

# ORDRE EN CONSEIL

Ratifiant un Projet de Loi intitulé

**“War Profits Levy (Guernsey) Law,  
1946.”**

(Enregistré sur les Records de l'Île de Guernesey le  
4 septembre 1946).



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1946

# ORDRE EN CONSEIL.

A LA COUR ROYALE DE L'ÎLE DE GUERNESEY

*Le quatre septembre mil neuf cent quarante-six, par devant Ambrose James Sherwill, écuyer, C.B.E., M.C., Baillif; présents: Jean Allès Simon, Osmond Priaulx Gallienne, écuyers, Ernest de Garis, écuyer, O.B.E., Messire John Leale, Chevalier, Messire Abraham James Lainé, K.C.I.E., Arthur Falla, Pierre de Putron, Quartier Le Pelley, Walter John Sarre, écuyers, et Richard Henry Johns, écuyer, O.B.E., Jurés.*

Monsieur le Ballif ayant ce jour communiqué à la Cour un Ordre de Sa Majesté en Conseil en date du 2 août 1946 ratifiant un Projet de Loi intitulé "War Profits Levy (Guernsey) Law, 1946",—la Cour, après avoir eu lecture du dit Ordre en Conseil, ouies les conclusions du Contrôle du Roi, a ordonné que le dit Ordre en Conseil sera enregistré sur les records de cette Ile, duquel Ordre en Conseil la teneur suit :—

**At the Court at Buckingham Palace**

The 2nd day of August, 1946.

**Present,**

**The King's Most Excellent Majesty**

LORD PRESIDENT.  
LORD MACMILLAN.  
MR. SECRETARY EDE.  
MR. BARNES.

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 31st day of July, 1946, in the words following, viz :—

"YOUR MAJESTY having been pleased, by Your General Order of Reference of the 18th day of

LE 4 SEPTEMBRE 1946.

December, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth :—

' 1. That in accordance with a resolution of the States of Deliberation of the 26th day of September, 1945, the Royal Court on the 1st day of June, 1946, adopted a Bill or "Projet de Loi" entitled "War Profits Levy (Guernsey) Law, 1946," and requested the Bailiff to submit the same to the States for approval. 2. That on the 26th day of June, 1946, the said Bill or "Projet de Loi" was considered by the States, when a resolution was passed approving the same with certain modifications and authorizing the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 3. 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 would be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "War Profits Levy (Guernsey) Law, 1946," and to order and direct that the same shall have force of Law in the Island of Guernsey.'

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

HIS MAJESTY having taken the said Report into consideration is pleased, by and with the advice of His Privy Council, to approve of and ratify the said

Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HIS 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 or Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His 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.

*E. C. E. Leadbitter.*

PROJET DE LOI referred to in the foregoing Order  
in Council.

## PROJET DE LOI

INTITULÉ

**“ War Profits Levy (Guernsey) Law, 1946 ”.**

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#### PART I.

### GENERAL PROVISIONS.

#### ARTICLE I.

#### INTERPRETATION.

(1). In this Law, unless the context otherwise requires :—

“ Administrator ” means the Administrator of the War Profits Levy ;

“ business ” has the meaning assigned to it by Article 3 ;

“ chargeable accounting period ” means the period beginning on the first day of July, one thousand nine hundred and forty and ending on the thirtieth day of June, one thousand nine hundred and forty five, both days inclusive ;

“ chargeable profits ” means that portion of the profits of a business chargeable to the levy.

“ company ” means any body of persons, corporate or unincorporate, not being a partnership ;

“ director ” in relation to a company, includes any person who :—

- (i) is a manager of the company or otherwise concerned in the management of the business; and
- (ii) is remunerated out of the funds of the business ; and
- (iii) is the beneficial owner of not less than twenty per centum of the ordinary share capital of the company ;

“fixed rate”, in relation to share capital other than ordinary share capital, includes a rate fluctuating in accordance with the standard rate of income tax;

“income tax” means tax leviable and chargeable in accordance with the provision of the Income Tax Law;

“Income Tax Authority” has the meaning assigned to it by Article 10 of the Income Tax Law.

“Income Tax Law” means the Income Tax Laws, 1920 to 1944, as amended by any subsequent enactment.

“Legal personal representative” and “personal representative” shall include any person to whom or into whose hands has passed any legal or beneficial interest in the personal or real Estate of a deceased person.

“levy” means the war profits levy ;

“ordinary share capital”, in relation to a company, means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate, but have no other right to share in the profits of the company ;

“Partnership” means the relation which subsists between persons carrying on a business in common with a view of profit but the relation between members of a Company shall not be regarded as a partnership for the purposes of this Law.

Provided that :—

- (a) Joint tenancy, tenancy in common, joint property, common property or part ownership shall not of itself create a partnership as to anything so held or owned, whether the tenants or the owners do or do not share any profits therefrom.
- (b) The sharing of gross returns shall not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in

any property from which or from the use of which the returns are derived.

- (c) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of a business, shall not of itself make him a partner in the business, and in particular
- (i) The receipt by a person of a debt or other ascertained amount by instalments or otherwise out of the accruing profits of a business shall not of itself make him a partner in the business.
  - (ii) A contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business shall not of itself make him a partner in the business.
  - (iii) A person being the widow or child of a deceased partner, and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, shall not be by reason only of such receipts a partner in the business.
  - (iv) The advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, shall not of itself make the lender a partner with the person or persons carrying on the business.
  - (v) A person receiving by way of annuity or otherwise a portion of the profits

of a business in consideration of the sale by him of the goodwill of the business shall not be by reason only of such receipt a partner in the business.

“ standard period ” has the meaning assigned to it by Article 7 ;

“ standard profits ” has the meaning assigned to it by Article 7 ;

“ standard rate ” in relation to income tax has the meaning assigned to it by Article 2 of the Income Tax Law.

“ statutory percentage ” means :—

(i) in relation to a business carried on by a company, eight per centum ;

(ii) in relation to a trade or business not so carried on, ten per centum ;

Provided that in relation to any decrease of capital the statutory percentage shall in all cases be six per centum ;

“ trade ” includes any manufacture, adventure or concern in the nature of trade ;

“ transaction ” has the meaning assigned to it by Article 4 ;

Words importing the masculine gender shall include females ;

Words in the singular shall include the plural and words in the plural shall include the singular.

(2). For the purpose of this Law, the accounting periods of a business shall be determined as follows :—

(a) in a case where the accounts of the business are made up for successive periods of twelve months each of those periods shall be an accounting period ;

(b) in a case where the accounts of the business have been made up as aforesaid but have ceased to be so made up, the accounting periods from the end of the last period of twelve months for which they were so made

up shall be such periods not exceeding twelve months as the Administrator may determine ;

- (c) in any other case the accounting period of a business shall be such periods not exceeding twelve months as the Administrator may determine.

ARTICLE 2

RAISING AND DISPOSAL OF LEVY.

(1) There shall be raised, in accordance with the provisions of this Law, a levy (to be called the war profits levy) on the profits arising in the chargeable accounting period from all businesses and transactions to which this Law applies, such profits being assessed and computed as provided by this Law.

(2) The proceeds of the levy shall belong to the States and shall be held and applied for such purposes as the States may from time to time determine.

