

# PROJET DE LOI

ENTITLED

## **The Parochial Church Property (Guernsey) Law, 2015 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* No. III of 2017.

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## **The Parochial Church Property (Guernsey) Law, 2015**

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## **The Parochial Church Property (Guernsey) Law, 2015**

**THE STATES**, in pursuance of their Resolution of the 24<sup>th</sup> February, 2012<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

### PART I PAROCHIAL CHURCH PROPERTY

#### *Ancient parish churches and churchyards*

#### **Ownership of ancient parish churches and churchyards.**

1. For the avoidance of doubt, this Law does not affect the ownership of –

- (a) the parish churches, and
- (b) the churchyards of the parish churches,

of the ancient parishes.

#### *Glebe land*

#### **Ownership of glebe land.**

2. (1) Legal ownership of glebe land belonging to an ancient parish, wherever situated, is transferred to and shall vest in the Constables for the time being of that parish.

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<sup>a</sup> Article XV of Billet d'État No. IV of 2012.

(2) In addition to the provisions of section 3, the Constables of a parish may not –

- (a) sell, or
- (b) change the use of,

glebe land except after consultation with, and taking into consideration the views of, the Rector and Churchwardens.

(3) For the purposes of subsection (2)(b), only a change of use which would lead to a change in the property reference of glebe land for the purposes of the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007<sup>b</sup> is a change of the use of glebe land.

(4) Subject to any lease approved in accordance with section 3(2)(a)(ii), the Constables shall permit the Rector and Churchwardens to have reasonable use of the glebe land.

(5) For the avoidance of doubt, and without prejudice to section 4, any thing or sum of money which in accordance with the customary law of Guernsey represents the fructus of the glebe land will continue to be due or payable to the Rector.

**Transfer of property and vesting in Constables.**

3. (1) Where any property has been transferred to and vested in the Constables under section 2 (a '**relevant property**'), that property shall be held by the Constables on trust for purposes beneficial to the relevant persons of the parish.

(2) For the avoidance of doubt, the Constables –

- (a) in addition to any duty to consult the Rector and

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<sup>b</sup> Recueil d'Ordonnances Tome XXXII, p. 504; Order in Council No. XIII of 2010; Recueil d'Ordonnances Tome XXXIII, pp. 45, 332 and 674; Ordinance No. LIII of 2010; No. XLVIII of 2011 and No. XIII of 2012; G.S.I. No. 54 of 2008; No. 109 of 2010 and No. 40 of 2011.

Churchwardens under section 2, may not –

- (i) sell,
- (ii) lease, or
- (iii) change the use of,

the relevant property except with the approval of a ratepayers meeting called for that purpose, and

- (b) in the exercise of any function under this Law, must act in accordance with any direction given to them by a ratepayers meeting, unless that direction would be contrary to any provision of this Law.

(3) For the purposes of subsection (2)(a)(iii), only a change of use which would lead to a change in the property reference of the relevant property for the purposes of the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007<sup>c</sup> is a change of the use of the relevant property.

**Continuation of certain rentes etc. and personal liabilities.**

4. (1) For the avoidance of doubt, the following provisions shall apply in respect of a relevant property –

- (a) all rentes, encumbrances and servitudes subsisting and enforceable at the date of commencement of this Law in respect of a relevant property shall continue to subsist and be enforceable, and
- (b) all rights, obligations and liabilities subsisting on the date of commencement of this Law and enforceable

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<sup>c</sup> Recueil d'Ordonnances Tome XXXII, p. 504; Order in Council No. XIII of 2010; Recueil d'Ordonnances Tome XXXIII, pp. 45, 332 and 674; Ordinance No. LIII of 2010; No. XLVIII of 2011 and No. XIII of 2012; G.S.I. No. 54 of 2008; No. 109 of 2010 and No. 40 of 2011.

against the persons in whom, immediately before that date, the property was vested shall, on that date, be transferred to and enforceable against the Constables of the parish and shall thereby be extinguished as against those persons.

(2) For the purposes of subsection (1)(b), **"all rights"** includes, for the avoidance of doubt and without limitation, the rights of a beneficiary under a trust.

