

PROJET DE LOI

ENTITLED

The Clearance of Ruins (Guernsey) Law, 1957 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XVII, p. 167; as amended by the Decimal Currency (Bailiwick of Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 560); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the States Supervisor (Transfer of Functions) (No. 1) Ordinance, 1972 (Recueil d'Ordonnances Tome XVIII, p. 20); the Building Control (Transfer of Functions) Ordinance, 1992 (Recueil d'Ordonnances Tome XXVI, p. 57); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the States Treasurer (Transfer of Functions) (Guernsey) Ordinance, 2008 (No. VII of 2008, Recueil d'Ordonnances Tome XXXIII, p. 38); the Chief Accountant (Transfer of Functions) (Guernsey) Ordinance, 2013 (No. XLIII of 2013); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); the Fees, Charges and Penalties (Guernsey) Law, 2007 (No. VII of 2008); the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997 (No. II of 1997); the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010).

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ARRANGEMENT OF SECTIONS

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5. Permission of Court required when order cannot be served.
6. Recovery of monies disbursed by Authority.
7. Valuation of site.
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9. Entry on land.
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SCHEDULE The Clearance of Ruins (Guernsey) Law, 1957. Certificate pursuant to section eight of the Clearance of Ruins (Guernsey) Law, 1957.

PROJET DE LOI

ENTITLED

The Clearance of Ruins (Guernsey) Law, 1957

THE STATES, in pursuance of their Resolution of the twenty-fifth day of February, nineteen hundred and fifty-three, 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.

Definitions.

1. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

[...]

"building" does not include a building which is a monument within the meaning of and subject to the provisions of the Law entitled "Loi relative à la Protection des Monuments de l'Île" registered on the twenty-sixth day of March, nineteen hundred and thirty-eight,

"[the Authority]" means the [Development & Planning Authority],]

"owner" in relation to any land means –

- (i) the beneficial owner, if that land is not held in trust, or
- (ii) the trustees, if that land is held in trust otherwise than under an interim vesting order in saisie proceedings.

(2) Unless the context otherwise requires, any reference in this

Law to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment.

NOTES

In section 1,

the words omitted in the first pair of square brackets were repealed, and the words in the second pair of square brackets were inserted, by the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992;

the words, first, "the Authority" and, second, "Development & Planning Authority" in square brackets in the definition of the expression "the Authority" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 8 and section 2, Schedule 1, paragraph 4(b), Schedule 2, Part 3, with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Environment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Development & Planning Authority and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 4(b), Schedule 2, Part 3, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

The Loi relative à la Protection des Monuments de l'Île, 1938 has since been repealed by the Ancient Monuments and Protected Buildings (Guernsey) Law, 1967, section 10, with effect from 28th March, 1968. The Ancient Monuments and Protected Buildings (Guernsey) Law, 1967 has since been repealed by the Land Planning and Development (Guernsey) Law, 2005, section 93, Schedule 3, Part I, paragraph 3, with effect from 6th April, 2009, subject to, first, the savings in section 93 of the 2007 Law and, second, the savings and transitional provisions in the Land Planning and Development (Guernsey) Law, 2005 (Savings and Transitional Provisions) Ordinance, 2007.

Demolition of ruins, etc.

2. (1) Where, as respects any land, [the Authority] is of opinion that any building on that land is in a ruinous condition, [the Authority] may, by order signed by the [President] of [the Authority], require the owner of that land to demolish that building and to clear the site thereof within such time and subject to such conditions as may be specified in the order.

(2) The power conferred by subsection (1) of this section to make any order shall be construed as including a power exercisable in the like manner to

vary or revoke the order.

(3) The [President] of [the Authority] shall, as soon as may be after the making of any order under the foregoing provisions of this section, cause a copy thereof to be published on at least two occasions in "La Gazette Officielle".

NOTE

In section 2, the words "President" and "the Authority" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 4(b), Schedule 2, Part 3 and section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.³

Service of orders.

3. (1) As soon as may be after the making of an order under section two of this Law the [President] of [the Authority] shall serve the order, with a plan thereunto annexed signed by him showing the area of land to which the order relates, on the owner of that land unless it is not practicable after reasonable enquiry to ascertain his address.

