

**XIII.**  
**1936**

# ORDRE EN CONSEIL

Ratifiant un Projet de Loi intitulé

## **Loi par rapport aux Tierces Parties (Droits contre Assureurs), 1936.**

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(Enregistré sur les Records de l'Ile de Guernesey le  
15 août 1936.)



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1936.

## ORDRE EN CONSEIL.



A LA COUR ROYALE DE L'ILE DE GUERNSEY.

*Le quinze août, mil neuf cent trente six, par devant William de Prélas Crousas, écuyer, Lieutenant-Baillif; présents: John Roussel, Osmond Priaulx Gallienne, Arthur Dorey, Geoffrey Alfred Carey, Ernest de Garis, Jean Nicolas Robin, Aylmer Mackworth Drake, John Leale et James Frederick Carey, écuyers, jurés.*

Monsieur le Lieutenant-Baillif ayant ce jour communiqué à la Cour un Ordre de Sa Majesté en Conseil en date du vingt quatre juillet, mil neuf cent trente six, ratifiant un Projet de Loi intitulé "Loi par rapport aux Tierces Parties (Droits contre Assureurs) 1936." La Cour, après avoir eu lecture du dit Ordre, ouïes les conclusions du Contrôle du Roi, a ordonné que le dit Ordre sera enregistré sur les Records de cette Ile, duquel ordre la teneur suit:—

**At the Court at Buckingham Palace**

The 24th day of July, 1936.

**Present,**

**The King's Most Excellent Majesty**

PRIME MINISTER.

LORD PRESIDENT.

LORD CHAMBERLAIN.

MR. CHANCELLOR OF THE DUCHY OF LANCASTER.

**Whereas** there was this day read at the Board a Report from the Right Honourable the Lords of

**LE 15 AOUT 1936.**

the Committee of Council for the Affairs of Guernsey and Jersey, dated the 9th day of July, 1936, in the words following, viz :—

**“Your Majesty** having been pleased by Your General Order of Reference of the 31st day of January, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth :—

1. That on the 9th day of May, 1936, the Law Officers of the Crown submitted to the Royal Court a Bill or Projet de Loi intituled “Loi par rapport aux Tierces Parties (Droits contre Assureurs) 1936” when the Court duly adopted the same and requested the Bailiff to bring it before the States of Deliberation for their approval. 2. That on the 5th day of June, 1936, the said Bill or Projet de Loi was duly considered by the States, when a resolution was passed, approving the same with slight modifications and authorising the Bailiff to present a most humble Petition to your Majesty in Council praying for Your Royal Sanction thereto. 3. That the said Bill or Projet de Loi is in the words and figures set forth in the Schedule to the Petition and most humbly praying that Your Majesty would be graciously pleased to grant your Royal Sanction to the Bill or Projet de Loi of the States of Guernsey intituled “Loi par rapport aux Tierces Parties (Droits contre Assureurs) 1936,” 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.

M. P. A. HANKEY.

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

**PROJET DE LOI**

INTITULÉ

**LOI PAR RAPPORT AUX TIERCES PARTIES  
(DROITS CONTRE ASSUREURS) 1936.**

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.

I. RIGHTS OF THIRD PARTIES AGAINST INSURERS ON BANKRUPTCY, ETC., OF THE INSURED.—(1) Where under any contract of insurance a person (hereinafter referred to as the insured) is insured against liabilities to third parties which he may incur, then—

(a) in the event of the insured making a composition or arrangement with his creditors or being declared “ en état de faillite ” or of the affairs of the insured being declared “ en état de désastre ”; or

(b) in the case of the insured being a company, in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to the company :

if, either before or after that event, any such liability as aforesaid is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything in any Law or rule of law to the contrary, be transferred and vest as follows :—

(i) if the third party to whom liability was incurred or the person on account of whose death liability to a third party was incurred was not an insured person under The Contributory Pensions Law, 1935, at the time of the occurrence giving rise to the liability—to and in the third party :

(ii) if the third party to whom liability was incurred or the person on account of whose death liability

to a third party was incurred was an insured person under the said Law at the time of such occurrence—to and in the States Insurance Authority to the extent of the rights of the insured against the insurer in respect of the liability of the insured to the third party arising out of personal injury to or the death of the insured person and, as to the remainder of the rights of the insured against the insurer in respect of other liability to the third party, to and in the third party.

