

BILLET D'ÉTAT No. VIII, 2006

26th April, 2006

	<i>Page</i>
Projet de Loi entitled “The Limited Partnerships (Guernsey) (Amendment) Law, 2006”	1
The Companies (Purchase of Own Shares) (Treasury Shares) Ordinance, 2006	9
The Companies (Fees and Penalties) Ordinance, 2006	19
The Real Property (Housing Schemes and Miscellaneous Provisions) (Guernsey) Ordinance, 2006	26
The Health and Safety (Gas) (Guernsey) Ordinance, 2006	33
The Bar (Amendment) Ordinance, 2006	99
The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006	100
The Protected Cell Companies (Amendment) Ordinance, 2006	130
The Incorporated Cell Companies Ordinance, 2006	150

Article I

PROJET DE LOI

ENTITLED

The Limited Partnerships (Guernsey) (Amendment) Law, 2006

ARRANGEMENT OF SECTIONS

1. Repeal of requirement to file partnership agreement.
2. Status of limited partnerships with legal personality.
3. Appointment of auditors.
4. Partnerships and bodies corporate may be auditors.
5. Time within which auditors' report must be deposited.
6. Financial year may be up to 18 months.
7. Interpretation.
8. Citation.
9. Commencement.

PROJET DE LOI

ENTITLED

The Limited Partnerships (Guernsey) (Amendment) Law, 2006

THE STATES, in pursuance of their Resolution of the 28th September, 2005^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Repeal of requirement to file partnership agreement.

1. Section 8(2)(b) of the Limited Partnerships (Guernsey) Law, 1995^b ("**the 1995 Law**") (copy of partnership agreement to be filed with Greffier upon registration) is repealed.

Status of limited partnerships with legal personality.

2. In section 9A of the 1995 Law (legal personality of limited partnerships), after subsection (4) insert the following subsection -

"(5) For the avoidance of doubt and notwithstanding the provisions of section 1(2), a limited partnership with legal personality is a body corporate."

^a Article XIII of Billet d'État No. XIV of 2005.

^b Orders in Council No. XII of 1995, No. V of 1996 and No. IV of 2001.

Appointment of auditors.

3. (1) For section 16 of the 1995 Law (appointment of auditors) substitute the following section -

"Appointment of auditors.

16. (1) The general partners of every limited partnership may, subject to the provisions of any regulations made under section 43(f)(ii), appoint an auditor to act in relation to the affairs of the partnership.

(2) The general partners of a limited partnership shall, subject to the provisions of any regulations made under section 43(f)(ii), appoint an auditor to act in relation to the affairs of the partnership if -

- (a) required to do so by the partnership agreement,
- (b) required to do so by limited partners whose contribution is greater than 50 per cent of the total contribution of all limited partners,
- (c) required to do so in such circumstances, or by such body, as may be prescribed, or
- (d) the limited partnership is one to which subsection (3) applies.

(3) Subject to subsection (4), this subsection applies to limited partnerships carrying on the business of, or concerned in the provision of the services of -

- (a) banking,

- (b) insurance,
- (c) investment,
- (d) asset management or administration,
- (e) trusteeship, or
- (f) company or trust formation or administration.

(4) Without prejudice to section 7A(1) of the Control of Borrowing Ordinance (conditions imposed upon limited partnerships upon registration), subsection (3) shall not apply where -

- (a) the limited partnership is a closed-ended limited partnership within the meaning of paragraph 1 of Schedule 1 to the Protection of Investors (Bailiwick of Guernsey) Law, 1987^c, and
- (b) the partnership agreement requires information on the state and prospects of the assets of the partnership business to be provided to the

^c Ordres en Conseil Vol. XXX, p. 281; amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; No. XIII of 1994; No. XII of 1995; No. II of 1997; No. XVII of 2002; and by No's XV and XXXII of 2003. Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Ordinances X and XX of 1998; and the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

limited partners in relation to each financial year of the partnership.

(5) An auditor may be removed from office -

- (a) where he has been appointed under subsection (1), by the general partners,
- (b) where he has been appointed under subsection (2)(a), if it is no longer required by the partnership agreement,
- (c) where he has been appointed under subsection (2)(b), by limited partners whose contribution is greater than 50 per cent of the total contribution of all limited partners,
- (d) where he has been appointed under subsection (2)(c), in such circumstances, or by such body, as may be prescribed,
- (e) where he has been appointed under subsection (2)(d), if the partnership is no longer one to which subsection (3) applies.

(6) The Royal Court may, on the application of any partner or creditor of a limited partnership, remove from office any auditor of the partnership, and appoint another to act in his place.

(7) Where -

- (a) an auditor is appointed under subsection (2),
- (b) that auditor has not been removed from office under subsection (5), and
- (c) at any time no auditor is acting in relation to the affairs of the partnership,

the Royal Court may, on the application of any partner or creditor of the partnership, appoint an auditor to act.

(8) The remuneration of a partnership's auditors shall be determined by the general partners or, where the auditors are appointed by the Royal Court, by the Royal Court.

(9) For the avoidance of doubt, the removal from office of an auditor shall not affect any rights that the auditor has against the partnership."

(2) In section 12(4) of the 1995 Law (participation of partners in business of limited partnership) for paragraph (j) substitute the following paragraph-

"(j) he requires the appointment or removal of an auditor, or applies to the Royal Court for the appointment or removal of an auditor, under section 16; or".

(3) In section 31(8)(b) of the 1995 Law (liability of partners for breaching relevant provisions) for "16(1)" substitute "16(2)".

(4) The Limited Partnerships (Application of Audit Requirements) Regulations, 2005^d are repealed.

Partnerships and bodies corporate may be auditors.

4. (1) In section 17 of the 1995 Law, for subsection (6) (only individuals may be auditors of limited partnerships) substitute the following subsection -

"(6) A limited partnership may appoint as its auditor an individual, partnership or body corporate.".

(2) Section 43(f)(i) of the 1995 Law (regulations may permit a body corporate or partnership to be auditor of a limited partnership) is repealed.

Time within which auditors' report must be deposited.

5. In section 18(3) of the 1995 Law (time within which auditors' report must be deposited with Commission) for the words "four months" substitute the words "six months or such shorter period as may be required in the partnership agreement".

First financial year may be up to 18 months.

6. In section 41(1) of the 1995 Law (interpretation), for the definition of "financial year" substitute -

"**"financial year"**, in relation to a limited partnership, means -

^d G.S.I. 2005 No. 32.

- (a) a period of up to 18 months beginning on the date on which the partnership is registered, and thereafter
- (b) each period of 12 months (or such other period as the Commission may by notice in writing allow in any particular case),

at the end of which the balance of the accounts of the partnership is struck;".

Interpretation.

7. (1) In this Law, "**the 1995 Law**" means the Limited Partnerships (Guernsey) Law, 1995.

(2) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

8. This Law may be cited as the Limited Partnerships (Guernsey) (Amendment) Law, 2006.

Commencement.

9. This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions.

*Article II***The Companies (Purchase of Own Shares)
(Treasury Shares) Ordinance, 2006****ARRANGEMENT OF SECTIONS**

1. Nature and treatment of treasury shares.
2. Maximum holding of treasury shares.
3. Cancellation of treasury shares.
4. Sale of treasury shares.
5. Interpretation.
6. Citation.
7. Commencement.

SCHEDULE: Consequential amendments

The Companies (Purchase of Own Shares) (Treasury Shares) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 28th September 2005^a, and in exercise of the powers conferred upon them by section 12 of the Companies (Amendment) (Guernsey) Law, 1996^b, and of all other powers enabling them in that behalf, hereby order:-

Nature and treatment of treasury shares.

1. (1) A company may hold any shares, purchased by it -
 - (a) in accordance with the Companies (Purchase of Own Shares) Ordinance, 1998^c ("**the 1998 Ordinance**"), and
 - (b) out of distributable profits,

as treasury shares if it is authorised to do so by virtue of -

- (i) the provisions of its memorandum or articles, or
- (ii) a resolution passed in general meeting.

- (2) Where the company holds its shares as treasury shares the

^a Article XIII of Billet d'État No. XIV of 2005.

^b Order in Council No. XIV of 1996.

^c No. VIII of 1998.

following provisions of this Ordinance and not section 3(3) of the 1998 Ordinance (cancellation of shares purchased by company) shall apply to those shares.

(3) Where a company holds shares as treasury shares, and for the duration of the period for which they are so held -

- (a) the rights in respect of those shares shall not be exercised by or against the company,
- (b) the obligations in respect of those shares shall not be enforced by or against the company,
- (c) any purported such exercise or enforcement shall be void.

(4) Without prejudice to the generality of subsection (3), the company shall not -

- (a) exercise any voting rights attaching to those shares,
- (b) make or receive any dividend in respect of those shares,
- (c) make or receive any other distribution (whether in cash or otherwise) of the company's assets (including any distribution of assets to members on a winding up) in respect of those shares.

(5) Where a company holds shares as treasury shares, the Register of Members, within the meaning of section 55 of the Companies

(Guernsey) Law, 1994^d ("**the 1994 Law**"), shall include an entry indicating the number of shares held as treasury shares.

- (6) Nothing in this section is to be taken as preventing -
 - (a) an allotment of shares as fully paid bonus shares in respect of treasury shares, or
 - (b) the payment of any amount payable on the redemption of the treasury shares (if they are redeemable shares).

(7) Any shares allotted as fully paid bonus shares in respect of the treasury shares shall be treated, for the purposes of this Ordinance, as if they were purchased by the company at the time they were allotted, in circumstances in which subsection (1) applied.

- (8) Where a company holds shares as treasury shares, it may -
 - (a) continue to hold them in accordance with this section,
 - (b) cancel them in accordance with section 3,
 - (c) sell them in accordance with section 4, or
 - (d) transfer them to an employees' share scheme.

- (9) The Schedule to this Ordinance, which makes various

amendments consequent to the creation of treasury shares, shall have effect.

Maximum holding of treasury shares.

2. (1) The aggregate nominal value of the shares of any class held as treasury shares must not at any time exceed 10 per cent (or such other per cent as the Department may by regulations prescribe) of the nominal value of the issued share capital of the shares in that class at that time.

(2) In the case of shares held as treasury shares which are shares of no par value within the meaning of the Companies (Shares of No Par Value) Ordinance, 2002^e ("the **2002 Ordinance**"), the number of those shares of any class must not at any time exceed 10 per cent (or such other per cent as the Department may by regulations prescribe) of the total number of issued shares of that class at that time.

Cancellation of treasury shares.

3. (1) Where shares held as treasury shares are cancelled, the amount of the company's issued share capital shall be diminished by the nominal value of those shares: but the cancellation is not to be taken as reducing the amount of the company's authorised share capital.

(2) The amount by which the company's issued share capital is diminished on cancellation of those shares shall be transferred to the capital redemption reserve.

(3) This section shall not apply to shares of no par value within the meaning of the 2002 Ordinance.

^e No. VI of 2002.

Sale of treasury shares.

4. (1) Where shares held as treasury shares are sold and the proceeds of sale are equal to or less than the purchase price paid by the company for the shares, the proceeds shall be treated as a distributable profit of the company.

(2) Where shares held as treasury shares are sold and the proceeds of sale exceed the purchase price paid by the company for the shares -

(a) that part of the proceeds of sale that is equal to the purchase price paid shall be treated as a distributable profit of the company, and

(b) a sum equal to the excess shall be transferred to the company's share premium account.

(3) The purchase price paid by the company for the shares shall be determined by the application of a weighted average price method.

(4) Where the shares were allotted to the company as fully paid bonus shares, the purchase price paid for them shall, for the purposes of this section, be treated as being nil.

Interpretation.

5. (1) In this Ordinance, unless the context requires otherwise -

"**Department**" means the Commerce and Employment Department,

"**employees' share scheme**" is a scheme for encouraging or facilitating the holding of shares or debentures in a company by or for the

benefit of -

- (a) the bona fide employees or former employees of the company, the company's subsidiary or holding company or a subsidiary of the company's holding company,
- (b) the wives, husbands, widows, widowers or children or step-children under the age of 18 of such employees or former employees, or
- (c) such other persons or classes of persons as the Department may by regulations prescribe,

"the 1994 Law" means the Companies (Guernsey) Law, 1994,

"the 1998 Ordinance" means the Companies (Purchase of Own Shares) Ordinance, 1998,

"the 2002 Ordinance" means the Companies (Shares of No Par Value) Ordinance, 2002,

"treasury shares" means shares held in accordance with the provisions of this Ordinance.

