

PROJET DE LOI

ENTITLED

The Document Duty (Guernsey) Law, 1973 *

[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.

© States of Guernsey

* Ordres en Conseil Vol. XXIV, p. 74; as amended by the Indirect Taxes, Duties and Impôts (Miscellaneous Amendments and Repeals) (Guernsey) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 236); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002 (No. XXVI of 2002, Ordres en Conseil Vol. XLI(2), p. 1324); the Document Duty (Annual Return) Ordinance, 1973 (Recueil d'Ordonnances Tome XIX, p. 144); the Document Duty Ordinance, 1982 (Recueil d'Ordonnances Tome XXII, p. 419); the Document Duty Ordinance, 1983 (Recueil d'Ordonnances Tome XXII, p. 555); the Document Duty Ordinance, 1992 (Recueil d'Ordonnances Tome XXVI, p. 139); the Document Duty (Amendment) Ordinance, 1997 (No. IX of 1997, Recueil d'Ordonnances Tome XXVII, p. 186); the Document Duty (Amendment) (No. 2) Ordinance, 1997 (No. XLI of 1997, Recueil d'Ordonnances Tome XXVII, p. 421); the Document Duty (Amendment) Ordinance, 2000 (No. XXII of 2000, Recueil d'Ordonnances Tome XXVIII, p. 364); the Document Duty (Amendment) Ordinance, 2001 (No. LI of 2001, Recueil d'Ordonnances Tome XXVIII, p. 546); the Document Duty (Amendment) Ordinance, 2002 (No. XXXVI of 2002, Recueil d'Ordonnances Tome XXIX, p. 214). The Law is applied to Alderney, with exceptions, adaptations and modifications, by the Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020 (No. XXX of 2020); as it applied to the Island of Guernsey, the Law was modified, in part, by the Companies (Shares of No Par Value) (Modification of Legislation) Regulations, 2002 (No. VI of 2002)). This Law has been repealed, in its application to the Island of Guernsey, by the Document Duty (Guernsey) Law, 2017 (No. IX of 2017).

PROJET DE LOI

ENTITLED

The Document Duty (Guernsey) Law, 1973

ARRANGEMENT OF SECTIONS

1. Document duty payable on certain documents.
2. ...
3. Declaration when consideration is not clearly stated.
4. Mode of calculating ad valorem document duty in certain cases.
5. False statements.
6. Ordinances relating to Document Duty.
7. Interpretation.
8. Savings.
9. Repeals.
10. Citation.
11. Commencement.

FIRST SCHEDULE ...
SECOND SCHEDULE Repeals.

PROJET DE LOI

ENTITLED

The Document Duty (Guernsey) Law, 1973

THE STATES, in pursuance of their Resolution of the twenty-eighth day of April, nineteen hundred and seventy-one, 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.

Document duty payable on certain documents.

1. (1) Subject to the provisions of [section 8] of this Law and to compliance with the provisions of any enactment for the time being in force relating to the registration of documents on the Records of this Island, there shall be paid to Her Majesty's Greffier for the account of the States in respect of [any document for the time being prescribed by Ordinance of the States for the purposes of this Law] (hereinafter referred to as a "**prescribed document**"), before registration as aforesaid, the duty calculated [at the rate for the time being specified by Ordinance of the States in relation to that prescribed document] (hereinafter referred to as the "**document duty**").

(2) Subject to the provisions of sections two and eight of this Law, a prescribed document shall not be registered on the Records of this Island unless the document duty payable thereon has been paid.

(3) Subject to the provisions of section five of this Law, after the coming into force of this Law, proof of the registration of a prescribed document on the Records of this Island shall, for the purposes of any legal proceedings, be deemed sufficient evidence that the document duty payable thereon has been paid.

NOTES

In section 1, the words in the first, second and third pairs of square brackets in subsection (1) were substituted by the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002, respectively section 5(2)(a), section 5(2)(b) and section 5(2)(c), with effect from 1st April, 2003.

