

PROJET DE LOI

ENTITLED

The Alderney Electricity Concession etc.

Transfer Law, 1950 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XV, p. 2. See also the Arbitration (Alderney) Law, 1983 (Ordres en Conseil Vol. XXVIII, p. 236); the Government of Alderney Law, 2004 (No. III of 2005).

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The Alderney Electricity Concession etc. Transfer Law, 1950

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The Alderney Electricity Concession etc. Transfer Law, 1950

WHEREAS the Company known as "Alderney Light and Power Company Limited", a Company registered in the Island of Alderney and hereinafter referred to as "**the Company**", has, by virtue of the Law styled "Projet de Loi relatif à la Fourniture de la Lumière Électrique" sanctioned by Order of His Majesty in Council dated the 24th day of March, 1936, and of the Electricity Concession Law, 1948, sanctioned by Order of His Majesty in Council dated the 22nd day of June, 1948, which Laws were duly registered on the Records of the Islands of Guernsey and Alderney and are hereinafter referred to as the Electricity Concession Laws, 1936 and 1948, the exclusive right to supply electric light and power for use in the said Island of Alderney:

AND WHEREAS the Company is the owner of land, buildings, plant, machinery and equipment in the said Island of Alderney used for the purpose of the generation and distribution of electricity in the said Island and hereinafter referred to as "the physical assets of the Company's undertaking":

AND WHEREAS the Company has not, since the 24th day of September, 1949, been in a financial position to continue the generation and distribution of electricity in the said Island, which generation and distribution by means of the physical assets of the Company's undertaking has, since the 4th day of October, 1949, been carried on under the control of an authorised controller appointed in that

behalf under the provisions of Regulation 55 of the Defence (General) (Guernsey) Regulations, 1945:

AND WHEREAS there appears to be no reasonable prospect of the Company being able to resume such generation and distribution:

AND WHEREAS on or about the 19th day of May, 1950, proposals were made to the Company by letter addressed to Mr. Leslie M. Froude, the Director thereof who had at all times represented the Company in its dealings and negotiations with representatives of the States of Guernsey and of Alderney, intimating that if the Company were prepared to relinquish its rights under the Electricity Concession Laws, 1936 and 1948, and to transfer to the States of Alderney or their nominees the whole of the physical assets of the Company's undertaking, free of all incumbrances, for –

- (a) the sum of £4,500, or
- (b) such sum as might be determined as the fair value thereof, so soon as may be after the said transfer, by an independent arbitrator, appointed by, say, the President of the Institution of Electrical Engineers,

and would so inform the insular authorities by the 30th day of June, 1950, the insular authorities would recommend to the States of Guernsey and of Alderney that such transfer be proceeded with upon the basis of (a) or (b) as the Company might elect:

AND WHEREAS the Company has not accepted either of the said proposals:

AND WHEREAS it appears from all the information available to the States of Alderney that the exclusive right of the Company to supply electric light and power in the said Island of Alderney under the Electricity Concession Laws, 1936 and 1948, and all other, the Company's rights thereunder are unmarketable:

AND WHEREAS it is expedient for the continuance of a supply of electric light and power to the inhabitants of the Island of Alderney that the said rights of the Company and the physical assets of the Company's undertaking be vested forthwith in the States of Alderney:

AND WHEREAS it may be necessary from time to time for ensuring the continuance of such supply as aforesaid that new plant and machinery be installed at the expense of the States of Guernsey in the said Island of Alderney on land belonging to the Company:

THE STATES OF ALDERNEY have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

Company's rights transferred to States of Alderney.

(1) All rights vesting in the Company by virtue of the Electricity Concession Laws, 1936 and 1948, are hereby transferred from the Company to and vested in the States of Alderney with effect as on and from the date of the registration of the Order of His Majesty in Council sanctioning this Law on the Records of the Island of Alderney.

NOTE

The Electricity Concession Laws, 1936 and 1948 have since been repealed by the Alderney Electricity Concession Law, 1953, section 51, with effect from 1st August, 1953.

Physical assets also transferred.

(2) The whole of the physical assets of the Company's undertaking are hereby transferred, free of all claims and incumbrances, from the Company to and vested in the States of Alderney with effect as on and from the date of such registration as aforesaid.

Consideration for rights, etc.

(3) No consideration shall be payable as respects the rights transferred from the Company to the States of Alderney under the provisions of section 1 of this Law, or as respects any building, generating or other plant or machinery switch or other gear or other equipment constructed or installed by or on behalf of the States of Guernsey on or after the 1st day of September, 1950, for the purpose of the supply of electric light and power to the inhabitants of Alderney.

Valuation of physical assets.

(4) As respects the physical assets transferred from the Company to the States of Alderney under the provisions of section 2 of this Law, the value thereof shall be determined as soon as may be by an arbitrator to be appointed by the President of the Institution of Electrical Engineers. The decision of the arbitrator as to the value of the said physical assets and each of them shall be binding on the States of Alderney and the Company and all others whom it may concern. The arbitrator, before determining the amount of his award, shall give reasonable opportunity for representations to be made to him on behalf of the Company and of the States of Alderney touching the subject matter of the arbitration.

NOTE

In accordance with the provisions of the Arbitration (Alderney) Law, 1983, section 30(1), with effect from 16th January, 1984, Part I of that Law, save

for sections 2(1), 3, 5, 16(2), 24, 25 and 27, shall apply to every arbitration under this Law as if the arbitration were pursuant to an arbitration agreement and as if this Law were an arbitration agreement, except in so far as the 1983 Law is inconsistent with this Law or with any rules or procedure authorised or recognised thereby: provided that in any arbitration under this Law any reference to the award made by an arbitrator or umpire being final and binding on the parties and the persons claiming under them respectively shall be deemed to include a reference to such provisions being subject to the provisions of section 19 of the 1983 Law.

