

PROJET DE LOI

ENTITLED

The Parochial Collection of Refuse (Guernsey) Law, 2001 *

[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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* No. IX of 2002, Ordres en Conseil Vol. XLII, p. 256; as amended by the Environmental Pollution (Guernsey) Law, 2004 (No. XIII of 2004, Ordres en Conseil Vol. XLIV(1), p. 274); the Parochial Collection of Refuse (Amendment) Ordinance, 2002 (No. IX of 2002, Recueil d'Ordonnances Tome XXIX, p. 93); the Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008 (No. XIX of 2008, Recueil d'Ordonnances Tome XXXIII, p. 104). See also the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005 (No. X of 2006). This Law has been repealed by the Parochial Collection of Waste (Guernsey) Law, 2015 (No. XV of 2015).

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The Parochial Collection of Refuse (Guernsey) Law, 2001

THE STATES, in pursuance of their resolution of the 11th day of May, 2001^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 island of Guernsey.

Collection and disposal of refuse.

1. (1) The Douzaine of a parish shall make such arrangements as may be necessary for [the regular collection of refuse from dwelling houses and tenement houses in the Parish and the efficient transfer of that refuse for disposal at a public waste disposal site, the whole in accordance with any licence for the time being required by or under the Environmental Pollution (Guernsey) Law, 2004].

(2) The cost of such collection and disposal and of any incidental matters connected therewith –

(a) shall be defrayed out of monies provided by the levy of an annual rate (the "**refuse rate**") in accordance with the provisions of this Law,

(b) shall, in respect of any year, be of such amount as is approved by a parish meeting prior to the Constables making an application under section 3 for permission to levy the refuse rate for that year.

(3) The Douzaine of a parish may impose reasonable limitations on the quantity of refuse it will collect from any dwelling house or from any tenement house in the parish.

^a Article V of Billet d'État No. VIII of 2001.

NOTES

In section 1, the words in square brackets were substituted by the Environmental Pollution (Guernsey) Law, 2004, section 74(1), Schedule 1, paragraph 1(1), with effect from 26th July, 2006.

In accordance with the provisions of the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005, section 4(g), with effect from 13th November, 2006, this enactment is one of those that the States may repeal, amend, extend, adapt, modify or disapply by Ordinance made under the 2005 Law.

Refuse rate.

2. (1) The refuse rate shall be levied by the Douzaine in respect of dwelling houses and tenement houses in the parish; and –

- (a) in the case of dwelling houses, shall be levied on the [owner],
- (b) in the case of tenement houses, shall be levied on the owner.

(2) The refuse rate shall become due –

- (a) on the first day of the year to which it relates, or
- (b) on the day of the granting by the Royal Court of an order under section 3(1) authorising the levy thereof,

whichever is later.

(3) The refuse rate shall be payable by the person who on the day specified in subsection (2) is –

- (a) in the case of a dwelling house, the [owner],
- (b) in the case of a tenement house, the owner,

and, where more than one person is [...] the owner, their liability shall be joint and several.

(4) The refuse rate –

- (a) shall be assessed by the Douzaine on the [assessable value] of dwelling houses and tenement houses in the parish, and
- (b) shall, in respect of each year, be of such amount in the pound of the [assessable value] of such premises as may be necessary to provide the monies to defray the cost of the collection and disposal of refuse during that year and of any incidental matter connected therewith.

(5) The refuse rate levied in respect of a [dwelling house or] tenement house on the owner thereof shall be recoverable by him as a civil debt from the occupiers thereof in equal shares.

(6) An [...] owner of any premises who, having become liable under subsection (3) or (5) for the payment of the refuse rate for those premises in respect of any year, subsequently during that year ceases to [...] own those premises shall be entitled to recover from the subsequent [...] owner thereof such part of the refuse rate as bears the same proportion to the whole of the refuse rate for those premises for that year as the unexpired portion of that year bears to the whole of that year.

(7) In subsection (6) the expression "**premises**" means a dwelling house, tenement house or (as the case may be) part of a tenement house.

NOTES

In section 2,

the words in, first, the square brackets in paragraph (a) of subsection (1) and the first pair of square brackets in subsection (3), second, the square brackets in paragraph (a) and paragraph (b) of subsection (4) and, third, the square brackets in subsection (5) were,

respectively, substituted, substituted and inserted by the Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008, respectively section 2, section 4 and section 5, with effect from 1st June, 2008, save that the 2008 Ordinance shall have effect only for the purposes of the refuse rate levied in the Parishes' respective financial years beginning in 2009 and thereafter;

the words omitted in, first, the second pair of square brackets in subsection (3) and, second, the square brackets in subsection (6) were repealed by the Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008, respectively section 3 and section 6, with effect from 1st June, 2008, save that the 2008 Ordinance shall have effect only for the purposes of the refuse rate levied in the Parishes' respective financial years beginning in 2009 and thereafter.

