

PROJET DE LOI

ENTITLED

The Cadastre Law, 1947 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XIII, p. 78; as amended by the Cadastre (Amendment) Law, 1948 (Ordres en Conseil Vol. XIII, p. 381); the Cadastre (Amendment) (Guernsey) Law, 1984 (Ordres en Conseil Vol. XXVIII, p. 395); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Cadastre (Amendment) (Guernsey) Law, 1990 (Ordres en Conseil Vol. XXXII, p. 161); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406). See also the Criminal Justice (Bailiwick of Guernsey) Law, 1979 (Ordres en Conseil Vol. XXVII, p. 172); the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005 (No. X of 2006); the 1947 Cadastre (Coming into force and consequential repeals) Ordinance, 1948 (Recueil d'Ordonnances Tome VII, p. 259).

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The Cadastre Law, 1947

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PROJET DE LOI

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The Cadastre Law, 1947 ¹

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

Interpretation.

1. 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'Île" 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.

NOTE

In accordance with the provisions of the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005, section 4(b), 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.

Preparation of new Cadastre.

2. (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.

NOTES

In accordance with the provisions of the 1947 Cadastre (Coming into force and consequential repeals) Ordinance, 1948, Article 1, the Cadastre prepared under this Law was brought into force on 29th September, 1948.

In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 7(b), Schedule 2, paragraph 3(b), with effect from 6th May, 2004, the Cadastre Committee has since been replaced by the Treasury and Resources Department; and the functions, rights and liabilities of the Cadastre Committee and of its President arising under or by virtue of this Law have been transferred to and vested in, respectively, the Treasury and Resources Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 7(b), Schedule 2, paragraph 3(b), with effect from that same date, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

[Constitution of Cadastre Committee.]

3. The constitution of the Committee shall be such as may be prescribed from time to time by Resolution of the States.]

NOTES

Article 3 was substituted by the Cadastre (Amendment) (Guernsey) Law, 1990, section 1, with effect from 1st October, 1990, subject to the savings and transitional provisions in section 3 of the 1990 Law.²

In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 7(b), Schedule 2, paragraph 3(b), with effect from 6th May, 2004, the Cadastre Committee has since been replaced by the Treasury and Resources Department; and the functions, rights and liabilities of the Cadastre Committee and of its President arising under or by virtue of this Law have been transferred to and vested in, respectively, the Treasury and Resources Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 7(b), Schedule 2, paragraph 3(b), with effect from that same date, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

Particulars to appear in Cadastre.

4. (1) 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.

[No duty to value real property from 1st January, 2008.]

4A. Notwithstanding the other provisions of this Law and any Ordinance or rule made under it, on and from the 1st January, 2008 –

- (a) there is no requirement –
 - (i) for the Cadastre to state the annual rental value or rateable value of any real property, or
 - (ii) for any annual rental value or rateable value already stated therein to be rectified, and
- (b) there is no duty on the Department to determine the annual rental value or rateable value of any real property for the purposes of the preparation or rectification of the Cadastre.]

NOTE

Article 4A was inserted by the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007, section 47, Schedule 2, with effect from 1st January, 2008.

PART II

**COMPILATION OF INFORMATION FOR PREPARATION OR RECTIFICATION
OF CADASTRE**

Power to enter upon property for survey and valuation.

[**5.** (1) Any member of the Committee authorised by the Committee and any other person authorised by the [Chief Executive of the States of Guernsey] in writing in that behalf may, at all reasonable times during the day and after not less

than twenty-four hours' notice in writing has been given to the occupier, enter on, survey and value any property for the purposes of the preparation or rectification of the Cadastre in accordance with the provisions of this Law.

(2) A person authorised as aforesaid by the [Chief Executive of the States of Guernsey] shall produce his authority to anyone reasonably demanding its production.

(3) Any notice required to be given for the purposes of this Article may be so given –

- (a) to any person, by delivering it to him, by leaving it, or by sending it by post addressed to him, at his usual or last known place of abode,
- (b) to any firm, by delivering it to any partner of the firm or by leaving it at, or sending it by post to, the principal or last known principal place of business of the firm,
- (c) to any body corporate, by leaving it at, or by sending it by post to its registered office, if situated in the Island of Guernsey, or, if its registered office is not so situated, its principal or last known principal place of business in the Island.

(4) If any person wilfully obstructs or unduly delays a person in the exercise of his powers under this Article, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].]

NOTES

Article 5 was substituted by the Cadastre (Amendment) Law, 1956, section 1, with effect from 9th April, 1956.

In Article 5,

the words in square brackets in section (1) and section (2) were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 3, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance;

the words and figure in square brackets in section (4) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Declarations by owners and others.

6. 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.

Rectification of Cadastre.

7. 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,

Notification of changes in and additions to property and of changes in use of property.

8. 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 calendar year ending on that day.

Notification of changes of ownership.

9. (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.

Penalties.

10. 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 [level 1 on the uniform scale].

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 [level 2 on the uniform scale], or to both such fine and imprisonment.

