

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Insurance Business (Guernsey) Law, 1986

(Registered on the Records of the Island of Guernsey
on the 2nd day of December, 1986.)



1986.

XIII
1986

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 2nd day of December, 1986 before Sir Charles Frossard, Kt., Bailiff, present:—Donald Pescott Plummer, Brian Ernest Herbert Joy, Esquires, Charles Henry Hodder, Esquire, O.B.E., Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, John Christopher Bulstrode, Geoffrey Ernest Le Page, Stanley Walter John Jehan, 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 5th day of November, 1986, approving and ratifying a *Projet de Loi* of the States of Guernsey entitled "The Insurance Business (Guernsey) Law, 1986", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act together with a copy of the said Order in Council be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 5th day of November 1986

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 24th day of October 1986 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 29th day of June 1983 and the 25th day of June 1986, the States of Deliberation, at a meeting held on the 25th day of June 1986 approved a Bill or “Projet de Loi” entitled “The Insurance Business (Guernsey) Law, 1986”, 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 July 1986, 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 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 Insurance Business (Guernsey) Law, 1986", and to order that the same shall have force of law in the Islands of Guernsey, Alderney, Herm and Jethou.'

"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 Islands of Guernsey, Alderney, Herm and Jethou.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy of 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 Insurance Business (Guernsey) Law, 1986

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PROJET DE LOI

ENTITLED

**The Insurance Business (Guernsey) Law,
1986**

THE STATES, in pursuance of their Resolutions of the 29th day of June 1983 and the 25th day of June 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 Islands of Guernsey, Alderney, Herm and Jethou.

PART I

RESTRICTIONS ON CARRYING ON
INSURANCE BUSINESS*Preliminary*

Insurance
business.

1. (1) For the purposes of this Law "insurance business" means the business of accepting risks by effecting and carrying out contracts of insurance, whether directly or through an agent, and includes—

- (a) the effecting and carrying out, by a person not carrying on a banking business, of contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee, being contracts effected by way of business (and not merely incidentally to some other business carried out by the person effecting them) in return for the payment of one or more premiums;
- (b) the effecting and carrying out of tontines;

(c) the effecting and carrying out, by a body (not being a body carrying on a banking business) that carries on business which is insurance business apart from this paragraph, of—

(i) capital redemption contracts;

(ii) contracts to manage the investments of pension funds (other than funds solely for the benefit of its own officers or employees and their dependants or, in the case of a company, partly for the benefit of those persons and partly for the benefit of officers or employees and their dependants of its subsidiary or holding company or a subsidiary of its holding company) which are combined with contracts of insurance;

(d) the effecting and carrying out of contracts to pay annuities on human life.

(2) In this Law, except where the context otherwise requires, “insurance” includes assurance and reinsurance.

(3) For the purposes of this Law a person shall not be considered to carry on insurance business solely by reason of the fact that he—

(a) is a member of the Society of Lloyds; or

(b) not being a person who, by virtue of paragraph (a) or (b) of section 5(2), is deemed to be holding himself out as carrying on insurance business in Guernsey, effects and carries out a contract of reinsurance with an insurer in Guernsey.

Domestic
business.

2. For the purposes of this Law “domestic business” means insurance business, excluding reinsurance business,—

- (a) by way of the effecting and carrying out of a contract of insurance whose principal object is to insure a person who has his ordinary place of residence in Guernsey at the time the contract is effected against any kind of risks except risks in relation to property; or
- (b) by way of the effecting and carrying out of a contract of insurance whose principal object is to insure a person against risks of any kind in relation to—
 - (i) real property situated in Guernsey;
 - (ii) personal property which at the time the contract is effected is held or based in Guernsey or which is deemed in accordance with regulations made by the Committee under this paragraph to be so held or based; or
 - (iii) personal property which is in transit to or from Guernsey.

Long term
business
and general
business.

3. (1) For the purposes of this Law insurance business, including domestic business, is divided into long term business and general business; and, subject to subsections (2) and (3)—

- (a) “long term business” means insurance business of any of the descriptions set out in Schedule 1; and
- (b) “general business” means insurance business other than long term business.

(2) For the purposes of this Law the effecting and carrying out of a contract whose principal object is within any of the descriptions of long term business set out in Schedule 1 but which contains related and subsidiary provisions which are not within any of those descriptions shall be taken to constitute long term business.

(3) Notwithstanding the provisions of subsection (1) a registered insurer may elect to regard a contract of insurance on human life expressed to be for a term of not more than 18 months as general business; and any contract of insurance in relation to which a registered insurer does so elect shall not for any of the purposes of this Law be taken to constitute long term business.

4. The States may by Ordinance repeal, vary or add to any of the provisions of Schedule 1.

Power of
the States to
amend
Schedule 1
by Ordinance.

Restrictions on carrying on insurance business

5. (1) Subject to section 8 and without prejudice to subsection (4) of this section or to section 6, a person shall not carry on, or hold himself out as carrying on, insurance business in Guernsey unless—

General
restriction
on carrying
on insurance
business.

- (a) if that business is long term business, that person is a body registered as an insurer in respect of long term business;
- (b) if that business is general business, that person is a body registered as an insurer in respect of general business.

(2) For the purposes of this Law, except to the extent that in any particular case the Committee may otherwise direct, an insurer shall be deemed to be holding himself out as carrying on insurance business in Guernsey if—

- (a) by way of business, he occupies premises in Guernsey or makes it known by an advertisement or by an insertion in a directory or by means of letterheads that he may be contacted at a particular address in Guernsey;
- (b) he invites a person in Guernsey, by issuing an insurance advertisement or otherwise, to enter into or to offer to enter into a contract of insurance;
- (c) he is otherwise seen to be carrying on insurance business in Guernsey.

(3) For the purposes of this section an advertisement issued or other invitation made by any person on behalf of or to the order of another person shall be treated as an advertisement issued or other invitation made, as the case may be, by that other person.

(4) Subject to subsection (5), the States may by Ordinance prohibit all registered insurers or registered insurers of any specified class from effecting contracts of insurance of any description specified in the Ordinance; and in the event of an Ordinance being made under this subsection a registered insurer shall not effect a contract of any description specified in the Ordinance on or after the date of commencement of the Ordinance or during the continuance in force of the Ordinance.

(5) An Ordinance under subsection (4) shall not prevent a registered insurer from effecting a contract in pursuance of an obligation so to do contained in

a contract lawfully entered into and subsisting immediately before the date of commencement of the Ordinance; but a registered insurer which is under an obligation to effect a contract of insurance which, apart from the preceding provision of this subsection, it would have been prevented by an Ordinance under subsection (4) from effecting, shall notify the Committee in writing of the existence and nature of that obligation within the 14 days next following the date of commencement of that Ordinance or within such longer period as the Committee may in any particular case allow.

6. Subject to section 8, a person shall not carry on, or hold himself out as carrying on, domestic business in Guernsey unless that person is a body registered as an insurer in respect of domestic business.

Restriction on carrying on domestic business.

7. (1) Subject to section 8, a Guernsey body shall not carry on, or hold itself out as carrying on, insurance business of any description in a country outside Guernsey unless—

Restriction on Guernsey body carrying on insurance business outside Guernsey.

- (a) it is registered as an insurer in respect of that description of insurance business; and
- (b) that business is carried on outside Guernsey with the written consent of the Committee granted under this section and in accordance with any conditions subject to which that consent has been granted.

(2) An application for the consent of the Committee under subsection (1)(b) shall be made in such form as the Committee may from time to time determine and may either be granted or, subject to section 51, refused by the Committee.

8. (1) Sections 5, 6 and 7 do not apply to insurance business carried on—

Exemptions.

- (a) by the States of Guernsey;
- (b) by an organisation representative of employers or an organisation representative of employees recognised by the Committee as being such an organisation for the purposes of this paragraph, where the insurance business carried on by that organisation is limited to the provision for its members ordinarily resident in Guernsey of provident benefits or strike benefits;
- (c) by a friendly society registered under an enactment relating to friendly societies and recognised by the Committee as being such a society;
- (d) by a person registered under any Ordinance made under section 1 of the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969(a), if that business is financial loss insurance business carried on solely in the course of carrying on, and for the purposes of, banking business;
- (e) by a person other than a Guernsey body if—
 - (i) the law of a member State of the European Economic Community recognises that person as a national of that or of another member State; and
 - (ii) that business is of a description which that person is authorised to carry on in a member State of the European Economic Community and which would be lawfully carried on if it were carried on in that member State; and

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

(iii) that person has notified the Committee that he intends to carry on insurance business of that description in Guernsey;

(f) by any insurer, solely for the purpose of discharging liabilities lawfully assumed by that insurer before the commencement of those sections.

(2) The States may by Ordinance provide that any provision of this Law—

(a) shall not apply in relation to any class of persons or to any description of insurance business; or

(b) shall apply to any class of persons or to any description of insurance business subject to such modifications as may be specified in the Ordinance.

9. (1) A body which, immediately before the commencement of this Part of this Law, was carrying on, or holding itself out as carrying on, insurance business of any description in Guernsey and which intends to continue to carry on, or to hold itself out as carrying on, insurance business of that description, shall, within the two months next following the commencement of this Part of this Law, make an application to the Committee in accordance with section 10 to be registered as an insurer in respect of that description of insurance business.

Existing
insurers.

(2) A Guernsey body which, immediately before the commencement of this Part of this Law, was carrying on, or holding itself out as carrying on, insurance business of any description in a country outside Guernsey and which intends to continue to carry on outside Guernsey, or to hold itself out as

carrying on outside Guernsey, insurance business of that description, shall, within the two months next following the commencement of this Part of this Law, make applications to the Committee—

- (a) in accordance with section 10 to be registered as an insurer; and
- (b) for the consent of the Committee under section 7(1)(b),

in respect of that description of insurance business.

(3) Where a body to which subsection (1) or subsection (2) applies makes the application or applications required by those subsections in respect of any description of insurance business within the two months next following the commencement of this Part of this Law, it shall not be taken for the purposes of this Law to be carrying on or holding itself out as carrying on, or to have carried on or held itself out as carrying on, insurance business of that description in contravention of any provision of this Law pending the determination of the application or applications.

Registration of insurers

Application
for registra-
tion.

10. A body wishing to be registered as an insurer shall—

- (a) make an application in that behalf to the Committee in such form as the Committee may from time to time require; and
- (b) pending the determination of the application, furnish the Committee with such information as the Committee may require, being, if the Committee so requires, information verified in a manner specified by the Committee, for the purpose of determining the application.

11. (1) On an application for registration being made to it under and in accordance with section 10 the Committee may— Registration.

(a) subject to subsections (2) and (3) of this section, grant the application and register the applicant as an insurer in such form as the Committee may from time to time determine; or

(b) subject to section 51, refuse to grant the application.

