

STATES OF JERSEY



RATES (JERSEY) LAW 2005: THE RATING OF AGRICULTURAL LAND

**Presented to the States on 15th November 2006
by the Comité des Connétables**

STATES GREFFE

RATES (JERSEY) LAW 2005: THE RATING OF AGRICULTURAL LAND

Background

- (1) The Rates (Jersey) Law 2005 replaced the Parish Rate (Administration) (Jersey) Law 2003 and introduced in 2006 an Island-wide rate, which varies according to whether the property is assessed for 'domestic' or for 'non-domestic' use, as well as continuing the Parish rate for all property.
- (2) During the States debate of the Draft Rates (Jersey) Law 200- (P.170/2006), in September 2005, the Deputy of St. Peter stated that he had wished to bring an amendment to exempt agricultural land from rates. However, the timescale was such that had he proceeded with the amendment there was a risk that the law would not receive Privy Council assent and it would not have come into force for 1st January 2006. In these circumstances, the Deputy said that he would not proceed with the amendment but asked the Connétables to consider the issue and bring forward proposals to assist landowners.
- (3) This report sets out the background to the Rates Law and the Connétables recommendations with respect to the rating of agricultural land.

Liability for rates

- (4) Rates are paid on all property unless it is exempt from rates under the Law – Article 17 lists the property that is exempt from the foncier rate (paid by the owner) and Article 18 lists the property that is exempt from the occupier's rate (see Appendix 1). These exemptions have applied for at least 60 years although the issue of whether or not the States should pay rates on property that is used for a public purpose is currently under review.
- (5) The Rates Law followed a detailed review of the relationship between the Parishes and the Executive and the adoption of P.40/2004 (Machinery of Government: Relationship between the Parishes and the Executive). At paragraph 39 of P.40/2004 reference is made to the possibility of establishing a system of relief from the 'commercial rate', now called the 'non-domestic' rate. In drafting the Rates law, the Connétables consulted about this element of the proposal and the following extract is from the consultation document sent to interested parties in December 2004 –

Scheme of relief for vulnerable businesses

- (i) P.40 suggested establishing a scheme of relief from the Commercial Rate and "*suggested that such a scheme of relief should be extended to agriculture, tourism, small businesses and charities. The Policy and Resources Committee will work with the Comité des Connétables to develop a scheme of relief for the more financially vulnerable areas of the Island's business community. In undertaking this task the Committee will liaise with the Chamber of Commerce and other interested parties.*"
 - (ii) The Parish Rate (Administration) (Jersey) Law 2003 already provides a scheme of relief to any ratepayer by virtue of Article 22(6) "*The Connétable may reduce or remit the payment of the rate due by a ratepayer on the ground of hardship.*" The simplest scheme of relief would be that provided by Article 22(6).
 - (iii) P.40 did not refer to 'exemption' from the commercial rate but rather to a scheme of relief. This implies some element of reduction but ultimately is a loss to the ISF of income that might be expected from property liable to the commercial rate and the shortfall will have to be covered by other commercial ratepayers.
- (6) The Connétables received responses from 8 individuals or groups and generally the responses did not support a relief scheme from commercial rates for vulnerable businesses. Accordingly, no such provision was made for relief from rates for any industry.

Rating of agricultural land

- (7) As the Deputy of St. Peter asked that the matter be considered, the Connétables referred the rating of agricultural land to the Business Consultative Panel set up to consider the Island-wide rate. The Panel consists of representatives of 5 groups, the Chamber of Commerce, the Institute of Directors, the Jersey Farmers Union, the Jersey Hospitality Association and the Jersey Landowners Association, together with representatives of the Connétables and of the Rates Assessors.
- (8) As might be expected given its composition and that the request for exemption has been made by both the Jersey Farmers' Union and the Jersey Landowners Association, the Panel held mixed views about exempting agricultural land, in particular that which is unoccupied (i.e. unlet and unworked) from rates. The arguments for and against exempting agricultural land include –
- (i) such land is exempt from rates in other countries thus local producers are competing at a disadvantage although this overlooks the more complex issues of taxation levels generally;
 - (ii) total Island-wide rates income from agricultural land is estimated at less than £100,000 (based on 40,000 vergées) and there is a cost for collecting small sums. However other types of property also have low assessments and thus a small rate to be collected e.g. fishermen's cottages on the Minquiers etc; if this argument was used for agricultural land it should also apply to all other land/property below a certain rateable value;
 - (iii) unoccupied land receives no services from the Parish and land does not result in extra costs for parishes e.g. refuse collection, street lighting – however payment of rates is not directly linked to the provision of services but is a local tax to meet the running costs of the Parish;
 - (iv) rental values of land have fallen in recent years – rents for good agricultural land were £120 per vergée but have dropped to only £70 per vergée and landowners are expected to pay higher rates from this reduced income;
 - (v) land is no longer being leased and growers are seeking to have the use rent-free – it is likely that land will be left idle and it is unfair on retired farmers/landowners who have to pay rates and do the branchage without any income;
 - (vi) the industry is vital in maintaining the Island's unique landscape and in protecting and enhancing the countryside for the benefit of all and is trying to encourage diversification but this will not be achieved when higher taxes are being imposed (rates and branchage are considered a tax);
 - (vii) if unlet land is exempted from rates a similar argument could be made for empty shops, offices and houses whereas the requirement to pay rates could encourage the letting of such premises;
 - (viii) a special case could be made for agricultural land in view of the cost of undertaking the branchage – this can be a significant factor for landowners and in many other countries such work is undertaken centrally and not by individuals. However, local authorities may charge higher council rates to cover costs such as cutting 'branchage' where this is a municipal responsibility;
 - (ix) if concessions are to be granted they should be equitable and not single out one industry; other industries, especially the hospitality industry, may seek exemption from rates if agricultural land is exempted;
 - (x) assessments for agricultural land have reduced dramatically in recent years (as rateable value was linked to rental value) and are now frozen at those low levels. The rates are also much lower than those used for other industries, e.g. general storage compared with an agricultural shed used for agricultural storage. Similar reductions also apply to farmhouses restricted to occupation by a farmer;

