

Policing problematic parking: Terres à L'Amende in Guernsey

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What is a Terres A L'Amende?

An aspect of property law that is unique to Guernsey, the term refers to an area of land which has been designated as '*Les Terres Mises à L'Amende*' (literally meaning '*penalty land*') pursuant to an order of Guernsey's Royal Court.

This designation allows a landowner to enforce a set fine (presently £50.00) against those who trespass (i.e. park a vehicle) on the protected land without permission.

How do I put this protection in place?

To obtain an order, an application to the Royal Court is required. The application will, most commonly, be made by the landowner themselves, however (with the landowner's consent) applications may be made by tenants or occupiers of the land.

The application will need to:

1. identify the land that the application is being made in respect of (most commonly by reference to a plan);
and
2. provide reasons for the application, such as continued unauthorised parking issues (supported by evidence).

If the Court is satisfied with the merits of the application, it will grant it and make an order.

Upon an order being granted, notices of the penalty status of the relevant land must be published (on two separate, non-consecutive occasions) in La Gazette Officielle.

A sign will need to be erected on the land advertising the land's status as "*Les Terres Mises à L'Amende*" and that unlawful trespass will incur a fine. Ordinarily, the placement of such signs would require an application for planning permission. However, when a valid order is in place, a planning exemption applies (if the relevant sign meets the set criteria).

What are the benefits?

The order makes unlawful trespass onto a property actionable by way of a fine. The penalty is set at £50.00 and is recoverable from the offending party by way of a civil debt. If the fine is not settled, there is a remedy for the landowner by bringing an action in the Petty Debts Court.

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To assist the landowner with the administration of any fines, they are (subject to the payment of an administration charge) able to obtain details of the ownership of offending vehicles from records held by Driver and Vehicle Licensing.

The order is a cost-effective way to avoid problems with parking.

What are the ongoing considerations?

1. The order remains in force for 10 years following the original grant, once this period has elapsed, the protection will cease unless it is extended. In practice, it is not uncommon to encounter orders that have been expired for many years (recently, upon an application for an extension of an order, the Court discovered that the relevant order was not enforceable, having expired some 19 years ago). Not only does the expiration of an Order prevent the landowner from taking action against errant entrants, regaining the land's protection will require a fresh application for protection to be made, again justifying the need for protection.
2. The effect of an order will also cease following the original applicant's disposal of the land. A new owner is well-advised to promptly pursue an application to extend any existing order upon acquiring the land. Failure to do so means that, 6 months from the date of the purchase, the order's effect comes to an end.
3. The expiration of an order also leads to considerations from a planning perspective. As mentioned above, the landowner is required to place signs on the land identifying the consequences of unlawful entry. Once the order has expired, the relevant planning exemption no longer applies, meaning that the signage technically amounts to a potential breach of planning law by the landowner.

The key message for landowners to take away is to keep tabs on their order, it can be all too easy to lose track of time and fail to renew the order within the required period. As outlined above, the expiration of an order can cause landowners a real headache.

How can we help?

Collas Crill are well-versed in the procedures surrounding Terres à L'Amende, if you wish to make an application for a new order, an extension to an existing one, or simply require some advice as to your position, please get in contact with the team.

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