

ORDER IN COUNCIL

XIX

1987

ratifying a Projet de Loi

ENTITLED

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987

(Registered on the Records of the Island of Guernsey
on the 18th day of January, 1988.)



1987

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 18th day of January, 1988, before Sir Charles Frossard, Kt., Bailiff; present:—Donald Pescott Plummer, Brian Ernest Herbert Joy, Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, John Christopher Bulstrode, Geoffrey Ernest Le Page, Raymond Arthur Heaume, Esquires, Mrs. Dorothy Winifred Le Pelley and Leonard Arthur Moss, Esquire, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 18th day of December 1987 approving and ratifying a *Projet de Loi* entitled "The Financial Services Commission (Bailiwick of Guernsey) Law, 1987", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur 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 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 18th day of December 1987

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 9th day of December 1987 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 1st day of May 1986, the States of Deliberation at a meeting held on the 29th day of July 1987 approved a Bill or “Projet de Loi” entitled “The Financial Services Commission (Bailiwick of Guernsey) Law, 1987”, 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 7th day of October 1987 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 30th day of September 1987 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 Financial Services Commission (Bailiwick of Guernsey) Law, 1987", 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.

G. I. de Deney.

PROJET DE LOI

ENTITLED

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987

ARRANGEMENT OF SECTIONS

Section

Establishment and functions of the Commission

1. The Guernsey Financial Services Commission.
2. Functions of the Commission.
3. Transfer of statutory functions to the Commission.

The Commission and the States

4. Status of the Commission.
5. Provision of information to the Advisory and Finance Committee.
6. Annual report.
7. Guidance and directions.

Powers of the Commission

8. General powers of the Commission.
9. Contractual powers.
10. Powers as to property.
11. Appointment, remuneration etc. of staff.

Financial provisions

12. The Commission's funds.
13. Fees and charges.
14. Grants to the Commission.
15. Borrowing by the Commission.
16. Investment of surplus funds.
17. Exemption from income tax.
18. Accounts and audit.

*Section**Administrative provisions*

- 19. Delegation to members and officers.
- 20. Execution of documents.
- 21. Confidentiality.

Miscellaneous and general

- 22. Liability of members, officers and servants.
- 23. Power of the States to exclude liability.
- 24. Interpretation.
- 25. Orders.
- 26. Transitional provisions and savings.
- 27. Citation.
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SCHEDULES

Schedule 1—The Guernsey Financial Services Commission.

Schedule 2—Amendments to other enactments.

Schedule 3—Transitional provisions and savings.

PROJET DE LOI

ENTITLED

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987

THE STATES, in pursuance of their Resolution of the 1st day of May 1986, 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.

Establishment and functions of the Commission

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

**The
Guernsey
Financial
Services
Commis-
sion.**

(2) The Commission is a body corporate with perpetual succession and a common seal, and is capable of suing and being sued in its corporate name.

(3) Schedule 1 has effect as respects the constitution and proceedings of the Commission.

2. (1) The functions of the Commission are referred to in this Law as "general functions" and "statutory functions".

**Functions
of the Com-
mission.**

(2) The general functions of the Commission are—

- (a) to take such steps as the Commission considers necessary or expedient for the development and effective supervision of finance business in the Bailiwick;

- (b) to provide for the Committee, or the Finance Committee of the States of Alderney when such committee so requests, reports, advice and assistance on any matter connected with finance business;
- (c) to prepare and submit to the Committee or the Finance Committee of the States of Alderney, either at the request of one of those committees or of its own motion, recommendations and schemes for the statutory regulation of finance business and generally for the revision of legislation appertaining to companies and other forms of business undertakings;
- (d) all such other functions as the States may by Resolution assign to the Commission.

(3) The statutory functions of the Commission are—

- (a) the functions transferred to it by section 3;
- (b) any functions assigned to it by or under any enactment other than this Law;
- (c) to provide for the Committee, when the Committee so requests, reports, advice and assistance in relation to the exercise of the Committee's functions under any enactment relating to finance business.

(4) In the exercise of its general functions the Commission may take into account any matter which it considers appropriate, but shall in particular have regard to—

- (a) the protection of the public against financial loss due to dishonesty, incompetence or

malpractice by persons carrying on finance business; and

- (b) the protection and enhancement of the reputation of the Bailiwick as a financial centre.

3. (1) There are hereby transferred to the Commission the functions which would, apart from the provisions of this section, be exercisable by the Committee in relation to—

Transfer of
statutory
functions to
the Commis-
sion.

