

ORDER IN COUNCIL

XIV

1973

ratifying a *Projet de Loi*

ENTITLED

The Tomato Marketing (Distribution of Monies) (Guernsey) Law, 1973

(Registered on the Records of the Island of Guernsey
on the 1st day of October, 1973.)



1973.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 1st day of October, 1973, before John Henry Loveridge, Esquire, C.B.E., Bailiff; present:— Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Esquire, Gilbert Carey de Jersey, Esquire, C.B., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Walter Francis Robin, Richard Alan Kinnersly, Richard Brook Sutcliffe and Richard Oliver Symons, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 27th day of July, 1973, ratifying a Projet de Loi entitled "The Tomato Marketing (Distribution of Monies) (Guernsey) Law, 1973", 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, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 27th day of July 1973

PRESENT,

The Queen's Most Excellent Majesty in Council

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 17th day of July 1973, 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 14th day of December 1972, the States of Deliberation at a meeting held on the 28th day of March 1973, approved a Bill or “Projet de Loi” entitled “The Tomato Marketing (Distribution of Monies) (Guernsey) Law, 1973” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. 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 Tomato Marketing (Distribution of Monies) (Guernsey) Law, 1973” and to order that the same shall have force of law in the Island of Guernsey.’

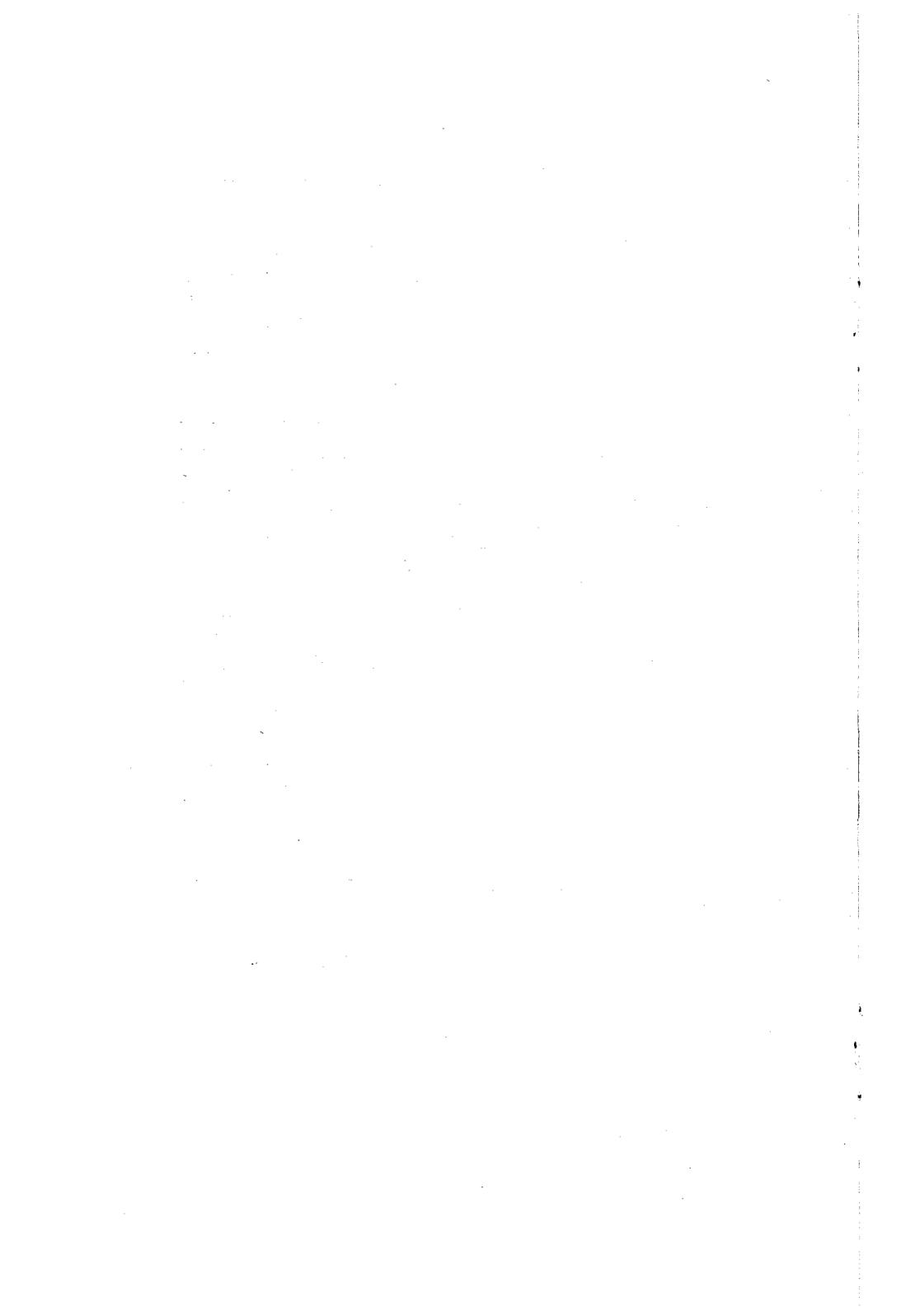
“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer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