Any amount recovered by the States Insurance Authority by virtue of the transfer to it, under the provisions of this Section, of rights of the insured against the insurer shall be deemed an amount recovered by that Authority by virtue of the provisions of Article XXXII of The Contributory Pensions Law, 1935, and shall be held and applied in accordance with the provisions of Section 3 of that Article.

(2) Where the Court has sanctioned the abandonment of the estate of a deceased debtor by all the persons entitled thereto or if the affairs of all the persons entitled to the estate of a deceased debtor, the abandonment of which has not been so sanctioned, are declared “*en état de désastre*” or if all such persons are declared “*en état de faillite*” or if a composition or arrangement is made with the creditors of such deceased debtor, then, if any debt provable against the estate so abandoned or in the “*désastre*” or “*faillite*” of any of the persons entitled thereto is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being a liability to a third party, the deceased debtor’s rights against the insurer under the contract in respect of that liability shall be transferred to and vest in the person to whom the debt is owing.

(3) In so far as any contract of insurance made after the commencement of this Law in respect of any liability of the insured to third parties purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the happening to the

insured of any of the events specified in paragraph (a) or paragraph (b) of sub-section (1) of this section or upon the Court sanctioning the abandonment of his estate by all the persons entitled thereto or upon all the persons entitled to his estate, the abandonment of which has not been so sanctioned, being declared “*en état de faillite*” or upon their affairs being declared “*en état de faillite*”, the contract shall be of no effect.

(4) Upon a transfer under sub-section (1) or sub-section (2) of this section, the insurer shall, subject to the provisions of section three of this Law, be under the same liability to the third party as he would have been under to the insured, but—

(a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Law shall affect the rights of the insured against the insurer in respect of the excess; and

(b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this Law shall affect the rights of the third party against the insured in respect of the balance.

(5) For the purposes of this Law, the expression “liabilities to third parties”, in relation to a person insured under any contract of insurance, shall not include any liability of that person in the capacity of insurer under some other contract of insurance.

(6) This Law shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company.

2. DUTY TO GIVE NECESSARY INFORMATION TO THIRD PARTIES.—(1) In the event of any person making a composition or arrangement with his creditors or being declared “*en état de faillite*” or of the affairs of any person being declared “*en état de désastre*”, or in the event of the Court sanctioning the abandonment of the estate of a deceased debtor by all the persons entitled thereto or of all the persons entitled to the estate

of a deceased debtor, the abandonment of which has not been so sanctioned, being declared "en état de faillite" or upon their affairs being declared "en état de désastre", or in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to any company, it shall be the duty of the debtor, person or persons declared "en état de faillite" or whose affairs are declared "en état de désastre", personal representatives of the deceased, person or persons abandoning the estate of the deceased or company and, as the case may be, of the trustee, "comité des créanciers", "créanciers arrêtauts", "saisi des biens meubles", liquidator, or person in possession of the property to give at the request of any person claiming that the debtor, person "en état de faillite" or whose affairs are "en état de désastre", deceased debtor, or company is under a liability to him such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Law and for the purpose of enforcing such rights, if any, and any contract of insurance, in so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the giving of any such information in the events aforesaid or otherwise to prohibit or prevent the giving thereof in the said events shall be of no effect.

(2) If the information given to any person in pursuance of sub-section (1) of this section discloses reasonable ground for supposing that there have or may have been transferred to him under this Law rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned.

(3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected in this Island and copies thereof to be taken in this Island,



3. SETTLEMENT BETWEEN INSURERS AND INSURED PERSONS.—Where the insured has been declared “en état de faillite” or the affairs of the insured have been declared “en état de désastre” or where, in the case of the insured being a company, a winding-up order has been made or a resolution for a voluntary winding-up has been passed, with respect to the company, no agreement made between the insurer and the insured after liability has been incurred to a third party and after the commencement of the proceedings “en faillite” or “en désastre” or of the winding-up, as the case may be, nor any waiver, assignment, or other disposition made by, or payment made to the insured after the commencement aforesaid shall be effective to defeat or affect the rights transferred to the third party under this Law, but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment has been made.

4. SHORT TITLE.—This Law may be cited as the Third Parties (Rights against Insurers) (Guernsey) Law, 1936.

QUERTIER LE PELLEY,  
Greffier du Roi