

ORDER IN COUNCIL

XXIII

1997

ratifying a Projet de Loi

ENTITLED

The States Audit Commission (Guernsey) Law, 1997

(Registered on the Records of the Island of Guernsey
on the 2nd December, 1997)



1997

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 2nd day of December, 1997 before Sir Graham Dorey, Bailiff;
present:- Stanley Walter John Jehan, Leonard Arthur Moss,
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, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson
and David Michael Jory, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 30th day of October, 1997, approving and ratifying a *Projet de Loi* entitled "The States Audit Commission (Guernsey) Law, 1997". THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island of which Order in Council the tenor followeth:-

At the Court at Buckingham Palace

The 30th day of October 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 13th day of October 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 Resolutions of the 27th day of February 1997 and the 1st day of August 1997, the States of Deliberation at a meeting held on the said 1st day of August 1997 approved a Bill or "Projet de Loi" entitled "The States Audit Commission (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 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 States Audit Commission (Guernsey) Law, 1997", and to order that the same shall have force of law in the Island 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 Island 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 States Audit Commission (Guernsey) Law, 1997

THE STATES, in pursuance of their Resolutions of 27th February 1997^a and 1st August 1997^b, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

Establishment and status of the States Audit Commission

1. (1) There is established, by and in accordance with the provisions of this Law, a body to be known as the States Audit Commission.

(2) The Commission is established as an agency of the States, without a legal personality independent from that of the States, to exercise the functions assigned to it by this Law on behalf of the States.

(3) The Commission is not, however, a Committee of the States for the purpose of any enactment or resolution of the States, and -

(a) is not subject to any rule of law relating to Committees of the States; and

(b) does not, except to such extent as may be otherwise provided by this Law, have any right or privilege vested in committees of the States.

Functions of the Commission

^a On Article 9 of Billet d'État No. III of 1997.

^b On Article I of Billet d'État No. XVI of 1997.

2. The functions of the Commission are:

- (a) to oversee, co-ordinate and evaluate the internal audit of States interests;
- (b) to receive, on behalf of the Committee, all reports made by external auditors of States interests;
- (c) to monitor the selection and application by States committees of accounting standards, accounting policies and accounting procedures;
- (d) to assist and encourage States committees, where appropriate by commissioning studies and reports, in the effective, efficient and economical management of States' assets and finances;
- (e) to report to the Committee in relation to all of the above matters.

The Commission and the Committee

3. (1) The functions of the Commission are to be carried out in co-operation with States committees and with the primary objective of assisting the Committee to ensure good management of States finances.

(2) Nevertheless, when a report of the Commission has been submitted to the Committee and the Commission considers either -

- (a) that the Committee's response is unsatisfactory, or

- (b) that the report raises a matter of exceptional public importance,

the Commission may either

- (i) direct the Committee to submit the report for inclusion as an appendix to a Billet d'État, or
- (ii) direct the Committee to submit the report together with a report by the Committee in such form as to require the States to vote on any recommendations contained in the Commission's report.

(3) The Committee must appoint a suitably qualified and experienced officer to the post of Director of Audit Services, with direct responsibility and direct access to the Commission.

(4) The Committee must ensure -

- (a) that the Director of Audit Services has sufficient suitably qualified and experienced officers responsible to him, and
- (b) that they and the Commission are provided with sufficient accommodation and facilities,

to ensure that the Commission's functions are fully and properly performed.

(5) The Committee must consult the Commission, and take its recommendations into account, before making any decision or recommendation to the States in respect of the selection, appointment or remuneration of external auditors.

(6) The Commission may report at any time to the Committee in relation to any aspect of States finances, and must in addition prepare and submit to the Committee an annual report outlining the exercise of the Commission's functions, which annual report the Committee must within three months submit for inclusion as an appendix to a Billet d'État.

Constitution of the Commission

4. (1) Schedule 1 has effect as respects the constitution of the Commission, and as respects the manner of appointment, qualifications, incidents and tenure of office of its members, Chairman and Vice-Chairman.

(2) The States may from time to time by Ordinance vary Schedule 1 and make any necessary consequential or transitional provision.

Performance of the Commission's functions

5. (1) Members of the Commission must treat as confidential all information acquired by them in the course of their service as such.

(2) Any person who is or has been a member of the Commission and who, otherwise than in a report to the Committee pursuant to this Law, discloses any information acquired by him as such a member, is guilty of an offence and liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;
- (b) on summary conviction, to a fine not exceeding level 4 on the Uniform Scale.

(3) No liability is incurred by any member of the Commission, by the Director of Audit Services, or by any officer responsible to him, in respect of anything done or omitted in the discharge or purported discharge of any function of the Commission under this Law, unless the thing is done or omitted in bad faith.

(4) The procedure for meetings of the Commission is set out in Schedule 2; and the States may from time to time vary Schedule 2 by Ordinance.

(5) The Commission must hold regular meetings, and the States external auditors must be invited to send a representative to at least one such meeting each year.

(6) The Commission may if it thinks fit transact any business by the circulation of papers to

(a) all members of the Commission, and

(b) the Director of Audit Services and the States Treasurer;

and a resolution approved in writing by a majority of the members of the Commission is as valid and effectual as if passed at a meeting of the Commission.

(7) The Commission must keep proper minutes of its proceedings, including minutes of any business transacted as permitted by subsection (6) of this section.

Interpretation

6. In this Law, unless the context otherwise requires -

"the Commission" means the States Audit Commission established by and in accordance with the provisions of this Law;

"the Committee" means the States Advisory and Finance Committee;

"external audit" means any audit undertaken by independent auditors appointed by the States;

"internal audit" means any audit undertaken by officers;

"member" means any member of the Commission, including its Chairman;

"officer" means a member of the established staff of the Civil Service;

"States' interests" includes all committees of the States (including trading committees), departments and operations conducted by such committees, and the Guernsey Financial Services Commission;

and related words and expressions have corresponding meanings.

