

XIII
1938

ORDRE EN CONSEIL

Ratifiant un Projet de Loi intitulé

**Loi supplémentaire de 1938 à la Loi
ayant rapport aux Pensions Contributives
en cas d'Accidents ou de Décès et pour
la Vieillesse, 1935.**

(Enregistré sur les Records de l'Île de Guernesey le
19 novembre 1938.)



IMPRIMÉ ET PUBLIÉ PAR LA
GUERNSEY "STAR" AND "GAZETTE" LTD.,
IMPRIMEURS OFFICIELS AUX ÉTATS,
BUREAU DE LA GAZETTE OFFICIELLE,
RUE DU BORDAGE.

1938.

ORDRE EN CONSEIL.



A LA COUR ROYALE DE L'ÎLE DE GUERNESEY.

Le dix-neuf novembre mil neuf cent trente-huit, pardevant John Roussel, écuyer, Lieutenant-Baillif ; présents : Jean Allès Simon, Osmond Priaulx Gallienne, Arthur Dorey, Ernest de Garis, Jean Nicolas Robin, Cyril de Putron, Aylmer Mackworth Drake, John Leale, James Frederick Carey, écuyers, et Messire Abraham James Lainé, K.C.I.E., Jurés.

Monsieur le Lieutenant-Baillif ayant ce jour communiqué à la Cour un Ordre de Sa Majesté en Conseil en date du quatre novembre mil neuf cent trente-huit ratifiant un Projet de Loi intitulé " Loi supplémentaire de 1938 à la Loi ayant rapport aux Pensions Contributives en cas d'accidents ou de décès et pour la vieillesse, 1935 ", la Cour, après avoir eu lecture du dit Ordre, ouïes les conclusions des Officiers du Roi, a ordonné que le dit Ordre en Conseil sera enregistré sur les Records de cette Ile, duquel Ordre la teneur suit :—

At the Court at Buckingham Palace

The 4th day of November, 1938.

Present,

The King's Most Excellent Majesty

LORD PRESIDENT
LORD PRIVY SEAL
VISCOUNT FINLAY
LORD ATKIN

MR. SECRETARY MACDONALD
SIR FAIRFAX LUXMOORE
SIR RAYNER GODDARD
SIR HERBERT DU PARCQ

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

LE 19 NOVEMBRE 1938.

and Jersey, dated the 14th day of October, 1938, in the words following, viz. :—

“**Your Majesty** having been pleased by Your General Order of Reference of the 18th day of December, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth :—

‘ 1. That on the 30th day of March, 1938, the States of Deliberation, on the recommendation of their Insurance Authority, passed a resolution approving a modification of the Law intituled “ Loi ayant rapport aux Pensions Contributives en cas d’Accidents ou de Décès et pour la Vieillesse, 1935 ”, and requested the Royal Court to prepare a Bill or Projet de Loi giving effect to the said resolution : 2. That accordingly on the 9th day of July, 1938, the Royal Court adopted a Bill or Projet de Loi intituled “ Loi Supplémentaire de 1938 à la Loi ayant rapport aux Pensions Contributives en cas d’Accidents ou de Décès et pour la Vieillesse, 1935 ”, and requested the Bailiff to submit the same to the States for their approval : 3. That on the 27th day of July, 1938, the said Bill or Projet de Loi was duly considered by the States, when a resolution was passed approving the same with certain modifications and authorising the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto : 4. That the said Bill or Projet de Loi is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or Projet de Loi of the States of Guernsey intituled “ Loi Supplémentaire de 1938 à la Loi ayant rapport aux Pensions Contributives en cas d’Accidents ou de Décès et pour la Vieillesse, 1935 ”, and to order and direct that the same

shall have the force of Law within the Island of Guernsey.'

"The Lords of the Committee, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

His Majesty having taken the said Report into consideration is pleased, by and with the advice of His Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

And His Majesty doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant-Governor or Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His 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.

RUPERT B. HOWORTH.

PROJET DE LOI referred to in the foregoing Order
in Council.

PROJET DE LOI

INTITULÉ

LOI SUPPLÉMENTAIRE DE 1938 À LA LOI AYANT RAPPORT AUX PENSIONS CON- TRIBUTIVES EN CAS D'ACCIDENTS OU DE DÉCÈS ET POUR LA VIEILLESSE, 1935.

LES ETATS ont approuvé les dispositions suivantes rédigées en anglais lesquelles, moyennant la Sanction de Sa Très Excellente Majesté en Conseil, auront force de Loi en cette Ile.

1.—Article XIV. of the Contributory Pensions Law, 1935, is hereby repealed and the following Article is substituted therefor and shall be deemed henceforth to form part of that Law.

