



BILLET D'ÉTAT

WEDNESDAY, 18th OCTOBER, 2017

XIX
2017

LEGISLATIVE BUSINESS

Legislation Laid Before the States

The Beneficial Ownership of Legal Persons (Guernsey) (Amendment) Ordinance, 2017
The Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2017
The North Korea (Restrictive Measures) (Guernsey) Ordinance, 2017
The Animal Welfare (Amendment) Order, 2017
The Animal Welfare (Amendment) Regulations, 2017
The Population Management (Employment Records) Regulations, 2017
The Population Management (Employment Permit Applications) Regulations, 2017
The Population Management (Resident Certificates and Permits) (Fees) Regulations, 2017

OTHER BUSINESS

1. Committee *for* Home Affairs – Liquor Licensing: Permitted Hours, P.2017/79
2. Policy & Resources Committee – The Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2017, P.2017/80
3. Committee *for* Home Affairs – Trading Standards: Offers, Sales and Price Comparisons, P.2017/81
4. Schedule for future States' business, P.2017/82

BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **18th October, 2017** at **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

29th September, 2017

ORDINANCES LAID BEFORE THE STATES

THE BENEFICIAL OWNERSHIP OF LEGAL PERSONS (GUERNSEY) (AMENDMENT) ORDINANCE, 2017

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Beneficial Ownership of Legal Persons (Guernsey) (Amendment) Ordinance, 2017", made by the Policy & Resources Committee on the 22nd August, 2017, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 ("the Law"). Section 1(1) amends paragraph 2 of Schedule 2 to the Law to provide, for the avoidance of doubt, that the Registrar of Beneficial Ownership may take into account any relevant procedure or agreement when considering a request for the disclosure of information held by the Registrar.

Section 1(2) inserts a new paragraph 5A into that Schedule, to provide for a one-off beneficial ownership information-gathering exercise by the Registrar in respect of information pertaining to companies, limited liability partnerships and foundations that were extant before the commencement of the Law ('Commencement'). It provides the Policy & Resources Committee with the power to make regulations to provide for the provision to the Registrar by the resident agent of such a legal person of beneficial ownership information in respect of that legal person as at Commencement. This transitional provision will ensure that the Register is populated with relevant information shortly after Commencement in respect of existing legal persons. The new paragraph 5A, at subparagraphs (2) and (3), also limits the power of such regulations to provide for the creation of new liabilities, obligations, penalties and offences; those subparagraphs are consistent with similar provisions in other regulation making powers within the Law.

The Ordinance was made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948, and came into force on the 22nd August, 2017. Under the proviso to Article 66A(1) of the Reform (Guernsey) Law, 1948, the States of Deliberation have the power to annul the Ordinance.

THE COMPANIES (GUERNSEY) LAW, 2008 (AMENDMENT) ORDINANCE, 2017

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Companies (Guernsey) Law 2008 (Amendment) Ordinance, 2017", made by the Policy & Resources Committee on the 22nd August, 2017, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Companies (Guernsey) Law, 2008 to expand who may audit a Guernsey company. Sections 2 and 3 amend the Law to permit partnerships and bodies corporate to audit in circumstances where those firms are controlled by further firms (which are themselves controlled by suitably qualified individuals). Section 4 makes clear that limited partnerships and limited liability partnerships may audit Guernsey companies where those entities are qualified for appointment in accordance with the Law.

The Ordinance was made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948, and came into force on the 22nd August, 2017. Under the proviso to Article 66A(1) of the Reform (Guernsey) Law, 1948, the States of Deliberation have the power to annul the Ordinance.

THE NORTH KOREA (RESTRICTIVE MEASURES) (GUERNSEY) ORDINANCE, 2017

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The North Korea (Restrictive Measures) (Guernsey) Ordinance, 2017", made by the Policy & Resources Committee on the 5th September, 2017, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance is made under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994. The Ordinance gives effect to EU Regulation No. 2017/1509 of the 30th August, 2017 ("the 2017 Regulation") concerning restrictive measures against the Democratic People's Republic of Korea and repeals the North Korea (Restrictive Measures) (Guernsey) Ordinance, 2007. The 2017 Regulation is a consolidating measure that repeals and replaces Council Regulation No. 329/2007 of 27th March, 2007 and successive amending Regulations, which were implemented in Guernsey by the North Korea (Restrictive Measures) (Guernsey) Ordinance, 2007.

