

ORDER IN COUNCIL

XI
1964

ratifying a *Projet de Loi*

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1964.

(Registered on the Records of the Island of Guernsey,
on the 24th day of November, 1964.)



1974.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 24th day of November, 1964, before Sir William Arnold, Kt., C.B.E., C. St. J., Bailiff; present:— Sir John Leale, Wilfred John Corbet, Esquire, O.B.E., 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, and William Burton Fox, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 15th day of October, 1964, ratifying a *Projet de Loi* entitled "The Income Tax (Amendment) (Guernsey) Law, 1964", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller 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 for registration on the records of that Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 15th day of October, 1964.

PRESENT,

The Queen's Most Excellent Majesty.

LORD PRESIDENT
MARQUESS OF LANSDOWNE
EARL JELlicoe
LORD CRAIGTON

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 23rd day of September, 1964, 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, 1963, the States of Deliberation at a meeting held on the 29th day of July, 1964, approved a Bill or “Projet de Loi” entitled “The Income Tax (Amendment) (Guernsey) Law, 1964” 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 Income Tax (Amendment) (Guernsey) Law, 1964" and to order that the same shall have force of law in the Islands of Guernsey and Herm.'

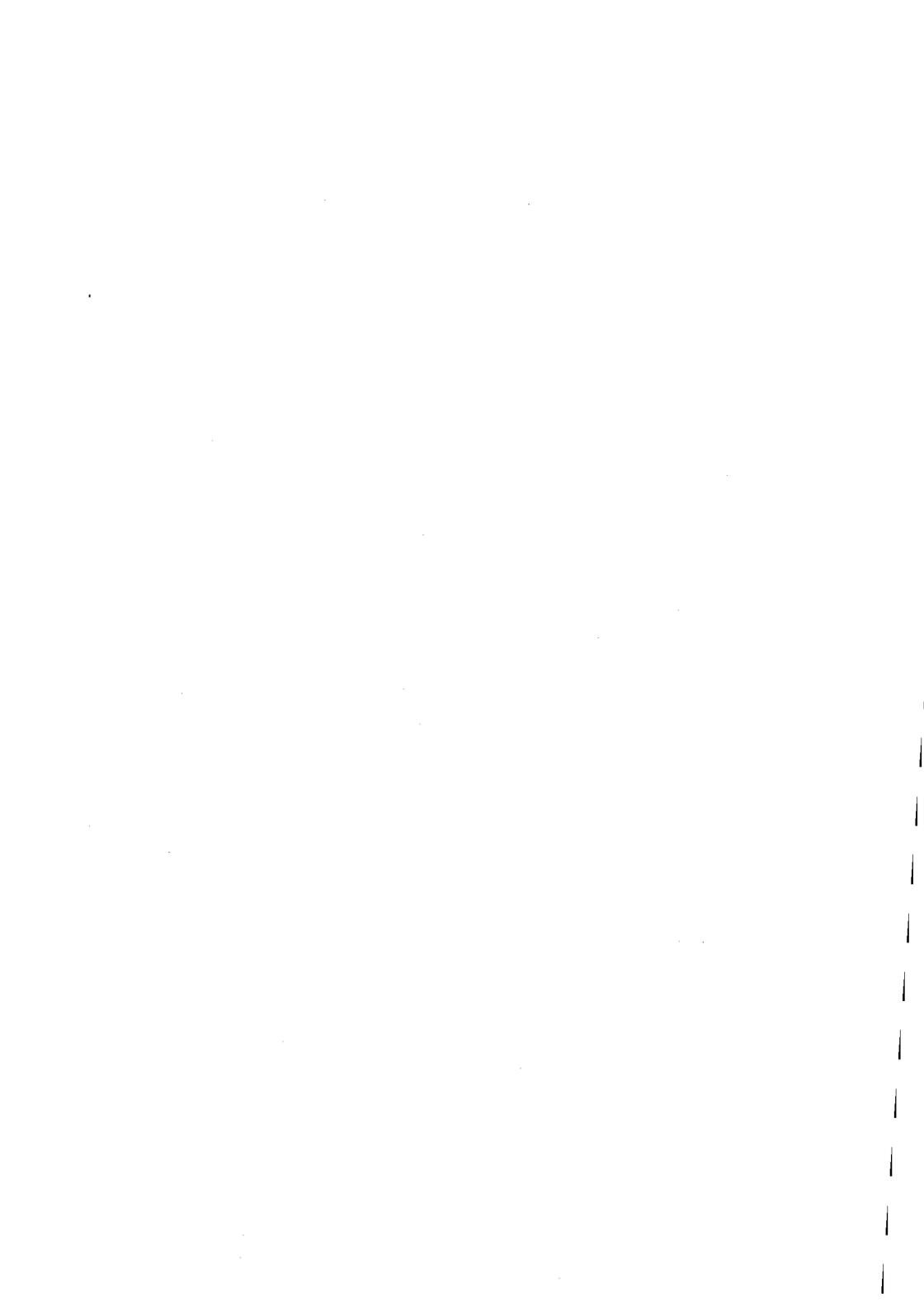
"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer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

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. ACNEW.



Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1964

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PROJET DE LOI

ENTITLED

The Income Tax (Amendment) (Guernsey) Law, 1964

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

PART I

Income from sources outside Guernsey

1. (1) Save as otherwise in this Law provided, as respects assessable income from sources outside Guernsey, other than income from the carrying on of a business (hereinafter referred to as "income to which this Part of this Law applies") the year of computation shall, notwithstanding the provisions of section six of the principal Law, be the year of charge and the provisions of sections fifteen and sixteen of the principal Law (which relate to commencements and cessations) shall not apply in respect of any such income.

Year of computation in respect of income from sources outside Guernsey.

(2) Notwithstanding the provisions of the last preceding subsection, a preliminary assessment for any year of charge may be made on any person at any time after the commencement of the year of charge in respect of any income to which this Part of this Law applies (hereinafter referred to as "a preliminary assessment") and, for the purposes of a preliminary assessment, that income shall be computed as if the year of computation was the year preceding the year of charge.

(3) A definitive assessment for any year of charge may be made on any person at any time in respect of any income to which this Part of this Law applies (hereinafter referred to as "a definitive assessment") and, for the purposes of a definitive assessment, that income shall be computed in accordance with the provisions of subsection (1) of this section.

Payment of
tax charged
in con-
sequence
of pre-
liminary
assessments.

2. Where a preliminary assessment has been made on any person for any year of charge, the tax charged in consequence thereof shall be payable in the manner prescribed by the provisions of section sixty-seven of the principal Law.

Payment of
tax charged
in con-
sequence
of a
definitive
assessment.

3. Where a definitive assessment has been made on any person for any year of charge, the tax charged in consequence thereof shall be payable within twenty-one days from the date of the issue of the notice of assessment:

PROVIDED that in determining the amount of tax to be charged in consequence of the definitive assessment a deduction shall be made equal to the amount of any tax which has been charged in consequence of any preliminary assessment which may have been made for the same year of charge.

4. (1) Save as provided in subsection (2) of this section when the tax paid in consequence of a preliminary assessment for any year of charge is found to exceed the tax charged in consequence of a definitive assessment for the same year of charge, the excess shall be applied in payment or part payment of any tax which has been charged, either in respect of the year of charge in which the definitive assessment has been made, or in respect of any year of charge prior to that year of charge, and which has not been paid, and where there is no such tax charged and unpaid the excess shall be repaid.