- (a) the regulation of the business of accepting money for the purpose of investment on deposit, under any Ordinance made under Part I of the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969(a);
- (b) the granting of permission to use a word or expression in the name, description or title under which a person carries on business, under Part III of the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969;
- (c) the registration of insurers and regulation of insurance business under the Insurance Business (Guernsey) Law, 1986(b);
- (d) the authorisation and regulation of insurance managers under the Insurance Business (Guernsey) Law, 1986;
- (e) the approval of authorised insurers for the purposes of—

(a) Ordres en Conseil Vol. XXII, pp. 28 and 518; Vol. XXVI, p. 225; No. V of 1983.
 (b) Ordre en Conseil No. XIII of 1986.

- (i) section 3 of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936(c);
- (ii) section 1 of the Surf-Riding (Longboards) (Compulsory Third-Party Insurance) (Guernsey) Law, 1969(d);
- (iii) section 1 of the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972(e);
- (f) the authorisation of collective investment schemes under Part II of the Protection of Investors (Bailiwick of Guernsey) Law, 1987(f), the making of rules under section 20 of that Law, and the regulation of authorised collective investment schemes under that Law;
- (g) the licensing of persons to carry on restricted activities in connection with controlled investment business under the Protection of Investors (Bailiwick of Guernsey) Law, 1987, the making of rules under Part III of that Law and the regulation of controlled investment business under that Law;

but nothing in this Law derogates from any power of the Committee, or confers any power on the Commission, to make orders or regulations.

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- (c) Ordres en Conseil Vol. X, p. 388; Vol. XV, p. 43; Vol. XVIII, pp. 35 and 257; Vol. XX p. 247; Vol. XXIII, p. 227; Vol. XXIV, p. 250; No. III of 1979; No. XVII of 1983; No. XIII of 1986.
 - (d) Ordres en Conseil Vol. XXII, pp. 2 and 53; Vol. XXIV, p. 250; No. XIII of 1986.
 - (e) Ordres en Conseil Vol. XXIII, p. 515; Vol. XXIV, p. 250; Ordinance No. XXIV of 1981; Ordre en Conseil No. XIII of 1986.
 - (f) Ordre en Conseil No. XX of 1987.

(2) For the purpose of the exercise of the functions transferred to it by this section the Commission is subject to all of the duties previously imposed on the Committee by or under any enactment and has, subject to the provisions of this Law, all of the powers and privileges previously conferred on the Committee by or under any enactment.

(3) The enactments specified in Schedule 2 have effect subject to the amendments mentioned in that Schedule.

The Commission and the States

4. (1) The Commission is not a committee of the States, or a servant or agent of the States, and, except to the extent that this Law or any other enactment otherwise provides—

Status of the Commission.

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

(b) does not have any right or privilege vested in committees of the States.

(2) The Commission may consult and co-operate with any committee of the States in relation to matters concerning finance business.

5. Without prejudice to the generality of section 4(2), but subject to section 21, the Commission shall, when requested in writing by the Committee, furnish the Committee, to the best of the Commission's ability, with such information as the Committee may require in relation to finance business in the Bailiwick.

Provision of information to the Advisory and Finance Committee.

6. (1) The Commission shall, as soon as practicable in each year, make a report to the Committee on its

Annual reports.

activities during the preceding year; and the President of the Committee shall, as soon as practicable, submit that report for consideration by the States.

(2) The annual report made pursuant to subsection (1) may refer to any aspect of the Commission's functions and in particular—

- (a) may set out or refer to any guidance given to the Commission under section 7(1)(a) during the preceding year; and
- (b) shall set out any directions given to the Commission under section 7(1)(b) during the preceding year.

**Guidance
and direc-
tions.**

7. (1) The Committee may, after consulting the Commission, give to the Commission—

- (a) written guidance of a general character; and
- (b) written directions of a general character, concerning the policies to be followed by the Commission in relation to the development and supervision of finance business in the Bailiwick and the manner in which any function of the Commission is to be carried out.

(2) It is the duty of the Commission, in carrying out any of its functions—

- (a) to take into account any guidance given under paragraph (a) of subsection (1); and
- (b) to act in accordance with any directions given under paragraph (b) of subsection (1).

(3) It is hereby declared for the avoidance of doubt that the Commission shall not be deemed to

have acted unreasonably or beyond its powers in the exercise of any of its statutory functions by reason only of the fact that it has complied with its duty under subsection (2).

Powers of the Commission

8. (1) The Commission may do anything which appears to it to be conducive to the carrying out of its functions or to be incidental to their proper discharge. General powers of the Commission.

(2) Without prejudice to the generality of subsection (1) the Commission may, in connection with the carrying out of its general functions—

- (a) obtain information relating to the development of finance business in the Bailiwick and the development and supervision of similar business carried on outside the Bailiwick;
- (b) consult and seek the advice of such persons or bodies as it considers appropriate;
- (c) publish, in such manner as it considers appropriate, such information relating to its functions as it thinks fit;
- (d) provide for any person, with a view to securing the general well being of finance business in the Bailiwick, advice, assistance and services of such descriptions as may be approved in writing by the Committee.

