

# PROJET DE LOI

ENTITLED

## **The Acquisition of Improved Properties Law (Alderney), 1947 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* Ordres en Conseil Vol. XIII, p. 147; as amended by the Government of Alderney Law, 1948 (Ordres en Conseil Vol. XIII, p. 416); the Decimal Currency (Bailiwick of Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 560). See also the Government of Alderney Law, 1948 (*supra*); the Arbitration (Alderney) Law, 1983 (Ordres en Conseil Vol. XXVIII, p. 236); the Government of Alderney Law, 2004 (No. III of 2005); the Retrait Lignager (Abolition) (Alderney) Law, 2015 (No. \*\* of 2015).

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## **The Acquisition of Improved Properties Law (Alderney), 1947**

### ARRANGEMENT OF ARTICLES

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2. Vesting of premises in States.
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## **The Acquisition of Improved Properties Law (Alderney), 1947**

**WHEREAS** works were carried out and buildings were constructed, extended or altered at various places in the Island of Alderney by the enemy during the period of the enemy occupation of that Island and by the British Liberation Force during the period of rehabilitation following thereupon and it is expedient in the public interest that certain of those works and buildings and the sites thereof together with such premises adjacent thereto as may be necessary for the use or exploitation of such works or buildings should be vested in the States of Alderney either for retention by the States or otherwise.

### **Premises to which Law applies.**

1. The provisions of this Law shall apply to such of the premises aforesaid (not being premises vesting in the Crown or in a Government Department) as may be determined by Resolution of the States of Alderney sanctioned by His Excellency the Lieutenant-Governor.

### **Vesting of premises in States.**

2. Upon completion of the following formalities, that is to say –

- (a) upon notice of acquisition in the form specified in the First Schedule to this Law being posted on or near the site of any such premises and
- (b) upon such notice being published in "La Gazette Officielle" of the Island of Guernsey,

all right, title and interest to or in the premises, other than any feudal right, hypothecary right or other encumbrance attaching to or affecting the same, shall

vest in and belong to the States of Alderney with right of immediate possession. [The Clerk of the Court] shall record the date on which the said formalities are completed in the case of any premises and the certificate of [the Clerk of the Court] as to such date shall, in the absence of proof to the contrary, be conclusive proof of the date of the vesting in the States of those premises.

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#### NOTES

*In Article 2, the words in square brackets were substituted by the Government of Alderney Law, 1948, section 64(2), with effect from 8th March, 1949.*

*The functions of H.M. Greffier under this Law were transferred to the Clerk of the Court by the Government of Alderney Law, 1948, section 64(2), with effect from 8th March, 1949.*

*In accordance with the provisions of the Government of Alderney Law, 2004, section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(a), with effect from that same date, the functions of the Greffier include those functions (other than those specified in section 15(a) of the 2004 Law) which it was, immediately before 8th March 1949, the duty of the Greffier to perform and which are not assigned by law to any other person.*

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#### **Claims, etc.**

3. As from such vesting as aforesaid, the premises so vested shall cease to be subject to any claim, hypothecary right or encumbrance previously attaching to or affecting the same and the indemnity determined or to be determined in accordance with the provisions of the Second Schedule to this Law as payable in respect of the acquisition of the premises shall thenceforth be solely liable in substitution for the premises, as regards any such claim, hypothecary right or encumbrance.

#### **Retrait lignager.**

4. No action "en retrait lignager" shall lie in respect of any premises acquired under the provisions of this Law.

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#### NOTE

*In accordance with the provisions of the Retrait Lignager (Abolition) (Alderney) Law, 2015, section 1(1), with effect from 26th November, 2015*

*and subject to the provisions of section 1(3) of the 2015 Law, the right of redemption of real property ("droit de retrait lignager") is abolished.<sup>1</sup>*

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**Indemnity.**

5. The provisions of the Second Schedule to this Law shall govern the determination of the amount of the indemnity payable in respect of the acquisition of any premises under the provisions of this Law and the settlement of such indemnity.

**Commencement.**

6. This Law shall come into force on the date of the registration on the records of the Island of Alderney of the Order of His Majesty in Council ratifying the same.

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**NOTE**

*The Law received Royal Sanction on 8th August, 1947 and was registered on the Records of the Island of Guernsey and came into force on 30th August, 1947.*

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<sup>1</sup> Previously, in accordance with the provisions of the Loi relative au retrait lignager, aux appropriements, et à la lecture de contrats aux Plaids d'Héritage (Auregny), 1949, Article 1, with effect from 25th January, 1949, the right of redemption of real property ("droit de retrait lignager") was abolished subject to the exceptions in the said Article 1.