Treatment when tax paid in consequence of a preliminary assessment exceeds tax charged in consequence of a definitive assessment.

(2) When the tax paid in consequence of a preliminary assessment is found to exceed the tax charged in consequence of a definitive assessment for the same year of charge and—

- (a) the definitive assessment is made before the first day of June in the year next following the year of charge to which it relates, and
- (b) there is no tax which has been charged in respect of any year of charge prior to the year in which the definitive assessment has been made and which has not been paid,

the excess shall be repaid:

PROVIDED that a claim for the repayment of the excess is submitted to the Administrator, in writing, by the person entitled to the repayment before the first day of June in the year in which the definitive assessment is made.

5. When in any year of charge there is included in the assessable income of any person any income to which this Part of this Law applies and in the same year of charge that person is entitled to receive interest on any sum deposited with a bank in such circumstances that the source of the interest is in Guernsey, the year of computation in respect

Bank interest from sources in Guernsey.

of the deposit interest shall be determined and the provisions of this Part of this Law in relation to the assessment of tax and the payment of the tax charged in consequence of the assessment shall apply as if the interest arose from a source outside Guernsey.

Persons becoming solely or principally resident.

6. When an individual who was not resident in Guernsey in the year preceding the year of charge becomes solely or principally so resident in a year of charge he shall be assessed and charged in that year of charge in respect of income to which this Part of this Law applies on the following bases:—

- (a) in respect of any such income which he commenced to possess after the date on which he first arrived in Guernsey in the year of charge, on the income arising or accruing from that source in the year of charge;
- (b) in respect of any such income which he possessed on the date on which he first arrived in Guernsey in the year of charge and continued to possess throughout that year of charge, on the same proportion of the income arising or accruing from that source during the year of charge as the period of his residence in Guernsey during the year of charge bears to a period of twelve months or to the period during which he possessed the source in the year of charge if that period is less than twelve months;
- (c) in respect of any such income which he possessed on the date on which he first arrived in Guernsey and ceased to possess during the year of charge in which he became solely or principally resident as aforesaid, on the income arising or accruing from those sources between the date on

which he first arrived in Guernsey in the year of charge and the date on which he ceased to possess the source.

7. When an individual who was solely or principally resident in Guernsey in the year preceding the year of charge permanently departs from Guernsey he shall be assessed and charged in the year in which he so departs in respect of income to which this Part of this Law applies on the following bases:—

Persons solely or principally resident who permanently depart from Guernsey.

- (a) in respect of any such income which he possessed in the year preceding the year of charge and continued to possess on the date on which he permanently departed from Guernsey, on such proportion of a year's amount of the income arising or accruing from that source in the year prior to the year of charge as the period during which he resided in Guernsey during the year of charge bears to a period of twelve months;
- (b) in respect of any such income which he possessed at the commencement of the year of charge but ceased to possess before the date on which he permanently departed from Guernsey, on the income arising or accruing from that source during the year of charge;
- (c) in respect of any such income which he commenced to possess after the commencement of the year of charge but before the date on which he permanently departed from Guernsey, on the income arising or accruing from that source before the date on which he so departed.

8. The provisions of this Part of this Law shall be deemed to have come into force on the first day of January, nineteen hundred and sixty-three, but, not-

Commencement and transitional provisions.

withstanding the provisions of subsection (1) of section one of this Law, any assessment which has been made on any person in respect of the year of charge nineteen hundred and sixty-three, in accordance with the provisions of the Income Tax Laws, shall, for the purposes of this Law, be deemed to be a preliminary assessment made in accordance with the provisions of subsection (2) of section one of this Law.

PART II

Special provisions as to investment companies resident in Guernsey and to unit trust schemes

Computation of income.

9. For the avoidance of doubt it is hereby declared that, subject as hereinafter provided in relation to the expenses of management of investment companies, the assessable income arising or accruing to an investment company from the ownership of any land and any building situate in Guernsey shall be determined in accordance with the provisions of Part II of the Income Tax (Amendment) (Guernsey) Law, 1959, and the assessable income arising or accruing from any other investment shall be determined in accordance with the provisions of section thirty-one of the Income Tax (Amendment) (Guernsey) Law, 1959.

Application of Part I.

10. The provisions of Part I of this Law (which relate to the assessment of tax in respect of income to which Part I of this Law applies and to the payment of tax charged in consequence of assessments made in accordance with the provisions of that Part) shall apply in respect of income arising or accruing to an investment company from sources in Guernsey, as they apply to income arising or accruing from sources outside Guernsey.

11. A deduction from the income arising or accruing to an investment company for any year of charge may be permitted by the Administrator in respect of sums disbursed as permissible management expenses in the year of computation if a claim for the deduction is made in writing simultaneously with a return as to income submitted in the form and manner required by the Administrator in accordance with the provisions of section fifty-four of the principal Law.

Expenses of management.

12. When in any year of charge an investment company is unable to obtain relief for the whole of its permissible management expenses in pursuance of the provisions of the last preceding section, because it has no income, or because its income is less than the said expenses, an amount equal to its permissible management expenses, or to such part of its permissible management expenses as has not been relieved, whichever is the less, shall be carried forward and treated as permissible management expenses for the next succeeding year of charge and so on from year to year:

Management expenses not relieved.

PROVIDED that no amount shall be so carried forward if it can be carried forward or set off under any of the provisions of the Income Tax Laws relating to relief from losses.

13. Subject to the provisions of section seventeen of this Law, where an investment company is liable to pay to any person who is not resident in Guernsey any interest on money borrowed it shall not be entitled to claim a deduction of, or relief for, the interest so payable under any of the provisions of the Income Tax Laws or of this Law.

No deduction for interest paid to non-residents.

Interest payable to non-residents out of income or profits brought into charge.

14. Subject to the provisions of section seventeen of this Law, where any interest on money borrowed is payable by an investment company to a person who is not resident in Guernsey and is payable wholly out of income or profits brought into charge to tax—

- (a) no assessment shall be made on the person entitled to the interest; and
- (b) the whole of the income or profits shall be assessed and charged to tax on the person liable to the interest without distinguishing the interest; and
- (c) the person liable to make the payment shall be entitled, on making the payment, to deduct and retain out of it a sum representing the tax thereon at the standard rate for the year of charge in which the amount payable becomes due; and
- (d) the person to whom the payment is made shall allow the deduction on receipt of the residue of the payment, and the person making the deduction shall be acquitted and discharged of so much money as is represented by the deduction, as if that sum had actually been paid.

Interest payable to non-residents not out of income or profits brought into charge.

15. (1) Subject to the provisions of section seventeen of this Law, where any interest on money borrowed is payable by an investment company to a person who is not resident in Guernsey and is not payable or is not wholly payable out of income or profits brought into charge to tax, the person by or through whom any payment thereof is made shall, on making the payment, deduct out of it a sum representing the amount of the tax thereon at the standard rate in force at the time of the payment.

(2) Where any such payment as aforesaid is made by or through any person that person shall, within one month of the date of the payment, remit the amount of the tax deducted therefrom to the Administrator and shall deliver to the Administrator, in such form and in such manner as the Administrator may require, an account of the payment, or of so much thereof as is not made out of profits or gains brought into charge, and of the tax deducted out of the payment or out of that part thereof and the Administrator shall assess and charge the payment on that person.

(3) Where any person has failed to deliver to the Administrator an account of a payment in pursuance of the provisions of subsection (2) of this section or where the Administrator is not satisfied with the account so delivered, the Administrator may make an assessment on that person to the best of his judgment.

