

ORDER IN COUNCIL

X
1947

ratifying a Projet de Loi

ENTITLED

The Cadastre Law, 1947

(Registered on the Records of the Island of Guernsey
on the 8th day of July, 1947.)



ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 8th day of July, 1947 before ernest de Garis, Esquire, O.B.E., Lieutenant Bailiff; present:— Osmond Priaulx Gallienne, James Frederick Carey, Arthur Falla, Quartier Le Pelley, Walter John Sarre, Esquires, Richard Henry Johns, Esquire, O.B.E., William Robert Freake Clark and Walter John Gavey, Esquires, Jurats.

The Lieutenant Bailiff having this day placed before the Court an Order of His Majesty in Council dated June 11th, 1947, ratifying a *Projet de Loi* entitled "Cadastre Law, 1947", THE COURT, after the reading of the said Order in Council and after having heard His Majesty's Comptroller, ordered that the said Order in Council be registered on the Records of this Island.

AT THE COURT AT BUCKINGHAM PALACE,

The 11th day of June, 1947.

PRESENT,
THE KING'S MOST EXCELLENT MAJESTY.LORD PRESIDENT.
LORD AMMON.
LORD MACDERMOTT.
MR. ISAACS.
MR. GRIFFITHS.Cadastre
Law, 1947.

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 23rd day of May, 1947, in the words following, viz :—

“ YOUR MAJESTY having been pleased, by Your General Order of Reference of the 18th day of December, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth :—

‘ 1.—That on the 14th day of April, 1947, the Royal Court adopted a Bill or “Projet de Loi” entitled “ Cadastre Law, 1947 ” and requested the Bailiff to submit the same to the States of Deliberation for approval. 2.—That on the 23rd day of April, 1947, the said Bill or “ Projet de Loi ” was duly considered by the States, when a resolution was passed approving the same with certain amendments and authorising the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 3.—That the said Bill or “ Projet de Loi ” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “ Projet de Loi ” of the States of Guernsey entitled “ Cadastre Law,

ORDERS IN COUNCIL

1947," and to order and direct that the same shall have force of Law in the Island of Guernsey.'

" THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HIS MAJESTY having taken the said report into consideration is pleased, by and with the advice of His Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HIS MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor or Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER.

“PROJET DE LOI” referred to in the foregoing
Order in Council.

PROJET DE LOI
ENTITLED
“CADASTRE LAW, 1947.”

THE STATES have approved the following provisions, which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in this Island :—

PART I—GENERAL PROVISIONS.

Article.

1. Interpretation.
2. Preparation of New Cadastre.
3. Composition of the States Cadastre Committee.
4. Particulars to appear in Cadastre.

PART II—COMPILATION OF INFORMATION
FOR PREPARATION OR RECTIFICATION
OF CADASTRE.

5. Power to enter upon property for survey and valuation.
6. Declarations by owners and others.
7. Rectification of Cadastre.
8. Notification of changes in and additions to property and of changes in use of property.
9. Notification of changes of ownership.
10. Penalties.
11. Cost of Cadastre.

PART III—DETERMINATION OF VALUES.

12. Rules for Determination of Values to be enacted by Ordinance.

PART IV—EXHIBITION AND APPEALS.

- 13. Exhibition of Cadastre.
- 14. Appeals.
- 15. Limitation of Rectifications.

PART V—MISCELLANEOUS.

- 16. Commencement.
- 17. Amendment of Parochial Taxation Law of 1923.
- 18. Repeals.
- 19. Power to Royal Court to pass Ordinances.
- 20. Apportionment of Fines.
- 21. Short Title.

SCHEDULE.

PART I—GENERAL PROVISIONS.

ARTICLE I—INTERPRETATION.

In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, namely :—

“ Law of 1919 ” means the “ Loi relative au Cadastre Général de l’Ile ” approved by Order in Council of the 29th October, 1919, and registered on the records of the Island on the 15th November, 1919.

“ Property ” and “ real property ” shall have the same meaning, that is to say :—

Lands, houses and other buildings and erections and such other physical things as, by their nature or by reason of the purpose for which they are used or intended to be used, or otherwise, are by the laws and customs of this Island deemed to be real property and shall include all houses, buildings, erections and other physical things which, but for the severance of

the ownership thereof from the ownership of the site whereon or wherein the same are, would be, or be deemed to be, real property.