(2) Subject to subsection (4), the Committee shall not grant an application for registration unless—

(a) the Committee is satisfied that the applicant intends, upon registration, to carry on insurance business in Guernsey;

(b) the applicant has disclosed to the satisfaction of the Committee such details as the Committee has requested of it in relation to persons who will, upon the registration of the applicant, have any proprietary, financial or other interest in or connection with the applicant;

(c) the Committee is satisfied that the applicant will, upon registration, fulfil the requirements of section 19(1) as to the person to act as the applicant's general representative, unless the Committee proposes to waive the requirements of that subsection in respect of the applicant under section 19(3);

(d) the Committee is satisfied that the applicant will, upon registration, have a margin of solvency and approved assets which will

enable it to comply with section 20(1), unless the Committee proposes to waive the requirements of that subsection in respect of the applicant under section 20(3); and

- (e) where the applicant is a body corporate, it has a share capital of such amount that the Committee is satisfied will enable it, upon registration, to comply with section 21(1), unless the Committee proposes to waive the requirements of that subsection in respect of the applicant under section 21(3).

(3) The Committee shall not grant an application for registration if it is of the opinion either—

- (a) that it would not be for the benefit of policyholders or potential policyholders of the applicant; or
- (b) that it would not be in the best economic interests of Guernsey,

for the application to be granted and for the applicant to be registered as an insurer.

(4) If the Committee is not satisfied as to the matter referred to in subsection (2)(a) in the case of a body to which section 9(2) applies, the Committee may nevertheless register that body as an insurer; but the registration of a body in such a case shall cease to be valid at the end of the calendar year next following that in which this Part of this Law comes into force.

Power of
Committee
to petition
for winding
up of
applicant
etc.

12. If—

- (a) the Committee refuses to register a Guernsey company as an insurer; or
- (b) the registration of a Guernsey company as an insurer ceases to be valid by virtue of section 11(4),

and if, in either case, it appears to the Committee that the company is unable to pay its debts within the meaning of Article LXXII of the Guernsey Company Law of 1908 (as that Article has effect in relation to a registered insurer by virtue of section 33 of this Law), the Committee may present a petition for the winding up of the company in accordance with that Law as if the company were a registered insurer.

13. (1) Subject to subsection (3) of this section and to section 51, the Committee may, at any time on or after the registration of any body, by notice in writing served on that body, impose such conditions as appear to the Committee to be necessary or desirable.

Power of
Committee
to impose
conditions
on and after
registration.

(2) Where the Committee has imposed a condition under subsection (1) prohibiting a body from effecting a contract of insurance of any description, the Committee shall, within 14 days, publish a notice of that prohibition in *La Gazette Officielle* on at least two occasions.

(3) A condition of the description mentioned in subsection (2) shall not prevent the effecting of a contract of insurance in pursuance of an obligation so to do contained in a contract lawfully entered into and subsisting at the date of the imposition of the condition; but an insurer which is under an obligation to effect a contract of insurance which, apart from the preceding provision of this subsection, it would have been prevented by a condition imposed under subsection (1) from effecting, shall notify the Committee in writing of the existence and nature of that obligation within the 14 days next following the date of the imposition of that condition or within such longer period as the Committee may in any particular case allow.

(4) Subject to section 51, the Committee may, by notice in writing served on a body on which a condition has been imposed under subsection (1), vary or revoke that condition.

Certificate
of registra-
tion.

14. (1) Upon registering an applicant under section 11 the Committee shall issue to the registered insurer a registration certificate in such form and containing such information as the Committee may from time to time determine.

(2) A registered insurer shall deliver the registration certificate issued to it under subsection (1) to the Committee—

(a) whenever required to do so by the Committee; and

(b) upon the cancellation of that insurer's registration.

(3) Except when required by or under subsection (2) to deliver its current registration certificate to the Committee, a registered insurer shall, at its main place of business in Guernsey, at all times during ordinary business hours—

(a) make that certificate available to any person reasonably requesting to see it; and

(b) if the insurer is registered in respect of domestic business, display that certificate in a conspicuous place.

Period of
validity of
registration.

15. The registration of a body shall, subject to section 11(4), continue to be valid until it is cancelled under section 16.

Cancellation
of
registration
of insurer.

16. Subject to section 51, the Committee may, if it thinks fit, cancel the registration of an insurer at the request of the insurer or—

- (a) if the insurer or the insurer's general representative has failed to satisfy an obligation to which the insurer or the insurer's general representative is subject by virtue of this Law;
- (b) if the insurer has contravened or failed to comply with a condition of registration imposed on the insurer under section 13;
- (c) if the insurer has not commenced insurance business within one year of the date of the registration of the insurer;
- (d) if the insurer has ceased to carry on insurance business in Guernsey;
- (e) if the insurer or the insurer's general representative has furnished misleading or inaccurate information to the Committee under or for the purposes of any provision of this Law;
- (f) if the Committee considers it desirable to cancel the registration of the insurer for the protection of policyholders or potential policyholders of the insurer;
- (g) on any other ground which the States may from time to time by Ordinance prescribe as a ground for the cancellation of the registration of an insurer.

17. (1) The Committee shall, not later than the expiration of the 12 months next following the commencement of this Part of this Law, establish and maintain, in such form as the Committee may from time to time resolve, a list of—

List of
registered
insurers.

- (a) all insurers which are for the time being registered insurers; and

- (b) all insurers which are for the time being exempt from the requirements of section 5 or 6 in respect of any description of insurance business by virtue of section 8(1)(e).
- (2) The list referred to in subsection (1) shall contain, in relation to each insurer:
- (a) the name of the insurer;
 - (b) the address of the principal place of business of the insurer in Guernsey;
 - (c) in the case of a registered insurer, indications as to whether the insurer is registered in respect of—
 - (i) long term business;
 - (ii) general business;
 - (d) in the case of a registered insurer, an indication as to whether the insurer is registered in respect of domestic business;
 - (e) in the case of a registered insurer, details of any condition of registration restricting the acceptance of new business;
 - (f) in the case of such an insurer as is referred to in paragraph (b) of subsection (1), an indication of the description of insurance business in respect of which the insurer is exempt from the requirements of section 5 or 6 by virtue of section 8(1)(e);
 - (g) such other particulars as the States may by Ordinance prescribe.
- (3) The Committee shall transmit to Her Majesty's Greffier—

- (a) within 14 days of the expiration of the 12 months next following the commencement of this Part of this Law, an official copy of the list showing the insurers listed at the expiration of those 12 months; and
- (b) thereafter from time to time, within 14 days after the expiration of the week in which an erasure or other alteration of an entry in the list was last made by the Committee, an official copy of the list showing the insurers listed at the expiration of that week.

(4) Her Majesty's Greffier shall—

- (a) cause the official copy of the list most recently transmitted to him under subsection (3) to be made available for inspection at the Greffe; and
- (b) cause copies thereof to be made available for purchase at the Greffe.

(5) The Committee shall cause a notice to be published in *La Gazette Officielle* on at least two occasions—

- (a) within 14 days of the expiration of the 12 months next following the commencement of this Part of this Law; and
- (b) after the expiration of those 12 months, during January in each year,

stating that the list is available for inspection at the Greffe and that copies of the list are available there for purchase.

(6) If at any time it appears to the Committee, whether in consequence of any cancellation of a registration under section 16, or of a change in relation to an insurer, or due to an error or for any other reason, that any of the particulars contained in an entry in the list maintained under this section are inaccurate, the Committee shall erase the entry, add to it or make any other alteration the Committee considers necessary.

(7) If any additional entry registering a body as an insurer in respect of domestic business or indicating that a body is exempt from the requirements of section 6 in respect of domestic business is inserted in the list, if any entry registering a body as an insurer or indicating that a body is so exempt in respect of domestic business is erased, or if, in any entry relating to a body registered as an insurer or indicated as being so exempt in respect of domestic business, an addition, erasure or other alteration is made to the particulars referred to in subsection (2), the Committee shall cause particulars of the additional entry, addition, erasure or other alteration, as the case may be, to be published in *La Gazette Officielle* on at least two occasions within the 14 days next following the date on which the additional entry, addition, erasure or other alteration is made.

(8) An official copy of the list supplied to Her Majesty's Greffier under subsection (3) shall bear the date of the list at the time the official copy was made, and any copy thereof shall be evidence that—

- (a) any person mentioned therein as a registered insurer was a registered insurer on that date; and
- (b) any person mentioned therein as being exempt from the requirements of section 5 or

6 in respect of any description of insurance business by virtue of section 8(1)(e) was so exempt on that date.

PART II

REGULATION OF REGISTERED INSURERS

General requirements

18. A registered insurer shall furnish the Committee, in such manner as the Committee may require, with such details as the Committee may from time to time resolve to request from the insurer in relation to persons having for the time being any, or any specified, proprietary, financial or other interest in or connection with the insurer.

Disclosure
as to
interested
and con-
nected
persons.

19. (1) A registered insurer shall, subject to subsection (3), appoint as the insurer's general representative, to act generally on behalf of the insurer and to accept service of any document on behalf of the insurer, either—

representa-
tive of
registered
insurer.

(a) a person who is both

(i) an executive director of the insurer who is ordinarily resident in Guernsey, or if no such director of the insurer is ordinarily so resident an employee of the insurer who is ordinarily resident in Guernsey; and

(ii) approved by the Committee as a fit and proper person to act as the insurer's general representative; or

(b) an authorised insurance manager.

Margin of solvency and approved assets of registered insurer.

(2) Without prejudice to the generality of his functions under subsection (1), the general representative of a registered insurer shall be responsible for making any return, depositing any accounts, reports and other documents and furnishing any information which, by or under any provision of this Law, he or that insurer is required to make, deposit or furnish.

(3) In the case of a body to which section 9(2) applies, being a body which does not carry on insurance business in Guernsey, the Committee may, by notice in writing served on that body, waive the requirement imposed by subsection (1) subject to such conditions, and until such date not later than the end of the calendar year next following that in which this Part of this Law comes into force, as may be specified in the notice.

(4) The Committee may at any time, by notice in writing served on a body in respect of which a waiver has been granted under this section, revoke, or vary any condition of, that waiver.

20. (1) Subject to subsection (3), a registered insurer shall maintain a margin of solvency and approved assets determined in accordance with the provisions of Schedule 2; and the States may by Ordinance repeal, vary or add to any of the provisions of that Schedule.

(2) For the purposes of this Law approved assets are those listed in or determined in accordance with paragraph 2 of Schedule 2; and the margin of solvency of an insurer is the excess of the value of the assets of the insurer over the amount of the liabilities of the insurer, that value and that amount being determined in accordance with paragraphs 3, 4 and 5 of Schedule 2.