## PART II MANAGEMENT BOARDS

### **Management Boards.**

5. (1) There shall be established a Management Board for each ancient parish which, subject to any decision of the ratepayers meeting, has the functions listed in subsection (2) in relation to the management of the parochial church property of that parish.

- (2) The Management Board will have the functions of –
- (a) making recommendations to ratepayers meetings in relation to –
    - (i) any works to the parochial church property, and
    - (ii) any sum that should be raised by means of the Owners' Rate for the maintenance and upkeep of parochial church property,
  - (b) overseeing any works approved by the ratepayers meeting,
  - (c) reporting to the ratepayers meeting in relation to any

works approved by the ratepayers meeting,

- (d) reporting to the ratepayers meeting on an annual basis in relation to the insurance of the parochial church property, and
- (e) subject to subsection (3), recommending additional uses of the parish church to the Rector and Churchwardens.

(3) For the avoidance of doubt, an additional use of the parish church –

- (a) must not be incompatible with any relevant Canon of the Church of England, and
- (b) may only be carried out with the permission of the Rector and Churchwardens.

(4) For the purposes of this section, the "**parochial church property**" of an ancient parish is –

- (a) the parish church,
- (b) the churchyard, and
- (c) the glebe land,

of that parish.

**Composition and procedure of Management Boards.**

6. (1) The Management Board of an ancient parish shall be composed of the following seven members –

- (a) the Rector,

- (b) the two Churchwardens,
- (c) two representatives of the parish, elected annually by the Douzeniers and Constables from amongst their number, and
- (d) two ratepayers elected annually at a ratepayers meeting.

(2) The members of the Management Board shall elect a Chairman from amongst their number, who shall have an original vote.

(3) For the avoidance of doubt, a person may not be a member of a Management Board in more than one capacity listed in subsection (1).

(4) The quorum of a Management Board shall be three, consisting of one member of each category described in subsection (1)(b), (c) and (d).

(5) A Management Board shall determine its own procedure.

**Powers of Management Boards.**

7. A Management Board may do anything which appears to it to be conducive to the carrying out of the functions specified in section 5(2) or to be incidental to their proper discharge, and, without prejudice to the generality, it may –

- (a) instruct experts, and
- (b) receive reports.

PART III  
RECTORIES

**Exemptions.**

8. (1) Sections 9 and 10 do not apply to the ancient parishes of St Peter Port and the Vale.

(2) For the avoidance of doubt, subsection (1) does not affect any liability of the two parishes mentioned in that subsection to maintain the rectory as before.

**Ownership of rectories.**

9. Legal ownership of the rectory of each of the ancient parishes is –
- (a) transferred to and shall vest in the Constables for the time being of that parish, and
  - (b) held by them on trust for purposes beneficial to the relevant persons of the parish.

**Sale of rectories.**

10. (1) A rectory shall not be sold by the Constables of a parish except –

- (a) where there is a vacancy in the living, after consultation with, and taking into consideration the views of, the Deanery Synod, or
- (b) where a Rector currently lives in the rectory –
  - (i) with the agreement of the Rector, and
  - (ii) after consultation with, and taking into consideration the views of, the Deanery Synod.

(2) Where it is proposed that a rectory is to be sold by the Constables of a parish, it must be approved at a ratepayers meeting called for that purpose.

(3) Subject to any customary law duty to provide suitable accommodation for –

- (a) the Rector of an ancient parish, and
- (b) the Rector's household,

the proceeds of the sale of a rectory may be applied in any lawful way for purposes beneficial to the relevant persons of the parish.

PART IV  
MISCELLANEOUS

**Powers of trustees.**

**11.** Where the Constables of a parish hold any property on trust pursuant to this Law, they may, subject to any provision of this Law, apply any part of the capital or income of that property for the purposes of the trust.