(2) Expressions used in this Ordinance shall, unless the context requires otherwise, have the same meanings as in the 1998 Ordinance.

(3) References in this Ordinance to an enactment are references thereto as from time to time amended, re-enacted (with or without modification),

extended or applied.

Citation.

6. This Ordinance may be cited as the Companies (Purchase of Own Shares) (Treasury Shares) Ordinance, 2006.

Commencement.

7. This Ordinance shall come into force on the 1st day of May, 2006.

SCHEDULE

Section 1(9)

Consequential Amendments

1. In section 19(2)(a) of the 1994 Law (annulment of alteration of objects by holders of 15% of issued share capital) after the words "issued share capital" insert the words ", excluding any shares held as treasury shares".

2. In section 28(2)(c) of the 1994 Law (return to state names and addresses of company's members) after the words "company's members" insert the words ", other than the company itself where it holds its own shares as treasury shares".

3. In section 28(2)(d) of the 1994 Law (return to state number of shares issued to each member) after the words "each member" insert the words ", other than the company itself where it holds its own shares as treasury shares,".

4. After section 28(2)(d) of the 1994 Law insert the following paragraph

-

"(da) the number of shares the company holds as treasury shares;".

5. In section 51(2) of the 1994 Law (annulment of variation of class rights by holders of 15% of issued share capital) after the words "issued shares of the class in question" insert the words ", excluding any shares held as treasury shares,".

6. In section 55(1) of the 1994 Law (Register of Members) after the

word "shareholders" insert the words ", other than the company itself where it holds its own shares as treasury shares,".

7. In section 57(1) of the 1994 Law (index of members) after the words "members of the company" insert the words ", other than the company itself where it holds its own shares as treasury shares,".

8. In section 69(d) of the 1994 Law (list of members available for inspection during meeting) after the words "of all members" insert the words ", other than the company itself where it holds its own shares as treasury shares,".

9. In section 69(g) of the 1994 Law (quorum of members for meeting) after the words "between them" insert the words ", excluding any shares held as treasury shares,".

10. In section 69(m) of the 1994 Law (one tenth of members can demand a poll at a meeting) after the words "issued share capital between them" insert the words ", excluding any shares held as treasury shares,".

11. In section 70(2) of the 1994 Law (members' requisition of extraordinary general meeting) after the words "between them" insert the words ", excluding any shares held as treasury shares,".

12. In section 94(d) of the 1994 Law (compulsory winding up if less than two members) after the words "members of the company" insert the words ", other than the company itself where it holds its own shares as treasury shares,".

Article III

The Companies (Fees and Penalties) Ordinance, 2006

ARRANGEMENT OF SECTIONS

1. Fees and penalties.
2. Procureur's fee in relation to restoration of company to Register.
3. Interpretation.
4. Consequential amendments.
5. Consequential repeal.
6. Citation.
7. Commencement.

SCHEDULE: Fees and Penalties.

The Companies (Fees and Penalties) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 29th March, 2006^a, and in exercise of the powers conferred on them by sections 77(7), 115(h) and 118 of the Companies (Guernsey) Law, 1994^b and all other powers enabling them in that behalf, hereby order:-

Fees and penalties.

1. (1) For section 115 of the Companies (Guernsey) Law, 1994 (fees) substitute the following section -

"Fees and penalties.

115. (1) The fees and penalties specified in column 3 of the table in Schedule 5 shall be payable, by the company to which they relate, to the Greffier, upon or in relation to the event, circumstance or matter specified in the corresponding entry in column 2 of that table.

(2) The provisions of the table in Schedule 5 may be amended or repealed by Ordinance of the States."

(2) The Schedule to this Ordinance (which inserts Schedule 5 into the Companies (Guernsey) Law, 1994) shall have effect.

Procureur's fee in relation to restoration of company to Register.

2. For the purposes of section 77(7) of the Companies (Guernsey) Law,

^a Article V of Billet d'État No. VII of 2006.

^b No. XXXIII of 1994.

1994 (fee payable to Her Majesty's Procureur in relation to consent for application for restoration to the Register) the prescribed fee is £300.

Interpretation.

3. Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Consequential amendments.

4. The following consequential amendments shall have effect -

- (a) in section 76(7) of the Companies (Guernsey) Law, 1994 (appropriate penalty for filing of late annual return to avoid being struck off Register) for the words from "the aggregate of" to the end substitute the words "the aggregate of the penalty specified in item 20 of the table in Schedule 5.",
- (b) in section 77(4)(b) of the Companies (Guernsey) Law, 1994 (restoration to Register upon payment) for the words "an additional amount of £100" substitute the words "the additional amount specified in item 19 of the table in Schedule 5.",
- (c) in section 7 of the Amalgamation of Companies Ordinance, 1997^c (Greffier's certificate of amalgamation) after subsection (4) insert the following

^c No. XIX of 1997.

subsection -

"(5) The fees specified in column 3 of the table in Schedule 5 to the 1994 Law shall be payable, in respect of this Ordinance, by the company to which they relate, to the Greffier, upon or in relation to the event, circumstance or matter specified in the corresponding entry in column 2 of that table.",

- (d) after section 20 of the Migration of Companies Ordinance, 1997^d insert the following section -

"Fees payable to the Greffier."

20A. The fees specified in column 3 of the table in Schedule 5 to the 1994 Law shall be payable, in respect of this Ordinance, by the company to which they relate, to the Greffier, upon or in relation to the event, circumstance or matter specified in the corresponding entry in column 2 of that table."

Consequential repeal.

- 5.** The following provisions are repealed -

- (a) section 3 of the Companies (Guernsey) Law, 1994 (Commencement & Miscellaneous Provisions)

^d No. XXVI of 1997.

Ordinance, 1995^e (Procureur's fee in relation to restoration of company to Register),

- (b) section 4 of the Companies (Guernsey) Law, 1994 (Commencement & Miscellaneous Provisions) Ordinance, 1995 (fees payable to the Greffier in relation to companies offering shares to public), and
- (c) regulation 2(b), (d) and (e) of the Migration of Companies (Fees) Regulations, 1997^f (fees payable to the Greffier in respect of migrations).

Citation.

6. This Ordinance may be cited as the Companies (Fees and Penalties) Ordinance, 2006.

Commencement.

7. This Ordinance shall come into force on the 1st day of May, 2006.

^e Recueil d'Ordonnances Tome XXVI, p. 368.

^f G.S.I. No. 27 of 1997.

SCHEDULE

Section 1

FEES AND PENALTIES

The following shall be inserted as Schedule 5 to the Companies (Guernsey) Law, 1994.

"SCHEDULE 5

FEES AND PENALTIES

Section 115

	Event, Circumstance or Matter	Fee or Penalty
1	Certificates of Registration (beyond the first such Certificate).	£15
2	Certificate of Change of Name (beyond the first such Certificate).	£15
3	Certificate of Status (also known as a Certificate of Good Standing).	£30
4	Certificate of Entitlement to Commence Business under section 16(1)(c).	£50
5	Certified copies of documents from a company file (per page).	£1
6	Uncertified copies from a company file (per page).	50p
7	Certificate of Removal from the Register on migration out (beyond the first such Certificate).	£15
8	Certificate of Entry on the Register on migration in (beyond the first such Certificate).	£15
9	Certificate of removal from the Register (following striking off or winding up).	£15

10	Filing of any document on the company file (not otherwise provided for in this Schedule).	£10
11	Filing of notice of company's registered office, or change of registered office.	£25
12	In respect of winding up (failure to file notice of registered office).	£25
13	In respect of winding up (failure to comply with Court direction to change company name).	£25
14	Filing of director's consent (if not with the memorandum).	£25
15	Filing of special resolution to change company's name.	£50
16	Filing of return of shares allotment.	£10
17	Registration of company's memorandum.	£125
18	Registration of company's articles (if not with the memorandum).	£30
19	Restoration to the Register of Companies (in addition to all fees, penalties, etc which would have been payable by the company if it had not been dissolved).	£150
20	Penalties for late filing of annual return - (i) First calendar month or part thereof, (ii) Second calendar month or part thereof, (iii) Each subsequent calendar month or part thereof.	£20 £40 £80
21	Issue of first Certificate on Application to Amalgamate.	£150
22	Issue of Second and subsequent copies of Certificate of Amalgamation.	£15
23	Registration of an overseas company on migration in.	£200
24	Removal from the Register of a Guernsey company on migration out.	£350
25	Entry of Notice of same in La Gazette Officielle.	£75"

Article IV

**The Real Property (Housing Schemes and
Miscellaneous Provisions) (Guernsey) Ordinance, 2006**

THE STATES, in pursuance of their Resolutions of the 26th September, 2003^a and the 24th November, 2004^b, and in exercise of the powers conferred on them by sections 1 and 4 of the Real Property (Housing Schemes, Leaseholds and Miscellaneous Provisions) (Guernsey) Law, 2004^c and all other powers enabling them in that behalf, hereby order:-

Application of this Ordinance to partial ownership arrangements.

1. (1) The provisions of this Ordinance apply in relation to a partial ownership arrangement whereby a qualifying individual and a housing provider own real property made available under a housing scheme jointly in undivided shares.

(2) References in this Ordinance to "**the qualifying individual**", "**the housing provider**", "**the real property**" and "**the housing scheme**" are references to (respectively) the qualifying individual, housing provider, real property and housing scheme mentioned in subsection (1).

(3) In this Ordinance "**the original conveyance**" means a conveyance by a housing provider to a qualifying individual of an undivided share in real property for the purposes of a housing scheme.

^a Article XXI of Billet d'État No. XXI of 2003.

^b Article IV of Billet d'État No. XX of 2004.

^c Order in Council No. X of 2005.

Exclusion of "licitation".

2. If the original conveyance so provides, the right of licitation may not be exercised in respect of the real property -

- (a) by the qualifying individual or the housing provider,
or
- (b) by any successor in title of the qualifying individual or the housing provider.

Rules of housing scheme, etc, to run with the land.

3. If the original conveyance so provides -

- (a) the rules of the housing scheme are enforceable by the housing provider and its successors in title against any successor in title of the qualifying individual, and
- (b) any right of pre-emption and call option conferred on the housing provider in respect of the undivided share held by the qualifying individual, and any other covenant entered into by, or binding on, the qualifying individual in respect of that undivided share, is enforceable by the housing provider and its successors in title against any successor in title of the qualifying individual.

Restrictions on sale of share.

4. The undivided share held by the qualifying individual may not be conveyed or otherwise transferred, and may not at any time be held, except in accordance with the rules of the housing scheme.

Survival of power of attorney.

5. A power of attorney entered into by the qualifying individual which is expressed to appoint, irrevocably, the housing provider as his attorney for the purposes of the housing scheme is not terminated by his legal incapacity.

Specific performance of obligations.

6. (1) The Royal Court may, on the application of the housing provider or any successor in title thereof, grant an order of specific performance -

- (a) to enforce any rule of the housing scheme,
- (b) to enforce, against the qualifying individual or his successors in title -
 - (i) any right of pre-emption and any call option conferred on the housing provider, and
 - (ii) any other covenant entered into by, or binding on, the qualifying individual,

in respect of the undivided share held by the qualifying individual,

- (c) where the undivided share held by the qualifying individual is conveyed or otherwise transferred, or is at any time held, otherwise than in accordance with the rules of the housing scheme, to provide for the transfer of that undivided share to the housing provider or to any other person or body in accordance

with those rules.

(2) Subsection (1)(a) and (b) has effect in respect of successors in title only if the original conveyance makes provision as mentioned in paragraph (a) or, as the case may be, paragraph (b) of section 3.

(3) Where the Royal Court makes an order of specific performance under subsection (1), it may also (whether at the same time or at any other time) -

- (a) make such ancillary orders as it thinks fit including, without limitation, orders as to the vesting of any interest in the real property, and
- (b) make the order, and any ancillary order, subject to such terms and conditions as it thinks fit.

(4) For the purpose of giving effect to an order of specific performance under subsection (1), and without prejudice to the generality of its powers under this section, the Royal Court may appoint Her Majesty's Sheriff as judicial attorney of the person subject to the order for the purpose of doing, by such attorney, anything that that person could do, including (without limitation) appearing before and giving any assent to the Conveyancing Court.

Power to share information.

7. The housing provider and any mortgagee of the qualifying individual's undivided share in the real property may, notwithstanding any statutory provision or rule of law to the contrary, provide the other with such information relating to the qualifying individual's affairs as may be specified in any agreement made between the individual and the housing provider or, as the case may be, the

Mortgagee.

