

Island of  Guernsey

Ordinance of the States

VI
2003

Made

26th March, 2003

The Document Duty Ordinance, 2003

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THE STATES, in pursuance of their Resolution of the 25th September, 2002^a, and in exercise of the powers conferred on them by sections 1 and 6 of the Document Duty (Guernsey) Law, 1973^b, section 1 of the Companies (Enabling Provisions) (Guernsey) Law, 1996^c, section 2 of the Alderney (Application of Legislation) Law, 1948^d, section 165 of and paragraph 11 of Schedule 6 to the Companies (Alderney) Law, 1994^e, and all other powers enabling them in that behalf, hereby order:-

Prescribed documents.

1. The categories and descriptions of documents enumerated and set out in column (1) of Schedule 1 to this Ordinance are hereby prescribed for the purposes of the Law of 1973.

Specified rates of document duty.

2. The amounts set out in, or calculated in accordance with, column (2) of Schedule 1 to this Ordinance are hereby specified for the purposes of the Law of 1973 as the rates of document duty payable, subject to section 3, in respect of the registration of any prescribed document of a category or description in relation to

^a On Article I of Billet d'État No. XX of 2002.

^b Ordres en Conseil Vol. XXIV, pp 74 and 236; Vol. XXV, p. 43; Order in Council No. XXVI of 2002; Recueil d'Ordonnances Tome XXVI, pp. 139 and 465; Ordinance No. IX of 1997; No. XXII of 2000; No. XXXVI of 2001.

^c Order in Council No. XII of 1996.

^d Ordres en Conseil Vol. XIII, p 448; Vol. XVI, pp 124 and 126; Vol. XXIV, p. 210; Vol. XXIX, p. 299; Vol. XXX, p. 224; Order in Council No. XVI of 1997.

^e Order in Council No. XXXIV of 1994: Schedule 6 was substituted by Ordinance of the States of Alderney No. III of 1995.

which any of those rates is so specified.

Exemptions and reductions.

3. (1) A prescribed document of title to -

(a) the States, or

(b) a Friendly Society,

is exempt from liability to the payment of document duty.

(2) Where a conveyance of realty is presented for registration, any ad valorem duty which would otherwise be payable in respect of the registration of that conveyance shall be reduced by 1.0% of the value of the transaction, or as the case may be of the realty, if the realty concerned is held in fee farm tenure, or if its tenure or location is such that the congé of Her Majesty's Receiver General would not have been required, or that no dues or fees would have been payable in connection with the obtaining or grant of that congé, prior to the commencement of section 1 of the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002.

(3) Where, within one year and one day of the registration of any conveyance of realty, there is presented for registration a further conveyance of that same realty, any ad valorem document duty which would otherwise be payable in respect of the registration of that further conveyance shall be reduced by an amount equal to 2.0% of the value of the transaction, or as the case may be of the realty, on the basis of which document duty was paid in respect of the registration of the first-mentioned conveyance.

(4) For the avoidance of doubt, where a prescribed document is exempt from liability to the payment of document duty or is subject to reduced

document duty by virtue of any of subsections (1) to (3) of this section, but also serves as a document which is not so exempt or subject, document duty shall be payable in respect of its registration, by reference to the part of the transaction to which the document relates which is not so exempt or subject, in accordance with the Law of 1973 and this Ordinance.

Minimum document duty in certain cases.

4. Subject to section 3, in respect of a prescribed document of a category and description enumerated and set out in item 2, 3 or 5 (b) in column (1) of Schedule 1 to this Ordinance -

- (a) the document duty payable in respect of its registration shall not be less than the document duty calculated on an amount equal to 100 times the Annual Rental Value inscribed in the Cadastre in respect of the realty comprised in the transaction to which the prescribed document relates; and
- (b) if the value of that realty as therein stated is less than 100 times the Annual Rental Value so inscribed, then the document shall also state that Annual Rental Value.

Interpretation.

5. (1) In this Ordinance, unless the context otherwise requires -

“**dwelling**” means any premises wholly or principally used for the purpose of human habitation, and includes a flat, and a dwelling in the course of construction;

“**enactment**” includes an Act of Parliament;

“**flat**” means any separate and self-contained premises constructed as a dwelling and forming part of a building from some other part of which it is divided horizontally;

“**Friendly Society**” means a society registered under an enactment relating to friendly societies and recognised by the Guernsey Financial Services Commission as being such a society;

“**the Law of 1973**” means the Document Duty (Guernsey) Law, 1973, as amended;

“**registered**” means registered on the Records of this Island;

other words and expressions have the same meaning as in the Law of 1973; and all related words and expressions are to be construed accordingly.

(2) Unless the context otherwise requires, a reference in this Ordinance to a numbered provision is to the provision so numbered in this Ordinance.

Transitional provisions.

