

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY THE DEPUTY OF ST. MARTIN
ANSWER TO BE TABLED ON TUESDAY 15th FEBRUARY 2011**

Question

Given that the 'Draft Water (Amendment No.3) (Jersey) Law 200-' (P.58/2008) was intended to address concerns relating to the legality of access to property by servants and agents of the Jersey New Waterworks Company, will the Minister inform Members why the proposition was withdrawn and whether the existing Water (Jersey) Law 1972 or any other law permits the Waterworks Company to access property for the installation of water meters and any other new equipment?

Answer

I would offer my thanks to the Deputy for his question. In order to allow me to answer it, I must first give some background regarding my Departments vires in respect of the legislation under discussion and importantly where this responsibility stops.

Planning and Environment actively regulate the Water (Jersey) Law 1972 in respect of wholesomeness of water provided by Jersey New Waterworks Company (the company) for drinking, and the company are bound by the articles of the law in respects of operational issues.

The initial proposed (and withdrawn) amendment to the law (the Draft Water (Amendment No.3) (Jersey) Law 200-) was drafted by Planning and Environment after being approached by the company to do so.

I withdrew the proposed amendment as it closely followed a proposition made by the then Minister for Transport and Technical Services which proposed access to land and property for another reason, namely to allow developers and other third parties access to lay drainage pipes on private land. This proposition was not supported by the house and my decision to withdraw our proposed amendment was because there were similarities between the TTS proposal and ours which, I thought, would not be acceptable to the house. No further approach was made from the company to our department on this issue following the withdrawal and I understand that the company took legal advice as to whether the Water 1972 Law enabled them to proceed with their infrastructural changes.

The company have previously pointed out that, in the vast majority of cases, no access to private premises is required in order to fit a meter. Meters and ancillary equipment (which remain the property of the Company) are usually located in the public highway or on the pavement outside the property. In some infrequent cases, where access may be required, Jersey Water has the necessary permissions under both its Terms and Conditions, and the Water (Jersey) Law 1972, as follows:

A) Terms and Conditions (to which all customers sign up when they become customers of Jersey Water)

“Access to premises

The Company staff shall have a right of access at all reasonable times onto any part of the premises or the property of which the premises form part in order to:

1. turn the stop-valve on or off,
2. install, read, replace or maintain the water meter and ancillary equipment,
3. carry out any repairs to the supply pipe deemed necessary by the Company,
4. prevent the wastage of water, or
5. inspect premises for compliance with the provisions of the bye-laws.”

B) Water (Jersey) Law 1972: PART 7: Article 35:

“Entry on Land

- (1) Subject to the provisions of this Article, any person duly authorised in that behalf by the Company shall, on producing, if so required, evidence of his or her authority, have a right to enter any land at all reasonable hours for the purpose of -
 - (a) inspecting and examining meters used by the Company for measuring the water supplied and of ascertaining therefrom the quantity of water consumed;
 - (b) ascertaining whether there is or has been, on or in connection with that or any other land, any contravention of the provisions of this Law or of any Order or bye-laws made thereunder;
 - (c) ascertaining whether or not circumstances exist which would authorise the Company to take any action, or execute any work, under this Law or any such Order or bye-laws;
 - (d) taking any action, or executing any work, which the Company is authorised or required by this Law, or any such Order or bye-laws, to take or execute.
- (2) Any person who wilfully obstructs any person upon whom a right of entry has been conferred by this Article or by any other provision of this Law, or any Order or bye-law made thereunder, shall be guilty of an offence or shall be liable to a fine not exceeding £200.”

C) Water (Jersey) Law 1972: PART 2: Article 3 (8)

“Laying of pipes in land not in public ownership

- (8)... the rights to carry out the works specified in the notice and to have access thereto by its servants or agents at all reasonable times for the purpose of inspection, maintenance or repair

Where water supplies are located on private property it the company’s practice to liaise with the owners in respect of arranging for the meter to be fitted (especially where the location of the stop tap may not be readily accessible).

I would again reinforce that the operational aspects of this law are not under the jurisdiction of Planning and Environment and would respectfully suggest that the Deputy approach the company.