(3) This section relates only to the capacity of the Commission as a body corporate and does not authorise the disregard by the Commission of any enactment or rule of law.

Contractual powers.

9. (1) The Commission may enter into a contract, or make an arrangement, with any person for the provision of any service or any facility to facilitate the carrying out of the Commission's functions, and may expend money generally for the proper purposes of the Commission.

(2) The power conferred by subsection (1) includes power—

(a) to open, operate and close banking accounts in the name of the Commission;

(b) to enter into, and pay any premium in respect of, contracts of insurance insuring the Commission, any member of the Commission, or any officer or servant of the Commission against—

(i) any risk to the Commission's property;
or

(ii) any risk arising in connection with the carrying on of the Commission's functions, including, without prejudice to the generality of the foregoing, the risk of a claim against the Commission in respect of any description of civil liability.

Powers as to property.

10. (1) The Commission has all such powers in relation to the acquisition, use and disposal of property (whether realty or personalty) as are conducive to the carrying out of its functions.

(2) Without prejudice to the generality of subsection (1), the Commission may—

- (a) acquire any land or building, or an interest in any land or building, by purchase, lease, sublease, easement or otherwise;
- (b) deal generally with, and dispose of, by sale, lease, sublease, easement or otherwise, any land or building or an interest in any land or building;
- (c) acquire any furniture, equipment or other personalty, by purchase, hire, bailment or otherwise;
- (d) deal generally with, and dispose of, by sale, hire, bailment or otherwise, any furniture, equipment or other personalty.

11. (1) The Commission may appoint such officers and servants as it considers necessary for carrying out its functions. Appointment, remuneration etc. of staff.

(2) An appointment under subsection (1) may be made on such terms as to remuneration, expenses, pensions and other conditions of service as the Commission thinks fit.

(3) The Commission may establish and maintain such schemes, or make such other arrangements, as it thinks fit for the payment of pensions and other benefits in respect of its officers and servants.

Financial provisions

12. The funds and resources of the Commission are— The Commission's funds.

- (a) the fees and charges paid to the Commission in accordance with section 13;

- (b) any grant paid to the Commission under section 14;
- (c) any money borrowed by the Commission in accordance with section 15;
- (d) any other money or property, and any income and profits derived from such money or property, as is lawfully vested in the Commission through the exercise of its powers under this Law.

Fees and charges.

13. There shall be payable to the Commission—

- (a) in connection with the exercise of any statutory function of the Commission, fees of such amounts, by such persons and in such manner, as may be specified by or under the enactment under which that statutory function is exercised;
- (b) in connection with the exercise of any general function of the Commission, fees and charges of such amounts, by such persons and in such manner, as may be specified by any order made by the Committee under this paragraph;
- (c) by any person for whom the Commission provides such assistance or service as is referred to in section 8(2)(d), such charges as, subject to any order made under paragraph (b) of this section, may be agreed between that person and the Commission.

Grants to the Commission.

14. (1) In respect of each year the Committee may make a grant to the Commission from the States General Revenue Account towards the expenses of the Commission in carrying out its functions.

(2) The amount of any grant under subsection (1) shall be determined by the Committee after consultation with the Commission; and in determining that amount the Committee shall have regard to the extent, if any, to which the Commission's estimated expenditure in any year is likely to exceed its estimated income from other sources in that year.

15. (1) For the purpose of assisting the Commission to carry out its functions, the Committee may make advances to the Commission from the States General Revenue Account. Borrowing
by the Com-
mission.

(2) The aggregate amount outstanding by way of principal in respect of sums advanced to the Commission under this section shall not at any time exceed such sum as the States may from time to time by Resolution determine.

(3) No advance shall be made under this section except on such terms (as to repayment, payment of interest or otherwise) as the States may from time to time by Resolution determine.

(4) The Commission shall not borrow money except in accordance with this section.

16. The Commission may invest any of its funds which are not immediately required in any investment approved for the purpose by the Committee in writing. Investment
of surplus
funds.

17. The income of the Commission is not subject to income tax under the Income Tax (Guernsey) Law, 1975(g). Exemption
from income
tax.

(g) Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146 and 200; Nos. IV and VII of 1979; No. II of 1980; No. II of 1981; No. XI of 1982; No. XV of 1983; No. IX of 1984; No. XIII of 1986.

**Accounts
and audit.**

18. (1) The Commission shall—

- (a) keep proper accounts and proper records in relation to those accounts; and
 - (b) prepare in respect of each year a statement of accounts giving a true and fair view of the state of affairs of the Commission.
- (2) The accounts of the Commission shall be—
- (a) audited by auditors appointed by the States; and
 - (b) laid before the States, in the same manner as the accounts of a committee of the States.

