

# STATES OF JERSEY

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## DRAFT TAXATION (LAND TRANSACTIONS) (JERSEY) LAW 200

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Lodged au Greffe on 4th December 2007  
by the Minister for Treasury and Resources

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STATES GREFFE





Jersey

## **DRAFT TAXATION (LAND TRANSACTIONS) (JERSEY) LAW 200**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Treasury and Resources has made the following statement –

In the view of the Minister for Treasury and Resources the provisions of the Draft Taxation (Land Transactions) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

# REPORT

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## Introduction

The purpose of this Proposition is to introduce the Draft Taxation (Land Transactions) (Jersey) Law 200-. The Draft Law seeks to introduce a tax on certain transactions which confer rights of occupation of land in Jersey. The tax payable will be exactly equal to that which would have been payable under the Stamp Duties and Fees (Jersey) Law 1998 for registered transactions.

## Background

This proposition implements the 2005 States decision to approve the Deputy of St. Martin's proposition (P.211/2004) charging the (then) Finance and Economics Committee to prepare the necessary legislation, for consideration by the States, to introduce stamp duty on share transfer transactions involving immovable residential and commercial property in Jersey. The tax introduced in this Draft Law will be known as the Land Transactions Tax (LTT).

The primary purpose and effect of the Draft Law is to achieve equity between the financial costs of purchasers of property by share transfer or freehold. At present freehold purchasers are required to pay Stamp Duty under the Stamp Duties and Fees (Jersey) Law 1998. Those purchasing property by share transfer pay no such charge. In the latter case the owner of the property (i.e. the company in which the shares are purchased in consideration of the right to occupy that property) has not changed – hence there is no requirement to register the transaction in the Royal Court or pay the associated Stamp Duty.

The development of this tax has taken significantly longer than may have been anticipated. A number of options have been considered and discarded as not being suitable for the specific circumstances or legal context of Jersey. Since relevant transactions are not required to be registered at present, the charge will take the form of a Tax rather than Stamp Duty. It was not feasible to simply amend existing legislation as this tax does not readily sit within the remit of any of the following:

- Income Tax (Jersey) Law 1961
- Stamp Duties and Fees (Jersey) Law 1998
- Goods and Services Tax (Jersey) Law 2007

The Draft Law will achieve the desired effect of equity by placing a legal obligation on the purchaser of a property by share transfer to pay a self-assessed tax exactly equal to the Stamp Duty which would have been paid on the purchase of a freehold property. This includes all relevant discounts, etc (e.g. first-time buyers) so the Schedule to the Draft Law is drawn from the Schedule under the Stamp Duties and Fees (Jersey) Law 1998. As the latter is amended, the land transactions tax due will also need to change.

The Draft Law has been prepared to specifically exclude any share transactions in companies where no right of occupation of land is secured as a result. This exclusion removes the need to grant wide-ranging exemptions for transactions which the Draft Law was never intended to capture, recognising concerns expressed by interested parties. At the same time administration on the part of the States is kept relatively straightforward.

The Draft Law creates a number of criminal offences, chiefly:

- Failure to pay LTT due;
- Delivery of false or misleading statements;
- Registration by a company of a share transfer where LTT was payable and no LTT receipt was produced.

The Draft Law will be administered by the Comptroller of Income Tax. It contains similar powers for the Comptroller and similar rights of appeal for taxpayers as the Income Tax (Jersey) Law 1961. It contains similar powers to remit the amount of LTT due as the Stamp Duties and Fees (Jersey) Law 1998.

## Financial/manpower implications

There are no additional manpower implications as a result of this decision. Additional financial costs will be covered by the processing fee relating to payments of the Land Transaction Tax. Income from the Tax is, at the date of lodging this Draft Law, uncertain.

### **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 3rd December 2007 the Minister for Treasury and Resources made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Treasury and Resources the provisions of the Draft Taxation (Land Transactions) (Jersey) Law 200- are compatible with the Convention Rights.

## Explanatory Note

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*Article 1* provides for the interpretation of expressions used in the draft Law.

*Article 2* creates the charge to land transaction tax (“LTT”).

*Article 3* describes the transactions which are to be subject to LTT. They fall into 3 categories. Firstly, the transfer of a share, where the share confers a right of occupation of land in Jersey. Secondly, where a company owns land in Jersey and shares in the company are held in trust for a person who thereby has a right to occupy the land, a change in the declaration of trusts on which the shares are held. Thirdly, the creation of a security interest in a share which confers a right of occupation of land in Jersey. In addition the States are given the power to make Regulations exempting transactions from the Law.

