

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Trading Stamps (Guernsey) Law, 1966

(Registered on the Records of the Island of Guernsey
on the 22nd day of March, 1966.)



1966.

II
1966

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 22nd day of March, 1966, before Sir William Arnold, Kt., C.B.E., C. St. J., Bailiff; present : — Sir John Leale, Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez, Bertram. Guy Blampied, Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Carl Edward Blad, Albert Victor Dorey, Esquires, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., and William Burton Fox, Esquire, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 31st day of January, 1966, ratifying a *Projet de Loi* entitled "The Trading Stamps (Guernsey) Law, 1966", 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, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 31st day of January, 1966.

PRESENT,

The Queen's Most Excellent Majesty.

LORD PRESIDENT
EARL OF LONGFORD
MR. SECRETARY ROSS
MR. WIGG
MISS BACON

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 26th day of January, 1966, 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 16th day of December, 1964, the States of Deliberation at a meeting held on the 24th day of November, 1965, approved a Bill or “Projet de Loi” entitled “The Trading Stamps (Guernsey) Law, 1966” 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 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 Trading Stamps (Guernsey) Law, 1966" 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, as 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.

W. G. Agnew.

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

PROJET DE LOI

ENTITLED

**The Trading Stamps (Guernsey) Law,
1966**

THE STATES, in pursuance of their Resolution of the sixteenth day of December, nineteen hundred and sixty-four, 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.

1. (1) In this Law, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say— Interpreta-
tion.

“the Board” means the States Board of Administration;

“cash value” means, in relation to any trading stamp, the value stated on such stamp;

“goods” includes vehicles, vessels, aircraft and animals, and generally includes articles and property of any description;

“holder”, in relation to any trading stamps, means the person who holds those stamps for the time being without notice of any defect in title;

“the Law of 1908” means the Law entitled “Loi relative aux Sociétés Anonymes ou à Responsabilité Limitée” registered on the twenty-first day of March, nineteen hundred and eight (a);

(a) Ordres en Conseil Vol. IV, p. 178.

“purchase” includes acquisition by way of hire-purchase, that is to say, the bailment of goods in pursuance of an agreement under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee, whether on the performance of any act by the parties to the agreement or any of them or in any other circumstances;

“to redeem” means, in relation to any trading stamps, to exchange such stamps (whether by delivering up the stamps or by suffering the same to be cancelled or otherwise howsoever) for money or for goods or for any other benefit, allowance, concession or advantage (but not including the service or repair by the seller or manufacturer of the goods upon or in connection with the purchase of which the stamps are delivered or the replacement of such goods if defective); and the expressions “redeemable” and “redemption” shall be construed accordingly;

“registered office”, in relation to the promoter of a trading stamp scheme which is not a body corporate registered under the Law of 1908, means the office which such promoter is required to have in Guernsey under the provisions of section four of this Law;

“shop” includes any premises, and any vehicle, stall or place other than premises, on or in which any retail trade or business is carried on;

“stamp” means any stamp, coupon, voucher, token or similar device, whether adhesive or not, other than a tender of payment of money which is for the time being a legal tender in Guernsey;

“stamp book” means a book or similar article in or to which it is intended that trading stamps shall be affixed;

“trading stamp” means a stamp which is, or is intended to be, delivered to any person upon or in connection with the purchase by that person of any goods (other than a newspaper or other periodical of which the stamp forms part or in which it is contained) and is, or is intended to be, redeemable (whether singly or together with other such stamps) by that or some other person:

Provided that a stamp shall not be deemed to be a trading stamp if—

- (a) it is delivered or is intended to be delivered to a person (in this definition called “the purchaser”) upon or in connection with the purchase of any goods by the purchaser; and
- (b) it is not intended to be, and is not, redeemable from any person other than (i) the person (in this definition called “the seller”) from whom the purchaser purchased those goods or (ii) any person from whom the seller (whether directly or indirectly) acquired those goods; and
- (c) in the case where a business is carried on at six or more separate retail establishments, the stamp is one of a kind obtainable at not more than six of those retail establishments, and not obtainable by the public elsewhere, and the arrangements under which it is redeemable are entirely separate from arrangements under which any other stamps, whether trading stamps or not, are redeemable;

and references in this definition to the purchase of goods include references to the obtaining of services for money;

“trading stamp scheme” means any arrangements for making trading stamps available for use in shops or elsewhere, together with arrangements for their redemption, and “promoter”, in relation to a trading stamp scheme, includes, in a case where a person carrying on a retail trade or business assumes responsibility for the redemption of trading stamps, that person.

(2) For the purposes of this Law, a person shall be deemed to be a director of a body corporate if he occupies in relation thereto the position of a director, by whatever name called, or is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act:

Provided that a person shall not, by reason only that the directors of a body corporate act on advice given by him in a professional capacity, be taken to be a person in accordance with whose directions or instructions those directors act.

