

Island of  Guernsey

Ordinance of the States **III**
1957

Made 23rd January, 1957.

Came into Operation .. 23rd January, 1957.

The Control of Borrowing (Bailiwick of Guernsey) (Amendment) Ordinance, 1957.

THE STATES, on the representations of the States Board of Administration and under and by virtue of the provisions of section one of the Borrowing (Control) (Bailiwick of Guernsey) Law, 1946, hereby order:—

1. The provisions of the Control of Borrowing (Bailiwick of Guernsey) Ordinance, 1948, as amended, specified in the first column of the Schedule hereto shall have effect subject to the amendments specified in the second column of that Schedule.

2. The Control of Borrowing (Bailiwick of Guernsey) Ordinances, 1948 and 1949, and this Ordinance may be cited together as the Control of Borrowing (Bailiwick of Guernsey) Ordinances, 1948 to 1957.

SCHEDULE

AMENDMENTS OF THE CONTROL OF
BORROWING (BAILIWICK OF GUERNSEY)
ORDINANCE, 1948, AS AMENDED BY THE
CONTROL OF BORROWING (BAILIWICK OF
GUERNSEY) (AMENDMENT OF EXEMPTION
PROVISIONS) ORDINANCE, 1949

*Provision
amended*

(1)

Amendment

(2)

Section 2 For paragraph (a) of subsection (1) there shall be substituted the following paragraph:—

“(a) references to the making of any arrangement to provide any guarantee or to mortgage or charge any property to secure the payment of any sum which is already due when the arrangement is made or is payable not later than six months after the arrangement is made, not being a sum which is due or payable to a holding company by its subsidiary, or to a subsidiary by its holding company; and”.

In paragraph (b) of subsection (1), for the words “Société en Commandite” there shall be substituted the words “body corporate”.

Subsection (2) shall be deleted.

Section 3 In subsection (3), for the words “Société en Commandite” there shall be substituted the words “body corporate”,

*Provision
amended*

(1)

Amendment

(2)

and for the word “ Société ” there shall be substituted the words “ body corporate ”.

At the end of the section there shall be added the following two subsections:—

“ (4) This section shall not apply to money raised by the issue of shares to a holding company by its subsidiary.

(5) This section shall not apply to money raised by the issue of shares by a body corporate to any person to whom any sum borrowed by that body corporate is owing, provided that the whole of the money so raised is applied in or towards repayment of the sum so borrowed.”

Section 4 For subsection (2) there shall be substituted the following subsection:—

“ (2) Subject to the exemptions contained in Part II of this Ordinance, a body corporate incorporated under any of the laws of the Bailiwick shall not, without the consent of the Committee, issue any securities where the whole or any part of the consideration for the issue is the transfer of any property unless—

(a) the property consists of, or forms part of, the assets of an undertaking which is being sold to the body corporate; or

*Provision
amended*

(1)

Amendment

(2)

- (b) the property consists of the securities of another body corporate.”

For paragraphs (b) and (c) of subsection (3) there shall be substituted the following paragraphs:—

“(b) the raising or borrowing of money outside the Bailiwick, unless the borrowing is in the ordinary course of its business and is from a person carrying on a banking undertaking, and the money is made available in the scheduled territories (as defined in subsection (3) of section 1 of the Exchange Control Act, 1947, as extended to the Bailiwick of Guernsey by section one of the Exchange Control (Channel Islands) Order, 1947); or

- (c) the exchanging or substituting of new securities for redeemable securities already issued, unless such new securities are not redeemable or are redeemable not earlier than the earliest date on which the securities already issued are redeemable.”

For paragraph (b) of subsection (4) there shall be substituted the following paragraph:—

“(b) the exchanging or substituting of new securities for redeem-

*Provision
amended*

(1)

Amendment

(2)

able securities already issued, unless such new securities are not redeemable or are redeemable not earlier than the earliest date on which the securities already issued are redeemable."

Section 6 For the words "for subscription, sale or exchange" there shall be substituted the words "for subscription or sale".

Section 8 In subsection (1), for the words "fifty thousand pounds" there shall be substituted the words "ten thousand pounds".

For proviso (i) to subsection (2) there shall be substituted the following proviso:—

"(i) where the effect of any of the said previous transactions consisting of the borrowing or raising of money was that any share or loan capital (other than loan capital raised by any such borrowing as is mentioned in subsection (2) of section 1 of this Ordinance), which was redeemed or repaid contemporaneously with, or not more than three months before, that transaction, was replaced by other share or loan capital, the amount involved in that transaction shall be treated as reduced by the

*Provision
amended*

(1)

Amendment

(2)

amount so redeemed or repaid;
and”.

Proviso (ii) to subsection (2) shall be deleted.

In proviso (iii) to subsection (2), for the words “the borrowing of money which, subsequent to that borrowing”, there shall be substituted the words “the borrowing or raising of money which, subsequently to that borrowing or raising”.

In paragraph (b) of subsection (5), after the words “the total nominal value of the securities” there shall be inserted the words “to be issued”.

Section 12 In subsection (1), after the definition of “the Committee”, the following definition shall be added:—

“holding company” means a company which either—

- (a) is a member of a subsidiary company and controls the composition of its board of directors; or
- (b) holds more than half in nominal value of the equity share capital of the subsidiary company, such capital being the issued share capital of the subsidiary company excluding any part thereof which, neither

*Provision
amended*

(1)

Amendment

(2)

as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution of profits;’.

In subsection (1), after the definition of “issue”, the following definition shall be added:—

“subsidiary company” means a company which as regards either the composition of its board of directors or the holding of the nominal value of its equity share capital is controlled by a holding company;’.

JAMES E. LE PAGE,

Her Majesty’s Greffier.