*Article 4* imposes the duty to pay LTT. In a case where the transaction confers a right of occupation of land, the person who acquires the right is under a duty to declare the transaction and pay the LTT. In a case where the transaction is a security interest, it is the lender, referred to in the draft Law as the “secured party”, who must declare the transaction and pay the LTT. The tax must be paid within 28 days following the transaction.

*Article 5* empowers the Comptroller of Income Tax (the “Comptroller”) to gather information for the purposes of the administration and enforcement of this draft Law at the same time as he or she is gathering information for the purposes of the administration and enforcement of the Income Tax (Jersey) Law 1961 (the “1961 Law”). When the Comptroller serves a notice under Article 16 of the 1961 Law requiring a person to deliver a statement, he or she may require that the statement also contains particulars of any transactions to which this Law applies. The notice under Article 16 can be a general notice (such as the general notice requiring all persons liable to tax to complete an annual return) or a notice served on an individual, relating to a particular period of time. A failure to make a statement when required by a notice under Article 16 is an offence under Article 136 of the 1961 Law liable to a fine up to level 3 on the standard scale with a daily penalty up to level 2 on the standard scale. Article 137 of the 1961 Law makes it an offence to make an incorrect statement, fraudulently or negligently. The penalty is a fine not exceeding the aggregate of level 3 on the standard scale plus twice (or, in the case of fraud three times) the difference between the amount of tax paid and the amount that would have been paid if the statement had been correct.

*Article 6* gives effect to the Schedule, which specifies how the value of a transaction is to be determined and the amount of LTT due in respect of a transaction. The States are given power to make Regulations amending the Schedule.

*Article 7* imposes a surcharge where LTT is paid more than 28 days after the transaction. The surcharge is 10% of the LTT due. The Comptroller has a discretion to waive or reduce the surcharge where payment is made late due to the fault of a person other than the occupier or secured party or where death, serious illness or other grave and exceptional circumstance prevented payment being made on time. A person aggrieved by the Comptroller’s refusal to waive or reduce the surcharge would have a right of appeal under Article 18.

*Article 8* confers a general discretion on the Comptroller to reduce or remit LTT in any case where he or she considers that it would be just to do so. This is consistent with the discretion conferred on the Judicial Greffier to reduce or remit stamp duty, under Article 6 of the Stamp Duties and Fees (Jersey) Law 1998. There is no right of appeal against the exercise of this discretion.

*Article 9* requires the Comptroller to issue a receipt when LTT is paid.

*Article 10* prohibits the registration by a company of an instrument of transfer of the company’s shares to which this Law applies unless an LTT receipt is produced.

*Article 11* requires an occupier or secured party to keep any records as may be required to verify information which is or may be required to be provided to the Comptroller. The records must be kept for 6 years.

*Article 12* empowers the Comptroller to raise an assessment to LTT in 2 cases. Firstly, where it appears to the Comptroller that Article 4 has not been complied with. Secondly, where he or she believes that a transaction or combination or series of transactions, is designed to avoid or reduce the liability to LTT. In the second case, the Comptroller has a similar power, in relation to the charge to income tax, under Article 134A of the 1961 Law.

*Article 13* empowers the Housing Department to provide the Comptroller with information regarding the grant of housing consents. The Comptroller can only use the information for the purposes of the administration and

enforcement of this Law.

*Article 14* is to ensure that the discretion to reduce or remit stamp duty on contracts relating to immovable property (Article 6 of the Stamp Duties and Fees (Jersey) Law 1998) and the discretion to reduce or remit LTT (Article 8) are consistently used. The Minister for Treasury and Resources may issue directions as to the exercise of these powers and the persons exercising them must have regard to the directions.

*Article 15* makes provision for the Treasurer of the States to take proceedings to recover LTT.

*Article 16* creates offences. It will be an offence to fail to deliver a statement and pay LTT due under Article 4. It will be an offence to deliver a statement of LTT under Article 4 knowing it to be false or misleading. The penalty for each of these offences will be imprisonment for up to 6 months and/or a fine of up to level 3 on the standard scale. It will be an offence for a company to register a share transaction which is subject to LTT without the LTT receipt having been produced. The penalty will be a fine of up to level 3 on the standard scale.

*Article 17* contains general provision as to the commission of offences, including provision as to the liability of an officer of a company who consents to or connives in, or whose neglect contributes to, the commission of an offence by the company.

*Article 18* confers rights of appeal against any decision or assessment raised by the Comptroller under the Law. An appeal is to the Commissioners appointed under the 1961 Law and the procedures for hearing an appeal set out in that Law apply to this draft Law, with the necessary modifications.

*Article 19* empowers the Comptroller to correct an error or omission in an LTT receipt.

*Article 20* empowers the Comptroller to issue a replacement where an LTT receipt is lost, damaged or destroyed.