(3) All expenses incurred by the States under or for the purposes of this Law shall be paid out of the proceeds of the levy.

ARTICLE 3.

BUSINESSES SUBJECT TO THE LEVY.

(1) The businesses to which this Law applies are all businesses, trades and professions of any description carried on in Guernsey.

(2) Without prejudice to the generality of paragraph (1) of this Article, the following shall be deemed to be businesses to which this Law applies :—

- (a) the holding of investments or other property

by a company or society incorporated by or under any enactment, the functions of which consist wholly or mainly in the holding of investments or other property ;

- (b) the exercise of husbandry and the cultivation or exploitation of the soil in any manner whatever ;
- (c) any scheme of profit-making whatever in the nature of a business, trade or profession, whether or not subject to income tax.

#### ARTICLE 4.

##### TRANSACTIONS SUBJECT TO THE LEVY.

(1) The transactions to which this Law applies are all transactions for value (excluding any operation subject to the levy as a business) effected in Guernsey or effected in enemy or enemy-occupied territory, whether personally or through an agent, by persons ordinarily resident in Guernsey.

(2) Without prejudice to the generality of paragraph (1) of this Article, the following shall be deemed to be transactions to which this Law applies :—

- (a) the exchange of currency ;
- (b) the realisation of assets, whether real or personal, of any kind, by sale, barter or otherwise ;
- (c) any scheme of profit-making whatever, including isolated transactions, not in the nature of a business and not subject to income tax.

#### ARTICLE 5.

##### PERSONS CHARGEABLE TO THE LEVY.

(1) Subject as hereafter provided, the person chargeable to the levy on the profits arising from a business shall be the person carrying on the business.

(2) Subject as hereafter provided, the person chargeable to the levy on the profits arising from a transaction shall be the person to whom such profits directly accrue.

(3) In the case of a business carried on, or transaction effected by, two or more persons such persons shall be chargeable jointly.

(4) The parent or guardian or the curator or other person having the direction, control or management of the property or concern of any infant or person, may be charged to the levy and to the like amount as that infant or person.

Provided that nothing in this paragraph shall affect the liability of any infant or person to be charged in his own name.

(5) Where by virtue of the provisions of this law, a person would, but for his death either before or after the date of the commencement of this law, be a person chargeable to the levy then any person to whom any legal or beneficial interest in any part of the personal or real Estates of such deceased person has passed, shall be chargeable

PROVIDED that a person so chargeable shall not be liable beyond the value of his legal or beneficial interest in such Estates:

PROVIDED ALSO that a person so chargeable who has paid an amount in settlement or part settlement of the levy shall be entitled to recover from any other person chargeable to the levy in respect of his interest in the estates of the deceased rateably according to the value of such interest a sum not exceeding an amount which bears to the amount so paid the same proportion as the amount of such interest bears to the value of the whole of those estates. and may so recover the same from those persons by due process of law.

(6) Where the person chargeable to the levy is a company the provisions of this law shall apply to any liquidator of the said company.

(7) Where a person chargeable under the foregoing provisions of this Article is not resident in Guernsey, then any attorney, administrator, agent, manager or factor, resident in Guernsey through whom the business was carried on or through whom the transaction was effected, may be charged to the levy and to the like amount as that person ;

Provided that nothing in this paragraph shall affect the liability of any such person to be charged in his own name.

(8) Any person who has been duly assessed to the levy in respect of any business carried on, or transaction effected, by or on behalf of any other person, or who has lawfully paid an amount of the levy on behalf of any other person, may raise and retain out of property from time to time coming into his hands on behalf of that other person such sum as is sufficient to pay the amount of the levy, and shall be acquitted and discharged of so much as is equal to any amount so paid, and, if and so far as such property is insufficient, shall be entitled to be indemnified for any amount so paid.

#### ARTICLE 6.

##### AMOUNT OF LEVY ON BUSINESS PROFITS.

(1) The levy on the profits arising from a business shall be eighty per centum of the amount by which the profits arising from the business in the chargeable accounting period exceed five times the standard profits of the business ; provided that where that amount exceeds ten thousand pounds sterling the levy on such part thereof as exceeds the latter sum shall be one hundred per centum thereof ;

Provided that in the case of a business which was

begun or has ceased in the chargeable accounting period, the standard profits of the business shall be proportionately reduced so as to correspond to the length of the period during which the business was carried on in the chargeable accounting period.

#### ARTICLE 7.

#### STANDARD PROFITS.

(1) For the purposes and subject to the provisions of this Law the standard profits of a business shall be taken to be five hundred pounds sterling, or, in the case of a business carried on by a partnership at the beginning of the chargeable accounting period, or, where the business was begun in the chargeable accounting period, from the date on which the business was begun, five hundred pounds sterling multiplied by the number of partners.

(2) The standard profits of a business shall, where the person carrying on the business so elects, be ascertained by reference to the standard period as hereinafter defined and, subject as hereinafter provided, shall be, where the standard period is one year the amount of those profits and, where the standard period is two years, one half of the amount of those profits ;

Provided that if the average amount of the capital employed in the business in the chargeable accounting period is greater or less than the average amount of the capital employed therein in the standard period, the standard profits shall be increased, or, as the case may be, decreased, by the statutory percentage of the increase or decrease in the average amount of the capital employed in the business.

(3) The standard period shall, at the option of the person carrying on the business, be

(a) Where the business was begun on or before the first day of January, 1936, the year 1936

or the year 1937, or the years 1936 and 1938, or the years 1937 and 1938.

- (b) Where the business was begun after the first day of January, 1936, but on or before the first day of January, 1937, the year 1937 or the years 1937 and 1938.
- (c) Where the business was begun after the first day of January, 1937, but on or before the first day of January, 1938, the year 1938.

(4) If, in the case of a business carried on by a company, the Administrator or on an appeal the Income Tax Authority, is satisfied, on the application of the person carrying on the business :—

- (a) that there were no profits in the standard period ; or
- (b) that the profits of that period were so low that it would not be just to ascertain the standard profits of the business by reference to the actual profits of the standard period ;

the standard profits shall be ascertained as if the profits of the standard period were of such amount or greater amount as the Administrator or the Authority, as the case may be, thinks just ;

Provided that the said amount shall not exceed an amount equal to interest for the standard period at six per centum of the average amount of the capital employed in the business in that period computed in accordance with the provisions of Part II of the First Schedule to this Law.

(5) The provisions of paragraph (4) of this Article shall, with the necessary modifications, apply in relation to a business carried on by any person in partnership, or by a single individual as they apply in relation to a business carried on by a company provided that for any reference to six per centum there shall be substituted a reference to eight per centum.

(6) Where the business was begun after the first day of January, 1938, the standard profits of a business shall, where the person carrying on the business so elects, be taken to be an amount equal to the statutory percentage of the average amount of capital employed in the business in the chargeable accounting period ;

Provided that when a business was begun after the first day of January, 1938, and the Administrator, or on appeal, the Income Tax Authority, is satisfied that it would be unjust to ascertain the standard profits by reference to the statutory percentage of the average amount of capital employed in the business in the chargeable accounting period by virtue of the fact that the profits are dependent wholly or mainly on the personal and professional qualifications of the person carrying on the business the standard profits may be increased to an amount not exceeding one thousand pounds sterling.

