

Island of



Guernsey

Ordinance of the States

XXXIII

2007

Made31st October, 2007

Coming into Operation1st January, 2008

The Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007

The Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007

ARRANGEMENT OF SECTIONS

PART I PROPERTY TAX

The tax

1. Property tax to be levied in respect of real property.
2. Property tax to be calculated on basis of assessable units.
3. Property references and rates of property tax.
4. Exemptions.
5. Meaning of plan area.
6. Measurement of plan area.
7. Administration of Ordinance.

Payment and liability

8. Payment of the tax.
9. Penalties or interest for late payment.
10. Owner liable to property tax.
11. Plan area and property reference to be taken as at 31st December.

The Register and the Map

12. Department to keep Register.
13. Department to prepare Map.

Notification, information and miscellaneous powers

14. Notification by Department of property reference, etc of property and changes to Register.
15. Duty to notify change of plan area or change of property reference.
16. Duty to notify ownership of real property.
17. Provision of information as to real property, etc.
18. Power to enter real property.
19. Power of Bailiff to grant warrant.
20. Powers conferred by Bailiff's warrant.
21. Power to estimate liability to property tax in cases of failure to co-operate.

PART II
THE TAX ON REAL PROPERTY APPEALS PANEL & TRIBUNAL

22. Establishment of the Panel.
23. Appointment and constitution of the Tribunal.
24. Confidentiality of information.
25. Power of Chairman and Tribunal to seek directions.
26. Procedure and powers of Tribunal.
27. Appointment of Clerk.

PART III
RELEVANT DECISIONS AND REVIEW THEREOF

28. Meaning of "relevant decision".
29. Notice to be given by Department of relevant decisions.
30. Review by Department of relevant decisions.

PART IV
APPEALS

31. Right of appeal.
32. Time for appealing.
33. Form of notice of appeal and application.
34. Refusal by Tribunal to hear appeals or applications.
35. Powers of Tribunal on appeal.
36. Appeals from Tribunal to Royal Court.
37. Reference of points of law to Royal Court.
38. Appeal from Royal Court to Court of Appeal.
39. Interpretation of Tribunal's decisions.

PART V
GENERAL PROVISIONS AND INTERPRETATION

40. Amnesty for tax on rateable value, etc.
41. Effect of legislation on planning laws.
42. Prohibition against disclosure of information.
43. Exchange of information with Environment Department.
44. Further provisions as to disclosure.
45. Guidance.
46. Performance of functions by officers, etc.
47. Repeal and amendment of enactments.
48. Service of documents.
49. General provisions as to subordinate legislation.

50. Penalties for false information.
51. Criminal liability of directors, etc.
52. Proceedings against unincorporated bodies.
53. Defence of due diligence.
54. Interpretation.
55. Extent.
56. Citation.
57. Commencement.

SCHEDULE 1: Property references and rates of tax.

SCHEDULE 2: Repeals.

SCHEDULE 3: Amendments.

SCHEDULE 4: The Tribunal: procedure and powers.

SCHEDULE 5: Form of notice of appeal to Tribunal and application to Tribunal for further time.

The Taxation of Real Property

(Guernsey and Alderney) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 27th July, 2005^a and the 28th June, 2007^b, and in exercise of the powers conferred on them by sections 1, 2 and 4 of the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005^c and all other powers enabling them in that behalf, hereby order:-

PART I

PROPERTY TAX

The tax

Property tax to be levied in respect of real property.

1. (1) A tax to be called property tax is payable in accordance with the provisions of this Ordinance in respect of real property in the Islands of Guernsey, Alderney and Herm ("**the Islands**").

(2) Property tax is an annual tax which is chargeable in respect of each calendar year.

Property tax to be calculated on basis of assessable units.

2. (1) Property tax is payable in respect of each assessable unit of the real property in question.

^a Article VII of Billet d'État No. XI of 2005.

^b Article VIII of Billet d'État No. XVI of 2007.

^c Order in Council No. X of 2006.

(2) In the case of a building, each square metre of the plan area of the building is an assessable unit.

(3) In the case of real property other than a building ("**land**"), each 50 square metres of the plan area of the land is an assessable unit.

Property references and rates of property tax.

3. (1) Property tax in respect of real property falling into a property reference specified in column 1 of Part I of Schedule 1 is chargeable at the rate per assessable unit attributable to the tariff reference specified in relation to that property reference in column 3 of Part I of Schedule 1.

(2) The rate of property tax attributable to each tariff reference shall be determined by Ordinance of the States.

(3) The Treasury and Resources Department ("**the Department**") may by regulation insert, amend or delete any entry in any column of Part I of Schedule 1.

Exemptions.

4. Property tax is not payable in respect of any real property specified in Part II of Schedule 1.

Meaning of plan area.

5. (1) Subject to the provisions of regulations under subsection (2), the "**plan area**" of any real property in the Islands has the following meanings -

- (a) in the case of a building which, wholly or partially, can in the opinion of the Department be accurately

externally measured for the purposes of this Ordinance by reference to the Map, the plan area is (subject to the application of any multiplier, etc, under section 6(2)) the total horizontal plan view area of the building measured to the edge of the roofline,

- (b) in the case of a building which cannot in the opinion of the Department be accurately externally measured for the purposes of this Ordinance by reference to the Map, the plan area is the total internal horizontal surface area measured to the floor line edge of the interior walls, and
- (c) in the case of land, the plan area is the total horizontal plan view area of the land.

(2) The Department may by regulation make such provision as it thinks fit in relation to the meaning of the expression "plan area" in relation to any real property or any class or description of real property.

(3) Regulations under subsection (2) -

- (a) may modify subsection (1) in its application to any real property or any class or description of real property, and
- (b) may make provision which is incidental, supplementary or ancillary to subsection (1).

Measurement of plan area.

6. (1) Subject to the provisions of regulations under subsection (3), the plan area of any real property in the Islands shall be measured as follows -

- (a) in the case of a building described in section 5(1)(a) -
 - (i) to the extent that the plan area can be accurately externally measured by reference to the Map, it shall be so measured, and
 - (ii) to the extent that the plan area cannot be accurately externally measured by reference to the Map, it shall be measured externally by such other means and in accordance with such other arrangements as the Department may direct,
- (b) in the case of a building described in section 5(1)(b), the plan area shall be measured internally by such means and in accordance with such arrangements as the Department may direct,
- (c) in the case of land, the plan area shall be measured by reference to the Cadastre or by such other means and in accordance with such other arrangements as the Department may direct.

(2) For the purpose of calculating the plan area of a building or of land -

- (a) in the case of a building -

(i) the Department may apply such multiplier or such other formula, rule or means of calculation as it considers necessary to take account of the number of storeys and the internal configuration of the building, and

(ii) any remaining fraction of a square metre of one half or more shall be rounded up to one square metre (and a lesser fraction shall be disregarded), and

(b) in the case of land, any remaining number of square metres of 25 or more but less than 50 shall be rounded up to 50 square metres (and a lesser number shall be disregarded).

(3) The Department may by regulation make such provision as it thinks fit in relation to the measurement of the plan area of any real property or any class or description of real property.

(4) Regulations under subsection (3) -

(a) may modify subsections (1) and (2) in their application to any real property or any class or description of real property, and

(b) may make provision which is incidental, supplementary or ancillary to subsections (1) and (2).

Administration of Ordinance.

7. The Department is responsible for the administration of this Ordinance and for the assessment and collection of property tax, and in particular, but without limitation, for -

- (a) determining the amount of property tax due in respect of any real property (but not the rate of property tax),
- (b) determining the property reference into which any real property falls,
- (c) determining the plan area of any real property and the number of assessable units thereof,
- (d) determining the ownership of any real property.
- (e) the establishment and maintenance of the Register under section 12.

Payment and liability

Payment of the tax.

8. (1) Subject to the provisions of this Ordinance, liability to property tax in respect of any real property arises upon service by the Department of an account specifying the amount of the tax due.

(2) Accounts shall be served -

- (a) on or at any time after the 1st January in the year in respect of which the tax is due, and

(b) on the owner of the property.

(3) Property tax is payable in such manner and at such times and intervals as the Department may require; and the requirements of the Department may make different provision in respect of -

(a) different owners or classes or description of owner,

(b) different property references, and

(c) different methods of payment.

(4) Without prejudice to the generality of subsection (3), requirements under that subsection may make provision for property tax -

(a) to be discounted by such amount, and

(b) to be paid by such instalments,

as the Department thinks fit.

(5) In any proceedings for the recovery of property tax a copy of an account produced by the Department (whether from data stored electronically or by other means) is evidence of the contents of the account.

Penalties or interest for late payment.

9. Where property tax in respect of any real property is not paid in accordance with the provisions of this Ordinance, the Department may, in its absolute discretion, levy whichever of the following is the greater -

- (a) a flat rate penalty of £25 for each month or part of a month in which the tax is unpaid, or
- (b) interest on the sum due at the rate of 10% per annum calculated from the date on which payment becomes due until the date on which payment is made,

and the penalty or interest is recoverable in the manner in which, and from the person from whom, the property tax is recoverable.

Owner liable to property tax.

10. (1) Property tax in respect of any real property, together with any interest or penalty recoverable in respect thereof -

- (a) is payable by the owner for the time being of the real property, whether or not he was the owner of the property when the property tax, interest or penalty became due, and
- (b) is recoverable from him as a civil debt due to the States.

(2) If two or more persons are the owners of the real property, their liability for property tax and any interest or penalty in respect thereof is joint and several.

Plan area and property reference to be taken as at 31st December.

11. For the purposes of calculating the amount of property tax due in any year in respect of any real property -

- (a) the plan area of the real property shall be taken to be its plan area as at the 31st December in the preceding year, and
- (b) the property reference of the real property shall be taken to be its property reference as at the 31st December in the preceding year.

The Register and the Map

Department to keep Register.

12. (1) The Department shall establish and maintain a Property Tax Register ("**the Register**") of all real property in the Islands.

References in this Ordinance to registration are, unless the context requires otherwise, to registration in the Register.

(2) The Register shall be kept in such form as the Department thinks fit and may (without limitation) be kept in electronic form.