*Article 21* empowers the Minister for Treasury and Resources to make Orders for the purposes of the Law.

*Article 22* amends the Stamp Duties and Fees (Jersey) Law 1998 consequentially upon Article 14.

*Article 23* provides for the citation and commencement of the Law.

*The Schedule* specifies how the value of a transaction is to be determined for the purposes of the draft Law and the amount of LTT payable in respect of a transaction. It reflects the method for valuation of a transaction that is subject to stamp duty under the Stamp Duties and Fees (Jersey) Law 1998 and the rates of duty payable under that Law.





Jersey

# DRAFT TAXATION (LAND TRANSACTIONS) (JERSEY) LAW 200

## Arrangement

### Article

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<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Land transaction tax</u>
<u>3</u>	<u>Transactions to which this Law applies</u>
<u>4</u>	<u>Duty to deliver statement and pay LTT</u>
<u>5</u>	<u>Delivery of statements in pursuance of notices</u>
<u>6</u>	<u>Value of transaction and amount of LTT charged</u>
<u>7</u>	<u>Late payment surcharge</u>
<u>8</u>	<u>Reduction or remission of LTT</u>
<u>9</u>	<u>Issue of LTT receipt</u>
<u>10</u>	<u>Restriction on registration of transfer of shares</u>
<u>11</u>	<u>Duty to keep records</u>
<u>12</u>	<u>Power of Comptroller to make assessment of LTT</u>
<u>13</u>	<u>Information for the purposes of this Law</u>
<u>14</u>	<u>Power of Minister to issue directions regarding the reduction or remission of stamp duty or LTT</u>
<u>15</u>	<u>Proceedings for recovery of LTT</u>
<u>16</u>	<u>Offences</u>
<u>17</u>	<u>General provision as to offences under the Law</u>
<u>18</u>	<u>Right of appeal</u>
<u>19</u>	<u>Correction of error in LTT receipt</u>
<u>20</u>	<u>Issue of replacement LTT receipt</u>
<u>21</u>	<u>Orders</u>
<u>22</u>	<u>Stamp Duties and Fees (Jersey) Law 1998 amended</u>
<u>23</u>	<u>Citation and commencement</u>

## SCHEDULE

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### VALUE OF TRANSACTION AND RATE OF LTT APPLICABLE

<u>1</u>	<u>Interpretation of Schedule</u>
<u>2</u>	<u>Basic amount charged on the value of a transaction</u>
<u>3</u>	<u>First-time buyers: purchase</u>
<u>4</u>	<u>First time buyers: security interests</u>
<u>5</u>	<u>Sole ownership into joint ownership: matrimonial property</u>
<u>6</u>	<u>Joint ownership into sole ownership: matrimonial property</u>
<u>7</u>	<u>Charitable occupier or secured party</u>
<u>8</u>	<u>Mode of calculating value where cash consideration is in foreign currency</u>





Jersey

## DRAFT TAXATION (LAND TRANSACTIONS) (JERSEY) LAW 200

A LAW to provide for the taxation of the issue or transfer of shares, ownership of which confers a right of occupation of land, for the taxation of a change in a declaration of the trusts on which shares are held, where the change confers a right of occupation of land, and for the taxation of any lending connected thereto, where the transfer, declaration or lending is effected otherwise than by contract registrable in the Public Registry of Contracts; and for connected purposes

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*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

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### 1 Interpretation

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

“1961 Law” means the Income Tax (Jersey) Law 1961<sup>[1]</sup>;

“Comissioners” means a Commission of Appeal constituted in accordance with Article 18(4);

“Comptroller” has the same meaning as in the 1961 Law;

“equity capital”, in relation to a company, includes all shares, stock and scrip whether registered, inscribed or bearer which, other than by way of a fixed and predetermined right to interest and repayments of subscribed capital at par, entitles the owner to any variable right of participation in the company’s profits, whether by way of dividend, bonus, conversion or distribution on winding up;

“LTT” means the land transaction tax imposed by Article 2;

“LTT receipt” means a receipt issued under Article 9;

“Minister” means the Minister for Treasury and Resources;

“occupier” means a person who acquires a right of occupation of land by a transaction described in Article 3(1)(a) or (b), whether or not the person takes up occupation of the land;

“prescribed” means prescribed by Order made by the Minister;

“secured party” has the same meaning as in the Security Interests (Jersey) Law 1983<sup>[2]</sup>;

“security agreement” has the same meaning as in the Security Interests (Jersey) Law 1983;

“security interest” has the same meaning as in the Security Interests (Jersey) Law 1983;

“share” includes stock and all other subdivisions of equity capital of a company;

“transaction to which this Law applies” shall be construed in accordance with Article 3;

“transfer”, in relation to a share, includes every dealing or transaction, whether by the issue of shares, the placement of shares, the grant or take up of any rights, the exchange of shares, the conversion of shares, the grant or exercise of an option or other means howsoever whereby equity capital undergoes a change of beneficial ownership or proportion of ownership, or a change occurs in the entitlement or potential entitlement of any person to a share in the distribution of a company’s profit or capital;

“value”, in relation to a transaction to which this Law applies, means its value determined in accordance with the Schedule.