Provided that nothing contained in this definition shall authorise the entering in the Cadastre of the name of any person as the owner, usufructuary, or occupier of any property of which that person is not the owner or usufructuary or the occupier or person entitled to occupy same, as the case may be.

Words in the singular shall include the plural and words in the plural shall include the singular.

ARTICLE 2—PREPARATION OF NEW CADASTRE.

(1) As soon as may be after the commencement of this Law, the States Cadastre Committee (hereinafter called " the Committee ") shall prepare a Cadastre (hereinafter called " the 1947 Cadastre " which expression shall where necessary be deemed to include any rectifications duly made therein) of all property save that used exclusively for public worship, in accordance with the provisions of this Law.

(2) Until such date as the Cadastre prepared under the provisions of this Law is declared by Ordinance of the Royal Court to be thenceforth in force, the Cadastre in force shall be that prepared and from time to time rectified in accordance with the provisions of the Law of 1919.

ARTICLE 3—COMPOSITION OF THE STATES CADASTRE COMMITTEE.

(1) The States Cadastre Committee shall consist of 7 voting members, all of whom shall be members of the States and be elected by the States, and shall be composed as under—

(a) A President, who shall hold office for three years ;

- (b) One member resident in the Parish of Saint Peter Port ;
 - (c) One member resident in one of the Parishes of Saint Sampson, the Vale or the Castel ;
 - (d) One member resident in one of the Parishes of Saint Saviour, Saint Peter-in-the-Wood or Torteval ;
 - (e) One member resident in one of the Parishes of Saint Martin, the Forest or Saint Andrew ;
 - (f) Two People's Deputies
- and of the States Supervisor who shall be a permanent member *ex-officio* but who shall have no vote.
- (2) (a) Two voting members of the Committee other than the President shall retire on the 31st day of December in each year but shall be eligible for re-election by the States ;
 - (b) Failing agreement by the Committee as to the order of retirement of members, such order shall be determined by ballot of the full Committee ;
 - (c) Where a member ceases otherwise than by effluxion of time to hold office the States shall elect a new member for the unexpired portion of the term of office of the member to be replaced.
 - (d) Notwithstanding the repeal of the Cadastre Law, 1938, until the election of the Committee as herein provided, the Committee elected by virtue of the provisions of the Cadastre Law, 1938, shall exercise all the rights and powers and perform all the duties given or imposed by law to or upon the Committee which is to be elected as herein provided.
- (3) Any 4 voting members of the Committee shall form a quorum.

ARTICLE 4—PARTICULARS TO APPEAR IN CADASTRE.

(I) The Cadastre shall state :—

- (i) the designation or description of each property ;
- (ii) the name and address of the owner, usufructuary and occupier thereof ;
- (iii) the area of land uncovered by buildings included in each property, and the purpose or purposes for which it is used ;
- (iv) the annual rental value and the rateable value of land uncovered by buildings in each property ;
- (v) the number of buildings and the respective areas of the land beneath them, included in each property, the designation or description of each, and the purpose for which it is used ;
- (vi) the annual rental value and the rateable value of each building, including the land under it, included in each property ;

and may contain such other relevant particulars as to the Committee may seem expedient.

(2) Unless the contrary is apparent the area of any property shall be taken to be that which is shewn in respect thereof on the Ordnance Survey Map of the Island.

PART II—COMPILATION OF INFORMATION FOR PREPARATION OR RECTIFICATION OF CADASTRE.

ARTICLE 5—POWER TO ENTER UPON PROPERTY FOR SURVEY AND VALUATION.

- (a) Any member or members of the Committee ;
and

(b) any States officer, surveyor, workman, and any other person duly authorised in writing under the hand of the States Supervisor ;
 may from time to time at all reasonable times in the day enter upon and into any property for the purpose of surveying and valuing the said property for the purposes of the preparation of the Cadastre in pursuance of this Law without being deemed trespassers and without being subject or liable to any fine, penalty or punishment on account of entering or continuing upon any part of the said property.