- (xi) the Rates Law provides discretion to the Connétable to reduce or remit rates on grounds of hardship and this is preferable to exempting certain land from rates which benefits all owners/occupiers of such land and not just those unable to pay the rates.

Effect of Island-wide rate on landowners

- (9) Given the Panel's mixed views, the Comité invited the Jersey Farmers' Union and the Jersey Landowners' Association to report on the impact on their members following the levying of rates in 2006. The Jersey Landowners' Association considers the issue to be a matter of principle and has advised that a survey last year of its 70 members indicated that over 300 vergées of land were unlet. A survey of farmers and growers conducted by the Jersey Farmers' Union established, as expected, that rates for farm businesses have risen in percentage terms quite considerably with those in rural Parishes, where most farms are located, seeing the greatest increases following the introduction of the Rates (Jersey) Law 2005. Due to the relatively low rates in Jersey, the financial increases are not so massive but none the less have reduced profit margins.
- (10) Agricultural land is liable to the non-domestic Island-wide rate as well as the relevant Parish rate. The non-domestic rate in 2006 is 1.11 pence/quarter and the highest rate payable this year is in St. Ouer where, combined with the Parish rate, the rate for non-domestic property is 2.41 pence/quarter. The lowest non-domestic rate is 1.89 pence/quarter in St. John (it is interesting to note that this rate is slightly lower than the domestic rate of 1.92 pence/quarter in St. Ouen). Good quality agricultural land is currently assessed at 80 quarters/vergée, with meadow land assessed at 40 quarters/vergée and scrubland assessed at zero. Each of the owner and occupier of one vergée of good quality agricultural land assessed for 80 quarters/vergée will therefore pay, in 2006, rates of £1.93 per vergée in St. Ouen and £1.51 per vergée in St. John (an increase of 45 pence and 51 pence respectively compared with the 2005 Parish rate for the same land).
- (11) With the recent decline in rental values for agricultural land, and the general decline in agriculture locally, many retired farmers now find that their expected 'retirement income' from land rentals has decreased considerably but that, if the land is unlet, they also have to bear the cost of cutting the branchage. It should be mentioned that under the Parish Rate (Administration) (Jersey) Law 1946, the rateable value of agricultural land was half its rental value – this discount together with the relief for unoccupied land was lost when the Parish Rate (Administration) (Jersey) Law 2003 was introduced (under the 1946 Law the occupier's rate could be reclaimed in respect of the proportion of the year that the land, including property, was unoccupied but this was removed to encourage owners not to leave property vacant). The Rates (Jersey) Law 2005 has now imposed the higher non-domestic rate on agricultural land.

Options considered which might assist landowners

- (12) The Connétables have considered various options which would afford some financial benefit to landowners. These include –
- (i) exempt all agricultural land;
 - (ii) exempt agricultural land that is unlet and unused from occupier's rate;
 - (iii) reassess the rateable value of agricultural land;
 - (iv) discount assessments for agricultural land to allow for the branchage.
- (13) Exempt all agricultural land: it is difficult to justify such an exemption (which would not apply to other open commercial land, building sites, or land used for agricultural buildings) when other deserving examples exist and may arise in the future. A precedent set now will lead to the prospect of claims for similar treatment that will be hard to resist including, for example, from charities. The land currently exempt from the law (see Appendix 1) is for valid historical reasons and there is special provision for the Connétable to reduce or remit the rate of a ratepayer on grounds of hardship. If exempted, records would

still have to be maintained to keep track of ownership so there would be little saving on administration costs and exemption might also disenfranchise owners and occupiers who currently have a right to vote at a Parish Assembly and stand for office in the Parish if they are a ratepayer.

