

ORDER IN COUNCIL

IX
2017

ratifying a Projet de Loi

ENTITLED

The Document Duty (Guernsey) Law, 2017

(Registered on the Records of the Island of Guernsey
on the 13th November, 2017.)



2017

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 13th day of November, 2017 before Sir Richard Collas, Bailiff; present:- Barbara Jean Bartie, Stephen Murray Jones, Esquire, Claire Helen Le Pelley, Constance Helyar-Wilkinson, David Percy Langley Hodgetts, Esquire, L.V.O., Niall David McCathie, Terry John Ferbrache, David Allan Grut, Steven John Morris, David James Mortimer, Esquires, Joanne Marie Wyatt and Alan Stevenson Boyle, Esquire, Jurats.

The Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 11th October, 2017 approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Document Duty (Guernsey) Law, 2017”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ORDERED that the said Order be registered on the records of this Island.

S. SIMMONDS
Her Majesty’s Deputy Greffier.



At the Court at Buckingham Palace

THE 11th DAY OF OCTOBER 2017

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

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

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

“That, in pursuance of their Resolution of 17th May 2017, the States of Deliberation at a meeting on 17th May 2017 approved a *Projet de Loi* entitled the Document Duty (Guernsey) Law, 2017 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Document Duty (Guernsey) Law, 2017, and to order that it shall have force of law in the Island of Guernsey.

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

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

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

Richard Tilbrook

PROJET DE LOI

ENTITLED

The Document Duty (Guernsey) Law, 2017

ARRANGEMENT OF SECTIONS

1. Document duty.
2. Meaning of "chargeable transaction".
3. Exempt transactions.
4. Family transactions.
5. Parties to file declaration.
6. Amount of duty payable.
7. Appeals against decisions of Greffier.
8. Offences as to false or misleading information, etc.
9. Criminal liability of directors etc.
10. Provision against legal avoidance.
11. Service of documents.
12. Submission, etc., of documents in electronic form.
13. General provisions as to Ordinances.
14. Interpretation.
15. Repeal.
16. Citation.
17. Commencement.

PROJET DE LOI

ENTITLED

The Document Duty (Guernsey) Law, 2017

THE STATES, in pursuance of their Resolution of the 17th May, 2017^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

Document duty.

1. (1) Subject to the provisions of this Law, no document effecting or evidencing a chargeable transaction shall be registered on the records of the Island of Guernsey unless -

(a) document duty in the appropriate sum has been paid to the Greffier, for the account of the States, in accordance with those provisions, or

(b) the transaction is an exempt transaction.

(2) Liability for payment of document duty under subsection (1) lies with the person by or on behalf of whom the document is to be registered.

^a Article IV of Billet d'État No. X of 2017.

Meaning of “chargeable transaction”.

2. (1) A transaction is a chargeable transaction for the purposes of this Law if its effect is –

- (a) the acquisition by any person of an interest in real property, or
- (b) the creation of any charge against real property by means of registration in the Livres des Hypothèques, Actes de Cour et Obligations.

(2) For the avoidance of doubt, a partage is deemed to be a chargeable transaction within subsection (1)(a).

Exempt transactions.

3. (1) A transaction is an exempt transaction if -

- (a) it is a “**family transaction**” within the meaning of section 4,
- (b) the person acquiring the interest in real property, or against whose real property a charge is created, is -
 - (i) a Guernsey Registered Charity (registered in accordance with the Charities and Non Profit Organisations (Registration) (Guernsey) Law,

2008^b),

- (ii) a friendly society registered under the Friendly Societies Act 1974^c or registered and incorporated under the Friendly Societies Act 1992^d,
 - (iii) a housing provider within the meaning of the Real Property (Housing Schemes, Leaseholds and Miscellaneous Provisions) (Guernsey) Law, 2004^e, or
 - (iv) the States of Guernsey,
- (c) it is the transfer of an interest in real property –
- (i) by or on behalf of a settlor to another person who (in consequence of such transfer) holds that property, or in whom that property is vested, as trustee,

^b Order in Council No. XXVI of 2008; amended by No. III of 2010; No.VIII of 2011; Ordinance Nos. XXXVI and XLIX of 2008; No. XXIX of 2010, No. VI of 2015; No. IX of 2016.

^c An Act of Parliament (1974 c. 46).

^d An Act of Parliament (1992 c. 40).