Partial disapplication of Stay of Eviction Law.

8. For the purposes of the Stay of Eviction Laws, the qualifying individual shall, in respect of the real property occupied by him, and notwithstanding the payment of any monies in respect of the occupation by him of the undivided share in the real property which continues to be vested in the housing provider, be considered to be an occupier of that real property, and not a tenant or sub-tenant, and accordingly is not entitled to a stay of execution of any order for his eviction from the real property for a period exceeding 6 months.

Interpretation.

9. In this Ordinance -

"housing provider" includes the States and any other person or body approved by the States Housing Department (including, without limitation, the Guernsey Housing Association LBG) to provide or facilitate the provision of affordable housing for qualifying individuals for the purposes of a housing scheme,

"housing scheme" means a scheme the rules of which are laid down by a housing provider and approved by the States Housing Department, being a scheme whereby -

- (a) housing providers make available or otherwise facilitate the provision of affordable housing in Guernsey for qualifying individuals,
- (b) qualifying individuals may acquire that housing, whether by taking an estate of inheritance or a

leasehold interest or otherwise, and whether by way of partial ownership, assisted purchase or otherwise,

- (c) that housing may (but need not) be retained in a pool reserved by housing providers for qualifying individuals,

"mortgagee" means a person whose interest in the real property in question is secured by an entry in the Livre des Hypothèques, Actes de Cour et Obligations,

"original conveyance" : see section 1(3),

"partial ownership" means an arrangement whereby a qualifying individual and a housing provider own a property made available under a housing scheme jointly (whether in undivided shares or otherwise) or in any other way,

"qualifying individuals" means individuals of a class or description specified in the rules of a housing scheme,

"real property" includes immovable property,

"Royal Court" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats,

"Stay of Eviction Laws" means the Law entitled "Law giving the Court increased power to stay execution in actions for eviction" of 1946^d

^d Ordres en Conseil Vol. XII, p. 262.

and the Stay of Evictions (Amendment) Law, 1954^e,

"successor in title", in relation to an owner of real property, means any person deriving title directly or indirectly from him, including (without limitation) any creditor who has acquired the interest of the owner, or of any successor in title of the owner, by virtue of an interim or final vesting order made in saisie proceedings.

(2) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

10. This Ordinance may be cited as the Real Property (Housing Schemes and Miscellaneous Provisions) (Guernsey) Ordinance, 2006.

Commencement.

11. This Ordinance shall come into force on the 26th April, 2006.

^e Ordres en Conseil Vol. XVI, p. 41.

Article V

**The Health and Safety (Gas) (Guernsey)
Ordinance, 2006**

ARRANGEMENT OF SECTIONS

PART I
APPLICATION OF ORDINANCE

1. Application of this Ordinance and Health and Safety at Work Ordinance.
2. Cases to which this Ordinance does not apply.

PART II
GAS FITTINGS - GENERAL PROVISIONS

3. Qualification and supervision.
4. Duty on employer.
5. Materials and workmanship.
6. General safety precautions.
7. Protection against damage.
8. Existing gas fittings.
9. Emergency controls.
10. Maintaining electrical continuity.

PART III
METER INSTALLATIONS AND REGULATORS

11. Interpretation of Part III.
12. Meters - general provisions.
13. Meter housings.
14. Regulators.
15. Meters - emergency notices.
16. Primary meters.
17. Secondary meters.

PART IV
INSTALLATION PIPEWORK

18. Safe use of pipes.

- 19. Enclosed pipes
- 20. Protection of buildings.
- 21. Clogging precautions.
- 22. Testing and purging of pipes.
- 23. Marking of pipes.
- 24. Large consumers.

PART V GAS APPLIANCES

- 25. Interpretation of Part V.
- 26. Gas appliances - safety precautions.
- 27. Flues.
- 28. Access.
- 29. Manufacturer's instructions.
- 30. Room-sealed appliances.
- 31. Suspended appliances.
- 32. Flue dampers.
- 33. Testing of appliances.
- 34. Use of appliances.

PART VI MAINTENANCE, ESCAPES OF GAS, ETC

- 35. Duties of employers and self-employed persons.
- 36. Duties of landlords.
- 37. Escapes of gas.
- 38. Use of antiflucluators and valves.

PART VII RIGHTS OF ENTRY, DISCONNECTION, APPEALS, ETC

- 39. Rights of entry.
- 40. Inspection, testing and disconnection, etc.
- 41. Notification to consumer.
- 42. Representations to Department.
- 43. Directions of Department.
- 44. Right of appeal to Royal Court.
- 45. Prohibition of reconnection or restoration of supply.

PART VIII OFFENCES AND EXCEPTIONS

- 46. Offences.

- 47. Exception as to liability.
- 48. Exemption certificates.

PART IX
MISCELLANEOUS

- 49. Interpretation.
- 50. General provisions as to subordinate legislation.
- 51. Extent.
- 52. Citation.
- 53. Commencement.

The Health and Safety (Gas) (Guernsey) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 27th April, 2005^a, and in exercise of the powers conferred on them by sections 2 and 3 of the Health, Safety and Welfare of Employees Law, 1950^b and sections 3, 4 and 5 of the Health and Safety at Work etc. (Guernsey) Law, 1979^c, and all other powers enabling them in that behalf, hereby order:-

PART I APPLICATION OF ORDINANCE

Application of this Ordinance and Health and Safety at Work Ordinance.

1. (1) Subject to the provisions of section 2, this Ordinance applies to or in relation to gas fittings used in connection with -

(a) gas which has been conveyed to premises through a distribution main, or

(b) gas conveyed from a gas storage vessel.

(2) The provisions of this Ordinance -

^a Article VI of Billet d'État No. IV of 2005.

^b Ordres en Conseil Vol. XIV, p. 312.

^c Ordres en Conseil Vol. XXVII, p. 155.

- (a) shall be read as one with the provisions of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987^d, and
- (b) are relevant statutory provisions for the purposes of that Ordinance.

Cases to which this Ordinance does not apply.

2. (1) Except for sections 37 and 38, and subject to section 3(8), this Ordinance does not apply in relation to the supply of gas to, or anything done in respect of a gas fitting at, the following premises -

- (a) a quarry within the meaning of the Quarries (Safety) Ordinance, 1954^e,
- (b) a factory within the meaning of section 81 of the Safety of Employees (Miscellaneous Provisions) Ordinance, 1952^f,
- (c) agricultural premises, being agricultural land, including land being or forming part of a market garden, and any building thereon which is used in connection with agricultural operations,
- (d) temporary installations used in connection with building operations within the meaning of section

^d Recueil d'Ordonnances Tome XXIV, p. 162.

^e Recueil d'Ordonnances Tome XI, p. 3.

^f Recueil d'Ordonnances Tome X, p. 194.

27(2) of the Safety of Employees (Miscellaneous Provisions) Ordinance, 1952,

- (e) premises used for the testing of gas fittings, or
- (f) premises used for the treatment of sewage,

but this Ordinance does apply in relation to such premises or any part thereof used for domestic or residential purposes or as sleeping accommodation.

(2) Nothing in this Ordinance applies in relation to the supply of gas to, or anything done in respect of a gas fitting on -

- (a) a self-propelled vehicle, except when the vehicle is -
 - (i) hired out in the course of a business, or
 - (ii) made available to members of the public in the course of a business carried out from the vehicle,
- (b) a sea-going ship, or
- (c) a vessel not requiring a national or international load line certificate except when the vessel is -
 - (i) hired out in the course of a business,

- (ii) made available to members of the public in the course of a business carried out from the vessel, or
 - (iii) used primarily for domestic or residential purposes,
 - (d) a hovercraft, or
 - (e) a caravan used for touring except where the caravan is hired out in the course of a business.
- (3) Nothing in this Ordinance applies in relation to -
- (a) the supply of gas to the propulsion system of any vehicle or to any gas fitting forming part of such a propulsion system,
 - (b) the supply of gas to, or anything done in respect of, a bunsen burner used in an educational establishment, or
 - (c) work in relation to a control device on a gas appliance if -
 - (i) the device is intended primarily for use by a consumer of gas, and
 - (ii) the work does not involve breaking into a gasway.

(4) This Ordinance does not apply in relation to a gas fitting used for the purpose of training gas fitting operatives in a college or other training establishment, except that subsections (1) to (5) and (7) of section 3 apply to work in relation to a gas fitting carried out by a person providing such training.

(5) This Ordinance does not apply in relation to a gas fitting used for the purpose of assessing the competence of a gas fitting operative at an assessment centre where the assessment is carried out for the purposes of an accredited certification scheme, except that section 3(1) and (2) does apply to work in relation to a gas fitting carried out by a person carrying out such an assessment.

PART II

GAS FITTINGS - GENERAL PROVISIONS

Qualification and supervision.

3. (1) No person shall carry out any work in relation to a gas fitting or a gas storage vessel unless he is competent to do so.

(2) The employer of any person carrying out any such work for that employer, every other employer and self-employed person who has control to any extent of any such work and every employer and self-employed person who has required any such work to be carried out at any place of work under his control shall ensure that subsection (1) is complied with.

(3) Without prejudice to the generality of subsections (1) and (2), and subject to subsection (4), no employer shall allow any of his employees to carry out any work in relation to a gas fitting or service pipework, and no self-employed person shall carry out any such work, unless the employer or self-employed person, as the case may be, is a member of a class of persons approved for the time being by the Department for the purposes of this subsection.

(4) The requirements of subsection (3) do not apply in respect of the replacement of -

- (a) a hose or regulator on a portable or mobile space-heater, or
- (b) a hose connecting a refillable cylinder to installation pipework.

(5) An approval given pursuant to subsection (3) and any withdrawal of such an approval shall be in writing and notice of it shall be given to such persons and in such manner as the Department considers appropriate.

(6) The employer of any person carrying out any work in relation to a gas fitting or gas storage vessel in the course of his employment shall ensure that such of the provisions of this Ordinance as impose duties on that person are complied with by that person.

(7) No person shall falsely pretend to be a member of a class of persons required to be approved for the purposes of subsection (3).

(8) Notwithstanding paragraph (b) of section 2(1), when a person is carrying out work in premises referred to in that paragraph in relation to a gas fitting in a vehicle, vessel or caravan -

- (a) subsections (1), (2) and (6) of this section shall be complied with in respect thereof, and

- (b) he shall ensure, so far as is reasonably practicable, that the installation of the gas fittings and flues will not contravene the provisions of this Ordinance when the gas fittings are connected to the gas supply,

but this subsection does not apply where the person has reasonable grounds for believing that the vehicle, vessel or caravan will be first used for a purpose which when so used will exclude it from the application of this Ordinance by virtue of paragraph (a), (c) or (e) of section 2(2).

Duty on employer.

4. Where an employer or a self-employed person requires any work in relation to a gas fitting to be carried out at any place of work under his control, or where an employer or self-employed person has control to any extent of work in relation to a gas fitting, he shall take reasonable steps to ensure that the person undertaking that work is, or is employed by, a member of a class of persons approved by the Department under section 3(3).

Materials and workmanship.

5. (1) No person shall install a gas fitting unless every part of it is of good construction and sound material, of adequate strength and size to secure safety and of a type appropriate for the gas with which it is to be used.

(2) Without prejudice to the generality of subsection (1), no person shall install in a building any pipe or pipe fitting for use in the supply of gas which is -

- (a) made of lead or lead alloy, or
- (b) made of a non-metallic substance unless it is -

- (i) a pipe connected to a readily movable gas appliance designed for use without a flue, or
- (ii) a pipe entering the building and that part of it within the building is placed inside a metallic sheath which is so constructed and installed as to prevent, so far as is reasonably practicable, the escape of gas into the building if the pipe should fail.

(3) No person shall carry out any work in relation to a gas fitting or gas storage vessel except in accordance with appropriate standards and in such a way as to prevent danger to any person.

General safety precautions.

6. (1) No person shall carry out any work in relation to a gas fitting in such a manner that gas could be released unless steps are taken to prevent the gas so released constituting a danger to any person.

(2) No person carrying out work in relation to a gas fitting shall leave the fitting unattended unless every incomplete gasway has been sealed with the appropriate fitting or the gas fitting is otherwise safe.

(3) Any person who disconnects a gas fitting shall, with the appropriate fitting, seal off every outlet of every pipe to which it was connected.

