

PROJET DE LOI

ENTITLED

The Properties Damage (other than War Damage) Repairs Claims (by the States of Guernsey) Law, 1943 *

[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. XII, p. 112; as amended by the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971 (Ordres en Conseil Vol. XXIII, p. 188); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406). See also the Confirmation of Laws (Guernsey) Law, 1945 (Ordres en Conseil Vol. XII, p. 165); the Decimal Currency (Bailiwick of Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 560).

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ARRANGEMENT OF ARTICLES

1. Definitions.
2. Recovery of moneys disbursed by the States.
3. Claims to be sent to Greffier.
4. Registration of Claims.
5. Creation and cancellation of Hypothèque.

SCHEDULE

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LES ÉTATS ont approuvé les dispositions suivantes lesquelles, moyennant la Sanction de, et Promulgation par, Monsieur le Baillif et l'Approbation de Monsieur le Feldkommandant Allemand, auront force de Loi dans l'Île de Guernesey.

Definitions.

1. In this Law, the following expressions have the meanings hereinunder assigned to them respectively –

"**contributory**" means and "**contributories**" includes any such person as is referred to in clause (a) or clause (b) of subsection (1) of section 2 of this Law,

"**[Chief Executive of the States of Guernsey]**" includes any person for the time being performing the duties of that office,

"**damage**" means any damage other than war damage as defined in the Properties War Damage Repairs Claims (by the States of Guernsey) Law, 1943.

NOTE

In section 1, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 3, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.¹

Recovery of moneys disbursed by the States.

2. (1) Where moneys have been disbursed, whether heretofore or hereafter, by the States of Guernsey for the purpose of meeting in whole or in part the cost of repairing damage to any property, the States may at any time thereafter recover the whole or any part of the amount so disbursed –

- (a) from any person in whom the ownership of that property or any part thereof vests on the date of the disbursement of such moneys, or
- (b) from any person then entitled to any usufructuary interest in that property or part thereof, or
- (c) from the legal personal representatives of any such person,

and, subject to the provisions of this Law, a hypothèque in respect of the moneys so disbursed shall be created in favour of the States.

(2) Where moneys disbursed as aforesaid are recovered by the States from any such contributory or from his or her legal personal representatives, that contributory, or his or her legal personal representatives, shall be entitled to recover from any other of such contributories, or from his, her or their legal personal representatives, such proportion of the moneys so recovered by the States as is the fair contribution thereto of such other or others of such contributories, having regard to the values or the estimated values of the respective interests of the contributories in the property.

Claims to be sent to Greffier.

3. Where moneys are disbursed as aforesaid and have not been recovered by the States, the [Chief Executive of the States of Guernsey] shall cause a certificate to be prepared in the form contained in the Schedule to this Law and shall forward such certificate to the Greffier. Every such certificate shall, in the absence of proof to the contrary, be evidence of the matters certified therein.

NOTE

In section 3, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 3, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.²

Registration of Claims.

4. (1) The Greffier, upon receiving any such certificate as aforesaid, shall allot a number thereto and cause such number and the date on which the certificate is received to be inserted in the space provided in the right upper corner of the certificate and such date shall be certified by the initials of the Greffier or a Deputy Greffier.

(2) The Greffier shall, upon the respective dates of the receipt of such certificates, enter the same in numerical sequence in a File to be kept by him and to be styled "Properties Damage (other than War Damage) Repairs, Registered Claims of the States of Guernsey" (and hereinafter referred to as '**the Register**') and shall prepare an index to such File showing in alphabetical order the names of the persons described in such certificates as the owners and usufructuaries of the properties referred to therein followed by the number of the relevant certificate. The Index and the Register shall be available for inspection during the ordinary hours in which the Greffe business is conducted and extracts thereof may be taken, the whole without fee.

Creation and cancellation of Hypothèque.

5. (1) Upon the entry in the Register of any such certificate as aforesaid, a hypothèque for the amount set forth in such certificate shall be created in favour of the States of Guernsey, with effect as on and from the date shown on that certificate as the date of the receipt thereof at the Greffe, and such hypothèque shall attach to the realty of such person or persons referred to in the certificate as is or are the owner or owners of the property to which the certificate relates and to the interest in that property of such person or persons referred to in the certificate as is or are the usufructuary or usufructuaries thereof or any part thereof, as though on that date an obligation for the amount aforesaid, not bearing interest, consented jointly and severally in favour of the States by every such owner and every such usufructuary had been registered in the Livre des Obligations.

(2) Upon the written instructions of the [Chief Executive of the States of Guernsey], the Greffier shall effect the cancellation of any certificate entered in the Register either wholly or as regards the interest of any person affected by the hypothèque resulting from the entry in the Register of that certificate, as the case may require, and such cancellation shall have the same effect in relation to the relevant hypothèque as would the "vacatement" to the like extent of an obligation.

NOTES

In section 5, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 3, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.³

The Law was registered on the Records of the Island of Guernsey on 14th April, 1943.

In accordance with the provisions of the Confirmation of Laws (Guernsey) Law, 1945, section 1, Schedule, the Law shall have effect and shall be deemed always to have had effect, as if the assent of His Majesty had been signified thereto, and shall be deemed to have been duly registered on 14th April, 1943.

SCHEDULE

For
completion
at
Greffé.

	NO.
Date of receipt of Claim at Greffé and initials of Greffier or his Deputy.	
.....	

PROPERTY DAMAGE (OTHER THAN WAR DAMAGE) REPAIRS CLAIM

To
The Greffier,
Royal Court,
Guernsey.

I certify that on the day
of 194 , the sum
of Pounds
..... shillings
and pence was disbursed by the States of
Guernsey in respect of repairing damage (other than war damage) to a property
known as
and situate at
in the parish of
the said property belonging to
.....
of
and of which property
.....
of
is/are the usufructuary/ies. Kindly register the above claim in accordance with the
Properties Damage (other than war damage) Repairs Claims (by the States of
Guernsey) Law, 1943.

Guernsey, this

day of

194

.....
[Chief Executive of the States of Guernsey]

Genehmigt—Approved

Jersey, den 22 Febr., 1943

Der Feldkommandant:

KNACKFUSS

Oberst.

NOTES

In the Schedule, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 3, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.⁴

In accordance with the provisions of the Decimal Currency (Bailiwick of Guernsey) Law, 1970, section 11(1), with effect from 15th February, 1971, where any form set out in an enactment or statutory instrument passed or made before that date is designed to accommodate references to sums of money wholly or partly in shillings or pence, the form may be used with such modifications as are necessary to enable it to accommodate references to sums of money wholly or partly in new pence.

¹ These words were previously substituted by the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971, section 4, with effect from 1st April, 1972.

² These words were previously substituted by the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971, section 4, with effect from 1st April, 1972.

³ These words were previously substituted by the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971, section 4, with effect from 1st April, 1972.

⁴ These words were previously substituted by the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971, section 4, with effect from 1st April, 1972.