- (2) In this Law, a reference to the creation of a security interest includes a further advance of money secured by an existing security agreement, and a reference to a person becoming a secured party includes a reference to a person making a further advance which is secured by an existing security agreement.
- (3) In this Law, a reference to a person connected, or not connected, with another person shall be construed in accordance with Article 3A of the 1961 Law.

## **2 Land transaction tax**

A tax, to be known as “land transaction tax”, shall be charged and due, in accordance with this Law, on transactions to which this Law applies.

## **3 Transactions to which this Law applies**

- (1) This Law applies to the following transactions –
  - (a) the transfer to a person of any share, ownership of which confers a right of occupation of land in Jersey;
  - (b) an amendment to the declaration of the trusts on which shares in a company owning land in Jersey are held, where the amendment alters the person on whom the declaration confers the right of occupation of the land;
  - (c) the creation of a security interest, pursuant to a security agreement, in any share described in sub-paragraph (a).
- (2) For the purposes of paragraph (1), in determining whether a person has a right of occupation of land there shall be disregarded any lease or tenancy or other interest in the land to which the right of occupation is subject.
- (3) The States may, by Regulations, specify transactions to which this Law does not apply.

## **4 Duty to deliver statement and pay LTT**

- (1) The occupier, in relation to a transaction described in Article 3(1)(a) or (b), or the secured party, in relation to a transaction described in Article 3(1)(c), shall deliver to the Comptroller, in respect of the transaction –
  - (a) a statement, containing the prescribed information and accompanied by such documents, or copies of documents, as may be prescribed;
  - (b) the amount of LTT charged and due on the transaction.
- (2) The statement and amount of LTT shall be delivered within the period of 28 days following the date on which the transaction takes place.
- (3) The statement required by paragraph (1) shall include a declaration by the person delivering it that the statement is, to the best of the person’s knowledge, information and belief, true, complete and

correct.

## **5 Delivery of statements in pursuance of notices**

- (1) A notice served by the Comptroller pursuant to Article 16 of the 1961 Law may, in addition to the particulars that may be required pursuant to that Article, require a person to provide a statement of the following particulars –
  - (a) whether, during the period specified in the notice, the person has become, or ceased to be, an occupier, by virtue of a transaction described in Article 3(1)(a) or (b);
  - (b) whether, during the period specified in the notice, a person has become a secured party, by virtue of a transaction described in Article 3(1)(c).
- (2) Where a notice requires a person to provide a statement of the particulars described in paragraph (1), the notice may further require the person to provide a statement of the following particulars of any transaction to which this Law applies which is thereby disclosed –
  - (a) a description of the land sufficient to identify it;
  - (b) the date of the transaction;
  - (c) the value of the transaction;
  - (d) the number of the LTT receipt issued in respect of the transaction.
- (3) The Comptroller may serve notice on a person under Article 16 of the 1961 Law for the purpose of obtaining the person's statement containing the particulars mentioned in this Article notwithstanding that the person is not chargeable under the 1961 Law.
- (4) The Comptroller may serve notice on a person under Article 16A of the 1961 Law requiring the person to furnish documents in support of a statement of the particulars mentioned in this Article notwithstanding that the person is not chargeable under the 1961 Law.
- (5) Article 137(1)(ii) of the 1961 Law shall have effect, in the case of an offence which is, or includes the making of an incorrect statement of the particulars mentioned in this Article as if the reference to the amount of income tax that would have been payable if the statement had been correct included any amount of LTT that would have been payable if the statement of those particulars had been correct.

## **6 Value of transaction and amount of LTT charged**

- (1) The Schedule has effect to provide for the determination of the value of a transaction to which this Law applies and to specify the amount of LTT charged and due on it.
- (2) The States may, by Regulations, amend the Schedule.