(4) No person carrying out work in relation to a gas fitting which involves exposing gasways which contain or have contained flammable gas shall

smoke or use any source of ignition in such a manner as may lead to the risk of fire or explosion.

(5) No person searching for an escape of gas shall smoke or use any source of ignition.

(6) Where a person carries out any work in relation to a gas fitting which might affect the gas tightness of the gas installation he shall immediately thereafter test the installation for gas tightness at least as far as the nearest valves upstream and downstream in the installation.

(7) No person shall install a gas storage vessel unless the site where it is to be installed is such as to ensure that the gas storage vessel can be used, filled or re-filled without causing a danger to any person.

(8) No person shall install in a cellar or basement -

(a) a gas storage vessel, or

(b) an appliance fuelled by liquefied petroleum gas which has an automatic ignition device or a pilot light.

(9) No person shall intentionally or recklessly interfere with a gas storage vessel or otherwise do anything which might affect a gas storage vessel so that the subsequent use of that vessel might cause a danger to any person.

(10) No person shall store or keep gas consisting wholly or mainly of methane on domestic premises; and, for the purpose of this subsection, such gas from time to time present in pipes or in the fuel tank of any vehicle propelled by gas shall be deemed not to be so stored or kept.

Protection against damage.

7. (1) Any person installing a gas fitting shall ensure that it is properly supported and so placed or protected as to avoid any undue risk of damage to the fitting.

(2) No person shall install a gas fitting if he has reason to suspect that foreign matter may block or otherwise interfere with the safe operation of the fitting unless he has fitted to the gas inlet of, and any airway in, the fitting a suitable filter or other suitable protection.

(3) No person shall install a gas fitting in a position where it is likely to be exposed to any substance which may corrode gas fittings unless the fitting is constructed of materials which are inherently resistant to being so corroded or it is suitably protected against being so corroded.

Existing gas fittings.

8. (1) No person shall make any alteration to any premises in which a gas fitting or gas storage vessel is fitted if that alteration would adversely affect the safety of the fitting or the vessel in such a manner that, if the fitting or the vessel had been installed after the alteration, there would have been a contravention of this Ordinance.

(2) No person shall do anything which would affect a gas fitting or any flue or means of ventilation used in connection with the fitting in such a manner that the subsequent use of the fitting might constitute a danger to any person; but this subsection does not apply to an alteration to premises.

(3) In relation to any place of work under his control, an employer or a self-employed person shall ensure, so far as reasonably practicable, that the provisions of subsections (1) and (2) are complied with.

Emergency controls.

9. (1) No person shall for the first time enable gas to be supplied for use in any premises unless there is provided an appropriately sited emergency control to which there is adequate access.

(2) Any person installing an emergency control shall ensure that -

(a) any key, lever or hand-wheel of the control is securely attached to the operating spindle of the control,

(b) any such key or lever is attached so that -

(i) the key or lever is parallel to the axis of the pipe in which the control is installed when the control is in the open position, and

(ii) where the key or lever is not attached so as to move only horizontally, gas cannot pass beyond the control when the key or lever has been moved as far as possible downwards,

(c) either the means of operating the key or lever is clearly and permanently marked or a notice in permanent form is prominently displayed near such means so as to indicate when the control is open and when the control is shut, and

- (d) any hand-wheel indicates the direction of opening or closing of the control.

(3) Where a person installs an emergency control which is not adjacent to a primary meter, he shall immediately thereafter prominently display on or near the means of operating the control a suitably worded notice in permanent form indicating the procedure to be followed in the event of an escape of gas.

(4) Where any person first supplies gas to premises where an emergency control is installed, he shall ensure that the notice required by subsection (3) remains suitably worded or shall, where necessary, forthwith amend or replace that notice so as to give effect to the provisions of that subsection.

(5) This section does not apply where gas is supplied in a refillable cylinder except where two or more cylinders are connected by means of an automatic changeover device.

Maintaining electrical continuity.

10. In any case where it is necessary to prevent danger, no person shall carry out work in relation to a gas fitting without using a suitable bond to maintain electrical continuity until the work is completed and permanent electrical continuity has been restored.

PART III

METER INSTALLATIONS AND REGULATORS

Interpretation of Part III.

11. In this Part -

"meter box" means a receptacle or compartment designed and constructed to contain a meter with its associated fittings,

"meter compound" means an area or room designed and constructed to contain one or more meters with their associated fittings,

"secondary meter" means a meter, other than a primary meter, for ascertaining the quantity of gas provided by a person for use by another person.

Meters - general provisions.

12. (1) No person shall install a meter in any premises unless the site where it is to be installed is such as to ensure so far as is reasonably practicable that the means of escape from those premises in the event of fire is not adversely affected.

(2) No person shall install a meter in any premises unless it is of sound construction adequate to ensure so far as is reasonably practicable that in the event of fire gas is not able to escape in hazardous quantities; but this subsection does not apply to any meter installed in non-domestic premises to which gas is supplied through a readily accessible service valve.

(3) No person shall install a meter unless the installation is so placed as to ensure that there is no risk of damage to it from electrical apparatus.

(4) No person shall install a meter except in a readily accessible position for inspection and maintenance.

(5) Where a meter has bosses or side pipes attached to the meter by a soldered joint only, no person shall make rigid pipe connections to the meter.

(6) Where a person installs a meter and the pipes and other gas fittings associated with it, he shall ensure that -

- (a) immediately thereafter they are adequately tested to verify that they are gas tight and examined to verify that they have been installed in accordance with this Ordinance, and
- (b) immediately after such testing and examination, purging is carried out throughout the meter and every other gas fitting through which gas can then flow so as to remove safely all air and gas other than the gas to be supplied.

Meter housings.

13. (1) Where a meter is housed in a meter box or meter compound attached to or built into the external face of the outside wall of any premises, the meter box or meter compound shall be so constructed and installed that any gas escaping within the box or compound cannot enter the premises or any cavity in the wall but must disperse to the external air.

(2) No person shall knowingly store readily combustible materials in any meter box or meter compound.

(3) No person shall install a meter in a meter box provided with a lock unless the consumer has been provided with a suitably labelled key to that lock.

(4) No person shall install a meter within a meter compound which is capable of being secured unless the consumer has been provided with a suitably labelled key for that compound.

Regulators.

14. (1) No person shall install a primary meter or meter bypass used in connection with a primary meter unless -

- (a) there is a regulator controlling the pressure of gas supplied through the meter or the bypass, as the case may be, which provides adequate automatic means for preventing the gas fittings connected to the downstream side of the regulator from being subjected to a pressure greater than that for which they were designed,
- (b) where the normal pressure of the gas supply is 75 millibars or more at the inlet to the regulator, there are also adequate automatic means for preventing, in case the regulator should fail, those gas fittings from being subjected to such a greater pressure, and
- (c) where the regulator contains a relief valve or liquid seal, such valve or seal is connected to a vent pipe of adequate size and so installed that it is capable of venting safely.

(2) Without prejudice to the requirements of subsection (1), no person shall cause gas to be supplied from a gas storage vessel (other than a

refillable cylinder or a cylinder or cartridge designed to be disposed of when empty) to any service pipework or gas fitting unless -

- (a) there is a regulator installed which controls the nominal operating pressure of the gas,
- (b) there is adequate automatic means for preventing the installation pipework and gas fittings downstream of the regulator from being subjected to a pressure different from that for which they were designed, and
- (c) there is an adequate alternative automatic means for preventing the service pipework from being subjected to a greater pressure than that for which it was designed should the regulator referred to in paragraph (a) fail.

(3) No person shall cause gas to be supplied through an installation consisting of one or more refillable cylinders unless the supply of gas passes through a regulator which controls the nominal operating pressure of the gas.

(4) Without prejudice to subsection (3), no person shall cause gas to be supplied through an installation consisting of four or more refillable cylinders connected to an automatic change-over device unless there is an adequate alternative means for preventing the installation pipework and any gas fitting downstream of the regulator from being subjected to a greater pressure than that for which it was designed should the regulator fail.

(5) Where a person installs -

- (a) a regulator for controlling the pressure of gas through a primary meter, through a meter bypass used in connection with a primary meter or from a gas storage vessel, or
- (b) a gas appliance itself fitted with a regulator for controlling the pressure of gas to that appliance,

he shall immediately thereafter ensure, in either case, that the regulator is adequately sealed so as to prevent its setting from being interfered with without breaking of the seal.

(6) In relation to -

- (a) gas from a distribution main, and
- (b) gas from a gas storage vessel,

no person except the supplier or a person authorised to act on his behalf shall break a seal applied under subsection (5), other than a seal applied to a regulator for controlling the pressure of gas to the appliance to which the regulator is fitted.

(7) A person who breaks a seal applied under subsection (5) shall apply as soon as is practicable a new seal which is adequate to prevent the setting of the regulator from being interfered with without breaking such seal.

Meters - emergency notices.

15. (1) No person shall supply gas through a primary meter installed after the commencement of this Ordinance or for the first time supply gas through an existing primary meter after the commencement of this Ordinance unless he

ensures that a suitably worded notice in permanent form is prominently displayed on or near the meter indicating the procedure to be followed in the event of an escape of gas.

(2) Where a meter is installed or relocated in any premises at a distance of more than 2 metres from, or out of sight of, the nearest upstream emergency control in the premises, no person shall supply or provide gas for the first time through the meter unless he ensures that a suitably worded notice in permanent form is prominently displayed on or near the meter indicating the position of that control.

Primary meters.

16. (1) No person shall install a prepayment meter as a primary meter through which gas passes to a secondary meter.

(2) Any person -

- (a) who first provides gas through any service pipe or service pipework after the commencement of this Ordinance to more than one primary meter, or
- (b) who subsequently makes any modification which affects the number of primary meters so provided,

shall ensure that a notice in permanent form is prominently displayed on or near each primary meter indicating that more than one primary meter is provided with gas through that service pipe or service pipework.

(3) Where a primary meter is removed, the person who last supplied gas through the meter before removal shall -

(a) where the meter is not forthwith re-installed or replaced by another meter -

(i) close any service valve which controlled the supply of gas to that meter and did not control the supply of gas to any other primary meter,

(ii) seal the outlet of the emergency control with an appropriate fitting, and

(iii) clearly mark any live gas pipe in the premises in which the meter was installed to the effect that the pipe contains gas, and

(b) where the meter is not re-installed or replaced by another meter before the expiry of the period of 12 months beginning on the date of removal of the meter and there is no such service valve as is mentioned in paragraph (a)(i), ensure that the service pipe or service pipework for those premises is disconnected as near as is reasonably practicable to the main or storage vessel and that any part of the pipe or pipework which is not removed is sealed at both ends with the appropriate fitting.

(4) Where a person proposes to remove a primary meter he shall give sufficient notice of it to the person supplying gas through the meter to enable him to comply with subsection (3).

Secondary meters.

17. (1) Any person supplying or permitting the supply of gas through a primary meter to a secondary meter shall ensure that a line diagram in permanent form is prominently displayed on or near the primary meter or gas storage vessel and on or near all emergency controls connected to the primary meter showing the configuration of all meters, installation pipework and emergency controls.

(2) Any person who changes the configuration of any meter, installation pipework or emergency control so that the accuracy of the line diagram referred to in subsection (1) is affected shall ensure that the line diagram is amended so as to show the altered configuration.

PART IV
INSTALLATION PIPEWORK

Safe use of pipes.

18. (1) No person shall install any installation pipework in any position in which it cannot be used with safety having regard to the position of other pipes, pipe supports, drains, sewers, cables, conduits and electrical apparatus and to any parts of the structure of any premises in which it is installed which might affect its safe use.

(2) Any person who connects any installation pipework to a primary meter shall, in any case where electrical equipotential bonding may be necessary, inform the responsible person that such bonding should be carried out by a competent person.

Enclosed pipes

19. (1) No person shall install any part of any installation pipework in a wall or a floor or standing of solid construction unless it is so constructed and

installed as to be protected against failure caused by the movement of the wall, the floor or the standing, as the case may be.

(2) No person shall install any installation pipework so as to pass through a wall or a floor or standing of solid construction (whether or not it contains any cavity) from one side to the other -

- (a) unless any part of the pipe within the wall, floor or standing, as the case may be, takes the shortest practicable route, and
- (b) unless adequate means are provided to prevent, so far as is reasonably practicable, any escape of gas from the pipework passing through the wall, floor or standing from entering any cavity in the wall, floor or standing.