Application to Royal Court.

3. (1) The Douzaine may not levy a refuse rate in relation to any year unless authorised to do so by an order of the Royal Court.

(2) An application for an order under subsection (1) shall be made by the Constables and shall specify the amount in the pound of the [assessable value] of the dwelling houses and tenement houses in the parish which it is proposed to levy as the refuse rate for the year in question.

(3) Notice of the date and time on which it is proposed to make an application for an order under subsection (1) shall be published by the Constables in La Gazette Officielle.

(4) The [owner] of a dwelling house or the owner of a tenement house in the parish may oppose an application for an order under subsection (1).

NOTE

In section 3, the words in square brackets in, first, subsection (2) and, second, subsection (4) were substituted by the Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008, respectively section 7 and section 8, with effect from 1st June, 2008, save that the 2008 Ordinance shall have effect only for the purposes of the refuse rate levied in the Parishes' respective financial years beginning in 2009 and thereafter.

Douzaine to specify days of collection.

4. The Douzaine shall, by notice published in La Gazette Officielle,

specify the day or days on which the collection of refuse will take place; and different days may be specified for different parts of the parish.

Private agreements not affected.

5. For the avoidance of doubt it is hereby provided that the Douzaine of any parish has power (and shall be deemed always to have had power) to enter into agreements with any person in respect of –

- (a) the collection and disposal of –
 - (i) additional quantities of household refuse, and
 - (ii) non-household refuse, and
- (b) the levying of charges to cover the cost of such collection and disposal and of any incidental matters connected therewith.

Interpretation.

6. (1) In this Law, unless the context requires otherwise –

["**assessable value**" means the number of assessable units of the property in question (on the 31st December in the calendar year preceding that in which the refuse rate becomes due) within the meaning of, and calculated in accordance with, the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007,]

"**dwelling house**" means any premises, or any part of any premises, wholly or principally used or usable for the purposes of human habitation, and includes –

- (a) any self-catering tourist accommodation, and
- (b) any flat,

but excludes –

- (i) any premises or part of any premises (not being self-catering tourist accommodation) in respect of which there is in force a boarding permit granted under section 3 of the Tourist Law, 1948^b, and
- (ii) any tenement house,

"flat" means a separate and self-contained set of premises constructed for the purposes of human habitation and forming part of a building from some other part of which it is divided horizontally,

"household refuse" and **"refuse"** means household refuse from a dwelling house or tenement house,

"non-household refuse" means refuse which is not household refuse from a dwelling house or tenement house,

[...]

"owner", in relation to any real property, means –

- (a) where the property is the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour the order has been made,
- (b) where the property is not the subject of such saisie proceedings but is the subject of a vested right of usufruct, the usufructuary,
- (c) where the property is not the subject of such saisie

^b Ordres en Conseil Vol. XIII, p. 329; section 3 was amended by Vol. XXI, p. 104; Vol. XXVIII, p. 275; and No. XI of 1998.

proceedings or vested right of usufruct –

- (i) where the property is held in trust, the trustees, or
- (ii) where the property is not held in trust, the person in whom there is for the time being vested, whether solely or jointly with another person, an estate of inheritance therein,

and cognate expressions shall be construed accordingly,

['**public waste disposal site**' has the meaning given by section 31 of the Environmental Pollution (Guernsey) Law, 2004,]

[...]

'**refuse rate**' has the meaning given by section 1(2)(a),

'**Royal Court**' means the Royal Court sitting as an Ordinary Court,

'**tenement house**' means a dwelling place, other than a flat, which is occupied by more than one family or which is wholly or partly let in lodgings,

'**year**' means any period of 12 consecutive months.

[(2) In this Law the expressions "**dwelling house**" and "**tenement house**" include anything classified therewith in property references B1.1, B1.2, B2.1, B2.2, B3.1, B3.2 and B4.2 (as the case may be) for the determination of property tax in accordance with the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007.]

(3) References in this Law to an enactment are references thereto as from time to time amended, repealed or replaced (with or without modification), extended or applied.

NOTES

In section 6,

the definition of the expression "assessable value" in subsection (1) was inserted by the Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008, section 9, with effect from 1st June, 2008, save that the 2008 Ordinance shall have effect only for the purposes of the refuse rate levied in the Parishes' respective financial years beginning in 2009 and thereafter;

the definition of the expression "public waste disposal site" in subsection (1) was inserted by the Environmental Pollution (Guernsey) Law, 2004, section 74(1), Schedule 1, paragraph 1(2), with effect from 26th July, 2006;

the words omitted in the second and fourth pairs of square brackets in subsection (1) were repealed by the Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008, respectively section 10 and section 11, with effect from 1st June, 2008, save that the 2008 Ordinance shall have effect only for the purposes of the refuse rate levied in the Parishes' respective financial years beginning in 2009 and thereafter;

subsection (2) was substituted by the Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008, section 12, with effect from 1st June, 2008, save that the 2008 Ordinance shall have effect only for the purposes of the refuse rate levied in the Parishes' respective financial years beginning in 2009 and thereafter.