## **7 Late payment surcharge**

- (1) Where LTT in respect of a transaction to which this Law applies is not paid, within the time required by Article 4(2), by the person required to comply with Article 4, that person shall be charged with a amount of LTT (hereafter referred to as the "surcharge") in addition to the LTT charged and due on the transaction.
- (2) The surcharge shall be 10% of the LTT specified in the Schedule in respect of the transaction.
- (3) Notwithstanding paragraph (1), the Comptroller may waive or reduce payment of the surcharge in any case where –
  - (a) failure to pay the LTT charged and due in respect of the transaction within the time required is caused by the action of a person not connected with the person required to comply with Article 4 and the failure is remedied without unnecessary delay; or

- (b) the Comptroller is satisfied that death, serious illness or other grave and exceptional circumstance prevented payment within the time required.
- (4) The Comptroller shall issue a written notice to a person of his or her liability under paragraph (1).
- (5) A person may, within 40 days of the issue of a notice under paragraph (4), apply to the Comptroller in writing, for a waiver or reduction under paragraph (3).
- (6) Where a person applies under paragraph (5), the Comptroller shall give notice to the person of whether or not he or she has waived or reduced the person's liability.

## **8 Reduction or remission of LTT**

- (1) Notwithstanding Article 6 but subject to Article 14, the Comptroller may reduce or remit the amount of LTT charged on a transaction to which this Law applies in any case where it would, in his or her opinion, be just to do so.
- (2) Notwithstanding Article 18, there shall be no right of appeal against a decision of the Comptroller under paragraph (1).

## **9 Issue of LTT receipt**

- (1) Upon delivery of a statement and LTT under Article 4 to the satisfaction of the Comptroller, he or she shall issue an LTT receipt in respect of the transaction to the person delivering the statement.
- (2) An LTT receipt shall be marked with a unique number.
- (3) An LTT receipt shall contain the prescribed particulars and be in the prescribed form.

## **10 Restriction on registration of transfer of shares**

- (1) Notwithstanding anything in its articles, a company shall not register an instrument of transfer of shares which is a transaction to which this Law applies unless there is produced to the company the LTT receipt in respect of the transaction, or a copy of the LTT receipt, certified in the prescribed manner.
- (2) This Article is in addition to, and does not derogate from, the requirements of Part 9 of the Companies (Jersey) Law 1991<sup>[3]</sup>.

## **11 Duty to keep records**

- (1) An occupier or secured party shall –
  - (a) keep such records as may be needed to verify the information required to be contained in a statement delivered under Article 4 or 5;
  - (b) preserve those records in accordance with this Article.
- (2) The records shall be preserved for the period of 6 years following the date of the transaction.
- (3) The records required to be kept and preserved under this Article include –
  - (a) relevant documents relating to the transaction, in particular, any agreement, declaration or other instrument and any maps, plans or similar documents relating to the land to which the transaction relates;
  - (b) records of relevant payments, receipts and financial arrangements.
- (4) The duty under this Article to preserve records may be satisfied by the preservation of the information contained in them.

- (5) Where information is preserved under paragraph (4), a copy of any document forming part of the records is admissible in any proceedings before the Commissioners to the same extent as the records themselves.

## **12 Power of Comptroller to make assessment of LTT**

- (1) Where it appears to the Comptroller that a transaction to which this Law applies has taken place, but Article 4 has not been complied with, the Comptroller may make an assessment, on the person required to comply with Article 4, of the LTT charged and due on the transaction.
- (2) If the Comptroller is of the opinion that the main purpose, or one of the main purposes, of a transaction, or a combination or series of transactions, is the avoidance, or reduction, of the liability of any person to LTT, the Comptroller may, subject as hereinafter provided, make such assessment or additional assessment of LTT on that person as the Comptroller considers appropriate to counteract such avoidance or reduction of liability:

Provided that no assessment or additional assessment shall be made under this paragraph if the person shows to the satisfaction of the Comptroller either –

- (a) that the purpose of avoiding or reducing liability to LTT was not the main purpose or one of the main purposes for which the transaction, or the combination or series of transactions, was effected; or
  - (b) that the transaction was a bona fide commercial transaction, or that the combination or series of transactions was a bona fide combination or series of transactions, and was not designed for the purpose of avoiding or reducing liability to LTT.
- (3) Where the Comptroller raises an assessment of LTT under this Article, the LTT shall be payable within 28 days of the date of the assessment.

## **13 Information for the purposes of this Law**

- (1) An officer in an administration of the States for which the Minister for Housing is assigned responsibility may disclose to the Comptroller information regarding consents granted under the Housing (Jersey) Law 1949<sup>[4]</sup> for the sale, transfer or leases of any land and variations of such consents.
- (2) The Comptroller may use information disclosed to him or her pursuant to paragraph (1) only for the purposes of the administration and enforcement of this Law.
- (3) Paragraph (2) is without prejudice to Article 135B of the Income Tax (Jersey) Law 1961<sup>[5]</sup>.
- (4) In this Article, “officer” has the same meaning as in Article 26 of the States of Jersey Law 2005<sup>[6]</sup>.

