

ORDER IN COUNCIL

V
1969

ratifying a Projet de Loi

ENTITLED

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

(Registered on the Records of the Island of Guernsey
on the 3rd day of June, 1969.)



ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 3rd day of June, 1969, before Sir William Arnold, Kt., C.B.E., Bailiff; present:—Bertram Guy Blampied, Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Carl Edward Blad, Albert Victor Dorey, Esquires, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier, William Burton Fox, Esquires, Edward James Lainé, Esquire, C.B.E., D.F.C., and Edward Martel, Esquire, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 23rd day of April, 1969, ratifying a *Projet de Loi* entitled "The Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969", 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 and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

At the Court at Windsor Castle

The 23rd day of April 1969

PRESENT,

The Queen's Most Excellent Majesty

LORD PRESIDENT

MISS BACON

MRS HART

MR ROBERTS

SIR JOHN MEGAW

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 18th day of April 1969, 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 26th day of June 1968, the States of Deliberation at a meeting held on the 27th day of November 1968 approved a Bill or “Projet de Loi” entitled “The Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969” which Bill is designed to apply to the Bailiwick of Guernsey, 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 17th day of December 1968 considered the said Bill or "Projet de Loi" when a Resolution was passed agreeing to the application of the same to Alderney. 3. That the Chief Pleas of the Island of Sark at a meeting held on the 22nd day of January 1969 considered the said Bill or "Projet de Loi" when a Resolution was passed agreeing to the application of the same to Sark. 4. That the said Bill or "Projet de Loi" is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "The Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969" and to order that the same shall have force of law in the Bailiwick of Guernsey.'

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

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

AND HER MAJESTY doth hereby further direct that this Order and the said Projet de Loi (a copy

whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. Agnew.

PROJET DE LOI

ENTITLED

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

THE STATES, in pursuance of their Resolution of the twenty-sixth day of June, nineteen hundred and sixty-eight, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

PART I

Protection of Depositors

1. (1) Subject to the succeeding provisions of this Part of this Law, the States may, from time to time, by Ordinance make such provision as they may deem necessary or expedient for regulating or prohibiting the carrying on by any person of the business of accepting money for the purpose of investment on deposit and, without prejudice to the generality of the foregoing, they may, in particular, make provision in any such Ordinance for all or any of the following matters:—

States power
to control
investment
companies.

- (a) the registration by the States Advisory and Finance Committee (hereinafter referred to as "the Committee") of persons who carry on, or hold themselves out as carrying on, the business of accepting money for the purpose of investment on deposit;

- (b) the suspension or revocation of the registration of persons as aforesaid;
- (c) the attachment of conditions to the registration of persons as aforesaid;
- (d) the charging, levying and securing the payment of a fee in the sum of one hundred pounds or such other amount, whether lesser or greater, as may be prescribed in any such Ordinance for the registration of persons as aforesaid;
- (e) the furnishing, from time to time, by persons registered as aforesaid of accounts to depositors;
- (f) the publication, from time to time, by the Committee of the names and addresses of all persons registered as aforesaid together with such information appertaining to such persons as the Committee may consider appropriate;
- (g) the regulation or prohibition of the issue of advertisements inviting the public to deposit money and, in particular, the use in such advertisements of the words "bank", "banker", or "banking" or any cognate expression, whether in the English language or in any other language;
- (h) enabling any person aggrieved by any decision of the Committee to appeal from such decision to the Royal Court, the decision of which shall be final;
- (i) such incidental and supplementary matters for which the States deem it necessary or expedient for the purposes of any such Ordinance to provide.

(2) An Ordinance made under the provisions of the last preceding subsection may make different provisions for different classes of persons and may make different provisions for different categories of persons within those classes.

(3) An Ordinance made under the provisions of subsection (1) of this section may exempt from the provisions of such Ordinance such persons or classes of persons as may be specified therein.

(4) An Ordinance made under the provisions of subsection (1) of this section shall provide that, before determining whether or not to register persons as aforesaid to carry on, or hold themselves out as carrying on, in the Island of Alderney or the Island of Sark, the business of accepting money for investment on deposit, the Committee shall first consult with such person or body of persons in the Island of Alderney or the Island of Sark, as the case may be, as may be specified in such Ordinance.

2. Any 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—

Fraudulent
inducement
to invest
on deposit.

(a) to invest money on deposit with him or with any other person, or

(b) to enter into or offer to enter into any agreement for that purpose,

shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding seven years or to a fine or to both.

Penalties to
be pre-
scribed by
Ordinance.