(3) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, repealed or replaced by or under any other enactment.

Restrictions
on persons
who may
carry on
business as
promoters
of trading
stamp
schemes.

2. (1) No person other than a body corporate registered under the Law of 1908 or a body corporate for the time being entitled to carry on business as the promoter of a trading stamp scheme under the Trading Stamps Act, 1964, shall carry on business as the promoter of a trading stamp scheme.

(2) A body corporate as aforesaid shall not carry on business as the promoter of a trading stamp scheme unless it is for the time being registered in a register kept for the purpose by the Board, such register to be styled "The Register of Promoters of Trading Stamp Schemes" (hereafter in this Law referred to as "the Register of Promoters").

(3) No person shall issue any trading stamp, stamp book or catalogue, or cause any trading stamp, stamp book or catalogue to be issued, or deliver any trading stamp, stamp book or catalogue to any person in connection with any trading stamp scheme unless the promoter of that scheme is for the time being registered in the Register of Promoters.

(4) A person guilty of a contravention of subsection (3) of this section shall—

(a) in the case where he is the promoter of a trading stamp scheme, be liable—

(i) on conviction on indictment, to a fine of any amount;

(ii) on summary conviction, to a fine not exceeding one hundred pounds;

(b) in any other case, be liable, on summary conviction, to a fine not exceeding twenty pounds.

3. (1) Subject to the provisions of this section, the Board shall, upon application in writing being made to it in that behalf by any body corporate as is mentioned in subsection (1) of the last preceding section, register that body corporate in the Register of Promoters. Registra-
tion of
Promoters.

(2) The Board shall not register any such body corporate in the Register of Promoters—

- (a) unless it has given to the Board security for the purposes of this Law in such manner as shall have been approved by the Board for the payment to the Board of the sum of one thousand pounds or such other sum as the States may from time to time prescribe by Ordinance;
- (b) in the case where the body corporate is not registered under the Law of 1908, unless the body corporate has furnished to the Board notice of the situation of its registered office in accordance with the provisions of subsection (2) of the next succeeding section;
- (c) if the body corporate has previously been registered in the Register of Promoters and the previous registration was cancelled by the Board under the provisions of section six of this Law.

Registered
office of
promoter,
not being
a Guernsey
company.

4. (1) The promoter of a trading stamp scheme, not being a body corporate registered under the Law of 1908, shall at all times while it is registered in the Register of Promoters have an office in Guernsey to which all communications and notices may be addressed and at which any summons or notice in connection with any proceedings taken by or against it relating to its business as the promoter of a trading stamp scheme may be served.

(2) Notice in writing of the situation of such office shall be given to the Board at the time such body corporate applies to be registered on the Register of Promoters and notice in writing of any change in the situation of such office shall be given to the Board within fourteen days after the change.

5. (1) The promoter of a trading stamp scheme shall furnish to the Board, within the two months next following the thirty-first day of December in each year, a statement certified as correct by an accountant of the promoter's turnover in Guernsey during the period of twelve months expiring on that day: Statement
of turnover
etc.

Provided that where the accounts of the promoter are not made up for that period and the Board is satisfied that it is impracticable for such statement to be furnished to the Board as aforesaid, such statement shall be furnished to the Board within such time and shall relate to such period as the Board shall direct.

(2) Where, at the time the promoter of a trading stamp scheme furnishes to the Board any such statement of its turnover, the amount for which the security for the time being given by the promoter to the Board under this Law—

- (a) is less than fifteen per centum of the amount of such turnover, the promoter shall at the same time furnish to the Board further security in such manner as shall be approved by the Board for such amount as may be necessary to make up the difference;
- (b) is more than fifteen per centum of the amount of such turnover, then, if the promoter so requires, the amount for which such security has been given shall be reduced as soon as may be in such manner as shall be approved by the Board, so, however, that it shall not be reduced to less than one thousand pounds or such other sum as the States may from time to time prescribe by Ordinance.

(3) For the purposes of this section the expression "accountant" means an accountant who is a member of an incorporated society of accountants or an accountant approved by the Board.

Cancellation of registration where promoter is unable to discharge its liabilities.

6. (1) Where it appears to the Board that the promoter of a trading stamp scheme is unable to discharge any liabilities incurred by it in the course of its business as the promoter of a trading stamp scheme, the Board may cancel the registration in the Register of Promoters relating to that promoter.