## **14 Power of Minister to issue directions regarding the reduction or remission of stamp duty or LTT**

- (1) The Minister may issue directions –
  - (a) to the designated officer, regarding the exercise of the discretion conferred by Article 6 of the Stamp Duties and Fees (Jersey) Law 1998<sup>[7]</sup>, in the case of an acknowledgement of debt document, a contract affecting immovable property or of a simple conventional hypothec, or in the case of an oath leading to a grant of probate or letters of administration;
  - (b) to the Comptroller regarding the exercise of the discretion conferred by Article 8 of this Law.
- (2) The designated officer and the Comptroller shall have regard to any directions issued under paragraph (1).
- (3) In this Article, “designated officer” has the same meaning as in the Stamp Duties and Fees (Jersey)

Law 1998.

## **15 Proceedings for recovery of LTT**

- (1) Proceedings for the recovery of unpaid LTT may be instituted by the Treasurer of the States at any time after the expiry of the period described in Article 4(2) or 12(3), as the case requires.
- (2) Article 43 of the 1961 Law shall apply where judgment has been obtained for the payment of LTT by an individual as it applies where judgment has been obtained for the payment of arrears of income by an individual.
- (3) Article 44 of the 1961 Law shall apply for the purposes of the recovery by legal process of LTT as it applies for the purposes of the recovery by legal process of income tax.

## **16 Offences**

- (1) A person who fails, without reasonable excuse, to comply with Article 4 shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale.
- (2) If a person delivers a statement under Article 4 which he or she knows to be false or misleading in a material particular or delivers a document or copy of a document under Article 4, knowing it to be false or misleading, he or she shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale.
- (3) A company that fails to comply with Article 10 shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

## **17 General provision as to offences under the Law**

- (1) A person who –
  - (a) aids, abets, counsels or procures the commission of an offence under any provision of this Law (a “principal offence”); or
  - (b) conspires, attempts or incites another to commit a principal offence,shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for the principal offence.
- (2) A person alleged to have committed an offence by virtue of paragraph (1) shall be triable in the same manner as a person would be tried for the principal offence.
- (3) Where an offence against any provision of this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (4) Where the affairs of a body corporate are managed by its members, paragraph (3) shall apply in relation to acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

## **18 Right of appeal**

- (1) Any person aggrieved by any decision of, or assessment made by, the Comptroller under this Law

shall be entitled to appeal to the Commissioners, on giving notice in writing to the Comptroller, within 40 days of the notice of such decision or assessment.

- (2) Without prejudice to the generality of paragraph (1), any person who is aggrieved by any assessment or additional assessment made on the person under Article 12(2) shall be entitled to appeal to the Commissioners on the ground –
  - (a) that the avoidance, or reduction, of the liability of that person to LTT was not the main purpose, or one of the main purposes, of the transaction, or the combination or series of transactions;
  - (b) that the transaction was a bona fide commercial transaction, or that the combination or series of transactions was a bona fide combination or series of transactions, and was not designed for the purpose of avoiding or reducing liability LTT; or
  - (c) that the person has been overcharged by the assessment or additional assessment.
- (3) Notwithstanding the time limit specified in paragraph (1), if it is shown to the satisfaction of the Comptroller that, owing to absence, sickness or other reasonable cause, any person has been prevented from appealing within the time specified, the Comptroller may admit the appeal if notice of it is given to him or her without unreasonable delay.
- (4) A Commission of Appeal shall be constituted, for the purpose of hearing appeals under this Law, as it would be constituted, for the purpose of hearing appeals under the 1961 Law, in accordance with Article 10(1) of the 1961 Law, from the Commissioners of Appeal appointed under that provision.
- (5) The following provisions of the 1961 Law shall apply to an appeal under paragraph (1) as they apply to an appeal under Article 27(1) of that Law–
  - (a) Article 27(2);
  - (b) Article 28(1) and (2);
  - (c) Article 29;
  - (d) Article 29A;
  - (e) Article 31, as if the particulars that may be demanded are particulars of the transaction to which the appeal relates, and any related transaction;
  - (f) Articles 32 to 36.

## **19 Correction of error in LTT receipt**

The Comptroller may re-issue an LTT receipt upon the return to him or her of the receipt previously issued, if he or she is satisfied that there is an error in, or omission from, that receipt and as to the manner in which the error or omission is to be made good.

## **20 Issue of replacement LTT receipt**

- (1) Any person may apply to the Comptroller for the issue of a replacement for an LTT receipt that is lost, destroyed or damaged.
- (2) The Comptroller shall issue a replacement LTT receipt, upon an application made under paragraph (1) and upon payment of the prescribed fee, if he or she is satisfied that the original receipt or certificate is lost, destroyed or damaged.

## **21 Orders**

The Minister may, by Order –

- (a) prescribe any matters that shall or may be prescribed under this Law;
- (b) make provision, for the purposes of this Law, as to the date a transaction takes place.