(3) No person shall, subject to subsection (4), install any part of any installation pipework in the cavity of a cavity wall unless the pipe is to pass through the wall from one side to the other.

(4) Subsection (3) does not apply to the installation of installation pipework connected to a living flame effect gas fire provided that the pipework in the cavity is as short as is reasonably practicable, enclosed in a gas tight sleeve and sealed at the joint at which the pipework enters the fire; and in this subsection a **"living flame effect gas fire"** means a gas fire -

- (a) designed to simulate the effect of a solid fuel fire,
- (b) designed to operate with a fanned flue system, and

(c) installed within the inner leaf of a cavity wall.

(5) No person shall install any installation pipework or any service pipework under the foundations of a building or in the ground under the base of a wall or footings unless adequate steps are taken to prevent damage to the installation pipework or service pipework in the event of the movement of those structures or the ground.

(6) Where any installation pipework is not itself contained in a ventilated duct, no person shall install any installation pipework in any shaft, duct or void which is not adequately ventilated.

Protection of buildings.

20. No person shall install any installation pipework in a way which would impair the structure of a building or impair the fire resistance of any part of its structure.

Clogging precautions.

21. No person shall install any installation pipework in which deposition of liquid or solid matter is likely to occur unless a suitable vessel for the reception of any deposit which may form is fixed to the pipe in a conspicuous and readily accessible position and safe means are provided for the removal of the deposit.

Testing and purging of pipes.

22. (1) Where a person carries out work in relation to any installation pipework which might affect the gastightness of any part of it, he shall immediately thereafter ensure that -

- (a) that part is adequately tested to verify that it is gastight and examined to verify that it has been installed in accordance with this Ordinance, and
- (b) after such testing and examination, any necessary protective coating is applied to the joints of that part.

(2) Where gas is being supplied to any premises in which any installation pipework is installed and a person carries out work in relation to the pipework, he shall also ensure that -

- (a) immediately after complying with the provisions of paragraphs (a) and (b) of subsection (1), purging is carried out throughout all installation pipework through which gas can then flow so as to remove safely all air and gas other than the gas to be supplied,
- (b) immediately after such purging, if the pipework is not to be put into immediate use, it is sealed off at every outlet with the appropriate fitting,
- (c) if such purging has been carried out through a loosened connection, the connection is retested for gastightness after it has been retightened, and
- (d) every seal fitted after such purging is tested for gas tightness.

(3) Where gas is not being supplied to any premises in which any installation pipework is installed -

- (a) no person shall permit gas to pass into the installation pipework unless he has caused such purging, testing and other work as is specified in paragraphs (a) to (d) of subsection (2) to be carried out, and
- (b) a person who provides a gas supply to those premises shall, unless he complies with paragraph (a), ensure that the supply is sealed off with an appropriate fitting.

Marking of pipes.

23. (1) Any person installing, elsewhere than in any premises or part of premises used only as a dwelling or for living accommodation, a part of any installation pipework which is accessible to inspection shall permanently mark that part in such a manner that it is readily recognisable as part of a pipe for conveying gas.

(2) The responsible person for the premises in which any such part is situated shall ensure that the part continues to be so recognisable so long as it is used for conveying gas.

Large consumers.

24. (1) Where the service pipe to any building having two or more floors to which gas is supplied or (whether or not it has more than one floor) a floor having areas with a separate supply of gas has an internal diameter of 55^{mm} or more, no person shall install any incoming installation pipework supplying gas to any of those floors or areas, as the case may be, unless -

- (a) a valve is installed in the pipe in a conspicuous and readily accessible position, and
- (b) a line diagram in permanent form is attached to the building in a readily accessible position as near as practicable to the primary meter or (where there is no primary meter) the emergency control, or to the gas storage vessel, as the case may be, indicating the position of all installation pipework of internal diameter of -
 - (i) 25^{mm} or more, where gas is supplied from a gas storage vessel, or
 - (ii) 35^{mm} or more, in any other case,

and all meters, emergency controls, valves and pressure test points of the gas supply systems in the building.

(2) Subsection (1) applies to service pipework as it applies to a service pipe except that the reference therein to an internal diameter of 55^{mm} or more is to be a reference to an internal diameter of 30^{mm} or more.

(3) In subsection (1)(b) "**pressure test point**" means a gas fitting to which a pressure gauge can be connected.

PART V

GAS APPLIANCES

Interpretation of Part V.

25. In this Part -

"**flue pipe**" means a pipe forming a flue but does not include a pipe built as a lining into either a chimney or a gas appliance ventilation duct,

"**operating pressure**", in relation to a gas appliance, means the pressure of gas at which it is designed to operate.

Gas appliances - safety precautions.

26. (1) No person shall install a gas appliance unless it can be used without constituting a danger to any person.

(2) No person shall connect a flued domestic gas appliance to the gas supply system except by a permanently fixed rigid pipe.

(3) No person shall install a used gas appliance without verifying that it is in a safe condition for further use.

(4) No person shall install a gas appliance which does not comply with any enactment imposing a prohibition or restriction on the supply of such an appliance on grounds of safety.

(5) No person carrying out the installation of a gas appliance shall leave it connected to the gas supply unless -

(a) the appliance can be used safely, or

- (b) the appliance is sealed off from the gas supply with an appropriate fitting.

(6) No person shall install a gas appliance without there being at the inlet to it means of shutting of the supply of gas to the appliance unless the provision of such means is not reasonably practicable.

(7) No person shall carry out work in relation to a gas appliance which bears an indication that it conforms to a type approved by any person as complying with safety standards in such a manner that the appliance ceases to comply with those standards.

(8) No person carrying out work in relation to a gas appliance which bears an indication that it so conforms shall remove or deface the indication.

(9) Where a person performs work on a gas appliance, he shall immediately thereafter examine -

- (a) the effectiveness of any flue,
- (b) the supply of combustion air,
- (c) its operating pressure or heat input or, where necessary, both, and
- (d) its operation so as to ensure its safe functioning,

and he shall forthwith take all reasonably practicable steps to notify any defect to the responsible person and, where different, the owner of the premises in which the

appliance is situated or, where neither is reasonably practicable, the supplier of gas to the appliance.

- (10) Subsection (9) does not apply in respect of -
- (a) the direct disconnection of the gas supply of a gas appliance, or
 - (b) the purging of gas or air from an appliance or its associated pipework or fittings in any case where that purging does not adversely affect the safety of that appliance, pipe or fitting.

Flues.

27. (1) No person shall install a gas appliance to any flue unless the flue is suitable and in a proper condition for the safe operation of the appliance.

(2) No person shall install a flue pipe so that it enters a brick or masonry chimney in such a way that the seal between the flue pipe and the chimney cannot be inspected.

(3) No person shall connect a gas appliance to a flue which is surrounded by an enclosure unless that enclosure is so sealed that any spillage of the products of combustion cannot pass from the enclosure to any room or internal space other than the room or internal space in which the appliance is installed.

(4) No person shall install a power operated flue system for a gas appliance unless it safely prevents the operation of the appliance if the draught fails.

(5) No person shall install a flue other than in a safe position.

Access.

28. No person shall install a gas appliance except in such a manner that it is readily accessible for operation, inspection and maintenance.

Manufacturer's instructions.

29. Any person who installs a gas appliance shall leave for the use of the owner or occupier of the premises in which the appliance is installed all instructions provided by the manufacturer accompanying the appliance.

Room-sealed appliances.

30. (1) No person shall install a gas appliance in a room used or intended to be used as a bathroom or a shower room unless it is a room-sealed appliance.

(2) No person shall install a gas fire, other gas space heater or a gas water heater of more than 14-kilowatt gross heat input in a room used or intended to be used as sleeping accommodation unless the appliance is a room-sealed appliance.

(3) No person shall install a gas fire, other gas space heater or a gas water heater of 14-kilowatt gross heat input or less in a room used or intended to be used as sleeping accommodation and no person shall install an instantaneous water heater unless (in each case) -

- (a) it is a room-sealed appliance, or
- (b) it incorporates a safety control designed to shut down the appliance before there is a build up of a dangerous

quantity of the products of combustion in the room concerned.

(4) The references in subsections (1) to (3) to a room used or intended to be used for the purpose therein referred to includes a reference to -

- (a) a cupboard or compartment within such a room, or
- (b) a cupboard, compartment or space adjacent to such a room if there is an air vent from the cupboard, compartment or space into such a room.

Suspended appliances.

31. No person shall install a suspended gas appliance unless the installation pipework to which it is connected is so constructed and installed as to be capable of safely supporting the weight imposed on it and the appliance is designed to be so supported.

Flue dampers.

32. (1) Any person who installs an automatic damper to serve a gas appliance shall -

- (a) ensure that the damper is so interlocked with the gas supply to the burner that burner operation is prevented in the event of failure of the damper when not in the open position, and
- (b) immediately after installation examine the appliance and the damper to verify that they can be used together safely without constituting a danger to any person.

(2) No person shall install a manually operated damper to serve a domestic gas appliance.

(3) No person shall install a domestic gas appliance to a flue which incorporates a manually operated damper unless the damper is permanently fixed in the open position.

Testing of appliances.

33. (1) Where a person installs a gas appliance at a time when gas is being supplied to the premises in which the appliance is installed, he shall immediately thereafter test its connection to the installation pipework to verify that it is gastight and examine the appliance and the gas fittings and other works for the supply of gas and any flue or means of ventilation to be used in connection with the appliance for the purpose of ascertaining whether -

- (a) the appliance has been installed in accordance with this Ordinance,
- (b) the operating pressure is as recommended by -
 - (i) the supplier of the gas to the appliance, or some other properly qualified person, in the case of an appliance converted for use with a mixture of liquefied petroleum gas and air, or
 - (ii) the manufacturer of the appliance, in any other case,

- (c) the appliance has been installed with due regard to any manufacturer's instructions provided to accompany the appliance, and
- (d) all gas safety controls are in proper working order.

(2) Where a person carries out such testing and examination in relation to a gas appliance and adjustments are necessary to ensure compliance with the requirements specified in paragraphs (a) to (d) of subsection (1), he shall either carry out those adjustments or disconnect the appliance from the gas supply or seal off the appliance from the gas supply with an appropriate fitting.

(3) Where gas is not being supplied to any premises in which any gas appliance is installed -

- (a) no person shall subsequently permit gas to pass into the appliance unless he has caused such testing, examination and adjustment as is specified in subsections (1) and (2) to be carried out, and
- (b) a person who subsequently provides a gas supply to those premises shall, unless he complies with paragraph (a), ensure that the appliance is sealed off from the gas supply with an appropriate fitting.

Use of appliances.

34. (1) The responsible person for any premises shall not use a gas appliance or permit a gas appliance to be used if at any time he knows or has reason to suspect that it cannot be used without constituting a danger to any person.

(2) For the purposes of subsection (1), the responsible person means the occupier of the premises, the owner of the premises and any person with authority for the time being to take appropriate action in relation to any gas fitting therein.

(3) Any person engaged in carrying out any work in relation to a gas main, service pipe, service pipework, gas storage vessel or gas fitting who knows or has reason to suspect that any gas appliance cannot be used without constituting a danger to any person shall forthwith take all reasonably practicable steps to inform the responsible person for the premises in which the appliance is situated and, where different, the owner of the appliance or, where neither is reasonably practicable, the supplier of gas to the appliance.

(4) In subsection (3) the expression "work" shall be construed as if, in the definition of "work" in section 49(1), every reference to a gas fitting were a reference to a gas main, service pipe, service pipework, gas storage vessel or gas fitting.

PART VI

MAINTENANCE, ESCAPES OF GAS, ETC

Duties of employers and self-employed persons.

35. It is the duty of every employer or self-employed person to ensure that any gas appliance, installation pipework or flue installed at any place of work under his control is maintained in a safe condition so as to prevent risk of injury to any person.

Duties of landlords.

36. (1) In this Ordinance -

"landlord" means -

- (a) where the relevant premises are occupied under a lease, the person for the time being entitled to the reversion expectant on that lease, and
- (b) where the relevant premises are occupied under a licence, the licensor, except that where the licensor is himself a tenant in respect of those premises, it means the person referred to in paragraph (a),

"lease" means -

- (a) a lease for a term of less than 7 years,
- (b) a tenancy for a periodic term, and
- (c) any right to occupy the relevant premises during any period in which the execution of an order for eviction from the premises is suspended by order of the Royal Court under the Stay of Evictions Laws 1946 and 1954^g, but only where the stay of execution is granted to a person who was a tenant or sub-tenant of the premises under a lease or tenancy referred to in paragraph (a) or (b),

and in determining whether a lease is one which falls within paragraph (a) -

^g Ordres en Conseil Vol. XII, p. 262 and Vol. XVI, p. 43.