#### ARTICLE 8.

#### PROVISIONS AS TO COMPUTATION OF PROFITS AND CAPITAL.

(1) For the purposes of Articles 6 and 7, the profits arising from a business in the standard period or the chargeable accounting period shall be separately computed and shall be so computed on income tax principles as adapted in accordance with the provisions of Part I of the First Schedule to this Law ;

Provided that where the standard period or the chargeable accounting period is not an accounting period, the profits or losses of the business for any accounting period wholly or partly included within the standard period or the chargeable accounting

period shall be so computed as aforesaid, and such division and apportionment of those profits or losses and such aggregation of those profits or losses, or any apportioned part thereof, shall be made as appears necessary to arrive at the profits arising in the standard period or chargeable accounting period ; and any such apportionment shall be made in proportion to the number of months or fractions of months in the respective periods, unless the Administrator, having regard to any special circumstances, otherwise directs.

For the purpose of this paragraph "income tax principles", in relation to a business, means the principles on which the profits arising from the business are computed for the purposes of income tax.

(2) The average amount of the capital employed in a business in the standard period or the chargeable accounting period shall be computed in accordance with the provisions of Part II of the First Schedule to this Law.

(3) In computing the profits of a business for the chargeable accounting period, no deduction shall be allowed in respect of expenses in excess of the amount which the Administrator or on an appeal the Income Tax Authority, considers reasonable and necessary, having regard to the requirements of the business, and, in the case of directors' fees or other payments for services, to the actual services rendered by the person concerned.

(4) All businesses carried on by the same person shall be treated as one business for the purposes of this Law.

(5) Losses shall be computed for the purposes of this Article as, under this Article, profits are to be computed for those purposes.

## ARTICLE 9.

## SUCCESSION AND AMALGAMATION.

As from the date of any change in the persons carrying on a business, the business shall be deemed for the purposes of this Law to have been discontinued and a new business to have begun ;

Provided that the Administrator, or on an appeal the Income Tax Authority, may, on the application of the person carrying on the business after the transference, treat that person for the purposes of the provisions of this Law relating to the computation of standard profits as if he had carried on the transferred business or part of the business as from the date on which the business was begun, subject, however, to such modifications (including modifications as respects the computation of capital) as may be just.

## ARTICLE 10.

## RELIEF IN RESPECT OF DOUBLE EXCESS PROFITS TAX.

(1) For the purposes of this Article, the levy on the profits arising from a business shall be deemed to be an excess profits tax on those profits.

(2) If any profits in respect of which excess profits tax is payable under this Law are profits in respect of which excess profits tax is payable also in the United Kingdom or would be so payable if there were no national defence contribution in the United Kingdom, or are profits in respect of which excess profits tax is payable also under the Law in force in any part of His Majesty's dominions outside the United Kingdom other than this Island, the States may make arrangements with the Government of

the United Kingdom or of that other part of His Majesty's dominions, as the case may be, providing for the giving of relief from double taxation in respect of such profits in accordance with the following principles :—

- (a) that there shall be computed the amount of excess profits tax which would be payable in each territory if excess profits tax in the other territory and, where the arrangement is made with the Government of the United Kingdom, national defence contribution in the United Kingdom, were disregarded except in computing capital ;
  - (b) that such amount of relief from tax shall be given in each territory as bears to the lower of the two amounts so computed the same proportion as the amount so computed for that territory bears to the sum of the two amounts so computed ; and
  - (c) that where the amount so computed for either territory is found to have been incorrect the amount so computed shall be recalculated and the relief in both territories varied accordingly.
- (3) Where any such arrangements are made and the Administrator is satisfied that any case is one which falls within the arrangements, he shall make such adjustment of the excess profits tax payable in this Island as may be necessary to give effect to the arrangements, and allow any necessary relief accordingly by repayment or otherwise.
- (4) Where it appears to the Administrator that any relief provided for by any such arrangements falls to be recalculated, any adjustment made under paragraph (3) of this Article shall be varied accordingly and any necessary further relief given by repayment or otherwise, and where the effect of the recalculation is to show that too much relief has

been given, any necessary additional assessments shall be made.

(5) The obligation as to secrecy imposed by Article 51 of this Law shall not prohibit the disclosure to any authorised officer of a Government with which arrangements have been made under this Article of such facts as may be necessary to enable effect to be given to the arrangements.

(6) This Article shall apply in relation to :—

(a) any British Protectorate or protected state ;  
and

(b) any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom or the Government of any Dominion ;

as it applies to a part of His Majesty's dominions outside the United Kingdom.

## ARTICLE II.

### RELATION OF LEVY TO INCOME TAX.

The amount of the levy shall not be allowed to be deducted in the computation of profits or gains for the purposes of liability to income tax.

## ARTICLE 12.

### AMOUNT OF LEVY ON TRANSACTIONS.

The levy on the profits arising from transactions shall be eighty per centum of the amount by which the aggregate of the profits, as reduced by the aggregate of the losses, computed in accordance with the provisions of the Second Schedule to this law, arising from all the transactions effected by the

person chargeable in the chargeable accounting period exceeds fifty pounds sterling ; provided that where the aggregate of the said profits exceeds the aggregate of the said losses by an amount in excess of ten thousand pounds sterling the levy on such excess shall be one hundred per centum thereof.

#### ARTICLE 13.

#### POWER TO REDUCE AMOUNT OF LEVY ON TRANSACTIONS.

Where the Administrator, or on an appeal the Income Tax Authority, is satisfied that any person has entered into a transaction solely with a view to obtaining essential means of subsistence in the chargeable accounting period, the Administrator or the Income Tax Authority, as the case may be, may reduce the liability of that person to the levy to such an amount as he or it considers just, having regard to all the circumstances of the case.

#### PART II.

#### ASSESSMENT AND CHARGE.

#### ARTICLE 14.

#### NOTICE OF LIABILITY TO BE GIVEN.

It shall be the duty of every person who is chargeable to the levy, and of every person who in whatever capacity has in the chargeable accounting period been in receipt of, or entitled to receive, any income or other assets belonging to a person chargeable to the levy, to give to the Administrator, within two months from the date of the promulgation of this Law, notice that he or that person, as the case may be, is so chargeable.

## ARTICLE 15.

## STATEMENTS TO BE DELIVERED.

It shall be the duty of every person to whom a notice for that purpose is given, whether or not he is liable to the levy, to deliver to the Administrator, within the time limited by the notice, a true and correct statement in writing signed by him containing the particulars required by the notice for the assessment of the levy, and there shall be appended to the said statement a declaration that such information comprises all the profits liable to the levy after deduction only of such sums as are allowed.

## ARTICLE 16.

## STATEMENTS ON BEHALF OF COMPANIES.

Where the person required to deliver a statement under this Part of this Law is a company, the secretary or other officer performing the duties of secretary (by whatever name called) shall be responsible for delivering the statement.

## ARTICLE 17.

ADMINISTRATOR TO ASSESS AND CHARGE  
LEVY.

The Administrator shall assess and charge the levy in accordance with and subject to the provisions of this Law.