ARTICLE 6—DECLARATIONS BY OWNERS AND OTHERS.

Every owner of a property, the curator bonis, guardian, attorney or agent of any owner of a property, and every usufructuary or saisi of a property shall within fourteen days after being required so to do by or on behalf of the Committee send to the Committee a declaration in writing signed by him and stating :—

- (i) the designation or description of that property ;
- (ii) the name and address of the owner of that property ;
- (iii) the name and address of the occupier thereof ;
- (iv) the area of the land comprised therein and the purpose or purposes for which the same is used ;
- (v) the number of buildings forming part of that property and the designation or description and dimensions of each such building and the purpose for which the same is used ;
- (vi) the designation or description of any other physical things situate on or in that property which, either by their nature or by

reason of the purpose for which they are used or intended to be used, or otherwise, are by the laws and customs of this Island, including this Law, deemed to be real property ;

- (vii) any other information which the Committee may deem necessary and demand for the compilation or rectification of the Cadastre.

ARTICLE 7—RECTIFICATION OF CADASTRE.

The new Cadastre shall be rectified as regards any property in particular from time to time as the Committee may deem necessary ; and the Committee shall determine anew the values of any classes, groups or categories of properties as the States may from time to time by resolution direct, and shall rectify the Cadastre accordingly.

PROVIDED that without prejudice to the validity of any rectification, notice of any such rectification shall be sent to the owner, the usufructuary (if any) and the occupier (if any) of the property concerned by means of a letter delivered or sent by post to such owner, usufructuary and occupier as the case may be at his address as recorded in the Cadastre, or by such other means as the Royal Court shall direct.

ARTICLE 8—NOTIFICATION OF CHANGES IN AND ADDITIONS TO PROPERTY AND OF CHANGES IN USE OF PROPERTY.

Every owner of a property, the curator bonis, guardian, attorney or agent of any owner of a property, and every usufructuary or saisi of a property shall, not later than the thirty first day of December in every year, send to the Committee particulars in writing of all changes in and additions to the property and in the purposes for which the property is used made during the calender year ending on that day.

ARTICLE 9—NOTIFICATION OF CHANGES OF OWNERSHIP.

(1) When the ownership or usufruct of a property is transferred between living parties, the transferee or his agent shall within fifteen days from the registration of the conveyance or other instrument effecting the transfer furnish to the Committee information in writing as follows :—

- (i) the name and address of the transferee ;
- (ii) the designation, description and area of the property transferred.

(2) When property passes on the death of the owner, then, save as is otherwise provided in paragraphs (3) and (4) of this Article, every person who thereby becomes an owner or usufructuary of the whole or any part thereof shall, in writing, within one month of the former owner's death, notify the Committee of his name and address and furnish the Committee with the designation, description and area of the property to the ownership or usufruct of which he has become entitled.

(3) In the case of a partage the person to whom the first lot has fallen shall within fifteen days after the registration of the partage furnish to the Committee information in writing as follows :—

- (i) the names and addresses of each co-partageant ;
- (ii) the designation, description and area of the property vesting in such co-partageant (including the préciput).

(4) The person at whose instance the registration of the Will of Guernsey realty of a deceased person has been effected shall within fifteen days after the registration of the Will furnish to the Committee a summary of the Will containing the information, in writing, as regards each devisee having an interest

under such Will, which a transferee is required to furnish under paragraph (1) of this Article.

(5) In the case of a saisie the person to whom ownership of the saisie property or part thereof has been adjudged (saisi propriétaire) shall within fifteen days after the date of the Act of Court adjudging to him that ownership furnish to the Committee the information in writing which a transferee is required to furnish under paragraph (1) of this Article.

ARTICLE 10—PENALTIES.

Any person failing to furnish to the Committee within the time hereinbefore specified the information which he is required under this Part of this Law to furnish shall be liable on conviction to a fine at the discretion of the Court not exceeding Ten Pounds Sterling.