- (i) any part of the term which falls before the grant shall be left out of account and the lease shall be treated as a lease for a term commencing with the grant,
- (ii) a lease which is determinable at the option of the lessor before the expiration of 7 years from the commencement of the term shall be treated as a lease for a term of less than 7 years, and
- (iii) a lease (other than a lease to which paragraph (b) applies) shall not be treated as a lease for a term of less than 7 years if it confers on the lessee an option for renewal for a term which, together with the original term, amounts to 7 years or more,

"relevant gas fitting" means -

- (a) any gas appliance (other than an appliance which the tenant is entitled to remove from the relevant premises) or any installation pipework installed in any relevant premises, and
- (b) any gas appliance or installation pipework which, directly or indirectly, serves the relevant premises and which -
 - (i) is installed in any part of the premises in which the landlord has an estate or interest, or

- (ii) is owned by the landlord or is under his control,

but it does not include any gas appliance or installation pipework exclusively used in a part of the premises occupied for non-residential purposes,

"relevant premises" means premises or any part of premises occupied, whether exclusively or not, for residential purposes, in consideration of money or money's worth, under -

- (a) a lease, or
- (b) a licence,

"tenant" means a person who occupies relevant premises and who is-

- (a) where the relevant premises are occupied under a lease, the person for the time being entitled to the term of the lease, and
- (b) where the relevant premises are occupied under a licence, the licensee.

(2) Every landlord shall ensure that there is maintained in a safe condition -

- (a) any relevant gas fitting, and
- (b) any flue which serves any relevant gas fitting,

so as to prevent the risk of injury to any person in lawful occupation of relevant premises.

(3) Without prejudice to the generality of subsection (2), a landlord shall -

- (a) ensure that each appliance and flue to which that duty extends is checked for safety within 12 months of being installed and at least once in any 12 month period (whether beginning before or after the commencement of this Ordinance),
- (b) in the case of a lease commencing after the commencement of this Ordinance, and without prejudice to paragraph (a), ensure that each appliance and flue to which that duty extends is or has been checked for safety within 12 months before the lease commences or within 12 months of being installed, whichever is later, and
- (c) ensure that a record in respect of any appliance or flue so checked is made and retained for a period of two years from the date of the check, which record shall include the following information -
 - (i) the date on which the appliance or flue was checked,

- (ii) the address of the premises at which the appliance or flue is installed,
- (iii) the name and address of the landlord of those premises (or, where appropriate, his agent),
- (iv) a description of and the location of each appliance or flue checked,
- (v) any defect identified,
- (vi) any remedial action taken,
- (vii) confirmation that the check complies with subsection (9),
- (viii) the name and signature of the individual carrying out the check, and
- (ix) if appropriate, the registration number with which that individual, or his employer, is registered with a body approved by the Department for the purposes of section 3(3).

(4) Every landlord shall ensure that any work in relation to a relevant gas fitting or any check of a gas appliance or flue carried out pursuant to subsection (2) or (3) is carried out by, or by an employee of, a member of a class of persons approved by the Department for the purposes of section 3(3).

(5) The record referred to in subsection (3)(c) shall be made available upon request and upon reasonable notice for the inspection of any person in lawful occupation of relevant premises who may be affected by the use or operation of any appliance to which the record relates.

(6) Notwithstanding subsection (5), every landlord shall ensure that -

- (a) a copy of the record made pursuant to the requirements of subsection (3)(c) is given to each existing tenant of the premises to which the record relates within 28 days of the date of the check, and
- (b) a copy of the last record made in respect of each appliance or flue is given to any new tenant of the premises to which the record relates before that tenant occupies those premises save that, in respect of a tenant whose right to occupy those premises is for a period not exceeding 28 days, a copy of the record may instead be prominently displayed within those premises.

(7) Where there is no relevant gas fitting in any room occupied or to be occupied by the tenant in relevant premises, the landlord may, instead of ensuring that a copy of the record referred to in subsection (6) is given to the tenant, ensure that there is displayed in a prominent position in the premises (from such time as a copy would have been required to have been given to the tenant under that subsection), a copy of the record with a statement endorsed on it that the tenant is entitled to have his own copy of the record on request to the landlord at an

address specified in the statement; and, on any such request being made, the landlord shall give the tenant a copy of the record as soon as is practicable.

(8) A copy of the record given to a tenant pursuant to subsection (6)(b) need not contain a copy of the signature of the individual carrying out the check if the copy of the record contains a statement that another copy containing a copy of that signature is available for inspection by the tenant on request to the landlord at an address specified in the statement; and, on any such request being made, the landlord shall make such a copy available for inspection as soon as is practicable.

(9) A safety check carried out pursuant to subsection (3) shall include, but shall not be limited to, an examination of the matters referred to in paragraphs (a) to (d) of section 26(9).

(10) Nothing done or agreed to be done by a tenant of relevant premises or by any other person in lawful occupation of them in relation to the maintenance or checking of a relevant gas fitting or flue in the premises (other than one in part of the premises occupied for non-residential purposes) shall be taken into account in determining whether a landlord has discharged his obligations under this section (except in so far as it relates to access to that gas fitting or flue for the purposes of such maintenance or checking).

(11) Every landlord shall ensure that in any room occupied or to be occupied as sleeping accommodation by a tenant in relevant premises there is not fitted a relevant gas fitting of a type the installation of which would contravene section 30(2) or (3).

(12) Subsection (11) does not apply in relation to a room which, since before the commencement of this Ordinance, has been occupied or intended to be occupied as sleeping accommodation.

Escapes of gas.

37. (1) Where any gas escapes from any pipe of a gas supplier, or from any pipe, other gas fitting or gas storage vessel used by a person supplied with gas by a gas supplier, the supplier of the gas shall, within 12 hours of being informed of the escape, prevent the gas escaping (whether by cutting off the supply of gas to any premises or otherwise).

(2) If the responsible person for any premises knows or has reason to suspect that gas is escaping into those premises, he shall immediately take all reasonable steps to cause the supply of gas to be shut off at such place as may be necessary to prevent further escape of gas.

(3) If gas continues to escape into those premises after the supply of gas has been shut off or when a smell of gas persists, the responsible person for the premises discovering the escape or smell shall immediately give notice of the escape or smell to the supplier of the gas.

(4) Where an escape of gas has been stopped by shutting off the supply, no person shall (other than in the course of repair) re-open the supply, or cause or permit the supply to be re-opened, until all necessary steps have been taken to prevent a recurrence of the escape.

(5) In any proceedings for an offence under subsection (1) it is a defence for the supplier of the gas to prove that it was not reasonably practicable for him effectually to prevent the gas from escaping within the period of 12 hours

referred to in that subsection, and that he did effectually prevent the escape of gas as soon as it was reasonably practicable for him to do so.

(6) Nothing in subsections (1) and (5) prevents the supplier of the gas appointing another person to act on his behalf to prevent an escape of gas supplied by that supplier.

(7) In this section any reference to an escape of gas from a gas fitting includes a reference to an escape or emission of carbon monoxide gas resulting from incomplete combustion of gas in a gas fitting, but, to the extent that this section relates to such an escape or emission of carbon monoxide gas, the requirements imposed on a supplier by subsection (1) are, where the escape or emission is notified to the supplier by the person to whom the gas has been supplied, limited to advising that person of the immediate action to be taken to prevent the escape or emission and the need for the examination and, where necessary, repair of the fitting by a competent person.

Use of antifluctuators and valves.

38. (1) Where a consumer uses gas for the purpose of working or supplying plant which is liable to produce pressure fluctuation in the gas supply such as to cause any danger to other consumers, he shall comply with such directions as may be given to him by the supplier of the gas to prevent such danger.

(2) Where a consumer intends to use for or in connection with the consumption of gas any gaseous substance he shall -

- (a) give to the supplier of the gas at least 14 days notice in writing of that intention, and

- (b) during such use comply with such directions as the supplier may have given to him to prevent the admission of such substance into the gas supply,

and in this subsection "**gaseous substance**" includes compressed air but does not include any gaseous substance supplied by the supplier.

(3) Where a direction under subsection (1) or (2) requires the provision of any device, the consumer shall ensure that the device is adequately maintained.

(4) Any direction given pursuant to this section shall be in writing.

PART VII

RIGHTS OF ENTRY, DISCONNECTION, APPEALS, ETC

Rights of entry.

39. Where a supplier of gas has reasonable cause to suspect -

- (a) that gas conveyed or supplied by him is escaping, or may escape, in any premises, or
- (b) that gas conveyed or supplied by him which has escaped has entered, or may enter, any premises,

any officer authorised by the supplier may, on production of some duly authenticated document showing his authority, with such other persons (if any) as may be necessary, enter the premises to carry out any work necessary to prevent the escape and take any other steps necessary to avert danger to life or property.

Inspection, testing and disconnection, etc.

40. Any officer authorised by a supplier of gas may, on production of some duly authenticated document showing his authority, with such other persons (if any) as may be necessary -

- (a) enter any premises in which there is a service pipe connected with a gas main for the purpose of inspecting -
 - (i) any gas fitting on the premises,
 - (ii) any flue or means of ventilation used in connection with any such gas fitting, and
 - (iii) any service pipe or other apparatus on the premises which is used for the conveyance or supply of gas or which is connected with a gas main,
- (b) where he so enters any such premises, examine or apply any test to any object mentioned in paragraph (a) and (where the object is a gas fitting) verify the supply of air available for it, with a view to ascertaining whether -
 - (i) the provisions of this Ordinance or any other statutory provision having effect for the purpose of protecting the public against risks to health and safety have been complied with, or

- (ii) the object is in such a condition, or (in the case of a gas fitting) the supply of air available for it is so inadequate, that it (or, in the case of a flue or means of ventilation, the gas fitting in connection with which it is used) is likely to constitute a danger to any person or property, and
- (c) where in his opinion it is necessary to do so for the purpose of averting danger to life or property, and notwithstanding any contract previously existing -
 - (i) disconnect and seal off any gas fitting or any part of the gas supply system on the premises, and
 - (ii) disconnect the supply of gas to the premises or, if no such supply is being given, signify the refusal of the supplier to give or, as the case may be, allow such a supply.

Notification to consumer.

41. (1) Where an officer authorised by a supplier of gas takes any action in relation to any premises in the exercise of a power conferred by section 40(c), the supplier shall, within five working days after the day on which the action is taken, serve on the consumer a notice in writing -

- (a) specifying -

- (i) the nature of the defect or other circumstances in consequence of which the power was exercised, and
 - (ii) the nature of the danger in question and the action taken in the exercise of the power, and
- (b) stating -
 - (i) that the consumer has a right to make representations under this Ordinance to the Department against the action taken within a period of 28 days beginning on the date of the notice or such longer period as the Department may at any time in any particular case allow,
 - (ii) the grounds on which and the manner in which he can make representations (see sections 42 and 43), and
 - (iii) the effect of sections 45 and 46.

(2) Where an officer authorised by a supplier of gas takes any action in relation to any premises in the exercise of a power conferred by section 40(c), he shall at the same time, in accordance with subsection (3), affix a prominent notice of the effect of the relevant provision of sections 45 and 46.

(3) The notice required by subsection (2) shall be affixed -

- (a) where a gas fitting or any part of the gas supply system on the premises has been disconnected or sealed off, to, or to part of the premises near to, the gas fitting or part of the gas supply system in question,
- (b) where the supply of gas to the premises has been disconnected, to, or to a part of the premises near to, the meter nearest downstream to the point of disconnection or, if there is no such meter, to a conspicuous part of the premises, or
- (c) where the supplier has signified its refusal to give or allow such a supply, to, or to a part of the premises near to, the meter nearest downstream to the point from which gas would be supplied or, if there is no such meter, to a conspicuous part of the premises.

Representations to Department.

42. (1) A consumer on whom a notice is served under section 41(1) may, within a period of 28 days beginning on the date of the notice, or such longer period as the Department may at any time in any particular case allow, make representations to the Department against the action taken in the exercise of the powers conferred by section 40(c) on any of the following grounds -

- (a) that the defect or other circumstances specified in the notice did not constitute a danger such as to justify the action taken specified in the notice,
- (b) that the defect or other circumstances so specified did not exist at the time the action was taken, or

- (c) that the defect or other circumstances so specified have ceased to exist.