## ARTICLE 18.

## POWER TO OBTAIN INFORMATION.

(1) The Administrator may give to any person directions requiring him, within such time and in such manner as may be specified in the directions,

to furnish to him or to any person designated in the directions as a person authorised to require it, any information in his possession or control which the Administrator or the person so authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of this Law.

(2) 1. A person required by any such directions as aforesaid to furnish information shall produce such books, accounts or other documents (hereinafter collectively referred to as "documents") in his possession or control as may be required by the Administrator or by the person authorised to require the information, as the case may be.

2. For the purpose of inspecting any such documents any person authorised as aforesaid, or any person authorised to act on behalf of the Administrator under this Article, provided that such person is thereunto authorised by warrant signed by the Bailiff of Guernsey, may enter any premises and may take possession of any of the documents or take in relation thereto any other steps which appear to him necessary for preserving them or preventing interference therewith.

(3) Any information given by a person in compliance with this Article may be given in evidence against him notwithstanding that it may tend to incriminate him.

(4) The provisions of this Article shall be without prejudice to any other provisions of this Law relating to the giving of information, and the provisions of paragraph (3) of this Article shall be without prejudice to any question as to the admissibility as evidence of information obtained under statutory powers in the absence of any such express provision.

(5) The Administrator may, to such extent and subject to such restrictions as he thinks proper, delegate his powers under this Article to any person or class or description of persons approved by him.

## ARTICLE 19.

## POWER TO ASSESS LEVY WHERE NO STATEMENT DELIVERED.

Where a person required to deliver a statement by a notice given in pursuance of Article 15 fails to deliver such a statement within the time limited for the purpose, the Administrator shall, to the best of his information and judgment, assess the amount at which he considers that such person ought to be assessed under this Law, and shall charge him accordingly.

## ARTICLE 20.

## NOTICE OF ASSESSMENT.

The Administrator shall deliver to each person assessed to the levy a notice informing him of the amount of the assessment, the amount of relief due under the provisions of Article 33 of this Law, the date for payment of the levy, his right to claim relief, his right of appeal, the time limit for claiming relief and the time limit for giving notice of appeal.

## ARTICLE 21.

## ADDITIONAL ASSESSMENTS.

If the Administrator discovers that a person chargeable to the levy has been under-assessed, or has not been assessed to the levy he may at any time within six years after the end of the year in which this Law is promulgated make an assessment to the levy and all the provisions of this Law shall apply to assessments under this Article.

## ARTICLE 22.

## RIGHT OF APPEAL.

(1) Any person aggrieved by an assessment to the levy made upon him by the Administrator shall be entitled to appeal to the Income Tax Authority in manner provided by Part III of this Law on giving to the Administrator notice in writing (specifying the grounds of appeal) within twenty-one days after the date of the notice given under Article 20.

(2) The Administrator or the Income Tax Authority, if satisfied that, owing to absence, sickness or other reasonable cause, a person entitled to give any notice of appeal under this Article is or has been prevented from giving the notice within the time limited, may extend the time for giving the notice or may allow the notice to be given by an agent.

## PART III.

## PROCEDURE ON APPEALS.

## ARTICLE 23.

## GENERAL.

Subject to the provisions of this Part of this Law, the provisions of the Income Tax Law governing the practice and procedure of the Board of Income Tax Commissioners appointed under and for the purposes of that Law shall apply.

## ARTICLE 24.

## APPEAL MEETINGS.

(1) The Income Tax Authority shall meet together from time to time for the hearing of appeals and shall cause notice of any such meeting to be given to the Administrator.

(2) The Income Tax Authority shall cause reasonable notice to be given to each appellant of the day for hearing his appeal.

## ARTICLE 25.

## HEARING OF APPEALS.

(1) The Administrator shall be entitled to be present during all the time of the hearing of an appeal, to give reasons in support of the assessment and to be present when the determination of the Income Tax Authority is announced.

(2) The appellant and the Administrator shall be entitled at the hearing of any appeal to appear by an advocate, or by an accountant, being a member of an incorporated society of accountants.

(3) If the Income Tax Authority is satisfied that the appellant has been prevented by absence, sickness or other reasonable cause from attending on the day fixed for hearing the appeal, it may postpone the hearing for such time as it may think necessary.

(4) Where, in the hearing of an appeal, the appellant desires to put forward any ground of appeal which was not specified in the notice of appeal, the Income Tax Authority, if in its opinion the omission of that ground from the notice was not wilful or unreasonable, may allow the appellant to put forward that ground and may take it into consideration.

(5) The appellant and the Administrator shall be entitled to adduce evidence, but the Income Tax Authority shall not be bound to receive any evidence which it does not consider necessary for the determination of the appeal.

(6) The Income Tax Authority may, through His Majesty's Sergeant, summon any person, (other than the appellant) whom it thinks able to give relevant evidence, to appear before it to be examined.

(7) Any witness before the Income Tax Authority may be examined on oath, but where the witness is the appellant or any agent or servant of the appellant or any other person confidentially employed in his affairs, the witness shall not be compelled to give evidence on oath or to answer any question to which he objects.

(8) The Income Tax Authority may adjourn any appeal from time to time.

#### ARTICLE 26.

### ONUS OF PROOF IN APPEALS.

In any appeal under this Law, it shall be for the person assessed to the levy to adduce sufficient evidence to prove that the levy as assessed is erroneous.

#### ARTICLE 27.

### POWER TO REQUIRE PARTICULARS.

The Income Tax Authority may, either before or in the course of hearing an appeal, from time to time issue precepts to the appellant requiring him, within the time limited by the precept, to deliver to the Authority a statement containing such particulars as it may require respecting the matters

arising in the appeal ; and it shall be the duty of the appellant on whom such a precept has been served to carry out the directions of the precept within the time so limited.

#### ARTICLE 28.

##### POWER TO OBTAIN EXPERT ADVICE.

Where, in connexion with any appeal, the Income Tax Authority considers it necessary to obtain expert advice, it shall have power, with the consent of the President of the Finance Committee and at the cost of the States, to obtain such advice.

#### ARTICLE 29.

##### DETERMINATION OF APPEALS.

(1) If the Income Tax Authority is satisfied that the assessment of the levy which is the subject of appeal ought to be set aside or reduced or increased, it shall set aside, reduce or increase the assessment accordingly.

(2) The determination of any appeal by the Income Tax Authority shall, subject to the provisions of Article 30, be final and conclusive.

#### ARTICLE 30.

##### CASE FOR OPINION OF ROYAL COURT.

(1) Upon the determination of an appeal the appellant or the Administrator, if dissatisfied with the determination as being erroneous in point of law, may require the Income Tax Authority to state and sign a case for the opinion of the Royal Court thereon.

(2) Such requirement shall be made by delivering,

at any time within twenty-one days after the determination of the appeal, a notice in writing to the clerk of the Income Tax Authority.

(3) The case shall set forth the facts and the determination of the Income Tax Authority.

(4) The case when stated and signed shall be delivered by the clerk to the party who required it.

(5) The party to whom the case has been delivered shall, within twenty-one days after he has received it, transmit the case to His Majesty's Greffier and send to the other party a copy of the case, together with notice in writing that he has so transmitted it.

(6) The Royal Court sitting as an Ordinary Court shall hear and determine any question of law arising on the case, and may reverse, affirm, or amend the determination of the Income Tax Authority, remit the matter to the Authority with the opinion of the Court thereon, or make such other order as the Court may think fit.