Costs of arbitration.

(5) The costs of the arbitration shall be in the discretion of the arbitrator, who shall direct to and by whom and in what manner those costs or any part thereof shall be paid and shall settle the amount of costs to be so paid. The amount of any costs awarded against the Company shall be deducted by the States of Alderney from the amount of the value awarded by the arbitrator and applied in the manner directed by him.

Sub-division of award.

(6) Whereas differences of opinion may exist or might arise between the registered and unregistered creditors of the Company as to whether certain of the physical assets of the Company's undertaking rank, under the laws of the Island of Alderney, as realty or as personalty, the arbitrator, without purporting to determine whether any of such physical assets are realty or personalty, shall, in the preparation of his award, indicate therein as clearly as possible the portion of the total amount awarded which he attributes to the various kinds of those physical assets and, in particular, as respects the valuation of buildings and plant, machinery and effects therein, the arbitrator shall treat each such building and its contents as one lot and (a) the building, (b) each principal piece of plant or machinery with its appurtenances therein and (c) the other effects therein as sub-divisions of that lot and shall attribute a value to each sub-division.

Registration, etc. of award.

(7) The award of the arbitrator shall on the completion thereof be deposited with the Clerk of the Court of Alderney for registration on the Public Records, and the said Clerk shall thereupon send a copy of the award, addressed to the Company, at the registered office of the Company.

NOTE

In accordance with the provisions of the Government of Alderney Law, 2004, section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(e), with effect from that same date, the functions of the Greffier include the functions assigned by law to the Clerk of the Court.

Incumbrances.

(8) The incumbrances which before the date of the registration of the award attached to such of the physical assets of the Company as are realty shall, as from the date of registration of the award, attach to the same extent and with the like priorities, to the amount of the award in respect of those assets.

Payment of award.

(9) As soon as may be after the registration of the award, the amount payable thereunder, subject as provided by section 5 of this Law, shall be paid into a deposit account with a bank in the Island of Guernsey to be opened in the names of the President and Treasurer of the States of Alderney.

Distribution of award.

(10) Upon the production to the President of the States of Alderney of the certificate of an Accountant (which expression, for the purpose of this section, shall mean a member of the Institute of Chartered Accountants of England and Wales or

a member of the Society of Incorporated Accountants and Auditors, or a member of the Association of Certified and Corporate Accountants) that a scheme for the distribution of the amount of the award has been agreed to by registered creditors of the Company representing not less than two-thirds of the amount of the claims registered against the Alderney realty of the Company, by unregistered creditors of the Company representing not less than two-thirds of the unregistered claims against the Company and by shareholders of the Company representing not less than two-thirds of the issued capital of the Company and that the said Accountant is authorised by such registered and unregistered creditors and by such shareholders to receive and distribute in accordance with such scheme the amount of such award, or upon evidence being produced to the satisfaction of the President of the States of Alderney of the appointment of a Liquidator of the Company, whichever shall first happen, the amount standing to the credit of such deposit account as aforesaid shall be paid to the said Accountant or to the said Liquidator, as the case may be, and the receipt of the said Accountant or Liquidator for the amount aforesaid shall be a complete discharge to the States of Alderney and the President and Treasurer of the States of Alderney for all purposes whatsoever.

Provisions of Guernsey Companies Law re compulsory liquidation to have effect.

(11) The provisions of the Guernsey Companies Law of 1908 with regard to the compulsory liquidation of companies shall have effect in the Island of Alderney as respects the Company as though the Company had been incorporated under that Law and references in such provisions to the Royal Court of Guernsey and to H.M. Sergeant in Guernsey shall be construed as references to the Court of Alderney and to the Clerk of the Court of Alderney and the reference to publication on two consecutive Saturdays in "la Gazette officielle française" shall be construed as a reference to publication in the "Gazette Officielle" of Guernsey on any weekday in each of two consecutive weeks with an interval of not less than six clear days between each such weekday.

NOTES

In accordance with the provisions of the Government of Alderney Law, 2004, section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(e), with effect from that same date, the functions of the Greffier include the functions assigned by law to the Clerk of the Court.

The Guernsey Companies Law of 1908 has since been repealed by the Companies (Guernsey) Law, 1994, section 122, with effect from 31st March, 1995, subject to the savings and transitional provisions in section 121 of, and Schedule 1 to, the 1994 Law. The Companies (Guernsey) Law, 1994 has since been repealed by the Companies (Guernsey) Law, 2008, section 543, Schedule 5, paragraph 4(1)(a), with effect from 1st July, 2008, subject to the savings and transitional provisions in, first, section 541 of and Schedule 4 (paragraphs 2 and 4 of which entered into force on 12th June, 2008) to the 2008 Law, second, the Companies (Transitional Provisions) Regulations, 2008, third, the Companies (Transitional Provisions) (No. 2) Regulations, 2008 and, fourth, the Companies (Transitional Provisions) (No. 3) Regulations, 2008.

Vesting of physical assets in any person or body willing to acquire them.

(12) The States of Alderney may, by Resolution, vest in any person or body corporate or unincorporate willing to acquire the same the physical assets or any part or parts of the physical assets transferred to the States of Alderney under the provisions of section 2 of this Law and belonging to the said States at the time of the passing of such Resolution and such Resolution (subject, as regards any Alderney realty to which such Resolution relates, to registration in the Public Register of Deeds of the Island of Alderney) shall constitute a sufficient title to the assets vested thereby and as respects such realty as aforesaid effect shall be given to such Resolution by the making in due course of appropriate entries in the Alderney Land Register.

NOTE

The Law received Royal Sanction on 8th December, 1950 and was registered on the Records of the Island of Guernsey and came into force on 6th January, 1951.