The Ordinance was made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948, and came into force on the 5th September, 2017. Under the proviso to Article 66A(1) of the Reform (Guernsey) Law, 1948, the States of Deliberation have the power to annul the Ordinance.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The States of Deliberation have the power to annul the Statutory Instrument detailed below.

No. 23 of 2017

ANIMAL WELFARE (AMENDMENT) ORDER, 2017

In pursuance of sections 10(2) and (3), 14(2) and 79 of the Animal Welfare (Guernsey) Ordinance, 2012 made by the Committee *for the* Environment & Infrastructure on 13th April, 2017, is laid before the States.

EXPLANATORY NOTE

The Animal Welfare (Requirements for Slaughter, Killing, Euthanasia Etc.) Order, 2014 is amended to –

- omit the reference to a Eurasian woodcock in paragraph 5(1) of Part II of Schedule 1 (requirements applying to game animals) as it has been removed from the prescribed list of game animals to which the requirements for lawful killing apply; and
- remove killing of a wild cross-bred mallard duck or a greylag goose by shooting with an air rifle as a lawful method of killing. The result is that the only lawful method of killing such birds is shooting with a shot gun in accordance with the requirements of the Order.

The Animal Welfare (Designation and Control of Pest Animals) Order, 2014 is amended so as to allow "approved persons", as defined in the Order to control carrion crows and magpies using a Larsen trap in accordance with the requirements of the Order. An approved person is one holding a qualification or having practical experience or knowledge such that they would be competent to use a Larsen trap and who has demonstrated this to the satisfaction of the States Veterinary Officer.

This Order comes into force on the 30th day of April, 2017.

No. 24 of 2017

ANIMAL WELFARE (AMENDMENT) REGULATIONS, 2017

In pursuance of sections 2(6), 10(1), 26(3) and 79 of the Animal Welfare (Guernsey) Ordinance, 2012 made by the Committee *for the* Environment & Infrastructure on 13th April, 2017, are laid before the States.

EXPLANATORY NOTE

Section 2(1)(a) of the Animal Welfare (Guernsey) Ordinance, 2012 ("the Ordinance") prohibits the carrying out of certain operations. Those operations are set out in Schedule 1 to the Ordinance.

These Regulations add the removal of the comb, wattle or earlobes of a domestic fowl or a turkey to the list of prohibited operations in Schedule 1 to the Ordinance. A domestic fowl is defined so that it includes a chicken or a bantam but not a duck.

Section 26 of the Ordinance provides that it is an offence to carry on certain activities involving animals without a licence from the Committee *for the* Environment & Infrastructure. Those activities are set out in Schedule 2 to the Ordinance and include, in paragraph 5, the provision of accommodation, in the course of a business, for other people's animals.

These Regulations amend paragraph 5 of Schedule 2 to the effect that a licence is not required where accommodation is provided for fewer than five horses, donkeys, mules or other equines in total.

Section 10(1) of the Ordinance provides for exceptions to certain animal welfare offences in relation to the hunting, capture or killing of any animal prescribed as a game animal providing that the same are carried out in accordance with prescribed requirements as to the methods, techniques, equipment or devices etc. to be used.

The Animal Welfare (Slaughter, Killing, Euthanasia Etc.) (Prescribed Animals) Regulations, 2014 prescribes those game animals. Regulation 3 of these Regulations amends the prescribed list of game animals to remove the Eurasian Woodcock so that the exceptions from certain animal welfare offences will no longer apply to the hunting, capture or killing of that bird.

These Regulations come into force on the 30th day of April, 2017.

No. 17 of 2017

THE POPULATION MANAGEMENT (EMPLOYMENT RECORDS) REGULATIONS 2017

In pursuance of Section 35 and 77 of the Population Management (Guernsey) Law 2016, The Population Management (Employment Record) Regulations 2017, made by the Committee *for* Home Affairs on 31st March 2017, is laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the information employers must keep relating to their employees (and self-employed people must keep relating to themselves) under the Population Management (Guernsey) Law, 2016; the form in which that information must be kept; and the period for which it must be retained. They provide for employers to be able to keep the information via the States of Guernsey online Employer Portal, but they do not make that mandatory.