The Law, in its application to the Island of Guernsey, has been repealed by the Document Duty (Guernsey) Law, 2017, section 15, with effect from 15th November, 2017.

In accordance with the provisions of the Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020, section 1, with effect from 18th August, 2020 and subject to the saving for existing Ordinances in section 4 thereof, this Law shall continue to have effect in the Island of Alderney subject to the exceptions, adaptations and modifications set out in section 2 of the 2020 Ordinance.¹

In its application to the Island of Alderney, section 1 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020, section 2(a) and section 2(b), with effect from 18th August, 2020, subject to the saving for existing Ordinances in section 4 of the 2020 Ordinance.²

The following Ordinances have been made under section 1:

*Document Duty Ordinance, 2003;
Document Duty (Amendment) Ordinance, 2007;
Document Duty (Amendment) (No.2) Ordinance, 2007;
Document Duty (Amendment) Ordinance, 2016;
Document Duty (Amendment) Ordinance, 2017;
Document Duty (Amendment) Ordinance, 2019;
Document Duty (Alderney) (Amendment) Ordinance, 2022;
Document Duty (Alderney) (Amendment) Ordinance, 2023.*

The following Ordinance has effect as if made under section 1:

Stamp Duties Ordinance, 1948.

Exemptions from document duty.

2. ...

NOTE

Section 2 was repealed by the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002, section 5(3), with effect from 1st April, 2003.

Declaration when consideration is not clearly stated.

3. A prescribed document which is chargeable with ad valorem document duty shall, if the value of the transaction to which such document relates is not clearly stated in money or in wheat rente, contain a declaration that the value of the transaction in respect of which document duty is payable does not exceed such amount as shall be stated in the declaration and the document duty payable thereon shall be calculated on the amount so stated [...].

NOTE

In section 3, the words omitted in square brackets were repealed by the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002, section 5(4), with effect from 1st April, 2003.

Mode of calculating ad valorem document duty in certain cases.

4. Where a prescribed document is chargeable with ad valorem document duty and the value of the transaction or any part thereof is expressed in money in a currency other than the currency of Guernsey the document duty shall be calculated on the value thereof on the date of registration of the document in the currency of Guernsey according to the current rate of exchange.

False statements.

5. Any person who knowingly makes any false statement or false representation or recklessly makes any statement or representation which is false in a material particular for the purposes of compliance with the provisions of section three of this Law shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the uniform scale] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment and, in addition, the Court

which convicts such person shall order him to pay to Her Majesty's Greffier for the account of the States three times the amount of the document duty unpaid or remaining unpaid, as the case may be, on the prescribed document.

NOTES

In section 5, the words and figure 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 its application to the Island of Alderney, section 5 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020, section 2(a) and section 2(b), with effect from 18th August, 2020.³

[Ordinances relating to Document Duty.]

6. (1) The States may from time to time by Ordinance –
- (a) prescribe for the purposes of this Law the categories of document before registration of which document duty shall be paid in accordance with section 1 of this Law,
 - (b) specify the rate of document duty payable in relation to any prescribed document,
 - (c) add any category to, remove any category from, or modify the extent or description of any category within, the categories of prescribed documents,
 - (d) vary the rate of document duty payable, prescribe minimum and/or maximum amounts of document duty payable, or provide exemption from liability to document duty which would otherwise be payable,

before the registration of any category or description of prescribed document.

(2) The States may from time to time make provision by Ordinance governing the collection, management, review and enforcement of document duty and liability thereto, including, without prejudice to the generality of the foregoing, provision for countering avoidance thereof.

(3) For the avoidance of doubt, an Ordinance under this Law –

(a) may make provision in relation to all cases to which the power to make that Ordinance extends, in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) may make, as respects the cases to which the Ordinance applies –

(i) the full provision to which the power to make it 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,

(c) may include consequential, incidental, supplementary

and transitional provisions,

- (d) may include provisions as to the creation, trial and punishment of offences,
- (e) may be amended or repealed by a subsequent Ordinance made under this Law.]