^e Order in Council No. X of 2005; amended by Ordinance No. IX of 2016.

- (ii) by or on behalf of a trustee who holds that property, or in whom that property is vested, as trustee to a person for whose benefit that property was held, or
 - (iii) from a person who has ceased to be a trustee to the new or continuing trustees in circumstances where there is no change in the beneficial ownership of that property,
- (d) its effect is the transfer of an interest in real property owned by a company ("the transferor company") to –
- (i) the beneficial owner of all the shares in the transferor company,
 - (ii) another company the shares in which are all in the same beneficial ownership as the shares in the transferor company,
 - (iii) another company which is a wholly-owned subsidiary of the transferor company or of which the transferor company is a wholly-owned subsidiary, or
 - (iv) another company in circumstances where both the transferor company and the company to which the interest is transferred are wholly-owned subsidiaries of the same holding

company,

- (e) the document effecting the transfer of an interest in real property is a will,
- (f) the transaction is a partage or délaissane between co-heirs, or the creation, variation or discharge of a servitude, wayleave or covenant,
- (g) the interest in real property is acquired by virtue of an order of court including, without limitation -
 - (i) an order made pursuant to a divorce or judicial separation,
 - (ii) an administration order made under Part II of the Law Reform (Inheritance and Miscellaneous Provisions) Law, 2006^f,
 - (iii) an order made under Part II (provision for family and dependants) of the Inheritance (Guernsey) Law, 2011^g,
 - (iv) a vesting order made pursuant to saisie proceedings, or

^f Order in Council No. IV of 2008.

^g Order in Council No. XIII of 2011; amended by No. V of 2016.

- (h) it is a transaction of a description prescribed for the purposes of this section by Ordinance.

(2) The States may by Ordinance amend subsection (1) so as to remove or amend any of the classes of transaction which are exempt transactions.

Family transactions.

4. (1) A transaction is a family transaction for the purposes of this Law if all the parties to the transaction are associated with each other within the meaning of subsection (2).

(2) A person is associated with another person for the purposes of subsection (1) if, in relation to that other person –

- (a) they are, or have been, spouses or civil partners of each other,
- (b) they are cohabitants, or former cohabitants,
- (c) he or she is -
 - (i) a parent, stepparent, child, stepchild, grandparent, grandchild, great-grandparent, great-grandchild, or
 - (ii) a sibling, uncle, aunt, nephew or niece (whether of the full blood or of the half blood),

of that other person or of that other person's spouse, civil partner or cohabitant.

(3) For the purposes of subsection (2) –

(a) “**cohabitants**” means two people who are not spouses or civil partners of each other but are living together as if they were married, and “**cohabitant**” shall be construed accordingly,

(b) a reference to a person's spouse, civil partner or cohabitant includes (without limitation) a reference to-

(i) a deceased spouse, civil partner or cohabitant who had been the spouse, civil partner or cohabitant of that person until his or her death, and

(ii) a person who has the bona fide intention of becoming the spouse or civil partner of that person.

(4) Any reference in this section, however expressed, to any relationship between two persons shall be construed without regard to whether either of those persons, or any person through whom the relationship is deduced, is legitimate or illegitimate.

(5) Where an administrator has been appointed in respect of any real property pursuant to Part II of the Law Reform (Inheritance and Miscellaneous

Provisions) Law, 2006, and the subsequent sale of that property would, but for the appointment of the administrator, have been a family transaction within this section, the sale shall be deemed for the purposes of this Law to be a family transaction notwithstanding that one of the parties to the transaction was the administrator of the real property.

(6) The States may by Ordinance amend the definition of “**family transaction**” set out in this section.

Parties to file declaration.

5. (1) A declaration, in such form and manner, and accompanied by such information and documents, as the Greffier may require, shall be made by the parties to a chargeable transaction in accordance with the provisions of this section.

(2) The parties to a chargeable transaction shall make a joint declaration -

(a) where the transaction is made at arm's length, confirming that the consideration stated in the document is the total consideration for the said transaction, or

(b) where the transaction is not made at arm's length, stating the market value of the real property transferred.

(3) A person claiming that a transaction is an exempt transaction shall make a declaration stating the grounds on which it is claimed that the transaction is exempt.

(4) A person claiming that a transaction is made at arm's length shall make a declaration stating the grounds on which it is claimed that the transaction is made at arm's length.

(5) Where a consideration is expressed in money's worth, a declaration made in accordance with this section shall include a declaration of the market value of the money's worth.