Repeals.

7. The enactments specified in Schedule 1 are repealed.

Amendments.

8. The amendments specified in Schedule 2 shall have effect.

Power to amend by Ordinance.

9. The States may by Ordinance amend the provisions of this Law; and an Ordinance under this section –

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
- (b) may contain such consequential, incidental, supplementary and transitional provision as may

appear to be necessary or expedient.

NOTE

The following Ordinances have been made under section 9:

*Parochial Collection of Refuse (Amendment) Ordinance, 2002;
Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance,
2008.*

Savings.

10. Any monies lawfully collected by or on behalf of a Douzaine under the provisions of any enactment repealed by this Law may be applied by the Douzaine in contribution towards the refuse rate to be levied under this Law.

Citation.

11. This Law may be cited as the Parochial Collection of Refuse (Guernsey) Law, 2001.

[Commencement.

12. This Law shall come into force in respect of any parish on the day, falling in the calendar year 2003, which marks the commencement of that parish's financial year; provided that a Douzaine may, before that day, make any necessary application to the Royal Court for an order under section 3(1).]

NOTE

Section 12 was substituted by the Parochial Collection of Refuse (Amendment) Ordinance, 2002, section 1, with effect from 31st May, 2002.

SCHEDULE 1
ENACTMENTS REPEALED

Section 7

1. The Law entitled "Loi relative au Rebut de Maisons dans certains districts de la Paroisse de Saint Samson" registered on the 27th February, 1909^c.
2. Article 1(p) of the Law entitled "Loi relative à la Taxation Paroissiale" registered on the 27th October, 1923^d.
3. The Refuse (Forest) (Guernsey) Law, 1957^e.
4. The Parochial Collection of Refuse (Guernsey) Law, 1958^f.
5. The Parochial Collection of Refuse (Application to the Parish of Torteval) Ordinance, 1959^g.
6. The Parochial Collection of Refuse (Application to the Parish of Saint Saviour) Ordinance, 1959^h.
7. The Parochial Collection of Refuse (Application to the Parish of Saint Peter-in-the-Wood) Ordinance, 1959ⁱ.
8. The Parochial Collection of Refuse (Saint Martin) Ordinance, 1993^j.
9. The Parochial Collection of Refuse (Guernsey) (Amendment) Law, 1993^k.

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- ^c Ordres en Conseil Vol. IV, p. 244.
^d Ordres en Conseil Vol. VII, p. 146.
^e Ordres en Conseil Vol. XVII, p. 227.
^f Ordres en Conseil Vol. XVII, p. 486.
^g Recueil d'Ordonnances Tome XII, p. 198.
^h Recueil d'Ordonnances Tome XII, p. 201.
ⁱ Recueil d'Ordonnances Tome XII, p. 376.
^j Recueil d'Ordonnances Tome XXVI, p. 281.

10. The Parochial Collection of Refuse (Saint Martin) Ordinance, 1995^l.
11. The Parochial Collection of Refuse (Saint Andrew) Ordinance, 1998^m.

^k Order in Council No. VII of 1993.
^l Recueil d'Ordonnances Tome XXVI, p. 369.
^m Ordinance No. IX of 1998.

SCHEDULE 2
AMENDMENTS

Section 8

1. ...
2. ...
3. In section 5(1) of the Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997^r, for the definition of the expression "the Refuse Laws" substitute the following –

"**the Refuse Laws**" means the Parochial Collection of Refuse (Guernsey) Law, 2001 and any Ordinance made thereunder;".

4. In Article II of the Law entitled "Loi relative à la Taxation Paroissiale" registered on the 27th October, 1923^s after the words "la valeur contribuable", where first appearing, insert "(énoncée le trente et un décembre en l'année précédente celle dans laquelle la taxe est levée)".

NOTES

In Schedule 2,

paragraph 1 was repealed by the Tax on Rateable Values (Amendment) (Guernsey) Ordinance, 2006, section 2, with effect from 13th December, 2006;

paragraph 2 was repealed by the Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008, section 13, with effect from 1st June, 2008, save that the 2008 Ordinance shall have effect only for the purposes of the refuse rate levied in the Parishes' respective financial years beginning in 2009 and thereafter.

^r Order in Council No. XII of 1997.

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