(2) Where the registration of a promoter in the Register of Promoters is cancelled by the Board under subsection (1) of this section, the Board shall—

- (a) if the promoter has not appealed against the cancellation within the period specified in section nine of this Law, upon the expiration of that period or, if the promoter has so appealed and the appeal has been dismissed, upon the dismissal of the appeal, take all such steps as may be necessary to appropriate, or to obtain payment of, the sum for which security has been given to the Board by that promoter; and
- (b) appoint a person (hereafter in this section referred to as "the liquidator") to examine any claims against that promoter in respect of trading stamps issued by that promoter and to apply such sum in the following manner and in the following order, that is to say—
 - (i) in payment of such fees and expenses of the liquidator as have been approved by the Board;

- (ii) in any case where, within such period as shall have been specified by the liquidator by notice published on at least two occasions in "La Gazette Officielle", a claim for the redemption of any such trading stamp is notified to the liquidator by the holder of those stamps and the liquidator is satisfied as to the validity of the claim, in payment to the holder of those stamps of their aggregate cash value in full or, where the balance of such sum is insufficient for the purpose of satisfying all such claims, pro rata;
- (iii) if, after payment of such fees, expenses and debts, there is any balance of such sum remaining, in payment of the same to that promoter or its surety, as the case may require.

7. The Board shall cancel the registration in the Register of Promoters relating to the promoter of a trading stamp scheme if it is satisfied that the promoter has discharged or will discharge all liabilities incurred by it in the course of its business as the promoter of a trading stamp scheme in any case where—

Cancellation of registration upon termination of business etc.

- (a) the promoter has given to the Board notice in writing to the effect that it no longer intends to carry on business in Guernsey as the promoter of a trading stamp scheme;
- (b) after giving the promoter an opportunity of being heard, the Board is satisfied that the promoter has permanently ceased to carry on business in Guernsey as the promoter of a trading stamp scheme;

- (c) the promoter has failed to comply with any of the provisions of section four or section five of this Law.

Notice of
cancellation
of
registration.

8. In any case where the registration of a promoter of a trading stamp scheme in the Register of Promoters has been cancelled by the Board under the provisions of section six or section seven of this Law the Board shall forthwith give notice in writing to the promoter of the cancellation and such notice shall contain a statement to the effect that the promoter may appeal against the decision of the Board under the provisions of the next following section and specifying the time within which such appeal may be brought.

Appeals.

9. (1) If the promoter of a trading stamp scheme is aggrieved by a decision of the Board under the provisions of section six or section seven of this Law to cancel the registration in the Register of Promoters relating to that promoter, the promoter may appeal therefrom to the Royal Court sitting as a Full Court (hereafter in this section referred to as "the Royal Court") within the thirty days next following the date on which the notice relating to such cancellation was served on the promoter by the Board in accordance with the provisions of the last preceding section and thereupon the Royal Court may reverse the decision of the Board or dismiss the appeal.

(2) Where the Royal Court reverses such decision of the Board, the Board shall make such entry in the Register of Promoters as may be necessary to give effect to the order of the Royal Court.

Statements
required on
face of
trading
stamps.

10. (1) No person shall issue any trading stamp, or cause any trading stamp to be issued, or deliver any trading stamp to any person in connection

with the sale of any goods or the performance of any services, unless such trading stamp bears on its face in clear and legible characters a value expressed in or by reference to coins which are for the time being legal tender in Guernsey.

(2) It shall be the duty of the promoter of a trading stamp scheme to secure that all trading stamps issued under the scheme bear on their face in clear and legible characters—

(a) in the case of a body corporate which is registered under the Law of 1908, the name of the body corporate;

(b) in the case of a body corporate which is not so registered, either the name of the body corporate or a business name registered in respect of the body corporate under the Registration of Business Names Act, 1916.

(3) A person guilty of a contravention of subsection (1) of this section or of a failure to comply with subsection (2) of this section shall be liable, on summary conviction, to a fine not exceeding—

(a) in the case of an offence by a promoter of a trading stamp scheme, one hundred pounds;

(b) in the case of an offence by some other person, twenty pounds.

11. (1) If the holder of any number of redeemable trading stamps which have an aggregate cash value of not less than five shillings so requests, the promoter of the trading stamp scheme shall redeem them by paying over their aggregate cash value. Redemption of trading stamps for cash.

(2) The holder may exercise his right under subsection (1) of this section—

- (a) by presenting the stamps at any reasonable time at the promoter's registered office or, if the promoter is a body corporate which is registered under the Law of 1908, at the promoter's office registered under that Law; or
- (b) by sending the stamps by post to such office with sufficient instructions as to the manner in which the cash value is to be paid over;

or in any other manner afforded by the promoter.

(3) The obligation under this section in the case of an aggregate cash value which includes a fraction of a penny shall be arrived at by taking the sum to the nearest penny below the aggregate cash value.

(4) In this section "redeemable trading stamps" means trading stamps delivered in accordance with a trading stamp scheme upon or in connection with the purchase of any goods or the obtaining of any services for money.

(5) Any agreement under which the rights conferred by this section on holders of redeemable trading stamps are surrendered or modified shall be void.