Any person found guilty of wilfully giving to the Committee or its servants or agents false information on any matter pertinent to the carrying out of the provisions of this Law shall be liable on conviction to imprisonment with or without hard labour for a term not exceeding three months, or to a fine not exceeding one hundred pounds sterling, or to both such fine and imprisonment,

ARTICLE 11—COST OF CADASTRE.

The cost of the preparation of the 1947 Cadastre shall be met out of States funds ; the cost of any rectification thereof under the provision of this Law shall be met as to one half* out of States funds and as to the remainder out of parochial funds to be provided by the several parishes in proportion to their respective rateable values.

* "three quarters" substituted for "one half" by the Cadastre (Amendment) Law, 1948.

PART III—DETERMINATION OF VALUES.

ARTICLE 12—RULES FOR DETERMINATION OF VALUES TO BE ENACTED BY ORDINANCE.

The annual rental value and the rateable value both in sterling of every property for the purposes of the 1947 Cadastre shall be determined under the direction of the Committee in accordance with Rules approved by the States and enacted by Ordinance of the Royal Court and such values so determined shall be entered in the 1947 Cadastre.

PART IV—EXHIBITION AND APPEALS.

ARTICLE 13—EXHIBITION OF CADASTRE.

(1) Whenever the compilation of such part of the 1947 Cadastre as relates to the whole of any Parish is completed, notwithstanding that the 1947 Cadastre shall not then have been declared by the Royal Court to be in force, the Committee shall subject to the provisions of section (2) hereof cause the same to be exhibited in such Parish on the twelve consecutive working days next following the date of the notification made in accordance with the provisions of the said Section (2), and such exhibition shall take place in the Douzaine rooms of the Parish concerned between the hours of nine o'clock in the forenoon and half past twelve o'clock in the afternoon, and two o'clock in the afternoon and eight o'clock in the evening of each day. As and from the date when the 1947 Cadastre shall be declared by the Royal Court to be in force the same shall, together with any rectification from time to time duly made therein, be exhibited at the States Office at such hours, on such six consecutive working days in each calendar year as shall be appointed by the Committee :

PROVIDED that if the said date shall fall on or after the first day of December in any year the Committee shall not in that year be bound to cause such exhibition to be made.

(2) The States Supervisor shall in respect of any such exhibition of the 1947 Cadastre or any part thereof as aforesaid in any calendar year give previous notice on at least two occasions in La Gazette Officielle of the exhibition of the Cadastre and of the dates and hours during which, in that calendar year, such exhibition will take place.

(3) During the period of any exhibition of the 1947 Cadastre or of any part thereof and during the five days next following the last date of any exhibition thereof or of any part thereof, the proprietor, usufructuary or occupier of any property of which particulars appear in the 1947 Cadastre may notify the Committee of any incorrectness or unfairness in the 1947 Cadastre concerning that property whereby he is prejudiced.

Within a period of fourteen days next following the date of the sending by the Committee of such a notice as is required by the proviso to Article 7 hereof, the proprietor, usufructuary or occupier of any property which is the subject of such notice may similarly notify the Committee.

No notification given under the provisions of this section shall be deemed a valid notification unless it is in writing in accordance with a form to be provided by the Committee.

(4) Upon the receipt of any such notification as is referred to in paragraph (3) of this Article, the Committee shall consider whether or not there are grounds for the rectification of the alleged incorrectness or unfairness referred to in such notification and upon the Committee being satisfied that such grounds exist the 1947 Cadastre shall be rectified

accordingly. The decision of the Committee in regard to the subject matter of any such notification shall be forthwith communicated in writing to the owner, the usufructuary and the occupier of the property concerned.

(5) Any person who shall fail within the period prescribed in paragraph (3) of this Article to give the notification referred to in that paragraph shall, until the next exhibition of the 1947 Cadastre, be dis-entitled to require the rectification of any incorrectness or unfairness alleged by that person to exist therein.

ARTICLE 14—APPEALS.