*Administrative provisions***Delegation
to members
and officers.**

19. (1) The Commission may, by an instrument in writing under its common seal, delegate to any of its members or officers named or described in that instrument, either generally or otherwise as provided by that instrument, any of its functions except—

- (a) this power of delegation;
- (b) its duty to make an annual report to the Committee;
- (c) so much of any of its statutory functions as (however framed or worded)—
 - (i) requires the Commission to consider representations concerning a decision which it proposes to take; or
 - (ii) empowers the Commission to cancel, revoke or withdraw a registration, permission or authorisation; or
 - (iii) empowers the Commission to petition for the winding up of a body corporate.

(2) A function delegated under this section may be carried out by the delegate in accordance with the instrument of delegation and, when so carried out, shall, for the purposes of this Law, be deemed to have been carried out by the Commission.

(3) A delegation under this section is revocable by the Commission at will and does not prevent the carrying out of a function by the Commission.

20. Subject to section 13 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, any deed, instrument, contract or other document shall be deemed to have been duly executed by or on behalf of the Commission, and shall be effective in law to bind the Commission, if it is—

Execution of documents.

- (a) sealed with the common seal of the Commission; and
- (b) signed by a member or officer of the Commission to whom the Commission has delegated, under section 19, authority to affix the Commission's common seal.

21. (1) Any information from which an individual or body can be identified which is acquired by the Commission in the course of carrying out its functions shall be regarded as confidential by the Commission and by its members, officers and servants.

Confidentiality.

(2) No such information as is referred to in subsection (1) shall be disclosed, without the consent of every individual who, and every body which, can be identified from that information, except to the extent that its disclosure appears to the Commission to be necessary—

- (a) to enable the Commission to carry out any of its statutory functions; or

- (b) in the interests of the prevention or detection of crime; or
- (c) in connection with the discharge of any international obligation to which the Bailiwick is subject; or
- (d) to assist, in the interests of the public, any authority which appears to the Commission to exercise in a place outside the Bailiwick functions corresponding to those of the Commission; or
- (e) to comply with the directions of any division of the Royal Court.

(3) Without prejudice to subsections (1) and (2), any information communicated to the Commission by a committee of the States shall be regarded as confidential, if that committee of the States so requests, by the Commission and by its members, officers and servants; and no such information shall be disclosed except in compliance with the directions of any division of the Royal Court.

(4) A person who discloses information, or who causes or permits the disclosure of information, in contravention of this section 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 £500.

Miscellaneous and general

Liability of members, officers and servants. 22. No member, officer or servant of the Commission is personally liable in any civil proceedings in respect of anything done or omitted to be done in

the discharge or purported discharge of any function of the Commission under this Law, unless the thing is done or omitted to be done in bad faith.

23. The States may by Ordinance provide that no liability shall be incurred by the States or the Commission, in respect of anything done or omitted to be done after the commencement of such Ordinance in the discharge or purported discharge of any of the functions of the States or the Commission under this Law, unless the thing is done or omitted to be done in bad faith.

Power of the States to exclude liability.

24. (1) In this Law, unless the context otherwise requires—

Interpretation.

“annual report” means a report made by the Commission pursuant to section 6(1);

“Bailiwick” means the Bailiwick of Guernsey;

“body” includes a body incorporated under the law of any State or territory and any unincorporated body;

“casual vacancy” means a vacancy arising otherwise than by effluxion of time;

“Chairman” means the Chairman of the Commission in accordance with paragraph 1(a) of Schedule 1;

“the Commission” means the Guernsey Financial Services Commission established by this Law;

“the Committee” means the States Advisory and Finance Committee or such other committee or body as the States may specify by Ordinance;

“committee of the States” means any Committee, Board, Authority or Council of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark;

“finance business” includes the carrying on of, and the provision of services in relation to, the business of banking, insurance, investment, and asset management or administration;

“general functions” has the meaning assigned by section 2(2);

“ordinary member” has the meaning assigned by paragraph 1(b) of Schedule 1;

“the public” includes any section of the public, however selected, including, in relation to a body, a section selected as members, debenture holders, policyholders, depositors or investors of, in or with that body;

“the States” means the States of Guernsey;

“statutory functions” has the meaning assigned by section 2(3);

“Vice-Chairman” means the Vice-Chairman of the Commission elected in accordance with paragraph 5(1) of Schedule 1;

“year” means a calendar year.

(2) Unless the context otherwise requires—

(a) a reference in this Law to a numbered or lettered section, subsection, paragraph or Schedule is a reference to the section, subsection or paragraph of, or to the Schedule to, this Law which is so numbered or lettered;

(b) a reference in a provision of this Law to a numbered or lettered subsection or paragraph is a reference to the subsection or paragraph of that provision which is so numbered or lettered;

- (c) a reference in this Law to any enactment includes a reference to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment, including this Law.

(3) The Interpretation (Guernsey) Law, 1948^(h) applies to the interpretation of this Law throughout the Bailiwick.

