

STATES OF JERSEY

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DRAFT HOWARD DAVIS FARM (REMOVAL OF COVENANT) (JERSEY) LAW 200-

**Lodged au Greffe on 30th May 2006
by the Minister for Treasury and Resources**

STATES GREFFE



Jersey

DRAFT HOWARD DAVIS FARM (REMOVAL OF COVENANT) (JERSEY) LAW 200-

European Convention on Human Rights

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 Howard Davis Farm (Removal of Covenant) (Jersey) Law 200- are compatible with the Convention Rights.

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

REPORT

Introduction

Parkfield (later to be named Howard Davis Farm), amounting to the house, farm buildings and 40 vergées of land, was gifted to the Public of the Island by the late Thomas Benjamin Frederick Davis and accepted by the Act of the States on the 17th December 1927. A covenant attached to the gifting imposed certain conditions as to the use of the land and buildings. It was one of four separate *corpus-fundi* transferred by Mr. Davis to the Public of the Island in perpetuity and gifted for –

“the purpose of establishing there, under the administration of the Committee of Agriculture of the States, an experimental farm for developing the study of agriculture and for instructing in that science young people and other interested parties”.

A very small percentage of the current uses at Howard Davis Farm actually fall within the uses permitted under the terms of this covenant with the evolution of Island agriculture and alternative methods of providing research and training within the industry.

Existing Uses

The current uses include part of the Philip Maurant Further Education and Training Centre and its Art Block which is operated as an extension of the Highlands College campus but currently has little or no demand for courses in agricultural subjects.

The main building is used as the office accommodation for Environmental Services and apart from trials work and laboratory work which is undertaken in entomology and plant diseases there is little else which could be accepted as being within the conditions of the covenant. A small number of agricultural administrative staff and produce inspectors are accommodated in offices at the site.

Some trials work is currently in progress on Field 827 involving potato blight treatment and the planting of buffer zones around the perimeter of agricultural fields. The glasshouses are for the most part unused by the States being licensed for use by private growers on a short term basis.

There are three residential units on the site all of which are occupied by staff employed by Environmental Services on an open market rental basis.

Acorn Enterprises operates from polytunnels and buildings on Field 567. This is a commercial operation growing seedlings and bedding plants which employs and trains people with learning difficulties and those in need of rehabilitation into the work environment. They also recycle timber for reuse in the building industry.

Transport and Technical Services have two storage buildings adjacent to Field 567 in which they operate a commercial compost bagging plant together with other machinery which most recently has been used to liquidise surplus tomato crops brought in by private growers.

Removal of Covenant

The majority of current and proposed future uses of the land and buildings at Howard Davis Farm are not within the uses dictated by the precise wording within the original 1927 Deed of Gift by the late T.B. Davis. It is therefore necessary to correct that situation by abrogation or variation by passing a law to that effect. Previous examples of this include the former Maternity Hospital in St. Saviour's Road, now used as offices and Le Bas Centre, and the former Westaway Crèche, which is now used as accommodation for medical and nursing staff.

The need for an experimental or training facility devoted to agriculture has diminished and there is a need for the land and buildings at Howard Davis Farm to have alternative uses. It is essential therefore that, even if the property is retained in Public ownership, the States is asked to adopt a law which abrogates the existing covenant to allow those alternate uses and regularise the position.

Future Sale of Land

It is not considered acceptable for the States to have accepted a gift of this nature on terms which create a charitable trust and then simply pass a law abrogating the conditions relating to the charitable purposes and to use the site for other, non charitable purposes with no further reference to the purpose for which the gift was given.

Therefore, in asking the States to adopt the draft Law, the Minister will also seek for any capital that may be

received from future sales of the land or building, which are currently included in the 1927 Deed of Gift, to be vested in the Treasurer of the States and kept by him in a separate interest earning account until such time that provision has been made by statute for the setting up of a trust fund which is within the spirit of the original charitable purposes of the T.B. Davis gift.