6. (1) Where a conveyance of realty is presented for registration on or before the first anniversary of the commencement of the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002^f, and a conveyance of that same realty was last so presented -

^f Order in Council No. XXVI of 2002.

- (a) within the preceding one year and one day, but
- (b) prior to the commencement of that Law,

the reference in section 3(3) to “an amount equal to 2.0% of the value of the transaction, or as the case may be of the realty, on the basis of which document duty was paid in respect of the registration of the first-mentioned conveyance” shall be read as a reference to the amount of any fee then paid in connection with the grant or obtaining of the congé of Her Majesty’s Receiver General.

(2) In a case to which section 3 (2) and section 3 (3) are both applicable the reference in section 3 (3) to “2.0%” shall be deemed to read “1.0%”.

Application in Alderney.

7. (1) The Law of 1973 and this Ordinance shall have effect in the Island of Alderney subject to the exceptions, adaptations and modifications specified in this section.

- (2) As respects the application of the Law of 1973 in Alderney -
 - (a) in place of “Her Majesty’s Greffier” in sections 1 and 5 there is substituted “the Clerk of the Court of Alderney”;
 - (b) “the Records of this Island” include the Register of Companies within the meaning of the Companies (Alderney) Law, 1994, and the Alderney Land Register kept under the Alderney Land and Property,

etc. Law, 1949^g;

- (c) notwithstanding section 7 of that Law -
 - (i) references to “**the Cadastre**” are to the valuation carried out and maintained under the provisions of section 4 of the Alderney (Application of Legislation) Law, 1948;
 - (ii) “**the States**” means the States of Guernsey.
- (3) As respects the application of this Ordinance in Alderney -
 - (a) section 3 (2), section 3 (3), and section 3 (4) so far as referable to those provisions, do not apply;
 - (b) section 6 does not apply.

Repeals.

- 8. The enactments listed in Schedule 2 are repealed.

Extent.

9. This Ordinance has effect in the Island of Guernsey, and, subject to the exceptions, adaptations and modifications specified in section 7, in the Island of Alderney.

Citation.

^g Ordres en Conseil Vol. XIV, p. 67; Vol. XVI, p. 202; Vol. XXVIII, p. 576; Vol. XXIX, p. 156.

11. This Ordinance may be cited as the Document Duty Ordinance, 2003.

Commencement.

12. This Ordinance shall come into force in Guernsey and Alderney on the day on which the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002 comes into force in Guernsey.

SCHEDULE

Sections 1 and 2

PRESCRIBED DOCUMENTS AND SPECIFIED RATES OF DOCUMENT DUTY

| (1) CATEGORY AND DESCRIPTION OF PRESCRIBED DOCUMENT | (2) SPECIFIED RATE OF DOCUMENT DUTY |
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| <p>1. Conveyance of realty other than a conveyance within item 2, 3, or 5:</p> <p style="padding-left: 40px;">(a) where the realty is, or includes, a dwelling and the value of the transaction does not exceed £150,000</p> <p style="padding-left: 40px;">(b) where the realty is, or includes, a dwelling and the value of the transaction exceeds £150,000 but does not exceed £250,000</p> <p style="padding-left: 40px;">(c) where the realty does not include a dwelling, and in any case where the value of the transaction exceeds £250,000</p> | <p>2.0% of the value of the transaction</p> <p>2.5% of the value of the transaction</p> <p>3.0% of the value of the transaction</p> |
| 2. Conveyance by way of gift inter vivos of realty | 3.0% of the value of the realty |
| 3. Conveyance by way of Exchange of realty | 1.0% of the value of the realty acquired by each party, plus 2% of any further consideration given by either party |
| 4. Document, other than a will, creating, transferring or extinguishing a life enjoyment or usufruct of realty | £5.00 |
| 5. Partage or Conveyance by way of Délaissance of realty – | |
| (a) between co-owners | £5.00 |
| (b) other than between co-owners | 3.0% of the value of the realty |

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| 6. | Marriage contract | £5.00 |
| 7. | Amendment of a Conveyance of realty involving an increase in the value of the transaction | 3.0% of the increase in the value of the transaction |
| 8. | Will of realty | £5.00 |
| 9. | Act of Court transferring realty by way of “Retrait”, “Saisie” or under any enactment for the time being in force | £5.00 |
| 10. | Bond, debenture, acknowledgement of debt | 0.5% of the sum secured |
| 11. | Act of Court awarding priority on realty | 0.5% of the value of the realty set out in the Act of Court |
| 12. | Memorandum of a Guernsey limited liability company, other than a company limited by guarantee | £50, or 0.5% of the nominal capital of the company, up to a nominal capital not exceeding £1,000,000, whichever is the greater |
| 13. | (a) Special Resolution, or Resolution passed in General Meeting, of a Guernsey limited liability company increasing the nominal capital of the company (b) Special Resolution of a Guernsey limited liability company other than one increasing the nominal capital of the company or increasing the maximum number of members of a company limited by guarantee | 0.5% of the increase in the nominal capital of the company, up to a nominal capital not exceeding £1,000,000 £5.00 |
| 14. | Annual Return of a Guernsey limited liability company | £100.00: except that no document duty is payable under this paragraph in the case of a company limited by guarantee - (i) which has been certified by the Guernsey Financial Services Commission as set out at item 15 (c); and (ii) which continues to be a company the objects of which are exclusively for charitable, social, cultural, recreational or |