These Regulations come into force on the 3rd April, 2017.

No. 18 of 2017

**THE POPULATION MANAGEMENT (EMPLOYMENT PERMIT APPLICATIONS)
REGULATIONS 2017**

In pursuance of Section 21(3) and (8) and 77 of the Population Management (Guernsey) Law 2016, The Population Management (Employment Permit Applications) Regulations 2017, made by the Committee *for* Home Affairs on 31st March 2017, is laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the fees payable in respect of applications for different categories of Employment Permit under the Population Management (Guernsey) Law, 2016. They prescribe the circumstances in which such an application may be made when the employment in question has already commenced, and the additional late payment fees that are payable in such circumstances. They also provide for the Administrator of Population Management to have the discretion to reduce or waive fees in certain circumstances.

These Regulations come into force on the 3rd April, 2017.

No. 19 of 2017

**THE POPULATION MANAGEMENT (RESIDENT CERTIFICATES AND PERMITS) (FEES)
REGULATIONS 2017**

In pursuance of Section 15 and 77 of the Population Management (Guernsey) Law 2016, The Population Management (Resident Certificates and Permits) (Fees) Regulations 2017, made by the Committee *for* Home Affairs on 31st March 2017, is laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the fees that are payable on applications for Resident Certificates and Resident Permits under the Population Management (Guernsey) Law, 2016. They provide for a lesser fee, or no fee, to be payable in circumstances set out in published policies of the Committee *for* Home Affairs.

These Regulations come into force on the 3rd April, 2017.

The full text of the statutory instruments and other legislation included in this document can be found at:

<http://www.guernseylegalresources.gg/article/158414/2017>

PROPOSTIONS

COMMITTEE *for* HOME AFFAIRS

LIQUOR LICENSING: PERMITTED HOURS

The States are asked to decide:-

Whether, after consideration of the Policy Letter dated 5th September 2017, of the Committee *for* Home Affairs, they are of the opinion:-

1. To amend the licensing hours for Category 'A', Category 'C', Category 'D' and Category 'E' to 11am – 12.45am on Christmas Day
2. To amend the licensing hours for Category 'A', Category 'C', Category 'D' and Category 'E' to 12noon – 12.45am on Good Friday

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

**THE STATES OF DELIBERATION
OF THE
ISLAND OF GUERNSEY**

COMMITTEE *FOR* HOME AFFAIRS

LIQUOR LICENSING: PERMITTED HOURS

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

5th September 2017

Dear Sir

1. Executive Summary

- 1.1. The sale and supply of alcohol in Guernsey and Herm is regulated by the Liquor Licensing (Guernsey) Ordinance, 2006 ("the Ordinance"). This Ordinance sets out, amongst other things, the hours during which licensed premises may lawfully supply alcohol. The Committee *for* Home Affairs ("the Committee") recommends that the trading hours permitted on Good Friday and Christmas Day be amended so to bring them in line with those hours permitted on a Sunday and, in the case of Christmas Day extending those hours by one hour.

2. Background

- 2.1. Under the Ordinance, licensed premises are divided into categories depending on the primary nature of their business, for example, off licences, hotels, nightclubs, and the most common standard licence which includes bars and restaurants. The permitted trading hours for these categories are set out below:-

Category	Description	Normal hours	Sundays	Christmas Day and Good Friday
A	Standard Licence	10.00am – 12.45am	12noon – 12.45 am	11.00am-2.30 pm 7.00pm– 10.30pm
B	Residential Licence	No restriction	No restriction	No restriction
C	Hotel Licence	10.00am – 12.45am	12noon– 12.45 am	11.00am- 2.30 pm 7.00pm– 10.30pm
D	Club Licence (private)	10.00am – 12.45am	12noon – 12.45 am	11.00am- 2.30 pm 7.00pm– 10.30pm
E	Nightclub	10.00am – 1.45am	12noon – 12.45 am	11.00am- 2:30pm 7.00pm- 10:30pm
F	Port (on	10.00am-12.45am	12noon-12.45am	12noon-12.45am

	sales) licence			
G	Passenger Vessel Licence	10.00am – 12.45am	12noon – 12.45am	11.00am- 2.30 pm 7.00pm– 10.30pm
H	Casino licence	11.00am-3.30am	11.00am-3.30am	Not permitted

