

ORDER IN COUNCIL

X
2006

ratifying a Projet de Loi

ENTITLED

The Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005

(Registered on the Records of the Island of Guernsey
on the 13th November, 2006.)



2006

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 13th day of November, 2006 before Richard John Collas, Esquire, Deputy Bailiff; present:- David Charles Lowe OBE, Derek Martin Le Page, Alan Cecil Bisson, David Michael Jory, Keith Bichard OBE, Esquires, The Reverend Peter Gerald Lane, Michael Henry De La Mare, Michael John Tanguy, Esquires, Susan Mowbray, and David Osmond Le Conte Esquire, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 7th June, 2006 approving and ratifying the Projet de Loi entitled "The Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller, thereon, ORDERED

1. that the said Order in Council be registered on the records of this Island, and
2. That an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island.

At the Court at Buckingham Palace

The 7th DAY OF JUNE 2006

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

"In accordance with Your Majesty's General Order of Reference of 22 February 1952 the Committee have considered a Petition of the States of Guernsey:

"That, in pursuance of their Resolution of 27th day of July 2005, the States of Deliberation at a meeting on 30th day of November 2005 approved a *Projet de Loi* entitled "The Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005" and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the States of the Island of Alderney at a meeting held on 21st day of February 2006 considered the *Projet de Loi* when a Resolution was passed agreeing to its application to Alderney. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction "The Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005", and to order that it shall have force of law in the Island of Guernsey.

"The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it."

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Bailiwick of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty's Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

A. K. Galloway

PROJET DE LOI

ENTITLED

The Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005

THE STATES, in pursuance of their Resolution of the 27th July, 2005^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Alderney and Herm.

Power to make Ordinances as to taxation of real property.

1. (1) The States may by Ordinance make such provision as they think fit in relation to the taxation of real property.

(2) In this Law -

"**property tax**" means any tax levied in respect of real property under an Ordinance made under this Law,

"**real property**" means -

- (a) land, buildings and other property constituting immovable property under the law of Guernsey, and
- (b) any other class or description of property prescribed

^a Article VII of Billet d'État No. XI of 2005.

by Ordinance of the States.

(3) Without prejudice to the generality of subsection (1), an Ordinance under this Law may make provision as to the following matters -

- (a) the rates of, and the allowances, discounts and deductions in respect of, property tax,
- (b) the times at which, the periods in respect of which, and the manner in which, property tax is payable,
- (c) the classes, descriptions and categories of real property subject to property tax,
- (d) the persons liable to pay property tax, and the persons excepted or exempted from liability,
- (e) the basis on which and the manner in which -
 - (i) real property is to be valued, measured and assessed for the purposes of property tax, and
 - (ii) property tax is to be calculated, assessed and levied,
- (f) the rate of property tax in respect of any class, description or category of real property,
- (g) the imposition of an enhanced rate or default rate of property tax in the event of non-compliance with any

prescribed requirement,

- (h) the administration, payment, collection and recovery of property tax and the enforcement of liabilities to pay it,
- (i) the levying of interest and penalties in the event of the non-payment of property tax,
- (j) powers of entry for the purpose of valuing, measuring, assessing and categorising real property,
- (k) the preparation and maintenance of records and registers of real property in the Islands (which may, without limitation, be in addition to or in replacement of the Cadastre), and the funding of the costs of preparation and maintenance,
- (l) the information to be entered on those records and registers,
- (m) the public inspection and evidencing of those records and registers and the information in them,
- (n) the exchange between departments of information in respect of real property in the Islands,
- (o) the making of declarations and notifications, and the obtaining and exchanging of information, in respect of-

- (i) real property and the class, description or category into which any real property falls, and
 - (ii) the persons who own, or have any other prescribed interest in, real property, including (without limitation), where those persons are bodies corporate, the ownership and control of the bodies corporate and the shareholdings in them,
- (p) the confidentiality of information,
- (q) the making of assessments to property tax and the preparation of statements of account,
- (r) appeals in relation to the calculation, assessment and levying of property tax and the valuation, measurement, assessment and categorisation of real property, including the forum and grounds of such appeals and the parties thereto,
- (s) the establishment of a tribunal to deal with such appeals and a panel of persons from whom the members of the tribunal are to be drawn,
- (t) the jurisdiction and powers of the courts of the Islands, and the constitution and procedure of those courts, in relation to such appeals,

(u) the imposition of time limits and other restrictions subject to which -

(i) any claim for the payment or repayment of property tax, and

(ii) any other proceedings in respect of the administration and enforcement of property tax,

must be made or instituted,

(v) the cancellation of liability to any description of tax or charge due under an enactment repealed, amended, modified or disappplied by an Ordinance under this Law,

(w) anti-avoidance measures,

(x) the charging or securing on real property of claims for unpaid property tax and penalties and interest in respect thereof, the priority to be given to such claims, and the payment of such claims in preference to other debts and claims,

(y) the service of notices,

(z) the meaning of the expressions "property tax", "real property" and "the taxation of real property" in this Law.