(7) The Ordinary Court may cause the case to be sent back for amplification or clarification, and thereupon the case shall be amplified or clarified accordingly and returned to the Court, and paragraph (6) of this Article shall apply.

(8) All proceedings under this Article may be heard and determined either in term or in vacation.

(9) In all proceedings, whether oral or written, under this Article, any member of any court and any party or person engaged or concerned in such proceedings or giving evidence therein may use the English language.

(10) Where the amount of the assessment is to be altered in consequence of the judgment of the Court, the Administrator shall alter the assessment and charge accordingly.

(11) An appeal shall lie from a decision of the Ordinary Court to the Appeal Court (Cour des Jugements) and thence (with the leave of the latter Court) to His Majesty in Council.

(12) Any rules of law governing the initiation and prosecution of appeals to His Majesty in Council shall apply in matters under this Law.

#### PART IV.

### COLLECTION AND RECOVERY.

#### ARTICLE 31.

##### DUE DATE FOR PAYMENT OF LEVY.

The amount of the levy shall be payable within the twenty-one days next following the date of the notification of assessment ;

Provided that where an appeal against the assessment is pending, then—

- (a) pending the appeal, such part of the levy charged in consequence of the assessment as is not in dispute shall be payable in all respects as if no appeal were pending in respect of the assessment ; and
- (b) on the determination of the appeal, any balance of the levy chargeable in accordance with the determination shall become payable, and any amount overpaid shall be repaid, as the case may require.

#### ARTICLE 32.

##### COLLECTION OF THE LEVY AND REFUNDS.

(1) The levy shall be collected by the Administrator and shall forthwith be paid by him to the Treasurer of the States.

(2) All refunds of the levy under this Law shall be made by the Administrator, by cheque, but no

such refund shall be made unless the levy in respect of which the refund is claimed has been paid.

(3) Except as provided in Article 33 of this Law a refund of the levy may be claimed at any time not later than one year after the date of the notice of assessment thereof or the determination of an appeal against the same.

### ARTICLE 33.

#### RELIEF IN RESPECT OF INCOME TAX.

(1) There shall be computed on the chargeable profits of a business, which have been assessed to Income Tax, a sum equal to the Income Tax at the standard rate for the year of assessment in which the profits are assessable in accordance with the provisions of the Income Tax Law and the sum so computed shall be regarded as a sum applied in part payment of the levy.

(2) 1. Where a person chargeable to the levy is

(a) an individual who has been assessed to sur-tax on the chargeable profits of a business, or,

(b) a company or the liquidator of a company, on which a notice of charge to sur-tax has been served under the provisions of Article 15 of the Income Tax Law in respect of the chargeable profits of a business and which has paid the sur-tax and has not recovered it from the member on whom the tax was assessed in the name of the company,

a sum equal to the sur-tax assessed on the chargeable profits of the business shall be regarded as a sum applied in part payment of the levy. For the purpose of this sub-paragraph the chargeable profits shall be deemed to be included in that portion of the profits chargeable to sur-tax which has borne sur-tax at the lowest appropriate rate or rates

prescribed by the States of Deliberation for the year of assessment in which the profit is chargeable to sur-tax and the amount of sur-tax to be regarded as a sum applied in part payment of the levy shall be computed accordingly.

2. Where a company chargeable to the levy has been given relief in respect of sur-tax under the provisions of sub-paragraph 1 of paragraph (2) of this Article the member of the Company on whom the sur-tax was assessed in the name of the company shall be informed of the amount of relief which has been given to the company and thereafter the company shall not be entitled to recover from the member that portion of the sur-tax assessed on the member in the name of the company which has been regarded as a sum applied in part payment of the levy.

(3) Where the person chargeable to the levy has not been assessed for Income Tax on any part of the chargeable profits of a business before the date of issue of a notice of assessment to the levy under this Law the amount of the levy specified in the notice of assessment shall be payable on the due date, subject to the provisions of Article 31 of this Law, and the said person shall be entitled to repayment of a sum equivalent to any Income Tax, computed in accordance with the provisions of this Article, which may afterwards be assessed on the chargeable profits provided that a claim for relief is submitted to the Administrator within 21 days after the date of issue of a notice of assessment to Income Tax. The claim shall be in writing, in such form as the Administrator may prescribe and shall be accompanied by a declaration that the claimant has not given and will not give notice of appeal to have his assessment to Income Tax on the chargeable profits determined by the Income Tax Authority in accordance with Article 25 of the Income Tax Law.

(4) Where a taxpayer being a member of a company chargeable to the levy can show to the satisfaction of the Administrator, or on appeal the Income Tax Authority, that in any year of assessment he has received from a company chargeable to the levy, out of the chargeable profits, a payment of dividend and, or, a distribution of profit amounting to more than one thousand pounds sterling and that he has been assessed to sur-tax on the amount by which the payment of dividend or distribution of profit is greater than one thousand pounds sterling the Administrator shall repay to the taxpayer a sum equivalent to the sur-tax assessed on the said dividends or profit provided that a claim for relief is submitted to the Administrator within 21 days after the date of the annual general meeting of the said company immediately following the end of the usual trading year in which the company has paid the levy, or within 21 days of the date on which the taxpayer has been assessed to sur-tax, whichever is the later. The claim for relief shall be in writing, in such form as the Administrator may prescribe and shall be accompanied by a declaration that the claimant has not given and will not give notice of appeal to have his assessment to Income Tax on the chargeable profits determined by the Income Tax Authority in accordance with Article 25 of the Income Tax Law.

(5) For the purposes of paragraph (4) of this Article the sur-tax shall be computed at the rate or rates prescribed by the States of Deliberation for the year of assessment in which the income derived from a payment of dividend or a distribution of profit, by a company chargeable to the levy, out of the chargeable profit, was assessed to sur-tax and as if the said income was the taxpayers only income chargeable to sur-tax.

(6) For the purposes of this Article the Administrator, or on appeal the Income Tax Authority,

shall apportion the profits of the chargeable accounting period to such year or years of assessment as he or it considers just, having regard to the facts and to such information as may be available with regard to the period when the profits were earned or accrued.

(7) The provisions of paragraph (2) of Article 22 of this law shall apply to a person entitled to claim relief as if the right to claim relief were a right to give notice of appeal.

#### ARTICLE 34.

#### LIABILITY OF HUSBANDS.

(1) Where under the provisions of the Income Tax Law, the profits and income of a married woman are deemed to be the profits and income of the husband then the profits of a married woman chargeable to the levy on the profits arising from a business or transaction shall be deemed to be the profits of the husband and shall be assessed and charged in his name and the levy payable thereon shall be payable by him ;

Provided that nothing in this paragraph shall effect the liability of the wife to be charged in her own name in respect of any part of the levy unpaid by the husband.

(2) Where an application for separate assessment to income tax has been properly made under the terms of Article 19 of the Income Tax Law before the date on which this Law is promulgated, by a husband or wife living with his wife or her husband and who and whose wife or husband is not a non-resident the levy shall be assessed, charged and recovered and all the provisions and penalties of this law shall apply as if they were not married ;

Provided that nothing in this Article shall allow

a husband and wife to be charged to the levy as if they were partners.