(2) An order required by subsection (1) of this section to be served on the owner of any land may be served –

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

(3) Where the ownership of any land which is the subject of an order under section two of this Law is vested in two or more persons, service of that order on one of the persons in accordance with the foregoing provisions of this

section shall, for the purposes of this Law, be deemed to be service on all of those persons.

(4) Where the owner of any land which is the subject of an order under section two of this Law is an infant or a person under guardianship, the order shall be served on the guardian of that infant or person, as the case may be, and in any case in which there is no guardian, [the Authority] may apply to the Royal Court, sitting as an Ordinary Court, for the appointment of a guardian to act as such under and for the purposes of this Law.

NOTES

In section 3, the words "President" and "the Authority" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 4(b), Schedule 2, Part 3 and section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.⁴

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1), section 1(2) and section 3, with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the references in this section to an "infant" shall be construed as a reference to a "minor", that is to say a person under the age of 18 years.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Appeals.

4. (1) An owner of, a usufructuary of, or any person having a rente or other registered charge on, any land in respect of which an order under section two of this Law has been made shall have a right of appeal to the Royal Court against the making of such order, or the area of land to which that order relates, or the time or any condition specified therein, or against both such order and any time or condition specified therein.

(2) If an appeal under the last preceding subsection is not made during the three months next following the date of the making of the order or if

such an appeal, having been made, is dismissed by the Royal Court and the owner of the land to which the order relates does not comply with the provisions of the order, [the Authority] may enter on the land and, subject to the provisions of the next succeeding section of this Law, demolish the building on that land, clear the site thereof and sell the materials thereof.

NOTE

In section 4, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.⁵

Permission of Court required when order cannot be served.

5. Where service of an order made under section two of this Law cannot be effected under the provisions of section three of this Law, [the Authority] shall, before taking any action under the provisions of the last preceding section to demolish a building on the land to which that order relates, clear the site and sell the materials thereof, obtain the permission in that behalf of the Royal Court and the Court shall grant permission if satisfied that such demolition is not unreasonable.

NOTE

In section 5, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.⁶

Recovery of monies disbursed by [Authority].

6. Where in relation to any order made under section two of this Law monies have been disbursed by [the Authority] for the purpose of meeting the cost of, and incidental to, demolishing a building and clearing the site thereof under the provisions of section four and section five of this Law, [the Authority] may at any time thereafter recover from the owner of the land to which the order relates as a simple contract debt the amount so disbursed after deduction of the sum, if any, realised by the sale of materials, or the amount representing the value of the land with the site cleared as aforesaid, whichever is the less, and, subject to the provisions of this Law, a first charge in respect thereof shall be created on that land.

NOTE

In section 6, the words "Authority" and "the Authority" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.⁷

Valuation of site.

7. (1) The provisions of this section shall have effect in relation to any order made under section two of this Law being an order to which section six of this Law applies.

(2) As soon as may be after the building on the land to which any such order relates has been demolished and the site thereof cleared, the value of the land with the site cleared as aforesaid shall, in the absence of agreement thereon between [the Authority] and the owner, be determined in accordance with the succeeding provisions of this section.

(3) The valuation shall be made by two valuers, one of whom shall be nominated and appointed by [the Authority] and the other by the owner of the said land.

(4) Where for any reason whatsoever a valuer is not appointed by an owner the Royal Court, sitting as an Ordinary Court (hereafter in this section referred to as "**the Court**") shall, on the application of the Law Officers of the Crown, make such appointment.

(5) Where before valuation has been made a valuer appointed by either party dies, or becomes incapable of acting, or refuses or neglects to act, the party or the Court, as the case may be, by whom the valuer was appointed shall nominate and appoint some other person to act in his place.

(6) The valuers shall, before proceeding to value, nominate and appoint in writing under their hands an umpire and if the said valuers fail to agree on the valuation that valuation shall be made by the umpire.

(7) Where an umpire dies, or becomes incapable of acting, or refuses or neglects to act, the Court shall, on the application of the Law Officers of the Crown, appoint some other person to act in his place.

(8) Where the valuers neglect or refuse to appoint an umpire, the Court shall, on the application of the Law Officers of the Crown, make the appointment.