*Amendments*

**Amendment of Law of 1923.**

**12.** (1) The Law entitled the *Loi relative à la Taxation Paroissiale* registered on the 27<sup>th</sup> October, 1923<sup>d</sup> ("**the Law of 1923**") is further amended as follows in relation to Article I –

- (a) in paragraph (b), immediately after "ni évaluer d'avance", insert ", par exemple, l'entretien annuel de nature générale",
- (b) in paragraph (c), immediately after "ordinaire", insert "du Cimetière de l'Église Paroissiale et",
- (c) in paragraph (d) –
  - (i) immediately after "Cimetières Paroissiaux",

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<sup>d</sup> Ordres en Conseil Vol. VII, p. 146; amended by Ordres en Conseil Vol. VII, p. 392; Vol. XIII, p. 351; and Vol. XIX, p. 152.

*Consolidated text*

insert ", par exemple, les grosses réparations ou les travaux nécessaires pour la préservation et la protection des propriétés", and

- (ii) for "des Curateurs du Trésor de l'Église", substitute "du Conseil d'administration dit "Management Board" (créé par la Loi intitulée "the Parochial Church Property (Guernsey) Law, 2015)""
- (d) in paragraph (f), immediately after "l'Église Paroissiale" insert "(sauf l'assurance des biens mobiliers)",
- (e) delete paragraph (g),
- (f) for paragraph (h), substitute the following paragraph –
  - "(h) la taxe sur l'Église Paroissiale et le Cimetière de l'Église, le Presbytère, la Glèbe et les autres bâtiments ou terres ecclésiastiques appartenant de la Paroisse énoncées de temps à autre suivant les dispositions de l'Ordonnance intitulée "the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007";",
- (g) in paragraph (z), for "." substitute ";", and
- (h) immediately after paragraph (z), insert the following paragraphs –
  - "(aa) les réparations ordinaires à effectuer à la Glèbe, par exemple, l'entretien général;
  - (bb) les réparations extraordinaires à effectuer à la Glèbe, par exemple, les grosses réparations ou

les travaux nécessaires pour la préservation et la protection de la Glèbe, que le conseil d'administration dit "Management Board" doit détailler et évaluer en avance;

- (cc) les frais et les dépenses raisonnables encourus par le conseil d'administration dit "Management Board" dans l'exercice de ses fonctions;

et dans cet article "la Glèbe" (anglicé "glebe land") signifie les terres qui étaient nommées auparavant "les terres appartenant de la Cure".

**Amendment of Parish Reserve Funds Law.**

13. The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997<sup>e</sup> is further amended as follows –

- (a) for section 2(a), substitute the following paragraph –

"(a) extraordinary repairs to the Parish Church, Rectory, Churchyard or Parish Cemeteries," and

- (b) for section 2(b), substitute the following paragraph –

"(b) the purchase of land for, and establishment of, a Churchyard or Parish Cemeteries,".

**Amendment of Parochial Assemblies Law.**

14. In Article 3(3) of the Law entitled the *Loi relative aux Assemblées*

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<sup>e</sup> Ordres en Conseil Vol. XXXVII, p. 168; Vol. XLII(1), p. 256; Recueil d'Ordonnances Tome XXIX, p. 454.

*Paroissiales* registered on the 29<sup>th</sup> November, 1902<sup>f</sup>, immediately after "Cure", insert "(et pour éviter l'incertitude, le Presbytère ne fait pas partie de la Cure)".

*General*

**Exclusion.**

**15.** (1) Subject to subsection (2), nothing in this Law shall affect any property belonging to or held on trust for or by any of the following parishes –

- (a) Holy Trinity,
- (b) Saint John,
- (c) Saint Stephen, and
- (d) Saint Matthew, Cobo.

(2) The provisions of this Law shall apply to any property belonging to or held on trust for or by a parish listed in subsection (1) where it represents the parochial church property or rectory of an ancient parish.

**Interpretation.**

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

**"the ancient parishes"** means the ecclesiastical parishes of –

- (a) Saint Peter Port,
- (b) Saint Sampson,
- (c) the Vale,
- (d) the Castel,

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<sup>f</sup> Ordres en Conseil Vol. III, p. 274; Vol. VI, p. 115; Vol. VII, p. 481; Vol. XIX, p. 155.