(3) Where the Committee is satisfied that the policyholders of an insurer are jointly and severally liable to discharge all of the liabilities of the insurance business carried on by the insurer, the Committee may, by notice in writing served on the insurer, waive, subject to such conditions, if any, as may be specified in the notice, the requirement imposed by subsection (1) in respect of that insurer.

(4) The Committee may at any time, by notice in writing served on an insurer, revoke, or vary any condition of, any waiver granted by it under this section.

21. (1) Subject to the provisions of this section, a registered insurer which is a body corporate shall maintain a paid up share capital of not less than £100,000 sterling or an equivalent sum in any other currency. Minimum level of paid up capital.

(2) For the purposes of this section the equivalent in any other currency of the amount specified in sterling in subsection (1) shall be deemed in the case of a body corporate to be such sum as the Committee is satisfied is the equivalent of that amount on the date of that body's registration under section 11.

(3) The Committee may, by notice in writing served on a body corporate, waive, subject to such conditions, if any, as may be specified in the notice, the requirement imposed by subsection (1) as respects that body—

- (a) if it is the holder of a valid, irrevocable letter of credit provided by a bank registered under any Ordinance made under section 1 of the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of

Guernsey) Law, 1969 for such amount and on such conditions as the Committee may approve; or

- (b) if it is a body corporate to which section 9 applies and the Committee is satisfied that the requirement imposed by subsection (1) of section 20 is being complied with or if that requirement has been waived under subsection (3) of that section; or
- (c) in any other case if the Committee has, under subsection (3) of section 20, waived the requirement imposed under subsection (1) of that section in respect of that body corporate.

(4) The Committee may at any time, by notice in writing served on a body corporate, revoke, or vary any condition of, any waiver granted by it under this section.

(5) The States may by Ordinance vary the amount specified in subsection (1).

**Annual
return of
registered
insurer.**

22. A registered insurer shall, in respect of each financial year of the insurer, prepare an annual return in such form and containing such particulars as the Committee may from time to time require by regulations made under this section.

**Annual
accounts.**

23. (1) A registered insurer shall prepare, in respect of each financial year of the insurer, such accounts as may be prescribed by regulations.

(2) Regulations under subsection (1) may—

- (a) prescribe the form of the accounts required to be prepared by virtue of this section;

- (b) prescribe the information to be included in the accounts required to be prepared by virtue of this section;
- (c) permit any information so prescribed to be given, instead of in the accounts, in a note thereon or in a statement or report annexed thereto;
- (d) require there to be given in such a note, statement or report such additional information as may be prescribed by the regulations;
- (e) as respects the accounts, notes, statements and reports and the information contained therein, require there to be given by prescribed persons and to be annexed to the accounts certificates of such matters as may be prescribed;
- (f) prescribe the persons by whom the accounts are to be signed.

(3) Notwithstanding subsection (1), the Committee may in any particular case, by notice in writing served on an insurer,—

- (a) agree to the preparation of that insurer's accounts in a form other than a form prescribed by regulations;
 - (b) require that insurer to include in those accounts such additional information as the Committee considers should be so included.
- (4) References to accounts in this Part of this Law (including Schedule 3) include references to—
- (a) any notes thereon and any statements, reports and certificates annexed thereto; and

- (b) in the case of an insurer the assets and liabilities of which are taken for the purposes of section 20 (with the consent of the Committee given under paragraph 5 of Schedule 2) to include assets and liabilities of a subsidiary of that insurer, accounts dealing with the state of affairs and the profit or loss of the insurer and that subsidiary.

Audit of
accounts.

24. (1) The accounts required to be prepared by virtue of section 23 shall be audited by an auditor in accordance with the requirements of Schedule 3; and that auditor shall report on those accounts in accordance with the requirements of that Schedule.

(2) The States may by Ordinance repeal, vary or add to any of the provisions of Schedule 3.

Deposit of
accounts etc.
with Com-
mittee.

25. (1) The annual return required to be prepared by virtue of section 22, the accounts required to be prepared by virtue of section 23 and the report of the auditor made in pursuance of section 24 shall be deposited with the Committee within four months after the close of the financial year to which the accounts relate.

(2) The Committee shall consider the documents deposited under subsection (1), and if any such document appears to the Committee to be inaccurate or incomplete in any respect the Committee shall communicate with the insurer with a view to the correction of any such inaccuracies and to any deficiencies being made good.

Special requirement in respect of insurers with domestic business

26. (1) A registered insurer which carries on domestic business shall, subject to subsection (2), make available on request to all policyholders of the insurer copies of the accounts required to be prepared by virtue of section 23 and of the auditor's report thereon made in pursuance of section 24 not later than one month after the close of the period within which those accounts are required to be deposited with the Committee under section 25(1).

Audited accounts of insurer with domestic business to be made available to policyholders.

(2) The accounts and the report required to be made available under subsection (1) may be so made available in an abridged form approved by the Committee and containing such information as may be so approved.

Special requirements in respect of insurers with long term business

27. (1) A registered insurer shall not later than the date on which it begins to carry on long term business or, in the case of an insurer to which section 9 applies, not later than that date or not later than the date on which the insurer is registered in respect of long term business, whichever is later, appoint an actuary as actuary to the insurer; and whenever an appointment under this section comes to an end the insurer shall within one month after that appointment came to an end make a fresh appointment of an actuary as actuary to the insurer.

Appointment of actuary by insurer with long term business.

(2) An insurer making an appointment under this section shall within 14 days serve on the Committee a written notice stating the date of the appointment and the name and qualifications of the person appointed; and if an appointment under this section

comes to an end, the insurer shall within 14 days serve on the Committee a written notice stating that fact and the name of the person whose appointment has come to an end.

Periodic
actuarial
investiga-
tion of
insurer with
long term
business.

28. (1) A registered insurer which carries on long term business shall—

- (a) cause an investigation to be made into the financial condition of the insurer in respect of that business as at the close of the period to which any accounts prepared as required by section 23 relate by the person who for the time being is the actuary to the insurer under section 27(1); and
- (b) deposit the actuary's report with the Committee, together with the accounts required to be deposited under section 25(1); and
- (c) not later than one month after the close of the period within which that report is required to be deposited with the Committee, make copies of that report (or of a report in abridged form and containing such information as the Committee may approve) available to all policyholders of the insurer.

(2) An investigation to which subsection (1) relates shall include a valuation of the liabilities of the insurer attributable to the long term business of the insurer.

(3) The Committee shall consider the report deposited under subsection (1)(b), and if it appears to the Committee to be inaccurate or incomplete in any respect the Committee shall communicate with the insurer with a view to the correction of any such inaccuracies and to any deficiencies being made good.

29. (1) Where a registered insurer carries on long term business—

- (a) the insurer shall maintain an account in respect of that business; and
- (b) the receipts of that business shall be entered in the account maintained for that business and shall be carried to and shall form a separate insurance fund with an appropriate name.

Separation
of assets
and
liabilities
attributable
to long term
business.

(2) If any part of the long term business of a registered insurer consists of contracts under which the benefits payable to the policyholders are determined by reference to the value of, or the income from, property of any description, the receipts of that part of that business shall be carried to and shall form a separate part of the fund maintained under subsection (1); and references in this Law to any part of the long term business of an insurer or to any part of the fund maintained under subsection (1) are references to such a part of that business or to such a part of that fund, as the case may be, as is mentioned in this subsection.

(3) Subject to subsection (4), a registered insurer which carries on long term business shall maintain such accounting and other records as are necessary for identifying—

- (a) the assets representing the fund maintained by the insurer under subsection (1) and each part of that fund; and
- (b) the liabilities attributable to that business and to each part of that business.

(4) A registered insurer which carries on long term business and was carrying on that business immediately before the commencement of this Law—

- (a) shall make arrangements, to the satisfaction of the Committee, during the financial year of the insurer beginning next after the commencement of this Law, for identifying the assets and liabilities of the insurer as on the last day of that financial year which are attributable to its long term business and to each part of that business; and
- (b) shall not be subject to subsection (3) until the day after the end of that financial year.

Restriction
on transfer
of assets of
insurer with
long term
business.

30. (1) A registered insurer which carries on long term business shall not—

- (a) transfer or otherwise apply assets representing the fund maintained by the insurer under section 29(1), otherwise than in respect of claims and expenses relating to that business, except out of any established surplus in that fund;
- (b) transfer or otherwise apply assets representing any part of the fund maintained under section 29(1), otherwise than in respect of claims and expenses relating to that part of that business, except out of any established surplus in that part of that fund.

(2) In subsection (1) “established surplus” means any amount shown by an investigation to which section 28 applies to be an amount by which the assets representing the fund maintained by the insurer under section 29(1) or, as the case may be, representing any part of that fund, exceed the liabilities of the insurer attributable to the long term business carried on by the insurer or, as the case may be, attributable to any part of that business.

31. (1) A scheme under which all or any of the long term business of a body (hereafter in this section referred to as "the transferor") is to be transferred to another body (hereafter in this section referred to as "the transferee") shall not, if one of those bodies is a registered insurer, be carried out without the consent in writing of the Committee.

Consent of
Committee
for transfer
of long term
business.

(2) Either the transferor or the transferee may apply to the Committee for consent to be given for the scheme.

(3) An application for the consent of the Committee to be given for the scheme shall be accompanied by a report on the scheme by an independent actuary and a copy of the statement referred to in paragraph (a) of subsection (4).

(4) The Committee shall not consent to the scheme unless it is satisfied—

(a) that a statement has been served on each of the policyholders of the bodies concerned:

(i) setting out the terms of the scheme;
and

(ii) containing a summary of the report referred to in subsection (3) sufficient to indicate the opinion of the actuary as to the likely effects of the scheme on the long term policyholders of those bodies and stating that copies of the report are available for purchase at an address in Guernsey upon payment of a reasonable sum;

(b) that a notice has been published in *La Gazette Officielle* on at least two occasions stating:

- (i) that the application has been made;
 - (ii) that copies of the application and of the report referred to in subsection (3) are available for inspection at all reasonable times at an address in Guernsey set out in the notice and that copies of the report are available for purchase there upon payment of a reasonable sum; and
 - (iii) that any person alleging that he would be adversely affected by the carrying out of the scheme may make written or oral representations to the Committee in such manner as the Committee may from time to time resolve;
- (c) that 21 days have elapsed since the notice was last published in *La Gazette Officielle*; and
- (d) that copies of the application and of the report mentioned in subsection (3) have been available for inspection at an address in Guernsey set out in the notice during that period of 21 days and that copies of the report have been available for purchase there during that period upon payment of a reasonable sum.
- (5) The Committee may, after considering any representations made in response to the notice under subsection (4), give or refuse consent for the scheme, but before giving or refusing consent the Committee shall publish in *La Gazette Officielle* a notice stating that it has decided to give or refuse consent, and that any person alleging that he would be adversely affected by the decision of the Committee may appeal against the decision under subsection (7).