(3) There shall be entered in the Register -

- (a) particulars of all real property in the Islands,
- (b) the property reference into which the real property falls and the tariff reference applicable to it,
- (c) the name and address of the owner of the real property,

- (d) any reference allocated to any particular real property and the owner thereof,
 - (e) the plan area of the real property, and
 - (f) such other matters as the Department thinks fit.
- (4) The Department shall make arrangements for -
- (a) public access to the Register, and
 - (b) subject to payment of the appropriate fee, the supply of certified or uncertified copies or extracts of entries in the Register.
- (5) A copy, certified by or on behalf of the Department as being a correct copy of an entry in the Register, specifying -
- (a) particulars of any real property in the Islands,
 - (b) the property reference into which any real property falls and the tariff reference applicable to it,
 - (c) the plan area of any real property, or
 - (d) the name and address of the owner of any real property,

is, in any legal proceedings for the recovery of property tax, evidence of each of

those matters unless notice of appeal under section 31(3) or an application for further time under section 32(1)(b) has been served in respect of the matter and the appeal or application has not been finally disposed of.

(6) The cost of -

(a) the establishment of the Register shall be met from general revenues, and

(b) the maintenance, updating and rectification of the Register shall be met as to 75% (or such greater percentage as the Department may from time to time determine) from general revenues and as to the remainder from parochial funds to be provided by the parishes in proportion to the total number of assessable units of all the real property respectively within each parish.

(7) Subsection (6) is without prejudice to any other agreement or arrangement between the States and the parishes as to the payment of the costs incurred by the States in the administration of this Ordinance or any other legislation relating to parochial taxation.

(8) The Department may at any time amend the Register by modifying, updating or rectifying any entry therein in such manner as it thinks fit.

(9) The Department shall, as soon as is reasonably practicable after effecting any such amendment, give notice in writing of the amendment to the owner of any real property affected by it.

(10) Subsection (8) is without prejudice to any other provision of this Ordinance relating to the keeping of the Register.

Department to prepare Map.

13. (1) The Department shall for the purposes of this Ordinance prepare and maintain a map of the Bailiwick to be called the States of Guernsey Digital Map ("**the Map**") from which measurements of the plan area of real property in the Islands may be made.

(2) The Map shall be kept in such form (including, without limitation, in electronic form) as the Department thinks fit and shall show and contain such information and data as to land parcels, building polygons and other relevant matters as the Department thinks fit.

(3) The Department shall make arrangements for -

- (a) public access to the Map at the Cadastre office, and
- (b) subject to payment of the appropriate fee, the supply of certified or uncertified copies, extracts or representations of entries in the Map.

(4) A copy, extract or representation of an entry in the Map certified by or on behalf of the Department as being correct is, in any legal proceedings for the recovery of property tax, conclusive evidence of what is shown on the Map.

Notification, information and miscellaneous powers

Notification to owner of property reference, etc, of property and changes to

Register.

14. (1) The Department shall, by notice in writing served on the owner of any real property in the Islands, as soon as is reasonably practicable after the commencement of this Ordinance, inform him of the Department's decision as to -

- (a) the plan area of the property and the number of assessable units thereof,
- (b) the property reference into which the property falls, and
- (c) the ownership of the property.

(2) Where the Department decides that -

- (a) there has been a change in the plan area of any real property and the number of assessable units thereof,
- (b) there has been some other change in -
 - (i) any real property (including any alteration or addition to it), or
 - (ii) the purposes for which any real property is used,

which affects the property reference into which it falls,
or

- (c) there has been a change in the ownership of any real property,

and that the Register should be amended to reflect that change, the Department shall by notice in writing served on the owner of the property, as soon as is reasonably practicable after the change comes to the Department's attention, inform him of the Department's decision.

(3) Where Schedule 1 ("property references and rates of tax") is amended by an enactment and in consequence thereof the Department decides that any real property now falls into a property reference different from that into which it fell immediately before the amending enactment came into force, the Department shall, by notice in writing served on the owner of the property, as soon as is reasonably practicable after the amending enactment comes into force, inform him of the Department's decision.

(4) For the avoidance of doubt a decision of the Department under this section is a relevant decision within the meaning of section 28.

(5) A notice of the Department under this section may contain such ancillary, supplementary and incidental information as the Department thinks fit.

Duty to notify change of plan area or change of property reference.

15. (1) The owner of any real property in the Islands shall inform the Department of -

- (a) any change in the plan area of the property which affects or may affect the amount of property tax due in respect of it, and

(b) any other change in -

(i) the property (including any alteration or addition to it), or

(ii) the purposes for which the property is used,

which affects or may affect the property reference into which it falls,

as soon as it is reasonably practicable to do so and in any case not later than the 30th September next following the change.

For the avoidance of doubt, this obligation has effect whether or not the change required planning permission.

(2) The information shall be provided in such form and manner (if any) as the Department may require.

(3) The information shall be accompanied by such other information and documents as the Department may reasonably require for the purpose of performing its functions under this Ordinance.

(4) A person who without reasonable excuse fails to comply with this section or any requirement under it is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

Duty to notify ownership of real property.

16. (1) If a person becomes the owner of any real property in the Islands he shall inform the Department of that fact as soon as it is reasonably practicable to do so and in any case within a period of 28 days immediately following the date of -

- (a) the registration of the conveyance or other instrument pursuant to which he acquired ownership, or
- (b) the event as a result of which he acquired ownership.

If a person does not know at the time that he has become the owner of any real property, the duty imposed by this subsection arises on the date on which he first learns of the fact.

(2) The information shall be provided in such form and manner (if any) as the Department may require.

(3) The information shall include the name and address of the owner and particulars of the real property and shall be accompanied by such other information and documents as the Department may reasonably require for the purpose of performing its functions under this Ordinance.

(4) Where a will of the real property of a deceased person is registered, the person effecting registration shall (without prejudice to the duty of any other person under this section) within a period of 28 days immediately following registration give the Department notice of the will, informing it of the name and address of each devisee and particulars of the real property inherited.

(5) A person who without reasonable excuse fails to comply with this section or any requirement under it is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

Provision of information as to real property, etc.

17. (1) Without prejudice to sections 15 and 16, the Department may by notice in writing require an owner or former owner of real property in the Islands to provide such information and documents relating to the real property or the ownership thereof as the Department may reasonably require for the purpose of performing its functions under this Ordinance.

(2) The information and documents shall be provided in such form and manner (if any) as the Department may require.

(3) If there is any change to any information provided to the Department under this section or under section 15 or 16 by or on behalf of any person (whether by virtue of the information becoming out of date, or being found to be incomplete or inaccurate, or otherwise), that person shall inform the Department of the change as soon as is reasonably practicable and in any case within a period of 28 days after the date on which he learns of the change.

(4) Where a person is required by or under this section or section 15 or 16 to produce any documents, the Department may -

(a) if the documents are produced, take copies of them or extracts from them and require that person to provide an explanation of them, and

(b) if the documents are not produced, require that person to state, to the best of his knowledge and belief, where

they are.

(5) A person who without reasonable excuse fails to comply with this section or any requirement under it is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

(6) A statement made by a person in response to a requirement imposed by or under this section may not be used in evidence against him in criminal proceedings except -

- (a) in proceedings for an offence under subsection (5) or section 50(1), or
- (b) in proceedings for some other offence where in giving evidence he makes a statement inconsistent with it,

and, for the avoidance of doubt, proceedings for the recovery of property tax and any penalty or interest in respect thereof are not criminal proceedings.

Power to enter real property.

18. (1) A person authorised in writing by the Department ("**an authorised person**") may, on production of some duly authenticated document showing his authority and with such other persons (if any) as may be necessary, at any reasonable time enter any real property in the Islands and carry out such inspection and measurement of the property as may be reasonably necessary for the purposes set out in subsection (2).

(2) The purposes are -

- (a) to determine the plan area, property reference and

ownership of the real property, and

- (b) to ascertain anything else relevant to that determination or to the performance of the Department's functions under this Ordinance.

(3) Notwithstanding subsection (1), and except in cases of emergency, an authorised person is not entitled to demand admission as of right to a building which is occupied unless 24 hours' written notice has been given to the occupier.

(4) A person who -

- (a) fails without reasonable excuse to comply with a requirement imposed by, or to answer a question asked by, an authorised person for the purpose of enabling him to exercise a power conferred by this section, or
- (b) wilfully obstructs such a person in the exercise of any such power,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Power of Bailiff to grant warrant.

19. (1) If the Bailiff, within the meaning of subsection (2), is satisfied by information on oath -

- (a) that a person authorised under section 18 has at any

reasonable time been refused admission to any real property in the Islands,

- (b) that for any other reason it would be impracticable, if a warrant were not granted, to obtain access to any such real property,
- (c) that a person has committed an offence under section 18(4),
- (d) that a person has failed to comply with any requirement imposed by or under section 15, 16 or 17, or
- (e) that any information or document furnished pursuant to any such requirement is inaccurate or incomplete,

he may grant a warrant conferring the powers set out in section 20.

(2) In this section the "**Bailiff**" means -

- (a) where the warrant is to be executed in Alderney, the Chairman of the Court of Alderney or, if he is unavailable, a Jurat thereof,
- (b) in any other case, the Bailiff, Deputy Bailiff, Lieutenant-Bailiff or Juge Délégué.

Powers conferred by Bailiff's warrant.

20. (1) A warrant under section 19 authorises any officer of police,

together with any other person named in, or of a class or description specified in, the warrant (including, without limitation, any officer, servant or agent of the Department) -

- (a) to enter any real property specified in the warrant, using such force as may be reasonably necessary for the purpose,
- (b) to carry out such inspection and measurement of the real property as may be reasonably necessary for the purposes of -
 - (i) determining the plan area, property reference and ownership of the property, and
 - (ii) ascertaining anything else relevant to that determination or to the performance of the Department's functions under this Ordinance, and
- (c) to require any person named in, or of a class or description specified in, the warrant to answer any questions relevant to the purposes set out in paragraph (b).

(2) A warrant under section 19 ceases to be valid on the expiration of 28 days immediately following the day on which it was granted.