- 2.2 Concern has been expressed by licensed premises in recent years that the current trading hours permitted on Christmas Day and Good Friday pose difficulties for licensed premises and their patrons in particular in respect of late lunch and early dinner seatings. The Committee considers that, whilst conscious of the religious significance of both dates, the current permitted hours are somewhat arbitrary and in order to avoid the current practical difficulties, for Categories A, C, D, E and G, the permitted trading hours on Christmas Day and Good Friday should be amended so to correspond with the hours permitted on a Sunday and, in the case of Christmas Day extending those hours by one hour.
- 2.3 The Committee does not recommend at this stage that changes should be made to Category H, Casino licence. Whilst the Committee recognises that in principle it may be considered unfair for a single category of licence to retain restricted hours on Christmas Day and Good Friday, given that a licence of this nature is yet to be granted in Guernsey, the Committee feels unable to recommend to the Assembly that trading firstly be permitted on Christmas Day and Good Friday and secondly that it should be permitted for the hours permitted on other days. Were such a licence issued in the future, the Committee would review this position based on practical experiences.
- 2.4 The Committee has consulted widely in the preparation of this Policy Letter, inviting responses from licensed premises, industry representatives, the Douzaines, Parish Constables and the Police. The Committee acknowledges that whilst the majority of respondents supported proposals to amended the hours permitted on Good Friday and Christmas Day, one of the five parishes who responded to the consultation was not supportive, their reasons being:
- The status quo should be retained (expressed by the Constables of St Peter Port),
- 2.5 The Law Officers Chambers have been consulted and have advised on the proposals in this Policy Letter.
- 2.6 The views expressed by respondents were carefully considered but on balance, the Committee were of the view that proposals to amend the permit hours on Good Friday and Christmas Day should be progressed.

3. Recommendations

3.1 The States are asked to decide whether they are of the opinion of:

- To amend the licensing hours for Category 'A', Category 'C', Category 'D' and Category 'E' to 11am – 12.45am on Christmas Day
- To amend the licensing hours for Category 'A', Category 'C', Category 'D' and Category 'E' to 12noon – 12.45am on Good Friday

4. Proposition

4.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions to which this policy letter is attached has the support of all members of the Committee.

Yours faithfully

M M Lowe
President

R H Graham
Vice-President

M P Leadbeater
V S Oliver
R G Prow

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REGULATIONS

Entitled

**THE INCOME TAX (GUERNSEY) (EMPLOYEES TAX
INSTALMENT SCHEME) (AMENDMENT) REGULATIONS, 2017**

The States are asked to decide:-

Whether, after consideration of the Report dated 29th August 2017, of the Policy & Resources Committee, they are of the opinion to approve, in pursuance of section 81A(5) of the Income Tax (Guernsey) Law, 1975, as amended, the draft Regulations entitled “The Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2017”, and to direct that the draft Regulations shall have force of law with effect from 19th October 2017.

This proposition has been submitted to Her Majesty’s Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

These Regulations further amend the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007 by modifying regulation 1 to allow the Director to transmit coding notices to employees by electronic means or by publication of the allowances on the States of Guernsey Income Tax website. There are also some consequential amendments to the regulations relating to the timing of issue of coding notices to employees to update them to take account of the move by the States from the previous year basis of assessment to the current year basis.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE INCOME TAX (GUERNSEY) (EMPLOYEES TAX
INSTALMENT SCHEME) (AMENDMENT) REGULATIONS, 2017

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

29th August 2017

Dear Sir

1. Executive Summary

- 1.1 At present the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007 provide for documents to be submitted to the Director by electronic means or by such other means as the Director may require. They also require an employer to accept coding notices, direction notices and other correspondence relating to the ETI Scheme, by electronic means.
- 1.2 It is proposed that the regulations are further amended to allow the Director to transmit coding notices to employees by electronic means or by publication of the allowances on the States of Guernsey Income Tax website for certain classes of cases. Initially, the Director intends to use electronic means (the website) to remove the need to issue a coding notice to those individuals that only claim the personal allowance, which it is anticipated will save at least £5,000 per annum. As the provision of digital services grows, this will release further savings.
- 1.3 Some consequential amendments to the regulations are also required to update the timing of when the Director is required to issue coding notices to employees, to take account of the move by the States from the previous year basis of assessment to the current year basis.
- 1.4 The attached Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2017 ("the Regulations") contain the relevant provisions to enable the matters dealt with in the above paragraphs to be introduced. Section 81A(5) of the Law requires approval by Resolution of the

States before the Regulations may have effect.