General provisions as to Ordinances.

2. (1) An Ordinance under this Law -
 - (a) may be amended or repealed by a subsequent Ordinance hereunder, and
 - (b) may contain such transitional, consequential, incidental, supplementary and savings provisions as the States think fit.
- (2) Any power conferred by this Law to make an Ordinance may be exercised -
 - (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
 - (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

- (iii) any such provision either unconditionally or subject to any prescribed conditions,
- (iv) different provision for different classes, descriptions and categories of real property and for different Islands.

(3) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

- (a) may make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences,
- (b) may make provision for the purpose of dealing with matters arising out of or related to the taxation of real property,
- (c) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (d) may empower any department, and any other body (including, without limitation, the Royal Court and any other court of the Islands), to make rules or regulations, whether as to matters in relation to which an Ordinance can be made under this Law or otherwise,

- (e) may empower the States to pass resolutions specifying or prescribing matters described in paragraph (d),
- (f) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by Projet de Loi (including, without limitation, provision repealing, amending, extending, adapting, modifying or disapplying any enactment or rule of law), but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.

Specific enactments which may be amended, etc.

4. Without prejudice to the generality of the powers conferred by this Law, an Ordinance under this Law may repeal, amend, extend, adapt, modify or disapply any of the following enactments -

- (a) the Law entitled "Loi relative à la Taxation Paroissiale" registered on the 27th October, 1923^b,
- (b) the Cadastre Law, 1947^c,
- (c) the Alderney (Application of Legislation) Law, 1948^d,

^b Ordres en Conseil Vol. VII, p. 146; Article II was substituted at Vol. XIII, p. 351.

^c Ordres en Conseil Vol. XIII, pp. 78 and 381; Vol. XVII, p. 23; Vol. XXVIII, p. 395; Vol. XXXII, p. 161.

^d Ordres en Conseil Vol. XIII, p. 448.

- (d) the Tax on Rateable Values (Guernsey) Law, 1976^e,
- (e) the Rent Control (Guernsey) Law, 1976^f,
- (f) the Preferred Debts (Guernsey) Law, 1983^g,
- (g) the Parochial Collection of Refuse (Guernsey) Law, 2001,
- (h) any enactment made under any of the above Laws or applying any of the above Laws to Alderney,
- (i) any enactment which refers to annual rental value, rateable value and tax on rateable values (or any other tax or charge under an enactment repealed, amended, modified or disapplied by an Ordinance under this Law), and
- (j) this Law.

Interpretation.

5. (1) In this Law, unless the context requires otherwise -

"**Cadastre**" means the 1947 Cadastre prepared under the Cadastre

^e Ordres en Conseil Vol. XXVI, p. 86; and No. II of 1995.

^f Ordres en Conseil Vol. XXVI, p. 31; and No. IX of 1993.

^g Ordres en Conseil Vol. XXVIII, p. 184.

Law, 1947^h,

"department" means any department, council or committee of the States of Guernsey or the States of Alderney, however styled,

"enactment" means any Law, Ordinance, Act of Parliament and Order in Council, and any subordinate legislation made thereunder,

"information" includes data, however recorded,

"Islands" means the Islands of Guernsey, Alderney and Herm,

"prescribed" means prescribed by an Ordinance, rule or regulation under this Law,

"property tax" : see section 1(2),

"real property" : see section 1(2),

"rule of law" includes any rule of customary law,

"States" means the States of Guernsey.

(2) The Interpretation (Guernsey) Law, 1948ⁱ applies to the interpretation of this Law throughout the Islands.

(3) Any reference in this Law to an enactment is a reference

^h Ordres en Conseil Vol. XIII, p. 78.

ⁱ Ordres en Conseil Vol. XIII, p. 355.

thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

6. This Law may be cited as the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005.