

GUERNSEY STATUTORY INSTRUMENT

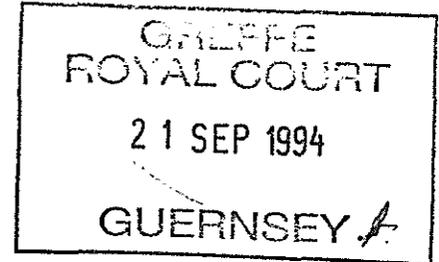
1994 No 14

The Banking Supervision (Bailiwick of Guernsey)
Regulations, 1994

Made 16 SEPT 1994

Laid before the States .

Coming into operation 1st October 1994



THE STATES ADVISORY AND FINANCE COMMITTEE, in exercise of the powers conferred upon it by sections 1, 19 and 33 of the Banking Supervision (Bailiwick of Guernsey) Law, 1994 (a) and after consultation with the Guernsey Financial Services Commission, hereby makes the following Regulations -

(a) Order in Council No of 1994

EXEMPT TRANSACTIONS

1. The transactions referred to in the following paragraphs are hereby specified for the purposes of section 1(2)(b) of the Law as transactions to which the prohibition in section 1(1) of the Law on the acceptance of a deposit does not apply. Such transactions are referred to in these Regulations as "exempt transactions".

Charities

(1) The acceptance by a charity of a deposit is an exempt transaction if -

(a) the deposit is made by another charity, or

(b) there is payable in respect of the deposit neither interest nor a premium.

Industrial and provident societies

(2) The acceptance by an industrial and provident society of a deposit in the form of withdrawable share capital is an exempt transaction.

Advocates and solicitors

(3) The acceptance by an advocate or a solicitor in the course of his profession of a deposit is an exempt transaction; provided that,

in the case of an advocate, he acts in all respects in accordance with the Advocates' Accounts (Deposit Interest) Rules, 1989, the Advocates Trust Accounts Rules, 1989 and the Advocates' Accounts Rules 1989; and

in the case of a Solicitor, he acts in all respects in accordance with the provisions of the rules laid down by his professional governing body in relation to the keeping of accounts by members of his profession and for the time being in force and applicable to him.

Social, cultural and recreational clubs

(4) The acceptance by an association of individuals formed in the Bailiwick solely for social, cultural or recreational purposes of a deposit from a member of the association is an exempt transaction.

DEPOSIT ADVERTISEMENTS

2. (1) A person wishing to advertise in the Bailiwick, other than a licensed institution, must obtain prior permission in writing in that behalf from the Commission which may be granted subject to such conditions, if any, as may be stipulated by the Commission.

(2) All deposit advertisements (whether or not issued by a licensed institution) must also conform to the Code of Conduct of the Association of Guernsey Banks' as amended from time to time.

MATTERS TO BE COMMUNICATED TO THE COMMISSION

3. (1) Matters are to be communicated to the Commission as mentioned in section 33(1) of the Law by an auditor or other person described in that section in the circumstances specified in paragraph (2).

(2) The circumstances referred to in paragraph (1) are circumstances which are such as to give the auditor or other person reasonable cause to believe -

(a) that any of the criteria specified in Schedule 3 of the Law is not or has not been fulfilled or may not have been fulfilled in respect of the licensed institution of which he is auditor or in relation to which his report is made, as the case may be; or

(b) that the circumstances are likely to be of material relevance to the exercise, in relation to the said licensed institution, of the Commission's functions under the Law or under these Regulations.

(3) The provisions of this regulation shall also apply in relation to former licensed institutions.

EXEMPT PERSON

4. Schedule 1 of the Law shall be amended by the insertion of the following paragraph -

"6. The Channel Islands Co-Operative Society Limited ('the Society'); but this paragraph is subject to the following conditions -

(a) this paragraph applies only to the acceptance of deposits from members of the Society from time to time;

(b) no member shall, after the coming into force of the Law, increase his exposure to the Society, taking share capital and loans together, to more than £20,000;

(c) any advertisements for deposits in the Bailiwick, which shall only be published to members, shall conform to the Code of Conduct of the Association of Guernsey Banks as amended from time to time."

INTERPRETATION

5. (1) In these Regulations, unless the context otherwise requires, -

(a) "advocate" means an advocate of the Royal Court of Guernsey;

(b) "charity" means any institution, trust or undertaking, whether corporate or not, which is established solely for charitable purposes;

(c) "the Commission" means the Guernsey Financial Services Commission established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987;

(d) "industrial and provident society" means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 of the United Kingdom as applied to the Bailiwick by the Industrial and Provident Societies (Channel Islands) Order 1965(a);

(e) "the Law" means the Banking Supervision (Bailiwick of Guernsey) Law, 1994;

(f) "Solicitor" means a person who is qualified to act as a solicitor under section 1 of the Solicitors Act 1974, article 4 of the Solicitors (Northern Ireland) Order 1976 or section 4 of the Solicitors (Scotland) Act 1980 and who is, for the time being, practising as such from or within the Bailiwick;

(g) other words and expressions have the same meanings as they have in the Law;

(h) a reference to an enactment is to that enactment as from time to time amended, repealed and replaced, extended or applied by or under any other enactment.

(2) The Interpretation (Guernsey) Law, 1948 applies throughout the Bailiwick to the interpretation of these Regulations as it applies to the interpretation of an enactment in force in the Island of Guernsey.

CITATION

6. These Regulations may be cited as the Banking Supervision (Bailiwick of Guernsey) Regulations, 1994.

COMMENCEMENT

7. These Regulations shall come into force on 1st October 1994.

John Major

President, States Advisory & Finance Committee
For and on behalf of the Committee

Dated 16 SEPT 1994

EXPLANATORY NOTE

These regulations prescribe for the purposes of the Banking Supervision (Bailiwick of Guernsey) Law, 1994 transactions to which the prohibition in section 1(1) of the Law on the acceptance of a deposit does not apply; the requirements for a person wishing to advertise in the Bailiwick; the matters mentioned in section 33(1) of the Law which are to be communicated to the Commission by an auditor or other person; and add 'The Channel Islands Co-operative Society Limited' to the exempted persons listed in Schedule 1 of the Law whilst imposing certain conditions on the exemption.