(6) A decision of the Committee to give consent to a Scheme shall not, subject to subsection (9), be of any effect unless—

- (a) a notice has been published in accordance with subsection (5); and
- (b) 21 days have elapsed since that notice was published; and
- (c) notice of an appeal has not been served on the Committee within that period of 21 days or, if such a notice has been so served—
 - (i) the appeal has been withdrawn or is deemed in accordance with subsection (8) to have been withdrawn; or
 - (ii) the decision of the Committee has been confirmed on appeal.

(7) Subject to subsection (9), a person alleging that he would be adversely affected by the decision of the Committee to give or refuse consent to the scheme may appeal from that decision to the Ordinary Court, and on an appeal the Court may quash or confirm that decision.

(8) An appeal under subsection (7) shall be instituted by way of a summons served on the President of the Committee and, in the case of an appeal against a decision to give consent,—

- (a) shall be instituted within the 21 days mentioned in paragraph (b) of subsection (6); and
- (b) shall be deemed to have been withdrawn unless it has been determined by the Ordinary Court within the three months next following the date of the summons by which it was instituted, or unless the Court,

within those three months, in any particular case otherwise directs.

(9) Where the Ordinary Court has quashed a decision of the Committee on an appeal under subsection (7) in respect of any scheme, the Committee shall give or refuse consent for the scheme, as the case may be, so as to give effect to the decision of the Court; and in that event the provisions of subsections (5), (6) and (7) shall not apply.

(10) A decision of the Ordinary Court under this section shall be final as to any question of fact, but an appeal from such a decision shall lie to the Court of Appeal on any question of law within such period and in such manner as may be prescribed by Order of the Royal Court.

PART III

WINDING UP OF REGISTERED INSURERS

Preliminary

Application
of this Part.

32. This Part of this Law applies to registered insurers which are Guernsey companies; and subsections (2) and (3) of section 36 apply in addition to registered insurers which are unincorporated Guernsey bodies.

Winding up

Deemed
insolvency
of insurer
with general
business.

33. (1) A registered insurer which carries on general business shall be deemed for the purposes of the provisions of Article LXXII of the Guernsey Company Law of 1908 to be unable to pay its debts if at any time the value of the assets of the insurer does not exceed the amount of the liabilities of the

insurer (that value and that amount being determined in accordance with paragraphs 3, 4 and 5 of Schedule 2) by at least the margin of solvency which is, in the case of that insurer, determined in accordance with the provisions of Schedule 2; and the provisions of this Law as to winding up shall have effect accordingly.

(2) Nothing in this section shall be taken as affecting the manner in which, on a winding up, any assets or liabilities are required to be dealt with whether by virtue of section 36 or otherwise.

34. (1) Subject to subsection (2), the Ordinary Court may order the winding up, in accordance with the Guernsey Company Law of 1908, of a registered insurer, and the provisions of that Law shall apply accordingly subject to the modification that the insurer may be ordered to be wound up on the petition,—

Winding up
of Guernsey
companies
under
Guernsey
Company
Law of 1908.

- (a) if the insurer has less than 100 policyholders, of any 10 per cent or more of the number of its policyholders;
- (b) in any other case, of any 10 or more of its policyholders.

(2) A petition shall not be presented to the Ordinary Court except by leave of the Court, and leave shall not be granted until a *prima facie* case has been established to the satisfaction of the Court and until security for costs for such amount as the Court thinks reasonable has been given.

35. (1) The Committee may present a petition for the winding up, in accordance with the Guernsey Company Law of 1908, of a registered insurer on the ground—

Winding up
on petition
of Com-
mittee.

- (a) that the insurer is unable to pay its debts within the meaning of Article LXXII of that Law (as that Article has effect in relation to a registered insurer by virtue of section 33 of this Law);
- (b) that the insurer has failed to satisfy an obligation to which it is or was subject by virtue of this Law; or
- (c) that the insurer has failed to satisfy an obligation imposed by section 25 or section 28(1)(b) of this Law and that the Committee is unable to ascertain the financial position of the insurer;

and section 34(2) does not apply in the case of a petition presented by the Committee pursuant to this subsection.

(2) In any proceedings on a petition to wind up a registered insurer presented by the Committee under subsection (1), evidence that the insurer was insolvent—

- (a) at the close of the period to which the accounts of the insurer last deposited under section 25 relate; or
- (b) at any date or time specified in a requirement under section 56,

shall be evidence that the insurer continues to be unable to pay its debts, unless the contrary is proved.

Winding up
etc. of insurer
with long
term
business.

36. (1) Notwithstanding the provisions of Article LXXI of the Guernsey Company Law of 1908, a registered insurer which carries on long term business shall not be wound up voluntarily.

(2) Subject to subsection (3), in any winding up or other dissolution of a registered insurer which carries on long term business—

- (a) the assets representing the fund maintained by the insurer in respect of its long term business shall be available only for meeting the liabilities of the insurer attributable to that business;
- (b) the other assets of the insurer shall be available only for meeting the liabilities of the insurer attributable to its other business.

(3) Where the value of the assets mentioned in either paragraph of subsection (2) exceeds the amount of the liabilities mentioned in that paragraph, the restriction imposed by that subsection shall not apply to so much of those assets as represents the excess.

37. (1) This section shall have effect in relation to the winding up of a registered insurer which carries on long term business.

Continuation of long term business of insurer in liquidation.

(2) The liquidator shall, unless the Ordinary Court otherwise orders, carry on the long term business of the insurer with a view to its being transferred as a going concern to another body, whether an existing body or a body formed for that purpose; and, in carrying out that business, the liquidator may agree to the variation of any contracts of insurance in existence when the Act of Court ordering the winding up is made, but shall not effect any new contracts of insurance.

(3) The Ordinary Court may, if it thinks fit and subject to such conditions (if any) as it may determine, reduce the amount of the contracts made by the insurer in the course of carrying on its long term business.

(4) The Ordinary Court may, on the application of the liquidator or the Committee, appoint an independent actuary to investigate the long term business of the company and to report to the liquidator and to the Committee on the desirability or otherwise of that business being continued and on any reduction in the contracts made in the course of carrying on that business that may be necessary for its successful continuation.

(5) The provisions of section 31 shall not apply in the course of the winding up of a registered insurer which carries on long term business and which would be "the transferor" for the purposes of that section.

Responsi-
bility for
fraudulent
trading
disclosed in
course of
winding up.

38. (1) If, in the course of the winding up of a registered insurer, it appears that any insurance business of the insurer has been carried on—

(a) with intent to defraud creditors, shareholders, policyholders or former policyholders of the insurer or creditors of any other person; or

(b) for any fraudulent purpose,

the Ordinary Court, on the application of the liquidator or any creditor, shareholder, policyholder or former policyholder of the insurer, may, if it thinks it proper to do so, declare that any person who was knowingly party to the carrying on of that business in that manner shall be personally respon-

sible, without any limitation of liability, for all or any of the debts or other liabilities of the insurer as the Court may direct.

(2) Where the Ordinary Court makes a declaration under subsection (1), it may make such order as it thinks proper for the purpose of giving effect to that declaration.

(3) Where the Ordinary Court makes an order under subsection (2) directing that any money or property shall be repaid or restored to a registered insurer which carries on long term business or that any sum be contributed to its assets, then, if and in so far as the wrongful act which is the reason for the making of the order related to assets representing a fund maintained by the insurer in respect of that business, the Ordinary Court shall include in the order a direction that the money, property or contribution shall be treated for the purposes of this Law as assets of that fund, and this Law shall have effect accordingly.

(4) The provisions of this section shall have effect notwithstanding that the person concerned may be liable to other civil action or to criminal prosecution in respect of the matters on the ground of which a declaration under subsection (1) is to be made.

39. In the case of a registered insurer which has been proved to be unable to pay its debts, the Ordinary Court may, if it thinks it proper to do so, reduce the amount of the contracts of the insurer on such terms and subject to such conditions as the Court thinks just, in place of ordering the winding up of the insurer.

Reduction of contracts as alternative to winding up.

PART IV

INSURANCE MANAGERS

Restriction
on acting as
insurance
manager.

40. Subject to section 41, a person shall not act in Guernsey as an insurance manager unless authorised to do so under section 43.

Existing
insurance
managers.

41. A person who, immediately before the commencement of this Law, was acting in Guernsey as an insurance manager and who intends to continue so to act on and after the commencement of this Law shall, within one month of the commencement of this Law, make an application for an authorisation under section 43 in accordance with section 42; and in the event of such a person making such an application he shall not be taken for the purposes of this Law to be acting or to have acted as an insurance manager in contravention of section 40 pending the determination of his application.

Application
for
authorisation
to act as
insurance
manager.

42. A person wishing to be authorised under section 43 to act in Guernsey as an insurance manager shall—

- (a) make an application in that behalf to the Committee in such form as the Committee may from time to time require; and
- (b) pending the determination of the application, furnish the Committee with such information and evidence as the Committee may require for the purpose of determining the application.

Authorisa-
tion by the
Committee.

43. (1) On an application being made to it in that behalf under and in accordance with section 42, the Committee may—

- (a) subject to subsection (2), authorise the applicant to act in Guernsey as an insurance manager; or
- (b) subject to section 51, refuse to grant the application.

(2) The Committee shall not authorise a person to act in Guernsey as an insurance manager if either—

- (a) the Committee is not satisfied that he is a fit and proper person to be authorised so to act and that he has sufficient special knowledge and practical experience of insurance business so to act; or
- (b) the Committee is of the opinion that it would not be in the best economic interests of Guernsey for the applicant to be authorised so to act.

44. An authorisation under section 43 may be a restricted authorisation, authorising the applicant to act in Guernsey as an insurance manager only in respect of the insurer or insurers specified in the authorisation. Restriction of authorisation.

45. An authorisation under section 43 shall continue to be valid until it is withdrawn under section 46. Period of validity of authorisation.

46. Subject to section 51, the Committee may, if it thinks fit, withdraw an authorisation granted to any person under section 43 at the request of that person or if— Withdrawal of authorisation.

- (a) the Committee is satisfied that he is no longer a fit and proper person to act in Guernsey as an insurance manager;

- (b) the Committee is satisfied that he has not acted in Guernsey as an insurance manager during the preceding year;
- (c) he has failed to comply with section 48 or section 49;
- (d) he has failed to satisfy an obligation to which he is subject by virtue of this Law;
- (e) he has furnished misleading or inaccurate information to the Committee under or for the purposes of any provision of this Law;
- (f) he has acted as an insurance manager in circumstances in which he was not authorised so to act;
- (g) he has been convicted of an offence under this Law or convicted of any offence involving fraud or dishonesty.