FIRST SCHEDULE

FORM OF NOTICE OF ACQUISITION

*THE STATES OF THE ISLAND OF ALDERNEY*

TAKE NOTICE that, by virtue of a Resolution of the States of Alderney, dated the                      day of 194    , sanctioned by His Excellency the Lieutenant-Governor, in pursuance of the Acquisition of Improved Properties Law (Alderney), 1947, the States have acquired the premises known (or commonly referred to) as    situate at    in the Island of Alderney vesting (or believed to vest) in    with right of vacant possession as on and from the day of    , 194    .

AND TAKE NOTICE that the premises will be valued in due course in accordance with the provisions of the said Law and that thereafter notice of the amount of such valuation will be posted in the office of [the Clerk of the Court], Alderney, and may be inspected there. An appeal against such valuation may be lodged with [the Clerk of the Court] during the sixty days next following the posting of such notice of valuation.

*Judge of Alderney.*

, 194    .

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**NOTES**

*In the First Schedule, the words in square brackets were substituted by the Government of Alderney Law, 1948, section 64(2), with effect from 8th March, 1949.*

*The functions of H.M. Greffier under this Law were transferred to the Clerk of the Court by the Government of Alderney Law, 1948, section 64(2), with effect from 8th March, 1949.*

*In accordance with the provisions of the Government of Alderney Law, 1948, section 11, the office of Judge of Alderney ceased to exist, with effect from 8th March, 1949.*

*In accordance with the provisions of the Government of Alderney Law, 2004, section 20(1), with effect from 1st May, 2005, the person appointed*

*to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(a), with effect from that same date, the functions of the Greffier include those functions (other than those specified in section 15(a) of the 2004 Law) which it was, immediately before 8th March 1949, the duty of the Greffier to perform and which are not assigned by law to any other person.*

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## SECOND SCHEDULE

### CONSTITUTION AND PROCEEDINGS OF BOARD OF VALUERS

1. The Board of Valuers (hereinafter referred to as "**the Board**") shall consist of three competent and impartial persons, one appointed by the States of Alderney, one, not being a member of the States of Alderney, appointed by the Alderney Douzaine and one appointed by the Judge of Alderney. In the event of disagreement between the members of the Board, the decision of the majority shall be deemed to be the decision of the Board. The member appointed by the Judge of Alderney shall preside.

2. Upon a copy of the Notice of Acquisition in respect of any premises being delivered to the President of the Board, the President of the Board shall publish at the ordinary "lieux d'affiche" in the Island of Alderney the date, time and place at which the Board will proceed with the valuation accordingly, giving an opportunity to persons having an interest in the premises and presenting themselves at such date, time and place to make such representations concerning the valuation thereof to the Board as such persons may deem proper.

3. The basis of valuation of any premises shall be the value, as at the time of the valuation, of those premises in the condition in which those premises were on the 15<sup>th</sup> day of June, 1940, together with an additional amount estimated at the rate of five per cent, of such value as compensation in respect of the compulsory nature of the acquisition. The Board shall take such evidence as they may deem necessary to inform themselves sufficiently of the condition of the premises as at the aforesaid date.

4. The report of the Board in respect of the valuation of any premises shall be recorded in writing and shall express the amount of such valuation (a) in sterling and (b) in terms of "rente" at the rate of One quarter of "rente" to each £20 sterling of the amount of such valuation.

5. The President of the Board shall deliver two copies of the Board's report, signed by the President of the Board, to [the Clerk of the Court] who shall forthwith post one copy in a prominent position in his office and shall file the other



copy for purposes of record. [The Clerk of the Court] shall also forthwith post on the ordinary "lieux d'affiche" a notice to the effect that the report of the Board in respect of any premises (which premises shall be stated in the notice) has been delivered to him and can be inspected in his office.

## APPEALS FROM VALUATIONS

6. The States, through their Treasurer, and any person entitled in whole or in part to an indemnity under the provisions of this Law shall be entitled to appeal against the amount of that indemnity within the sixty days next following the date of the posting in the office of [the Clerk of the Court] of the relevant report of the Board.

7. Such appeal, to be effective –

- (a) shall be in writing signed by the appellant and shall be delivered to [the Clerk of the Court] within the period aforesaid,
- (b) shall be accompanied by an instrument in writing signed by the appellant nominating some person as an ordinary member of the Arbitration Tribunal hereinafter referred to and countersigned by such person so as to denote that that person is willing to serve in that capacity.

