

# ORDER IN COUNCIL

**XXVI**  
**2002**

ratifying a Projet de Loi

ENTITLED

## **The Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002**

(Registered on the Records of the Island of Guernsey  
on the 16th December, 2002.)



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2002

## ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 16th day of December, 2002 before Sir de Vic Carey, 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  
John Wilson, Michael Henry De La Mare, and Michael John  
Tanguy, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 20th day of November, 2002, approving and ratifying a *Projet de Loi* of the States of Guernsey entitled “The Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002”, 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 20th day of November, 2002

PRESENT,

## The Queen's Most Excellent Majesty in Council

THE following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:—

“IN ACCORDANCE with Your Majesty's General Order of Reference of 22nd February, 1952 the Committee have considered a Petition of the States of Guernsey:—

“That, in pursuance of their Resolution of 14th December, 2001, and 25th September, 2002 the States of Deliberation at a meeting on 25th September, 2002 approved a Projet de Loi entitled “The Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the Projet de Loi is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction “The Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002”, and to order that the same shall have force of law in the Island of Guernsey.”

“The Committee have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

HER MAJESTY, having taken the said Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the said Projet de Loi, (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Island of Guernsey; and shall be entered on the Register of the Island of Guernsey and observed accordingly.

HER MAJESTY'S OFFICERS in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

*A. K. Galloway*

# PROJET DE LOI

ENTITLED

## **The Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002**

**THE STATES**, in pursuance of their Resolutions of 14<sup>th</sup> December, 2000<sup>a</sup> and 25<sup>th</sup> September, 2002<sup>b</sup>, 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.

### **General abolition of congé and congé fees.**

1. (1) Subject to section 2 of this Law, the congé of Her Majesty's Receiver General hitherto required to be produced at the time of the signing by the Ordinary Court of a conveyance of realty in Guernsey shall not be required in respect of any such conveyance presented to that Court for signature after the commencement of this Law.

(2) In consequence of subsection (1) of this section, any fees or dues hitherto payable for or in connection with the grant or obtaining of the congé of Her Majesty's Receiver General shall not be payable in respect of any conveyance to which that subsection applies.

### **Limitations on scope of section 1.**

2. Section 1 of this Law does not in any way alter or affect -

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<sup>a</sup> On Article 1.4 of Billet d'État No. XXIV of 2000.

<sup>b</sup> On Article            of Billet d'État No.            of 2002.

- (a) the feudal relationship, including all rights and obligations appurtenant thereto -
  - (i) between Her Majesty and any person holding an interest in a fief, or
  - (ii) between any person holding an interest in a fief and any person holding an interest in a dependency of that fief;
- (b) the customary law immediately before the commencement of this Law concerning the grant, obtaining and attestation of any requisite consent or permission for the transfer of or other dealing with a fief, including any rule of customary law as to the payment of fees or dues in connection therewith;
- (c) any requirement or obligation attaching to particular realty, or incumbent on a particular person, by virtue of any charge, covenant, contract, agreement, judicial order or statute.

**The Feudal Dues Law.**

3. As respects the Feudal Dues (Guernsey) Law, 1980<sup>c</sup> -

- (a) section 3 is repealed, but

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<sup>c</sup> Ordres en Conseil Vol. XXVII, p. 249.

- (b) the other provisions remain in force and are to be construed as one with this Law.

**Funding of former and continuing Crown responsibilities.**

4. (1) It is hereby declared for the purpose of certainty that, irrespective of the sums, if any, which may be paid from time to time to the States pursuant to the Jersey and Guernsey (Financial Provisions) Act 1947<sup>d</sup> it is and shall remain the duty of the States to fund from the general revenue of the States -

- (a) all expenditure reasonably required for the efficient and effective performance of those functions for which responsibility, or financial responsibility, has been or may hereafter be transferred from the Crown to the States by, under or pursuant to any enactment, agreement or arrangement<sup>e</sup>; and

- (b) any actual or foreseeable deficit as between -

- (i) all expenditure reasonably incurred, or likely to be incurred, by or on behalf of the Crown in the discharge, performance, maintenance, defence or exercise of any Crown or Royal duty, obligation, interest, right, responsibility or function in or in relation to this Bailiwick; and

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<sup>d</sup> An Act of Parliament (11 Geo.6 c.2) registered on the Records of the Island of Guernsey on 28<sup>th</sup> February, 1949 (Ordres en Conseil Vol. XIII, p.218).