**22 Stamp Duties and Fees (Jersey) Law 1998 amended**

At the beginning of Article 6 of the Stamp Duties and Fees (Jersey) Law 1998<sup>[8]</sup>, there shall be inserted the following words “Subject to Article 14 of the Taxation (Land Transactions) (Jersey) Law 200,”.

**23 Citation and commencement**

This Law may be cited as the Taxation (Land Transactions) (Jersey) Law 200 and shall come into force on such day or days as the States by Act appoint.

## **SCHEDULE**

(Article 6)

### **VALUE OF TRANSACTION AND RATE OF LTT APPLICABLE**

#### **1 Interpretation of Schedule**

In this Schedule, “gross value”, in relation to land, means its market value.

#### **2 Basic amount charged on the value of a transaction**

- (1) Except as otherwise provided in the following provisions of this Schedule, LTT shall be charged on the value of a transaction at the rate of £50 plus –
  - (a) where the value of the transaction does not exceed £50,000, 50p for each £100 or part of £100 subject to a minimum of £10;
  - (b) where the value of the transaction exceeds £50,000 but does not exceed £300,000, £250 in respect of the first £50,000, plus £1.50 for each £100 or part of £100 in excess thereof;
  - (c) where the value of the transaction exceeds £300,000 but does not exceed £500,000, £4,000 in respect of the first £300,000, plus £2 for each £100 or part of £100 in excess thereof;
  - (d) where the value of the transaction exceeds £500,000 but does not exceed £700,000, £8,000 in respect of the first £500,000, plus £2.50 for each £100 or part of £100 in excess thereof;
  - (e) where the value of the transaction exceeds £700,000, £13,000 in respect of the first £700,000, plus £3 for each £100 or part of £100 in excess thereof.
- (2) For the purposes of sub-paragraph (1), where consideration passes in respect of a transaction described in Article 3(1)(a) or (b), the value of the transaction is the amount of the consideration or if the gross value of the land to which the transaction relates exceeds such consideration, the gross value of the land.
- (3) For the purposes of sub-paragraph (1), where no consideration passes in respect of a transaction described in Article 3(1)(a) or (b), the value of the transaction is the gross value of the land to which it relates.
- (4) Notwithstanding sub-paragraphs (2) and (3), for the purposes of sub-paragraph (1), where a transaction described in Article 3(1)(a) is for the transfer of shares by a sole owner into joint ownership with another person, or where a transaction described in Article 3(1)(b) is for an alteration of a declaration of trusts whereby a right of occupation of land conferred on a single individual is henceforth conferred on that individual jointly with another person, the value of the transaction is the amount of consideration for it or, if one half of the gross value of the land exceeds such consideration, one half of the gross value of land.
- (5) Notwithstanding sub-paragraphs (2) and (3), for the purposes of sub-paragraph (1), where a transaction described in Article 3(1)(a) is for the transfer of shares by joint owners into sole ownership, or where a transaction described in Article 3(1)(b) is for an alteration of a declaration of trusts whereby a right of occupation of land conferred on persons jointly is henceforth conferred on one only of those persons, the value of the transaction is the amount of consideration for it or, if one half of the gross value of the land exceeds such consideration, one half of the gross value of the land.
- (6) For the purposes of sub-paragraph (1), the value of a transaction described in Article 3(1)(c) is the amount secured by the security agreement.

#### **3 First-time buyers: purchase**

- (1) This paragraph applies to a transaction described in Article 3(1)(a) or (b) which relates to land or

which a dwelling is, or is to be, constructed for occupation by the occupier where –

- (a) the occupier requests that the LTT be assessed in accordance with this paragraph;
  - (b) the occupier is a person to whom Regulation 1(1)(a) to (h) or (n)(ii) of the Housing (General Provisions) (Jersey) Regulations 1970<sup>[9]</sup> applies;
  - (c) the occupier satisfies the Comptroller that he or she has never owned a reversionary interest in any dwelling accommodation wherever situated nor has he or she ever previously been entitled to occupy such dwelling accommodation (or would have been so entitled if clause (b) applied by virtue of having owned the accommodation); and
  - (d) the consideration for the transaction is not less, or not substantially less, than the gross value of the land to which the transaction relates.
- (2) For the purposes of sub-paragraph (1)(c), the reference to having owned a reversionary interest in dwelling accommodation includes –
- (a) having held such accommodation on contract lease;
  - (b) having owned such accommodation with any other person;
  - (c) having owned any share described in Article 3(1)(a) that confers a right of occupation of such accommodation;
  - (d) any arrangement whereby such accommodation was held in the name of a nominee or trustee, or of a company owned by a nominee or trustee, for the benefit of the purchaser.
- (3) The rate applicable to a transaction to which this paragraph applies is £50 plus –
- (a) where the value of the transaction does not exceed £150,000, £150;
  - (b) where the value of the transaction exceeds £150,000 but does not exceed £175,000, £62.50 in respect of the first £50,000, plus 25p for each £100 or part of £100 in excess thereof;
  - (c) where the value of the transaction exceeds £175,000 but does not exceed £200,000, £125 in respect of the first £50,000, plus 50p for each £100 or part of £100 in excess thereof;
  - (d) where the value of the transaction exceeds £200,000 but does not exceed £250,000, £187.50 in respect of the first £50,000, plus 75p for each £100 or part of £100 in excess thereof.
- (4) For the purposes of this paragraph, the value of the transaction is the gross value of the land or, if the dwelling has not yet been constructed on it, the notional gross value of the land once the dwelling has been constructed.