(3) In any other case subject to the provisions of Article 5 of this Law the profits of a married woman chargeable to the levy on the profits arising from a business or transaction shall be assessed and charged in her name as if she were not married and the levy payable thereon shall be payable by her.

#### ARTICLE 35.

### INDIVIDUAL LIABILITY FOR JOINT ASSESSMENTS.

Where two or more persons have been assessed jointly to the levy, the amount of the levy may be recovered from all or any one or more of them.

#### ARTICLE 36.

### PROCEEDINGS FOR RECOVERY.

(1) Proceedings for the recovery of the levy may be instituted by the Administrator, either in term or in vacation, at any time after payment thereof has become due and a certificate under the hand of the Administrator stating that the person named therein is in default as regards payment of the levy shall be sufficient evidence that the amount of the levy mentioned therein has been duly charged and is in arrear and unpaid.

(2) Where any gift inter-vivos has been made after the first day of July 1940 by a person chargeable to the levy the Court may order that the recipient of the gift shall pay to the Administrator such sum, not exceeding the value of the gift, as the Court may consider just, as may be necessary to discharge any part of the levy unpaid by the person chargeable to the levy.

Provided that the Court shall not make an order under this Article where such gift

- (a) does not exceed in value one hundred pounds sterling to any one person, or
- (b) was made in consideration of marriage, or
- (c) was made for charitable or public objects, or was part of the normal expenditure and consistently reasonable with the circumstances of the person chargeable to the levy,

unless the Court is of the opinion that the gift was made with the object of defeating the provisions of this law.

(3) Where any gift mortis causa has been made after the first day of July, 1940, by a person chargeable to the levy the Court may order that the recipient of the gift shall pay to the Administrator such sum, not exceeding the value of the gift, as the Court may consider just, as may be necessary to discharge any part of the levy unpaid by the person chargeable to the levy or by his legal personal representative.

(4) Where any conveyance or assignment of property has been made after the 1st day of July, 1940, by a person chargeable to the levy, other than a conveyance or assignment of property made in good faith and for adequate consideration the Court may order that the person to whom the property was conveyed or assigned shall pay to the Administrator such sum, not exceeding the value of the property conveyed or assigned, as the Court may consider just, as may be necessary to discharge any part of the levy unpaid by the person chargeable to the levy.

(5) Where the person chargeable to the levy is a company and that company has distributed amongst its members the whole or any part of the chargeable profits of the company, that company for the purpose of meeting its liability in respect of the levy, shall

be entitled to recover from every such member, rateably according to the amount of profits received by each member, a sum not exceeding an amount which bears to the chargeable profits received by such member the same proportion as the amount of the levy, after the deduction therefrom of all the reliefs to which the company may be entitled under the provisions of Article 33 of this Law, bears to the chargeable profits of the company, and may so recover the same from that member or his legal personal representative by due process of law or may recover the same by the retention thereof out of any future profits to be distributed by that company to which the member or his legal personal representative may be entitled.

Provided that where the whole or any part of the levy payable by a company is unpaid and the Company has not recovered from any one or more of its members, or their legal personal representatives, any such amount as the company is entitled to recover therefrom under the provisions of the last foregoing paragraph the Administrator shall be entitled to recover from any such member such sum, not exceeding an amount computed in accordance with the provisions of the last foregoing paragraph as the company is entitled to recover from that member under the provisions of that paragraph, as the Court may consider just and as may be necessary to discharge any part of the levy unpaid by the company and the amount which the company shall be entitled to recover from the member under the provisions of the last foregoing paragraph shall be reduced accordingly.

(6) Where under the provisions of this Article an order for the payment of any part of the levy is made against a person not being a person chargeable to the levy the provisions of this law with regard to the recovery of the levy shall apply as if the person against whom the order is made is a person chargeable to the levy.

## PART V.

**PENALTIES.**

## ARTICLE 37.

**PENALTY FOR FAILURE TO GIVE NOTICE  
OF LIABILITY.**

Any person who fails to give such a notice of his liability to be charged to the levy as he is required to give by Article 14 shall be liable to a fine not exceeding one hundred pounds sterling, and, after judgment has been given for that penalty, to a further fine not exceeding two pounds sterling for every day during which the failure continues.

## ARTICLE 38.

**PENALTY FOR FAILURE TO DELIVER  
STATEMENT OR TO FURNISH  
INFORMATION.**

Any person who—

- (a) being required to deliver a statement by a notice or precept given in pursuance of Article 15 or Article 27, fails to deliver such a statement within the time limited for the purpose ; or
- (b) being required to furnish information or to produce books, accounts or other documents in pursuance of Article 18, fails to furnish such information or to produce such books, accounts or other documents ;

shall be liable to a fine not exceeding fifty pounds sterling, and, after judgment has been given for that penalty, to a further fine not exceeding two pounds

sterling for every day during which the failure continues ;

Provided that, in the case of a statement required by a notice given in pursuance of Article 15, if the person who has so failed to deliver the statement required proves that he is not chargeable to the levy, the fine shall not exceed ten pounds sterling.

#### ARTICLE 39.

##### PENALTY FOR NEGLIGENCE.

Any person who—

- (a) being required to deliver a statement by a notice or precept given in pursuance of Article 15 or Article 27 ; or
- (b) being required to furnish information in pursuance of Article 18 ;

delivers a statement or furnishes information which is incorrect or incomplete in any material particular, shall, if he acted negligently, be liable to a fine not exceeding a sum equal to three times the difference between—

- (i) the amount of the levy which would have been chargeable if a correct and complete statement had been delivered or correct and complete information had been furnished ; and
- (ii) the amount of the levy which would have been chargeable on the assumption that the statement actually delivered or the information actually furnished was correct and complete.

#### ARTICLE 40.

##### PENALTY FOR FRAUD.

Any person who—

- (a) being required to deliver a statement by a notice or precept given in pursuance of Article 15 or Article 27 ; or

(b) being required to furnish information in pursuance of Article 18 ;

delivers a statement or furnishes information which is incorrect or incomplete in any material particular, shall, if he acted fraudulently, be liable to a fine not exceeding a sum equal to three times the amount of the levy to which he is liable or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such fine and imprisonment.

#### ARTICLE 41.

#### LIABILITY OF COMPANIES FOR PENALTIES.

Where the person responsible for delivering the statement is, by virtue of Article 16, the secretary or other officer of a company, the company as well as the secretary or other officer shall be liable for any pecuniary penalty entailed by any failure, negligence or fraud on the part of the secretary or other officer in connexion with the statement, and proceedings may be taken against either or both of them accordingly.

#### ARTICLE 42.

#### PENALTY FOR FRAUDULENT PRACTICES.

Any person who—

(a) in order not to be charged to the levy or to be charged in a less amount than that in which he ought to be charged, is guilty of any fraud whatsoever, or

(b) for the purpose of obtaining any relief from, or repayment of, the levy, knowingly makes any false statement or false representation ;

shall be liable to the penalty prescribed by Article 40.

## ARTICLE 43.

PENALTY FOR DESTROYING DOCUMENTS,  
ETC.