List of
authorised
insurance
managers.

47. (1) The Committee shall, not later than the expiration of the 12 months next following the commencement of this Part of this Law, establish and maintain a list of all insurance managers who are authorised for the time being, in such form as the Committee may from time to time determine, and containing in relation to each authorised insurance manager—

- (a) the name of the authorised insurance manager; and
- (b) the address of the authorised insurance manager; and
- (c) in the case of an insurance manager authorised to act as such in Guernsey only in respect of a specified insurer or insurers, the insurer or insurers so specified; and

- (d) such other particulars as the States may by Ordinance prescribe.

(2) If at any time it appears to the Committee, whether in consequence of any withdrawal of authorisation under section 46, or of a change in relation to an authorised insurance manager, or due to an error or for any other reason, that any of the particulars contained in an entry in the list maintained under subsection (1) are inaccurate, the Committee shall erase the entry, add to it or make any other alteration the Committee considers necessary.

(3) If an addition, erasure or other alteration is made under subsection (2) in consequence of any withdrawal of authorisation under section 46 or of a change in the insurer or insurers in respect of which an authorised insurance manager is authorised to act, the Committee shall cause particulars of the addition, erasure or other alteration, as the case may be, to be published in *La Gazette Officielle* on at least two occasions within the 14 days next following the date on which the addition, erasure or other alteration is made.

(4) Subsections (3), (4), (5) and (8) of section 17 shall have effect as respects the list required to be maintained under subsection (1) of this section as if—

- (a) any reference in those provisions to the list were a reference to the list required to be maintained under this section; and
- (b) any reference in those provisions to insurers or to registered insurers were a reference to authorised insurance managers.

48. (1) An authorised insurance manager shall—

- (a) during January in each year, furnish the Committee with:
 - (i) the names; and

Insurance managers to inform Committee of insurers for which they act.

(ii) the addresses or principal places of business; and

(iii) as respects bodies corporate, the places of incorporation

of all insurers for which he has acted on a continuing basis, whether as an insurance manager or by providing any insurance advice or consultancy services or any administrative or secretarial services, at any time during the immediately preceding calendar year; and

(b) whenever required to do so by the Committee by notice in writing, furnish the Committee with:

(i) the names; and

(ii) the addresses or principal places of business; and

(iii) as respects bodies corporate, the places of incorporation

of all insurers for which he acts in any of the capacities specified in paragraph (a) of this subsection at the date of the service of the notice, and of all insurers for which he has so acted at any time during the 12 months immediately preceding that date.

(2) When furnishing any information required to be furnished by or under subsection (1) an authorised insurance manager shall differentiate between those insurers which are registered insurers and those which are not.

49. An authorised insurance manager shall furnish the Committee with an address in Guernsey which shall be his address for service of any document for the purposes of this Law.

Insurance
manager's
address for
service.

PART V

SUPPLEMENTARY

Insurance transactions in breach of Law

50. It is hereby declared for the avoidance of doubt that no transaction in the course of the effecting or carrying out of a contract of insurance shall be void or voidable by reason only that at the time of that transaction any party thereto is in breach of a provision of this Law or of any Ordinance or regulations made under this Law.

Insurance
transactions
in breach of
Law.

Representations and appeals

51. (1) Before any of the decisions mentioned in subsection (2) is taken by the Committee the procedure prescribed in this section shall be followed.

Representa-
tions
concerning
decisions of
Committee.

(2) The decisions referred to in subsection (1) are any decision—

- (a) under section 7(2), to refuse to give consent to a Guernsey body to carry on any description of insurance business outside Guernsey;
- (b) under section 11(1)(b), to refuse to grant an application for registration as an insurer in respect of any description of insurance business;
- (c) under section 13(1), to impose any condition on the registration of an insurer (whether at the time of registration or subsequently);

- (d) under section 13(4), to vary any condition imposed under section 13(1);
- (e) under section 16, to cancel the registration of an insurer otherwise than at the request of the insurer;
- (f) under section 43(1)(b), to refuse to grant an application for authorisation to act in Guernsey as an insurance manager;
- (g) under section 46, to withdraw an authorisation to act in Guernsey as an insurance manager.

(3) Before taking any decision mentioned in subsection (2) the Committee shall serve on the person in respect of whom the decision may be taken a notice in writing stating—

- (a) that the Committee is considering taking the decision for reasons which will be furnished in writing if that person so requests; and
- (b) that that person may, within 28 days of the date of the service of the notice, make written or oral representations to the Committee in such manner as the Committee may from time to time resolve; and
- (c) that in the event of the Committee taking the decision an appeal against the decision may be brought under section 52 of this Law.

(4) The Committee shall—

- (a) furnish written reasons why it is considering taking any decision mentioned in subsection (2) within two working days of being requested so to do in accordance with subsection (3); and

- (b) consider any representations made in response to a notice under subsection (3) before giving further consideration to the matter to which the notice relates.

(5) The period of 28 days mentioned in paragraph (b) of subsection (3) may be reduced, in any case in which the decision concerned is a decision under section 13 or section 16 and in which the Committee considers it necessary to reduce that period, to such period of not less than two working days as the Committee may in any particular case resolve; and if the Committee does so resolve in any particular case then paragraph (a) of subsection (4) shall have effect as if for "two working days" there were substituted "24 hours".

(6) For the purposes of this section a working day is any day other than a Saturday, a Sunday and any day declared by an Ordinance of the States to be a bank holiday.

52. (1) A person aggrieved by a decision of the Committee— Appeals
against
decisions of
Committee.

- (a) refusing the registration of any body as an insurer; or
- (b) refusing the authorisation of any person to act in Guernsey as an insurance manager; or
- (c) refusing an application under section 7 by a Guernsey body for consent to carry on insurance business outside Guernsey; or
- (d) cancelling the registration of any body as an insurer; or

(e) withdrawing the authorisation of any person to act in Guernsey as an insurance manager; or

(f) imposing or varying any condition under section 13,

may appeal to the Ordinary Court against that decision on the grounds that it was ultra vires or was an unreasonable exercise of the powers of the Committee.

(2) An appeal under this section shall be instituted—

(a) within 28 days of the date on which notice in writing of the decision was served by the Committee on the person to whom the decision relates; and

(b) by a summons served on the President of the Committee stating the grounds, and setting out the material facts, on which the appellant relies.

(3) If an appeal under this section has not been determined by the Ordinary Court within three months of the date of the summons by which it was instituted, the Committee may apply to the Ordinary Court, by a summons served on the appellant to show cause why the appeal should not be dismissed for want of prosecution; and upon the making of such an application the Ordinary Court may dismiss the appeal or make such other order as it considers just.

(4) On an appeal under this section, the Ordinary Court may quash or confirm the decision of the Committee against which the appeal is brought, or may substitute any other decision which the Committee could have made.

(5) Subject to subsection (6), from the time of the institution of an appeal under this section, the decision of the Committee against which the appeal is brought shall not operate so as to—

- (a) require the appellant to do anything which he would not otherwise have been required to do; or
- (b) prohibit the appellant from doing anything which he could otherwise have done,

unless and until the decision is confirmed by the Ordinary Court or the appeal is withdrawn or is dismissed for want of prosecution under subsection (3).

(6) The Ordinary Court may, upon the application of the Committee, direct that the provisions of subsection (5) shall not have effect in any particular case; and a direction under this subsection may be given on such terms as that Court thinks just.

(7) A decision of the Ordinary Court under this section shall be final as to any question of fact, but an appeal from such a decision shall lie to the Court of Appeal on any question of law within such period and in such manner as may be prescribed by Order of the Royal Court.

Unregistered insurers

53. (1) A person shall not issue an insurance advertisement inviting persons in Guernsey to enter into or to offer to enter into a contract of insurance with an insurer which is neither registered nor exempted under Part I in respect of the contract in question.

Advertisements
relative to
unregistered
insurers.

(2) For the purposes of this section an insurance advertisement issued by any person on behalf of another person shall be treated as an insurance advertisement issued by that person.

Information
in invitations
relative to
unregistered
insurers.

54. (1) This section applies to any case, other than a case specified in paragraph 2 of Schedule 4, in which a person, in the course of carrying on any business or profession, invites a person in Guernsey to take any step with a view to entering into or offering to enter into a contract of insurance with an insurer which is neither registered nor exempted under Part I in respect of the contract in question.

(2) In any case to which this section applies the person who issues the invitation shall provide any person to whom the invitation is issued, in the manner specified in Schedule 4, with information indicating that the insurer to which the invitation relates is neither registered nor exempted under Part I in respect of the contract in question.

(3) The States may by Ordinance repeal, vary or add to any of the provisions of Schedule 4.

Information
as to services
for
unregistered
insurers.

55. A person who provides or has provided on a continuing basis at any time after the commencement of this section any insurance managerial, insurance advisory or insurance consultancy services, or any administrative or secretarial services, for an insurer who is neither registered nor exempted under Part I shall—

- (a) as soon as practicable after commencing to provide those services, inform the Committee in writing of the name of the insurer and of the nature of those services;

- (b) inform the Committee in writing, as soon as practicable, of any change in the nature of those services;
- (c) furnish the Committee, as soon as practicable, with such further details as the Committee may from time to time reasonably require as to the insurer and the services provided.

Power of Committee to require information, etc.

56. (1) The Committee may require any registered insurer or any authorised insurance manager to furnish the Committee, on any occasion or at specified times or intervals, with such information as the Committee may reasonably require about any specified matter relating to a registered insurer being, if the Committee so requires, information verified in a specified manner.

Power of
Committee
to require
information
and produc-
tion of
documents.

(2) It is hereby declared for the avoidance of doubt—

- (a) that a requirement to furnish information under subsection (1) may be imposed on a particular registered insurer or authorised insurance manager, on all registered insurers or authorised insurance managers or on any class of registered insurers or authorised insurance managers;
- (b) that a requirement as to the manner in which such information is to be verified may direct its annexation to any accounts to be deposited with the Committee in accordance with section 25 and that it be reported upon by the auditor of those accounts in such manner as the Committee may specify.

(3) The Committee may—

- (a) require a registered insurer or an authorised insurance manager to produce, at such time and place as the Committee may specify, such books or papers relating to a registered insurer as the Committee may reasonably specify; or
- (b) authorise any person, on producing (if required to do so) evidence of his authority, to require a registered insurer or authorised insurance manager to produce to him forthwith any books or papers relating to a registered insurer which that person may reasonably specify.