(4) Any person who fails to comply with the provisions of subsection (2) of this section shall be liable to the penalty prescribed for late payment in section eighty of the principal Law, and for the purposes of computing the penalty the tax shall be deemed to be an amount becoming due on the date on which it was deducted.

16. (1) Subject to the provisions of section seventeen of this Law and of this section where a person has been assessed to tax for any year of charge under the last preceding section in respect of interest on money borrowed payable to a person who is not resident in Guernsey the amount on which tax has been paid under that assessment shall, for the purposes of section sixty-three of the Income Tax (Guernsey) Law, 1955, be treated as if it were interest

Relief in respect of interest not payable out of income or profits brought into charge.

which cannot be deducted under any provision of the principal Law and relief in respect thereof shall be allowed accordingly:

PROVIDED that no relief shall be allowed under this section in respect of any such payment which is not ultimately borne by the person assessed or which is charged to capital.

(2) This section shall not apply to any sum assessed under section fifteen of this Law by virtue of the provisions of subsection (2) of section twenty-three B of the principal Law (which requires assessments to be made in certain cases on interest on money borrowed payable by an investment company to a non-resident out of dividends affected by double taxation relief).

Interest payable to non-residents with permanent establishment in Guernsey.

17. (1) The provisions of the last four foregoing sections relating to interest on money borrowed payable by an investment company to a person who is not resident in Guernsey shall not apply in the case of interest on money borrowed and payable to a non-resident carrying on business in Guernsey through a permanent establishment situate in Guernsey in such circumstances that the income or profits arising from, or attributable to, the permanent establishment are chargeable to Guernsey income tax and that the said interest falls to be taken into account in computing the profits so chargeable.

(2) In this section the expression "permanent establishment" means a branch, management or other fixed place of business.

Definitions.

18. In this Law the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“investment company” means a company which is resident in Guernsey within the meaning of section four of the principal Law and whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom;

“permissible management expenses” means, in the case of an investment company, such items of expenditure as are laid out or expended wholly and exclusively for the purpose of managing the company as would be permissible deductions in accordance with such provisions of the principal Law as relate to the computation of the profits of a business if the profits of the company fell to be computed in accordance with those provisions, but does not include:—

- (a) any item of expenditure which may be deducted or taken into account under any provision of the Income Tax Laws or of this Law which does not relate specifically to expenses of management, or
- (b) any expense of management which may be taken into account for the purpose of determining the amount of any additional deduction which may be claimable under the provisions of section eight of the Income Tax (Amendment) (Guernsey) Law, 1959.

19. (1) The provisions of the Income Tax Laws shall have effect in respect of income arising or accruing to the trustees of a unit trust scheme which has been approved by the Authority for that purpose as respects any year of charge as if the trustees were an investment company resident in Guernsey

Trustees of unit trust scheme to be treated as investment company.

and as if the rights of the unit holders were shares of the company, and so much of the income arising or accruing as aforesaid as is available for payment to unit holders or for investment were dividends on such shares paid to them in proportion to their rights, the date of payment, in the case of income not paid to unit holders, being taken to be—

- (a) the date or latest date provided by the terms of the scheme for any distribution in respect of the distribution period in question;
- (b) if no date is so provided, the last day of the distribution period.

(2) Without prejudice to the generality of the foregoing subsection—

- (a) sums periodically appropriated out of income arising or accruing as aforesaid shall be treated for the purposes of section eleven of this Law as sums disbursed as permissible management expenses;
- (b) the proportion of income attributable to any unit holder, being income not paid to unit holders but available for investment, shall be treated as an amount paid to a unit holder after such deduction of tax as is authorised by section eight of the principal Law;
- (c) section eight C of that Law shall apply with any necessary modifications.

Meaning of unit trust scheme and supplementary provisions.

20. (1) In the last preceding section and in this section the expression “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 established in Guernsey, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatsoever, and the

expression "unit holder" means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.

(2) In ascertaining the amount available to unit holders in respect of any distribution period the trustees of a unit trust scheme may make such adjustments as may be reasonably required to allow for liabilities to, and relief from, tax where the amount of the liability or relief is not yet ascertained.

(3) The last preceding section shall have effect, in relation to any unit trust scheme, from the beginning of the first distribution period of the scheme beginning after the thirty-first day of December, nineteen hundred and sixty-three.

(4) In the last preceding section and in this section the expression "distribution period" in relation to a unit trust scheme, means a period over which income from investments subject to the trust is aggregated for the purpose of ascertaining the amount available for distribution to unit holders.

PART III

Additional Exemptions

21. In section twenty-four of the principal Law, the full-stop at the end of paragraph (14) thereof is hereby deleted and a semi-colon is hereby substituted therefor and immediately thereafter there are hereby inserted the following additional paragraphs numbered "15", "16", "17", "18" and "19":—

Exemptions,
additions
to section
twenty-four
of principal
Law.

"(15) the income derived from investments or deposits of any superannuation fund which is established in Guernsey and which—

- (a) is bona fide established under irrevocable trusts in connection with the carrying on of business or the exercise of functions wholly or mainly outside Guernsey,
- (b) has for its sole purpose the provision of superannuation benefits for persons employed in the business or in connection with the exercise of functions wholly outside Guernsey and, for the widows, children or dependants of persons who are or have been so employed, on the death of those persons, and
- (c) is recognised by the employer and by the persons employed in the business or in connection with the exercise of functions.

and for the purposes of this paragraph duties performed in Guernsey, the performance of which is incidental to the performance of other duties outside Guernsey, shall be treated as performed outside Guernsey;

- (16) any superannuation benefit which is paid out of a superannuation fund to which paragraph (15) of this section applies and which is paid to a person who is not resident in Guernsey;
- (17) the income derived from investments or deposits of a superannuation fund established in the United Kingdom where the trustee or other person having the management of the fund proves to the satisfaction of the Administrator that the

fund has been approved by the Commissioners of Inland Revenue under the provisions of section three hundred and seventy-nine of the Income Tax Act, 1952;

- (18) the income derived from investments or deposits of any body of persons or trust established in the United Kingdom for charitable purposes only where the person entitled to the income proves to the satisfaction of the Administrator that the Commissioners of Inland Revenue have allowed a claim for exemption from tax on that income under the provisions of section four hundred and forty-seven of the Income Tax Act, 1952;
- (19) the income derived by an assurance company from investments or deposits to the extent that the investments or deposits are referable to the company's pension annuity business carried on in the United Kingdom and where the company proves to the satisfaction of the Administrator that the said income is exempt from tax under the provisions of section twenty-four of the Finance Act, 1956."

PART IV

Retirement Benefit Schemes and Superannuation Funds

22. (1) In this Part of this Law the expression "approved scheme" means a retirement benefit scheme approved by the Authority in accordance with the succeeding provisions of this section.

Approval of retirement benefit schemes.

