

# ORDER IN COUNCIL

**XXII**

**1997**

ratifying a Projet de Loi

ENTITLED

## **The Income Tax (Pension Amendments) (Guernsey) Law, 1997**

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(Registered on the Records of the Island of Guernsey  
on the 2nd December, 1997)

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**1997**

## ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 2nd day of December, 1997 before Sir Graham Dorey, Bailiff;  
present:- Stanley Walter John Jehan, Leonard Arthur Moss,  
Charles Anthony Spensley, Lawrence Oscar Ozanne, John  
Richard Rowe Henry, David Charles Lowe, Esquires, Mrs.  
Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le  
Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson  
and David Michael Jory, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 30th day of October, 1997, approving and ratifying a *Projet de Loi* entitled "The Income Tax (Pension Amendments) (Guernsey) Law, 1997", 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 of which Order in Council the tenor followeth:-

## At the Court at Buckingham Palace

The 30th day of October 1997

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 13th day of October 1997 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 27th day of November 1996, the States of Deliberation at a meeting held on the 25th day of June 1997 approved a Bill or "Projet de Loi" entitled "The Income Tax (Pension Amendments) (Guernsey) Law, 1997", 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 as 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 (Pension Amendments) (Guernsey) Law, 1997", 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, and 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 Licutenant 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.

*N. H. Nicholls*

**The Income Tax (Pension Amendments)**  
**(Guernsey) Law, 1997**

THE STATES, in pursuance of their Resolution of 27th November 1996<sup>a</sup>, 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.

**Amendments relating to occupational pensions**

**1. In the Income Tax (Guernsey) Law, 1975<sup>b</sup>**

- (a) for section 150(2)(h) there is substituted:

"(h) no service of a person while he is a proprietary director or a proprietary employee may be taken into account for any purposes of the scheme:

Provided that the Administrator may approve a scheme, subject to compliance with such further conditions as may be imposed under section 155(1) of this Law, under which service as a full-time working director/employee of a trading company may be taken into account;"

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<sup>a</sup> On Article 11 of Billet d'Etat No. XXIV of 1996.

<sup>b</sup> Ordres en Conseil Vol. XXV, p.124; Vol. XXVI, pp.146, 200 and 292; Vol. XXVII, pp.84, 118, 200,333 and 565; Vol. XXVIII, pp.184, 178, 353 and 409; Vol. XXIX, p.214; Nos. XIV and XXIII of 1989; No. XXVI of 1990; No. IV of 1991; No. VI of 1992; Nos. IV and VIII of 1993; No. XXV of 1994; Nos. III and VII of 1995.

- (b) in section 153(1)(a), for all the words from "at one half of the standard rate" to the end there is substituted:

"(a) in the case of lump sums, at the standard rate, and

(b) in any other case, at one half of the standard rate, in force for the year of charge in which the contributions are repaid or the interest or lump sums are paid;"

- (c) in section 153(2), for "the sum exempt from tax" there is substituted "the total of all such sums exempt from tax, paid to the person concerned out of any approved scheme, retirement annuity scheme or retirement annuity trust scheme";

- (d) in section 158, immediately after the definition of "employee" there is inserted:

"full-time working director/employee of a trading company" means a director or employee who devotes more than 30 hours each week to his directorship of or employment with a company carrying on business of which the income is chargeable under Class 1 of section 2 of this Law;"

### **Amendments relating to retirement annuities**

2. In section 157A of the Income Tax (Guernsey) Law, 1975<sup>c</sup> -

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<sup>c</sup> Section 157A was inserted by the Income Tax (Amendment) (Guernsey) Law, 1983 (Ordres en Conseil Vol. XXVIII, p.278) and has subsequently been amended.

(a) in the proviso to paragraph (b) of subsection (2), for "three times the annual amount of the remaining part of the pension" there is substituted "25 per cent of the fund accumulated under the contract or trust";

(b) immediately after subsection (5) there is inserted:

"(5A) Subject to subsection (5B) -

(a) any lump sum paid under the terms of an approved retirement annuity scheme or retirement annuity contract in accordance with the proviso to paragraph (2)(c) above shall be treated as income of the year in which it is paid, and tax in respect thereof shall be chargeable on the person by or through whom it is paid at the standard rate in force for the year of charge in which it is paid;

(b) the person by or through whom any such lump sum is paid shall deduct the tax chargeable under paragraph (a) above and remit it to the Administrator within one month, 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;

(c) any person who fails to comply with paragraph (b) shall be liable to the penalty prescribed for late

payment in section 198 of this 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;

- (d) where any person has failed to deliver to the Administrator such account of a payment as is required by paragraph (b) within the time set out in that paragraph, 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;
- (e) nothing in this subsection shall affect the liability of a person to be charged to tax in his own name;
- (f) any lump sum which is to be treated as income by virtue of this subsection shall, for all the purposes of this Law, be treated as income arising or accruing from a source in Guernsey.

(5B) The Authority may in its absolute discretion exempt from tax a lump sum or part of a lump sum which would otherwise be chargeable to tax under paragraph (5A)(a) above if the Authority is satisfied that the total of all such sums exempt from tax, paid to the person concerned out of any retirement annuity scheme, retirement annuity trust scheme or approved scheme does not exceed such limit as the Authority may from time to time by regulation prescribe.";

- (c) Immediately after section 157A(9)(b) there is inserted:

"(c) the expression "approved scheme" shall be deemed to include a statutory scheme and any scheme authorised by Resolution of the States of Guernsey."

**Commencement**

4. This Law shall come into force on 1st January 1998.