(2) Representations under this section are of no effect unless made by notice in writing given to the Department at its principal office and indicating the grounds on which they are made.

(3) On receipt of any such representations the Department may, if the consumer or the gas supplier so desires, afford each of them an opportunity of appearing before, and being heard by, a person appointed by the Department for the purpose.

Directions of Department.

43. (1) On consideration of representations under section 42 the Department may direct, subject to any right of the gas supplier to refuse to convey or supply gas to the premises -

- (a) that any gas fitting or part of the gas supply system on the premises which has been disconnected under this Ordinance shall remain disconnected or shall or may be reconnected,
- (b) that any supply of gas to the premises which has been disconnected under this Ordinance shall remain disconnected or shall or may be reconnected, or
- (c) where the refusal of the gas supplier to give or allow such a supply has been signified under this Ordinance,

that the supplier shall not give a supply of gas or shall
or may cause gas to be supplied to the premises,

and may give such supplementary directions as it considers to be appropriate in
consequence of its consideration of the representations.

(2) The functions of the Department under this section and
section 42 may be exercised by -

- (a) the Minister and one other voting member, or
- (b) any two voting members,

if in either case authorised in that behalf by the Department.

Right of appeal to Royal Court.

44. (1) A person aggrieved by a decision of the Department to make
a direction under section 43 may appeal to the Royal Court sitting as an Ordinary
Court ("**the Royal Court**") against the decision.

(2) The grounds of an appeal under this section are that -

- (a) the decision was ultra vires or unreasonable in law,
- (b) a material error as to the facts has been made,
- (c) there was a material procedural error, or
- (d) there was some other error of law, including bad faith
or lack of proportionality.

(3) An appeal under this section shall be instituted -

- (a) within a period of 28 days immediately following the date of the Department's decision, and
- (b) by summons served on the Minister of the Department stating the grounds and material facts on which the appellant relies.

(4) The Department may, where an appeal under this section has been instituted, apply to the Royal Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and, on hearing such an application, the Royal Court may -

- (a) dismiss the appeal or dismiss the Department's application (in either case on such terms and conditions as the Royal Court may direct), or
- (b) make such other order as the Royal Court considers just,

and the provisions of this subsection are without prejudice to the inherent powers of the Royal Court or to the provisions of rule 36(2) of the Royal Court Civil Rules, 1989^h.

(5) On an appeal under this section the Royal Court may -

^h O.R.C. No. VII of 1989.

- (a) set the decision of the Department aside and, if the Royal Court considers it appropriate to do so, remit the matter to the Department with such directions as the Royal Court thinks fit, or
- (b) confirm the decision, in whole or in part.

(6) On an appeal under this section against a decision the Royal Court may, on the application of the appellant, and on such terms and conditions as the Royal Court thinks just, order that the decision or any part of the decision shall not have effect pending the determination of the appeal.

(7) The decision of the Royal Court on an appeal under this section is final.

Prohibition of reconnection or restoration of supply.

45. (1) Subject to subsection (2), no person shall, except with the consent of the supplier of gas or in pursuance of directions given by the Department under section 43 -

- (a) reconnect any gas fitting or any part of a gas supply system which has been disconnected by or on behalf of the gas supplier in the exercise of a power conferred by this Ordinance where he knows or has reason to believe that it has been so disconnected,
- (b) reconnect the supply of gas to any premises which has been disconnected by or on behalf of the gas supplier in the exercise of any such power where he knows or

has reason to believe that it has been so disconnected,
or

- (c) cause gas from a gas main to be conveyed to any premises where in pursuance of this Ordinance the refusal of the gas supplier to give or allow a supply of gas to those premises has been signified and that refusal has not been withdrawn and he knows or has reason to believe that such refusal has been signified and has not been withdrawn.

(2) The prohibition imposed by subsection (1)(a) and (b) does not
apply -

- (a) in the course of the repairing or testing of any gas fitting or any part of a gas supply system, or
- (b) where all necessary steps have been taken to remedy and prevent a recurrence of the defect or other circumstance in respect of which the disconnection was carried out.

PART VIII

OFFENCES AND EXCEPTIONS

Offences.

46. (1) It is an offence for a person -

- (a) to contravene, or to attempt to contravene, any provision of this Ordinance or any direction under

section 43, or

- (b) to fail to discharge any duty to which he is subject by virtue of any such provision or direction.

(2) A person guilty of an offence under subsection (1) is liable -

- (a) on summary conviction, to a fine not exceeding level 4 on the uniform scale,
- (b) on conviction on indictment, to a fine.

Exception as to liability.

47. No person is guilty of an offence by reason of a contravention of section 3(2) or (6), 5(1), 7(3), 15, 16(2) or (3), 17(1), 30 (insofar as it relates to the installation of a gas fire, other gas space heater or a gas water heater of more than 14 kilowatt gross heat input), 33(1), 35 or 36 in any case in which he can show that he took all reasonable steps to prevent that contravention.

Exemption certificates.

48. (1) Subject to subsection (2), the Department may, by a certificate in writing, exempt any person or class of persons from any requirement or prohibition imposed by this Ordinance, and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing.

(2) The Department shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to -

- (a) the conditions, if any, which it proposes to attach to the exemption, and
- (b) any other requirements imposed by or under any enactment which apply to the case,

it is satisfied that the health and safety of persons likely to be affected by the exemption will not be prejudiced in consequence of it.

PART IX MISCELLANEOUS

Interpretation.

49. (1) In this Ordinance, unless the context requires otherwise -

"accredited certification scheme" means a nationally accredited certification scheme or other certification scheme accredited by the Department,

"appropriate fitting" means a fitting which -

- (a) has been designed for the purpose of effecting a gas tight seal in a pipe or other gasway,
- (b) achieves that purpose when fitted, and
- (c) is secure, so far as is reasonably practicable, against unauthorised opening or removal,

"**contravention**" includes failure to comply, and related expressions shall be construed accordingly,

"**Department**" means the States of Guernsey Commerce and Employment Department,

"**distribution main**" means any main through which a supplier is for the time being distributing gas and which is not being used only for the purpose of conveying gas in bulk,

"**emergency control**" means a valve for shutting off the supply of gas in an emergency, being a valve intended for use by a consumer of gas,

"**flue**" means a passage for conveying the products of combustion from a gas appliance to the external air and includes any part of the passage in a gas appliance duct which serves the purpose of a flue,

"**gas**" means -

- (a) any substance in a gaseous state which consists wholly or mainly of -
 - (i) methane, ethane, propane, butane, hydrogen or carbon monoxide,
 - (ii) a mixture of two or more of those gases, or
 - (iii) a combustible mixture of one or more of those gases and air, and

- (b) any other substance in a gaseous state which is gaseous at a temperature of 15 degrees C and a pressure of 1013.25 millibars and is specified in regulations made by the Department,

"gas appliance" means an appliance designed for use by a consumer of gas for heating, lighting, cooking or other purposes for which gas can be used but does not include a portable or mobile appliance supplied with gas from a cylinder, or the cylinder, pipes and other fittings used for supplying gas to that appliance, save that, for the purposes of sections 3, 35 and 36, it does include a portable or mobile space heater supplied with gas from a cylinder, and the cylinder, pipes and other fittings used for supplying gas to that heater,

"gas fittings" means gas pipework, valves (other than emergency controls), regulators and meters, and fittings, apparatus and appliances designed for use by consumers of gas for heating, lighting, cooking or other purposes for which gas can be used (other than the purpose of an industrial process carried out on industrial premises), but it does not mean -

- (a) any part of a service pipe,
- (b) any part of a distribution main or other pipe upstream of the service pipe,
- (c) a gas storage vessel, or
- (d) a gas cylinder or cartridge designed to be disposed of when empty,

"gas storage vessel" means a storage container designed to be filled or re-filled with gas at the place where it is connected for use or a refillable cylinder designed to store gas, and includes the vapour valve, but it does not include a cylinder or cartridge designed to be disposed of when empty,

"gas water heater" includes a gas fired central heating boiler,

"injury" means the death of, or any injury to, any person, including any illness or disease and any impairment of a person's physical or mental condition,

"inspector" means an inspector appointed under section 15 of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987ⁱ,

"installation pipework" means any pipework for conveying gas for a particular consumer and any associated valve or other gas fitting including any pipework used to connect a gas appliance to other installation pipework and any shut off device at the inlet to the appliance, but it does not mean -

- (a) a service pipe,
- (b) a pipe comprised in a gas appliance,
- (c) any valve attached to a storage container or cylinder,
or
- (d) service pipework,

ⁱ Recueil d'Ordonnances Tome XXIV, p. 162.

"meter bypass" means any pipe and other gas fittings used in connection with it through which gas can be conveyed from a service pipe or service pipework to installation pipework without passing through the meter,

"primary meter" means the meter nearest to and downstream of a service pipe or service pipework for ascertaining the quantity of gas supplied through that pipe or pipework by a supplier,

"refillable cylinder" means a cylinder which is filled other than at the place where it is connected for use,

"relevant statutory provisions" has the meaning given by section 35(1) of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987,

"responsible person", in relation to any premises, means the occupier of the premises or, where there is no occupier or the occupier is away, the owner of the premises or any person with authority for the time being to take appropriate action in relation to any gas fitting therein,

"room-sealed appliance" means an appliance whose combustion system is sealed from the room in which the appliance is located and which obtains air for combustion from a ventilated uninhabited space within the premises or directly from the open air outside the premises and which vents the products of combustion directly to the open air outside the premises,

"Royal Court" : see section 44,

"**service pipe**" means a pipe for supplying gas to premises from a distribution main, being any pipe between the distribution main and the outlet of the first emergency control downstream from the distribution main,

"**service pipework**" means a pipe for supplying gas to premises from a gas storage vessel, being any pipe between the gas storage vessel and the outlet of the emergency control,

"**service valve**" means a valve (other than an emergency control) for controlling a supply of gas, being a valve -

- (a) incorporated in a service pipe,
- (b) intended for use by a supplier of gas, and
- (c) not situated inside a building,

"**supplier**", in relation to gas, means -

- (a) a person who conveys gas through a distribution main,
- (b) a person who supplies gas to any premises through a primary meter,
- (c) a person who provides a supply of gas to a consumer by means of the filling or re-filling of a storage container designed to be filled or re-filled with gas at the place where it is connected for use whether or not such container is or remains the property of the supplier, or

- (d) a person who provides gas in refillable cylinders for use by a consumer whether or not such cylinders are filled or re-filled directly by that person and whether or not such cylinders are or remain the property of that person, but a retailer shall not be deemed to be a supplier when he sells a brand of gas other than his own,

"**work**" in relation to a gas fitting includes any of the following activities carried out by any person, whether an employee or not -

- (a) installing or reconnecting the fitting,
- (b) maintaining, servicing, permanently adjusting, disconnecting, repairing, altering or renewing the fitting or purging it of air or gas,
- (c) where the fitting is not readily movable, changing its position, and
- (d) removing the fitting,

but the expression does not include the connection or disconnection of a bayonet fitting or other self-sealing connector,

"**working day**" does not include any Saturday, Sunday, Christmas Day, Good Friday or public holiday.

- (2) For the purposes of this Ordinance -

- (a) any reference to installing a gas fitting includes a reference to converting any pipe, fitting, meter, apparatus or appliance to gas use, and
- (b) a person to whom gas is supplied and who provides that gas for use in a flat or part of premises let by him shall not in so doing be deemed to be supplying gas.

(3) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, repealed and re-enacted (with or without modification), extended or applied.

General provisions as to subordinate legislation.

50. (1) Regulations under this Ordinance -

- (a) may be amended or repealed by subsequent regulations hereunder, and
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient.

(2) Any power conferred by this Ordinance to make regulations may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Regulations made by the Department under this Ordinance shall be laid before a meeting of the States as soon as possible after being made and, if at that or the next meeting the States resolve that the regulations be annulled, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Extent.

51. This Ordinance has effect in the islands of Guernsey, Herm and Jethou.

Citation.

52. This Ordinance may be cited as the Health and Safety (Gas) (Guernsey) Ordinance, 2006.

Commencement.

- 53.** This Ordinance shall come into force on the 1st June, 2006.

*Article VI***The Bar (Amendment) Ordinance, 2006**

THE STATES, on the representations of the Policy Council, hereby order:-

Amendment of exam fees.

1. In section 5 of the Bar Ordinance, 1949, as amended^a, for "£125" and "£30"^b there is respectively substituted "£250" and "£60".