“ARTICLE XIV.

POWERS TO INVESTIGATE AND REMOVE CAUSES OF ACCIDENTS, ETC.

1.—In this Article—

- (a) the following expressions shall have the meanings herein assigned to them respectively :—

‘ Hirer ’ and ‘ Owner ’ (except where those expressions occur in subsection (4) of Section 12 of this Article) include the attorney, guardian, agent or other representative of the owner and hirer respectively.

'Premises' includes any vessel :

'The responsible person' means :—

- (i) in relation to any premises, other than a vessel, the owner of those premises :
- (ii) in relation to any machinery, apparatus, appliance, gear or other thing in use in or about any premises other than a vessel, the owner of that machinery, apparatus, appliance, gear or thing :
- (iii) in relation to any vessel and any machinery, apparatus, appliance, gear or thing forming part of the ordinary equipment of that vessel, the master of that vessel : and
- (iv) in relation to any machinery, apparatus, appliance, gear or thing installed temporarily in or on any vessel, the owner of such machinery, apparatus, appliance, gear or thing or, if the owner thereof is also the owner or charterer of that vessel, the master of that vessel :

Provided that, as regards any machinery, apparatus, appliance, gear or other thing to which paragraph (ii) of this definition applies and which is the subject of a hire purchase agreement, the expression 'the responsible person' means, during the currency of such agreement, the hirer thereunder to the exclusion of the person in whom the property therein vests.

Provided further that, as regards any machinery, apparatus, appliance gear or other thing to which paragraph (iv) of this definition applies

and which is the subject of a hire purchase agreement, the expression 'the responsible person' means, during the currency of such agreement, the hirer thereunder to the exclusion of the person in whom the property therein vests or, if such hirer is also the owner or charterer of the vessel wherein or whereon the same is installed temporarily, the master of that vessel.

- (b) the expression 'any machinery, apparatus, appliance, gear or other thing' in relation to a vessel shall include only such machinery, apparatus, appliances, gear or other things as, whether forming part of the ordinary equipment of that vessel or installed temporarily therein or thereon, are used in connection with the loading or unloading of that vessel.

2.—The Administrator or other person thereunto generally or specially authorised in writing by the Administrator, upon production on reasonable request of his authority, shall have power—

- (a) to enter at all times during ordinary working hours upon any premises whereon or wherein any person is ordinarily employed, being premises not used exclusively for the purposes of human habitation, for the purpose of :—

- (i) inspecting the premises and any machinery, apparatus, appliance, gear or other thing used in or about the same in order to ascertain whether or not the premises, machinery, apparatus, appliance, gear or thing are or is in such condition or so installed or used as to constitute a danger or potential danger of accident to any person in proximity to or lawfully upon such premises : or

- (ii) demanding production of and inspecting wage sheets, pay-rolls and other records of wages paid to persons employed in the trade or business therein carried on and making interrogations concerning the same in order to ensure that the provisions of this Law are being observed : and
- (b) upon the occurrence upon or in connection with any premises of an accident involving the death of or injury to any person, to enter upon such premises, at such times as aforesaid if such premises are not used exclusively for the purposes of human habitation, and between the hours of 9 a.m. and 6 p.m. on weekdays if such premises are used exclusively for the purposes of human habitation, for the purpose of investigating the causes of such accident.

3.—Upon it appearing to the Administrator that any premises or any part thereof or any machinery, apparatus, appliance, gear or other thing in or about the same are or is in such a condition or so installed or used as to constitute a danger or potential danger of accident to any person in proximity to or lawfully upon such premises, the Administrator may deliver a notice in writing through the post or otherwise to the responsible person requiring the responsible person to show cause to the Administrator in writing, within the forty-eight hours next following the receipt by the responsible person of the notice, as to why the Administrator should not issue to the responsible person a direction as to the taking of such action as, in the opinion of the Administrator, will effectually remove such danger or potential danger.

4.—If the responsible person does not show cause as aforesaid or if the Administrator, after consideration of the cause shown by the responsible person, is not satisfied therewith, the Adminis-

trator may issue through the post or otherwise to the responsible person a direction as to the taking by the responsible person within such period as shall be specified in the direction of such action as, in the opinion of the Administrator, will effectually remove the danger or potential danger alleged to exist.

5.—An appeal shall lie from any such direction issued by the Administrator to the Royal Court sitting as an Ordinary Court and the decision of that Court in the matter shall be final.

6.—Every such direction shall contain a statement informing the person to whom it is addressed of his right to appeal therefrom and of the costs to be remitted by him if he exercises that right and shall be accompanied by a form of notice of appeal for completion by such person if he so desires.

