

# ORDER IN COUNCIL

**II**  
**1997**

ratifying a Projet de Loi

ENTITLED

## **The Protection of Investors (Amendment) (Bailiwick of Guernsey) Law, 1997**

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

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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 Protection of Investors (Amendment) (Bailiwick of Guernsey) 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 and to the SÉNÉSCHAL of Sark for registration on the records of those Islands of which Order 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 28th day of January 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 28th day of February 1996, the States of Deliberation at a meeting held on the 24th day of April 1996 approved a Bill or “Projet de Loi” entitled “The Protection of Investors (Amendment) (Bailiwick of Guernsey) Law, 1997”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the States of the Island of Alderney at a meeting held on the 9th day of July 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 Chief Pleas of the Island of Sark at a meeting held on the 2nd day of October 1996 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Sark. 4. 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 Protection of Investors (Amendment) (Bailiwick of Guernsey) Law 1997”, and to order that the same shall have force of law in the Bailiwick of Guernsey.”;

"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 Bailiwick of Guernsey.

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 Protection of Investors (Amendment) (Bailiwick of Guernsey) Law, 1997**

**THE STATES**, in pursuance of their Resolution of 28th February 1996<sup>a</sup> have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### **Information to be provided by auditors**

1. The following section is inserted immediately after section 27 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987<sup>b</sup>:

#### **" Communications by auditors to Commission**

**27A (1)** This section applies to any matter of which a person becomes aware in his capacity as auditor and which relates to the business or affairs of -

- (a) a licensee, or
- (b) an authorised collective investment scheme, or
- (c) a client who appears to be carrying on controlled investment business.

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<sup>a</sup> on Article 11 of Billet d'État No. III of 1996.

<sup>b</sup> Ordres en Conseil Vol. XXX pp.281 and 243.

(2) It is the duty of any person acting as an auditor to communicate to the Commission matters to which this section applies and which the auditor has reasonable cause to believe is, or is likely to be, of material significance for determining either –

- (a) whether a person is a fit and proper person to carry on controlled investment business, or
- (b) whether the Commission should exercise its powers under this Law in order to protect investors from a significant risk of loss.

(3) No other duty to which an auditor may be subject is contravened by reason of his communicating in good faith to the Commission, whether or not in response to a request made by it, any information or opinion on a matter to which this section applies.

(4) The provisions of this section also apply in relation to former licensees and formerly authorised collective investment schemes.

### **Enforcement**

**27B** If it appears to the Commission that an auditor has failed to comply with a duty imposed on him by section 27A(2), the Commission may report the auditor to any authority, institution or professional body to whose rules or requirements that auditor is subject, and may disclose any information with a view to the institution of disciplinary proceedings, or otherwise for the purposes of such proceedings."

### **Consequential amendment**

2. In section 21(2) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987<sup>c</sup>, immediately after "disclosure" insert "is expressly authorised or required by or under any enactment relating to the Commission's statutory functions, or".

**Citation**

3. This Law may be cited as the Protection of Investors (Amendment) (Bailiwick of Guernsey) Law, 1997.

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<sup>c</sup> Ordres en Conseil Vol. XXX, p.243.