(9) A valuation under the foregoing provisions of this section shall be in writing under the hands or hand of the valuers or umpire, as the case may be, and shall be deposited with the [States Treasurer].

(10) The reasonable costs of any valuation under this section shall be paid by [the Authority] out of monies provided by the States.

(11) A valuation under this section shall be conclusive for all the purposes of this Law.

NOTES

In section 7,

the words "the Authority" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016;⁸

the words in square brackets in subsection (9) were substituted by the Chief Accountant (Transfer of Functions) (Guernsey) Ordinance, 2013, section 1, with effect from 1st December, 2013, subject to the savings and transitional provisions in section 2 of the 2013 Ordinance.⁹

[Authority]'s disbursements not recovered to be registered.

8. (1) Where in relation to any order made under section two of this Law monies have been disbursed by [the Authority] for the purpose of meeting the cost of, and incidental to, demolishing a building and clearing the site thereof under the provisions of section four and section five of this Law and the amount recoverable by [the Authority] under section six of this Law has not been recovered, the [States Treasurer] shall cause a certificate to be prepared in the form set out in

the Schedule to this Law and shall send such certificate together with the valuation and plan referred to therein to Her Majesty's Greffier.

(2) A certificate under the last preceding subsection shall, in the absence of proof to the contrary, be evidence of the matters contained therein.

(3) Her Majesty's Greffier, upon receiving any such certificate as aforesaid, shall enter the same in the public register styled "Livre des Obligations".

NOTES

In section 8,

the words "the Authority" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016;¹⁰

the words in the third pair of square brackets in subsection (1) were substituted by the Chief Accountant (Transfer of Functions) (Guernsey) Ordinance, 2013, section 1, with effect from 1st December, 2013, subject to the savings and transitional provisions in section 2 of the 2013 Ordinance.¹¹

Entry on land.

9. (1) Any person duly authorised in writing by [the Authority] may at any reasonable time enter on any land for the purpose of survey and examination where it appears to [the Authority] that the survey or examination is necessary in order to determine whether any powers under this Law should be exercised in respect of that land.

(2) Any person authorised under this section to enter on any land shall, if so required, produce evidence of his authority before so entering and shall not demand admittance as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

NOTE

In section 9, the words "the Authority" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 8, with effect from 1st May, 2016.¹²

Obstruction.

10. Any person who wilfully obstructs any person authorised to enter on land in pursuance of this Law in the performance of anything which such person is by this Law authorised to do shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding, in the case of a first offence, [level 1 on the uniform scale] and, in the case of a second or subsequent offence, [level 2 on the uniform scale].

NOTE

In section 10, the words and figure in the first and second pairs of square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, respectively section 2(2) and section 2(4), with effect from 1st July, 1989.

Citation.

11. This Law may be cited as the Clearance of Ruins (Guernsey) Law, 1957.

NOTE

The Law received Royal Sanction on 15th March, 1957 and was registered on the Records of the Island of Guernsey and came into force on 6th April, 1957.

SCHEDULE

THE CLEARANCE OF RUINS (GUERNSEY) LAW, 1957

*Certificate pursuant to section eight of the Clearance of Ruins (Guernsey) Law,
1957*

H.M. Greffier,
The Greffe,
Guernsey.

I certify that –

(1) the net amount of pounds [...] and
..... pence has been disbursed by the [Development & Planning
Authority] in respect of and incidental to the cost of demolishing {a} building{s}
and clearing the site thereof on the land forming {part of} the property known as
.....
situate at
in the parish of
and owned by; and

(2) the value of the said land, after demolition of the said
building{s} and clearing the site thereof –

<p>(a) in accordance with the valuation hereunto annexed of, or</p> <p>(b) as agreed between [the said [Authority]] and the said owner,</p>	}	<p>Delete whichever does not apply</p>
<p>is pounds [...] and pence.</p>		

In accordance with the provisions of section six of the Clearance of Ruins
(Guernsey) Law, 1957, a first charge in favour of the States of Guernsey for the

sum of pounds
[...] and pence is created on the said land,
the area of which is shown on the plan hereunto annexed and signed by the
[President] of the [Development & Planning Authority].

