

# ORDER IN COUNCIL

VI  
2005

ratifying a Projet de Loi

ENTITLED

## **The Income Tax (Pension Amendments) (Guernsey) Law, 2004**

(Registered on the Records of the Island of Guernsey  
on the 12th April, 2005.)



---

2005

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 12th day of April, 2005 before Geoffrey Robert Rowland Esquire, Deputy Bailiff; present:– Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Michael Henry De La Mare, Michael John Tanguy, Esquires, and Susan Mowbray, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 22nd day of March, 2005, approving and ratifying the Projet de Loi entitled “The Income Tax (Pension Amendments) (Guernsey) Law, 2004”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ORDERED:-

1. That the said Order in Council be registered on the records of this Island and
2. 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.

# At the Court at Buckingham Palace

The 22nd day of March, 2005

PRESENT,

## The Queen's Most Excellent Majesty in Council

THE FOLLOWING report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“IN ACCORDANCE WITH YOUR MAJESTY’S General Order of Reference of the 22nd day of February 1952 the Committee have considered a petition of the States of Guernsey:”

“That, in pursuance of their Resolution of 11th March, 2004, the States of Deliberation at a meeting on 29th September, 2004, approved a Projet de Loi entitled “The Income Tax (Pension Amendments) (Guernsey) Law, 2004” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the Projet de Loi is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction “The Income Tax (Pension Amendments) (Guernsey) Law, 2004” and to order that it shall have force of law in the Islands of Guernsey and Herm.

“THE COMMITTEE have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

HER MAJESTY, having taken the Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the Projet de Loi (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Islands of Guernsey and Herm0 and shall be entered on the Register of the Island of Guernsey and observed accordingly.

HER MAJESTY'S Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

*A. K. Galloway*

# PROJET DE LOI

ENTITLED

## **The Income Tax (Pension Amendments) (Guernsey) Law, 2004**

**THE STATES**, in pursuance of their Resolution of the 11<sup>th</sup> March, 2004<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.

### **Amendment of 1975 Law.**

1. The Income Tax (Guernsey) Law, 1975, as amended<sup>b</sup>, is further amended in accordance with the provisions of this Law.

2. In section 157A(2)<sup>c</sup> for the words preceding paragraph (a) substitute "The Administrator may, subject to any conditions he thinks proper to impose, approve a contract if -".

---

<sup>a</sup> Article XVI of Billet d'État No. III of 2004.

<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, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; No's. IV and VIII of 1993; No. XXV of 1994; No's. III and VII of 1995; No. V of 1996; No's. IV and XXII of 1997; No's. II and VI of 1999; No. IV of 2000; No's. VI and XVII of 2001; No. VII of 2002; No's. IV, XVIII and XXVI of 2003; the Income Tax (Guernsey) (Amendment) Law, 2004; and the Income Tax (Guernsey Tax Tribunal) (Amendment) Law, 2004.

<sup>c</sup> Section 157A was inserted by Vol. XXVIII, p. 278.

3. For section 157A(7) substitute the following subsections -

"(7) The Administrator may at any time -

- (a) revoke any approval of a retirement annuity scheme or a retirement annuity trust scheme given under this section if there is a contravention of or failure to comply with any condition subject to which the approval was given, and
- (b) vary any condition attached to any such approval.

(7A) Where the Administrator decides -

- (a) to refuse his approval of a retirement annuity scheme or a retirement annuity trust scheme under this section or to give his approval subject to conditions, or
- (b) to revoke any such approval or to vary any condition attached to any such approval,

he shall, as soon as is reasonably practicable, give written notice to the applicant (or, in the case of a revocation or variation, the person to whom the approval was given) of -

- (i) the decision,

- (ii) the reasons therefor, and
- (iii) in the case of a revocation or variation, the date (which may be a date prior to the notice) on which the revocation or variation is to take effect.

(7B) A person aggrieved by a decision described in subsection (7A) may appeal on giving to the Administrator written notice, stating the grounds of appeal, within 21 days of the date of the notice of the Administrator's decision."

4. After section 157A insert the following section -

**"Taxation of residual fund of retirement annuity trust scheme.**

**157AA.** (1) For the avoidance of doubt, any assets of a retirement annuity trust scheme which, at the relevant time, are held by or otherwise under the control of the trustees of the scheme for the purpose of providing a retirement annuity for an individual shall, on the death of that individual, and provided that payment of the annuity has commenced, be treated as income of the year in which he died, and tax in respect thereof is chargeable at the standard rate then in force on the person by or through whom the annuity would have been payable to that individual had he not died.

(2) In subsection (1) the "relevant time" is the time immediately prior to the death of the individual described in that subsection.

(3) The provisions of paragraphs (b) to (f) of section

157A(5A)<sup>d</sup> apply in relation to assets described in subsection (1) as they apply in relation to a lump sum paid, under the terms of an approved retirement annuity trust scheme, in accordance with the proviso to section 157A(2)(c), but as if the references in those paragraphs -

- (a) to the lump sum, were references to those assets, and
- (b) to the person by or through whom the lump sum is paid, were references to the person by or through whom an annuity would have been payable to the individual described in subsection (1) had he not died."

5. After section 157C(1)(d)<sup>e</sup> insert the following paragraph -

"or (e) any of the following descriptions of occupational pension scheme -

- (i) a pension scheme approved by the Administrator under section 150;
- (ii) a States' scheme;
- (iii) a statutory scheme;
- (iv) a superannuation fund of a description set out in section 40(o);

---

<sup>d</sup> Section 157A(5A) was inserted by No. XXII of 1997.

<sup>e</sup> Section 157C was inserted by No. IV of 1991 and amended by VIII of 1993.

- (v) a pension scheme which, in the opinion of the Administrator -
  - (A) is situated in a place outside Guernsey,
  - (B) is approved or exempted by the competent authority in that place under the laws relating to income tax there, and
  - (C) provides benefits of a nature similar to a pension scheme which may be approved under section 150,
- (vi) any other description of occupational pension scheme specified for the purposes of this section by Ordinance of the States."

**Citation.**

6. This Law may be cited as the Income Tax (Pension Amendments) (Guernsey) Law, 2004.