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| | | <p>other purposes, in each case not involving any purpose of private gain or commercial undertaking;</p> <p>provided that there is submitted to the Greffier in lieu of the fee for the annual return a statement, executed for and in the name of the company, that the conditions of (a) and (b) above are satisfied in relation to the company</p> |
| 15. | <p>As respects a Guernsey company limited by guarantee -</p> <p>(a) the company's memorandum, where paragraph (c) does not apply</p> <p>(b) a special resolution of the company increasing the maximum number of its members, where paragraph (c) does not apply</p> | <p>The greater of £50, or 0.5% of the sum of the following amounts, that is to say -</p> <p>(i) the amount of the nominal share capital of the company (in cases where the company has a share capital); and</p> <p>(ii) the total amount which (pursuant to the memorandum) the members of the company have collectively undertaken to contribute to the company's assets in accordance with section 4(a)(i) of the Guarantee Companies Ordinance, 1997 in the event of the company being wound up;</p> <p>up to a maximum sum of £1,000,000.</p> <p>The difference between -</p> <p>(i) the amount of document duty which, were the company being incorporated, would be payable in accordance with the provisions of item (a) by</p> |

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| | <p>(c) the memorandum of the company, or a special resolution increasing the maximum number of its members, if at the time of the dutiable event, the company is certified by the Guernsey Financial Services Commission (such fee in respect of that certification as may from time to time be specified by regulation of the States Advisory and Finance Committee having been paid) as being a company the objects of which are exclusively for charitable, social, cultural, recreational or other purposes, in each case not involving any purpose of private gain or commercial undertaking</p> | <p>reference to its membership as increased; and</p> <p>(ii) the amount of document duty which, were the company being incorporated, would be so payable by reference to its Membership immediately before the increase;</p> <p>and such additional duty shall be payable upon delivery by the company of the special resolution to the Greffier.</p> <p>(i) in the case of the registration of the memorandum of the company, £50.00</p> <p>(ii) in the case of an increase in membership of the company, zero.</p> |
| 16. | Memorandum of an Alderney limited liability company, other than a company limited by guarantee or a company which can issue shares of no par value | £50, or 0.5% of the nominal capital of the company, up to a nominal capital not exceeding £1,000,000 whichever is the greater |
| 17. | <p>(a) Special Resolution, or Resolution passed in General Meeting, of an Alderney limited liability company increasing the nominal capital of the company</p> <p>(b) Special Resolution of an Alderney limited liability company</p> | <p>0.5% of the increase in the nominal capital of the company, up to a nominal capital not exceeding £1,000,000</p> <p>£5.00</p> |

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| | | <p>incorporated, would be so payable by reference to its membership immediately before the increase;</p> <p>and such additional duty shall be payable upon delivery by the company of the special resolution to the Clerk of the Court of Alderney</p> |
| 20. | Memorandum of an Alderney company which can issue shares of no par value | <p>The greater of £50 or (up to a maximum sum of £1,000,000) 0.5% of the number of shares in the company multiplied by the consideration for each share (such consideration to be determined on the basis that the shares are to be issued by the company immediately after incorporation and to be calculated in accordance with the provisions of paragraph 5 of Schedule 7 to the Companies (Alderney) Law, 1994, the provisions of which shall apply accordingly with the omission of the words “otherwise than pursuant to paragraph 4”); and a copy of the certificate required to be signed under paragraph 5 (2) shall be delivered by the directors to the Clerk of the Court of Alderney who shall, as soon as is reasonably practicable, enter it in the Register of Companies.</p> |

SCHEDULE 2

Section 8

ENACTMENTS REPEALED

1. The Alderney (Application of Legislation) (Document Duty) Ordinance, 1973^h.
2. The Document Duty Ordinance, 1992ⁱ.
3. The Document Duty (Amendment) Ordinance, 1995^j.
4. The Document Duty (Amendment) Ordinance, 1997^k.
5. The Document Duty (Amendment) Ordinance, 2000^l.
6. The Document Duty (Amendment) Ordinance, 2002^m.

^h Recueil d'Ordonnances Tome XIX, p. 111.

ⁱ Recueil d'Ordonnances Tome XXVI, p. 139.

^j Recueil d'Ordonnances Tome XXVI, p. 465.

^k Ordinance No. IX of 1997.

^l Ordinance No. XXII of 2000.

^m Ordinance No. XXXVI of 2002.