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 Island 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 referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Tomato Marketing (Distribution of Monies) (Guernsey) Law, 1973

THE STATES, in pursuance of their Resolution of the fourteenth day of December, nineteen hundred and seventy-two, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

PART I

Suspension of subsection (2A) of section two of Law of 1952 and distribution of monies

1. The States may, from time to time, by Ordinance suspend the operation of subsection (2A) of section two of the Tomato Marketing (Guernsey) Law, 1952, as amended (hereinafter referred to as "the principal Law")^(a), in relation to such date or during such period as may be specified in any such Ordinance if, in the opinion of the States, the operation of the said subsection on any such date or during any such period would be inequitable to the producers.

States may suspend section 2 (2A) of Law of 1952.

2. (1) The Board shall, as soon as may be after any date on which or after the expiration of any period during which the operation of subsection (2A) of section two of the principal Law is suspended

Board to prepare schemes for distribution of monies.

(a) Ordres en Conseil Vol. XV, p. 341; Vol. XVIII, p. 262; Vol. XXI, p. 295.

by an Ordinance made under the provisions of section one of this Law, prepare a scheme in writing for the distribution of monies realised in respect of tomatoes exported on that date or during that period in a manner which, in the opinion of the Board, is fair and equitable to the producers.

(2) As soon as may be after the preparation of a scheme in accordance with the provisions of the last preceding subsection, the Board shall submit a copy thereof, signed by the Chairman or Vice-Chairman of the Board, to the tribunal constituted in accordance with the provisions of the next succeeding section.

Constitu-
tion of
Tribunal.

3. For the purposes of this Law the Royal Court shall appoint a tribunal (hereinafter referred to as "the Tribunal") which shall consist of—

- (a) a Chairman, and
- (b) two other members.

Powers and
duties of
Tribunal.

4. (1) The Tribunal may exercise the powers and shall perform the duties conferred or imposed upon it by the succeeding provisions of this Law and, subject to the provisions of this Law, shall regulate its own procedure.

(2) In the event of an equality of votes the Chairman of the Tribunal shall have a casting vote.

Examina-
tion of
schemes by
Tribunal.

5. Upon the receipt of a scheme submitted to it under the provisions of subsection (2) of section two of this Law, the Tribunal shall examine the scheme with a view to deciding whether or not the scheme provides for the distribution of the monies realised in respect of tomatoes exported on the date or during the period to which the scheme relates in a manner which, in the opinion of the Tribunal, is fair and equitable to the producers.

6. After examination of a scheme in accordance with the provisions of the last preceding section the Tribunal shall decide:—

Decisions of
Tribunal.

- (a) to approve the scheme and direct that the monies to which the scheme relates shall be distributed by the Board in the manner provided by the scheme; or
- (b) to amend the scheme and approve the scheme as amended and direct that the monies to which the scheme relates shall be distributed in the manner provided by the scheme as amended; or
- (c) not to approve the scheme and to direct the Board to prepare another scheme for the distribution of the monies to which the first mentioned scheme relates and submit the latter scheme to the Tribunal in accordance with the provisions of section two of this Law for examination by the Tribunal in accordance with the provisions of section five of this Law; or
- (d) not to approve the scheme and to direct that the monies to which the scheme relates shall be distributed by the Board in the manner provided by subsection (2A) of section two of the principal Law as if that subsection had not been suspended by an Ordinance made in accordance with the provisions of section one of this Law; or
- (e) not to approve the scheme but itself to prepare another scheme for the distribution of the monies to which the first mentioned scheme relates and to direct that the said monies shall be distributed by the Board in the manner provided by the scheme prepared by the Tribunal as aforesaid.

PART II

*Suspension of subsection (2A) of section two of the
Law of 1952 for 4th day of August, 1972, and
distribution of monies*

Section
2 (2A) of
Law of 1952
suspended in
relation to
4th August,
1972.

7. On the date of the coming into force of this Law the provisions of subsection (2A) of section two of the principal Law shall be deemed to have been suspended by an Ordinance made under the provisions of section one of this Law in relation to the fourth day of August, nineteen hundred and seventy-two, as if this Law had then been in force.

Board to
prepare
scheme for
4th August,
1972.

8. (1) The Board shall, as soon as may be after the date of the coming into force of this Law, prepare a scheme in writing for the distribution of monies realised in respect of tomatoes exported on the fourth day of August, nineteen hundred and seventy-two, in a manner which, in the opinion of the Board, is fair and equitable to the producers.