25. An order made by the Committee under any Orders. provision of this Law—

- (a) may make different provision for different circumstances;
- (b) may be varied or revoked by a subsequent order made under that provision;
- (c) shall be laid before a meeting of the States as soon as possible after being made; and if at that meeting or the next meeting the States resolve that the order be annulled it shall cease to have effect, but without prejudice to anything done under the order or to the making of a new order.

26. The provisions set out in Schedule 3 have effect in relation to the transition to this Law from that previously in force. Transitional provisions and savings.

27. This Law may be cited as the Financial Services Commission (Bailiwick of Guernsey) Law, 1987. Citation.

28. (1) This Law shall come into force on such day as the States may by Ordinance appoint, and different days may be so appointed for different provisions of this Law or for different purposes. Commencement.

(h) Ordres en Conseil Vol. XIII, p. 355.

(2) An Ordinance made under this section may include such savings, and such further transitional provisions, as the States consider necessary or expedient for effecting the transition to this Law from that previously in force.

*The Guernsey Financial Services Commission**Members of the Commission*

1. The Commission shall consist of five members, of whom—

- (a) the Chairman shall be the President for the time being of the Committee; and
- (b) the other four members (in this Schedule referred to as “ordinary members”) shall be persons elected by the States from persons nominated by the Committee and appearing to the Committee to be persons having knowledge, qualifications or experience appropriate to the development and supervision of finance business in the Bailiwick.

The Chairman's alternate

2. (1) The Chairman shall, by an instrument in writing, appoint a member of the Committee to act as his alternate; and the person so appointed shall—

- (a) represent the Chairman at any meeting of the Commission which the Chairman is unable to attend in person; and
- (b) when he is so representing the Chairman, be deemed to be a member of the Commission.

(2) Subject to sub-paragraphs (3) and (4) of this paragraph the appointment of a person as alternate to the Chairman shall continue until that person ceases to be a member of the Committee.

(3) The Chairman may, by an instrument in writing, at any time revoke an appointment made under this paragraph.

(4) A person appointed under this paragraph may at any time resign his appointment by notice in writing delivered to the Chairman.

(5) When an appointment made under this paragraph comes to an end the Chairman shall forthwith make another appointment under this paragraph.

Tenure of office

3. (1) The Chairman shall hold office as a member of the Commission whilst he continues to be the President of the Committee.

(2) Each of the ordinary members of the Commission shall hold office, subject to sub-paragraph (3) of this paragraph and paragraph 4 of this Schedule, for three years from the date on which he is elected as a member of the Commission.

(3) Of the first four ordinary members of the Commission one shall retire on the first anniversary of the commencement of section 1 of this Law, one shall retire on the second anniversary of the commencement of that section and two shall retire on the third anniversary of the commencement of that section.

(4) The order of retirement of the persons mentioned in sub-paragraph (3) of this paragraph shall be determined by agreement between those persons, or, failing such agreement, by the drawing of lots.

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

(6) An ordinary member of the Commission shall in any event retire from office on reaching the age of seventy-two years.

Resignation, removal and casual vacancies

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

(2) If it appears to the Chairman that an ordinary member of the Commission—

- (a) has been absent from meetings of the Commission for a period longer than three consecutive months 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 Chairman may declare his office as an ordinary member of the Commission to be vacant, and shall notify that fact as the Chairman thinks fit; and thereupon the office shall become vacant.

(3) A person elected to fill a casual vacancy in the office of an ordinary member shall hold office, subject to sub-paragraphs (1) and (2) of this paragraph, for the unexpired portion of the term of office of the person in whose place he is elected.

(4) 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.

Vice-Chairman of the Commission

5. (1) The Commission shall elect annually a Vice-Chairman from the ordinary members; and a Vice-Chairman so elected shall, subject to sub-paragraphs (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 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 Chairman; and the resignation of a person under this sub-paragraph 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 Vice-Chairman shall hold office, subject to sub-paragraph (2) of this paragraph, for the unexpired portion of the term of office as 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.

Oath of office

6. (1) Every member of the Commission shall, before discharging any function under this Law, take an oath or make an affirmation before the Royal Court sitting as an Ordinary Court in such form as the Royal Court may from time to time by order prescribe.

(2) A member of the Commission who violates an oath or affirmation which he is required to take or make under this paragraph 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 £500.

Remuneration etc. of members

7. The Commission shall—

- (a) pay to its members such expenses as it may from time to time determine; and
- (b) pay to its ordinary members such remuneration, if any, as the Committee may from time to time by resolution determine.

Procedure at meetings

8. At a meeting of the Commission—

- (a) the Chairman or his alternate, and two other members, form a quorum;
- (b) the Chairman, if he is present in person, shall preside and if he is not so present the Vice-Chairman shall preside;
- (c) each member other than the person presiding has one vote;
- (d) the person presiding has no original vote, but in the event of an equality in the votes of the other members present he shall exercise a casting vote;

- (e) the Chairman's alternate, if he attends the meeting instead of the Chairman, shall be deemed to be an ordinary member.