7.—To be effective, any such notice of appeal shall be completed and lodged with the Administrator within five days after the receipt by the appellant of the direction appealed from. The notice of appeal shall set forth the grounds of the appeal.

8.—Upon the receipt of a notice of appeal, the Administrator shall forthwith register the same and shall deliver a copy thereof to His Majesty's Greffier.

9.—His Majesty's Greffier shall thereupon procure the appointment of a date and hour for the hearing of the appeal and shall notify the Administrator accordingly, whereupon the Administrator shall cause notice of the date and hour of the hearing of the appeal to be served by His Majesty's Sergeant upon the appellant at his place of business or residence. Such notice shall be served not later than two clear days before the date appointed for the hearing.

10.—At the hearing of the appeal, if the appel-

lant does not appear, the Court shall dismiss the appeal. In any other circumstances, the Court may allow or dismiss the appeal or may modify the requirements of the direction issued by the Administrator to the appellant.

11.—(1) The costs payable in connection with an appeal under this Article shall be as follows :—

Royal Court	5s. 0d.
H.M. Greffier	5s. 0d.
H.M. Sergeant (Service and "Relation")				3s. 9d.

(2) Such costs shall be advanced by the appellant and a remittance in respect thereof shall accompany the notice of appeal. In default of such remittance, the notice of appeal shall be ineffective.

(3) The Court may direct that such costs as aforesaid shall be recoverable by the appellant from the Insurance Authority and may, in its discretion, award to the successful party in the appeal against the other of them such other costs, not exceeding the sum of £2 10s., as appear to the Court to have been reasonably incurred by him in connection with such appeal.

12.—(1) If any person fails to comply with a direction issued to him by the Administrator under Section 4 of this Article, being a direction from which an effective notice of appeal has not been lodged within the period specified in Section 7 of this Article, or fails to comply with an Order made by the Court upon an appeal from any such direction of the Administrator, he shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding £50 and, in addition to inflicting such fine, the Court before whom such person is convicted may—

(a) empower the Insurance Authority, at the expense of the person convicted, to take the action required to be taken under such direction or Order: and

(b) direct that, until action has been taken which fully complies with such direction or Order, the premises, machinery, apparatus, appliance, gear or thing to which the direction or Order relates, or such part thereof as may be specified by the Court, shall not be used or shall only be used in such manner as the Court may specify.

(2) Upon the Insurance Authority being empowered by the Court to take such action as is hereinbefore in this section mentioned, it shall be lawful for the Administrator and any other person thereunto specially authorised by the Administrator, upon production on reasonable request of his authority, to enter the premises whereon or wherein such action is to be taken, at such times as are hereinbefore prescribed in this Article for the inspection of premises of the kind to which the premises entered belong, and there to take such action as the Insurance Authority is empowered by the Court to take.

(3) If, after the Court has directed that, pending the taking of action in regard to any premises, machinery, apparatus, appliance, gear or thing, the same, or some part thereof, shall not be used or shall only be used in such manner as is specified by the Court, those premises or that machinery, apparatus, appliance, gear or thing, or some part thereof are used in breach of the Court's direction, the responsible person shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding £50.

(4) The expenses incurred by the Insurance Authority pursuant to paragraph (a) of subsection (1) of this Section and the costs of any legal proceedings in relation to the recovery thereof shall be recoverable by the Administrator, for the account of the Insurance Authority, as a civil debt due to the Administrator by the person convicted

who, if he is not the owner of the premises, or the owner, or the hirer under a hire purchase agreement, of the machinery, apparatus, appliance, gear or thing in relation to which such expenses have been incurred, shall be entitled to be reimbursed by the owner or the hirer as aforesaid thereof in respect of the amount so recovered from him by the Insurance Authority.

13.—Every employer and every insured person having in his possession any insurance card issued by the Insurance Authority shall, whenever the Administrator or other person duly authorised thereto requires him, either in person or by notice in writing, to produce that card, produce that card or cause the same to be produced to the Administrator or other authorised person and, if so required by the Administrator or other authorised person, shall deliver up such card to the Administrator or other authorised person who may, if he thinks fit, retain any such card.

14.—The Insurance Authority may prescribe the forms to be used for the purposes of this Article."

2.—This Law may be cited as The Contributory Pensions (Supplementary Provisions) Law, 1938, and The Contributory Pensions Law, 1935, The Contributory Pensions (Amendment) Law, 1937, and this Law may be cited together as The Contributory Pensions Laws, 1935 to 1938.

QUERTIER LE PELLEY,
Greffier du Roi.