NOTES

Section 6 was substituted by the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002, section 5(5), with effect from 1st April, 2003.⁴

In its application to the Island of Alderney, section 6 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020, section 2(a), with effect from 18th August, 2020, subject to the saving for existing Ordinances in section 4 of the 2020 Ordinance.

The following Ordinances have been made under section 6:

*Document Duty Ordinance, 2003;
Document Duty (Amendment) Ordinance, 2007;
Document Duty (Amendment) (No.2) Ordinance, 2007;
Document Duty (Amendment) Ordinance, 2016;
Document Duty (Amendment) Ordinance, 2017.*

The following Ordinance has effect as if made under section 6:

Stamp Duties Ordinance, 1948.

Interpretation.

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

"the Cadastre" means the Cadastre prepared and maintained under

the provisions of the Cadastre Law, 1947^a,

[...]

"this Island" means the Island of Guernsey,

[**"prescribed"** means prescribed by an Ordinance of the States made under this Law, and **"prescribed document"** has the meaning given by section 1(1) of this Law,

"rate" includes both a fixed sum and an amount calculated by an ad valorem or other formula,

"the States" means the States of Guernsey.]

(2) In this Law, where the value of a transaction in a prescribed document is stated in quarters of wheat rente, one quarter shall be deemed to be equivalent to twenty pounds.

(3) Any reference in this Law to any enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Law.

NOTES

In section 7,

the words omitted in the first pair of square brackets in subsection (1) were repealed by the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002, section 5(6)(a), with effect from 1st April, 2003;

^a Ordres en Conseil Vol. XIII, p. 78.

the words in the second pair of square brackets in subsection (1) were inserted by the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002, section 5(6)(b), with effect from 1st April, 2003.

In its application to the Island of Alderney, section 7 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Document Duty) (Amendment) Ordinance, 2020, section 2(c), with effect from 18th August, 2020.⁵

Savings.

8. The provisions of this Law shall not apply to a prescribed document –
- (a) bearing a date not later than the twenty-ninth October, nineteen hundred and three, or
 - (b) which has, before the coming into force of this Law, been duly stamped in accordance with the provisions of the Law entitled "Loi relative aux Droits de Timbre" registered on the sixteenth day of January, nineteen hundred and twenty-two^b.

Repeals.

9. The Laws set out in the left-hand column of the Second Schedule to this Law are hereby repealed to the extent set out in the right-hand column of the said Schedule.

Citation.

10. This Law may be cited as the Document Duty (Guernsey) Law, 1973.

Commencement.

11. This Law shall come into force on such day as shall be appointed in

^b Ordres en Conseil Vol. VI, p. 335.

that behalf by Ordinance of the States.

NOTE

The Law was brought into force on 1st November, 1973 by the Document Duty (Guernsey) Law, 1973 (Commencement) Ordinance, 1973, section 1.

[FIRST SCHEDULE
DOCUMENT DUTY PAYABLE

Section one

...]

NOTE

The First Schedule (which was previously substituted twice by, first, the Document Duty Ordinance, 1983, section 1, with effect from 14th December, 1983 and, second, the Document Duty Ordinance, 1992, section 1, with effect from 9th December, 1992) was repealed by the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002, section 5(7), with effect from 1st April, 2003.⁶

SECOND SCHEDULE

Section nine

Laws repealed	Extent of repeal
The Law entitled "Loi relative aux Droits de Timbre" registered on the sixteenth day of January, nineteen hundred and twenty-two.	The whole Law.
The Law entitled "Loi établissant une nouvelle Cédule (en substitution à la Cédule du 30 août 1924) à la Loi relative aux Droits de Timbre" registered on the seventh day of March, nineteen hundred and thirty-one ^c .	The whole Law.
The Stamp Duty Amendment Law, 1949 ^d .	The whole Law.
The Companies (Stamp Duty and Corporation Tax) (Amendment) Law, 1969 ^e .	Section one. Paragraph (a) of section five.
The Indirect Taxes, Duties and Impôts (Increase of Rates) (Guernsey) Law, 1970 ^f .	In the Schedule the words "The Law entitled "Loi relative aux Droits de Timbre" registered on the sixteenth day of January, nineteen hundred and twenty-two, other than paragraph 49 of the Schedule thereto".