2. Resource Implications

- 2.1 It is anticipated that the Regulations will enable a reduction in the resources required for the Income Tax Service by approx. £5,000.

3. Proposition

The States are asked to decide whether they are of the opinion:-

To approve, under section 81A(5) of the Income Tax (Guernsey) Law, 1975, as amended, the draft Regulations entitled "The Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2017" appended to this Report, and to direct that the draft Regulations shall have force of law with effect from 19th October 2017.

4. Committee Support for Proposition

- 4.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the proposition above has the unanimous support of the Committee.

Yours faithfully

G A St Pier
President

L Trott
Vice-President

A Brouard
J Le Tocq
T J Stephens

GUERNSEY STATUTORY INSTRUMENT

2017 No.

**The Income Tax (Guernsey)
(Employees Tax Instalment Scheme)
(Amendment) Regulations, 2017**

<i>Made</i>	<i>29th August</i>	<i>, 2017</i>
<i>Coming into operation</i>		<i>19th October, 2017</i>
<i>Laid before the States</i>		<i>18th October, 2017</i>

THE POLICY AND RESOURCES COMMITTEE, in exercise of the powers conferred on it by sections 81A(4) and 203A of the Income Tax (Guernsey) Law, 1975^a, as amended, and all other powers enabling it in that behalf, hereby makes the following regulations:-

^a Ordres en Conseil Vol. XXV, p. 124; section 81A was inserted by Vol. XXVII, p. 118; and section 203A was inserted by Order in Council No. XVII of 2005. Also amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016.

Amendment of 2007 regulations.

1. The Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007, as amended^b, are further amended as follows.

2. In regulation 1(1) -

(a) after the words "The Director shall" insert ", in such cases or classes of cases as he thinks fit," and

(b) for the words "in respect of every employee who has made a return of income for the year of charge in which the coding notice is to be issued, or, where the Director has agreed to the deferment of such return, for the preceding year of charge" substitute "in respect of an employee".

3. Regulation 1(2) is repealed.

4. In regulation 1(3) after the words "The Director shall" insert ", in such cases or classes of cases as he thinks fit,".

5. After regulation 1(4) insert the following paragraphs -

^b G.S.I. 2007 No. 19; amended by 2009 No. 22 (repealed without coming into force); 2009 No. 49; 2011 No. 6; 2015 No. 25; and the Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2016.

"(5) Any coding notice, declaration or other document required to be issued, made or given by the Director to an employee or, as the case may be, by an employee to the Director, or by or to their respective agents or representatives, for the purposes of this regulation, shall be issued, made or given -

(a) in such electronic form and by such electronic means as the Director may require, whether in any particular case or class of cases or generally, or

(b) in such non-electronic form and by such non-electronic means as the Director may in his absolute discretion determine in any particular case or class of cases,

and in this paragraph "**given**" means given, submitted, produced, served, sent or delivered (whatever expression may be used to describe the act).

(6) Without prejudice to the generality of paragraph (5), documents of a class or description specified by the Director may be given by being published in such form and manner, by such means and at such times or intervals and for such period as the Director thinks fit, including (without limitation) by publication on the official website of the States of Guernsey Income Tax or by being set out in a statement of practice issued under section 204 of the Law."

6. In regulation 4 after the words "The Director shall" insert ", in accordance with the provisions of regulation 1(5) or, as the case may be, regulation 14,".

7. After regulation 14(1) insert the following paragraph -

"(1A) Without prejudice to the generality of paragraph (1), documents of a class or description specified by the Director may be given by being published in such form and manner, by such means and at such times or intervals and for such period as the Director thinks fit, including (without limitation) by publication on the official website of the States of Guernsey Income Tax or by being set out in a statement of practice issued under section 204 of the Law.".

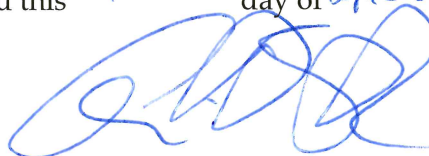
Citation.