3. The States may, from time to time, by Ordinance prescribe the penalties which shall be incurred by any person guilty of an offence under any Ordinance made in pursuance of the provisions of section one of this Law and different penalties may be so prescribed for different offences.

Interpreta-
tion of
Part I.

4. (1) In this Part of this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“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;

“building society” means any building society or Northern Ireland society within the meaning of the Building Societies Act, 1962, and any unincorporated society to which section one hundred and twenty-five of that Act applies;

“debentures” means any debentures, debenture stocks or bonds of a company, whether constituting a charge on the assets of the company or not;

“deposit” means a loan of money at interest, or repayable at a premium, but does not include a loan to a person on terms involving the issue of securities, and references to the deposit of money or the investment of money on deposit shall be construed accordingly;

“ industrial and provident society ” means a society registered under the Industrial and Provident Societies Act 1965;

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

“ securities ” means—

- (a) shares or debentures, or rights or interests (described whether as units or otherwise) in any shares or debentures; or
- (b) securities of the States of Guernsey, the States of Alderney, the Chief Picas of Sark or of the Government of the United Kingdom or of Northern Ireland or the Government of any country or territory outside the United Kingdom; or
- (c) rights (whether actual or contingent) in respect of money lent to, or deposited with, any industrial and provident society or building society;

and includes rights or interests (described whether as units or otherwise) which may be acquired under any unit trust scheme under which all property for the time being subject to any trust created in pursuance of the scheme consists of such securities as are mentioned in paragraph (a), (b) or (c) of this definition;

“ shares ” means shares in the share capital of a company or stock of a company, or shares in such an unincorporated building society as is mentioned in section seven of the Building Societies Act, 1874;

“unit trust scheme” means any arrangements made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust, in any profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatsoever.

(2) For the purposes of this Law an advertisement which contains information calculated to lead directly or indirectly to the deposit of money by the public shall be treated as an advertisement inviting the public to deposit money.

PART II

Control of the carrying on of certain businesses by companies

States power to make provision for control of certain businesses.

5. The States shall have the like power of making provision by Ordinance for regulating or prohibiting the carrying on by companies of the business of trustee or the business of executor or administrator or the carrying on of insurance business of any of the classes to which this Part of this Law relates as they have for making provision in pursuance of the provisions of section one of this Law for regulating or prohibiting the business of accepting money for the purpose of investment on deposit, with such exceptions, adaptations and modifications as may be specified in any such Ordinance.

Class of insurance business to which this Part applies.

6. This Part of this Law applies to all or any of the following classes of insurance business, that is to say, industrial assurance business, liability insurance business, marine, aviation and transport insurance business, motor vehicle insurance business, ordinary long-term insurance business, pecuniary loss insurance business, personal accident insurance business and property insurance business.

7. In this Part of this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpreta-
tion of
Part II.

“the Act of 1967” means the Companies Act 1967;

“the business of executor or administrator” means the business of acting as executor or administrator;

“the business of trustee” means the business of acting as trustee;

“industrial assurance business” has the meaning assigned to it by subsection (2) of section one of the Industrial Assurance Act 1923;

“liability insurance business” has the meaning assigned to it by subsection (3) of section fifty-nine of the Act of 1967;

“marine, aviation and transport insurance business” has the meaning assigned to it by subsection (4) of section fifty-nine of the Act of 1967;

“motor vehicle insurance business” has the meaning assigned to it by subsection (5) of section fifty-nine of the Act of 1967;

“ordinary long-term insurance business” has the meaning assigned to it by subsection (6) of section fifty-nine of the Act of 1967;

“pecuniary loss insurance business” has the meaning assigned to it by subsection (7) of section fifty-nine of the Act of 1967;

“personal accident insurance business” has the meaning assigned to it by subsection (8) of section fifty-nine of the Act of 1967;

“property insurance business” has the meaning assigned to it by subsection (9) of section fifty-nine of the Act of 1967.

PART III

Control of the use of certain words in the title of companies and other businesses

Prohibition
on use of
certain
words in
name of
businesses.

8. Subject to the succeeding provisions of this Part of this Law, a person shall not, on and after the coming into force of this Part of this Law, use or continue to use any of the words “bank”, “banker”, “banking”, “insurance” or “assurance” or any cognate expression, whether in the English language or in any other language, in the name, description or title under which that person carries on business.

Registration
of companies
with certain
words in
name.