(3) A person who without reasonable excuse obstructs or fails to comply with any requirement of a person exercising or purporting to exercise any

power conferred by a warrant under section 19 is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months, or to both.

(4) A statement made by a person in response to a requirement imposed under a warrant granted under section 19 may not be used in evidence against him in criminal proceedings except -

- (a) in proceedings for an offence under subsection (3) or section 50(1), or
- (b) in proceedings for some other offence where in giving evidence he makes a statement inconsistent with it,

and, for the avoidance of doubt, proceedings for the recovery of property tax and any penalty or interest in respect thereof are not criminal proceedings.

Power to estimate liability to property tax in cases of failure to co-operate.

21. (1) Where the Department is satisfied that it has not been reasonably possible to enter any real property in the Islands and carry out such inspection and measurement of the property as may be reasonably necessary for the purposes of determining its plan area and property reference, it may estimate the plan area of the property and determine the property reference into which, in its opinion, the property falls on the basis of any relevant information available to it.

(2) Subsection (1) applies notwithstanding the provisions of sections 19 and 20 and whether or not an application has been made for a warrant under section 19.

(3) Where subsection (1) applies, property tax is payable in

respect of the real property on the basis of the Department's estimate and opinion; and the provisions of this Ordinance apply accordingly.

PART II

THE TAX ON REAL PROPERTY APPEALS PANEL & TRIBUNAL

Establishment of the Panel.

22. (1) The States shall, on the recommendation of the Department, draw up and maintain a panel to be called the Tax on Real Property Appeals Panel ("**the Panel**").

(2) The Panel shall consist of such number of persons as in the opinion of the States is necessary for the purpose of hearing and determining appeals against decisions of the Department described in section 28 ("**relevant decisions**").

(3) The States shall designate one member of the Panel as Chairman of the Panel and another as deputy Chairman thereof.

- (4) The following persons may not be appointed to the Panel -
- (a) any member of the States of Deliberation or the States of Election within the meaning of the Reform (Guernsey) Law, 1948^d,
 - (b) any member of the States of Alderney,
 - (c) any Constable or Douzenier,

^d Ordres en Conseil Vol. XIII, p. 288; No. V of 1993; No. X of 1998.

- (d) any procureur or overseer of the poor or member of a parochial outdoor assistance board, and
- (e) any member of the judiciary of the Islands.

Appointment and constitution of the Tribunal.

23. (1) A tribunal to be called the Tax on Real Property Appeals Tribunal ("**the Tribunal**") shall be appointed from the membership of the Panel for the purpose of hearing and determining appeals against relevant decisions.

(2) The Tribunal shall, subject to any provision to the contrary in this Ordinance, consist of three persons.

(3) The Chairman of the Panel or, if he is unavailable, the deputy Chairman thereof shall -

- (a) from the membership of the Panel, appoint the members of the Tribunal who are to hear and determine any appeal against a relevant decision, and
- (b) nominate one of the members so appointed to chair the Tribunal,

and for the avoidance of doubt the Chairman or deputy Chairman may so appoint and nominate himself.

Confidentiality of information.

24. (1) A member of the Panel shall not disclose or cause or permit the disclosure of any document or information which relates to the business or

affairs of any person and which is acquired by him in the course of performing his functions as a member of the Panel or of the Tribunal, except -

- (a) with the consent of the person to whom the document or information relates and (if different) the person from whom it was acquired, or
- (b) to the extent that the disclosure is necessary -
 - (i) to enable him to perform his functions as a member of the Panel or of the Tribunal,
 - (ii) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings, or
 - (iii) to comply with an order of a court.

(2) A person who discloses or causes or permits the disclosure of any document or information in contravention of subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months, or to both.

Power of Chairman and Tribunal to seek directions.

25. (1) If the Chairman of the Panel (or, if he is unavailable, the deputy Chairman thereof) or the Tribunal believes that it would assist in the proper and lawful performance of their respective functions, he (or it) may apply to the Royal Court for directions, or for a determination of any question of fact, law or procedure, in such manner as may be prescribed by order of the Royal Court.

(2) On an application under subsection (1) the Royal Court may make such order, on such terms and conditions, as it thinks fit.

(3) An appeal from an order of the Royal Court under this section lies, with leave of the Royal Court or the Court of Appeal, to the Court of Appeal on a question of law.

(4) Section 21 of the Court of Appeal (Guernsey) Law, 1961^e ("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Procedure and powers of Tribunal.

26. Schedule 4, which is entitled "The Tribunal: procedure and powers" and which lays down -

- (a) the procedure to be followed by, and the powers to be available to, the Tribunal in hearing and determining appeals against relevant decisions, and
- (b) other ancillary matters relating to the Tribunal and its proceedings and powers,

has effect.

Appointment of Clerk.

27. (1) The Department shall -

^e Ordres en Conseil Vol. XVIII, p. 315.

- (a) appoint a Clerk to the Tribunal, and such number of deputy Clerks, on such terms and conditions, and
- (b) provide such other officers and facilities,

as the Department thinks fit.

(2) The Clerk or a deputy Clerk must be present during all proceedings of the Tribunal, but shall not -

- (a) retire with the Tribunal,
- (b) participate in the Tribunal's deliberations, or
- (c) draft or participate in the drafting of the Tribunal's decisions.

PART III RELEVANT DECISIONS AND REVIEW THEREOF

Meaning of "relevant decision".

28. In this Ordinance a "**relevant decision**" means a decision of the Department of any of the following descriptions -

- (a) a decision as to the amount of property tax due in respect of any real property,
- (b) a decision as to the property reference into which any real property falls,

- (c) a decision as to the plan area of any real property or the number of assessable units thereof,
- (d) a decision as to the ownership of any real property,
- (e) a decision to amend or not to amend the Register under section 12(8).

Notice to be given by Department of relevant decisions.

29. When the Department makes a relevant decision, it shall serve on the person concerned a notice in writing, stating -

- (a) the terms of the relevant decision,
- (b) that the person concerned may, within a period of 28 days beginning on the date of the notice -
 - (i) ask the Department in writing to review the decision, and
 - (ii) make written or oral representations to the Department in respect of the decision, and
- (c) that if the person concerned does not ask the Department to review the decision in accordance with paragraph (b), the decision shall be final,

and in this section and section 30 "**the person concerned**" means the person by whom the right of appeal against the decision is exercisable.

Review by Department of relevant decisions.

30. (1) If the person concerned, within the 28 day period mentioned in section 29(b), asks the Department in writing to review the relevant decision, the Department shall review the decision, taking into account any representations made by that person, and having done so shall -

- (a) confirm or vary the decision, or rescind it and make a new decision as to the matter in question, and
- (b) serve on the person concerned a notice in writing stating -
 - (i) the terms of, and the grounds for, the decision as confirmed or varied or, as the case may be, the new decision, and
 - (ii) that the person concerned may, within a period of 28 days beginning on the date of the notice, appeal against the decision under section 31.

(2) If the person concerned, within the 28 day period mentioned in section 29(b), does not ask the Department in writing to review the relevant decision -

- (a) the decision is final, and
- (b) the person concerned may not appeal against the decision under section 31.

(3) Where the Department is asked to review a decision relating to the plan area of any real property, the Department may, before undertaking any re-measurement of the property, require the person concerned to pay them their reasonable costs of re-measurement.

(4) If the person concerned does not pay the costs of re-measurement, the Department is not obliged to re-measure the property or to review its decision.

(5) The costs of re-measurement shall be reimbursed by the Department only if the re-measurement of the property establishes that an appeal by the person concerned against the decision would have succeeded on the grounds set out in section 31(5).

(6) Where in accordance with this section the person concerned asks the Department to review a relevant decision, and the Department fails to comply with subsection (1)(a) and (b) within a period of 3 months beginning on the day on which it received the request to review the decision, then for the purposes of Part IV of this Ordinance ("appeals") the Department shall be deemed to have reviewed and confirmed its decision, and to have served on the person concerned notice in writing of the fact, in accordance with this section.

PART IV APPEALS

Right of appeal.

31. (1) A person aggrieved by a relevant decision may, subject to the provisions of this Ordinance, and provided that the Department has reviewed the decision in accordance with section 30, appeal against the decision to the Tribunal.

(2) The grounds of an appeal under this section are that the decision was wrong.

(3) An appeal under this section shall be instituted by notice of appeal served on the Clerk stating the grounds and material facts on which the appellant relies.

(4) On an appeal under this section the burden of proof is on the appellant to establish on a balance of probabilities that the relevant decision was wrong.

(5) In the case of an appeal under this section against a decision of the Department as to the plan area of a building which has been externally measured for the purposes of this Ordinance by reference to the Map, the appeal shall be allowed only if the appellant can establish that -

(a) the co-ordinates of any point of the building measured by reference to the Map have been incorrectly measured by an amount of more than 10 centimetres,

(b) that error has resulted in an increase in the plan area attributed to the building by the decision, and

(c) that error has affected the number of assessable units attributed to the building by the decision by more than

-

(i) 5 assessable units, or

(ii) 5% of the total number of assessable units

attributed to the building by the decision,

whichever is the greater.

In this subsection the "building" means the combined group of buildings in respect of which the appeal was instituted.

- (6) The Clerk, on receipt of notice of appeal, shall immediately -
 - (a) transmit it to the Chairman of the Panel requesting him (or, if he is unavailable, the Deputy Chairman of the Panel) to appoint, from the membership of the Panel, a Tribunal constituted by three members to hear and determine the appeal, and
 - (b) transmit it to the Department.

Time for appealing.

32. (1) The Tribunal shall not hear and determine an appeal against a relevant decision unless notice of appeal under section 31 is served on the Clerk -

- (a) before the end of a period of 28 days beginning on the date of the notice of the decision required to be served by the Department on the person aggrieved under section 30(1)(b), or
- (b) within such further time as the Tribunal (constituted by a single member of the Panel) may, on the application of the person aggrieved served on the Clerk, allow in a case where it is satisfied that it was

not reasonably practicable for notice of appeal to be presented within that period.

(2) The Clerk, on receipt of an application for further time under subsection (1)(b), shall immediately transmit it to the Chairman of the Panel requesting him (or, if he is unavailable, the Deputy Chairman of the Panel) to appoint, from the membership of the Panel, a Tribunal (constituted by a single member) to hear and determine the application.

