

ORDER IN COUNCIL

**VII
2002**

ratifying a Projet de Loi

ENTITLED

The Income Tax (Pension Amendments) (Guernsey) Law, 2001

(Registered on the Records of the Island of Guernsey
on the 29th April, 2002.)



2002

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 29th day of April, 2002 before Andrew Christopher King Day, Esquire, Deputy Bailiff; present:— David Charles Lowe, Esquire, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael Henry De La Mare, and Michael John Tanguy, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 26th day of March, 2002, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Income Tax (Pension Amendments) (Guernsey) Law, 2001”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller 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 26th day of March, 2002

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 12th day of February 2002 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 11th day of April, 2001, the States of Deliberation at a meeting held on the 26th day of September, 2001 approved a Bill or “Projet de Loi” entitled “The Income Tax (Pension Amendments) (Guernsey) Law, 2001”, 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, 2001”, and to order that the same shall have force of law in the Island 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 Island 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.

A. K. Galloway

PROJET DE LOI

ENTITLED

The Income Tax (Pension Amendments) (Guernsey) Law, 2001

THE STATES, in pursuance of their resolution of the 11th day of April, 2001^a, 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 Law as to occupational pension schemes.

1. (1) In the Income Tax (Guernsey) Law, 1975, as amended^b (hereinafter called "**the Income Tax Law**") -

(a) in paragraph (n) of section 150(2)^c for the words "five years" substitute "two years";

(b) after paragraph (n) of section 150(2) insert the following additional paragraph -

^a Article XIV of Billet d'État No. VI of 2001.

^b 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; Nos. IV and VIII of 1993; No. XXV of 1994; Nos. III and VII of 1995; No. V of 1996; Nos. IV and XXII of 1997; No. II of 1999; and No. IV of 2000.

^c Paragraph (n) of section 150(2) was inserted by section 2(1) of No. IV of 1991.

"(na) in relation to -

- (i) any scheme which is approved, or the rules of which are amended, in the calendar year 2002; and
- (ii) any other scheme after the 1st January, 2003;

each person to whom the scheme relates is entitled under the scheme, if he ceases to be a member of the scheme at a time when he has more than two years of qualifying service but has not reached normal retirement age, to choose between -

- (A) a refund of his contributions (if any); or
- (B) the making of a transfer payment into another approved scheme; or
- (C) the making of a transfer payment into a retirement annuity scheme or a retirement annuity trust scheme; "

(c) in paragraph (c) of section 150(2A)^d in the definition of "transfer payment" for the words appearing after "approved by the Administrator," substitute the following -

"of -

- (i) the deferred benefits which the person concerned is entitled to choose under the scheme concerned; or
- (ii) in cases where the person concerned is not entitled, under the scheme concerned, to choose deferred benefits, the deferred benefits which he could have chosen had he been so entitled;".

Amendment of Law as to proprietary directors.

2. (1) In paragraph (a) of section 157A(9)^e of the Income Tax Law, in the definition of "relevant earnings", after subparagraph (ii) add the following proviso -

"Provided always that the expression "**relevant earnings**" shall not include income arising in respect of emoluments -

^d Section 150(2A) was inserted by section 2(2) of No. IV of 1991.

^e Section 157A was inserted by Vol. XXVIII, p. 278.

- (A) from the office of proprietary director of an investment company;
- (B) from the termination thereof; or
- (C) in consequence of a change in the terms thereof;" .

(2) In section 158 of the Income Tax Law immediately before the definition of the expression "proprietary director" insert the following definition -

"investment company" has the meaning given by section 169;" .

Citation.

3. This Law may be cited as the Income Tax (Pension Amendments) (Guernsey) Law, 2001.

Commencement.

4. This Law shall have effect, by virtue of the States' resolution of the 26th September, 2001^f, under and subject to the provisions of the Taxes and Duties (Provisional Effect) (Guernsey) Law, 1992^g, on and after the 1st January, 2002.

^f Article ** of Billet d'État No. ** of 2001.

^g Order in Council No. XI of 1992.