- (e) Saint Saviour,
- (f) Saint Pierre du Bois,
- (g) Torteval,
- (h) the Forest,
- (i) Saint Martin, and
- (j) Saint Andrew,

**"churchyard"** means any enclosed ground in which an ancient parish church stands,

**"churchwardens"** means, together, the Rector's warden and the People's warden of an ancient parish,

**"the Deanery Synod"** means the synodical body of the Island and Bailiwick of Guernsey for the purposes of the Channel Islands (Church Legislation) Measure, 1931<sup>g</sup>,

**"enactment"** means any Law, Ordinance or subordinate legislation,

**"the Law of 1923"** has the meaning given in section 12(1),

**"Owners Rate"** means the tax levied in accordance with Article II of the Law of 1923,

**"the Parochial Taxation Laws"** means –

- (a) the Law of 1923,

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<sup>g</sup> Ordres en Conseil Vol. IX, p.127; as amended by the Synodical Government (Channel Islands) Order, 1970 (Ordres en Conseil Vol. XXII, p. 495).

- (b) the Parochial Taxation and Voting Law, 1963<sup>h</sup>,
- (c) the Parochial Taxation (Reserve Funds) Law, 1997,
- (d) the *Ordonnance relative aux Taxes Paroissiales*, made permanent on 31<sup>st</sup> January, 1931<sup>i</sup>, and
- (e) the *Ordonnance relative à la Procédure à suivre pour la levée d'une Taxe Paroissiale*, made permanent on 18<sup>th</sup> January, 1932<sup>j</sup>,

**"ratepayers"** has the same meaning as "contribuables" in the Law of 1923, as construed in accordance with the Parish Taxation and Voting Law, 1963, and related expressions shall be construed accordingly,

**"a ratepayers meeting"** means either –

- (a) a meeting convened to obtain the approval of ratepayers for the raising of tax under the Parochial Taxation Laws, or
- (b) any other meeting of ratepayers convened in accordance with the Law entitled the *Loi relative aux Assemblées Paroissiales* registered on the 29<sup>th</sup> November, 1902,

**"Rector"** includes a minister of the Church of England for the time being licensed as priest-in-charge of any of the ancient parishes within the meaning of the Priests-in-Charge (Assimilation to Rectors) (Guernsey) Law,

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<sup>h</sup> Ordres en Conseil Vol. XIX, p. 152.

<sup>i</sup> Recueil d'Ordonnances Tome V, p. 387; Tome XXIII, p. 254; and Tome XXVII, p. 52.

<sup>j</sup> Recueil d'Ordonnances Tome VI, p. 75.

1999<sup>k</sup>,

**"rectory"** includes the grounds of that rectory,

**"relevant persons of the parish"** means –

- (a) the ratepayers of the parish, and
- (b) the dependants of those ratepayers,

and a **"dependant"** for these purposes means an individual who is dependent on a ratepayer of the parish for the ordinary necessities of life,

**"a relevant property"** has the meaning giving in section 3,

**"St Martin Community Centre"** means the building otherwise known as the Professor Shaw Community Centre, and

**"subordinate legislation"** means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect.

(2) In determining any question as to glebe land –

- (a) regard shall be had to the provisions, and in particular Appendix 6, of the report of the Parochial Ecclesiastical Rates Review Committee dated 18<sup>th</sup> November 2011<sup>l</sup>, but
- (b) the grounds on which –
  - (i) St Martin Community Centre, and

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<sup>k</sup> Ordres en Conseil Vol. XXXIX, p. 396.

<sup>l</sup> Article XV of Billet d'État No. IV of 2012.

- (ii) Torteval Church Hall,

is built is not glebe land for the purposes of this Law and, for the avoidance of doubt, this Law shall have no effect on the ownership of either building or the grounds on which that building is built.

(3) 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.

**Citation.**

**17.** This Law may be cited as the Parochial Church Property (Guernsey) Law, 2015.

**Commencement.**

**18.** This Law shall come into force on such day as the States may by Ordinance appoint, and an Ordinance may –

- (a) appoint different dates for different provisions of this Law and for different purposes, and
- (b) contain such saving and transitional provisions as the States think appropriate.

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**NOTE**

*Part III, section 11 and sections 15 to 18 of the Law were brought into force on 22nd June, 2017 by the Parochial Church Property (Guernsey) Law, 2015 (Commencement) Law, 2017, section 1, respectively paragraph (a), paragraph (b) and paragraph (c).*

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