(4) Where by virtue of subsection (3) the Committee or a person authorised by the Committee has power to require the production of any books or papers from a registered insurer or authorised insurance manager, the Committee or that authorised person shall have the like power to require production of those books or papers from any person who appears to the Committee or that authorised person to be in possession of them.

(5) Any power conferred by or by virtue of subsection (3) or subsection (4) to require a registered insurer, an authorised insurance manager or other person to produce books or papers includes power—

- (a) if the books or papers are produced—
 - (i) to take copies of them; and
 - (ii) to require the insurer or manager or any other person who is or was directly or indirectly employed (whether or not under a contract of service) by the insurer or insurance manager, and any

person who has or has had any direct or indirect proprietary, financial or other interest in or connection with the insurer, to provide an explanation of any of those books and papers;

- (b) if any of the books or papers are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(6) A statement made by a person in compliance with a requirement imposed on him by virtue of this section may be used in evidence against him.

(7) In this section "books or papers" includes accounts, deeds, writings and documents however produced; and any power conferred by this section to require the production of books or papers includes power to require the reproduction in a legible form of any record maintained otherwise than in a legible form.

Ordinances and regulations

57. (1) The States may by Ordinance make provision for the purpose of carrying this Law into effect and for prescribing any matter which may be prescribed under this Law by Ordinance of the States. Ordinances
and
regulations.

(2) The States may by Ordinance empower the Committee to prescribe by regulations anything which may be prescribed under this Law by Ordinance of the States.

(3) Without prejudice to any specific provision of this Law, an Ordinance or regulations under this Law may contain such incidental or supplementary provisions as appear to the States or the Committee, as the case may be, to be expedient for the purposes of the Ordinance or regulations.

(4) An Ordinance or regulations under this Law may make different provision in relation to different cases or circumstances.

(5) Any power conferred by this Law to make an Ordinance or regulations includes power to vary or revoke an Ordinance or regulations so made by a subsequent Ordinance or subsequent regulations, as the case may be.

Regulations
to be made
by the
Committee
and laid
before the
States.

58. (1) Regulations which may be made under this Law or under an Ordinance made under this Law may be made by the Committee.

(2) Regulations 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, the regulations shall cease to have effect but without prejudice to anything done under the regulations or to the making of new regulations.

Criminal proceedings

Offences.

59. (1) Subject to subsection (2), a person who carries on, or holds himself out as carrying on, insurance business in contravention of Part I is guilty of an offence.

(2) A person shall not be taken to carry on insurance business in contravention of Part I by reason only of carrying on business for the purpose of discharging liabilities lawfully assumed by him before the commencement of that Part.

(3) A person who acts as an insurance manager in contravention of Part IV is guilty of an offence.

(4) A person who—

- (a) for the purpose of obtaining registration as an insurer under Part I; or
- (b) for the purpose of obtaining the grant under Part IV of an authorisation to act in Guernsey as an insurance manager; or
- (c) in purported compliance with a requirement imposed by or under section 18, 48, 54, 55 or 56; or
- (d) in any document or notice which, by section 25, 27(2) or 28(1)(b), is required to be deposited with or served on the Committee; or
- (e) in any statement served pursuant to section 31(4)(a),

furnishes information or makes a statement which he knows to be false or misleading in a material particular, or recklessly furnishes information or makes a statement which is false or misleading in a material particular, is guilty of an offence.

(5) A person who, by any statement, promise or forecast which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making (dishonestly

or otherwise) of any statement, promise or forecast which is misleading, false or deceptive, induces or attempts to induce another person to enter into or to offer to enter into any contract of insurance with an insurer is guilty of an offence.

(6) A person who issues an insurance advertisement in contravention of section 53 is guilty of an offence.

(7) A person who, in a case to which section 54 applies, fails to comply with subsection (2) of that section, is guilty of an offence.

(8) A person who is knowingly party to the carrying on by a registered insurer of any insurance business with such intent or for such purpose as is mentioned in section 38(1) is guilty of an offence.

(9) A registered insurer which contravenes or fails to comply with a provision of section 19, 22, 25, 27 or 31 is guilty of an offence.

(10) A person who, knowingly or recklessly and without lawful authority or excuse, fails to comply with, or with a requirement imposed under, section 14(2), 14(3), 18, 48, 55 or 56 is guilty of an offence.

(11) A person who contravenes or fails to comply with any provision of:

(a) an Ordinance made under this Law; or

(b) regulations made under this Law or under any such Ordinance,

is, unless that Ordinance or those regulations otherwise provide, guilty of an offence.

60. (1) A person guilty of an offence under section 59, other than an offence under subsection (10) or subsection (11) of that section, shall be liable— Penalties.

(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 £1,000.

(2) A person guilty of an offence under section 59(10) or section 59(11) shall be liable, on summary conviction, to a fine not exceeding £500.

61. (1) Without prejudice to section 62, proceedings for an offence alleged to have been committed under this Law by an unincorporated body shall be brought in the name of that body and not in that of any of its members and, for the purpose of such proceedings, the service of any document on that body shall be carried out as if it were a document to be served under this Law. Criminal proceedings against unincorporated bodies.

(2) A fine imposed on an unincorporated body on its conviction of an offence under this Law shall be paid out of the funds of that body.

62. (1) Where an offence under this Law committed by a body corporate or by an unincorporated body is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of that body or any person who was purporting to act in any such capacity, he, as well as that body, shall be guilty of that offence and liable to be proceeded against and punished accordingly. Criminal liability of directors, etc.

(2) For the purposes of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

Power of States to exclude liability

Power of
States to
exclude
liability.

63. The States may by Ordinance provide that no liability shall be incurred by the States or the Committee, by any member or officer of the Committee, by Her Majesty's Greffier or by any officer of Her Majesty's Greffier in respect of anything done or omitted to be done after the commencement of the Ordinance in the discharge or purported discharge of any of the functions of the Committee or of Her Majesty's Greffier under this Law, unless the thing is done or omitted to be done in bad faith.

Miscellaneous

Service of
notices and
documents.

64. (1) Any notice or document to be served by or on behalf of the Committee under this Law shall, without prejudice to any other valid method of service, be validly served—

- (a) on any person, if delivered to him, or left or sent by registered post or by recorded delivery service addressed to him, at his usual or last known place of abode;
- (b) on any unincorporated body, if delivered to any partner, manager or other similar officer of that body, or if left at, or sent by registered post or by recorded delivery service to, the principal or last known principal place of business of that body;
- (c) on any body corporate if left at, or sent by registered post or by recorded delivery ser-

vice to, its registered office if situate in Guernsey or, if its registered office is not so situate, its principal or last known principal place of business in Guernsey.

(2) Any notice required by virtue of this Law to be served on a registered insurer may be served on the general representative of that insurer; and any notice required by virtue of this Law to be served on an authorised insurance manager may be served on him at his address for service under section 49.

65. (1) In this Law, except where the context otherwise requires, any expression for which there is an entry in the first column of Schedule 5 has the meaning given against it in the second column of that Schedule or shall be construed in accordance with directions given against it in that column, and related expressions shall be construed accordingly.

General
interpreta-
tion.

(2) Except where the context otherwise requires—

- (a) a reference in this Law to a numbered or lettered Part, section, subsection, paragraph or Schedule is a reference to the Part, section, subsection or paragraph of, or to the Schedule to, this Law which is so numbered or lettered;
- (b) a reference in a Schedule to this Law to a numbered or lettered paragraph or sub-paragraph is a reference to the paragraph or sub-paragraph in that Schedule which is so numbered or lettered;
- (c) a reference in a provision of this Law to a numbered or lettered subsection, paragraph or sub-paragraph is a reference to the subsection, paragraph or sub-paragraph of that provision which is so numbered or lettered.

(3) Except where the context otherwise requires, any 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.

Effect on
other Laws
relating to
insurers.

66. The provisions of this Law are in addition to, and save where the context otherwise requires shall not be construed as derogating from, any other requirement to which an insurer may be subject, including, without prejudice to the generality of the foregoing, any provision of—

- (a) the Guernsey Company Law of 1901;
- (b) the Alderney Company Law of 1894;
- (c) the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Laws, 1936 to 1983(b);
- (d) the Road Traffic (Compulsory Third-Party Insurance) (Alderney) Law, 1950(c);
- (e) the Surf-Riding (Longboards) (Compulsory Third-Party Insurance) (Guernsey) Law, 1969(d);
- (f) the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972(e);

(b) 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.

(c) Ordres en Conseil Vol. XIV, p. 209; Vol. XVIII, p. 81; Vol. XXIII, p. 364.

(d) Ordres en Conseil Vol. XXII, pp. 2 and 53; Vol. XXIV, p. 250.

(e) Ordres en Conseil Vol. XXIII, p. 515; Vol. XXIV, p. 250; Ordinance No. XXXIV of 1981.

- (g) the Steam Boilers (Insurance) Ordinance, 1952(f).

67. The enactments mentioned in the first column of Schedule 6 shall have effect subject to the amendments specified in the second column of that Schedule.

68. (1) This Law applies in the Island of Guernsey (including Herm and Jethou) and in the Island of Alderney; and the Interpretation (Guernsey) Law, 1948(g) applies to the interpretation of this Law throughout those islands.

Application of Law, and interpretation as respects Alderney.

(2) In this Law, subject to the following provisions of this section and except where the context otherwise requires,—

- (a) “Guernsey” includes Alderney;
- (b) “a Guernsey body” includes an Alderney body;
- (c) “a Guernsey company” includes an Alderney company;
- (d) in section 8(1)(a) (but not in any other provision of this Law) “the States” includes the States of Alderney.

(3) In section 19(1) “Guernsey” means the Island of Guernsey (including Herm and Jethou) except to the extent that in any particular case the Committee may approve, as a fit and proper person to act as the general representative of an insurer which is an Alderney body, a person who is ordinarily resident in the Island of Alderney.

(f) Recueil d'Ordonnances Tome X, p. 311.

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

(4) In section 31(4) “Guernsey” means the Island of Guernsey (but excluding both Herm and Jethou); but in its application to a case in which the transferor or the transferee is an Alderney body that subsection shall have effect as if after each reference therein to Guernsey there were inserted “and at an address in Alderney”.

(5) This Law applies to Alderney companies as it applies to Guernsey companies subject to the modifications that—

- (a) for the references to the Guernsey Company Law of 1908 in sections 33, 34 and 35 and for the references to Article LXXII of that Law in sections 12, 33 and 35 there are respectively substituted references to the Alderney Company Law of 1962 and to section 2 of the Alderney Company Law of 1962;
- (b) for the reference to Article LXXI of the Guernsey Company Law of 1908 in section 36(1) there is substituted a reference to Article XXXVIII of the Alderney Company Law of 1894; and
- (c) for the references to the Ordinary Court in sections 34, 37, 38 and 39 there are substituted references to the Court of Alderney.