In the case of the nomination of an ordinary member of the Arbitration Tribunal by one of several joint owners it shall be presumed until the contrary is shown that that nomination is acceptable to the other joint owners. In the event of the nomination of more than one person as an ordinary member of the Arbitration Tribunal by joint owners, it shall be the duty of the joint owners within seven days of being required, either personally or by notice posted at the ordinary "lieux d'affiche", so to do by [the Clerk of the Court] to decide and notify [the Clerk of the Court] which one of the persons nominated is acceptable to all the joint owners as an ordinary member of the Arbitration Tribunal. In default of such decision and notification the selection of such ordinary member shall be determined by lot by

[the Clerk of the Court] from among the persons nominated. In the event of the person so selected refusing to serve, [the Clerk of the Court] shall select some other competent and impartial person willing to serve and that person shall be a member of the Arbitration Tribunal accordingly.

**8.** The Arbitration Tribunal shall consist of a Chairman, nominated by His Excellency the Lieutenant-Governor, having a casting vote only, and two Ordinary Members, one appointed on behalf of the States and the other appointed by or selected as aforesaid by or on behalf of the other party to the dispute.

**9.** The decision of the Arbitration Tribunal shall be recorded in writing and two copies thereof signed by the Chairman, shall be delivered by the Chairman to [the Clerk of the Court] who shall post one in his office and file the other for purposes of record. Such decision shall, if the original valuation of the Board of Valuers be varied thereby, be expressed in sterling and in terms of "rente" on the same relative basis as in the case of the original valuation.

#### **COSTS OF VALUATION AND ARBITRATION**

- 10.**
- (a) The costs of the valuation by the Board of Valuers shall be borne by the States.
  - (b) On an appeal from the valuation of the Board of Valuers, in the event of the valuation appealed from being upheld, the costs of the arbitration shall be borne by the appellant; in the event of the valuation being varied, the award of the costs of the arbitration shall be in the discretion of the Arbitration Tribunal.

#### **INDEMNITY**

**11.** The Report of the Board of Valuers if no appeal therefrom is pursued and the Decision of the Arbitration Tribunal on an appeal, shall be final and conclusive and the indemnity expressed therein in terms of "rente" shall be the indemnity owing by the States in respect of the acquisition of the premises concerned and a copy of that Report, or of that Decision, as the case may be, duly

certified as correct by [the Clerk of the Court] shall constitute a valid and sufficient title to the "rente" representing that indemnity.

12. Any "rente" owing by the States by way of indemnity determined as aforesaid shall –

- (a) be payable by the States on the 10<sup>th</sup> day of October of each year at the rate of [60 new pence] per quarter of "rente" commencing to accrue as on and from the date of the acquisition of the premises to which the "rente" relates, and
- (b) shall be redeemable by the States at any time at the rate of Twenty pounds sterling per quarter and upon payment of the proportion accrued in respect of the year then current at the time of the said redemption, and
- (c) shall be redeemed by the States upon the terms aforesaid upon the States being required by the "credirentiers" to redeem the same and upon clearance to the reasonable satisfaction of the States of all hypothecary rights and other encumbrances secured by virtue of this Law or otherwise against the same.

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## NOTES

*In the Second Schedule,*

*the words "The/the Clerk of the Court" in square brackets, wherever occurring, were substituted by the Government of Alderney Law, 1948, section 64(2), with effect from 8th March, 1949;*

*the words and figures in square brackets in paragraph 12 were substituted by the Decimal Currency (Bailiwick of Guernsey) Law, 1970, section 8, with effect from 15th February, 1971.*

*The functions of H.M. Greffier under this Law were transferred to the Clerk of the Court by the Government of Alderney Law, 1948, section 64(2), with effect from 8th March, 1949.*

*In accordance with the provisions of the Government of Alderney Law, 1948, section 66, the institution and functions, save those relating to the inheritance of real property, of the Douzaine ceased to exist, with effect from 8th March, 1949.*

*In accordance with the provisions of the Government of Alderney Law, 1948, section 11, the office of Judge of Alderney ceased to exist, with effect from 8th March, 1949.*

*In accordance with the provisions of the Arbitration (Alderney) Law, 1983, section 30(1), with effect from 16th January, 1984, Part I of that Law, save for sections 2(1), 3, 5, 16(2), 24, 25 and 27, shall apply to every arbitration under this Law as if the arbitration were pursuant to an arbitration agreement and as if this Law were an arbitration agreement, except in so far as the 1983 Law is inconsistent with this Law or with any rules or procedure authorised or recognised thereby: provided that in any arbitration under this Law any reference to the award made by an arbitrator or umpire being final and binding on the parties and the persons claiming under them respectively shall be deemed to include a reference to such provisions being subject to the provisions of section 19 of the 1983 Law.*

*In accordance with the provisions of the Government of Alderney Law, 2004, section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(a), with effect from that same date, the functions of the Greffier include those functions (other than those specified in section 15(a) of the 2004 Law) which it was, immediately before 8th March 1949, the duty of the Greffier to perform and which are not assigned by law to any other person.*

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