(3) Where the Tribunal, on an application under subsection (1)(b), decides that further time should or should not be allowed for the service of notice of appeal -

- (a) the Tribunal's decision is subject to appeal in accordance with section 36, and
- (b) if the Tribunal (or the Royal Court on appeal under section 36) determines that further time should be allowed for the service of notice of appeal, the single member of the Tribunal shall not be appointed as one of the members of the Tribunal who are to hear and determine the appeal.

Form of notice of appeal and application.

33. (1) A notice of appeal under section 31 and an application for further time under section 32(1)(b) -

- (a) shall be served on the Clerk in the form set out in Part I or (as the case may be) Part II of Schedule 5, and

- (b) shall be supported by such information and documents, verified in such manner, as the Clerk may require.

(2) At any time after receipt of a notice of appeal or an application for further time, the Clerk may require the appellant or applicant to furnish such additional information and documents, verified in such manner, as the Clerk thinks fit.

Refusal by Tribunal to hear appeals or applications.

34. (1) The Tribunal may refuse to hear and determine an appeal under section 31 or an application for further time under section 32(1)(b) -

- (a) in default of compliance by the appellant or applicant with any provision of, or any requirement imposed under, section 33, or
- (b) if the appeal or application appears to the Tribunal to be frivolous or vexatious.

(2) The Tribunal shall refuse to hear and determine an appeal under section 31 against, or an application for further time under section 32(1)(b) in respect of, a relevant decision if the Department has not reviewed the decision in accordance with section 30.

Powers of Tribunal on appeal.

35. (1) On an appeal under section 31, the Tribunal may -

- (a) dismiss the appeal, or
- (b) quash the relevant decision to which the appeal relates,

and, where the Tribunal quashes the decision, it may remit the matter to the Department with a direction to reconsider it and reach a decision in accordance with the findings of the Tribunal.

(2) The effect of a relevant decision to which an appeal under section 31 relates is not, except where the Tribunal orders otherwise, suspended in consequence of the bringing of the appeal.

(3) The Department may, where an appeal under section 31 has been instituted, apply to the Tribunal, by notice served on the appellant and the Clerk, for an order that the appeal be dismissed for want of prosecution, and on hearing such an application the Tribunal may -

- (a) dismiss the appeal or dismiss the Department's application (in either case on such terms and conditions as the Tribunal may direct), or
- (b) make such other order as the Tribunal considers just.

Appeals from Tribunal to Royal Court.

36. (1) A person aggrieved by a decision of the Tribunal on a question of law may, subject to the provisions of subsections (2) and (3), appeal therefrom to the Royal Court in such manner and within such period as may be prescribed by order of the Royal Court.

(2) No decision of the Tribunal shall be invalidated solely by reason of a procedural irregularity unless the irregularity was such as to prevent any party to the proceedings from presenting his case fairly before the Tribunal.

(3) This section does not confer a right of appeal on a question of law which has been referred to the Royal Court under section 25 or 37.

Reference of points of law to Royal Court.

37. A question of law arising in connection with the hearing and determination by the Tribunal of an appeal under section 31 or an application for further time under section 32(1)(b) may, if the Tribunal thinks fit, be referred for decision to the Royal Court in such manner and within such period as may be prescribed by order of the Royal Court.

Appeal from Royal Court to Court of Appeal.

38. (1) An appeal from a decision of the Royal Court made on an appeal under section 36 or on a reference under section 37 lies, with leave of the Royal Court or Court of Appeal, to the Court of Appeal.

(2) Section 21 of the Court of Appeal (Guernsey) Law, 1961^f ("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Interpretation of Tribunal's decisions.

39. (1) Any party to an appeal under section 31 which has been decided by the Tribunal may, within a period of 28 days immediately following the date of the Tribunal's decision (or such other period as the Tribunal may in its absolute discretion allow), apply to the Tribunal for a determination of any question as to the interpretation of the decision.

(2) The Tribunal shall, before making such a determination, hear

^f Ordres en Conseil Vol. XVIII, p. 315.

any representations of the parties as to the question in issue.

(3) The determination of the Tribunal on an application under subsection (1) shall be stated in writing to the parties and has effect as if it were an original decision.

PART V
GENERAL PROVISIONS AND INTERPRETATION

Amnesty for tax on rateable value, etc.

40. (1) The Department shall waive any liability of any person to any tax due in respect of any real property under the provisions of the Tax on Rateable Values (Guernsey) Law, 1976^g (or any Ordinance under it) which has not been paid at the date of commencement of this Ordinance in accordance with those provisions.

(2) Subsection (1) applies only in respect of a non-payment or under-payment of tax attributable to a failure on the part of the owner of the real property to declare, in accordance with the provisions mentioned in that subsection -

- (a) an alteration or addition to the property which would have resulted in an increase in the rateable value thereof, or
- (b) a change of the category of the property which would have resulted in an increase in the tax on rateable value payable in respect thereof.

^g Ordres en Conseil Vol. XXVI, p. 86; and No. II of 1995.

(3) Subsection (1) does not apply in cases where the non-payment or under-payment is attributable to the fraud, wilful misconduct or gross negligence of the owner.

(4) References in this section to the owner of any real property include, where there is more than one owner thereof, references to any of them.

Effect of legislation on planning laws.

41. (1) For the avoidance of doubt, the property reference into which any real property is considered to fall for the purposes of this Ordinance is not relevant to the determination of the use or use class of that property for the purposes of the planning Laws (and vice versa).

(2) The "planning Laws" means the Land Planning and Development (Guernsey) Law, 2005^h, the Building and Development Control (Alderney) Law, 2002ⁱ and any Ordinance or regulation under them.

Prohibition against disclosure of information.

42. (1) Subject to sections 43 and 44, any document or information acquired by any person in connection with the operation of this Ordinance or any regulations under it shall not be disclosed, except -

(a) to the extent necessary to enable the Department to perform its functions,

(b) for the purposes of civil proceedings in connection with the operation of this Ordinance,

^h No. XVI of 2005.

ⁱ No. XII of 2003.

- (c) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings,
- (d) with the consent of the person to whom it relates and (if different) the person from whom it was acquired,
- (e) to comply with an order of a court,
- (f) to the extent that its disclosure is expressly authorised or required by or under any enactment relating to the Department's functions, or
- (g) in accordance with section 43(1).

(2) A person who discloses or causes or permits the disclosure of any document or information in contravention of subsection (1) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months, or to both.

(3) This section and section 43 do not apply to members of the Panel in respect of documents and information described in section 24.

Exchange of information with Environment Department.

43. (1) Any document or information referred to in section 42(1) may also be disclosed to any member, officer or servant of the Environment Department to enable that Department to carry out its functions or to investigate matters of relevance to its functions.

In this section and section 44 "Environment Department" means -

- (a) the States Environment Department, or
- (b) the States of Alderney Building and Development Control Committee.

(2) Any document or information acquired by the Environment Department in connection with the operation of any enactment administered by it may be disclosed to any member, officer or servant of the Department to enable the Department to carry out its functions, or to investigate matters of relevance to its functions, under this Ordinance or any regulations under it.

This subsection is without prejudice to any other power of the Environment Department to disclose information and documents.

(3) Information disclosed under subsection (1) or (2) shall not be further disclosed except as mentioned in paragraphs (a) to (f) of section 42(1).

Those paragraphs have effect as if references to the Department and this Ordinance included references to the Environment Department and any enactment administered by it.

(4) A person who discloses or causes or permits the disclosure of any document or information in contravention of subsection (3) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 3 months, or to both.

Further provisions as to disclosure.

44. (1) In proceedings against a person for an offence under section 42 or 43 it is a defence for him to show -

- (a) that he took all reasonable steps and exercised all due diligence to avoid committing the offence, or
- (b) that he did not know and had no reason to suspect that the document or information in question was to be regarded as confidential.

(2) The Department and the Environment Department may, when disclosing any document or information to any person pursuant to section 42 or 43 -

- (a) impose such conditions in relation to the use, disclosure, safekeeping and return of that document or information by that person or by any other person who may obtain it from him,
- (b) require any such person to enter into such undertakings in relation to such use, disclosure, safekeeping and return, and
- (c) take such other steps to ensure that the confidentiality of the document or information is protected,

as the Department or Environment Department thinks fit.

Guidance.

45. (1) The Department may issue such guidance as it considers appropriate in connection with the administration of this Ordinance and any matter

relating to it.

(2) Guidance under this section may, without limitation, give examples and explanations of -

- (a) how the plan area of real property in the Islands will be measured, and
- (b) how the number of assessable units, and the charge to property tax, in respect of any such real property will be calculated.

(3) Guidance under this section -

- (a) must be taken into account by the Department in exercising its functions under this Ordinance but, unless the guidance provides otherwise -
 - (i) it is not binding on the Department or on any other person,
 - (ii) it is merely indicative of the Department's likely approach to any particular issue,
 - (iii) it does not prejudice the Department's discretion to decide any particular case differently according to its merits, and
 - (iv) it does not relieve any person of any duty, obligation, restriction or liability imposed by or

under this Ordinance,

- (b) may, subject to the limitations set out in paragraph (a), be received in proceedings under this Ordinance, and
- (c) may contain provision which is incidental, supplementary or ancillary to the provisions of this Ordinance and any regulations under it.

Performance of functions by officers, etc.

46. (1) The Department may arrange for any of its functions under this Ordinance (other than those under this section) to be performed in its name by any of its officers.

(2) A function performed pursuant to an arrangement under subsection (1) is for all purposes performed by the Department; and every decision taken or other thing done pursuant to such an arrangement has the same effect as if taken or done by it.

(3) An arrangement under subsection (1) -

- (a) may be varied or terminated at any time by the Department, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement,
- (b) does not prevent the performance of the function by the Department whilst the arrangement subsists.

(4) This section is without prejudice to the provisions of the

Public Functions (Transfer and Performance) (Guernsey) Law, 1991^j.

(5) The Department must from time to time consider the advisability of making arrangements under subsection (1) and under the provisions mentioned in subsection (4) and review any such arrangements previously made by it.