(6) The parties making a declaration under this section must make full and frank disclosure of all facts which may be material and generally demonstrate utmost good faith in their dealings with the Greffier.

Amount of duty payable.

6. (1) Subject to subsections (2) and (3), the amount of document duty payable in respect of a chargeable transaction which is not an exempt transaction shall be as follows –

(a) where the transaction is made at arm's length, such percentage of the total consideration, or of the sum secured, as may from time to time be prescribed by Ordinance, and

(b) where the transaction is made otherwise than at arm's length, such percentage of the market value of the real property transferred, or of the sum secured, as may from time to time be prescribed by Ordinance.

(2) Where any part of the consideration is expressed in money's

worth, the amount of document duty payable in respect of that part of the consideration shall be calculated by reference to the market value of that money's worth.

(3) Notwithstanding that a transaction is made at arm's length and in good faith, if the Greffier is of the opinion that the amount of the consideration stated in the document is inadequate, the transaction may be deemed to be made otherwise than at arm's length, and in such a case the amount of document duty payable will be calculated by reference to the market value of the real property transferred.

(4) Where document duty is calculated by reference to the consideration and such consideration is expressed in money in a currency other than the currency of Guernsey, the document duty shall be calculated by reference to the value of the consideration in the currency of Guernsey according to the rate of exchange on the date of registration.

(5) The Greffier may, by notice in writing, require the parties to a chargeable transaction to furnish, within such reasonable time as may be specified in the notice, such information or documents, verified in such manner if any as may be specified, as the Greffier may require as being relevant for the purpose of making any decision under this Law.

(6) Where the Greffier is of the opinion, in relation to any declaration made under section 5, that -

- (a) where the parties claim that the transaction is exempt,
the transaction is not exempt,

- (b) the consideration stated in the declaration is not the total consideration for the transaction,
- (c) the market value stated in the declaration is inaccurate,
- (d) a transaction which the parties claim is made at arm's length is not so made,
- (e) any document furnished in support of the declaration is not authentic, or
- (f) any statement or declaration furnished is false, misleading or incomplete in any particular,

the Greffier shall serve a written notice on the parties containing the matters set out in subsection (7).

- (7) The notice served by the Greffier under subsection (6) shall -
 - (a) state the amount of the document duty which in the Greffier's opinion is properly payable in relation to the transaction,
 - (b) set out the information and assumptions on the basis of which the document duty has been assessed, and
 - (c) contain a statement of the right of appeal under section 7.

Appeals against decisions of Greffier.

7. (1) A person aggrieved by a decision of the Greffier under this Law -

- (a) that a transaction is a chargeable transaction within the meaning of this Law,
- (b) that a chargeable transaction is not an exempt transaction within the meaning of this Law,
- (c) as to the amount of document duty properly payable in relation to any chargeable transaction, or
- (d) in relation to any other matter arising from the application of this Law,

may appeal to the Court against the decision.

(2) The grounds of an appeal under this section are that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or

- (e) there was a material error as to the facts or as to the procedure.

(3) A person wishing to appeal against a decision of the Greffier under this section shall, within a period of 28 days immediately following the date of the decision –

- (a) lodge at the Greffe a sum of money equal to the amount of document duty which the Greffier avers is properly payable, and
- (b) serve notice of such appeal on the Greffier by summons stating the grounds and material facts on which the appellant relies.

(4) Upon receipt of the payment lodged under subsection (3), the Greffier shall –

- (a) cause the document to be registered on the records of the Island of Guernsey, and
- (b) deposit the money with an institution holding a banking licence under the Banking Supervision (Bailiwick of Guernsey) Law, 1994^h.

^h Ordres en Conseil, Vol. XXXV(1), p. 271; amended by Order in Council Nos. XVII and XXI of 2002; No. XVI of 2003; No. XVI of 2008; No. IV of 2009; Nos. XIII and XXI of 2010; Ordinance No. XXXIII of 2003; Ordinance Nos. XII, XX and XXXIX of

(5) The Greffier may, where an appeal under this section has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution, and upon hearing the application the Court may -

- (a) dismiss the appeal or dismiss the application (in either case upon such terms and conditions as the Court may direct), or
- (b) make such other order as the Court considers just,

and the provisions of this subsection are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007ⁱ.