- (14) Exempt agricultural land that is unlet and unused from occupier's rate: the Connétables did consider this might be a solution as it would specifically target those landowners who are unable to find an occupier for the land and who therefore have a reduced income and still have to meet the cost of branchage and rates. However, the benefit is limited (a maximum of £1.93 per vergée based on 2006 rates) and it is difficult to justify such an exemption when relief from occupier's rate is not available for other types of property e.g. shops, offices, houses, etc. It would also set a precedent and lead to claims for similar exemptions for other unoccupied property in future.
- (15) Reassess the rateable value of agricultural land: land that is not worked deteriorates. The standard rateable values used by Assessors are 80 quarters/vergée for good quality agricultural land; 40 quarters/vergée for meadow land and zero for scrubland. If the attributes of land change (attributes are defined as the size, location, accommodation, condition and use of the land) the Law provides that the Assessors may reassess the rateable value. There may occasionally be some areas of land where such a reassessment could be made but in general the Rate Assessors considered that this could be a complex task and might even result in an upward revaluation in some cases.
- (16) Discount assessments for agricultural land to allow for the branchage: a proposal was put to the Connétables that the assessment should be discounted to allow landowners with roadside hedges a discount per metre of hedge subject to branchage. The administration involved in recording the lengths of branchage boundaries would however be excessive in relation to the financial benefit received by landowners.

Implications for other ratepayers of exemption

- (17) Whilst some form of exemption would benefit a small number of ratepayers, it must be remembered that all ratepayers will be adversely affected by such a move. The rate per quarter is determined by dividing the amount required from rates by the number of quarters on which rates are paid. If some land is exempt from rates there will be less rateable quarters and so the rate per quarter will increase, albeit nominally. Other ratepayers will therefore bear the cost of increased rates to maintain the income required by the Parishes and States and thus compensate for the reduction in rates afforded to landowners/occupiers.

Recommendations of the Connétables

- (18) The Connétables have some sympathy for landowners as they have the responsibility and cost of cutting the branchage if the land is not occupied. However, it is impossible to distinguish between 'retired farmers', the sector used to support the request for exemption, and other landowners or between agricultural land bordering a public road where the branchage must be cut and that which does not, and therefore any proposal for exemption would apply to all landowners and all agricultural land.
- (19) The Connétables have considered carefully all the arguments for and against the exemption, whether in part or in full, of agricultural land and are also mindful of the impact of such a proposal on other ratepayers and the implications if this is used as a precedent for similar concessions for other property in future.
- (20) For those in genuine hardship, Article 25(6) of the Rates (Jersey) Law 2005 already provides relief from rates –
 - *The Connétable may reduce or remit the payment of the rates due by a ratepayer on the ground of hardship.*
- (21) In conclusion therefore, and following careful consideration of all the issues including the very limited financial relief such an exemption would afford to land owners, the Connétables agree that an amendment

to the law to exempt agricultural land from rates cannot be justified.

13th November 2006

Comité des Connétables

ARTICLES 17 AND 18 OF THE RATES (JERSEY) LAW 2005

17 Liability of owner to rates

- (1) Any owner of land in a parish at the start of a rateable year is liable to pay to the parish the foncier rate levied by the parish in respect of the land for that year.
- (2) However, the following land is exempt from the foncier rate –
 - (a) churches, district churches, chapels, meeting houses and other premises exclusively appropriated to public religious worship, and cemeteries;
 - (b) presbyterial houses and lands;
 - (c) dwelling-houses, with the buildings and land appertaining thereto, owned by religious bodies and occupied exclusively by officiating ministers or caretakers of churches or chapels;
 - (d) land owned by Her Majesty;
 - (e) land owned by any department of Her Majesty's Government and used exclusively in Her Majesty's service;
 - (f) land owned by any public or parochial authority and used exclusively for public or parochial purposes;
 - (g) land used by the Minister for Education, Sport and Culture predominantly for the purposes of its undertaking; and
 - (h) land owned by the Don Baudains.

18 Liability of occupier to rates

- (1) Any occupier of land in a parish at the start of a rateable year is liable to pay to the parish the occupier's rate levied by the parish in respect of the land for that year.
- (2) However, the following land is exempt from occupier's rate –
 - (a) churches, district churches, chapels, meeting houses and other premises exclusively appropriated to public religious worship, and cemeteries;
 - (b) land occupied by Her Majesty or by any department of Her Majesty's Government and used exclusively in Her Majesty's service; and
 - (c) land occupied by any public or parochial authority and used exclusively for public or parochial purposes, but excluding land in the occupation of any employee of any such authority.
- (3) If a house or other building or part of a house or other building is let on terms that provide for the use of furniture or furnishings, the person who let the premises is liable to pay the occupier's rate (including any consequent liability for the Island-wide rate), but the terms may provide for the recovery of any or all of the amount so paid from the occupier.
- (4) If the owner of any land has failed to provide the name and address of the occupier as required by Article 3(1)(a), the owner is liable to pay the occupier's rate (including any consequent liability for the Island-wide rate), but may recover the sum paid (but not any surcharge paid) from the occupier as a civil debt.