Repeal and amendment of enactments.

47. (1) The enactments listed in Schedule 2 are repealed.

(2) The enactments listed in Schedule 3 are amended in accordance with the provisions of that Schedule.

Service of documents.

48. (1) Any document to be served for the purposes of this Ordinance is validly served, in the case of an individual or body, by being left at, or sent by post to, their address for the time being entered in the Register or, if there is no such address -

(a) in the case of an individual, by being delivered to him or by being left at, or sent by post to, his usual or last known place of abode,

(b) in the case of a body corporate with a registered office in the Islands, by being left at, or sent by post to, that office,

(c) in the case of a body corporate without a registered

^j Order in Council No. XXI of 1991.

office in the Islands, by being left at, or sent by post to, its principal or last known principal place of business in the Islands or, if there is no such place, its registered office or principal or last known principal place of business elsewhere,

- (d) in the case of an unincorporated body -
 - (i) by being served on any partner, member, manager, director or other similar officer thereof at their address for the time being entered in the Register or, if there is no such address, in accordance with paragraph (a), or
 - (ii) by being left at, or sent by post to, the body's principal or last known principal place of business in the Islands or, if there is no such place, its principal or last known principal place of business elsewhere,
- (e) in the case of the Department, by being left at, or sent by post to, its principal offices in Guernsey,

and in this section the expression "**by post**" means by registered post, recorded delivery service or ordinary letter post.

(2) If a person notifies the Department of an address for service within the Islands for the purposes of this Ordinance, any document to be served on that person may be served by being left at, or sent by post to, that address.

(3) If a person on whom a document is to be served for the purposes of this Ordinance is an infant or person under guardianship, the document shall be served on his guardian; and, if there is no guardian, the Department may apply ex parte to the Royal Court or, in Alderney, the Court of Alderney for the appointment of a person to act as guardian for the purposes of this Ordinance.

(4) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served by being published on two occasions in La Gazette Officielle or, in the case of service in Alderney, the Alderney Official Gazette.

(5) Subsections (1) to (4) are without prejudice to any other lawful method of service.

(6) Where the ownership of any real property is vested in two or more persons, service of a document on one of them in accordance with the provisions of this section is deemed, for the purposes of this Ordinance, to be service on all of them.

(7) No document to be served on the Department under this Ordinance shall be deemed to have been served until it is received.

(8) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Ordinance to have been received -

(a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting, and

(b) in the case of a document sent elsewhere by airmail,

on the seventh day after the day of posting,

excluding in each case any non-business day.

(9) Service of a document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(10) Without prejudice to any other provision of this section, a document relating to any real property in the Islands which is to be served for the purposes of this Ordinance on the owner or occupier of that real property may be served -

(a) by being left at, or sent by post to, that property, or

(b) where the foregoing is impracticable, by being affixed to some conspicuous part of or about that property.

(11) If the name of the owner or occupier of any real property on whom a document is to be served for the purposes of this Ordinance cannot after reasonable inquiry be ascertained, the document may be served by addressing it to the person on whom it is to be served by the description of "**owner**" or "**occupier**" of the real property (describing it) to which the document relates.

(12) In this section -

"document" means any notice, account or other document other than a summons, and

"served" includes given.

General provisions as to subordinate legislation.

49. (1) The Department may by regulation make provision for the purpose of carrying this Ordinance into effect.

This subsection is without prejudice to any other provision of this Ordinance conferring power to enact regulations or orders (and vice versa).

(2) Any regulation or order under this Ordinance -

(a) may be amended or repealed by a subsequent regulation or, as the case may be, order hereunder, and

(b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, including (in the case of a regulation, and without limitation) provision amending or modifying any enactment (including this Ordinance).

(3) Any power conferred by this Ordinance to make a regulation or order may be exercised -

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

(b) so as to make, as respects the cases in relation to which it is exercised -

- (i) the full provision to which the power 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.

(4) Regulations of the Department under this Ordinance shall be laid before a meeting of the States as soon as possible after being made; and, if at that or the next meeting the States resolve to annul the regulations, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(5) The Department shall, before making any regulations under this Ordinance, consult the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed regulations; but a failure to comply with this subsection does not invalidate the regulations.

Penalties for false information.

50. (1) If a person -

- (a) in purported compliance with a requirement imposed by or under, or otherwise for the purposes of, this Ordinance, or

- (b) otherwise than as mentioned in paragraph (a) but in circumstances in which he intends, or could reasonably be expected to know, that the statement, information or document provided by him would or might be used by the Department for the purpose of performing its functions under this Ordinance,

does any of the following -

- (i) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (iii) produces or furnishes or causes or permits to be produced or furnished any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

then he is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable -
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
 - (b) on summary conviction, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(3) In relation to offences tried before the Court of Alderney, the penalties stipulated by subsection (2)(b) are applicable notwithstanding the provisions of section 13 of the Government of Alderney Law, 2004^k.

Criminal liability of directors, etc.

51. (1) Where an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body or any person purporting to act in any such capacity, he as well as the body is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

^k Order in Council No. III of 2005.

Proceedings against unincorporated bodies.

52. (1) Where an offence under this Ordinance is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of the body and not in the name of any of its members.

(2) A fine imposed on an unincorporated body on its conviction of an offence under this Ordinance shall be paid from the funds of the body.

(3) Where an offence under this Ordinance is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of the body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

he as well as the body is guilty of the offence and may be proceeded against and punished accordingly.

Defence of due diligence.

53. In any proceedings for an offence under this Ordinance, it is a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself

and by any person under his control.

Interpretation.

54. (1) In this Law, unless the context requires otherwise, and subject to the provisions of regulations under subsection (2) -

"**appeals**" includes applications and other proceedings,

"**assessable unit**" : see section 2,

"**building**" means a building or other structure falling within a property reference specified in column 1 of Part I of Schedule 1,

"**Cadastre**" means -

- (a) in relation to Guernsey and Herm, the Cadastre prepared and for the time being in force under the Cadastre Law, 1947^l (called "the 1947 Cadastre" in that Law),
- (b) in relation to Alderney, the record of assessments of rateable value made and for the time being in force under the Alderney Rateable Values Assessment Ordinance, 1949^m,

"**Chief Officer**" means the Chief Officer of the Department,

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

^m Recueil d'Ordonnances Tome X, p. 1.

"Clerk" means the Clerk to the Tribunal appointed by the Department under section 27, and includes any deputy Clerk so appointed,

"copy", "extract" or "representation", in relation to any entry on the Map or in the Register which is not in documentary form, means a copy, extract or representation in a legible form in which it can be taken away,

"costs of a hearing" : see paragraph 5(3) of Schedule 4,

"a department" means any department, council or committee of the States of Guernsey or the States of Alderney, however styled,

"the Department" means the Treasury and Resources Department,

"document" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production, however expressed, include references to the production of a copy of the information in legible form,

"enactment" means any Law, Ordinance, Act of Parliament and Order in Council, and any subordinate legislation made thereunder,

"extract" : see definition of **"copy", "extract" or "representation"** above,

"information" includes data, however recorded,

"Islands" means the Islands of Guernsey, Alderney and Herm,

"land" means real property other than a building,

"Map" : see section 13,

"non-business day" means -

- (a) a Saturday, a Sunday, Christmas Day and Good Friday, and
- (b) any day appointed as a public holiday by Ordinance of the States of Guernsey or, as the case may be, the States of Alderney under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958ⁿ,

"officer of police" means -

- (a) in relation to Guernsey and Herm, a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,
- (b) in relation to Alderney, a member of the salaried police force of the Island of Guernsey, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed pursuant to section 47 of the Government of Alderney Law,

ⁿ Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; No. XI of 1993; and No. XIV of 1994.

2004^o,

"owner", in relation to real property, means -

- (a) where the real property is the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour the order was made,
- (b) where the real property is not the subject of such saisie proceedings but is the subject of a vested right of usufruct or a droit d'habitation, the usufructuary or (as the case may be) the habitant,
- (c) where the real property is not the subject of such saisie proceedings, vested right of usufruct or droit d'habitation -
 - (i) where the real property is held in trust, the trustees, or
 - (ii) where the real property is not held in trust, the beneficial owner,

and related expressions shall be construed accordingly,

"Panel" means the Tax on Real Property Appeals Panel established under section 22,

^o Order in Council No. III of 2005.

"plan area" : see section 5,

"prescribed" means prescribed by this Ordinance or by any regulation under it,

"property reference", in relation to real property, means the property reference specified in column 1 of Part I of Schedule 1 into which the real property falls,

"property tax" means the tax payable in accordance with the provisions of this Ordinance in respect of real property in the Islands,

"real property" means land, buildings and other property constituting immovable property under the law of Guernsey,

"Register" and **"registration"** : see section 12,

"relevant decision" : see section 28,

"representation" : see definition of **"copy"**, **"extract"** or **"representation"** above,

"Royal Court" means the Royal Court sitting as an Ordinary Court,

"States" means the States of Guernsey,

"tariff reference", in relation to real property, means the tariff reference specified in column 3 of Part I of Schedule 1 applicable to the real property,

"**Tribunal**" means the Tax on Real Property Appeals Tribunal established under section 23,

"**uniform scale**" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^P,

"**year**" means a calendar year.

(2) The Department may by regulation -

- (a) amend subsection (1) by adding any definition to it or by removing or varying any definition set out in it, and
- (b) make provision which is incidental, supplementary or ancillary to any definition for the time being set out in it.

(3) Reference in this Ordinance to any real property include references to any part of that real property.

(4) The Interpretation (Guernsey) Law, 1948^Q applies to the interpretation of this Ordinance and any regulation or order under it throughout the Islands.

^P Ordres en Conseil Vol. XXXI, p. 278.

^Q Ordres en Conseil Vol. XIII, p. 355.

(5) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Extent.

55. This Ordinance has force of law in the Islands of Guernsey, Alderney and Herm.

Citation.

56. This Ordinance may be cited as the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007.

Commencement.