- (6) On an appeal under this section the Court may -
- (a) set aside the decision of the Greffier, or
 - (b) confirm the decision, in whole or in part,

and, in either case, if the Court considers it appropriate to do so, remit the matter to the Greffier with such directions as the Court thinks fit.

- (7) If, on an appeal under this section, the Court considers that the

2015; Nos. II and IX of 2016; G.S.I.s No. 3 of 2000; No. 1 of 2008; Nos. 35 and 83 of 2010.

ⁱ Order of the Royal Court No. IV of 2007.

amount of document duty payable in relation to the transaction was greater than the amount lodged under subsection (3)(a), the Court may, in addition to making such directions as it thinks fit in relation to the sum lodged, order the appellant to pay to the Greffier for the account of the States a sum equivalent to the balance, such sum to be recoverable as a civil debt.

(8) An appeal from a decision of the Court under this section lies to the Court of Appeal on a question of law.

(9) In this section, "**the Court**" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting alone, and for the purposes of an appeal under this section the Court may appoint one or more assessors to assist it in the determination of any matter before it.

Offences as to false or misleading information, etc.

8. (1) If a person, for the purposes of section 5 of this Law, or for the purposes of purported compliance with any other provision of this Law, does any of the following -

- (a) makes a statement which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (b) dishonestly or otherwise, recklessly makes a statement which is false, deceptive or misleading in a material particular,
- (c) produces or furnishes or causes or permits to be produced or furnished any information or document

which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or

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

that person is guilty of an offence.

(2) A person who fails to provide the Greffier with any information which is in that person's possession, knowing or having reasonable cause to believe -

- (a) that the information is relevant to the exercise by the Greffier of any functions under this Law, and
- (b) that the withholding of the information is likely to result in the Greffier being misled as to any matter which is relevant, and of material significance, to the exercise of those functions,

is guilty of an offence.

(3) A person guilty of an offence under this section is liable -

- (a) on summary conviction, to imprisonment for a term

not exceeding 6 months or a fine not exceeding level 5 on the uniform scale, or to both, or

- (b) on conviction on indictment, to imprisonment not exceeding a term of five years or a fine or both.

Criminal liability of directors etc.

9. (1) Where an offence under this Law is committed by a body corporate, limited partnership with legal personality or foundation 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 body corporate, any director, manager, secretary or other similar officer,
- (b) in the case of a limited partnership with legal personality, any general partner,
- (c) in the case of a foundation, any foundation official, or
- (d) any person purporting to act in any capacity described in paragraphs (a) to (c),

that person as well as the body corporate, limited partnership or foundation 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 the member's functions of management as if the member were a director.

Provision against legal avoidance.

10. (1) Where the effect of a transaction or series of transactions is the avoidance, reduction or deferral of the liability of any person ("**the person concerned**") to document duty, the Greffier may, in the Greffier's discretion, make such adjustments as respects the liability of the person concerned to document duty as may in the Greffier's opinion be appropriate to counteract the avoidance, reduction or deferral of liability which would otherwise be effected by or as a result of that transaction or series of transactions.

(2) For the purposes of this section, a transaction includes any arrangement, agreement, operation, scheme or event, or any action, omission, decision or concurrence, whether or not -

- (a) enforceable by legal proceedings,
- (b) involving or dependent on any action by, or any omission, decision or concurrence of, the person concerned or any other person, or more than one person,
- (c) brought to a conclusion, or
- (d) involving or dependent on any other transaction.

(3) For the purposes of this section, and for the avoidance of doubt, it is immaterial -

- (a) when or where the transaction or series of transactions

(or any of the series of transactions) occurs,

- (b) whether or not the transaction or series of transactions (or any of the series of transactions) -
 - (i) was undertaken by or on behalf of, or in conjunction with, the person concerned, or
 - (ii) was undertaken by or on behalf of, or in conjunction with, more than one person, or
- (c) whether or not the avoidance, reduction or deferral of liability -
 - (i) was an intended effect of the transaction or series of transactions, or any of the series of transactions, or
 - (ii) was the only or principal effect.

Service of documents.