Any person who, with intent to evade the provisions of this Law, destroys, mutilates, defaces, secretes or removes any books, accounts or other documents, shall be liable to a fine not exceeding one hundred pounds sterling.

## ARTICLE 44.

## PENALTY FOR AIDING AND ABETTING.

Any person who wilfully aids or abets any other person in committing any offence under any of the foregoing provisions of this Part of this Law shall, if the offence involves fraud, be liable to a fine not exceeding one hundred pounds sterling.

## ARTICLE 45.

## PENALTY FOR OBSTRUCTION OF OFFICERS.

Any person who obstructs, molests or hinders—

(a) any officer or other person in the execution of his duty under this Law ; or

(b) any person acting in aid of any such officer or other person ;

shall be liable to a fine not exceeding one hundred pounds sterling.

## ARTICLE 46.

## PENALTIES ON WITNESSES AT APPEALS.

Any person who, having been duly summoned under Article 25 to give evidence before the Income Tax Authority—

- (a) refuses, or fails without reasonable cause, to appear before the Authority at the time and place appointed ; or
- (b) appears, but refuses to be sworn or to make a solemn affirmation ; or
- (c) refuses to answer any lawful question touching the matter under consideration ;

shall be liable to a fine not exceeding twenty pounds sterling ;

Provided that the penalty under sub-paragraph (b) or sub-paragraph (c) of this Article shall not apply to the appellant or to such an agent, servant or other person confidentially employed as is described in paragraph (7) of Article 25.

#### ARTICLE 47.

#### RECOVERY OF PENALTIES.

Proceedings for the recovery of any penalty under this Law shall be taken in the Royal Court, either in term or in vacation, by action at the suit of His Majesty's Law Officers of the Crown, or one of them, and all penalties so recovered shall belong to the General Revenues of the States.

#### ARTICLE 48.

#### PENALTIES TO BE ADDITIONAL TO LEVY.

The liability to any penalty under this Part of this Law shall be in addition to, and not in substitution for, any liability to the levy.

PART VI.

**ADMINISTRATION.**

ARTICLE 49.

**ADMINISTRATOR OF WAR PROFITS LEVY.**

The Administrator of Income Tax under the title of The Administrator of the War Profits Levy shall be entrusted with the administration of this Law and he may do all such acts as he may deem necessary or expedient for raising, collecting, receiving and accounting for the levy.

ARTICLE 50.

**STAFF.**

(1) The Income Tax Authority shall appoint such persons as may be necessary to assist the Administrator in the exercise of his functions under this Law and shall have power to appoint a clerk to the Income Tax Authority.

(2) The Income Tax Authority shall place at the disposal of the Administrator and his staff such premises as may be necessary for the purpose of carrying this Law into effect.

ARTICLE 51.

**SECRECY.**

(1) The provisions of Article 11 of the Income Tax Law which relates to secrecy shall apply in relation to the levy as they apply as Income Tax and any person who has taken the oath of secrecy under the provisions of that Article shall be deemed to have taken the oath of secrecy for the purposes of this Law. The form of oath prescribed by Article 11

of the Income Tax Law shall apply for the purposes of this Law with such adaptations as may be necessary.

(2) Notwithstanding the provisions of Article 11 of the Income Tax Law and subject to the provisions of paragraph (1) of this Article, any information obtained directly or indirectly for the purposes of Income Tax may be used for the purposes of the levy.

## PART VII.

### MISCELLANEOUS PROVISIONS.

#### ARTICLE 52.

##### AUDIT.

For the purposes of audit, the Administrator is authorised to place at the disposal of the States' Auditor all books and information that he may require.

#### ARTICLE 53.

### ADMINISTRATION OF OATHS AND SOLEMN AFFIRMATIONS.

(1) Any member of the Income Tax Authority shall have power to administer oaths for the purposes of this Law but shall not be entitled to make any charge for so doing.

(2) The provisions of Article 19 of the Law intituled "Loi relative aux Preuves" registered on the 8th day of July, 1865, shall apply to all proceedings under this Law.

(3) If any person to whom an oath has been administered, or who has made a solemn affirmation, under this Article, in relation to any proceeding under this Law, shall make a statement material in that proceeding which he knows to be false or does

not believe to be true, that person shall be liable to prosecution for perjury and to be punished accordingly.

ARTICLE 54.

SERVICE OF NOTICES, ETC.

(1) Any notice or other document required or authorised to be sent or served under or for the purposes of this Law may be sent or served either—

- (a) by delivering it to the person to or on whom it is to be sent or served ;
- (b) by leaving it at the usual or last known place of abode of that person or, in the case of a company, at its registered office or its principal place of business ;
- (c) by forwarding it by post addressed to that person at his usual or last known place of abode or, in the case of a company, at its registered office or its principal place of business ;
- (d) without prejudice to the foregoing provisions of this paragraph, if the document relates to any business carried on, or transaction effected, at any place by the person to or on whom it is to be sent or served, by leaving it at or forwarding it by post addressed to that person at the said place.

(2) Where any notice or other document is to be sent to or served on two or more personal representatives, the notice or other document shall be deemed to be duly sent to, or served on, the personal representatives if sent to, or served on, any one of them, but nothing in this provision shall render a personal representative personally liable for anything done by him in good faith and in ignorance of the fact that such notice or other document had been so sent or served.

ARTICLE 55.

ROYAL COURT TO PASS ORDINANCES.

The Royal Court is authorised to pass all such Ordinances as it may deem necessary for the carrying out of this Law.

ARTICLE 56.

PROFITS OF THE STATES OF GUERNSEY.

No charge under this Law shall be raised in respect of any profits accruing to any Department of the States of the Island of Guernsey.

ARTICLE 57.

SHORT TITLE.

This Law may be cited as the War Profits Levy (Guernsey) Law, 1946.

**FIRST SCHEDULE.**

COMPUTATION OF BUSINESS PROFITS AND  
CAPITAL.

PART I.

ADAPTATIONS OF INCOME TAX PROVISIONS  
AS TO COMPUTATION OF BUSINESS PROFITS.

(ARTICLE 8.)

(1) The profits shall be taken to be the actual profits arising in the standard period or the chargeable accounting period as the case may be.

(2) The principles of the Income Tax Law under

which deductions are not allowed in certain cases for any interest or royalty or rente or similar payment made to a non-resident shall not be followed and no allowance shall be made in respect of any payment of dividend or distribution of profits.

(3) 1. Income received from investments or arising from the ownership of lands or buildings shall be included in the profits in the cases and to the extent provided in sub-paragraph 2 of this paragraph and not otherwise.

2. In the case of a banking business, assurance business, business consisting wholly or mainly in the dealing in or holding of investments or business consisting wholly or mainly in the dealing in or ownership of lands or buildings, the profits shall include all income received from investments or from the ownership of lands or buildings, being income to which the persons carrying on the business are beneficially entitled.

3. Where the person carrying on a business is the beneficial owner of any investments or lands or buildings, the income from which is by virtue of the provisions of this paragraph not to be taken into account in computing the profits of the business, and a deduction would apart from the provisions of this paragraph fall to be made in respect of interest on borrowed money, the deduction (if any) to be made in respect of that interest shall be computed as if the principal of the borrowed money were reduced by the value of those investments, land or buildings.

