

ORDER IN COUNCIL

VI
1982

ratifying a Projet de Loi

ENTITLED

The National Westminster Jersey Trust Company (Bailiwick of Guernsey) Law, 1982

(Registered on the Records of the Island of Guernsey
on the 6th April, 1982.)



1982.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 6th day of April, 1982 before Sir John Lovelidge, Kt., C.B.E., Bailiff; present:—Stanley Walter Gavey, Esquire, O.B.E., Richard Alan Kinnersly, Albert Richard McCartney Straw, Esquires, Frederick William Winslow Chandler, Esquire, D.S.O., D.F.C., Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Donald Pescott Plummer, Esquire, Sydney Haydn Heard, Esquire, M.B.E., Brian Ernest Herbert Joy, Esquire, Charles Henry Hodder, Esquire, O.B.E. and Herbert Nicolle Machon, Esquire, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council daed the 10th day of March, 1982, ratifying a Projet de Loi entitled "The National Westminster Jersey Trust Company (Bailiwick of Guernsey) Law, 1982", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island and 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 Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 10th day of March 1982

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 March 1982 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 23rd day of July 1981, the States of Deliberation at a meeting held on the 1st day of October 1981 approved a Bill or “Projet de Loi” entitled “The National Westminster Jersey Trust Company (Bailiwick of Guernsey) Law, 1982” 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 4th day of November 1981 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 10th day of December 1981 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 in the words and figures 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 National Westminster Jersey Trust Company (Bailiwick of Guernsey) Law, 1982", 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, as 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. E. Leigh

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The National Westminster Jersey Trust Company (Bailiwick of Guernsey) Law, 1982

ARRANGEMENT OF SECTIONS

Section

1. Transfer of undertakings.
2. Saving of contracts, etc.
3. Actions, etc. not to abate.
4. Documents, etc. to remain evidence.
5. Application of enactments and documents.
6. Costs of Law.
7. Interpretation.
8. Citation.

PROJET DE LOI

ENTITLED

The National Westminster Jersey Trust Company (Bailiwick of Guernsey) Law, 1982

WHEREAS—

- (1) NATIONAL PROVINCIAL CHANNEL ISLANDS EXECUTOR AND TRUSTEE COMPANY LIMITED (hereinafter referred to as "National Provincial Trust"), WESTMINSTER BANK EXECUTOR AND TRUSTEE COMPANY (CHANNEL ISLANDS) LIMITED (hereinafter referred to as "Westminster Trust") and NATIONAL WESTMINSTER JERSEY TRUST COMPANY LIMITED (hereinafter referred to as "the Trust Company") are companies incorporated in the Island of Jersey under the "Loi (1861) sur les Sociétés à Responsabilité Limitée", as amended, and are companies limited by shares;
- (2) National Provincial Trust and Westminster Trust each carry on business and hold property in the Bailiwick of Guernsey (hereinafter referred to as "the Bailiwick") as Trust Corporations and National Provincial Trust, Westminster Trust and the Trust Company each carry on business in the Island of Jersey as Trust Corporations;
- (3) It is expedient in the interests of the efficient and effective conduct of the business of executors and trustees that the

undertakings of National Provincial Trust, Westminster Trust and the Trust Company be merged and that the said merger should occur by means of a transfer of the said undertakings to the Trust Company;

- (4) It is further expedient that the said transfer should be effected economically and without interference with the conduct and continuity of the business of executors and trustees;
- (5) By virtue of the National Westminster Jersey Trust Company Limited (Jersey) Law, 1980, the undertakings of National Provincial Trust and Westminster Trust, in so far as any portion thereof may be vested in the Trust Company by virtue of that Law, shall be transferred to and vested in the Trust Company on such day as shall be appointed for the purposes of that Law by Act of the States of Jersey under Article 2 of that Law;
- (6) It is further expedient that the transfer of any portion of the said undertakings which falls to be governed by the law of any part of the Bailiwick should be effected as provided in this Law and that the other provisions contained in this Law relative thereto and consequential thereon should be enacted:

NOW THEREFORE the States, in pursuance of their Resolution of the twenty-third day of July, nineteen hundred and eighty-one, 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.

Transfer of
under-
takings.

1. (1) On the appointed day any portion of the undertakings of National Provincial Trust and Westminster Trust the transfer of which falls to be governed by the law of any part of the Bailiwick shall by virtue of this Law be transferred to and vest in the Trust Company.

(2) For the avoidance of doubt it is hereby declared that the transfer of an interest in land under and by virtue of this Law shall not constitute an assignment, transfer, devolution, parting with possession or other disposition of that interest for the purposes of any provision relating to an assignment, transfer, devolution, parting with possession or other disposition contained in any instrument concerning that interest.

Saving of
contracts,
etc.