11. (1) Any notice or document other than a summons to be served under or for the purposes of this Law may be served on -

- (a) an individual, by being delivered to that individual, or by being left at, or sent by post or transmitted to, that individual's usual or last known place of abode,
- (b) a legal person with a registered office in Guernsey, by

being left at, or sent by post or transmitted to, that office,

- (c) a legal person without a registered office in Guernsey, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in Guernsey or, if there is no such place, its registered office or principal or last known principal place of business elsewhere,
- (d) an unincorporated body -
 - (i) by being served on any partner, member of the committee or other similar governing body, manager, director or other similar officer thereof in accordance with paragraph (a), or
 - (ii) by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in Guernsey or, if there is no such place, its principal or last known principal place of business elsewhere,
- (e) the Greffier, by being left at, or sent by post or transmitted to, the Greffe.

(2) Where the provisions of this Law authorise or require a document to be served on a person who is a minor or a person under legal disability, the document may be served on –

(a) in the case of a minor, the minor's parent or guardian,
and

(b) in the case of a person under legal disability, that
person's guardian,

and if there is no guardian, the party wishing to effect service may apply to the Royal Court for the appointment of a person to act as guardian for the purposes of those provisions.

(3) Subsections (1) and (2) are without prejudice to any other lawful method of service and to the provisions of section 12.

(4) Where a document is sent by post it shall, unless the contrary is shown, be deemed for the purposes of the provisions of this Law 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,

(b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any non-business day.

(5) For the purposes of the provisions of this Law, service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(6) Notwithstanding the provisions of this section and of any other rule of law in relation to the service of documents, no document to be served on the Greffier under or for the purposes of this Law shall be deemed to have been served until it is received.

(7) In this section -

"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 under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958^j,

"summons" includes any document compelling a person's attendance before a court, and

"transmitted" means transmitted by electronic communication, facsimile transmission or other similar means which

^j Ordres en Conseil Vol. XVII, p. 384; amended by Vol. XXIV, p. 84; Vol. XXXIV, p. 504; Vol. XXXV(1), p. 367.

produce or enable the production of a document containing the text of the communication (in which event the document shall be regarded as served when it is received).

Submission, etc., of documents in electronic form.

12. (1) Any document to be served on the Greffier under or for the purposes of this Law shall or, as the case may be, may be in such electronic form and served by such electronic means as the Greffier may require or, as the case may be, permit, whether in any particular case or class of cases or generally.

(2) Accordingly, where under this Law any information or document is required to be in such form or to be served by such means, or anything is required to be done in such manner, as (in whatever words) the Greffier may require, the Greffier may, without limitation, require the information or document to be in electronic form or, as the case may be, to be served, or the thing to be done, by electronic means.

(3) This section is without prejudice to -

(a) section 11(6), and

(b) the Electronic Transactions (Guernsey) Law, 2000^k.

General provisions as to Ordinances.

13. (1) Any Ordinance made under this Law -

^k Order in Council No. VIII of 2000; amended by Ordinance No. XXXIII of 2003; No. XIV of 2014 and No. IX of 2016.

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
 - (b) may contain may contain consequential, incidental, supplementary and transitional provisions.
- (2) Any power to make an Ordinance under this Law 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, and
 - (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.

Interpretation.

14. (1) In this Law, unless the context otherwise requires –

"**Bailiff**" includes the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff, a Juge-Délegué and a Judge of the Royal Court,

"**body corporate**" means a body of persons, of whatever description, incorporated with or without limited liability in any part of the world,

"**chargeable transaction**" - see section 2,

"**civil partner**" means a person who has registered as the civil partner of another person under the Civil Partnership Act 2004¹, or who is treated under that Act as having formed a civil partnership by virtue of having registered an overseas relationship within the meaning of that Act, and whose civil partnership, or registered overseas relationship, has not been dissolved or annulled, and "**civil partnership**" shall be construed accordingly,

"**consideration**" means any consideration in money or money's worth given for the interest in real property, directly or indirectly, by the person by whom the interest is acquired or by any other person on his or her behalf,

"**enactment**" means any Law, Ordinance or subordinate legislation and includes (without limitation) an enactment of the Parliament of the United Kingdom, of the Scottish Parliament and of the Northern Ireland

¹

An Act of Parliament (2004 c. 33).

Assembly, and a Measure of the National Assembly for Wales,

“exempt transaction” means an exempt transaction within the meaning of section 3,

“foundation” means -

- (a) a foundation created under the Foundations (Guernsey) Law, 2012^m, or
- (b) an equivalent or similar body created or established under the law of another jurisdiction (however named),

“foundation official” means -

- (a) in relation to a foundation created under the Foundations (Guernsey) Law, 2012, a foundation official within the meaning of that Law, and
- (b) in relation to an equivalent or similar body created or established under the law of another jurisdiction, a person with functions corresponding to those of a foundation official described in paragraph (a) of this definition,

^m Order in Council No. I of 2013; amended by Ordinance No. IX of 2016.