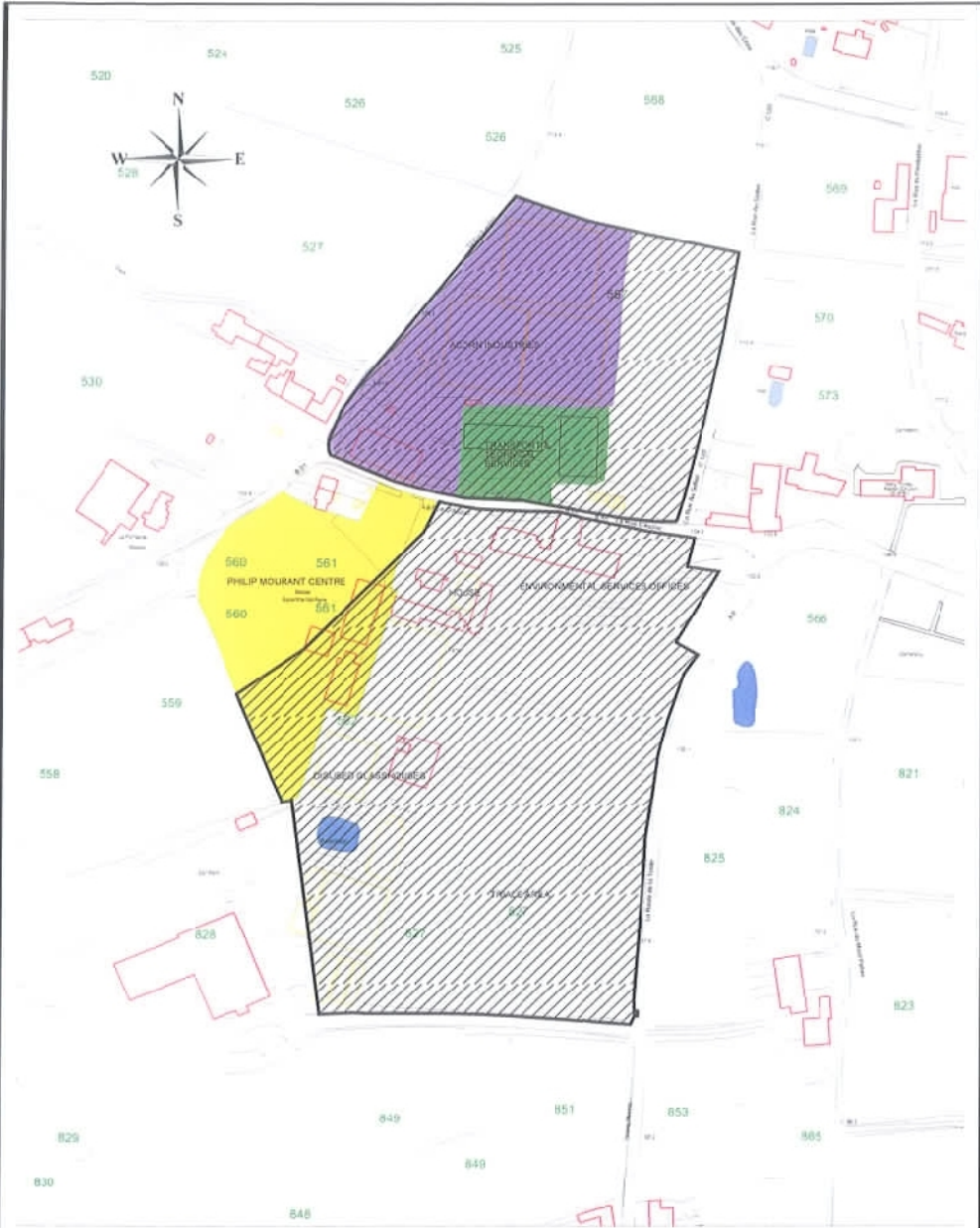
Financial and manpower implications

There are no other financial or manpower implications.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require 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). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 23rd May 2006 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 Howard Davis Farm (Removal of Covenant) (Jersey) Law 200- are compatible with the Convention Rights.



Howard Davis Farm Covenanted Area

Drawing No: 845/06/99

Boundary Information Supplied by the States of Jersey Planning Office, but no responsibility can be accepted for error.