Warranties
to be
implied on
redemption
of trading
stamps for
goods.

12. (1) Subject to the provisions of subsection (2) of this section, in every redemption of trading stamps for goods there shall be—

- (a) an implied warranty on the part of the promoter of the trading stamp scheme that he has a right to give the goods in exchange;
- (b) an implied warranty that the person obtaining the goods shall have and enjoy quiet possession of the goods;

- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party, not declared or known to the person obtaining the goods before or at the time of redemption;
- (d) an implied warranty that the goods shall be of merchantable quality, except that, if the person obtaining the goods has examined the goods before or at the time of redemption, there shall be no implied warranty as regards defects which the examination ought to have revealed.

(2) Subsection (1) of this section shall have effect subject to the terms on which the redemption is made, so far as those terms expressly exclude or modify the warranties implied by that subsection.

13. (1) Every catalogue published by or on behalf of the promoter of a trading stamp scheme which indicates (whether by reference to a stated number of filled stamp books or otherwise) the number of trading stamps required to obtain anything described in the catalogue, and every stamp book published by or on behalf of the promoter of such a scheme, shall contain a prominent statement—

Catalogues and stamp books to include name and address of promoter.

- (a) of the name of the promoter;
- (b) of the address of the promoter's registered office or, where the promoter is a body corporate registered under the Law of 1908, the address of the promoter's office registered under that Law; and
- (c) to the effect that the promoter is registered in the Register of Promoters.

(2) If the promoter of a trading stamp scheme publishes, issues or distributes a catalogue or stamp

book which fails to comply with any of the requirements of this section, he shall be liable, on summary conviction, to a fine not exceeding one hundred pounds.

(3) If any person publishes, issues or delivers, or causes to be published or issued, any stamp book or catalogue in connection with any trading stamp scheme which bears a statement indicating that the promoter of that scheme is registered in the Register of Promoters he shall, if he knows such statement to be false—

- (a) in the case where he is the promoter of that scheme, be liable—
 - (i) on conviction on indictment, to a fine of any amount;
 - (ii) on summary conviction, to a fine not exceeding one hundred pounds;
- (b) in any other case, be liable, on summary conviction, to a fine not exceeding one hundred pounds.

Advertisements referring to value of trading stamps.

14. (1) It shall be unlawful for the promoter of a trading stamp scheme, or for any person carrying on a trade or business in which a trading stamp scheme is operated to issue or publish, or cause to be issued or published, an advertisement in any medium which conveys, or purports to convey, the cash value of any trading stamps—

- (a) by means of a statement which associates the worth of any trading stamps with what the holder pays or may pay to obtain them; or
- (b) in terms which are misleading or deceptive.

(2) A person contravening this section shall be liable, on summary conviction, to a fine not exceeding fifty pounds.

(3) For the purposes of this section an advertisement issued by way of display or exhibition in a public place shall be treated as issued on every day on which it is so displayed or exhibited, but in proceedings brought by virtue of this subsection in a case where the display or exhibition began before the date of the coming into force of this Law, it shall be a defence to show that the defendant had taken all reasonable steps to secure that the display or exhibition was terminated before the date.

15. (1) In the case of every shop in which a trading stamp scheme is operated—

Display of
information
in shops.

- (a) there shall be kept posted a notice stating the cash value of the trading stamps issued under the scheme and giving such particulars as will enable customers readily to ascertain the number of trading stamps, if any, to which they are entitled on any purchase or other transaction; and
- (b) if any current catalogue has been published for the trading stamp scheme by or on behalf of the promoter, a copy of that catalogue shall be kept where it can be conveniently consulted by customers.

(2) A notice under this section shall be posted in such characters and in such a position as to be conveniently read by customers.

(3) If without reasonable excuse any of the foregoing provisions of this section are not complied with in the case of any shop, the occupier or other person having control of the shop shall be liable, on summary conviction, to a fine not exceeding twenty pounds.

(4) If any person pulls down, injures or defaces any notice posted in pursuance of this section, he

shall be liable, on summary conviction, to a fine not exceeding twenty pounds.

(5) In this section "current catalogue" means any such catalogue as is described in subsection (1) of section thirteen of this Law, being a catalogue which has not been superseded or withdrawn.

Offences
committed
by body
corporate.

16. Where any offence under this Law committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Savings.

17. The States may by Ordinance provide that the provisions of this Law or any of them shall not apply in relation to any trading stamp, or class or classes of trading stamps.

Citation and
commence-
ment.

18. (1) This Law may be cited as the Trading Stamps (Guernsey) Law, 1966.

(2) This Law shall come into force on such day as shall be appointed in that behalf by Ordinance of the States and different days may be so appointed as respects the coming into force of different provisions of this Law.

R. H. VIDELO,

Her Majesty's Greffier.