"**general partner**" means –

- (a) in relation to a limited partnership falling within paragraph (a) of the definition of "**limited partnership**", a general partner within the meaning of the Limited Partnerships (Guernsey) Law, 1995ⁿ, and
- (b) in relation to a limited partnership falling within paragraph (b) of the definition of "limited partnership", a person whose liability for, and functions in relation to, the partnership correspond to that of a general partner described in paragraph (a) of this definition,

"**the Greffier**" means Her Majesty's Greffier,

"**holding company**" has the meaning given in section 531 of the Companies (Guernsey) Law, 2008^o, and also includes a body corporate which would be a holding company within the meaning of section 531 but for the fact that it is an overseas company,

ⁿ Ordres en Conseil Vol. XXXVI, p. 264; amended by Vol. XXXVI, p. 571; Vol. XLI, p. 158; Order in Council No. X of 2007; No. VIII of 2008; Ordinance No. XXXIII of 2003; No. IX of 2016; G.S.I. No. 89 of 2008; No. 51 of 2016.

^o Order in Council No. VIII of 2008; there are amendments not material to this provision.

"**Judge of the Royal Court**" means the office of that name established by section 1 of the Royal Court (Reform) (Guernsey) Law, 2008^P,

"**this Law**" includes any Ordinance or subordinate legislation made thereunder,

"**limited partnership**" means -

- (a) an arrangement which is registered as a limited partnership, and in respect of which there is a valid certificate of registration, under the Limited Partnerships (Guernsey) Law, 1995, or
- (b) an arrangement entered into under the laws of a jurisdiction outside Guernsey between two or more persons, under which -
 - (i) one or more of them is, or are jointly and severally, liable without limitation for all debts and obligations to third parties incurred pursuant to the arrangement, and
 - (ii) the others have, by whatever means, contributed or agreed to contribute specified amounts pursuant to the arrangement and are not liable for those debts and obligations

^P Order in Council No. XXII of 2008; amended by Ordinance No. IX of 2016.

(unless they participate in controlling the business or are otherwise subjected to a greater liability by those laws in specified circumstances) beyond the amount contributed or agreed to be contributed,

whether with or without legal personality,

"market value", in relation to any real property, means the price which that property might reasonably be expected to fetch in a sale in an open market and shall be calculated as at the date of the chargeable transaction,

"person" includes -

- (a) an individual,
- (b) a body corporate,
- (c) any other legal person, and
- (d) an unincorporated body of persons,

"real property" means real property situate in the Island of Guernsey and includes (without limitation) any right or interest which by the law of Guernsey is or is deemed to be real property,

"served" means served in accordance with sections 11 and 12 and includes given and submitted,

"**subordinate legislation**" means any regulations, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect but does not include an Ordinance,

"**uniform scale**" means the uniform scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^q, and

"**wholly-owned subsidiary**", in relation to a company, has the meaning given in section 531 of the Companies (Guernsey) Law, 2008 and also includes a body corporate which would be a subsidiary within the meaning of section 531 but for the fact that it is an overseas company.

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

Repeal.

15. The Document Duty (Guernsey) Law, 1973^f is repealed in its application to Guernsey.

^q Ordres en Conseil Vol. XXXI, p. 278; amended by Order in Council No. XVIII of 2009; Recueil d'Ordonnances Tome XXV, p. 344; Ordinance No. XXIX of 2006; Ordinance No. XXIX of 2013.

^r Ordres en Conseil, Vol. XXIV, p. 74; amended by Vol. XXIV, p. 236; Vol. XXXI, p. 278; Order in Council No. XXVI of 2002; Recueil d'Ordonnances Tome XIX, p. 144; Tome XXII, pp. 419 and 555; Tome XXVI, p. 139; Tome XXVII, pp. 186 and 421; Ordinance No. XXII of 2000; No. LI of 2001; No. XXXVI of 2002.

Citation.

16. This Law may be cited as the Document Duty (Guernsey) Law, 2017.

Commencement.

17. (1) This Law shall come into force on the day appointed by Ordinance of the States; and different dates may be appointed for different provisions and for different purposes.

(2) An Ordinance made under this section may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient.

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