Disclosure of interest

9. (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 shall disclose the nature of his interest at a meeting of the Commission and the disclosure shall be recorded in the minutes of the Commission.

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

(3) A member of the Commission 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 sub-paragraph (1) of this paragraph are to take place and before those deliberations commence.

Advisory committees

10. (1) The Commission may from time to time appoint a committee to advise the Commission as to such matters concerning the exercise of the Commission's general functions as the Commission thinks fit.

- (2) The Commission may from time to time—
- (a) appoint any person (whether or not he is a member of the Commission) to serve on a committee appointed under this paragraph;
 - (b) remove any person so appointed from such a committee;
 - (c) discharge or reconstitute such a committee;
 - (d) redefine, or add to, the terms of reference of such a committee.
- (3) Subject to any directions given by the Commission, a committee appointed under this paragraph may regulate its own procedure.

Transaction of business without meeting

11. The Commission may, if it thinks fit, transact any business by the circulation of papers to all of the members of the Commission, and a resolution in writing approved in writing by a majority of the members of the Commission shall be as valid and effectual as if passed at a meeting of the Commission by the votes of the members so approving the resolution.

Minutes

12. The Commission shall keep proper minutes of its proceedings, including minutes of any business transacted as permitted by paragraph 11 of this Schedule.

Residual power to regulate procedure

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

*Amendments to other enactments**The Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936*

1. In section 3(3)(a) of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936, for "the States Advisory and Finance Committee (hereinafter referred to as "the Committee"))" (i) substitute "the Guernsey Financial Services Commission (hereinafter referred to as "the Commission"))".

2. In section 3(3)(b) and section 3(4) of that Law, for "the Committee", wherever appearing, substitute "the Commission".

3. Immediately after section 3(3)(b)(iv) of that Law insert:

"(v) such assurance company has paid to the Commission such fee as the States Advisory and Finance Committee may from time to time prescribe by regulations made under this section."

4. Immediately after section 3(3A) of that Law(j) insert the following additional subsection:

"(3B) Regulations made under this section shall be laid before a meeting of the States as

(i) These words, and the references to the Committee in sections 3(3)(b) and 3(4) were substituted by the States Board of Administration (Transfer of Functions) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 250).

(j) Section 3(3A) was inserted by the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1983 (Ordre en Conseil No. XVII of 1983).

soon as may be after the regulations are made; and if, at that meeting or at the next meeting, the States resolve that the regulations be annulled, they shall cease to have effect but without prejudice to anything done under the regulations or to the making of new regulations.”.

The Road Traffic (Compulsory Third-Party Insurance) (Alderney) Law, 1950

5. In section (2)(e) of the Road Traffic (Compulsory Third-Party Insurance) (Alderney) Law, 1950(k), for the reference to the States of Guernsey Advisory and Finance Committee substitute a reference to the Guernsey Financial Services Commission.

The Surf-Riding (Longboards) (Compulsory Third-Party Insurance) (Guernsey) Law, 1969

6. In section 1(2) of the Surf-Riding (Longboards) (Compulsory Third-Party Insurance) (Guernsey) Law, 1969(l), for “by the States Advisory and Finance Committee” substitute “by the Guernsey Financial Services Commission in accordance with any regulations, including regulations prescribing a fee to be paid to that Commission, which may from time to time be made by the States Advisory and Finance Committee under this subsection”.

7. Immediately after section 1(2) of that Law insert:

(k) Ordres en Conseil Vol. XIV, p. 209; Vol. XVIII, p. 81; Vol. XXIII, p. 364; No. XIII of 1986.

(l) These words were substituted by the States Board of Administration (Transfer of Functions) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 250).

“(2A) Regulations made under subsection (2) of this section shall be laid before a meeting of the States as soon as may be after the regulations are made; and if, at that meeting or at the next meeting, the States resolve that the regulations be annulled, they shall cease to have effect but without prejudice to anything done under the regulations or to the making of new regulations.”.

The Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969

8. In section 1(1)(a) of the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969, for “the States Advisory and Finance Committee (hereinafter referred to as “the Committee”)” substitute “the Guernsey Financial Services Commission (hereinafter referred to as “the Commission”)”.

9. In sections 1(1)(f), 1(1)(h), 1(4), 9, 11 and 12 of that Law, for “the Committee”, wherever appearing, substitute “the Commission”.

10. For section 1(1)(d) of that Law(m) substitute:

“(d) the charging, levying and securing of the payment of fees—

- (i) in respect of any application for registration under any such Ordinance;
- (ii) in respect of any document deposited, notification given, information furnished, or application or request made, under or for the purposes of any such Ordinance;

(m) section 1(1)(d) was substituted by the Protection of Depositors, Companies and Prevention of Fraud (Amendment) (Bailiwick of Guernsey) Law, 1977 (Ordres en Conseil Vol. XXVI, p. 225).