(6) In section 49 “Guernsey” means the Island of Guernsey (including Herm and Jethou) except to the extent that in any particular case the Committee may consent in writing to the address for service of an insurance manager being an address in the Island of Alderney.

(7) Any provision of this Law requiring a notice or particulars to be published in *La Gazette Officielle* shall be construed as including a requirement—

- (a) that a copy of the notice or particulars shall be sent or delivered to the Clerk of the States of Alderney; and
- (b) that the Clerk of the States of Alderney shall forthwith cause a copy of the notice or particulars to be affixed to the notice boards outside the Court House and near to the gate of the Parish Church in Alderney and to remain there for at least seven days.

69. This Law may be cited as the Insurance Citation. Business (Guernsey) Law, 1986.

70. This Law shall come into force on such day as the States may by Ordinance appoint in that behalf, and different days may be so appointed for different provisions of this Law or for different purposes.

SCHEDULE 1 Section 3

DESCRIPTIONS OF LONG TERM BUSINESS

Life and annuity

Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life.

Marriage and birth

Effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.

Permanent health

Effecting and carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that—

- (a) are expressed to be in effect for a period of not less than five years, or without limit of time, and
- (b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.

Tontines

Effecting and carrying out tontines.

Capital redemption

Effecting and carrying out capital redemption contracts.

Pension fund management

Effecting and carrying out contracts to manage the investments of pension funds that are combined with contracts of insurance.

SCHEDULE 2 Sections 20 and 33

MARGIN OF SOLVENCY, ASSETS AND LIABILITIES

Margin of Solvency

1. (1) The margin of solvency for the purposes of this Law in the case of a registered insurer is an amount of not less than the sum of—

- (a) 18 per centum of that insurer's first £5,000,000 of net premium income in respect of general business; and
- (b) 16 per centum of the amount by which that insurer's net premium income in respect of general business exceeds £5,000,000; and
- (c) if the insurer carries on long term business other than business of the type mentioned in section 29(2), whichever is the greater of—

- (i) £50,000; or
- (ii) $2\frac{1}{2}$ per centum of so much of the value of the fund required to be maintained by that insurer under section 29(1) as does not comprise such a part of that fund as is mentioned in section 29(2).

(2) For the purposes of this paragraph an insurer's net premium income in respect of general business shall be taken to be—

- (a) during the financial year in which the insurer first carries on general business in Guernsey, the amount stated in the insurer's application for registration in respect of that business as the maximum gross premium income which the insurer proposes to earn in respect of general business during that financial year reduced by the amount stated in that application as the total estimated rebates, refunds and reinsurance commissions which will, on the basis of that proposed maximum gross premium income, be payable by the insurer, and, subject to sub-paragraph (3), by the gross amount of any reinsurance which will, on that basis, be ceded by the insurer in respect of general business during that financial year;
- (b) at any other time, the gross premium income earned in respect of general business during the insurer's last preceding financial year reduced by any rebates, refunds and reinsurance commissions payable by the insurer, and, subject to sub-paragraph (3), by the gross amount of any reinsurance ceded by the insurer, during that preceding financial year:

PROVIDED THAT if a registered insurer's first or preceding financial year, as the case may be, is not a period of 12 calendar months that insurer's net premium income in respect of general business shall be taken to be an amount calculated in accordance with this sub-paragraph divided by the number of days in that first or preceding financial year, as the case may be, and the resultant figure multiplied by 365.

(3) Reinsurance ceded by an insurer to a person with whom the insurer is associated shall not be taken into account for the purposes of this paragraph unless it is so ceded to a registered insurer or the Committee, in any particular case, consents in writing to its being so taken into account.

Approved assets

2. (1) Of the value of the assets which a registered insurer carrying on general business must at any time have in order to maintain the minimum margin of solvency which that insurer is required by this Law to maintain in respect of general business, at least 75 per centum shall be approved assets.

(2) Of the value of the assets which a registered insurer carrying on long term business must at any time have in order to maintain the minimum margin of solvency which that insurer is required by this Law to maintain in respect of long term business, at least 25 per centum shall be approved assets.

(3) For the purposes of this Law approved assets are, subject to sub-paragraph (4),—

(a) cash in hand and on deposit with banks;

- (b) certificates of deposit issued by banks;
- (c) Eurobonds of such description as may, from time to time, be prescribed by regulations made by the Committee under this paragraph;
- (d) securities quoted on a recognised stock exchange;
- (e) net investment income receivable in relation to the assets mentioned in items (a), (b), (c) and (d) of this sub-paragraph;
- (f) premiums receivable;
- (g) reinsurance balances receivable;
- (h) accounts receivable, net of provision for bad and doubtful debts;
- (i) irrevocable letters of credit provided by a bank registered under any Ordinance made under section 1 of the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969, for such amount and on such conditions as have been approved by the Committee.

(4) An amount receivable or balance due from a person with whom an insurer is associated is not an approved asset of that insurer unless in any particular case the Committee consents in writing to its being regarded as such.

Valuation of assets and liabilities

3. (1) Subject to sub-paragraph (2), the value of an asset for the purposes of this Law is its market value or, if no such value is ascertainable, shall be determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurers.

(2) The value of any assets of the fund required to be maintained by a registered insurer under section 29(1) which are matched by long term liabilities in respect of maturity dates and which fall within any of the descriptions of approved assets in paragraphs 2(3)(c) or 2(3)(d) may be taken to be their maturity value if that value is assigned to them in the accounts last deposited under section 25 and considered appropriate by the auditor who audited those accounts under section 24.

4. (1) Subject to sub-paragraph (2), the amount of any liabilities of an insurer shall be determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurers.

(2) The liabilities of any long term business carried on by an insurer shall be taken to be whichever is the greater of—

- (a) the amount which, in respect of that business, for the time being stands to the credit of the fund maintained by the insurer under section 29(1); or
- (b) the amount of those liabilities last ascertained by an investigation under section 28.

5. If in any particular case the Committee so consents in writing, the assets and liabilities of an insurer to be taken into account for the purposes of this Schedule may be taken to include all those assets and liabilities disclosed by group accounts dealing with the state of affairs and the profit or loss of the insurer and any subsidiary of the insurer which is a Guernsey company not engaged in trading otherwise than by dealing in investments.

Interpretation of Schedule

6. (1) For the purposes of this Schedule an insurer is associated with a person if the insurer knows or ought to know that either:

- (a) the insurer has any direct or indirect proprietary, financial or other interest in or connection with that person; or
- (b) any other body or any individual has any direct or indirect proprietary, financial or other interest in or connection with both the insurer and that person.

(2) In this Schedule—

“Eurobond” means a security—

- (a) which is neither preference stock nor preference share capital; and
- (b) which is issued in bearer form; and
- (c) which carries a right to interest either at a fixed rate or at a rate bearing a fixed relationship to a standard published base rate; and
- (d) which does not carry a right to any other form of benefit, whether in the nature of interest, participation in profits or otherwise; and
- (e) the interest on which is payable without any deduction in respect of income tax or of any tax of a similar character imposed by the laws of a territory outside Guernsey;

but, notwithstanding anything in item (d) of this definition, a security is not prevented from being a Eurobond by reason only that it carries a right to convert into a security of another description or to subscribe for further securities (whether of the same description or not);

“recognised stock exchange” means any market for the buying and selling of securities which is situate in, and recognised as a stock exchange within the meaning of the law relating to stock exchanges of,—

- (a) any member State of the European Economic Community; or
- (b) Australia, Austria, Canada, Finland, Hong Kong, Japan, Norway, Singapore, South Africa, Sweden, Switzerland or the United States of America.

SCHEDULE 3

Section 24

REQUIREMENTS AS TO AUDIT OF ACCOUNTS AND AUDITOR'S REPORT

General duty of auditor

1. An auditor acting pursuant to section 24 shall carry out sufficient investigation to enable him to form an opinion as to the matters on which his opinion is required by paragraph 2 of this Schedule to be expressed in his report.

Auditor's Report

2. The report of an auditor made pursuant to section 24 shall—
 - (a) state whether, in the auditor's opinion, the accounts have been properly prepared in accordance with the provisions of this Law and with generally accepted accounting concepts, bases and policies appropriate for insurers;

- (b) make specific reference to any transaction, other than a transaction in the normal course of business, which has, in the auditor's opinion, resulted in the balance sheet showing a situation materially different from that which would otherwise have obtained and which is not adequately disclosed in the accounts;
- (c) declare any respect in which, in the auditor's opinion, the information given in an annual return of the insurer prepared pursuant to section 22 is inconsistent with the accounts of the insurer for the financial year to which that annual report relates.

Statement in connection with abridged accounts

- 3. If in any case the Committee approves accounts in an abridged form for the purposes of section 26 the auditor's report in relation to those abridged accounts shall include a statement that they are in the form approved by the Committee.

SCHEDULE 4 Section 54

INFORMATION IN INVITATIONS RELATIVE
TO UNREGISTERED INSURERS

Manner in which information is to be provided

- 1. The information required under section 54(2) shall be provided in accordance with the following provisions of this paragraph—

- (a) if the invitation is issued in writing and is sent or delivered, by sending or, as the case may be, by delivering with the invitation a written statement containing that information;

- (b) if the invitation is issued orally, by supplying that information orally to the person to whom the invitation is issued and—
 - (i) if that person is present when the invitation is issued, by delivering to him immediately thereafter a written statement containing that information;
 - (ii) if that person is not so present, by sending by post or causing to be delivered to him as soon as reasonably practicable, at the address supplied by him for the purpose or at his last known address, a written statement containing that information.

Cases to which section 54 does not apply

2. Section 54 does not apply to any case in which the invitation is—

- (a) an invitation for the renewal or amendment of the terms of a contract of insurance effected as a result of an invitation issued in accordance with section 54 where there has been no significant change in the circumstances relevant to the information provided when the contract was first effected;
- (b) an amendment of an invitation issued in accordance with section 54 where there has been no significant change in the circumstances relevant to the information provided when the invitation was first issued.

