

PROJET DE LOI

ENTITLED

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

[CONSOLIDATED TEXT]

NOTE

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No. X of 2006.

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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 by Ordinance of the States.

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

(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 disapplied 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.

NOTE

The following Ordinances have been made under section 1:

Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007;
Parochial Taxation (Amendment) Ordinance, 2008;
Taxation of Real Property (Guernsey and Alderney) (Amendment) Ordinance, 2011;
Taxation of Real Property (Guernsey and Alderney) (Amendment)

Ordinance, 2017;

Taxation of Real Property (Guernsey and Alderney) (Amendment)

Ordinance, 2018;

Taxation of Real Property (Guernsey and Alderney) (Amendment)

Ordinance, 2019;

Taxation of Real Property (Guernsey and Alderney) (Amendment)

Ordinance, 2020;

Taxation of Real Property (Guernsey and Alderney) (Amendment)

Ordinance, 2021.

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.

NOTE

The following Ordinances have been made under section 2:

Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007;
Parochial Taxation (Amendment) Ordinance, 2008;
Taxation of Real Property (Guernsey and Alderney) (Amendment) Ordinance, 2011;
Taxation of Real Property (Guernsey and Alderney) (Amendment) Ordinance, 2017;
Taxation of Real Property (Guernsey and Alderney) (Amendment) Ordinance, 2018;
Taxation of Real Property (Guernsey and Alderney) (Amendment) Ordinance, 2019;
Taxation of Real Property (Guernsey and Alderney) (Amendment) Ordinance, 2020;
Taxation of Real Property (Guernsey and Alderney) (Amendment) Ordinance, 2021.

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,
- (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,

^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.

^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.

- (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.

NOTES

The following Ordinances have been made under section 4:

Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007;
Parochial Taxation (Amendment) Ordinance, 2008.

The Tax on Rateable Values (Guernsey) Law, 1976 has since been repealed by the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007, section 47, Schedule 2, with effect from 1st January, 2008.

The Parochial Collection of Refuse (Guernsey) Law, 2001 has since been repealed by the Parochial Collection of Waste (Guernsey) Law, 2015, section 22(1), with effect from 1st January, 2019, subject to the transitional provisions in, first, section 24 of the Law and, second, article 2 of the Parochial Collection of Waste (Guernsey) Law, 2015 (Commencement and Transitional Provisions) Order, 2018.

Interpretation.

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

"**Cadastre**" means the 1947 Cadastre prepared under the Cadastre Law, 1947^{**h**},

"**department**" means any department, council or committee of the

^{**h**} Ordres en Conseil Vol. XIII, p. 78.

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

NOTE

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

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Citation.

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

NOTE

The Law received Royal Sanction on 7th July, 2006 and was registered on the Records of the Island of Guernsey and came into force on 13th November, 2006.