Any person who is aggrieved by the decision of the Committee in relation to a notification sent by that person under the provisions of paragraph (3) of Article 13 of this Law may notwithstanding that the 1947 Cadastre shall not have been declared by the Royal Court to be in force by way of appeal therefrom, take proceedings against the President of the Committee in the Royal Court sitting as an Ordinary Court with a view to the rectification of the 1947 Cadastre in accordance with the contention of that person and the Court after hearing the appellant and any evidence properly adduced by or on behalf of the Committee may vary or confirm the entry in the 1947 Cadastre to which the contention relates or may remit the same to the Committee for reconsideration as it thinks fit. Any such proceedings by way of appeal shall be commenced within the ten days next following the receipt by the appellant of the decision of the Committee appealed from. The decision of the Ordinary Court in the matter shall be final and conclusive.

ARTICLE 15—LIMITATION OF RECTIFICATION

Notwithstanding any provision in this Law contained, during a period of five years from the date of

any final decision of the Committee or of the Royal Court concerning the rectification of any entry in the 1947 Cadastre, neither the Committee nor the Royal Court shall entertain any notification or appeal in respect of the rectification of such entry by any person to whom such decision relates unless the Committee or the Royal Court is satisfied :—

- (i) that such entry does not accord with such decision ; or
- (ii) that the property concerned has been substantially altered either in structure or in use, since the date of such decision; or
- (iii) that evidence relevant to the question to which such decision relates is available, but was not reasonably available at the time of the making of such decision.

PART V.—MISCELLANEOUS.

ARTICLE 16—COMMENCEMENT.

The provisions of this Law shall come into operation on the date of the registration of this Law upon the Records of this Island.

ARTICLE 17—AMENDMENT OF PAROCHIAL TAXATION LAW OF 1923.

In paragraph (h) of Article III of the “ Loi supplémentaire à la Loi relative à la Taxation Paroissiale (1923) ” sanctioned by Order in Council of the 24th July, 1925, and registered on the Records of this Island on the 13th August, 1925, for the words “ sous le contrôle du Conseil Administratif des Etats ” there shall be substituted the words “ qui sont occupés par les Etats ”.

ARTICLE 18—REPEALS.

(1) The Laws referred to in the first column of the Schedule to this Law shall be repealed to the extent stated in the second column and at the times stated in the third column of that Schedule.

Provided that such repeal shall not affect :—

- (a) any such claim for the rectification of the Cadastre prepared under the Law of 1919 as is undetermined at the time of such repeal :
- (b) any liability to States or Parochial Taxation which relates to the Cadastre in being under the Law of 1919 as is unsatisfied at the time of such repeal :
- (c) any penalty incurred in respect of a breach of any of the provisions of the Law of 1919 :
- (d) any legal proceedings in respect of any such claim, liability or penalty :

and any such legal proceedings may be instituted, continued or enforced and any such penalty may be imposed as if the Law of 1919 had not been repealed.

ARTICLE 19—POWER TO ROYAL COURT TO PASS ORDINANCES.

The Royal Court is authorised to pass such Ordinances as it may deem necessary for giving effect to this Law.

ARTICLE 20—APPORTIONMENT OF FINES.

All fines recovered in virtue of this Law shall be allocated as to one half to the Crown and as to the remainder to the States.

ARTICLE 21—SHORT TITLE.

This Law may be cited as the Cadastre Law, 1947.

PETER J. MAUGER,
Her Majesty's Greffier.

THE SCHEDULE.

REPEALS.

LAW.	EXTENT OF REPEAL.	TIME OF REPEAL.
Loi relative au Cadastre Général de l'Ile, registered on the Records of this Island on the 15th November, 1919.	Articles 1, 2, 3, 7, 8, 19 and 21. Articles 4, 5, 6, 9, 10, 11, 12, 15, 16, 17, 18 and 20.	On the date of the registration on the records of this Island of the Cadastre Law, 1947. On such date as shall be appointed by Ordinance of the Royal Court.
Loi pour l'entretien des Rues de la Paroisse de St. Pierre Port et la reconstitution du Comité des Voies Publiques de l'Ile, registered on the Records of this Island on the 13th December, 1919.	Article 4 (which relates to the payment of road tax on a frontage basis in certain cases).	On such date as shall be appointed by Ordinance of the Royal Court.
Loi relative au Cadastre Général de l'Ile (1938).	The whole Law.	On the date of the registration on the Records of this Island of the Cadastre Law, 1947.