(2) As soon as may be after the preparation of a scheme in accordance with the provisions of the last preceding subsection, the Board shall submit a copy thereof, signed by the Chairman or Vice-Chairman of the Board, to the Tribunal.

Tribunal to
examine
scheme for
4th August,
1972.

9. Upon receipt of a scheme submitted to it under the provisions of subsection (2) of the last preceding section, the Tribunal shall examine the scheme under the provisions of section five of this Law as if it were a scheme submitted to it under the provisions of section two of this Law and shall make a decision in relation thereto under the provisions of section six of this Law.

PART III

General

10. Every decision of the Tribunal under the provisions of section six of this Law shall be recorded in writing and a copy thereof, signed by the Chairman of the Tribunal, shall be sent to the Board and to Her Majesty's Greffier as soon as may be after the taking of such decision.

Decisions of Tribunal to be in writing and sent to Board.

11. Every decision of the Tribunal under the provisions of section six of this Law shall be final.

Decisions of Tribunal to be final.

12. As soon as may be after the receipt of a copy of a decision of the Tribunal under the provisions of paragraph (a), paragraph (b), paragraph (d) or paragraph (e) of section six of this Law the Board shall distribute the monies in the manner directed by the said decision.

Distribution of monies by Board.

13. The distribution of monies in the manner directed by a decision under the provisions of section six of this Law shall be a complete discharge to the Board of its obligation under paragraph (d) of subsection (1) of section two of the principal Law in respect of the distribution of the proceeds from the sale of tomatoes exported on any day or during any period to which the decision relates.

Distribution to be discharge to Board.

14. (1) For the purposes of the examination of a scheme in accordance with the provisions of section five of this Law and for the purposes of making a decision in accordance with the provisions of section six of this Law, the Tribunal shall have power:—

Powers of Tribunal.

- (a) by summons under the hand of the Chairman of the Tribunal to call before it and examine all such persons as it thinks fit, to require such persons to answer any question

or furnish any information or produce any books, accounts, balance sheets, invoices, receipts, bills of lading, manifests or other documents which the Tribunal considers relevant and to retain such books, accounts, balance sheets, invoices, receipts, bills of lading, manifests and other documents until it has made a decision in accordance with the provisions of section six of this Law;

- (b) to take statements from all such persons as it thinks fit and to require any such person to make and sign a declaration of the truth of the statement made by him.

(2) Every person summoned by the Tribunal in accordance with the provisions of the last preceding subsection shall be allowed such expenses as Her Majesty's Procureur may, from time to time, determine.

Expenses.

15. All expenses incurred in connection with the operation of this Law shall be paid out of monies provided by the Board.

Monies
distributed
to be
recoverable
as a civil
debt.

16. Any monies realised by the Board in respect of tomatoes exported on any date or during any period when the operation of the provisions of subsection (2A) of section two of the principal Law is suspended under the provisions of this Law and distributed, in whole or in part, before a copy of a decision of the Tribunal under the provisions of section six of this Law directing the distribution of such monies has been received by the Board, shall be recoverable by the Board as a civil debt from any person to whom any such monies have been paid.

Offences.

17. Any person who—

- (a) without reasonable excuse (proof of which shall lie on him) fails to comply with any summons calling him before the Tribunal in accordance with the provisions of paragraph (a) of subsection (1) of section fourteen of this Law;
- (b) fails or refuses to answer any question, to furnish any information or to produce any books, accounts, balance sheets, invoices, receipts, bills of lading, manifests or other documents in accordance with the provisions of paragraph (a) of subsection (1) of section fourteen of this Law;
- (c) refuses or fails to make any statement in accordance with the provisions of paragraph (b) of subsection (1) of section fourteen of this Law;
- (d) makes any statement, furnishes any information or produces any books, accounts, balance sheets, invoices, receipts, bills of lading, manifests or other documents which he is required to make, furnish or produce under the provisions of section fourteen of this Law which he knows to be false or recklessly makes any such statement, furnishes any such information or produces any such books, accounts, balance sheets, invoices, receipts, bills of lading, manifests, or other documents which is or are false in any material particular;

shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds.

18. Where a person convicted of an offence under this Law is a body corporate, every person who, at the time of the commission of the offence, was a

Offences by
bodies
corporate.

director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Interpretation.

19. In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the Board” means the Guernsey Tomato Marketing Board constituted in accordance with the provisions of the principal Law;

“export” means exported by way of trade;

“the producers” means the persons who own tomatoes for export from Guernsey on any date or during any period when the operation of subsection (2A) of section two of the principal Law is suspended under the provisions of this Law and includes the persons who owned tomatoes for export from Guernsey on the fourth day of August, nineteen hundred and seventy-two;

“tomatoes” means fresh tomatoes grown in Guernsey.

Citation.

20. This Law may be cited as the Tomato Marketing (Distribution of Monies) (Guernsey) Law, 1973.

R. H. VIDELO,

Her Majesty's Greffier.