(2) Subject to the succeeding provisions of this Law, the Authority may approve a retirement

benefit scheme if it is shown to the satisfaction of the Authority that the scheme satisfies all the following conditions:—

- (a) that the scheme is established in connection with the carrying on of business or the exercise of functions wholly or partly in Guernsey;
- (b) that the benefits afforded by the scheme may accrue only to—
 - (i) persons employed in connection with the business or the exercise of functions on retirement, either on reaching an age specified in the scheme which shall not exceed seventy years or on becoming permanently incapacitated at an earlier age, or
 - (ii) the widows, children or other dependants or the legal personal representative of persons who are or have been so employed, on the death of such persons;
- (c) that each person to whom the scheme relates is entitled by virtue of the provisions of the scheme to benefits defined therein and has been made aware of the terms of the scheme;
- (d) that the nature of the benefits afforded by the scheme is the same in relation to all the persons to whom the scheme relates;
- (e) that no sum paid by the employer for the purposes of providing benefits under the scheme may be applied to any other purpose or may be repaid to the employer;
- (f) that, where any person employed contributes to the cost of providing the benefits under the scheme, no sum so contributed by any person may be applied to any pur-

pose other than the provision of those benefits or may be refunded to him;

(g) that—

- (i) the aggregate value of all benefits which may accrue to any person on his retirement may not exceed the value, at the date of such retirement, of a pension for his life equal to one-sixtieth of his final remuneration multiplied by the number of his years of service, or the value, at such date, of a pension for his life equal to two-thirds of his final remuneration whichever is the lesser, and
- (ii) the fraction of such aggregate value which may be represented by the value of the benefits, if any, given otherwise than by way of non-commutable pension or annuity does not exceed one-fourth;

(h) that the aggregate value of all benefits (in this paragraph referred to as “death benefits”) which may accrue on the death during his service of any person, may not exceed the value of the benefits which might, in accordance with the provisions of sub-paragraph (i) of the last preceding paragraph, have been provided for him on retirement on attaining the age specified as aforesaid, if he had continued to serve until he attained that age at an annual rate of remuneration equal to his final remuneration, and that the value of all such death benefits which may be given otherwise than by way of non-commutable pension or annuity may not exceed whichever of the following amounts is the greatest:—

- (i) the sum of one thousand pounds,

- (ii) an amount equal to the person's final remuneration,
 - (iii) an amount equal to one-thirtieth of the person's final remuneration multiplied by the number of his years of service or by forty-five, whichever is the lesser,
 - (iv) an amount equal to the aggregate of the sums contributed by the person under the scheme, together with reasonable interest on those sums;
- (z) that—
- (i) the aggregate value of all benefits which may accrue, on the death after his retirement of any person, may not exceed an amount equal to the aggregate value of the benefits to which that person became entitled on his retirement reduced by the total amount of all payments made or due up to such death in respect of such benefits, or
 - (ii) the only benefit which may accrue on the death after his retirement of any person is a non-commutable pension to his widow or other dependant of an amount not exceeding one-half of the pension or annuity to which that person had been entitled at the time of his death;
- (j) that the pensions or annuities provided under the scheme are not assignable in whole or in part;
- (k) that the scheme includes provision securing that no rights to any benefit provided or to be provided under the scheme (whether or not the accrual of the benefit is dependent on a contingency) shall be surrendered in whole or in part; and

- (l) that no service of a person in whatever capacity while he is—
- (i) a proprietary director,
 - (ii) a part-time director,
 - (iii) a proprietary employee, or
 - (iv) a part-time employee,
- may be taken into account for any of the purposes of the scheme.

(3) The Authority may, if it thinks fit, having regard to the circumstances of the particular case, and subject to such conditions as it thinks proper to impose, approve a retirement benefit scheme notwithstanding that, as respects that scheme:—

- (a) the condition set out in paragraph (a) of subsection (2) of this section is not satisfied, or
- (b) while the provision of benefits afforded by the scheme accruing only in the circumstances set out in paragraph (b) of that subsection is the principal purpose of the scheme, such provision is not the sole purpose of the scheme, or
- (c) the condition set out in paragraph (e) of that subsection is not satisfied because, if the amount of the sums paid by the employer for the purpose of providing benefits under the scheme in respect of any person is in excess of the amount required to provide benefits in accordance with the scheme for such person, a sum in relation to the excess may be repaid to the employer, or
- (d) the condition set out in paragraph (f) of that subsection is not satisfied because sums contributed by a director or employee may be refunded to him (with or without reasonable interest thereon) on the cessation of

his service in circumstances such that he does not become entitled to a pension payable either immediately or at some future date, or

- (e) in exceptional circumstances the aggregate value of the benefits which may accrue on the retirement of a director or employee may exceed the limit set out in sub-paragraph (i) of paragraph (g) of that subsection, or the value of such benefits which may be given otherwise than by way of non-commutable pension or annuity may exceed the limit set out in subparagraph (ii) of that paragraph, or
- (f) the aggregate value of the benefits which may be given, otherwise than by way of non-commutable pension or annuity, on the death during his service of any person may exceed the limit set out in paragraph (i) of that subsection, or
- (g) the condition set out in paragraph (l) of that subsection is not satisfied in relation to a part-time director or part-time employee;

if the scheme otherwise satisfies the conditions set out in subsection (2) of this section.

Aggregation and severance of schemes.

23. (1) References in this Part of this Law to a retirement benefit scheme:—

- (a) shall, in relation to an agreement, series of agreements, or other arrangements providing for retirement or other benefits for persons of two or more classes, be construed as references to so much thereof as relates to persons of a single class, and accordingly an agreement, series of agreements, or other arrangements so providing shall be treated for the purposes of this Part of this Law as

constituting two or more retirement benefit schemes relating respectively to the different classes;

- (b) shall be construed as including references to an agreement, series of agreements, or other arrangements providing for retirement or other benefits for a person or persons consisting of or including a director or employee, or directors or employees or, in a case falling within paragraph (a) of this sub-section, to so much thereof as relates to a person or persons of any one class.

(2) For the purpose of satisfying itself that the conditions set out in subsection (1) of section twenty-two of this Law are satisfied, the Authority shall take into account any other scheme or fund subsisting in connection with the employer and relating to persons of the class to which the scheme in question relates and if the said conditions are satisfied in the case of all the schemes and funds taken together, those conditions shall be taken to be satisfied in the case of each of them, and, if not, those conditions shall be taken to be satisfied in the case of none of them.

(3) The Authority may, if it thinks fit—

- (a) approve a part of a retirement benefit scheme, or
- (b) approve such a scheme notwithstanding that, having regard to another such scheme or fund subsisting in connection with the employer, the scheme in question is to be treated by virtue of the last preceding subsection as not satisfying the conditions aforesaid,

and references in this Part of this Law to an approved scheme shall be deemed to include references to a part of a scheme approved under this subsection.

Allowances
to
employees.

24. In the case of an individual holding or exercising an office or employment a contribution made by him to an approved scheme shall be treated as a premium paid to an assurance company in respect of a deferred annuity on his life and accordingly as entitling him to any allowance which may be claimable under the provisions of section eighteen of the principal Law.

Deductions
by
employers.

25. A sum paid by an employer for the purpose of providing benefits under an approved scheme shall be allowed as a deduction in computing the profits of the business in connection with which the scheme is established.

Sums
repaid to
employers
or applied
to other
purposes.

26. Where any sum paid by an employer for the purpose of providing benefits under an approved scheme is applied to any other purpose or is repaid to him it shall be deemed to be income arising to the employer in the year of charge in which it is so applied or repaid and shall be charged to tax at the standard rate in force in that year of charge.

Information
to be pro-
vided by
employer.

27. An employer who contributes to an approved scheme or an employer for the benefit of whose employees an approved scheme has been established shall, when so required by notice in writing from the Administrator, furnish, within twenty-one days of the date of such notice, such particulars as the Administrator may require regarding contributions made to the scheme, the names and addresses of persons in receipt of annuities, the amount of the annuities and such other information relating to the scheme as the Administrator may from time to time require.