SCHEDULE 5

Section 65(1)

GLOSSARY OF EXPRESSIONS

| Expression (1) | Meaning (2) |
|---|---|
| "actuary". | a fellow of either the Institute of Actuaries in England or the Faculty of Actuaries in Scotland or any other person approved for the time being by the Committee as an actuary for the purposes of this Law. |
| "administrative or secretarial services". | includes general accountancy and book-keeping services, but not the audit of accounts. |
| "advertisement". | includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph films or by way of sound broadcasting or television, but does not include an advertisement addressed principally to persons outside Guernsey and contained in a publication the principal circulation of which is outside Guernsey. |
| "Alderney body". | a body incorporated under the Alderney Company Law of 1894 and an unincorporated body whose principal place of business is in Alderney. |

| Expression (1) | Meaning (2) |
|-------------------------------------|---|
| "Alderney company". | a body incorporated under the Alderney Company Law of 1894. |
| "the Alderney Company Law of 1894". | the Law entitled "Loi relative aux Sociétés Anonymes ou à Responsabilité Limitée" registered on the records of the Island of Guernsey on 22nd May, 1894 ^(h) . |
| "the Alderney Company Law of 1962". | the Companies (Amendment) (Alderney) Law, 1962 ⁽ⁱ⁾ . |
| "annuities on human life". | does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment, or of the dependants of such persons. |
| "approved assets" | see paragraph 2 of Schedule 2. |
| "associated". | see paragraph 6 of Schedule 2. |
| "auditor". | a person who is either— (a) a member of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland or the Chartered Association of Certified Accountants; or |

^(h) Ordres en Conseil Vol. II, p. 451.

⁽ⁱ⁾ Ordres en Conseil Vol. XIX, p. 33.

| Expression (1) | Meaning (2) |
|---------------------------------|--|
| | (b) for the time being authorised by the Committee to audit the accounts of registered insurers as having similar qualifications obtained outside the United Kingdom. |
| "authorised insurance manager". | a person for the time being authorised under section 43 to act in Guernsey as an insurance manager. |
| "body". | a body corporate, whether incorporated in or outside Guernsey, and an unincorporated body. |
| "capital redemption contract". | a contract effected by an insurer (the effecting and carrying out of which does not otherwise constitute insurance business) whereby in return for one or more premiums paid to the insurer a sum or series of sums is to become payable to the insured in the future. |
| "the Committee". | the States of Guernsey Advisory and Finance Committee or such other Committee or body as the States of Guernsey may specify by Ordinance. |
| "contract of insurance". | includes any contract the effecting and carrying out of which constitutes the carrying on of insurance business by virtue of section 1. |

| Expression (1) | Meaning (2) |
|--------------------------------------|---|
| "the Court of Appeal". | the Court of Appeal established under the Court of Appeal (Guernsey) Law, 1961(j). |
| "domestic business". | see section 2. |
| "enactment". | includes an enactment of the Parliament of the United Kingdom and a Measure of the Northern Ireland Assembly. |
| "Eurobond". | see paragraph 6(2) of Schedule 2. |
| "financial loss insurance business". | <p>insurance business consisting of the effecting and carrying out of—</p> <p>(a) contracts of insurance against risks of loss to the persons insured arising from the insolvency of debtors of theirs or from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due;</p> <p>(b) contracts of insurance against risks of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them;</p> |

| Expression (1) | Meaning (2) |
|---|--|
| <p>"financial year".</p> <p>"general business".</p> <p>"general representative".</p> <p>"Guernsey".</p> | <p>(c) contracts for fidelity bonds, performance bonds, administration bonds, bail bonds, customs bonds or similar contracts of guarantee;</p> <p>(d) contracts of insurance against risks of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them or to reduction of the scope of business so carried on;</p> <p>(e) contracts of insurance against risks of loss to the persons insured attributable to their incurring unforeseen expense.</p> <p>each period of 12 months (or such longer or shorter period as may in any particular case be allowed by the Committee) at the end of which the balance of the accounts of an insurer is struck.</p> <p>see section 3.</p> <p>in relation to a registered insurer, the general representative of the insurer for the purposes of section 19.</p> <p>includes the Islands of Herm and Jethou; and, except in sections 19(1), 31(4) and 49, includes the Island of Alderney: see section 68.</p> |

| Expression (1) | Meaning (2) |
|-------------------------------------|---|
| "Guernsey body". | a body incorporated under the Guernsey Company Law of 1908 or an unincorporated body whose principal place of business is in Guernsey. |
| "Guernsey company". | a body incorporated under the Guernsey Company Law of 1908. |
| "the Guernsey Company Law of 1908". | the Law entitled "Loi relative aux Sociétés Anonymes ou à Responsabilité Limitée", registered on 21st March, 1908 ^(k) . |
| "in Guernsey". | for the purposes of this Law— (a) any reference to the carrying on of insurance business in Guernsey includes a reference to the carrying on of insurance business from within Guernsey; (b) any reference to acting in Guernsey as an insurance manager includes a reference to acting from within Guernsey as an insurance manager. |
| "holding company". | shall be construed in accordance with section 20 of the Protection of Depositors (Bailiwick of Guernsey) Ordinance, 1971 ^(l) . |
| "insurance advertisement". | means an advertisement inviting persons to enter into or to offer to enter into contracts of |

(k) Ordres en Conseil Vol. IV, p. 178; Vol. X, p. 298, Vol. XVII, p. 444; Vol. XX, p. 17; Vol. XXIV, p. 14.

(l) Recueil d'Ordonnances Tome XVII, p. 225; Tome XVIII, pp. 24 and 55; No. XXXV of 1980; No. XXVII of 1985.

| Expression (1) | Meaning (2) |
|---------------------------|--|
| | insurance; and an advertisement calculated to lead directly or indirectly to persons entering into or offering to enter into such contracts shall be treated as an advertisement inviting them so to do. |
| “insurance business”. | see section 1. |
| “insurance manager”. | a person who exercises, in relation to any insurer of which he is not an employee, managerial functions or such other functions as may be prescribed by regulations. |
| “insurer”. | a person carrying on, or holding himself out as carrying on, insurance business. |
| “the list”. | in section 17, the list of registered insurers required to be kept under that section; in section 47, the list of authorised insurance managers required to be kept under that section. |
| “long term business”. | see section 3. |
| “long term policyholder”. | a policyholder in respect of a policy the effecting of which by the insurer constituted the carrying on of long term business, or, in the case of a policy effected before the date of commencement of section 3, would have constituted the carrying on of long term business if the policy had been effected on that date. |

| Expression (1) | Meaning (2) |
|-----------------------|---|
| "modifications". | includes exceptions, adaptations and additions. |
| "net premium income". | see paragraph 1 of Schedule 2. |
| "the Ordinary Court". | the Royal Court sitting as an Ordinary Court. |
| "person" | includes a body of persons (whether a body corporate or an unincorporated body). |
| "policy". | <p>in relation to long term business, includes an instrument evidencing a contract to pay an annuity upon human life;</p> <p>in relation to insurance business of any other description, includes a policy under which there is for the time being an existing liability already accrued or under which a liability may accrue;</p> <p>in relation to capital redemption contracts, includes any policy, bond, certificate, receipt or other instrument evidencing the contract with the insurer.</p> |
| "policyholder". | the person who for the time being is the legal holder of the policy securing the contract with the insurer or, in relation to capital redemption business, the person who for the time being is the legal holder of the policy, bond, |

| Expression (1) | Meaning (2) |
|----------------------------------|--|
| | <p>certificate, receipt or other instrument evidencing the contract with the insurer, and—</p> <p>(a) in relation to long term business involving the granting of annuities upon human life, includes an annuitant; and</p> <p>(b) in relation to insurance business of any kind other than such as is mentioned in the foregoing paragraph or capital redemption contracts, includes a person to whom, under a policy, a sum is due or a periodic payment is payable.</p> |
| “recognised stock exchange”. | see paragraph 6(2) of Schedule 2. |
| “registered” and “registration”. | registered and registration under section 11. |
| “registered insurer”. | an insurer for the time being registered under section 11. |
| “regulations”. | regulations made by the Committee under this Law. |
| “the States”. | the States of Guernsey. |
| “subsidiary”. | shall be construed in accordance with section 20 of the Protection of Depositors (Bailiwick of Guernsey) Ordinance, 1971. |

SCHEDULE 6 Section 67
MINOR AND CONSEQUENTIAL AMENDMENTS

| Enactment (1) | Amendment (2) |
|---|---|
| The Third-Parties (Rights against Insurers) (Guernsey) Law, 1936(m). | In section 1(1), for the words from and including the words "as follows" to the end of that subsection there is substituted "to and in the third party". |
| The Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936. | Immediately after section 3(3)(b)(iii) there is inserted the following paragraph: <div style="margin-left: 40px;">“(iv) such assurance company is registered under the Insurance Business (Guernsey) Law, 1986 as an insurer in respect of domestic business or is exempt from section 6 of that Law in relation to insurance of the description set out in subsection (1) of this section by virtue of section 8 of that Law.”.</div> |
| The Road Traffic (Compulsory Third-Party Insurance) (Alderney) Law, 1950. | For the reference to the Guernsey States Board of Administration in section (2)(e) there is substituted a reference to the States of Guernsey Advisory and Finance Committee. |

(m) Ordres en Conseil Vol. X, p. 381.

| Enactment (1) | Amendment (2) |
|---|---|
| The Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969. | <p>In section 5, the words "or the carrying on by any person of insurance business of any of the classes to which this Part of this Law relates" are repealed.</p> <p>Section 6 and section 6A are repealed.</p> <p>In section 7, all the definitions, other than the definitions of "the business of executor or administrator" and "the business of trustee", are repealed.</p> |
| The Surf-Riding (Longboards) (Compulsory Third-Party Insurance) (Guernsey) Law, 1969. | <p>Immediately after the words in section 1(2) there is inserted " ; and a company shall not be so approved unless it is registered under the Insurance Business (Guernsey) Law, 1986 as an insurer in respect of domestic business or is exempt from section 6 of that Law, in relation to insurance of the description set out in subsection (1) of this section, by virtue of section 8 of that Law ".</p> |
| The Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972. | <p>Immediately after the words in section 1(5) there is inserted " ; and a company shall not be so approved unless it is registered under the Insurance Business (Guernsey) Law, 1986 as an insurer in respect of domestic</p> |

| Enactment (1) | Meaning (2) |
|--|---|
| The Income Tax (Guernsey) Law, 1975 ⁽ⁿ⁾ . | <p>business or is exempt from section 6 of that Law, in relation to insurance of the descriptions set out in the preceding subsections of this section, by virtue of section 8 of that Law”.</p> <p>In section 188, for the definition of “insurance company” there is substituted the following definition—</p> <p>““insurance company” means any insurer registered under the Insurance Business (Guernsey) Law, 1986 in respect of long term business and any insurer which is exempt from the requirement of that Law to be registered in respect of long term business by virtue of section 8 of that Law;”.</p> |
| The Protection of Depositors, Companies and Prevention of Fraud (Amendment) (Bailiwick of Guernsey) Law, 1977 ^(o) . | <p>Section 1(c)(ii) and so much of section 1(d) as relates to section 6A of the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969, are repealed.</p> |

(n) Ordres en Conseil Vol. XXV, p. 124.

(o) Ordres en Conseil Vol. XXVI, p. 225.

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