57. This Ordinance shall come into force on the 1st January, 2008.

SCHEDULE 1

PROPERTY REFERENCES AND RATES OF TAX

PART I

PROPERTY REFERENCES SUBJECT TO PROPERTY TAX

(A)

GUERNSEY REAL PROPERTY

GUERNSEY BUILDINGS

1 Property Reference	2 Property Description/Usage	3 Tariff Reference
B1.1	Domestic (whole unit) Local Market	C
B1.2	Domestic (flat) Local Market	C
B1.3	Domestic (glasshouse) Local Market	C
B1.4	Domestic (outbuildings) Local Market	C
B2.1	Domestic (whole unit) Open Market	D
B2.2	Domestic (flat) Open Market	D
B2.3	Domestic (glasshouse) Open Market	D
B2.4	Domestic (outbuildings) Open Market	D
B3.1	Domestic (whole unit) Social Housing	F
B3.2	Domestic (flat) Social Housing	F
B3.3	Domestic (glasshouse) Social Housing	F

B3.4	Domestic (outbuildings) Social Housing	F
B4.1	Hostelry and food outlets	H
B4.2	Self-catering accommodation	H
B4.3	Motor and marine trade	E
B4.4	Retail	E
B4.5	Warehousing	E
B4.6	Industrial and workshop	E
B4.7	Recreational and sporting premises	E
B5.1	Utilities providers	H
B6.1	Office and ancillary accommodation (regulated finance industries)	E
B6.2	Office and ancillary accommodation (non-regulated finance industries)	E
B7.1	Horticulture (building other than a glasshouse)	C
B8.1	Horticulture (glasshouse)	A
B9.1	Agriculture	C
B10.1	Publicly owned non-domestic	F
B11.1	Exempt (Buildings)	F
B12.1	Buildings – Penal Rate	G

GUERNSEY LAND

1 Property Reference	2 Property Description/Usage	3 Tariff Reference
L1.1	Communal (flat) Local Market	E
L1.2	Communal (flat) Open Market	E
L1.3	Hostelry and food outlets	E
L1.4	Self-catering accommodation	E

L1.5	Motor and marine trade	E
L1.6	Retail	E
L1.7	Warehousing	E
L1.8	Industrial	E
L1.9	Recreational and sporting premises	E
L1.10	Office and ancillary accommodation (regulated finance industries)	E
L1.11	Office and ancillary accommodation (non-regulated finance industries)	E
L1.12	Utilities providers	E
L2.1	Approved development site	E
L3.1	Domestic Local Market	A
L3.2	Domestic Open Market	A
L3.3	Horticulture	A
L3.4	Agriculture	A
L3.5	Domestic Social Housing	F
L3.6	Publicly owned non-domestic	F
L4.1	Exempt (Land)	F
L5.1	Land – Penal Rate	G

(B)

ALDERNEY REAL PROPERTY

ALDERNEY BUILDINGS

1 Property Reference	2 Property Description/Usage	3 Tariff Reference
B1.1A	Domestic (whole unit)	C
B1.2A	Domestic (flat)	C
B1.3A	Domestic (glasshouse)	C
B1.4A	Domestic (outbuildings)	C

B2.1A	Domestic (whole unit) Social Housing	F
B2.2A	Domestic (flat) Social Housing	F
B2.3A	Domestic (glasshouse) Social Housing	F
B2.4A	Domestic (outbuildings) Social Housing	F
B3.1A	Hostelry and food outlets	H
B3.2A	Self-catering accommodation	H
B3.3A	Motor and marine trade	E
B3.4A	Retail	E
B3.5A	Warehousing	E
B3.6A	Industrial and workshop	E
B3.7A	Recreational and sporting premises	E
B4.1A	Utilities providers	H
B5.1A	Office and ancillary accommodation (regulated finance industries)	E
B5.2A	Office and ancillary accommodation (non-regulated finance industries)	E
B6.1A	Horticulture (building other than a glasshouse)	C
B7.1A	Horticulture (glasshouse)	A
B8.1A	Agriculture	C
B9.1A	Publicly owned non-domestic	F
B10.1A	Exempt (Buildings)	F
B11.1A	Buildings – Penal Rate	G

ALDERNEY LAND

1 Property Reference	2 Property Description/Usage	3 Tariff Reference
L1.1A	Communal (flat)	E

L1.2A	Hostelry and food outlets	E
L1.3A	Self-catering accommodation	E
L1.4A	Motor and marine trade	E
L1.5A	Retail	E
L1.6A	Warehousing	E
L1.7A	Industrial	E
L1.8A	Recreational and sporting premises	E
L1.9A	Office and ancillary accommodation (regulated finance industries)	E
L1.10A	Office and ancillary accommodation (non-regulated finance industries)	E
L1.11A	Utilities providers	E
L2.1A	Approved development site	E
L3.1A	Domestic	A
L3.2A	Horticulture	A
L3.3A	Agriculture	A
L3.4A	Domestic Social Housing	F
L3.5A	Publicly owned non-domestic	F
L4.1A	Exempt (Land)	F
L5.1A	Land – Penal Rate	G

(C)

HERM REAL PROPERTY

HERM BUILDINGS

1 Property Reference	2 Property Description/Usage	3 Tariff Reference
B1.1H	Domestic (whole unit)	C
B1.2H	Domestic (flat)	C
B1.3H	Domestic (glasshouse)	C

B1.4H	Domestic (outbuildings)	C
B2.1H	Domestic (whole unit) Social Housing	F
B2.2H	Domestic (flat) Social Housing	F
B2.3H	Domestic (glasshouse) Social Housing	F
B2.4H	Domestic (outbuildings) Social Housing	F
B3.1H	Hostelry and food outlets	H
B3.2H	Self-catering accommodation	H
B3.3H	Motor and marine trade	E
B3.4H	Retail	E
B3.5H	Warehousing	E
B3.6H	Industrial and workshop	E
B3.7H	Recreational and sporting premises	E
B4.1H	Utilities providers	H
B5.1H	Office and ancillary accommodation (regulated finance industries)	E
B5.2H	Office and ancillary accommodation (non-regulated finance industries)	E
B6.1H	Horticulture (building other than a glasshouse)	C
B7.1H	Horticulture (glasshouse)	A
B8.1H	Agriculture	C
B9.1H	Publicly owned non-domestic	F
B10.1H	Exempt (Buildings)	F
B11.1H	Buildings – Penal Rate	G

HERM LAND

1 Property Reference	2 Property Description/Usage	3 Tariff Reference
-----------------------------------	---	---------------------------------

L1.1H	Communal (flat)	E
L1.2H	Hostelry and food outlets	E
L1.3H	Self-catering accommodation	E
L1.4H	Motor and marine trade	E
L1.5H	Retail	E
L1.6H	Warehousing	E
L1.7H	Industrial	E
L1.8H	Recreational and sporting premises	E
L1.9H	Office and ancillary accommodation (regulated finance industries)	E
L1.10H	Office and ancillary accommodation (non-regulated finance industries)	E
L1.11H	Utilities providers	E
L2.1H	Approved development site	E
L3.1H	Domestic	A
L3.2H	Horticulture	A
L3.3H	Agriculture	A
L3.4H	Domestic Social Housing	F
L3.5H	Publicly owned non-domestic	F
L4.1H	Exempt (Land)	F
L5.1H	Land – Penal Rate	G

PART II

REAL PROPERTY EXEMPT FROM PROPERTY TAX

1. Buildings used principally for religious ceremony.
2. Cemeteries.
3. Highways.

4. Quays and breakwaters of harbours.
5. Airport "airside" runways, taxiways, aprons and airfield.
6. Moveable site structures and installations put in place for the duration of civil engineering, construction works or some other temporary purpose.

However, this exemption shall expire, and shall not recommence, in relation to any structure or installation which has been in place for a period of, or periods totalling, 12 months or such longer total period as the Department may direct in any particular case.

7. Real property used principally for open community use, other than when leased, in part or in entirety, to a third party for domestic purposes or the purposes of a business, trade or undertaking, in which case the property or that part of the property is subject to the same tariff reference for that property description/usage as if it were not exempt.
8. Real property held by the National Trust and La Société Guernesaise, other than when leased, in part or entirety, to a third party for domestic purposes or the purposes of a business, trade or undertaking, in which case the property or that part of the property is subject to the same tariff reference for that property description/usage as if it were not exempt.
9. Land areas in the process of reclamation until the date when formal planning development permission is granted.
10. Such other property so designated by regulation made by the Department.

PART III
INTERPRETATION OF SCHEDULE 1

1. In this Schedule, unless the context requires otherwise, the following expressions have the following meanings (and related expressions shall be construed accordingly) -

"agricultural" property includes -

- (a) land covered or uncovered by buildings which is used or capable of being used for agricultural purposes, and
- (b) any building used in connection with the use of land for agricultural purposes,

but does not include any real property which is domestic property, horticultural property, publicly owned non-domestic property or tourist property,

"agricultural purposes" includes -

- (a) dairy farming,
- (b) livestock breeding and keeping,
- (c) production of any consumable produce,

- (d) production of ferns, plants, flowers and bulbs not for the purposes of a business, trade or undertaking in those items, and
- (e) use of land as -
 - (i) grazing, meadow or pasture land, or
 - (ii) orchard or woodland,

"airfield" includes, but is not limited to, any runway shoulder, runway strip, grass park and runway end safety area,

"approved development site" means any real property which is subject to -

- (a) a current planning permission issued by the States of Guernsey Environment Department, or
- (b) a current development permission issued by the States of Alderney Building and Development Control Committee,

and which is used solely for the purposes described and authorised in the permission,

"atrium" means a structure within a building forming a covered cavity or space the height of which extends through one or more levels,

"bulbs" includes corms, rhizomes and tubers but does not include potato tubers,

"cemetery" means –

- (a) any land which is exclusively being used for the interment of human remains under any enactment for the time being in force, and
- (b) any building used for any purposes ancillary to such interment,

"communal", in relation to land, means communal land which is –

- (a) adjacent to and used in connection with the enjoyment of a whole unit divided into more than one flat, and
- (b) owned by a person other than the owners of those flats,

"conservatory" means a building -

- (a) attached to and used in connection with the enjoyment of a domestic dwelling house, and
- (b) the walls and roof of which are predominantly of glass or some other translucent material,