(iii) from time to time in respect of persons registered under any such Ordinance;

including provision for the determination of any such fees in accordance with a prescribed scale or other prescribed factors or in accordance with regulations made by the States Advisory and Finance Committee;".

11. In paragraph (c) of the definition of "securities" in section 4(1) of that Law, for "rights (whether actual or contingent)" substitute "securities".

12. Immediately after the words in section 11(1) of that Law insert:

"and by such fee as the States Advisory and Finance Committee may from time to time prescribe by regulations made under this section".

13. Immediately after section 15 of that Law insert the following additional section:

"Regulations. 15A. Regulations made under any power conferred by or under this Law shall be laid before a meeting of the States as soon as may be after the regulations are made; and if, at that meeting or at the next meeting, the States resolve that the regulations be annulled, they shall cease to have effect but without prejudice to anything done under them or to the making of new regulations."

The Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972

14. In section 1(5) of the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring

Charges and Removal of Boats) (Guernsey) Law, 1972, for "the States Advisory and Finance Committee"(n) substitute "the Guernsey Financial Services Commission, in accordance with any regulations, including regulations prescribing a fee to be paid to that Commission, which may from time to time be made by the States Advisory and Finance Committee under this subsection".

15. Immediately after section 1(5) of that Law insert:

"(5A) Regulations made under subsection (5) of this section shall be laid before a meeting of the States as soon as may be after the regulations are made; and if, at that meeting or at the next meeting, the States resolve that the regulations be annulled, they shall cease to have effect but without prejudice to anything done under the regulations or to the making of new regulations."

The States Board of Administration (Transfer of Functions) Law, 1974

16. In the States Board of Administration (Transfer of Functions) Law, 1974(o), sections 2(1), 2(3), 2(4) and 5, and the references in the Schedule to the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936, the Surf-Riding (Longboards) (Compulsory Third-Party Insurance) (Guernsey) Law, 1969 and the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972, are repealed.

(n) These words were substituted by the States Board of Administration (Transfer of Functions) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 250).

(o) Ordres en Conseil Vol. XXIV, p. 250.

The Protection of Depositors, Companies and Prevention of Fraud (Amendment) (Bailiwick of Guernsey) Law, 1977

17. In the Protection of Depositors, Companies and Prevention of Fraud (Amendment) (Bailiwick of Guernsey) Law, 1977(p), section 1(a) is repealed.

The Insurance Business (Guernsey) Law, 1986

18. In the Insurance Business (Guernsey) Law, 1986, except—

- (a) in sections 22, 57(2), 58(1) and 63;
- (b) in paragraph 2(3)(c) of Schedule 2;
- (c) in the definitions of “the Committee” and “regulations” in Schedule 5,

for “the Committee”, wherever appearing, substitute “the Commission”.

19. Immediately before the words in sections 11(3), 31(5) and 43(2)(b) of that Law insert “Subject to section 7 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987,”.

20. In sections 31(8) and 52(2)(b) of that Law, for “President” substitute “Chairman”.

21. In section 63 of that Law, immediately after “the Committee”, wherever appearing, insert “or the Commission”.

22. Immediately after section 63 of that Law insert the following additional section, cross heading and marginal note:

Fees

Fees.

63A. (1) There shall be payable to the Commission in connection with such of the matters specified in subsection (2) as may be prescribed by regulations such fees as may be prescribed by regulations.

(2) The matters referred to in subsection (1) are—

(a) an application for registration as an insurer under Part I;

(b) an application for authorisation to act in Guernsey as an Insurance manager under Part IV;

(c) the deposit with the Commission of any return, accounts or report as required by section 25(1) or section 28(1)(b);

(d) the giving of any notification or the furnishing of any information in accordance with section 5(5), 8(1)(e)(iii), 27 or 48(1)(a);

(e) the making of a request to the Commission—

(i) to recognise an organisation or society as an organisation representative of employers or employees or as a friendly society for the purposes of section 8(1);

(ii) to approve a person under section 19(1)(a)(ii) to act as an insurer's general representative;

- (iii) to waive any requirement of section 19, 20 or 21;
 - (iv) to approve any accounts or any actuarial report in abridged form for the purposes of section 26 or section 28(1)(c);
 - (v) to cancel the registration of an insurer under section 16 or to withdraw the authorisation of an insurance manager under section 46;
- (f) an application for the consent of the Commission—
- (i) under section 7, to the carrying on of insurance business by a Guernsey body in a country outside Guernsey;
 - (ii) under section 31, to a scheme for the transfer of long term business;
 - (iii) under paragraph 1(3) or paragraph 2(4) of Schedule 2, to take into account in calculating a margin of solvency reinsurance ceded to, or to regard as an approved asset an amount receivable or balance due from, a person with whom an insurer is associated;
 - (iv) under paragraph 5 of Schedule 2, to take into account for the purposes of

that Schedule assets and liabilities disclosed by group accounts.