Application
for approval
of retire-
ment scheme.

28. (1) Any employer desirous of obtaining the approval of the Authority to a retirement benefit scheme or part of a retirement benefit scheme in

pursuance of the provisions of section twenty-two or section twenty-three of this Law, as the case may be, shall make application in that behalf to the Administrator and such application shall be in such form, shall contain such information as the Authority may, from time to time, require and shall be accompanied by a copy of the rules relating to the scheme.

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

29. (1) Upon the receipt of an application under the provisions of the last preceding section, the Authority may— Grant,
refusal or
withdrawal
of approval.

(a) approve the retirement benefit scheme or part of the retirement benefit scheme in pursuance of the provisions of section twenty-two or twenty-three of this Law, as the case may be; or

(b) refuse such approval; or

(c) approve such a scheme or part of a scheme, as the case may be, subject to such conditions as the Authority may think it necessary or expedient to impose.

(2) If the Authority approves a retirement benefit scheme or part of a retirement benefit scheme, it shall, as soon as may be thereafter notify the applicant, in writing, of such approval, together with such conditions, if any, as may be attached thereto and the date upon which such approval is to take effect.

(3) The Authority may at any time revoke any approval given under the provisions of subsection (1) of this section and may at any time vary any conditions attached to any such approval and the

Authority may at any time revoke any approval of a retirement benefit scheme given under any of the provisions of any enactment repealed by this Law and may at any time vary any conditions attached to any such approval.

(4) If the Authority revokes any approval given under the provisions of subsection (1) of this section or any approval of a retirement benefit scheme given under the provisions of any enactment repealed by this Law or varies any condition attached to any such approval in pursuance of the provisions of the last preceding subsection, it shall, as soon as may be thereafter, notify the employer concerned, in writing, of such revocation or variation, the reasons therefor and the date (which may be a date prior to the date of the notice) upon which such revocation or variation is to take effect.

Charge of
tax on
annuities.

30. Where an annuity is paid out of or under the provisions of an approved scheme, the person chargeable with tax shall be the person entitled to the annuity:

PROVIDED that if the person entitled to the annuity is not resident in Guernsey the employer or other person having the management of the scheme shall be charged with tax on behalf of the non-resident person and the provisions of section thirty-three of the principal Law shall apply accordingly, but the employer or other person having the management of the scheme shall not be so chargeable if the services in respect of which the annuity is payable were performed wholly outside Guernsey.

Approval of
super-
annuation
funds.

31. (1) In this Part of this Law the expression "approved fund" means a superannuation fund or part of a superannuation fund approved by the

Authority in accordance with the succeeding provisions of this section.

(2) The Authority may approve a superannuation fund if, but not unless, it is shown to the satisfaction of the Authority that the following conditions are satisfied:—

- (a) the fund is held under irrevocable trusts;
- (b) the fund is established in connection with the carrying on of business, or the exercise of functions, wholly or partly in Guernsey;
- (c) the fund has for its sole or main purpose the provision of annuities—
 - (i) for persons employed in connection with such business or functions, on their retiring at an age specified in the rules of the fund or on their becoming incapacitated at some earlier age;
 - (ii) for the widows, children or dependants of persons who are or have been so employed, on the death of those persons;
- (d) the person carrying on the business or exercising the functions (hereinafter referred to as “the employer”) is a contributor to the fund;
- (e) the fund is recognised by the employer and by the persons so employed;
- (f) the nature of the benefits afforded by the fund is the same in relation to all the persons to whom the fund relates;
- (g) no service of a person in whatever capacity while he is—
 - (i) a proprietary director,
 - (ii) a part-time director,
 - (iii) a proprietary employee, or
 - (iv) a part-time employee,

may be taken into account for any of the purposes of the fund:

PROVIDED that if—

- (i) the business is not carried on, or the functions are not exercised, wholly in Guernsey, or the employer is not resident in Guernsey; or
- (ii) the provision of such annuities as aforesaid is not the sole purpose of the fund; or
- (iii) the rules of the fund allow the return of contributions made to the fund;

the Authority may, as it thinks fit, approve the fund as a whole or as to part only thereof.

Deduction claimable by employees.

32. (1) In computing the income of an individual from—

- (a) any office or employment held or exercised by him; or
- (b) a pension payable to him in consequence of an office or employment formerly held or exercised by him;

there shall be deducted the amount of any ordinary contributions to an approved fund or of any statutory contributions made by him out of the said income in the year of computation.

(2) In this section, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“ordinary contribution” means a periodic contribution, fixed in amount, or calculated on some definite basis by reference to earnings;

“statutory contribution” means—

- (i) a contribution required by law to be made towards the expense of providing

a pension or gratuity to the contributor on his retirement, or on his death to his widow, children or dependants or to his legal personal representative; or

- (ii) any contribution which a person employed by the States of Guernsey may be required to make and which is authorised by Resolution of the said States towards the expense of providing a pension or gratuity to the contributor on his retirement, or on his death to his widow, children or dependants or to his legal personal representative.

33. (1) If a contribution to an approved fund is made by the employer, then, in computing his income arising from the business in connection with which the fund is established—

Deduction claimable by employers.

- (a) if the contribution is an ordinary contribution, the amount thereof shall be allowed as a deduction in the accounting period in which it is paid;
- (b) if the contribution is not an ordinary contribution, then, according as the Authority may direct, the amount thereof shall either—
- (i) be allowed as a deduction for the accounting period in which it is paid; or
- (ii) be apportioned to such accounting periods as the Authority thinks proper, and the amount apportioned to any accounting period be allowed as a deduction for that period.

(2) In this section the expression “ordinary contribution” means a periodic contribution fixed in amount or calculated on some definite basis by

reference to the earnings or contributions of the members of the fund, or to the number of such members, or in the case of a body corporate, a periodic contribution consisting of a share of the profits arising to that body from the business in connection with which the fund is established and computed according to a formula approved by the Authority.

Exemption of income of approved funds.

34. Exemption from tax shall, on a claim being made for the purpose, be allowed in respect of the income derived from investments or deposits forming part of an approved fund.

Charge of tax on pensions.

35. Where a pension is paid out of or under the provisions of an approved fund the person chargeable with tax shall be the person entitled to the pension:

PROVIDED that if the person entitled to the pension is not resident in Guernsey the trustees or other persons having the management of the fund shall be charged with tax on behalf of the non-resident person, and the provisions of section thirty-three of the principal Law shall apply accordingly, but the trustees or other persons having the management of the fund shall not be so chargeable if the services in respect of which the pension is payable were performed wholly outside Guernsey.

Charge of tax on contributions and interest repaid and on certain lump sums.

36. (1) Subject to the provisions of section thirty-seven of this Law:—

- (a) contributions repaid and any interest thereon paid to directors or employees and lump sums paid out of or under the provisions of an approved fund in commutation of or in lieu of pensions, shall be treated as income of the year in which they are repaid or paid, and tax in respect thereof

shall be chargeable on the trustee or other person having the management of the fund at one-half of the standard rate in force in the year of charge in which the contributions are repaid or the interest or the lump sums are paid;

- (b) statutory contributions repaid and any interest thereon paid to an individual under the authority of the law or of the resolution under which the contributions were paid shall be treated as income of the year in which they are repaid or paid and tax in respect thereof shall be chargeable on the person by or through whom the repayment or payment is made at one-half of the standard rate of tax in force in the year of charge in which the contributions are repaid or the interest is paid.