Guernsey, this day of
..... nineteen hundred and

.....
[States Treasurer]

NOTES

In the Schedule,

the words omitted in the first, fourth and fifth pairs of square brackets were repealed by the Decimal Currency (Bailiwick of Guernsey) Law, 1970, section 8, with effect from 15th February, 1971;

the words in the third pair of square brackets were substituted by the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992;

the words "Development & Planning Authority", "Authority" and "President" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 4(b), Schedule 2, Part 3, section 5(1), Schedule 3, paragraph 8 and section 2, Schedule 1, paragraph 4(b), Schedule 2, Part 3, with effect from 1st May, 2016;¹³

the words "States Treasurer" in square brackets were substituted by the Chief Accountant (Transfer of Functions) (Guernsey) Ordinance, 2013, section 1, with effect from 1st December, 2013, subject to the savings and transitional provisions in section 2 of the 2013 Ordinance.¹⁴

¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 19, with effect from 6th May, 2004.

² The functions, rights and liabilities of the Environment Department and its Minister arising under or by virtue of this Law were previously transferred to them from the Island Development Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 19, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions of the Island Development Committee under this Law were previously transferred to it from the States Housing Authority by the Building Control (Transfer of Functions) Ordinance, 1992, section 1, Schedule 1, with effect from 1st July, 1992, subject to

the savings and transitional provisions in section 4 of, and Schedule 3 to, the 1992 Ordinance.

³ These words were previously substituted by, respectively, the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 19, with effect from 6th May, 2004; and the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992.

⁴ These words were previously substituted by, respectively, the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 19, with effect from 6th May, 2004; and the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992.

⁵ These words were previously substituted by the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992.

⁶ These words were previously substituted by the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992.

⁷ These words were previously substituted by the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992.

⁸ These words were previously substituted by the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992.

⁹ These words were previously substituted by the States Supervisor (Transfer of Functions) (No. 1) Ordinance, 1972, section 3, Schedule, Part I, with effect from 1st April, 1972 (the powers and functions formerly vested in the Treasurer of the States under or by virtue of the provisions of subsection (9) of this section were transferred to and vested in the States Treasurer by the States Supervisor (Transfer of Functions) (No. 1) Ordinance, 1972, section 1(1), Schedule, Part I, with effect from 1st April, 1972); the States Treasurer (Transfer of Functions) (Guernsey) Ordinance, 2008, section 1, with effect from 1st February, 2008, subject to the savings and transitional provisions in section 2 of the 2008 Ordinance.

¹⁰ These words were previously substituted by the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992.

¹¹ These words were previously substituted by the States Supervisor (Transfer of Functions) (No. 1) Ordinance, 1972, section 3, Schedule, Part I, with effect from 1st April, 1972 (the powers and functions formerly vested in the Treasurer of the States under or by virtue of the provisions of subsection (9) of this section were transferred to and vested in the States Treasurer by the States Supervisor (Transfer of Functions) (No. 1) Ordinance, 1972, section 1(1), Schedule, Part I, with effect from 1st April, 1972); the States Treasurer (Transfer of Functions) (Guernsey) Ordinance, 2008, section 1, with effect from 1st February, 2008, subject to the savings and transitional provisions in section 2 of the 2008 Ordinance.

¹² These words were previously substituted by the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992.

¹³ The words "Development & Planning Authority" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 19, with effect from 6th May, 2004; the Building Control (Transfer of Functions) Ordinance, 1992, section 2, Schedule 2, with effect from 1st July, 1992; and the word "President" was previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 19, with effect from 6th May, 2004.

¹⁴ These words were previously substituted by the States Supervisor (Transfer of Functions) (No. 1) Ordinance, 1972, section 3, Schedule, Part I, with effect from 1st April, 1972 (the powers and functions formerly vested in the Treasurer of the States under or by virtue of the provisions of subsection (9) of this section were transferred to and vested in the States Treasurer by the States Supervisor (Transfer of Functions) (No. 1) Ordinance, 1972, section 1(1), Schedule, Part I, with effect from 1st April, 1972); the States Treasurer (Transfer of Functions) (Guernsey) Ordinance, 2008, section 1, with effect from 1st February, 2008, subject to the savings and transitional provisions in section 2 of the 2008 Ordinance.