

ORDER IN COUNCIL

XII
1997

ratifying a Projet de Loi

ENTITLED

The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997

(Registered on the Records of the Island of Guernsey
on the 13th May, 1997.)



1997

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 13th day of May, 1997 before Sir Graham Dorey, Bailiff; present:—
Stanley Walter John Jehan, Leonard Arthur Moss, Charles Anthony
Spensley, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille,
Derek Martin Le Page, Stephen Edward Francis Le Poidevin and Alan
Cecil Bisson, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 8th day of April, 1997, approving and ratifying a *Projet de Loi* entitled "The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997" THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ORDERED that the said Order in Council be registered on the records of this Island.

At the Court at Windsor Castle

The 8th day of April, 1997

PRESENT.

The Queen's Most Excellent Majesty in Council

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 27th day of March 1997 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

“1. That, in pursuance of their Resolution of the 1st day of August 1996, the States of Deliberation at a meeting held on the 27th day of November 1996 approved a Bill or “Projet de Loi” entitled “The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is as 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 “The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997” and to order 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.”

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

AND HER 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 and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her 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.

N. H. Nicholls

The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997

THE STATES, in pursuance of their Resolution of 1st August, 1996^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.

Establishment and limits of reserve funds

1. (1) The purposes for which taxes may be raised under the Parochial Taxation Laws include the establishment and maintenance by the Constables of each Parish of a reserve fund.

(2) Only one reserve fund may be maintained for each Parish at any time.

(3) The maximum sum which may at any time be held in the reserve fund for any Parish is £50,000 or such other sum as the States may from time to time specify by Ordinance :

PROVIDED THAT any interest arising out of the investment of the fund may be retained in the fund notwithstanding that its total value is thereby increased to an amount in excess of that sum.

(4) The maximum sum which may be raised by taxes under the Parochial Taxation Laws in any calendar year towards the establishment or maintenance of the reserve fund for any Parish is, subject to subsection (3), a

^a Article 10 of Billet d'État No. XVII of 1996.

sum equivalent to 20% of the mean average of the total sums raised in that Parish during each of the three previous calendar years under -

- (a) the Parochial Taxation Laws, and
- (b) the Refuse Laws.

Permitted use of reserve funds

2. A reserve fund may only be employed in or towards:

- (a) extraordinary repairs to the Parish Church, Rectory or Cemeteries;
- (b) the purchase of land for, and establishment of, Parish Cemeteries;
- (c) extraordinary repairs to Parish property not included in (a) or (b) above;
- (d) the purchase or construction of additional Parish property not included within (a) or (b) above.

Approval for expenditure from reserve funds

3. (1) The reserve fund of a Parish may not be drawn upon for any of the purposes set out in section 2 unless a specific proposition stating the amount and purpose has been –

- (a) included in the publications required by law for convening a meeting of the ratepayers of the Parish, and

(b) approved by that meeting.

(2) For the avoidance of doubt the meeting referred to in subsection (1) may be either -

(a) a meeting convened to obtain the approval of ratepayers for the raising of tax under the Parochial Taxation Laws; or

(b) any other meeting of ratepayers convened in accordance with the Loi relative aux Assemblées Paroissiales, of 1902^b.

(3) The approval of the ratepayers of the Parish for the reserve funds to be drawn upon must be included in an application to the Royal Court for confirmation of a tax, or as if for confirmation of a tax, under the Parochial Taxation Laws.

Consequential amendments

4. (1) In the Law of 1923:

(a) for paragraph (n) of Article I there is substituted:

"(n)(i) Les réparations extraordinaires aux propriétés Paroissiales sauf l'Église, le Presbytère et les Cimetières;

^b Ordres en Conseil Vol. III, p. 274.

- (ii) Toute autre administration Paroissiale et frais encourus par les Connétables dans l'exercice de leurs fonctions, y compris les loyers et les frais de Commis;"
- (b) for paragraph (v) of Article I there is substituted:
 - "(v)(i) L'achat ou construction des propriétés Paroissiales sauf l'Eglise, le Presbytère et les Cimetières;
 - (ii) toutes autres améliorations publiques;"
- (c) immediately after paragraph (y) of Article I there is inserted:
 - "(z) Les contributions aux fonds dit "reserve fund" faites en conformité avec la Loi intitulée "The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997";
- (d) immediately after the words in Article V^c there is inserted ", et les détails de chaque usage du fonds dit "reserve fund" autorisé par une assemblée des contribuables depuis la plus récente telle demande antérieure faite par la Paroisse";
- (e) immediately after the words in Article VI there is inserted ", y compris à la légalité d'un usage proposé du fonds dit "reserve fund".

^c Article V was substituted by the Loi supplémentaire à la Loi relative à la Taxation Paroissiale, registered on 13th August 1925 (Ordres en Conseil Vol. VII, p.392).

(2) In the Ordinance of 19th January 1801 requiring registers and books of account to be maintained by parochial officers^d, immediately after the words "durant leur gestion" there is inserted ", et sur lequel ils garderont un compte distinct du fonds dit "reserve fund", s'il y en a, maintenu en conformité avec la Loi intitulée "The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997" .

Interpretation and construction

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

“the Law of 1923” means the Loi relative à la Taxation Paroissiale of 1923^e as amended^f;

“the Parochial Taxation Laws” means

- (a) the Law of 1923,
- (b) the Parochial Taxation and Voting Law, 1963^g,
- (c) the Ordonnance relative aux Taxes Paroissiales, made permanent on 31st January, 1931^h as amendedⁱ,

^d Recueil d'Ordonnances Tome II, p. 6.

^e Ordres en Conseil Vol. VII, p.146

^f Ordres en Conseil Vol. VII, pp. 146 and 392; Vol. XIII, pp. 78 and 351; Vol. XIX, p. 152; Order in Council No. XV of 1993.

^g Ordres en Conseil Vol. XIX, p. 152.

^h Recueil d'Ordonnances Tome V, p. 387.

ⁱ Recueil d'Ordonnances Tome XXIII, p. 254; Ordinance No. XIII of 1996.

(d) the Ordonnance relative à la Procédure à suivre pour la levée d'une Taxe Paroissiale, made permanent on 18th January, 1932^j,

(e) this Law;

“ratepayers” has the same meaning as “contribuables” in Article VII of the Law of 1923;

“the Refuse Laws” means the Parochial Collection of Refuse (Guernsey) Law, 1958^k and the Loi relative au rebut de maisons dans certains districts de la Paroisse de Saint Samson, of 1909^l;

“reserve fund” means a fund established and maintained by the Constables of a Parish in accordance with this Law.

(2) In the case of a plurality, as defined in the Rectories (Maintenance and Use in Cases of Plurality) Law, 1993^m references in this Law to the Parish Rectory or Presbytère are to each rectory in the plurality.

(3) This Law is to be construed as one with the Parochial Taxation Laws.

Citation

^j Recueil d'Ordonnances, Tome VI p.75.

^k Ordres en Conseil Vol. XVII, p. 488; Order in Council No. VII of 1993.

^l Ordres en Conseil Vol. IV, p. 244.

^m Ordres en Conseil No. XV of 1993.

6. This Law may be cited as the Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997.

Commencement

7. This Law shall come into force on the first day of the month following that in which it is registered on the records of the Island of Guernsey.