

# ORDER IN COUNCIL

ratifying a Projet de Loi

**XIX**

**1969**

ENTITLED

## **The National Westminster Bank (Guernsey) Law, 1969**

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(Registered on the Records of the Island of Guernsey  
on the 25th day of November, 1969.)

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1969.

# ORDER IN COUNCIL.



## IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 25th day of November, 1969, before John Henry Loveridge, Esquire, C.B.E., Deputy Bailiff; present :—Bertram Guy Blampied, Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Albert Victor Dorey, Esquire, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier, William Burton Fox, Esquires, Edward James Lainé, Esquire, C.B.E., D.F.C., Edward Martel, and Jean Le Pelley, Esquires, Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 22nd day of October, 1969, ratifying a *Projet de Loi* entitled "The National Westminster Bank (Guernsey) Law, 1969", 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 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 Senechal 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 22nd day of October 1969

PRESENT

## The Queen's Most Excellent Majesty

LORD PRESIDENT

LORD STONHAM

LORD CHALFONT

MR BENN

MRS HART

SIR HUMPHREY GIBBS

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 17th day of October 1969, 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 25th day of June 1969, the States of Deliberation at a meeting held on the 30th day of July 1969 approved a Bill or “Projet de Loi” entitled “The National Westminster Bank (Guernsey) Law, 1969” which Bill is designed to apply to the Bailiwick of Guernsey, 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 September 1969 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 1st day of October 1969 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 Bank (Guernsey) Law, 1969" 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.

*W. G. Agnew.*

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

## PROJET DE LOI

ENTITLED

### **The National Westminster Bank (Guernsey) Law, 1969**

#### ARRANGEMENT OF SECTIONS

##### Section

1. Transfer of undertakings.
2. Saving of contracts, etc.
3. Banking business.
4. Actions, etc. not to abate.
5. Documents, etc. to remain evidence.
6. Application of Bankers' Books Evidence (Guernsey) Law, 1954.
7. Application of enactments and documents.
8. Costs of Law.
9. Interpretation.
10. Citation.

# PROJET DE LOI

ENTITLED

## **The National Westminster Bank (Guernsey) Law, 1969**

WHEREAS:—

(1) District Bank Limited (hereafter referred to as “District Bank”), National Provincial Bank Limited (hereafter referred to as “National Provincial”), National Westminster Bank Limited (hereafter referred to as “National Westminster”) and Westminster Bank Limited (hereafter referred to as “Westminster”) are companies incorporated in England, being companies within the meaning of the Companies Act, 1948, and are companies limited by shares:

(2) District Bank, National Provincial and Westminster each carry on the business of banking:

(3) District Bank is a wholly-owned subsidiary of National Provincial:

(4) National Provincial and Westminster carry on business and hold property in the Bailiwick of Guernsey (hereafter referred to as “the Bailiwick”) and District Bank holds property in the Bailiwick:

(5) By a scheme of arrangement sanctioned under section two hundred and six of the Companies Act, 1948, and which took effect on the eighth day of July, nineteen hundred and sixty-eight, National Provincial and Westminster became wholly-owned subsidiaries of National Westminster:

(6) The said scheme of arrangement was proposed with a view to the merger of the undertakings of District Bank, National Provincial and Westminster:

(7) It is expedient in the interest of efficient and effective banking that the said merger should occur and that it should occur by means of a transfer of the said undertakings to National Westminster:

(8) It is further expedient that the said transfer should be effected economically and without interference with the conduct and continuity of the business of banking:

(9) By virtue of the National Westminster Bank Act 1969 the said undertakings, in so far as any portion thereof may be vested in National Westminster by virtue of that Act, shall be transferred to and vested in National Westminster on such day as shall be appointed for the purposes of that Act by the Board of Trade by order made under section three of that Act:

(10) 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-fifth day of June, nineteen hundred and sixty-nine, 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.

1. (1) On the appointed day any portion of the undertakings of the existing banks 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 Bank.

Transfer of undertakings.



(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 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, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with or addressed to an existing bank (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 Bank as fully and effectually as if, instead of an existing bank, the Bank 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 Bank for the existing bank which was the employer thereunder immediately before the appointed day, subject to any variation of the rights of any persons to participate in any pension scheme or provident fund which may be authorised by any enactment.

Banking  
business.