(3) Fees payable pursuant to regulations made under this section shall be recoverable from the person making the application, request or deposit concerned, or giving the notification or information concerned, as a civil debt due to the Commission."

23. In Schedule 5 to that Law, immediately before the definition of 'the Committee', in the first column insert "the Commission", in the second column insert "the Guernsey Financial Services Commission established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987".

24. In Schedule 6 to that Law, in the amendment to the Road Traffic (Compulsory Third-Party Insurance) (Alderney) Law, 1950 for "the States of Guernsey Advisory and Finance Committee" substitute "the Guernsey Financial Services Commission, established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987".

The Protection of Investors (Bailiwick of Guernsey) Law, 1987

25. In the Protection of Investors (Bailiwick of Guernsey) Law, 1987, except—

(a) in sections 21(1), 29(1)(c)(i), 29(2)(a), 29(3), 37 and 43(2); and

(b) in the definition of "the Committee" in section 44(1),

for "the Committee", wherever appearing, substitute "the Commission".

26. In section 4(1)(a) of that Law, after "subsections (2) and (3) of this section" insert "and to section 7 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987".

27. In sections 4(1)(b) and 8(3)(b) of that Law, for "subject to section 35" substitute "subject to section 35 of this Law and to section 7 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987".

28. In section 8(3)(a) of that Law, after "subsection (4) of this section" insert "and subject to section 7 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987".

29. In section 36(2)(b) of that Law, for "President" substitute "Chairman".

30. In section 37 of that Law, immediately after "the Committee", wherever occurring, insert "or the Commission".

31. In section 44(1) of that Law, immediately before the definition of "the Committee" insert the following additional definition:

"the Commission" means the Guernsey Financial Services Commission, established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987;".

*Transitional provisions and savings**Application and interpretation*

1. (1) This Schedule shall have effect upon the commencement of section 3 of this Law in relation to anything done or commenced before the commencement of that section.

(2) In this Schedule "transferred functions" means a statutory function transferred to the Commission by section 3 of this Law.

(3) Paragraphs 5, 6, 7, 8 and 12 of this Schedule shall apply as if section 3 of this Law had been in force on the date in question in each of those paragraphs.

Rights, liabilities and agreements

2. All rights, liabilities and obligations of the Committee arising out of the exercise by the Committee of a transferred function shall become the rights, liabilities and obligations of the Commission.

3. Any agreement entered into by the Committee in connection with a transferred function shall have effect as if the Commission were a party to it in lieu of the Committee and as if any reference therein to the Committee were, in relation to anything to be done after the commencement of section 3 of this Law, a reference to the Commission.

Uncompleted matters etc.

4. Nothing done by the Committee under or in consequence of a transferred function shall be invalidated by the commencement of section 3 of this Law; and anything commenced by the Com-

mittee under or in consequence of a transferred function may be carried on and completed by the Commission.

Licences, conditions etc.

5. Any licence, authorisation, certificate, registration, consent, waiver or permission granted, issued, made or given by the Committee under a transferred function shall be deemed to have been granted, issued, made or given by the Commission on the date when it was in fact granted, issued, made or given.

6. Any condition, restriction or requirement imposed by the Committee under a transferred function shall be deemed to have been imposed by the Commission on the date on which it was in fact imposed.

Pending and refused applications

7. Any application made to the Committee under an enactment conferring a transferred function, which has not been finally determined or withdrawn, shall be deemed to have been made to the Commission on the date when it was in fact made.

8. Any application which has been refused by the Committee, or which has been granted by the Committee subject to conditions, under a transferred function shall be deemed (for the purposes of the right of any person to make representations or to institute or prosecute an appeal, as well as for all other purposes) to have been refused, or to have been granted subject to those conditions, as the case may be, by the Commission on the date on which it was in fact refused or granted subject to those conditions.

Legal proceedings

9. Any legal proceedings in relation to a trans-

ferred function to which the Committee is a party may be continued as if the Commission were a party thereto in lieu of the Committee.

10. Any criminal investigation or prosecution may be instituted or continued, and any punishment may be imposed, as if this Law had not been passed.

Requirements and information

11. Any requirement made by the Committee for the purposes of a transferred function shall be deemed to be a requirement made by the Commission.

12. Any information given or statement made to the Committee and every document deposited with the Committee, shall be deemed to have been given or made to, or deposited with, the Commission on the date when it was in fact given, made or deposited.

Lists etc.

13. Any list or register required to be established and maintained, and any other record required to be kept, by the Committee under a transferred function shall immediately be delivered to the Commission and shall thereafter be deemed to have been established and maintained, or kept, by the Commission.

K. H. TOUGH,

Her Majesty's Greffier.