"domestic" property means –

(a) that part of a building comprising a dwelling house,
owned -

(i) privately,

(ii) by any Parish, or

(iii) by the States of Guernsey or States of Alderney
and

(b) land which is -

(i) adjacent to or under, and used in connection
with the enjoyment of, a dwelling house,

(ii) owned publicly or privately, and

(iii) not -

(A) communal or exempt land, or

(B) an approved development site,

"**dwelling house**" means any building wholly or principally used or
usable for the purposes of human habitation,

"**exempt**" means real property listed in Part II of this Schedule,

"**flat**" -

- (a) means any dwelling house that –
 - (i) is separate and self-contained, and
 - (ii) forms part of a building from some other part of which it is divided horizontally,

and includes an apartment, and

- (b) includes –
 - (i) any pool house, garage, shed, conservatory or other building used in connection with the enjoyment of a flat as such, and
 - (ii) gardens and other land adjoining a flat, the aggregate area of which does not exceed 1 vergée,

"food outlet" means any building from which food is provided for the purposes of a business, trade or undertaking for consumption –

- (a) on the premises (whether indoors or outdoors),
- (b) elsewhere, or
- (c) both,

"glasshouse" –

- (a) includes any structure which would be a glasshouse were it not for the fact that in the construction thereof translucent material other than glass has been used,
- (b) in relation to horticulture, means a glasshouse used for the production of any consumable produce or the production of ferns, plants, flowers or bulbs for the purposes of a business, trade or undertaking, and includes any building adjacent to any such glasshouse and used in connection with the trade carried on thereat, and
- (c) in relation to a domestic dwelling house, means a glasshouse with a plan area of 10 square metres or more situated upon domestic land and not used for the purposes of a business, trade or undertaking,

"highway" means any public or private road, including the carriageways, verges and footpaths thereof, and shared driveways,

"home" means any building used or intended to be used principally for the –

- (a) reception of pregnant women or of women immediately after childbirth, or
- (b) provision of nursing or accommodation for -
 - (i) persons suffering from any illness, injury or disability,

(ii) the elderly, or

(iii) both,

"horticultural" property –

(a) includes a glasshouse or other building used for horticulture, and

(b) in relation to land, means any land used –

(i) for the production of any consumable produce,
or

(ii) the production of ferns, plants, flowers or bulbs for the purposes of a business, trade or undertaking in those items, or

(iii) as market gardens or nursery grounds,

but does not include any domestic property,

"hostelry" means –

(a) any tourist property from which food is provided for consumption on the premises (whether indoors or outdoors),

(b) any public house, or

(c) any social club,

"industrial" property means real property used for the manufacture of any machinery or goods, and which is not motor trade or marine trade property,

"local market" refers to real property not inscribed in the Housing Register maintained by the States Housing Department under the Housing (Control of Occupation) (Guernsey) Law, 1994^r,

"marine trade" property includes any real property used for the sale, display or repair of any marine vehicle,

"motor trade" property includes any real property used –

(a) for the sale, display, repair and valeting of any motor vehicle, and

(b) by any tyre or exhaust factor,

"open community use" means any real property that is available for free and unfettered use by the general public,

"open market" refers to real property inscribed in the Housing Register maintained by the States Housing Department under the Housing (Control of Occupation) (Guernsey) Law, 1994^s,

^r Order in Council No. IV of 1994.

"outbuildings" means a shed, barn or any other building used in connection with the enjoyment of a dwelling house and which is –

- (a) used primarily for domestic storage,
- (b) not habitable accommodation, and
- (c) not a domestic garage,

"penal rate" means a rate which is applied to a property reference or class or description of real property specified by an Ordinance of the States,

"pool house" means a fixed or retractable structure with a plan area of 10 square metres or more situated upon domestic land and used to cover a swimming pool,

"public road" means any road, street, lane, alley or passage repairable in whole or in part by the States,

"publicly owned non-domestic" property includes any real property-

- (a) principally used by any school,
- (b) comprising a hospital, home or other institution controlled or maintained by the States of Guernsey or the States of Alderney,

^s Order in Council No. IV of 1994.

- (c) owned by the States of Guernsey or the States of Alderney and used for a purpose which is of benefit to the general public or a section thereof,
- (d) owned by any Parish and used for a purpose which is of benefit to –
 - (i) the general public or a section thereof, or
 - (ii) the residents of the Parish or a section thereof,
- (e) owned or occupied by a charity the income of which is not chargeable to income tax in accordance with section 40(k) of the Income Tax (Guernsey) Law, 1975^t,
- (f) owned or occupied by any club, association, society or other organisation and used otherwise than for profit for the purposes of that club, association, society or other organisation,

except where that real property is principally used by a third party as real property which would otherwise fall into a property description/usage within

^t Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146, 200 and 292; Vol. XXVII, pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; No's. IV and VIII of 1993; No. XXV of 1994; No's. III and VII of 1995; No. V of 1996; No's. IV and XXII of 1997; No's. II and VI of 1999; No. IV of 2000; No's. VI and XVII of 2001; No. VII of 2002; No's. IV, XVIII and XXVI of 2003; No's. XII and XVI of 2004; No's. V, VI and XVII of 2005; and No's. II and VII of 2006. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

property reference B4, B5, B6, B7, B8 or B9 (or the corresponding property references for Alderney and Herm), in which case it is subject to the same tariff reference for that property description/usage as if it were not publicly owned non-domestic property,

"recreational and sporting premises" includes any building used principally for purposes ancillary to sport,

"regulated finance business" property means real property owned or occupied for the purpose of carrying on business by -

- (a) a person who carries on controlled investment business within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^u and who holds a licence under section 3 of that Law or an authorisation under section 8 of that Law,
- (b) a person who is a licensed institution within the meaning of the Banking Supervision (Bailiwick of Guernsey) Law, 1994^v,
- (c) a person who is a licensee within the meaning of the

^u Ordres en Conseil Vol. XXX, p. 281; amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; No. XIII of 1994; No. XII of 1995; No. II of 1997; No. XVII of 2002; and by No's XV and XXXII of 2003. Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Ordinances X and XX of 1998; and the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^v Order in Council No. XIII of 1994; amended by No's. XVII and XXI of 2002; No. XVI of 2003; and the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

Insurance Business (Bailiwick of Guernsey) Law, 2002^w or the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^x,

(d) a person who is, or who is deemed to be, a licensed fiduciary within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000^y, and

(e) a person of any other class or description prescribed for the purposes of this section by regulations of the Department,

"**retail**" includes any real property used principally for the purposes of a profession, business or trade, other than any real property falling within any other definition contained in this Part of this Schedule,

"**school**" has the same meaning as in the Education (Guernsey) Law, 1970^z,

^w Order in Council No. XXI of 2002; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^x Order in Council No. XXII of 2002; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^y Order in Council No. I of 2001; amended by No. XIV of 2003; and by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

^z Ordres en Conseil Vol. XXII, p. 318.

"self-catering accommodation" means any tourist property from which food is not provided for the occupier,

"social housing" means any domestic property which is currently occupied and which is owned or controlled by –

- (a) the States Housing Department,
- (b) the Guernsey Housing Association, or
- (c) Housing 21,

"tourist property" –

- (a) means any dwelling house in respect of which there is in force for the time being a boarding permit issued under the Tourist Law, 1948^{aa}, or an accommodation permit issued under the Tourist (Alderney) Law, 1956^{bb}, and
- (b) includes -
 - (i) any pool house, garage, shed, conservatory or other building used, whether from time to time or otherwise, in connection with the use of that property under any such permit,

^{aa} Ordres en Conseil Vol. XIII, p. 329.

^{bb} Ordres en Conseil Vol. XVII, p. 29.

- (ii) any gardens, car parks and other land under or adjoining that property and used as aforesaid in connection with the use of that property under any such permit,

"undertaking" means an undertaking whether or not carried on for profit,

"utilities provider" property means any real property owned or occupied by -

- (a) service providers subject to regulation by the Office of the Director General of Utility Regulation established by the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001^{cc},
- (b) Guernsey Gas Limited for the purposes of the production of, distribution of, and payment for, gas and its by-products and ancillary activities,
- (c) Guernsey Water or the Alderney Water Board for the purpose of the collection, storage, purification and distribution of water and obtaining payment for the payment for water and ancillary activities, and
- (d) Alderney Electricity Limited for the purposes of the production of, distribution of and payment for, electric energy and ancillary activities,

^{cc} Order in Council No. XI of 2001.

"warehousing" means any building used for the storage, transfer or distribution of goods for the purposes of a business, trade or undertaking,

"whole unit" –

(a) means any dwelling house which is not a flat, but includes premises which are divided into more than one flat, and

(b) includes -

(i) any pool house, garage, shed, conservatory or other building used in connection with the enjoyment of a whole unit as such,

(ii) gardens and other land adjoining a whole unit, the aggregate area of which does not exceed 1 vergée,

but does not include any tourist property, and

"workshop" means any building used for the repair or maintenance of any machinery or goods, and which is not motor trade or marine trade property.

2. The Department may by regulation amend this Part of this Schedule by adding any definition to it or by removing or varying any definition set out in it.

SCHEDULE 2

REPEALS

THE ENACTMENTS LISTED IN THIS SCHEDULE ARE REPEALED

LAWS

1. The Tax on Rateable Values (Guernsey) Law, 1976^{dd}.
2. The Tax on Rateable Values (Amendment) (Guernsey) Law, 1995^{ee}.

ORDINANCES

3. The Tax on Rateable Values (Guernsey) Ordinance, 1976^{ff}.
4. The Tax on Rateable Values (Amendment) (Guernsey) Ordinance, 2006^{gg}.

^{dd} Ordres en Conseil Vol. XXVI, p. 86.

^{ee} No. II of 1995.

^{ff} Recueil d'Ordonnances Tome XX, p. 456.

^{gg} Ordinance No. LIII of 2006.

SCHEDULE 3
AMENDMENTS

THE ENACTMENTS LISTED IN THIS SCHEDULE ARE AMENDED AS FOLLOWS

1. In the Cadastre Law, 1947^{hh}, after article 4 insert the following article -

"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."

^{hh} Ordres en Conseil Vol. XIII, p. 78; Vol. XIII, p. 381; Vol. XVII, p. 23; Vol. XXVIII, p. 395; and Vol. XXXII, p. 161.