8. These Regulations may be cited as the Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2017.

Commencement.

9. These Regulations shall come into force on the 19th October, 2017.

Dated this 19th day of September, 2017



DEPUTY G. A. ST PIER

President of the Policy and Resources Committee

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations further amend the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007 by modifying regulation 1 to allow the Director to transmit coding notices to employees by electronic means or by publication of the allowances on the States of Guernsey Income Tax website. There are also some consequential amendments to the regulations relating to the timing of issue of coding notices to employees to update them to take account of the move by the States from the previous year basis of assessment to the current year basis.

THE STATES OF DELIBERATION

of the

ISLAND OF GUERNSEY

COMMITTEE *for* HOME AFFAIRS

TRADING STANDARDS: OFFERS, SALES AND PRICE COMPARISONS

The States are asked to decide:-

Whether, after consideration of the Policy Letter 'TRADING STANDARDS: OFFERS, SALES AND PRICE COMPARISONS', dated 17th July 2017, they are of the opinion:

1. To note the contents of that Policy Letter giving further detail as to the legislative provisions relating to offers, sales and price comparisons proposed to be enacted as a result of Resolution XIX of 18th February 2016.
2. To agree that the requirements of Paragraph 1A of Resolution XIX dated 18th February 2016 will be satisfied by those proposed legislative provisions.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION

of the

ISLAND OF GUERNSEY

COMMITTEE *for* HOME AFFAIRS

TRADING STANDARDS: OFFERS, SALES AND PRICE COMPARISONS

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

17th July 2017

Dear Sir

1. **Executive Summary**

- 1.1 On 18th February 2016 the States debated a Commerce and Employment Department Policy Letter (Billet d'Etat No. III 08/01/16), containing proposals for a comprehensive package of trading standards legislation. Proposals were approved for the introduction of trading standards legislation that would provide statutory protection for consumers when entering into a contract with a business.
- 1.2 A successful amendment to this Policy Letter directed the then Commerce and Employment Department to *"consider proposals for the introduction of legislation concerning offers, sales and price comparisons, in order to give further statutory protection to the consumer,"*.
- 1.3 The particular concern the amendment was intended to address was whether consumer protection provided by the legislation when traders advertise offers, e.g. "buy one get one free", sales, e.g. "half price sale" and price comparisons e.g. "our price £5, our competitor's price £10", was sufficient to reduce the uncertainty and confusion that consumers can experience when reading such advertisements.
- 1.4 The Committee *for* Home Affairs became responsible for Trading Standards following the machinery of Government changes which took place on 1st May 2016 and has fully considered whether additional statutory measures are necessary to enhance consumer protection.

- 1.5 The Committee is satisfied that the original proposals for trading standards legislation approved on 18th February 2016 will provide appropriate statutory protection to consumers in relation to price indications.
- 1.6 The Law Officers have been consulted on the Policy letter and are satisfied with its conclusions. The Committee *for* Economic Development has also been consulted on the Policy Letter and had no comment to make.
- 1.4 The States is asked to note the contents of this Policy Letter which gives further detail as to the legislative provisions relating to offers, sales and price comparisons proposed to be enacted as a result of Resolution XIX of 18th February 2016 and to agree that the requirements of Paragraph 1A of Resolution XIX dated 18th February 2016 will be satisfied by those proposed legislative provisions.

2. **Strategic Context of Proposals**

- 2.1 On 18th February 2016 the States debated a Commerce and Employment Department Policy Letter dated 3rd December 2015, Billet d'Etat No. III of 2016, containing proposals for a comprehensive package of trading standards legislation for business to consumer transactions. This included:
 - 2.1.1 Statutory civil rights for consumers purchasing goods and services including those in digital format;
 - 2.1.2 The prohibition of unfair trading practices, including misleading actions, misleading omissions and aggressive practices which inhibit the consumer's freedom of choice by the use of harassment, coercion or undue influence;
 - 2.1.3 The prohibition of unfair contract terms in consumer contracts;
 - 2.1.4 A general safety requirement for consumer products;
 - 2.1.5 A requirement to give a price indication for goods for sale at the retail level;
 - 2.1.6 Enforcement duties and powers given to authorise officers of the Trading Standards Services; and
 - 2.1.7 Corresponding offences and penalties.
- 2.2 During the 2016 debate the States considered a single amendment which directed the then Commerce and Employment Department to give further consideration to proposals for the introduction of legislation concerning offers, sales and price comparisons, in order to give further statutory protection to the consumer and report back to the States. The States agreed the amendment and it was added to the recommendations in the Policy Letter and agreed in Resolution XIX passed by the States unanimously.
- 2.3 The Committee has considered whether measures additional to those proposed in the 2015 Policy Letter are necessary to protect the consumer and is satisfied that the

