

STATES OF JERSEY

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DRAFT TAXATION (LAND TRANSACTIONS) (JERSEY) LAW 200- (P.185/2007): AMENDMENTS

**Lodged au Greffe on 26th February 2008
by the Minister for Treasury and Resources**

STATES GREFFE

1 PAGE 11, LONG TITLE –

For the words “shares are held, where the change confers a right of occupation of land,” substitute the words “such shares are held,”

2 PAGE 11, ARTICLE 1(1) –

(a) after the definition “Comptroller” insert the following definition –

“ ‘due date’, in relation to a transaction, means the 28th day following the day on which the transaction takes place;”

(b) after the definition “equity capital” insert the following definition –

“ ‘land’ means a unit of dwelling accommodation;”

(c) for the definition “occupier” substitute the following definition –

“ ‘occupier’ means –

(a) in relation to a transaction described in Article 3(1)(a), the transferee of the share;

(b) in relation to a transaction described in Article 3(1)(b), the person for whose benefit the share is held;”

3 PAGE 12, ARTICLE 3 –

(a) In paragraph (1), for sub-paragraphs (a) and (b) substitute the following sub-paragraphs –

“(a) the transfer to a person of any share, ownership of which, by virtue of the articles of association of the company in which the share is held, confers a right of occupation of land in Jersey;

(b) a declaration that a share described in sub-paragraph (a) is held on trust for the benefit of a person, or an amendment to such a declaration substituting the person for whose benefit the share is held;”

(b) For paragraph (2) substitute the following paragraph –

“(2) For the purposes of paragraph (1), in determining whether a right of occupation is conferred, there shall be disregarded any lease or tenancy or other interest in the land to which the right of occupation is subject and any restriction or requirement of the Housing (Jersey) Law 1949.”

4 PAGE 13, ARTICLE 4(2) –

For the words “within the period of 28 days following the date on which the transaction takes place” substitute the words “no later than the due date.”

5 PAGE 14, ARTICLE 7 –

For the words “, within the time required by Article 4(2);” in paragraph (1) and for the words “within the time required” in paragraph (3), in each place that they appear, substitute the words “on or before the due date”

6 PAGE 15, ARTICLE 10 –

Substitute the following Article –

10 Companies (Jersey) Law 1991 amended

(1) In Article 42 of the Companies (Jersey) Law 1991 –

(a) after paragraph (1) there shall be inserted the following paragraphs–

“(1A) Notwithstanding anything in its articles, a company shall not register an instrument of transfer of shares which is a transaction to which the Taxation (Land Transactions) (Jersey) Law 200- applies unless there is produced to the company the LTT receipt issued under Article 9 of that Law in respect of the transaction, or a copy of that receipt certified in the manner prescribed under that Law.

(1B) If a company fails to comply with paragraph (1A), the company and every officer of it who is in default is guilty of an offence.”;

(b) in paragraph (2) for the words“Paragraph (1) does not” there shall be substituted the words “Paragraphs (1) and (1A) do not”.

(2) In Schedule 1 to the Companies (Jersey) Law 1991, after the entries for Article 41(3) of that Law there shall be inserted the following entries –

“Article 42(1B)	Company registering transfer of shares to which Taxation (Land Transactions) (Jersey) Law 200- applies, without production of LTT receipt	Level 3	-”
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7 PAGE 17, ARTICLE 16 –

(a) in paragraph (2) for the words“and liable to imprisonment” to the end of the paragraph substitute the words “and liable to imprisonment for a term of 12 months and to a fine of level 4 on the standard scale.”

(b) delete paragraph (3).

8 PAGE 19, ARTICLE 21 –

After paragraph (b) add the following paragraph –

“(c) prescribe the manner in which a copy of an LTT receipt shall be certified.”

9 PAGE 21, SCHEDULE, PARAGRAPH 2 –

(a) at the end of the heading add the words “described in Article 3(1)(a) or (b)

(b) in sub-paragraph (1) after the word“transaction”, where it first appears, insert the word “described in Article 3(1)(a) or (b)”

(c) in sub-paragraph (4) for the words “whereby a right of occupation of land conferred on a single individual is henceforth conferred on that individual jointly with another person,” substitute the words “whereby a share held on trust for the benefit of one person is henceforth held on trust for the benefit of that person jointly with another person,”

- (d) in sub-paragraph (5) for the words “whereby a right of occupation of land conferred on persons jointly is henceforth conferred on only one of those persons,” substitute the words “whereby a share held on trust for the benefit of persons jointly is henceforth held on trust for the benefit of one only of those persons,”
- (e) delete sub-paragraph (6).

10 PAGE 22, SCHEDULE, NEW PARAGRAPH –

After paragraph 2 insert the following paragraph –

“3 Basic amount charged on the value of a transaction to which Article 3(1)(c) applies

Except as otherwise provided in the following provisions of this Schedule, LTT shall be charged on the value of a transaction to which Article 3(1)(c) applies at a rate of £50 plus (subject to a minimum amount of £5) 50p for each £100 or part of £100 of the amount secured by the security agreement.”

11 PAGE 22, PARAGRAPH 3 –

In sub-paragraph (2) substitute clause (d) –

“(d) any arrangement whereby a share described in Article 3(1)(a) was held on trust for the benefit of the occupier.”

12 PAGE 23, SCHEDULE, PARAGRAPH 3 –

In sub-paragraph (3)(d) for the amount “£250,000” substitute the amount “£300,000”

13 PAGE 23, SCHEDULE, PARAGRAPH 4 –

In sub-paragraph (2)(d) for the amount “£250,000” substitute the amount “£300,000”

14 PAGE 24, PARAGRAPH 5 –

In sub-paragraph (1) substitute clause (b) –

“(b) is a transaction whereby shares formerly owned by, or held on trust for the benefit of, an individual are jointly owned by, or held on trust for the joint benefit of, that individual and his or her spouse and, at the time of the transaction, the land is their matrimonial home.”

15 PAGE 24 PARAGRAPH 6 –

In sub-paragraph (1) substitute clause (b) –

“(b) is a transaction whereby shares formerly owned by, or held on trust for the benefit of, spouses jointly are solely owned by, or held on trust for the sole benefit of, one of them and, at the time of the transaction, the land is their matrimonial home.”

16 PAGE 24, NEW PARAGRAPH –

After paragraph 7 insert the following paragraph –

“- **Devolution of deceased person’s estate**

Where a transaction described in Article 3(1)(a) or (b) gives effect to a devise to a beneficiary or the devolution on intestacy to the heir or heirs, of a deceased person’s estate, LTT shall be charged at the rate of £50.”

Renumber and alter any internal cross references accordingly.

MINISTER FOR TREASURY AND RESOURCES

REPORT

When P.185/2007 was lodged last December I indicated that there would be a longer than normal period before debate, in order that interested parties could make submissions on what will be totally new legislation, not just for Jersey but worldwide. Since that date, I have received a number of comments and questions on the draft Law. I am grateful for this response, in particular to Jersey Finance, responding on behalf of a number of professional institutions, with whom there have been a number of meetings. As a result of those discussions, I am bringing a number of amendments, none of which radically alter the intention or the ambit of the draft Law. They are submitted for one or more of the following reasons –

- To clarify which transactions will attract LTT.
- To clarify when payment of LTT is due.
- To achieve parity of treatment with the Stamp Duties and Fees (Jersey) Law 1998.
- To increase the penalty for provision of false or misleading statements (on the advice of the Attorney General).

Financial/manpower implications

There are no additional financial or manpower implications as a result of adopting these amendments.