NOTES

In Article 10, the words and figures in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

In accordance with the provisions of the Criminal Justice (Bailiwick of Guernsey) Law, 1979, section 2(2), with effect from 21st January, 1980, and

subject to the provisions of section 2(3) of that Law, no person shall be sentenced by a Court to imprisonment with hard labour and accordingly the power conferred under this Article shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before that date.

Cost of Cadastre.

11. 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 [three-quarters] 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.

NOTE

In Article 11, the word in square brackets was substituted by the Cadastre (Amendment) Law, 1948, with effect from 30th October, 1948.

PART III

DETERMINATION OF VALUES

Rules for determination of values to be enacted by Ordinance.

12. 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.

NOTES

The following Ordinances have been made under Article 12:

*Ordinance (1948) enacting the Cadastre Law, 1947 Rules;
Ordinance (1948) amending the Cadastre Law, 1947 Rules;
Cadastre Law, 1947 Rules (Amendment) Ordinance, 1968.*

In accordance with the provisions of the Reform (Guernsey) Law, 1948, Article 63, with effect from 17th January, 1949, the powers and functions of a legislative nature previously exercised by the Royal Court were transferred to and vested in the States of Deliberation, and thenceforth any enactment conferring power on the Royal Court to exercise any such powers and functions by way of Ordinance shall be construed as having conferred the like power on the States of Deliberation or (pursuant to amendments to that Article made by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 8(b), Schedule 2, Part 6, paragraph 2, with effect from 1st May, 2016) on the States Policy & Resources Committee, as the case may be.

PART IV

EXHIBITION AND APPEALS

Exhibition of Cadastre.

13. (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 office of the Committee, or at such place as shall be appointed by the Committee,] 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 [Chief Executive of the States of Guernsey] 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 disentitled to require the rectification of any incorrectness or unfairness alleged by that person to exist therein.

NOTES

In Article 13,

the words in square brackets in section (1) were substituted by the Cadastre (Amendment) (Guernsey) Law, 1984, section 1, with effect from 13th March, 1984;

the words in square brackets in section (2) were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 3, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

Appeals.

14. 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.

Limitation of rectification.

15. 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

Commencement.

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

NOTE

The Law was registered on the Records of the Island of Guernsey and came

into force on 8th July, 1947.

Amendment of Parochial Taxation Law of 1923.

17. 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 États" there shall be substituted the words "qui sont occupés par les États".

NOTE

The Loi supplémentaire à la Loi relative à la Taxation Paroissiale (1923) has since been repealed by the Parochial Taxation and Voting Law, 1963, section 2, with effect from 1st December, 1963.

Repeals.

18. (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.

NOTE

The following Ordinance has been made under Article 18:

*1947 Cadastre (Coming into force and consequential repeals)
Ordinance, 1948.*

Power to Royal Court to pass Ordinances.

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

NOTE

In accordance with the provisions of the Reform (Guernsey) Law, 1948, Article 63, with effect from 17th January, 1949, the powers and functions of a legislative nature previously exercised by the Royal Court were transferred to and vested in the States of Deliberation, and thenceforth any enactment conferring power on the Royal Court to exercise any such powers and functions by way of Ordinance shall be construed as having conferred the like power on the States of Deliberation or on the States Policy & Resources Committee, as the case may be.

Apportionment of fines.

20. 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.

Short Title.

- 21.** This Law may be cited as the Cadastre Law, 1947.

THE SCHEDULE
REPEALS

LAW	EXTENT OF REPEAL	TIME OF REPEAL
Loi relative au Cadastre Général de l'Île, registered on the Records of this Island on the 15 th November, 1919.	Articles 1, 2, 3, 7, 8, 19 and 21.	On the date of the registration on the records of this Island of the Cadastre Law, 1947.
	Articles 4, 5, 6, 9, 10, 11, 12, 15, 16, 17, 18 and 20.	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'Île, registered on the Records of this Island on the 13 th 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'Île (1938).	The whole Law.	On the date of the registration on the Records of this Island of the Cadastre Law, 1947.

NOTES

The Law was registered on the Records of the Island of Guernsey and came into force on 8th July, 1947.

In accordance with the provisions of the 1947 Cadastre (Coming into force and consequential repeals) Ordinance, 1948, Article 2, Schedule, the Laws set out in the first column of the Schedule to that Ordinance (being the Loi relative au Cadastre Général de l'Île, 1919 and the Loi pour l'entretien des Rues de la Paroisse de St. Pierre Port et la reconstitution du Comité des Voies Publiques de l'Île, 1919) were repealed to the extent stated in the second column thereof (being, respectively, first, Articles 4, 5, 6, 9, 10, 11, 12, 15, 16, 17, 18 and 20 and, second, Article 4), with effect from 29th September, 1948.

¹ This Law was previously applied in part, with modifications, to Alderney by the Alderney Rateable Values Assessment Ordinance, 1949.

² Prior to its substitution, Article 3 was substituted by the States Committees (Amendment) Law, 1966, section 1, with effect from 27th April, 1966.