introduction of the requirement to give a price indication, as set out in recommendation 1(g) of Resolution XIX of 18th February 2016, provides the necessary consumer protection which it believes the amendment sought to achieve.

3. **Proposals**

- 3.1 Price and quality are the two most fundamental considerations when determining value for money and satisfaction in a consumer contract. Of these, price often takes precedence. Therefore easy access to unambiguous price information is an essential requirement of an effective market.
- 3.2 It is understood that the particular concern the amendment was intended to address was that the consumer protection provided by the legislation when traders advertise an offer, e.g. “buy one get one free”, sales, e.g. “half price sale” and price comparisons e.g. “our price £5, our competitor’s price £10”, was not sufficient to reduce the uncertainty and confusion that consumers can experience when reading such advertisements.
- 3.3 The December 2015 Policy Letter detailed how traders would be required to indicate the price of their products and how it would be an offence if a trader did not indicate a price, or if a trader did indicate a price in such a way as was misleading to the consumer.
- 3.4 The proposals included the introduction of a requirement to price mark, or give an indication of the price of goods on offer for sale at the retail level through the provisions which prohibit unfair trading. This would mean that giving false information about the price of a product, or how the price will be calculated, would be a misleading action, while failure to give material information, i.e. the price of a product, or how the price may be calculated, would be a misleading omission.
- 3.5 Whilst offers, sales and price comparisons were not discussed explicitly in the 2015 Policy Letter, it would be a misleading action, and therefore an offence under the proposed legislation, if a trader misled a consumer about an offer, sale or price comparison, and that misleading action resulted in the consumer making a decision they would not have otherwise made. For example, deciding to buy a product because they believe it is on offer at a reduced price when that is not in fact the case.
- 3.6 The 2015 Policy Letter noted that the proposed Guernsey legislation would, where appropriate, replicate provisions within the UK’s Consumer Protection from Unfair Trading Regulations 2008 which prohibit unfair commercial practices including misleading offers, sales and price comparisons. This would include for example:

- 3.6.1 falsely stating that the price of a product is less than it was previously; or
 - 3.6.2 using deceptive presentation such as presenting a 'multi-buy' offer as better value than buying the same number of items individually, when that is not the case; or
 - 3.6.3 omitting or hiding material information such as the price of a product; or
 - 3.6.4 presenting material information in an unintelligible or ambiguous way, such as using "all" in relation to an offer, when the offer does not apply to all products.
- 3.7 The Committee *for* Home Affairs is satisfied that the proposed legislative framework set out in the 2015 Policy Letter would be an effective tool for Trading Standards to take enforcement action if necessary. Since 2008 successful prosecutions, investigations and other enforcement actions have been taken by the responsible bodies, (Local Authorities, the Office of Fair Trading and the Competition and Markets Authority) under the equivalent UK legislation against businesses which have contravened the legislation.
- 3.8 The following examples illustrate the promotional pricing methods which the price indication legislation proposed by the December 2015 Policy Letter will be able to address.

Offers –

i. Volume offers e.g. Multibuy: 'buy one get one free'

In these circumstances the trader must ensure they provide all the material information that the consumer needs to understand the promotion and get best value and also ensure that the information is provided in a clear, intelligible and unambiguous and timely manner. The trader must not use an inflated previous price to claim greater savings and also must ensure the same goods are not offered at a lower price elsewhere in the business.

ii. Introductory offers

An introductory offer can only be made on a product which is new to the business and which will be offered for sale at a higher price at the end of the introductory period. The introductory period must be time limited and the product must then be offered at the regular sale price. The regular sale price must be offered for a reasonable period after the introductory offer so the trader can demonstrate the introductory offer was genuine, and real savings were made by the consumer.