(2) The trustee or other person having the management of an approved fund or the person by or through whom a statutory contribution is repaid or by or through whom interest thereon is paid shall deduct the amount of tax chargeable under the provisions of the last preceding subsection from the contributions, interest or other sums paid and shall remit the tax so deducted to the Administrator within one month of the date on which it was deducted, and shall at the same time furnish to the Administrator, in the form and manner which the Administrator may require, an account of the payment and of the tax deducted out of the payment and the Administrator shall assess and charge the tax on that person.

(3) Any person who fails to comply with the provisions of the last preceding subsection shall be liable to the penalty prescribed for late payment in section eighty of the principal Law and for the

purpose of computing the penalty the tax shall be deemed to be an amount becoming due on the date on which it was deducted.

(4) Where any person has failed to deliver to the Administrator such account of a payment as is required by subsection (2) of this section within the time set out in that subsection or where the Administrator is not satisfied with the account so delivered, the Administrator may make an assessment on that person to the best of his judgment.

(5) Nothing in this section shall affect the liability of a person to be charged to tax in his own name.

Modifica-
tion of
application
of section
thirty-six.

37. (1) The provisions of the last preceding section shall not apply to contributions repaid or to interest paid to the extent that the contributions were originally paid in respect of employment exercised wholly outside Guernsey and the interest relates to the contributions so paid.

(2) The Authority may, in its absolute discretion, exempt from tax a lump sum or part of a lump sum paid out of an approved fund in commutation of or in lieu of a pension which would otherwise be chargeable to tax under the provisions of paragraph (a) of subsection (1) of the last preceding section if the Authority is satisfied that the sum exempt from tax does not exceed the amount produced by the commutation of not more than one-quarter of all the benefits to which the person to whom the lump sum is paid is entitled to receive out of the fund at the time at which the payment is made and that in the Authority's opinion the lump sum paid is reasonable in amount.

(3) The provisions of paragraph (a) of subsection (1) of the last preceding section shall not apply to lump sums paid in commutation of or in lieu of

pensions which would have been exempt from tax under the provisions of paragraph (b) of the proviso to subsection (2) of section forty-three of the principal Law if that section had not been repealed and—

- (a) the fund was approved by the Authority in pursuance of the provisions of section thirty-nine of the principal Law before the twenty-sixth day of June, nineteen hundred and sixty-three, and
- (b) the person entitled to receive the lump sum was a contributor to the fund, in the capacity of a director or employee, before that date, and
- (c) between that date and the date on which the lump sum was paid there was no alteration to the rules of the fund which would permit the payment of lump sums which would not have been payable but for the alteration.

38. (1) Save where the services in respect of which the annuity or pension payable were performed wholly outside Guernsey any annuity or pension payable out of or under the provisions of an approved scheme or out of or under the provisions of an approved fund shall, for all the purposes of the Income Tax Laws or of this Law, be treated as income arising or accruing from a source in Guernsey.

Pensions,
annuities,
etc. to be
treated
as income
arising from
a source in
Guernsey.

(2) Any contribution repaid or any interest thereon or any lump sum paid out of or under the provisions of an approved fund and which is to be treated as income by virtue of the provisions of section thirty-six of this Law shall, for all the purposes of the Income Tax Laws or of this Law, be treated as income arising or accruing from a source in Guernsey.

Application for approval of approved funds.

39. (1) Any employer desirous of obtaining the approval of the Authority to a superannuation fund or part of a superannuation fund in pursuance of the provisions of section thirty-one of this Law shall make application in that behalf to the Administrator and such application shall be in such form and shall contain such information as the Authority may, from time to time, require and shall be accompanied by a copy of the instrument under which the fund is established, a copy of the rules and of the accounts of the fund for the last year for which such accounts have been drawn up.

(2) Upon the receipt of an application under the provisions of the last preceding subsection, or at any time thereafter, the Authority may require the applicant to supply it with such information as the Authority may require.

Grant, refusal or withdrawal of approval.

40. (1) Upon the receipt of an application under the provisions of the last preceding section the Authority may—

- (a) approve the superannuation fund or part of the superannuation fund in pursuance of the provisions of section thirty-one of this Law; or
- (b) refuse such approval; or
- (c) approve such a fund or part of a fund, as the case may be, subject to such conditions as the Authority may think it necessary or expedient to impose.

(2) If the Authority approves a superannuation fund or part of a superannuation fund it shall, as soon as may be thereafter, notify the applicant, in writing, of such approval together with such conditions, if any, as may be attached thereto and the date upon which such approval is to take effect.

(3) The Authority may at any time revoke any approval given under the provisions of subsection (1) of this section and may at any time vary any conditions attached to any such approval and the Authority may at any time revoke any approval of a superannuation fund given under any of the provisions of any enactment repealed by this Law and may at any time vary any conditions attached to any such approval.

(4) If the Authority revokes any approval given under subsection (1) of this section or any approval of a superannuation fund given under the provisions of any enactment repealed by this Law or varies any conditions attached to any such approval under the last preceding subsection it shall, as soon as may be thereafter, notify the trustees of the fund concerned, in writing, of such revocation or variation, the reasons therefor and the date (which may be a date prior to the date of the notice) upon which such revocation or such variation is to take effect.

41. The trustees of an approved fund or an employer who contributes to an approved fund shall, when so required by notice from the Administrator, furnish, within twenty-one days of the date of such notice, such particulars as the Administrator may require regarding contributions made to the fund, the names of the persons in receipt of annuities or other payments out of the fund and the amount of the annuities or payments, particulars of contributions repaid, the accounts of the fund and such other information relating to the fund as the Administrator may require.

Information
to be
furnished.

42. In this Part of this Law, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpreta-
tion.

“final remuneration” means, in relation to any person, the average annual amount of his remuneration over the last three years of his service with his employer, and the amount of a person’s remuneration for any year shall be taken to be the amount thereof on which he would be assessable under the provisions of the Income Tax Laws or of this Law, if those provisions required the assessment to be based on the income of that year and not on that of any other year or period:

PROVIDED that, in the case of a director of a company, remuneration shall not include any director’s fees or similar remuneration received by him in his capacity as such director;

“part-time director” means, in relation to a company, a director who is not required to devote substantially the whole of his time to the service of the company;

“part-time employee” means an employee who is not required to devote substantially the whole of his time to the service of the employer;

“proprietary director” means a director of a company who is either the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than fifteen per cent of the ordinary share capital of the company;

“proprietary employee” means, in relation to a company, an employee who is the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than fifteen per cent of the ordinary share capital of the company;

“retirement or other benefit” means any pension, annuity, lump sum, gratuity or other like benefit to be given on retirement, or in anticipation of retirement, or in connection with death during service or after retirement, or to be given on or in anticipation of or in connection with any change in the nature of the service of the person for whom the retirement or other benefit is intended, but shall not include benefits of this nature to be afforded solely by reason of the death or disability of a person resulting from an accident arising out of or in the course of his office or employment.

43. Subparagraph (ix) of paragraph (b) of the proviso to subsection (1) of section seven of the principal Law is hereby repealed and the following subparagraph is hereby substituted therefor:—

Amendment to section seven of principal Law.