NOTE

- ^c Ordres en Conseil Vol. IX, p. 12.
^d Ordres en Conseil Vol. XIV, p. 42.
^e Ordres en Conseil Vol. XXII, p. 292.
^f Ordres en Conseil Vol. XXII, p. 473.

The Indirect Taxes, Duties and Impôts (Increase of Rates) (Guernsey) Law, 1970 has since been repealed by, first, the Indirect Taxes, Duties and Impôts (Miscellaneous Amendments and Repeals) (Guernsey) Law, 1974, section 2, Second Schedule, with effect from 10th April, 1974 (section 2); second, the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 2003, section 7, Second Schedule, with effect from 1st October, 2004 (section 1); and, third, the Motor Taxation and Licensing (Guernsey) (Amendment) Law, 2007, section 20, Schedule, with effect from 1st January, 2008 (sections 3 to 8 and the Schedule).

¹ The Law was previously applied to the Island of Alderney by the Alderney (Application of Legislation) (Document Duty) Ordinance, 1973, with effect from 1st November, 1973; the Document Duty Ordinance, 2003, section 7(1), with effect from 1st April, 2003, subject to the exceptions, adaptations and modifications specified in

that section.

² Section 1 was previously modified by the Alderney (Application of Legislation) (Document Duty) Ordinance, 1973, section 1, First Schedule, with effect from 1st November, 1973; the Document Duty Ordinance, 2003, section 7(2)(a) and section 7(2)(b), with effect from 1st April, 2003.

³ Section 5 was previously modified by the Alderney (Application of Legislation) (Document Duty) Ordinance, 1973, section 1, First Schedule, with effect from 1st November, 1973; the Document Duty Ordinance, 2003, section 7(2)(a), with effect from 1st April, 2003.

⁴ Section 6 was previously substituted by the Indirect Taxes, Duties and Impôts (Miscellaneous Amendments and Repeals) (Guernsey) Law, 1974, section 1, First Schedule, with effect from 10th April, 1974, subject to the savings in section 4 of the 1974 Law.

⁵ Section 7 was previously modified by the Alderney (Application of Legislation) (Document Duty) Ordinance, 1973, section 1, First Schedule, with effect from 1st November, 1973; the Document Duty Ordinance, 2003, section 7(2)(c), with effect from 1st April, 2003.

⁶ The First Schedule was previously substituted twice, first by the Document Duty Ordinance, 1983, section 1, with effect from 14th December, 1983 and, second, by the Document Duty Ordinance, 1992, section 1, with effect from 9th December, 1992; and previously amended by the following: the Document Duty (Annual Return) Ordinance, 1973, section 1, with effect from 1st January, 1974; the Document Duty Ordinance, 1982, section 1, with effect from 1st January, 1983; the Document Duty (Amendment) Ordinance, 1997, section 1, with effect from 26th March, 1997; the Document Duty (Amendment) (No. 2) Ordinance, 1997, section 1, with effect from 11th December, 1997; the Document Duty (Amendment) Ordinance, 2000, section 1, with effect from 13th December, 2000; the Document Duty (Amendment) Ordinance, 2001, section 1, with effect from 12th December, 2001; and the Document Duty (Amendment) Ordinance, 2002, section 1, with effect from 11th December, 2002. As it applied to the Island of Guernsey, the First Schedule was modified by the provisions of the Companies (Shares of No Par Value) (Modification of Legislation) Regulations, 2002, regulation 10. As it applied to the Island of Alderney, the First Schedule was modified in accordance with the provisions of the Document Duty (Amendment) Ordinance, 1995, section 1(a) and section 1(b), with effect from 27th September, 1995.