2. (1) Subject to the provisions of this section, all contracts, agreements, indemnities, conveyances, leases, deeds, settlements, wills, codicils or other testamentary writing, appointments, licences and other instruments or undertakings entered into by or made with or addressed to National Provincial Trust or Westminster Trust (whether alone or with any other person) before and in force on the appointed day shall as from that day be binding and of full force and effect in every respect against or in favour of the Trust Company as fully and effectually as if, instead of National Provincial Trust or Westminster Trust, the Trust Company had been a party thereto or bound thereby or entitled to the benefit thereof.

(2) In relation to every contract of employment to which subsection (1) of this section applies, the provisions of the said subsection shall operate to substitute the Trust Company for National Provincial Trust or Westminster Trust which was

the employer thereunder immediately before the appointed day.

3. Any action, arbitration or proceeding and any cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of National Provincial Trust or Westminster Trust shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Law, but the same may be prosecuted, continued and enforced by, against or in favour of the Trust Company as and when it might have been prosecuted, continued and enforced by, against or in favour of National Provincial Trust or Westminster Trust if this Law had not been passed.

Actions, etc.
not to abate.

4. All documents, records and admissions which if this Law had not been passed would have been evidence in respect of any matter for or against National Provincial Trust or Westminster Trust shall, on and after the appointed day, be admitted in evidence in respect of the same or the like matter for or against the Trust Company.

Documents,
etc. to
remain
evidence.

5. (1) Subject to the provisions of this section, where:—

Application
of
enactments
and
documents.

(a) any enactment other than this Law; or

(b) any document whensoever made or executed;

contains any reference express or implied to National Provincial Trust or Westminster Trust such reference shall, on and after the appointed day and except where the context otherwise requires, be read, construed and have effect as a reference to the Trust Company.

(2) Any will or codicil or other testamentary writing made before the appointed day by a person dying on or after the appointed day by which National Provincial Trust or Westminster Trust is appointed executor or trustee thereof shall be construed and have effect as if for any reference therein to National Provincial Trust or Westminster Trust other than a reference (however worded and whether express or implied) to terms and conditions of National Provincial Trust or Westminster Trust published before the date of the will or codicil or other testamentary writing or to come into effect after the date of the will or codicil or other testamentary writing or to a scale of fees of National Provincial Trust or Westminster Trust published before the date of the will or codicil or other testamentary writing or to come into effect after the date of the will or codicil or other testamentary writing there were substituted a reference to the Trust Company and, in a case where the Trust Company did not exist at the date of the will or codicil or other testamentary writing, as if it had then existed.

(3) Without prejudice to the generality of subsection (1) of this section, and subject to subsection (2) of this section, where by any order of any court or by any trust instrument, settlement, covenant or agreement or where by any will, codicil or other testamentary writing, whether made or executed before or after the appointed day National Provincial Trust or Westminster Trust (whether alone or with any other person), was or is granted letters of administration or probate or appointed trustee, executor, guardian or in any other fiduciary capacity, such order, trust instrument, settlement, covenant, agreement, will, codicil or other testamentary writing shall not fail by reason of anything in this Law

but shall, as from the appointed day, be read and construed and have effect as if for any reference therein to National Provincial Trust or Westminster Trust there was substituted a reference to the Trust Company.

6. All the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Law or otherwise in relation thereto shall be paid by the Trust Company. Costs
of Law.

7. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:— Interpre-
tation.

“the appointed day” means such day as shall be appointed in that behalf by Ordinance of the States;

“enactment” includes an Order in Council, a Law, an Act of Parliament, an Ordinance and any order, rule or regulation made under any enactment;

“liabilities” includes duties and obligations of every description;

“National Provincial Trust” means the National Provincial Channel Islands Executor and Trustee Company Limited;

“property” means property both real and personal of every description wheresoever situate and includes securities, rights and powers of every description;

“security” means a bond, mortgage (whether legal or equitable), charge, debenture, bill of exchange, promissory note, guarantee, lien,

pledge or other means of securing the payment of a debt, whether present or future, or the discharge of an obligation or liability, whether actual or contingent;

“the Trust Company” means the National Westminster Jersey Trust Company Limited;

“undertaking”, in relation to National Provincial Trust, Westminster Trust and the Trust Company (in this definition referred to individually as “the respective Company”), means in each case the business and all of the property vested in or belonging to or held by the respective Company, whether beneficially or in any fiduciary capacity, immediately before the appointed day and all of the liabilities to which the respective Company was subject immediately before that day;

“Westminster Trust” means the Westminster Bank Executor and Trustee Company (Channel Islands) Limited.

(2) The Interpretation (Guernsey) Law, 1948(a), shall apply to the interpretation of this Law throughout the Bailiwick.

Citation.

8. This Law may be cited as the National Westminster Jersey Trust Company (Bailiwick of Guernsey) Law, 1982.

A. G. LE CHEMINANT,
Her Majesty's Deputy Greffier.