“(ix) such payments or contributions to schemes and superannuation funds or to any arrangement, scheme or fund to provide retirement or other benefits for any person employed in the business, as may be deducted in accordance with the provisions of Part IV of the Income Tax (Amendment) (Guernsey) Law, 1964, but not otherwise, and for the purposes of this section the expression “retirement or other benefit” shall have the meaning assigned to it by section forty-two of that Law;”

44. The enactments set out in the left hand column of the Schedule to this Law are hereby repealed to the extent set out in the right hand column of that Schedule:

Repeals and schemes and funds previously approved.

PROVIDED that where a retirement benefit scheme or a superannuation fund has been approved by the

Authority under any of the provisions so repealed, and—

- (a) there has been no alteration to the rules of the scheme or of the fund, or in the case of a fund to the instrument under which the fund is established, since the date on which the scheme or fund was last approved by the Authority, and
- (b) the Authority has not withdrawn its approval to the scheme or fund,

the scheme or fund shall be regarded as an approved scheme or fund and the provisions of this Part of this Law with regard to allowances, deductions, amounts which may be charged to tax, charge and collection of tax and provision of information shall apply accordingly.

Power of Authority to make regulations.

45. (1) The Authority may make regulations for the purposes of carrying into effect the provisions of this Part of this Law as respects approved schemes and approved funds.

(2) Any regulations made by the Authority under the provisions of this section shall be laid before a meeting of the States as soon as may be after the making thereof and, if at that meeting or at the next subsequent meeting, the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making by the Authority of any new regulations.

PART V

Miscellaneous

Amendment to sections 27, 28 and 29 of principal Law.

46. Section twenty-seven, section twenty-eight and section twenty-nine of the principal Law are hereby repealed and the following three sections are hereby substituted therefor:—

“Liability of husband in respect of income of wife.

27. (1) Any income of a married woman living with her husband shall for the purposes of assessment, charge, collection, computation of total income, and reliefs be treated as if it were the income of the husband:

PROVIDED that, if as respects any income of the married woman, the residence of the person entitled to the income is material for determining the question of whether or not that income is income in respect of which tax is chargeable, or the nationality and residence of the person entitled to the income is material for determining the amount of the assessable income, the question shall be determined by reference to the residence, or the nationality and residence, of the married woman, and not of the husband.

(2) The last preceding subsection shall not apply—

- (i) if an application under the next following section is in force, in which case the provisions of section twenty-nine of this Law shall apply; or
- (ii) if one of the spouses is resident in Guernsey in the year of charge, and the other is not so resident, in which case each spouse shall be charged, and entitled to relief as if he or she were unmarried:

PROVIDED that, where the resident wholly maintains the non-resident, he or she shall be entitled to any per-

sonal allowance for married persons prescribed by the States under section eighteen of this Law but in such a case the non-resident shall not be entitled to a personal allowance in computing the amount of the proportional allowance permissible by virtue of section thirty-six of this Law.

(3) If for the purposes of this section any question arises as to whether a spouse is or is not wholly maintained by the other spouse the question shall be determined by reference to the financial circumstances of the spouse who is maintained.

(4) Where a married woman is not living with her husband, each spouse shall for all the purposes of this Law be treated as if her or she were unmarried.

(5) For the purposes of this section a married woman shall be treated as living with her husband unless—

(i) they are separated under an Order of a Court of competent jurisdiction or by deed of separation; or

(ii) they are in fact separated in such circumstances that the separation is likely to be permanent.

(6) Where under the Order of any Court of competent jurisdiction a husband or former husband is required to pay alimony or maintenance out of his income, to or for the benefit of his wife or former wife, any sum so paid shall be treated as the income of the wife or

former wife and shall be allowed as a deduction in computing the income of the husband or former husband.

Right to apply for separate assessment on husband and wife.

28. (1) An application for separate charges on a husband and a wife—

- (a) must be made by the husband or by the wife;
- (b) must be made in writing in the manner and form prescribed by the Administrator;
- (c) must be made on or before the thirty-first day of March in the first year of charge as regards which it is to have effect, or if the marriage takes place in the course of that year, at some time between the date of the marriage and the thirty-first day of March in the next subsequent year of charge;
- (d) shall have effect not only as respects such first year but also as respects all subsequent years of charge up to the year as regards which a notice of withdrawal is given in a manner hereinafter provided.

(2) A notice of withdrawal of application—

- (a) must be given by the party by whom the application was made;
- (b) must be given in writing in the manner and form prescribed by the Administrator;
- (c) must be given on or before the thirty-first day of March in the

year of charge as regards which it is to take effect.

Effect of application for separate charge.

29. Whilst any such application is in force the income of the husband and of the wife shall be assessed and tax shall be charged in respect thereof, and reliefs given, as if they were not married, subject however to the following provisions:—

- (a) the income of the husband and of the wife shall be aggregated for the purpose of determining the amount of the allowances to individuals prescribed by the States under section eighteen of this Law, and that amount shall not exceed the amount which would have been granted had no such application been made;
- (b) the benefit of any such allowances shall be apportioned between the spouses in such manner as the States may by Resolution prescribe.”.

Extension of provisions with regard to relief from double taxation.

47. (1) If any person resident in Guernsey, who has paid, by deduction or otherwise, or is liable to pay, tax under the Income Tax Laws or this Law, for any year of charge on any part of his income, proves to the satisfaction of the Administrator that he has paid, by deduction or otherwise, or is liable to pay income tax in respect of the same income under the law of any other territory and that the said income is not income—

- (a) arising in a territory in respect of which an arrangement made under the provisions of section twenty-three of the principal Law is in force in respect of that year of charge, or

- (b) arising in a territory in respect of which the provisions of section twenty-three D of the principal Law (which relates to relief in respect of Commonwealth and other income tax) may be applied,

he shall be entitled to relief from tax paid or payable by him in Guernsey on the said part of his income at a rate thereon to be determined as follows:—

- (i) if the effective rate of tax paid or payable in the territory in which the income arises does not exceed one-half of the effective rate of Guernsey tax the rate at which relief is to be given shall be the effective rate of tax paid or payable in the territory in which the income arises;
- (ii) in any other case the rate at which relief is to be given shall be one-half the effective rate of Guernsey tax.
- (2) For the purposes of this section—
- (a) the effective rate of Guernsey tax in respect of any person for any year of charge shall be taken to be the rate obtained by dividing the total amount of the income tax paid or payable by him under the Income Tax Laws or this Law for that year (before the deduction of any relief granted under this section or under section twenty-three or section twenty-three D of the principal Law) by the amount of his total income assessable to Guernsey tax for that year;
- (b) the effective rate of tax paid or payable in relation to any other territory in respect of which it is necessary, for the purposes of this section to determine, the effective rate of tax in respect of any person for any year

of charge shall be taken to be the rate determined as nearly as may be in accordance with the principles regulating the determination of the effective rate of Guernsey tax.

(3) Where a person is, for any year of charge, resident both in Guernsey and in any other territory in which there arises income in respect of which relief would be given under this section if that person was solely resident in Guernsey he shall, for the purposes of this section, be deemed to be resident where during that year he resides for the longer period.

(4) A claim for relief under this section shall be made within the two years next following the year of charge to which it relates:

PROVIDED that any such claim, though not made within the said two years, shall be admitted if made within the six years next following the said year of charge and within the six months next following the date on which the relevant amount of income tax in respect of which relief is being claimed under this section has been ascertained.

(5) The provisions of section thirteen A of the principal Law (which relates to deduction of annual taxes and rates) in so far as they apply to taxation on income shall not apply to any income in respect of which relief is claimed under this section.

Dividends paid by a company incorporated in but not resident in Guernsey.