#### **4 First time buyers: security interests**

- (1) This paragraph applies to a transaction described in Article 3(1)(c) which relates to a transaction described in Article 3(1)(a) which is charged with LTT under paragraph 3, where both transactions relate to the same shares and take place on the same day.
- (2) The rate applicable to a transaction to which this paragraph applies is £50 plus –
  - (a) where the value of the land transaction does not exceed £150,000, £25;
  - (b) where the value of the land transaction exceeds £150,000 but does not exceed £175,000, 12.5p for each £100 or part of £100 of the amount secured by the security agreement, subject to a minimum of £25;
  - (c) where the value of the land transaction exceeds £175,000 but does not exceed £200,000, 25p for each £100 or part of £100 in excess thereof of the amount secured by the security agreement, subject to a minimum of £25;
  - (d) where the value of the land transaction exceeds £200,000 but does not exceed £250,000, 37.5p for each £100 or part of £100 in excess thereof of the amount secured by the security agreement, subject to a minimum of £25.
- (3) For the purposes of this paragraph, the value of the land transaction shall be determined in

accordance with paragraph 3(4).

- (4) In this paragraph, “land transaction” means the transaction described in Article 3(1)(a) to which the transaction described in Article 3(1)(c) relates.

## **5 Sole ownership into joint ownership: matrimonial property**

- (1) This paragraph applies where a transaction described in paragraph 2(4)–
- (a) takes place by reason of an order made by the Royal Court under Article 28 of the Matrimonial Causes (Jersey) Law 1949<sup>[10]</sup>; or
  - (b) is a transaction whereby shares formerly owned or a right of occupation formerly enjoyed by an individual are jointly owned or the right of occupation is jointly enjoyed by that individual and his or her spouse and, at the time of the transaction, the land is their matrimonial home.
- (2) In a case to which this paragraph applies, LTT shall be charged at the rate of £60.

## **6 Joint ownership into sole ownership: matrimonial property**

- (1) This paragraph applies where a transaction described in paragraph 2(5)–
- (a) takes place by reason of an order made by the Royal Court under Article 28 of the Matrimonial Causes (Jersey) Law 1949; or
  - (b) is a transaction whereby shares formerly owned or a right of occupation formerly enjoyed by spouses jointly are solely owned or the right of occupation is solely enjoyed by one of them and, at the time of the transaction, the land is their matrimonial home.
- (2) In a case to which this paragraph applies, LTT shall be charged at the rate of £60.

## **7 Charitable occupier or secured party**

Where the Comptroller is satisfied that an occupier or a secured party qualifies for exemption from income tax pursuant to Article 115(a), (aa) or (ab) of the 1961 Law, LTT shall be charged on the value of transaction to which this Law applies at the rate of £100.

## **8 Mode of calculating value where cash consideration is in foreign currency**

- (1) Where, by virtue of this Schedule, the value of a transaction is to be determined by reference to any cash consideration passing for the transaction, and that consideration is in a currency other than sterling, the value of the transaction shall be the equivalent value, in sterling, of the cash consideration, according to the rate of exchange prevailing on the day the value of the transaction is to be determined in accordance with this Schedule.
- (2) Evidence of the rate of exchange prevailing on a day may be given by written certificate signed by an officer of any bank in Jersey.

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- [\[1\]](#) *chapter 24.750*
  - [\[2\]](#) *chapter 13.775*
  - [\[3\]](#) *chapter 13.125*
  - [\[4\]](#) *chapter 18.315*
  - [\[5\]](#) *chapter 24.750*
  - [\[6\]](#) *chapter 16.800*
  - [\[7\]](#) *chapter 24.960*
  - [\[8\]](#) *chapter 24.960*
  - [\[9\]](#) *chapter 18.315.50*
  - [\[10\]](#) *chapter 12.650*