Citation

7. This Law may be cited as the States Audit Commission (Guernsey) Law, 1997.

Commencement

8. This Law shall come into force on a date to be appointed by Ordinance of the States.

SCHEDULE 1

Section 4(1)

CONSTITUTION ETC

Members, Chairman and Vice-Chairman

1. (1) The Commission is to consist of five members, of whom one is the President of the Committee ex officio, and the other four ("ordinary members") are elected by the States from persons nominated by the Committee.

(2) The ordinary members must not be members of the States.

(3) The Commission shall elect annually a Chairman and a Vice-Chairman, both from the ordinary members.

Remuneration and expenses

2. Members of the Commission shall receive no remuneration in respect of their service as such, but their reasonable expenses if any may be reimbursed at the discretion of the Committee.

Usual term of office

3. (1) The President of the Committee shall hold office as a member of the Commission for as long as he remains President.

(2) Each ordinary member of the Commission shall hold office, subject to paragraphs 4(1) and 5(1) to (3) of this Schedule, for three years commencing on the date with effect from which he is elected as a member of the Commission.

(3) A member whose term of office comes to an end by effluxion of time is eligible, if otherwise qualified, for re-election.

Initial terms of ordinary members

4. (1) Of the first four ordinary members one shall retire on the first anniversary of the date with effect from which he is elected, one shall retire on the second anniversary of that date, and two shall retire on the third anniversary of that date.

(2) The order of retirement of the ordinary members mentioned in subparagraph (1) of this paragraph shall be determined by agreement between themselves or, failing such agreement, by the drawing of lots.

Resignation, removal and casual vacancies

5. (1) Any ordinary member of the Commission may at any time resign his office by giving not less than one month's notice in writing, delivered

(a) in the case of an ordinary member other than the Chairman, to the Chairman;

(b) in the case of the Chairman, to the Bailiff.

(2) An ordinary member who becomes a member of the States immediately ceases to be a member of the Commission.

(3) If it appears to the Committee that an ordinary member of the Commission -

- (a) has been absent from more than three consecutive meetings of the Commission without the permission of the Commission; or
- (b) has been declared insolvent; or
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of a member of the Commission,

the Committee may declare his office as an ordinary member of the Commission to be vacant, and shall notify that fact as the Committee thinks fit; and thereupon the office shall become vacant.

(4) A person elected to fill a casual vacancy in the office of any member shall hold office, subject to subparagraphs (1) to (3) of this paragraph, for the unexpired portion of the term of office of the person in whose place he is elected.

(5) The validity of any proceedings of the Commission is unaffected by a vacancy in its members, by any defect in the election of a member and by any lack of qualification of a person to act as a member.

Chairman and Vice-Chairman's terms of office as such

6. (1) The Chairman and Vice-Chairman of the Commission shall, subject to subparagraphs (2) and (3) of this paragraph, hold that office for one year from the date of his election to that office or until he ceases to be an ordinary member of the Commission, whichever is the earlier.

(2) The Chairman or Vice-Chairman may at any time resign his office as such by giving not less than one month's notice in writing, delivered to the President of the Committee; and the resignation of a person under this subparagraph shall not, in itself, affect his continuance in office as an ordinary member.

(3) An ordinary member elected to fill a casual vacancy in the office of Chairman or Vice-Chairman shall hold office, subject to subparagraph (2) of this paragraph, for the unexpired portion of the term of office as Chairman or Vice-Chairman of the person in whose place he is elected, or until he ceases to be an ordinary member of the Commission, whichever is the earlier.

Interpretation

7. In this Schedule -

"Chairman" means the Chairman of the Commission;

"ordinary member" means any member of the Commission other than the President of the Committee.

SCHEDULE 2

Section 5(4)

MEETINGS OF THE COMMISSION

Quorum

1. At any meeting of the Commission any three members including either the Chairman or the Vice-Chairman form a quorum.

Presidency

2. The Chairman shall preside if he is present at a meeting, and if he is not present the Vice-Chairman shall preside.

Voting

3. (1) Each member other than the person presiding at a meeting has one vote.

(2) The person presiding at a meeting has no original vote, but in the event of an equality in the votes of the other members present he has a casting vote.

Attendance of officers

4. At every meeting of the Commission -
- (a) the Director of Audit Services and the States Treasurer are entitled to attend, and to be heard on any matter;
 - (b) a member of the established staff of the Civil Service must be present, and must keep an independent record of all decisions made.

Disclosure of interest

5. (1) A member of the Commission who has any direct or indirect personal interest in the outcome of the deliberations of the Commission in relation to any matter must disclose the nature of his interest at a meeting of the Commission, and the disclosure must be recorded in the minutes of the Commission.

(2) For the purposes of this paragraph a general notice given by a member to the effect that he is a member, or director, of a specified States committee, company, or firm, and is to be regarded as interested in any matter concerning that committee, company, or firm, is a sufficient disclosure in relation to any such matter.

(3) A member need not attend in person at a meeting of the Commission in order to make any disclosure required under this paragraph if he makes disclosure by a notice in writing delivered to the Chairman and that notice is brought to the attention of every meeting of the Commission at which such deliberations as are referred to in subparagraph (1) of this paragraph are to take place and before those deliberations commence.

Residual power to regulate procedure

6. Subject to the provisions of this Law the Commission may regulate its own procedure.

Interpretation

7. In this Schedule "Chairman" means the Chairman of the Commission.