

ORDER IN COUNCIL

III
1997

ratifying a Projet de Loi

ENTITLED

The Insurance Business (Amendment) (Guernsey and Alderney) Law, 1997

(Registered on the Records of the Island of Guernsey
on the 4th March, 1997.)



1997

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 4th day of March, 1997 before de Vic Graham Carey, Esquire, Deputy Bailiff; present:—Stanley Walter John Jehan, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley, Lawrence Oscar Ozanne, John Richard Rowe Henry, David Charles Lowe, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page and Stephen Edward Francis Le Poidevin, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 12th day of February, 1997, approving and ratifying a *Projet de Loi* entitled “The Insurance Business (Amendment) (Guernsey and Alderney) Law, 1997” THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ordered:—

1. That the said Order in Council be registered on the records of this Island; and
2. That an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty’s Greffier to the Clerk of the Court of Alderney for registration on the records of that Island of which Order is in Council the tenor followeth:—

At the Court at Buckingham Palace

The 12th day of February, 1997

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS, there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 3rd day of February 1997 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

“1. That, in pursuance of their Resolution of the 26th day of September 1996, the States of Deliberation at a meeting held on the said 26th day of September 1996 approved a Bill or “Projet de Loi” entitled “The Insurance Business (Amendment) (Guernsey and Alderney) Law, 1997”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereof. 2. That the States of the Island of Alderney at a meeting held on the 6th day of November 1996 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Alderney. 3. That the said Bill or “Projet de Loi” is as set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Insurance Business (Amendment) (Guernsey and Alderney) Law 1997”, and to order that the same shall have force of law in the Islands of Guernsey, Alderney, Herm and Jethou.”:

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Alderney, Herm and Jethou.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. H. Nicholls

The Insurance Business (Amendment)
(Guernsey and Alderney) Law, 1997

THE STATES, in pursuance of their Resolution of 25th September 1996^a, have approved the following provisions which, subject to the sanction of Her Most Excellent Majesty in Council, shall have force of Law in the Islands of Guernsey, Alderney, Herm and Jethou.

Transfer of long term business.

1. For section 31 of the Insurance Business (Guernsey) Law, 1986^b there is substituted-

"Transfer of long term business.

31. (1) A scheme under which all or any of the long term business of one body ("the transferor") is to be transferred to another body ("the transferee") shall not, if one of those bodies is a registered insurer, be carried out without the sanction of the Ordinary Court under this section.

(2) Either the transferor or the transferee may apply to the Ordinary Court for an Order sanctioning a scheme.

(3) An application for an Order sanctioning a scheme shall be accompanied by a report on the scheme by an independent actuary and a copy of the statement referred to in paragraph (4)(a).

^a Article IX of Billet d'État No. XXII of 1996.

^b Ordres en Conseil Vol. XXIX, p. 214; Vol. XXX, p. 243.

(4) The Ordinary Court shall not determine an application for an Order sanctioning a scheme unless it is satisfied-

(a) that a statement-

- (i) setting out the terms of the scheme,
- (ii) containing a summary of the report referred to in subsection (3) sufficient to indicate the opinion of the actuary as to the likely effects of the scheme on the long term policyholders of the bodies concerned, and
- (iii) stating that copies of that report are available for purchase at an address in Guernsey on payment of a reasonable sum,

has been served on the Commission, and, except to the extent that the Ordinary Court has otherwise directed, on each of the long term policyholders of the bodies concerned;

(b) that a notice has been published in *La Gazette Officielle* on at least two occasions stating-

- (i) the date and time when the application is to be made,

- (ii) that any person alleging that he would be adversely affected by the carrying out of the scheme is entitled to oppose the application at that time, and
 - (iii) that copies of the application and of the report referred to in subsection (3) are available for inspection at all reasonable times at an address in Guernsey set out in the notice, and that copies of that report are available for purchase there on payment of a reasonable sum;
 - (c) that 21 days have elapsed since the notice was last published in *La Gazette Officielle*; and
 - (d) that copies of the application and of the report mentioned in subsection (3) have been available for inspection at an address in Guernsey set out in the notice during that period of 21 days, and that copies of the report have been available for purchase there during that period on payment of a reasonable sum.
- (5) At the hearing of an application for an Order sanctioning a scheme-
- (a) the Commission, and

- (b) any person who alleges that he would be adversely affected by the carrying out of the scheme,

is entitled to be heard.

(6) The Ordinary Court shall not make an Order sanctioning a scheme unless-

- (a) the Court is satisfied that the transferee is, or will be immediately after the making of the order-

- (i) registered under this Law in respect of long term business, or

- (ii) authorised to carry on insurance business of the descriptions concerned in the place outside Guernsey where it is to undertake its obligations under the policies to be transferred to it; and

- (b) except where all of the policies to be transferred are contracts of re-insurance, the Commission has certified-

- (i) in a case within subparagraph (a)(i), that the transferee possesses the necessary margin of solvency under this Law after taking into account the proposed transfer, or

- (ii) in a case within subparagraph (a)(ii), that the supervisory authority in the place concerned has been notified of the proposed scheme by the Commission, and either has consented, or has not refused consent within three months of being so notified.

(7) Subject to subsection (9), when an Order sanctioning a scheme has been made under this section the liabilities of the transferor under the policies covered by the scheme shall, by virtue of the Order, be transferred to and become the liabilities of the transferee; and it is immaterial for these purposes that the law applicable to any of those policies may be the law of a place other than Guernsey.

(8) Either the Order sanctioning a scheme under this section or a subsequent Order may include such incidental, consequential and supplementary provisions as appear to the Ordinary Court to be necessary or expedient to ensure that the scheme is fully and effectively carried out.

(9) When an Order sanctioning a scheme has been made under this section-

- (a) notice of the making of any Order, and of the execution of any instrument, giving effect to the transfer must be published jointly by the transferor and the transferee in *La Gazette Officielle*, and in such other publications outside Guernsey as the Ordinary Court may direct,

- (b) that notice must specify the period during which policyholders may exercise any right to cancel their policies;

provided that the Order or instrument shall not bind a policyholder if the notice is not so published or if the policyholder exercises any such right during the period so specified."

Citation.

2. This Law may be cited as the Insurance Business (Amendment) (Guernsey and Alderney) Law, 1997.

Collective title.

3. This Law and the Insurance Business (Guernsey) Law, 1986 may be cited together as the Insurance Business (Guernsey and Alderney) Laws, 1986 and 1997.

Commencement and saving.

4. (1) This Law shall come into force on the seventh day after its registration on the records of the Island of Guernsey.

(2) This Law does not apply in any case where an application for the consent of the Commission has been made before this Law comes into force.