

DRAFT FRIENDLY SOCIETIES (IMMOVABLE PROPERTY) (JERSEY) LAW 200-

**Lodged au Greffe on 16th May 2000
by the Legislation Committee**



STATES OF JERSEY

STATES GREFFE

180

2000

P.71

Price code: B

Report

Until 1992, friendly societies in the United Kingdom were registered under the Friendly Societies Act 1974. That Act applies to Jersey with minor adaptations and modifications under the Friendly Societies (Channel Islands) Order 1975.

In the United Kingdom, the Friendly Societies Act 1992 was enacted to enable societies to exercise a wider range of powers, if they so chose, while retaining their distinct characteristics as a friendly society. It permitted a new category of incorporated friendly society and made it possible, but not mandatory, for an incorporated friendly society (at present registered under the 1974 Act) to incorporate by registering in this new category. The 1992 Act has not been extended to Jersey but, nonetheless, may have affected certain friendly societies owning immovable property in the Island. There are some societies who have transacted in Jersey through nominated trustees in pursuance of the 1974 Act. In relation to land owned in Jersey, the contracts in the Public Registry show the trustees of such friendly societies as parties to the transaction and recite that the land in question is held by them pursuant to the provisions of the 1974 Act. However, upon the incorporation of such a society pursuant to the Friendly Societies Act 1992, paragraph 4(b) of Schedule 6 to that Act provided that, on incorporation of the society -

“any appointment as trustee shall determine”.

This mode of drafting may have extinguished the status of trustees who transacted in relation to land in Jersey. It had (on the face of it) the same effect as death without successors and, therefore, arguably, the land thereupon became *bona vacantia* and escheated to the Crown.

Section 6(2) of the 1992 Act made provision for the transfer of property on the incorporation of a registered society from trustees to the new corporate body. However, the 1992 Act has not been extended to Jersey. In the absence of any equivalent local legislation, there is a possible flaw in the title of a friendly society which owned immovable property in the Island prior to its incorporation pursuant to the 1992 Act.

It is therefore necessary, in order to avoid the possibility of any such defect in title, to make it clear that a friendly society which, whether before or after the enactment of the Friendly Societies Act 1992, had title to immovable property in Jersey, but which has since been registered and incorporated pursuant to the 1992 Act, should be deemed to have had title to that property in its corporate capacity.

This draft Law would achieve that purpose.

Explanatory Note

This draft Law would make provision for the vesting of immovable property of certain friendly societies.

Article 1 defines a friendly society as one registered under the Friendly Societies Act 1974 as that Act has effect in the Bailiwick pursuant to the Friendly Societies (Channel Islands) Order 1975.

Article 2 provides that a friendly society which before or after the enactment of the Friendly Societies Act 1992 had title to immovable property in the Bailiwick and which thereafter was registered and incorporated pursuant to section 6(1) of that Act shall be deemed to have and to have had title to that property in its corporate capacity under section 6(2) of the 1992 Act.

Article 3 is the usual Article of citation, but also provides that a copy of this Law be enrolled in the Public Registry of Contracts once registered by the Royal Court.

FRIENDLY SOCIETIES (IMMOVABLE PROPERTY) (JERSEY) LAW 200-

A LAW to make provision for the vesting of immovable property of certain friendly societies; sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

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

ARTICLE 1

In this Law -

“friendly society” means a friendly society registered under the Friendly Societies Act 1974 as that Act has effect in the Bailiwick pursuant to the Friendly Societies (Channel Islands) Order 1975;^[1]

“the 1992 Act” means the Friendly Societies Act 1992 of the United Kingdom.

ARTICLE 2

A friendly society which before or after the enactment of the 1992 Act had title to immovable property in the Bailiwick and which, after the enactment of the 1992 Act, was registered and incorporated pursuant to section 6(1) of the 1992 Act shall be deemed to have had and to have title to that property in its corporate capacity in accordance with section 6 (2) of that Act.

ARTICLE 3

(1) This Law may be cited as the Friendly Societies (Immovable Property) (Jersey) Law 200-.

(2) Upon the registration of this Law, the Royal Court shall order that a copy thereof be enrolled in the Public Registry of Contracts.

^[1] Volume 1975-1978, page 287.