

ORDER IN COUNCIL

**IX
2002**

ratifying a Projet de Loi

ENTITLED

The Parochial Collection of Refuse (Guernsey) Law, 2001

(Registered on the Records of the Island of Guernsey
on the 29th April, 2002.)



2002

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 29th day of April, 2002 before Andrew Christopher King Day, Esquire, Deputy Bailiff; present:— David Charles Lowe, Esquire, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael Henry De La Mare, and Michael John Tanguy, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 26th day of March, 2002, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Parochial Collection of Refuse (Guernsey) Law, 2001”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED that the said Order in Council be registered on the records of this Island.

At the Court at Buckingham Palace

The 26th day of March, 2002

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 12th day of March 2002 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 11th day of May, 2001, the States of Deliberation at a meeting held on the 12th day of December, 2001, approved a Bill or “Projet de Loi” entitled “The Parochial Collection of Refuse (Guernsey) Law, 2001”, 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 Collection of Refuse (Guernsey) Law, 2001”, 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.

A. K. Galloway

PROJET DE LOI

ENTITLED

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 and disposal of refuse from dwelling houses and tenement houses in the parish.

(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.

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

(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.

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 occupier;
- (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 occupier;
- (b) in the case of a tenement house, the owner;

and, where more than one person is the occupier or, as the case may be, the owner, their liability shall be joint and several.

(4) The refuse rate -

(a) shall be assessed by the Douzaine on the rateable 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 rateable 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 tenement house on the owner thereof shall be recoverable by him as a civil debt from the occupiers thereof in equal shares.

(6) An occupier or 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 occupy or (as the case may be) own those premises shall be entitled to recover from the subsequent occupier or (as the case may be) 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.

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 rateable 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 occupier of a dwelling house or the owner of a tenement house in the parish may oppose an application for an order under subsection (1).

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 -

"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

^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.

(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;

"occupier" means, in relation to an unoccupied dwelling house, the owner;

"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 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;

"rateable value" means the rateable value inscribed in the Cadastre prepared and maintained under the Cadastre Law, 1947^c, being the rateable value so inscribed on the 31st December in the calendar year preceding that in which the refuse rate becomes due;

"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 categories A to H (as the case may be) for the determination of annual rental values in accordance with the Ordinance

^c Ordres en Conseil Vol. XIII, p. 78; there are amendments not material to this Law.

of 1948 enacting the Cadastre Law, 1947 Rules^d.

(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.

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.

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.

^d Recueil d'Ordonnances Tome IX, p. 205; there are amendments not material to 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 of the commencement of that parish's financial year next occurring after the date of registration of this Law on the Island's records; provided that a Douzaine may, before that date, make any necessary application to the Royal Court for an order under section 3(1).

SCHEDULE 1

Section 7

ENACTMENTS REPEALED

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^e.
2. Article 1(p) of the Law entitled "Loi relative à la Taxation Paroissiale" registered on the 27th October, 1923^f.
3. The Refuse (Forest) (Guernsey) Law, 1957^g.
4. The Parochial Collection of Refuse (Guernsey) Law, 1958^h.
5. The Parochial Collection of Refuse (Application to the Parish of Torteval) Ordinance, 1959ⁱ.
6. The Parochial Collection of Refuse (Application to the Parish of Saint Saviour) Ordinance, 1959^j.
7. The Parochial Collection of Refuse (Application to the Parish of Saint Peter-

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

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

^g Ordres en Conseil Vol. XVII, p. 227.

^h Ordres en Conseil Vol. XVII, p. 486.

ⁱ Recueil d'Ordonnances Tome XII, p. 198.

^j Recueil d'Ordonnances Tome XII, p. 201.

in-the-Wood) Ordinance, 1959^k.

8. The Parochial Collection of Refuse (Saint Martin) Ordinance, 1993^l.
9. The Parochial Collection of Refuse (Guernsey) (Amendment) Law, 1993^m.
10. The Parochial Collection of Refuse (Saint Martin) Ordinance, 1995ⁿ.
11. The Parochial Collection of Refuse (Saint Andrew) Ordinance, 1998^o.

^k Recueil d'Ordonnances Tome XII, p. 376.

^l Recueil d'Ordonnances Tome XXVI, p. 281.

^m Order in Council No. VII of 1993.

ⁿ Recueil d'Ordonnances Tome XXVI, p. 369.

^o Ordinance No. IX of 1998.

SCHEDULE 2

Section 8

AMENDMENTS

1. In Part I of the Schedule to the Tax on Rateable Values (Guernsey) Ordinance, 1976^P -
 - (a) in Category I for the words "Tourist premises" in column 1 substitute "Tourist premises, other than self-catering tourist accommodation";
 - (b) after Category N insert an additional category "P" and -
 - (i) in column 1 of that Category insert "Tourist premises comprising self-catering tourist accommodation"; and
 - (ii) in column 2 thereof insert "£2.48.";
 - (c) in Category Z for the words "Multiple use premises" in column 1 substitute "Real property not comprised in any other Category.".
2. In Part II of the Schedule to the Tax on Rateable Values (Guernsey) Ordinance, 1976^Q -
 - (a) in the definition of the expression "dwelling house" for the

^P Recueil d'Ordonnances Tome XX, p. 456; Part I of the Schedule was substituted by Ordinance No. XXIII of 2000.

^Q Recueil d'Ordonnances Tome XX, p. 456.

words "a flat" substitute "any self-catering tourist accommodation and any flat";

(b) the definition of the expression "multiple use premises" is repealed.

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 "(enoncée le trente et un décembre en l'année précédente celle dans laquelle la taxe est levée)".

^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.