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Explanatory Note

The Law contains a preamble setting out the purposes of the Law.

Article 1 is an interpretative provision.

Article 2 specifies that the property comprising Howard Davis Farm may be sold free of the condition that it be used for the purposes for which the gift to the Public of the Island of the property was made.

Article 3 requires the Treasurer to keep the proceeds of the sale in an interest-bearing account, separate from other monies of the States, until the proceeds, and any interest accruing on them, can be placed in a fund established for the purposes of promoting training and research in respect of agriculture in Jersey or other countries or territories.

Article 4 specifies that the Royal Court shall, when it orders the registration of this Law, also order the registration of a copy of this Law in the Public Registry of Contracts.

Article 5 cites the name by which the Law may be cited and that it shall come into force 7 days after it is registered.



Jersey

DRAFT HOWARD DAVIS FARM (REMOVAL OF COVENANT) (JERSEY) LAW 200-

A LAW to remove a condition subject to which the property known as Howard Davis Farm was gifted to the States, to ensure the purposes of that gift continue to be fulfilled, and for connected purposes.

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]

WHEREAS –

- (a) the property known as Howard Davis Farm, formerly known as “Parkfield”, was gifted to the Public of the Island by the late Thomas Benjamin Frederick Davis and accepted by Act of the States of 28th November 1927 on the condition that the property was to be used as an experimental farm for developing the study of agriculture and for instructing in that science young people and other interested parties;
- (b) the States are of the opinion that the size of the agricultural industry in Jersey, and the number of persons interested in receiving agricultural training in Jersey, does not justify the dedication of the property for the purposes of an experimental farm or an agricultural training facility;
- (c) the States are of the opinion that the objectives of the donor of the gift can better be fulfilled by selling, transferring or otherwise disposing of the property and enabling the proceeds to be used for the purposes of promoting training and research in respect of agriculture in Jersey or other countries or territories; and
- (d) in order to be able to sell, transfer or otherwise dispose of the property for the purposes of paragraph (c), the condition referred to in paragraph (a) should be abrogated,

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

1 Interpretation

In this Law, “Howard Davis Farm” means the house, farm buildings and land formerly known as ‘Parkfield’ which were gifted to the Public of the Island by the late Thomas Benjamin Frederick Davis and accepted by Act of the States of 28th November 1927.

2 Removal of covenant regarding use

Notwithstanding the terms of the deed by which Howard Davis Farm was gifted to the Public of the Island by the late Thomas Benjamin Frederick Davis, it shall be lawful for the Public of the Island to use or to sell, transfer or otherwise dispose of, Howard Davis Farm, free from the covenant requiring its use as an experimental farm for developing the study of agriculture and for instructing in that science young people

and other interested parties.

3 Money to be held by Treasurer

- (1) If Howard Davis Farm is sold, transferred or disposed of by the Public of the Island, the proceeds of the sale, transfer or disposition shall be held by the Treasurer of the States and, subject to paragraph (3), be retained, separately from other monies of the States, in an interest-bearing account.
- (2) The proceeds of the sale, transfer or disposition referred to in paragraph (1), and any interest accrued on the proceeds, shall not be dealt with except in accordance with paragraph (3).
- (3) The Treasurer shall, as soon as practicable after receiving the proceeds of any sale, transfer or disposition under paragraph (1), transfer the proceeds, and any interest accrued on the proceeds, to a fund established for the purposes of promoting training and research in respect of agriculture in Jersey or other countries or territories.

4 Registration of Law in Public Registry

- (1) The Royal Court shall, when it orders the registration of this Law, also order the registration of a copy of this Law, signed by the Greffier of the States, in the Public Registry of Contracts.
- (2) The registration of a copy of this Law in the Public Registry of Contracts shall have like effect as a contract passed before the Royal Court.
- (3) No fees shall be payable under the Stamp Duties and Fees (Jersey) Law 1998^[1] in relation to the registration of a copy of this Law as required by paragraph (1).

5 Citation and commencement

This Law may be cited as the Howard Davis Farm (Removal of Covenant) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