3. Without prejudice to the generality of the foregoing provisions of this Law the following provisions shall have effect with relation to the banking businesses of the existing banks:—

- (a) any account between an existing bank and a customer at any office or branch of that existing bank shall be transferred to the Bank on the appointed day and shall become as and from that day an account between the Bank and such customer with the same rights and subject to the same obligations and incidents (including rights of set-off) as would have been applicable thereto if such account between the existing bank and the customer had continued and so that any instruction, order, direction, mandate or authority given by such customer in relation to such account and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, apply and have effect in relation to such account after its transfer to the Bank as aforesaid;
- (b) any security held by an existing bank as security for the payment of debts or liabilities (whether present or future, actual or contingent) of any person shall be transferred or deemed to be transferred to the Bank on the appointed day and shall be held by and be available to the Bank as security for the payment of such debts and liabilities to the Bank; and where the moneys secured by such a security include future advances to or liabilities of such person, the said security shall as from that day be held by and be available to the Bank as security for future advances to the said person by, and future liabilities of the said person to, the Bank to the same extent to which future advances by, or liabilities to, the existing bank were secured thereby immediately before that day;

(c) the Bank shall, in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Law and the moneys thereby secured in accordance with those provisions, be entitled to the same rights and priorities and subject to the same obligations and incidents as the existing bank from which the same has been transferred or deemed to have been transferred would have been entitled and subject to if the same had continued to be held by the said existing bank;

(d) the custody of any document, goods or other property held by an existing bank as bailee for any other person at any office or branch of such existing bank shall be transferred or deemed to be transferred to the Bank on the appointed day and the rights and obligations of such existing bank under any contract of bailment relating to such document, goods or property shall be transferred or deemed to be transferred on that day to the Bank.

Actions,  
etc. not to  
abate.

4. 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 an existing bank 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 Bank as and when it might have been prosecuted, continued and enforced by, against or in favour of an existing bank if this Law had not been passed.

5. 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 an existing bank shall, on and after the appointed day, be admitted in evidence in respect of the same or the like matter for or against the Bank.

Documents  
etc. to  
remain  
evidence.

6. (1) Notwithstanding the transfer of any portion of the undertakings of the existing banks to the Bank under and in the terms of this Law, the provisions of the Bankers' Books Evidence (Guernsey) Law, 1954, shall continue to apply with respect to the books of the existing banks which are transferred to the Bank by virtue of this Law and to entries made in such books before the appointed day.

Application  
of Bankers'  
Books  
Evidence  
(Guernsey)  
Law, 1954.

(2) For the purposes of this section, "books" include ledgers, day books, cash books, account books, and all other books used in the ordinary business of an existing bank before the appointed day.

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

Application  
of enact-  
ments and  
documents.

- (a) any enactment other than in this Law; or
- (b) any document whensoever made or executed;

contains any reference express or implied to an existing bank 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 Bank.

(2) Notwithstanding anything in the preceding subsection, where in pursuance thereof a reference to an existing bank in any document constituting or relating to any pension scheme or any provident fund of that existing bank in force immediately

before the appointed day is to be read, construed and have effect as a reference to the Bank, for the purpose of ascertaining and calculating the right to benefits thereunder, service or employment with that existing bank prior to the appointed day shall be taken into account as if it were service or employment with the Bank, but the coming into force of this section shall not of itself give rise to any claim to benefit under any such scheme or fund or operate to cause a member thereof to become a member of another pension scheme or provident fund.

(3) Without prejudice to the generality of subsection (1) of this section, where by any order of any court or by any trust deed, settlement, covenant or agreement or where by any will, codicil or other testamentary writing, whether made or executed before or after the appointed day, an existing bank (whether alone or with any other person) was or is granted letters of administration or appointed trustee, executor, guardian or in any other fiduciary capacity, such order, trust deed, 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 that existing bank there was substituted a reference to the Bank.

(4) Nothing in this Law shall be taken to exempt the Bank from the provisions of any enactment relating to companies carrying on the business of banking.

Costs of  
Law.

8. 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 Bank.

9. (1) In this Law unless the subject or context otherwise requires:— Interpretation.

“the appointed day” means the day appointed by the Board of Trade under section three of the National Westminster Bank Act 1969;

“the Bank” means National Westminster;

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

“the existing banks” means District Bank, National Provincial and Westminster, and “existing bank” shall be construed accordingly;

“liabilities” includes duties and obligations of every description;

“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 undertaking of an existing bank” means the business and all of the property vested in or belonging to or held by that existing bank immediately before the appointed day and all of the liabilities to which that existing bank was subject immediately before that day.

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

Citation. 10. This Law may be cited as the National Westminster Bank (Guernsey) Law, 1969.

R. H. VIDELO,  
Her Majesty's Greffier.