2. In the Alderney (Application of Legislation) Law, 1948ⁱⁱ, after section 4 insert the following section -

"No duty to value real property in Alderney from 1st January, 2008.

4A. Notwithstanding section 4 and any Ordinance or rule made under it, on and from the 1st January, 2008 -

- (a) there is no requirement -
 - (i) for the record of assessments of rateable value made under Alderney Rateable Values Assessment Ordinance, 1949^{jj} to state the rateable value of any real property in Alderney, or
 - (ii) for any assessment of rateable value already stated therein to be rectified, and
- (b) there is no duty on the Department to assess or determine the rateable value of any such real property for the purposes of the preparation or rectification of that record."

ⁱⁱ Ordres en Conseil Vol. XIII, p. 448.

^{jj} Recueil d'Ordonnances Tome X, p. 1.

SCHEDULE 4
THE TRIBUNAL: PROCEDURE AND POWERS

Voting in Tribunal.

1. (1) Each member of the Tribunal has, subject to subparagraph (2), one vote, and the decisions of the Tribunal shall be taken by a simple majority.

(2) The person chairing the Tribunal has an original vote and also, where there is an equality of votes, a casting vote.

Procedure in hearings before Tribunal.

2. Where a Tribunal is appointed to hear and determine an appeal against a relevant decision -

- (a) the Tribunal shall afford the parties a reasonable opportunity of appearing and being heard or, if all parties so elect, of submitting a statement in writing to the Tribunal,
- (b) the Tribunal may admit any evidence given for the purposes of the hearing and determination of the appeal notwithstanding any rule of law relating to hearsay or otherwise as to the admissibility of evidence,
- (c) the parties are entitled to be present during any hearing by the Tribunal of representations made in person, and for the purposes of this subparagraph -

- (i) the appellant may be represented by any person, whether or not legally qualified, except that if in a particular case the Tribunal is satisfied that there are good and sufficient reasons for doing so, it may refuse to permit a particular person, other than one who is legally qualified, to represent the appellant, and
 - (ii) the Department may be represented by any person who is legally qualified, by any officer of the Department or by any other person appointed by the Department to represent it,
- (d) the Tribunal shall afford the parties a reasonable opportunity of replying to the representations made by the other party, either by appearing and being heard in person or (if the original representations were made in writing) by a statement in writing,
- (e) the Tribunal shall consider all representations and replies submitted to it by the parties,
- (f) the Tribunal may at any time require either party to furnish further particulars in writing within such time as it may direct with regard to any question referred to it and shall afford the other party a reasonable opportunity of replying in writing,
- (g) the Tribunal may call for such documents and examine

such persons (including the parties) on oath, affirmation or otherwise as appear likely to afford evidence which is relevant and material to any question to be determined by the Tribunal,

- (h) the parties may, if authorised to do so by the Tribunal, cause a summons to be served on any person, in the same manner as that in which a summons may be served in a civil action before the Royal Court, summoning that person to attend any hearing of the Tribunal to give evidence or produce any document likely to assist the Tribunal in determining any question before it, and a person so summoned is under the same obligation as to the giving of any evidence or the production of any document as if he were summoned to give the evidence or produce the document in a civil action before the Royal Court,
- (i) the Tribunal may adjourn any hearing from time to time as it thinks fit,
- (j) if it is proved to the satisfaction of the Tribunal that the parties have been notified of the place, date and time of a hearing, and one of the parties fails to appear at the hearing, the Tribunal may proceed to determine any matter in dispute in the absence of that party,
- (k) the decision of the Tribunal shall be in writing, signed by the person chairing the Tribunal and transmitted as soon as reasonably practicable to the parties, and

- (l) the Tribunal may, subject to the above provisions -
 - (i) determine its own procedure, and
 - (ii) give such directions, subject to such terms and conditions, as it thinks fit for the purposes of the hearing and determination of the appeal.

Hearings to be in public.

3. (1) A hearing and every part of a hearing before the Tribunal shall be held in public unless the Tribunal directs otherwise.

(2) The Tribunal may at any time exclude any person from a hearing or any part thereof.

Powers of Tribunal as to summoning witnesses, etc.

4. The Tribunal has, for the purposes of hearing and determining an appeal against a relevant decision, the same powers as the Royal Court in respect of-

- (a) the attendance and examination of witnesses,
- (b) the administration of oaths or affirmations to witnesses,
- (c) the production of documents and exhibits,

and a summons in relation to any of these matters signed by the person chairing the Tribunal is equivalent to a formal process issued in that behalf in an action before

the Royal Court.

Costs.

5. (1) The Tribunal may, subject to the provisions of subparagraphs (4) and (5), order that the whole or any part of the costs of a hearing shall be paid by one or more of the parties in such amount or proportion and on such basis as the Tribunal may direct.

(2) An order for costs under subparagraph (1) -

(a) is enforceable as a judgment debt by the person in whose favour the order was made, and

(b) carries interest at the rate for the time being prescribed under section 2 of the Judgments (Interest) (Bailiwick of Guernsey) Law, 1985^{kk} from the date of the order until the order is satisfied, and the interest may be recovered by the person in whose favour the order was made as part of the award of costs.

(3) The expression "**costs of a hearing**" (without prejudice to the generality of the expression) includes -

(a) any costs, fees and expenses reasonably incurred by any party in the preparation or presentation of his case, including witness costs,

^{kk} Ordres en Conseil Vol. XXIX, p. 135, amended by Order of the Royal Court No. I of 1996.

- (b) any costs, fees and expenses of, or incidental or preliminary to, the holding and conduct of the hearing and the determination of the appeal incurred by the States (other than as a party to the hearing), and
- (c) the costs, fees, expenses and allowances of the Tribunal and the members thereof.

(4) The Tribunal may not order -

- (a) the payment of costs on a full or partial indemnity basis,
- (b) the giving of security for costs,
- (c) the taxation of costs, or
- (d) the payment of the costs of legal representation of any of the parties.

(5) The Department may by regulation prescribe maximum scales of costs, fees and expenses in relation to the costs of hearings and, where the Department so prescribes a scale in relation to any proceeding or matter, an award of the Tribunal under subparagraph (1) in relation to the costs of such a proceeding or matter shall not exceed the amount prescribed.

(6) The provisions of this paragraph do not apply in relation to the Royal Court and are accordingly without prejudice to the powers of the Royal Court in relation to costs.

Offences in relation to hearings, etc.

6. (1) A person who -

(a) in proceedings before the Tribunal, or in making any statement or providing any information or document to the Clerk or the Tribunal when acting in the performance or purported performance of their respective functions -

(i) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,

(ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,

(iii) produces or furnishes or causes or permits to be produced or furnished any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or

(iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

- (b) on being duly summoned as a witness before the Tribunal, fails without reasonable excuse to attend,
- (c) on attending before the Tribunal as a witness, fails, when legally required to do so -
 - (i) to take the oath or affirmation,
 - (ii) to produce any document in his possession, custody or power, or
 - (iii) to answer any question put to him,
- (d) does any other thing before the Tribunal which, if done before the Royal Court, would constitute a contempt of court, or
- (e) discloses, except for the purposes of legal proceedings or with other lawful excuse, any matter which came to his knowledge by reason of his being present before the Tribunal when the Tribunal was sitting in camera,

is guilty of an offence.

(2) A person guilty of an offence under subparagraph (1) is liable-

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both,

(b) on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(3) In relation to offences tried before the Court of Alderney, the penalties stipulated by subparagraph (2)(b) are applicable notwithstanding the provisions of section 13 of the Government of Alderney Law, 2004^{II}.

Allowances and expenses of members of Tribunal.

7. There shall be paid to the members of the Tribunal such allowances as the Department may determine together with the travelling and other expenses incurred by them in connection with the performance of their functions as a member of the Tribunal.

^{II} Order in Council No. III of 2005.

SCHEDULE 5
FORM OF NOTICE OF APPEAL TO TRIBUNAL AND APPLICATION TO
TRIBUNAL FOR FURTHER TIME

PART I
FORM OF NOTICE OF APPEAL TO TRIBUNAL

The Clerk to the Tax on Real Property Appeals Tribunal
P O Box 43
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

I (full name)

of (address)
.....

being aggrieved by a decision of the Treasury and Resources Department given on
..... [*insert date of decision*], hereby appeal against the decision in
accordance with section 31 of the Taxation of Real Property (Guernsey and
Alderney) Ordinance, 2007.

The grounds on which my appeal is made are set out in the statement at the foot of
this form.

In support of this appeal the following documents are attached :-

[List all documents sent with this notice of appeal - and if possible please attach a copy of the decision letter from the Department]

-
-
-
-
-

I understand that if I am aggrieved by the decision of the Tribunal on a question of law I may appeal to the Royal Court in accordance with the provisions of section 36.

Signature

Date

NB:- if you wish to be represented by some other person when your appeal is heard by the Tribunal please complete the details of your representative in the space provided -

Name of representative

His or her full address
.....

STATEMENT

[Set out here your grounds of appeal]

PART II
FORM OF APPLICATION TO TRIBUNAL FOR FURTHER TIME

The Clerk to the Tax on Real Property Appeals Tribunal
P O Box 43
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

I (full name)

of (address)

.....

being aggrieved by a decision of the Treasury and Resources Department given on
..... [*insert date of decision*], and wishing to appeal against it,
hereby apply for further time to present my appeal against the decision on the
grounds that -

*[Please state why it was not reasonably practicable for you to present a notice of
appeal against the decision within the 28 day period set out in section 32 of the
Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007. If possible
please attach a copy of the decision letter from the Department]*

.....

.....

I believe that for the reasons set out above I require a further days in which to present my appeal.

I understand that this application for further time will be determined by the Tax on Real Property Appeals Tribunal constituted by a single member.

I further understand that if I am aggrieved by the decision of the Tribunal on a question of law I may appeal to the Royal Court in accordance with the provisions of section 36.

Signature

Date

NB:- if you wish to be represented by some other person when your application for further time is heard by the Tribunal please complete the details of your representative in the space provided -

Name of representative

His or her full address
.....