<sup>e</sup> For example, those financial responsibilities accepted by the States pursuant to their Resolutions on Article III of Billet d'État No. VII of 1947.

- (ii) the revenues of the Crown arising or accruing in this Bailiwick and available to meet that actual and likely expenditure.

(2) The extent of any such deficit as is referred to in paragraph (1) (b) of this section is such amount as Her Majesty's Receiver General may from time to time certify in writing to the States Advisory and Finance Committee.

**Document Duty.**

5. (1) The Document Duty (Guernsey) Law, 1973<sup>f</sup> is amended in accordance with subsections (2) to (7) of this section.

(2) In section 1 (1) -

- (a) for “sections two and eight” there is substituted “section 8”;
- (b) for “any document set out in the left-hand column of the First Schedule to this Law” there is substituted “any document for the time being prescribed by Ordinance of the States for the purposes of this Law”;
- (c) for “at the rate set out opposite thereto in the right-hand column of the said Schedule” there is substituted “at the rate for the time being specified by Ordinance

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<sup>f</sup> Ordres en Conseil Vol. XXIV, pp. 74 and 236; Vol. XXV, p. 43; Recueil d'Ordonnances Tome XXVI, p. 139; Ordinance No. IX of 1996; Ordinance No. XXII of 2000.

of the States in relation to that prescribed document”.

- (3) Section 2 is repealed.
- (4) The proviso to section 3 is repealed.
- (5) For section 6<sup>g</sup> there is substituted the following section -

**“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

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<sup>g</sup> Section 6 was substituted by the Indirect Taxes, Duties and Impôts (Miscellaneous Amendments and Repeals) (Guernsey) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 236).

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.”.

(6) In section 7 (1) -

(a) the definition of “Friendly Society” is repealed;

(b) immediately after the definition of “this Island” the following definitions are inserted -

“**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.”.

(7) The First Schedule is repealed.

(8) In the Indirect Taxes, Duties and Imports (Miscellaneous Amendments and Repeals) (Guernsey) Law, 1974<sup>h</sup> the entry in the First Schedule relating to the Document Duty (Guernsey) Law, 1973 is repealed.

(9) The Document Duty (Amendment) (Guernsey) Law, 1975<sup>i</sup> is repealed.

#### **Interpretation.**

6. (1) In this Law -

“**cong **” means a document issued by or on behalf of Her Majesty’s Receiver General attesting receipt of the proper amount generally payable in accordance with the customary law in lieu of the treizi me, and of agreement by the Seigneur of a fief to a transfer of realty included therein;

“**conveyance of realty**” means a document effecting, and not merely agreeing to effect, a transfer of the legal ownership of any realty;

“**fief**” includes a dependency of a fief;

“**Her Majesty’s Receiver General**” means the person constituted

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<sup>h</sup> Ordres en Conseil Vol. XXIV, p. 236.

<sup>i</sup> Ordres en Conseil Vol. XV, p.43.

and appointed by Warrant of Her Majesty to be Her Majesty's Receiver General in, of and for the Bailiwick of Guernsey, and any person appointed by Warrant of Her Majesty to act in the stead of Her Majesty's Receiver General;

**“Ordinary Court”** means the Royal Court sitting as an Ordinary Court;

**“realty”** includes a usufruct, and any other interest in land or other property, which itself constitutes real property under the law of Guernsey;

**“States”** means the States of Guernsey.

(2) Unless the context otherwise requires, a reference in this Law to any enactment (including an Act of Parliament) includes a reference to that enactment as from time to time amended, replaced or re-enacted (in either case, with or without modification), extended or applied, by or under any other enactment, including this Law.

**Citation.**

7. This Law may be cited as the Feudal Dues (General Abolition of Congé) (Guernsey) Law, 2002.

**Commencement.**

8. This Law shall come into force on such day as may be appointed by Ordinance of the States.