48. A dividend paid by a company which is incorporated in Guernsey but which, at the time at which the dividend is declared, is not resident in Guernsey within the meaning of section four of the principal Law shall, for the purposes of the Income Tax Laws or of this Law, be deemed not to arise from a source in Guernsey.

49. (1) Paragraph (a) of subsection (1) of section twenty-three B of the principal Law is hereby repealed and the following paragraph is hereby substituted therefor:—

Amendment
to provisions
relating to
effect on
dividends of
double
taxation
relief.

“(a) notwithstanding anything in this Law the credit in respect of tax deducted or authorised to be deducted from any dividend shall be restricted, where necessary, so as to secure that no relief in respect of tax so deducted shall be allowed and no tax in respect thereof shall be repaid at a rate exceeding the rate (hereinafter referred to as “the net Guernsey rate”) of the Guernsey income tax payable directly or by deduction by the company after taking double taxation relief into account; and”.

(2) Subsection (2) of section twenty-three B of the principal Law is hereby repealed and the following two subsections are hereby substituted therefor:—

“(2) Where the whole or any part of any interest on money borrowed is payable by an investment company to a non-resident in such circumstances that the investment company is not permitted to claim a deduction of, or relief for, the interest so payable by virtue of the provisions of section thirteen of the Income Tax (Amendment) (Guernsey) Law, 1964, and the interest is payable in whole or in part out of a dividend, and the rate of relief or repayment allowable in respect of the tax deducted or authorised to be deducted from the dividend is affected by double taxation relief, the interest, or that part thereof, as the case may be, shall be deemed to be paid out of profits not brought into charge to tax and section fifteen of the said Law shall apply accordingly, but the tax charge-

able under the said section fifteen on the person making the payment shall be reduced by an amount equal to tax on the payment or part of the payment at the net Guernsey rate applicable to the dividend.

(3) In this section, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“dividend” means a dividend from which deduction of tax is authorised by section eight of this Law;

“double taxation relief” means any credit for tax payable in any territory outside Guernsey which is allowable against Guernsey income tax by virtue of arrangements having effect under section twenty-three of this Law or by way of relief from double taxation under section twenty-three D thereof or under section forty-seven of the Income Tax (Amendment) (Guernsey) Law, 1964, and includes any credit or relief which has been taken into account for the purpose of determining the net Guernsey rate applicable to any dividends received by the company;

“the company” means the company paying the dividend.”.

Amendment
to section
23C of
principal
Law.

50. Subsection (2) of section twenty-three C of the principal Law is hereby repealed and the following subsection is hereby substituted therefor:—

“(2) Any regulations made by the Authority under the provisions of this section shall be laid before a meeting of the States as soon as may be after the making thereof and, if at that meeting or at the next subsequent meeting, the States resolve that the regula-

tions be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making by the Authority of any new regulations.”.

51. Immediately after subsection (3) of section thirty-three of the principal Law there is hereby inserted the following additional subsection numbered “(3A)” :—

Amendment to section 33 of principal Law.

“(3A) Any person who fails to comply with the provisions of the last preceding subsection shall be liable to the penalty for late payment prescribed in section eighty of this Law, and for the purposes of computing the penalty the tax shall be deemed to be an amount becoming due on the date on which it was deducted.”.

52. The provisions of the Income Tax Laws relating to—

Application of certain provisions of the Income Tax (Guernsey) Laws, 1950 to 1962.

- (a) persons who are to be chargeable to income tax and to income tax assessments; and
- (b) the collection or recovery of income tax; and
- (c) the delivery of returns; and
- (d) liability to penalties; and
- (e) appeal against such assessments or penalties; and
- (f) cases to be stated for submission to the Royal Court;

shall, so far as they are applicable, apply, with such adaptations as may be necessary, to the charge, assessment, collection and recovery of income tax and the delivery of returns under this Law.

53. The provisions of section forty-two of the Income Tax (Guernsey) Law, 1955 (which relates to the interpretation of certain references to expenditure and to capital sums) shall apply, with such

Application of section 42 of Law of 1955 to Law of 1959.

adaptations as may be necessary, to any references to capital expenditure in Part III of the Income Tax (Amendment) (Guernsey) Law, 1959.

PART VI

Interpretation, commencement, construction, etc.

Interpreta-
tion.

54. (1) In this Law, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“Guernsey” includes the Island of Herm;

“the principal Law” means the Income Tax (Guernsey) Law, 1950;

“the Income Tax Laws” means the Income Tax (Guernsey) Laws, 1950 to 1962;

“the Administrator” has the meaning assigned to it by section eighty-eight of the principal Law;

“the Authority” has the meaning assigned to it by section eighty-eight of the principal Law;

“resident” has the meanings assigned to it by sections three and four of the principal Law and the expression “non-resident” shall be construed accordingly.

(2) Any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, extended or applied by or under any other enactment including this Law.

Amend-
ments to
principal
Law and
Law of
1959.

55. (1) In subsection (1) of section five of the principal Law the words “and Income Tax at additional rates (in this Law referred to as Super-tax)” are hereby repealed.

(2) The colon at the end of paragraph (d) of subsection (1) of section five of the principal Law is

hereby deleted and a full stop is hereby substituted therefor and the proviso to that paragraph is hereby repealed.

(3) In subsection (2) of section five of the principal Law the comma after the word "Tax" is hereby deleted and the words "and the rate of Super-tax and the amount of income in excess of which Super-tax is chargeable" are hereby repealed.

(4) In subsection (4) of section seven of the principal Law the words "section twelve of this Law" are hereby repealed and the words "Part II of the Income Tax (Amendment) (Guernsey) Law, 1959" are hereby substituted therefor.

(5) In subsection (2) of section thirty-six of the principal Law the words "including Super-tax" are hereby repealed and the brackets enclosing those words are hereby deleted.

(6) In section fifty-two of the principal Law the words "Subject to the provisions of the next succeeding section, where" are hereby repealed and the word "Where" is hereby substituted therefor.

(7) In paragraph (b) of subsection (3) of section twenty-one of the Income Tax (Amendment) (Guernsey) Law, 1959, the words "section seventy-five of the Law of 1955" are hereby repealed and the words "section thirty-two of the Income Tax (Amendment) (Guernsey) Law, 1964" are hereby substituted therefor.

56. (1) The provisions of this Law, other than section forty-six, section forty-seven, section forty-nine, Part II and Part IV, shall be deemed to have come into force on the first day of January, nineteen hundred and sixty-three. Commence-
ment.

(2) Section forty-six, section forty-seven, section forty-nine, Part II and Part IV of this Law shall be deemed to have come into force on the first day of January, nineteen hundred and sixty-four.

Short title,
etc.

57. This Law may be cited as the Income Tax (Amendment) (Guernsey) Law, 1964, and this Law and the Income Tax (Guernsey) Laws, 1950 to 1962, shall be construed as one and this Law and those Laws may be cited together as the Income Tax (Guernsey) Laws, 1950 to 1964.

SCHEDULE Section forty-four

Enactment

Extent of repeal

The Income Tax (Guernsey) Law, 1950.	Subsection (1) and subsection (2) of section five A, sections thirty-nine to forty-nine, both inclusive and section fifty-three.
The Income Tax (Guernsey) Law, 1955.	Sections seventy-five to seventy-seven, both inclusive.

In the right hand column of the Schedule the words "In paragraph (b) of subsection (2) of section forty, the words 'otherwise than out of a fund established for the purpose'."

R. H. VIDELO,
Her Majesty's Greffier.