –

- (a) does not include regulated development consisting of land reclamation and does not affect any shingle bank, sand bank or other natural feature forming part of such coastal defences, and
- (b) is not within the Ramsar Site.

### **Street furniture**

**12.** (1) Any regulated development by or on behalf of the States which is necessary for –



(a) the replacement or maintenance of any fixed street furniture provided that any replacement is not installed within a conservation area or designated area, or adjacent to any historic building, or

(b) the installation of a temporary sign or of a sign required to be installed as a result of an emergency provided that the sign is in place for no longer than 28 days.

(2) In this paragraph -

(a) "**street furniture**" includes lamp standards and other street lighting, public seating, cycle racks, signposts, closed circuit television, signs (including traffic signs), refuse bins, bollards, rails, fences and barriers for safeguarding persons using the public highway, and

(b) "**public highway**" means any vehicular or pedestrian road, street, lane or track or path, however named, used by the public.

**Regulated development in relation to the provision of a system for delivery of heat**

**13.** Any regulated development by or on behalf of Alderney Electricity Limited or the States which is necessary for the replacement or maintenance of any pipes or conduits or other parts of a system for the delivery of heat to more than one premises provided that any hard surface which is disturbed by the regulated development is -

(a) in the case of a hard surface consisting of granite flags or cobbles, restored with the same materials,

(b) in all other cases, restored with a finish which is not significantly different from the existing finish, and

(c) otherwise restored to its former condition (or such condition as is agreed in writing with the Committee)."