Sales

iii. “half price sale”

In these circumstances it is important that a reasonable proportion of the range of goods on offer, for example clothing, is available at the reduced price which is stated. If this is not the case then trader could be guilty of misleading the customer and causing them to do something they would not otherwise have done, for example entering the shop to examine the goods on offer.

iv. Making a series of price reductions

A trader may offer a product at a reduced price and then continue to reduce the price over a period of time. In these circumstances the original price must be a genuine pre-sale price at which the product was available for a reasonable time, and the trader should continue to show the intervening prices as well as the current selling price so the extent of the saving can be identified by the consumer.

v. Never-ending sales

It is not reasonable for a trader to offer products at a lower ‘sale’ price for a period of time which makes the comparison with the higher ‘old’ price misleading or meaningless. For example, if the trader offers a product at a ‘sale’ price for 6 months then the ‘sale’ price could be deemed to be the ‘normal’ price for the product and therefore it is misleading for the trader to claim a saving.

Price comparisons

vi. Comparisons with another trader’s price

A valuable promotional tool for many retailers is to compare their price(s) with those of competitors e.g. “Our basket of household essentials £45.99, Supermarket XXX’s equivalent £62.85: Save £16.86”. If a trader wants to compare their price with that of another trader, they must name the other trader, identify when the price applied and ensure the price information is still current when the comparison is made. If the trader finds the comparison is no longer valid then they must stop making the comparison as soon as reasonably practicable.

vii. Comparison with recommended retail price or VAT/GST inclusive price

A trader may compare the price at which they are offering a product with the recommended retail price (RRP) for that product. The RRP must be genuine, and goods must be available at that price elsewhere. It may be misleading for a trader to quote an RRP which does not exist for a product and then to claim the consumer is making a saving when buying the product.

In Guernsey, which has a different taxation regime to neighbouring jurisdictions, it may be that a trader compares the price of a product with the same product on sale elsewhere which has VAT or another tax applied. If that is the case then the trader must make clear the reason for the difference in price.

viii. Comparing the current selling price with an earlier price offered by the trader:

When a trader compares their current selling price with an earlier selling price and claims a 'saving', the trader must be able to justify that claim, and to show that any claims they make are accurate and valid – in particular, that any price advantage or saving claimed is real. A misleading price comparison would be made if a trader compares their current selling price with a higher price which was never charged or was charged for a short period of time in the preceding weeks.

3.9 The legislation proposed in the December 2015 Policy letter will provide consumers with proportionate statutory protection in relation to the pricing of consumer goods by the methods described above.

3.10 Guidance will be available to business to ensure that they comply with the requirements of the new legislation. In parallel, consumer education resources will also be developed and provided to help consumers understand the pricing requirements that are introduced.

4. Resource and Implementation Plan

4.1 There are no resource implications arising from this Policy Letter as the resource requirements for drafting of the trading standards legislation will remain as agreed by the States in February 2016.

5. Engagement and Consultation

5.1 The Law Officers have been consulted on the Policy letter and are satisfied with its conclusions. The Committee *for* Economic Development was also consulted and had no comment to make.

6. Conclusions

6.1 The Committee *for* Home Affairs has, in accordance with Paragraph 1A of Resolution XIX of 18th February 2016, considered the possibility of proposals for additional legislation concerning offers, sales and price comparisons, and is of the opinion that implementation of Paragraphs 1 and 2 of the Resolution will provide adequate protection for consumers in relation to offers, sales and price comparisons and unanimously agrees that no further legislation is required.

7. **Proposition**

The States are asked to decide:

Whether, after consideration of the Policy Letter 'TRADING STANDARDS: OFFERS, SALES AND PRICE COMPARISONS', dated 17th July 2017, they are of the opinion:

3. To note the contents of that Policy Letter giving further detail as to the legislative provisions relating to offers, sales and price comparisons proposed to be enacted as a result of Resolution XIX of 18th February 2016.
4. To agree that the requirements of Paragraph 1A of Resolution XIX dated 18th February 2016 will be satisfied by those proposed legislative provisions.

8. **Committee Support for Proposition(s)**

- 8.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

M M Lowe
President

R H Graham
Vice-President

M P Leadbeater
V S Oliver
R G Prow