Provided that, where the person carrying on the business is not a company, no such reduction shall be treated as made in the principal of any borrowed money in respect of any investments, lands or buildings unless the investments, lands or buildings are mortgaged, charged or pledged as security for the repayment of that money and interest thereon.

(4) Subject to the provisions of the last foregoing paragraph the profits shall include all such income arising from the business as is chargeable to Income Tax under the provisions of the Income Tax Law.

(5) In computing the profits arising in the standard period there shall be deducted any sum allowed in the standard period in respect of depreciation of machinery, plant or buildings by the Administrator of Income Tax, or, in default of agreement by the taxpayer with the Administrator of Income Tax, by the Income Tax Authority, for the purposes of the Income Tax Law, always provided that where the income arising from the ownership of buildings has been excluded from the profits in accordance with paragraph (3) of this Schedule no deduction shall be allowed in respect of depreciation of the buildings from the ownership of which the said income has arisen.

(6) In computing the profits arising in the chargeable accounting period there may be deducted either the amount or amounts in respect of the cost of renewal of any plant, machinery or buildings renewed in the chargeable accounting period allowed, or which may be allowed, as a deduction by the Administrator of Income Tax for the purposes of the Income Tax Law, except the cost of renewal of any buildings the income from the ownership of which has been excluded from the profits in accordance with paragraph (3) of this Schedule; or a sum in respect of depreciation of plant, machinery or buildings ascertained on a like basis to any sums deducted or which could be deducted for depreciation in the standard period in accordance with paragraph (5) of this Schedule.

(7) No deduction shall be made in respect of any transaction or operation of any nature if and so far as it appears that the transaction or operation has artificially reduced or would artificially reduce the profits.

## PART II.

## PROVISIONS FOR COMPUTING CAPITAL.

## (ARTICLE 8).

(1) 1. Subject to the provisions of this Part of this Schedule, the amount of the capital employed in a business (so far as it does not consist of money) shall be taken to be—

- (a) so far as it consists of assets acquired by purchase on or after the commencement of the business, the price at which those assets were acquired, subject to the deductions hereafter specified ;
- (b) so far as it consists of assets being debts due to the person carrying on the business, the nominal amount of those debts, subject to the said deductions ;
- (c) so far as it consists of any other assets which have been acquired otherwise than by purchase as aforesaid, the value of the assets when they became assets of the business, subject to the said deductions.

2. The price or value of any assets other than a debt shall be subject to any such deductions for wear and tear or for depreciation as are authorised by the Income Tax Law or by paragraph (5) or paragraph (6) of Part I of this Schedule, and, in the case of a debt, the nominal amount of the debt shall be subject to any reduction which has been allowed in respect thereof for Income Tax purposes.

3. Where the price of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the price at which the asset was acquired.

4. For the purposes of this paragraph, the value of the assets of a business shall in no case be

taken into account at a figure in excess of the value thereof on the first day of January, nineteen hundred and forty.

(2) Any borrowed money and debts shall be deducted, and in particular any debt for Income Tax in respect of the business shall be deducted ;

Provided that any such debt for Income Tax shall, for the purposes of this Part of this Schedule, be deemed to have become due on the thirtieth day of September in the year of assessment for which the tax is assessable, notwithstanding that the Income Tax may not have been assessed until after that date.

(3) Any investments or land or buildings the income from which, by virtue of paragraph (3) of Part I of this Schedule, is not to be taken into account in computing the profits of the business, and any money not required for the purposes of the business shall be left out of account, but where any investments or lands or buildings in the beneficial ownership of the person carrying on the business are so left out of account, the sum (if any) to be deducted under the last preceding paragraph in respect of borrowed money shall be computed as if the principal of borrowed money were reduced by the value of those investments, lands or buildings ; provided that where the person carrying on the business is not a company, no reduction shall be treated as made in the principal of any borrowed money in respect of any investments, lands or buildings, unless the investments, lands or buildings are mortgaged, charged or pledged as security for the repayment of that money and interest thereon.

(4) For the purpose of ascertaining the average amount of capital employed in a business during any accounting period the losses made in that period shall, except so far as the contrary is shown be deemed to have accrued at an even rate throughout the period and to have resulted as they accrued

in a corresponding decrease in the capital employed in the business.

(5) For the purpose of ascertaining the average amount of capital employed in a business during any accounting period which falls wholly or partly within the standard period the profits made in that period shall, except so far as the contrary be shewn, be deemed to have accrued at an even rate throughout the period and to have resulted as they accrued in a corresponding increase in the capital employed in the business.

(6) For the purpose of ascertaining the average amount of capital employed in a business during any accounting period which falls wholly or partly within the chargeable accounting period the profits shall, except so far as the contrary is shewn, be deemed to have accrued at an even rate throughout the period, and to have resulted as they accrued, in a corresponding increase in the capital employed in the business ;

Provided that

(a) In the case of a business begun on or before the first day of January 1938 any amount by which the said profits exceed five hundred pounds sterling or, in the case of a partnership five hundred pounds sterling multiplied by the number of partners, or where the standard profits are to be ascertained by reference to the standard period the profits of the standard period, or where the standard period is two years, half of those profits, and which in the opinion of the Administrator, or on appeal the Income Tax Authority, is not directly attributable to the introduction of additional capital into the business other than capital derived from profits not withdrawn from the business, shall be left out of account.

- (b) In the case of a business begun after the first day of January 1938 any amount by which the said profits exceed five hundred pounds sterling or, in the case of partnership five hundred pounds sterling multiplied by the number of partners, or where the standard profits are to be ascertained by reference to the statutory percentage of the average amount of capital employed in the business during the chargeable accounting period, the statutory percentage of the capital employed in the business at the date on which the business was begun, and which, in the opinion of the Administrator, or on appeal the Income Tax Authority, is not directly attributable to the introduction of additional capital into the business, other than capital derived from profits not withdrawn from the business shall be left out of account.

## **SECOND SCHEDULE.**

### **COMPUTATION OF PROFITS ON TRANSACTIONS.**

(ARTICLE 12).

(1) Subject as hereafter provided, the profits arising from a transaction shall be computed by deducting from the incomings receivable, and the losses arising from a transaction shall be computed by deducting the incomings receivable from—

- (a) the cost of the subject matter of the transaction ; and
- (b) any sum incurred for the direct purpose of the transaction and necessary in order to arrive at the profits under ordinary commercial principles.

(2) For the purpose of the foregoing paragraph the cost of the subject matter of a transaction shall be taken to be

(a) Where the subject matter was purchased or otherwise acquired by the person chargeable on or before the 1st day of January, 1939, the price which it might reasonably have been expected to realise on the 1st day of January, 1939 ;

(b) Where the subject matter was purchased after the 1st day of January, 1939, the price at which it was acquired by the person chargeable, or, where it was acquired by him by way of inheritance or gift inter-vivos or otherwise free of consideration the price which it might reasonably have been expected to realise at the time of acquisition.

(3) Where it is impossible satisfactorily to establish the cost of the subject matter of a transaction, it shall be taken to be such amount as the Administrator, or on an appeal the Income Tax Authority, after due consideration of all the circumstances of the case, deems reasonable.

(4) No deductions shall be made which would artificially reduce the profits.

JAMES E. LE PAGE,  
Député Greffier du Roi.