9. Upon an application being made to—

- (a) the Royal Court in pursuance of the provisions of the Company Law of Guernsey,
- (b) the Court of Alderney in pursuance of the provisions of the Company Law of Alderney,

for the registration of a company in the proposed name of which there appears any of the words “bank”, “banker”, “banking”, “insurance” or “assurance” or any cognate expression, whether in the English language or in any other language, the Royal Court or the Court of Alderney, as the case may be, shall not grant the application unless it is satisfied that the applicants therefor have first obtained the permission of the Committee to the use of the word concerned in the name of the company in pursuance of the provisions of section twelve of this Law.

10. (1) A company which, on the date of the coming into force of this Part of this Law, is registered—

Change of
name of
existing
companies.

(a) in pursuance of the provisions of the Company Law of Guernsey,

(b) in pursuance of the provisions of the Company Law of Alderney,

and which has in its name any of the words "bank", "banker", "banking", "insurance" or "assurance" or any cognate expression, whether in the English language or in any other language, shall, before the expiration of the period of twelve months commencing on the date of the coming into force of this Part of this Law, apply to the Royal Court or the Court of Alderney, as the case may be, to have its name changed to one which does not contain any such word or such expression as aforesaid unless before the expiration of such period as aforesaid the company has obtained the permission of the Committee to retain the use of the word or expression concerned in its name in pursuance of the provisions of section twelve of this Law.

(2) If any company which is required to make an application to the Royal Court or the Court of Alderney in pursuance of the provisions of the last preceding subsection fails to make such application before the expiration of such period as aforesaid. Her Majesty's Greffier or the Clerk of the Court of Alderney, as the case may be, shall treat the company as a company which is not carrying on business or in operation and the provisions of the Company Law of Guernsey of 1936, or the Company Law of Alderney of 1962, as the case may be, shall apply accordingly.

Application
to Com-
mittee to
use certain
words in
name of
company.

11. (1) Any person desirous of obtaining the permission of the Committee for the purposes of this Part of this Law shall make application in that behalf to the Committee and such application shall be in such form and accompanied by such information as the Committee may, from time to time, require.

(2) Upon receipt of an application under the provisions of the last preceding subsection or at any time thereafter, the Committee may require an applicant to supply such further information as the Committee may consider necessary or desirable.

Grant or
refusal of
permission
by Com-
mittee.

12. (1) Subject to the provisions of the next succeeding subsection, upon receipt of an application under the provisions of the last preceding section the Committee may either—

- (a) grant the permission applied for,
- (b) refuse such permission, or
- (c) grant such permission subject to such conditions as the Committee may think it necessary or expedient to impose.

(2) The Committee shall not grant permission to a company in pursuance of the provisions of the last preceding subsection to use or retain the use of any of the words or expressions referred to in section nine and section ten of this Law unless the Committee is satisfied that the use of that word or that expression in the name of that company would, in pursuance of the provisions of section seventeen of the Companies Act, 1948, be permitted by the Board of Trade if that company were a company to be registered under that Act.

Offence.

13. Any person who contravenes the provisions of section eight of this Law shall be guilty of an offence

and liable, on conviction, to a fine not exceeding five hundred pounds or where the offence consists of continuing any such contravention after conviction thereof, twenty-five pounds for each day on which it is so continued.

14. In this Part of this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpreta-
tion of
Part III.

“the Company Law of Alderney” means the Law entitled “Loi relative aux Sociétés Anonymes ou à Responsabilité Limitée” registered on the records of the Island of Guernsey on the twenty-second day of May, eighteen hundred and ninety-four:

“the Company Law of Alderney of 1962” means the Companies (Amendment) (Alderney) Law, 1962;

“the Company Law of Guernsey” means the Law entitled “Loi relative aux Sociétés Anonymes ou à Responsabilité Limitée” registered on the records of the Island of Guernsey on the twenty-first day of March, nineteen hundred and eight;

“the Company Law of Guernsey of 1936” means the Law entitled “Loi supplémentaire à la Loi relative aux Sociétés Anonymes ou à Responsabilité Limitée” registered on the records of the Island of Guernsey on the twenty-first day of March, nineteen hundred and thirty-six.

PART IV

Interpretation, citation and commencement

Interpreta-
tion.

15. (1) In this Law the expression "the States" means the States of Guernsey.

(2) Except so far as the context otherwise requires, any reference in this Law to any other enactment shall be construed as a reference to that enactment as repealed and re-enacted, amended, extended or applied by or under any other enactment including this Law.

(3) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of this Law throughout the Bailiwick of Guernsey.

Citation.

16. This Law may be cited as the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969.

Commence-
ment.

17. This Law shall come into force on such day as the States may by Ordinance appoint and different days may be so appointed for the coming into force of different Parts of this Law.

R. H. VIDELO,

Her Majesty's Greffier.