Repeal.

2. The Bar (Amendment) Ordinance, 2003^c is repealed.

Citation

3. This Ordinance may be cited as the Bar (Amendment) Ordinance, 2006.

Commencement.

4. This Ordinance shall come into force on the 26th April, 2006.

^a Recueil d'Ordonnances Tome X, p. 39; Tome XX, p. 269; Ordinance No. XV of 1996; No. IV of 2002; No. IX of 2003; No. XXII of 2004; and No. II of 2005.

^b Those amounts were inserted by No. IX of 2003.

^c No. IX of 2003.

Article VII

**The Rehabilitation of Offenders
(Bailiwick of Guernsey) Law, 2002
(Commencement, Exclusions and Exceptions) Ordinance,
2006**

THE STATES, in exercise of the powers conferred on them by sections 5(5), 7(4), 9(5), 14, and 15(2) of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002^a, hereby order:-

Commencement of Law.

1. The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 ("**the Law**") shall come into force on 1st July, 2006.

General application of Ordinance.

2. (1) Where by virtue of this Ordinance the operation of any of the provisions of the Law is disappplied in relation to spent convictions, the disapplication shall be taken to extend to spent convictions for offences of every description unless the contrary is expressed.

(2) Where a provision of this Ordinance refers to a question, that provision only applies -

(a) if the question is asked by or on behalf of a person in the course of the duties of his office or employment, and

^a Order in Council No. XIV of 2002.

- (b) subject to section 3(2), if the person to whom the question relates is informed, when or before the question is asked, that by virtue of this Ordinance spent convictions, or relevant spent convictions as the case may be, are to be disclosed, and
- (c) if the person questioned (if he is not the person to whom the question relates) is informed when the question is asked that by virtue of this Ordinance spent convictions, or relevant spent convictions as the case may be, are to be disclosed.

Questions relating to professions, employments, offices, occupations, etc.

3. (1) Subsections (1) and (2) of section 7 of the Law shall not apply in relation to any question asked in order to assess the suitability -

- (a) of the person to whom the question relates for authorisation to practise, or for employment in, any of the professions specified in Part I of Schedule 1,
- (b) of the person to whom the question relates for appointment to any office or employment specified in Part II of Schedule 1,
- (c) of any person to pursue any occupation specified in Part III of Schedule 1, or to pursue it subject to a particular condition or restriction,
- (d) of any person to hold a licence, certificate, permit, registration, approval or permission of a kind specified

in Schedule 2, or to hold it subject to a particular condition or restriction,

- (e) of any person to be afforded access to sensitive data held by, and/or unsupervised access to premises occupied by, a person engaged in any of the professions, offices, employments or occupations specified in any Part of Schedule 1.

(2) Subsections (1) and (2) of section 7 of the Law shall not apply to any question asked for the purposes of safeguarding the security of the Bailiwick, by a person employed in the service of or in carrying out work for the Bailiwick Government authorities, where the person questioned is informed, when the question is asked, that by virtue of this Ordinance spent convictions are to be disclosed specifically for those purposes; and in such a case section 2(2)(b) of this Ordinance does not apply if the person asking the question reasonably believes that compliance with that paragraph may in itself prejudice the security of the Bailiwick.

(3) Subsections (1) and (2) of section 7 of the Law shall not apply to a relevant spent conviction when a question is asked in order to assess the suitability of the person to whom the question relates for appointment to office or employment as the States Treasurer, the Treasurer of the States of Alderney, the Treasurer of Sark, or a States Departmental Senior Finance Officer.

Questions relating to contact with children and vulnerable persons.

4. (1) For the purposes of this section, "work with children" and "work with vulnerable persons" refer to work of a kind described in Schedule 3.

(2) Subsections (1) and (2) of section 7 of the Law shall not apply when a question is asked by or on behalf of the States Health and Social Services

Department for the purpose of assessing the suitability of any person to adopt or foster children in general or any child in particular, where either -

- (a) the question relates to the person whose suitability is being assessed, or
- (b) the question relates to a person living in the same household as the person whose suitability is being assessed.

(3) Subsections (1) and (2) of section 7 of the Law shall not apply when any question is asked in order to assess the suitability of a person for any work with children where -

- (a) the question relates to the person whose suitability is being assessed, or
- (b) the person whose suitability is being assessed lives on the premises where his work with children would take place and the question relates to a person living in the same household as him, or
- (c) the person whose suitability is being assessed lives on the premises where his work with children would normally take place and the question relates to a person who regularly works on those premises at a time when the work with children usually takes place, or
- (d) the work for which the person's suitability is being

assessed is child-minding which would normally take place on premises other than premises where that person lives and the question relates to a person who lives on those other premises or to a person who regularly works on them at a time when the child minding takes place.

(4) Subsections (1) and (2) of section 7 of the Law shall not apply when a question is asked in order to assess the suitability of the person to whom the question relates for any work with vulnerable persons described in Schedule 3.

Questions relating to the provision of financial and related services.

5. (1) Subsections (1) and (2) of section 7 of the Law shall not apply to a relevant spent conviction when a question is asked by or on behalf of the Commission in order to assess the suitability of any person -

- (a) to hold any financial or related services permission described in paragraph 1 of Schedule 4,
- (b) to be granted any consent pursuant to the Control of Borrowing (Bailiwick of Guernsey) Ordinance, 1959^b, or
- (c) to hold or engage in any office, occupation, employment or work described in Schedule 4, as a chief executive, controller, partner, associate, director, company secretary, trustee, manager,

^b Recueil d'Ordonnances Tome XII, p. 195; amended by Tome XV, p. 197; Tome XVI, p. 473; Tome XX, p. 412; Tome XXV, p. 80; No. IV of 2003. Also amended by Order in Council No. XII of 1995.

compliance officer or money laundering reporting officer of the holder of any financial or related services permission.

(2) Subsections (1) and (2) of section 7 of the Law shall not apply to a relevant spent conviction -

- (a) when a question is asked by or on behalf of the holder of, or an applicant for, any financial or related services permission, and
- (b) the question relates to an individual who is or who is seeking to become engaged in any office, occupation, employment or work as a chief executive, controller, partner, associate, director, company secretary, trustee, manager, compliance officer or other financial services employee, of the person by or on whose behalf the question is asked.

(3) In this Ordinance, "**associate**", "**chief executive**", "**controller**", "**director**", and "**manager**" have the same meanings as in the Insurance Business (Bailiwick of Guernsey) Law, 2002^c (but disregarding references therein to a particular category of legal person); "**trustee**" has the same meaning as in the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000^d; and "**financial services employee**" means an employee whose decisions or actions in the course of

^c Order in Council No. XXI of 2002.

^d Order in Council No. I of 2001.

his employment may be relevant to any financial services business of the person by or on whose behalf the question is asked.

Excepted exclusions, dismissals etc.

6. (1) Section 7(3) of the Law shall not apply (except to exclusion, dismissal or prejudice at the instance of a person or body who or which appointed, employed or authorised the person concerned following disclosure of the spent conviction concerned) in relation to -

- (a) any profession specified in Part I of Schedule 1,
- (b) any office, employment, occupation or work specified in Part II or Part III of Schedule 1, or in Schedule 3,
- (c) office or employment as the States Treasurer, the Treasurer of the States of Alderney, the Treasurer of Sark, or a States Departmental Senior Finance Officer, with reference to a relevant spent conviction,
- (d) any office, occupation or employment described in Schedule 4, with reference to a relevant spent conviction,
- (e) any actual or proposed decision or act of the Commission with reference to a relevant spent conviction in the discharge of any of its functions.

(2) Section 7(3) of the Law shall not apply in relation to any action taken for the purpose of safeguarding the security of the Bailiwick.

Excepted proceedings.

7. Section 8 of the Law shall not apply in relation to any of the proceedings specified in Schedule 5.

Disregard of Service disciplinary convictions for certain purposes.

8. Any conviction for an offence described in Schedule 6 shall be disregarded for the purposes of section 5 of the Law.

Interpretation.

9. (1) In this Ordinance, except where the context otherwise requires -

"approved care establishment" and **"approved care provider"** mean an establishment or provider so designated pursuant to the Long-term Care Insurance (Guernsey) Law, 2002^e,

"authorisation", in the context of a profession, includes admission, enrolment, recognition and registration:

"Bailiwick Government authorities" means the States of Guernsey, the States of Alderney, the Chief Pleas of Sark, or any Department or Committee thereof,

"children" includes all persons under the age of 18 years,

"child-minding" means looking after one or more children under the age of 8 years for reward, for periods in excess of two hours in any one day,

^e Order in Council No. XXIII of 2002.

"Commission" means the Guernsey Financial Services Commission established under the Financial Services Commission (Bailiwick of Guernsey) Law, 1987^f,

"Explosives Laws" means -

- (a) in Guernsey, the Explosives (Guernsey) Law, 1905^g,
- (b) in Alderney, the Loi relative aux Explosifs, 1905^h,

"financial or related services permission" means any licence, consent, authorisation, certificate, registration or other permission required to be obtained from the Commission by or under any enactment,

"Firearms Laws" means -

- (a) in Guernsey, the Firearms (Guernsey) Law, 1998ⁱ,
- (b) in Alderney, the Dangerous Weapons (Alderney) Law, 1965^j,
- (c) in Sark, the Firearms (Sark) Law, 2001^k,

^f Ordres en Conseil Vol. XXX, p. 243.

^g Ordres en Conseil Vol. III, p. 414.

^h Ordres en Conseil Vol. IV, p. 57.

ⁱ Order in Council XII of 1998.

^j Ordres en Conseil, Vol. XX, p. 35.

^k Order in Council No. XII of 2002.

and includes any Ordinances made under those enactments,

"firearms dealer" has the meaning assigned to that expression by the Firearms Laws,

"Gambling Laws" means -

- (a) in Guernsey, the Gambling (Guernsey) Law, 1971^l and the Guernsey Gambling Control Commission Law, 2001^m,
- (b) in Alderney, the Gambling (Alderney) Law, 1999ⁿ,
- (c) in Sark, the Gambling (Sark) Law, 2002^o,

and includes any Ordinances made under those enactments,

"gambling" has the meaning assigned to that expression by the Gambling Laws,

"judicial appointment" means an appointment to any office by virtue of which the holder has power (whether alone or with others) under any enactment or rule of law to adjudicate on any question affecting the

^l Ordres en Conseil Vol. XXIII, p. 109.

^m Order in Council No. XXIII of 2001.

ⁿ Order in Council No. XIV of 1999.

^o Order in Council No. VIII of 2003.

rights, privileges, obligations or liabilities of any person,

"nursing home" means any premises used or intended to be used for the reception of, and the providing of nursing care for, persons suffering from any sickness, injury or infirmity, and includes a maternity home,

"police officer" means -

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey,
- (b) in relation to Alderney, a member of the salaried police force of the Island of Guernsey, or a member of any police force which may be established by the States of Alderney,
- (c) in relation to Sark, the Constable, the Vingtenier, or a member of the salaried police force of the Island of Guernsey,

"relevant spent conviction" refers to conviction of -

- (a) an offence involving fraud, dishonesty or terrorist financing,
- (b) an offence under any enactment (whether or not of the Bailiwick) relating to banking or other financial services, building societies, investment business, companies, insider dealing, market abuse or manipulation, consumer credit, consumer protection,

credit unions, friendly societies, industrial and provident societies, insurance, trusts and trusteeships, the regulation of fiduciaries, insolvency or money laundering,

- (c) an offence of perjury, or of attempting or conspiring to pervert the course of justice, or
- (d) an offence committed (whether under the law of the Bailiwick or elsewhere) in connection with or in relation to taxation, for which a person aged 21 years or more may be sentenced to imprisonment for a term of 2 years or more,

"residential home" means any establishment (other than a nursing home) the sole or main object of which is, or is held out to be, the provision of accommodation, whether for reward or not, for -

- (a) persons who are blind, deaf or dumb, or other persons who are substantially and permanently handicapped by illness, injury or congenital deformity,
- (b) the aged, or
- (c) both,

"sensitive data" includes sensitive personal data as defined by section 2 of the Data Protection (Bailiwick of Guernsey) Law, 2001^P, other data in

^P Order in Council No. V of 2002.

respect of which a duty of confidence is owed, and data whose security is required to be maintained in the public interest,

"special constable" means a member of the special constabulary of the Island of Guernsey or a special constable appointed under section 3(1) of the Special Constabulary (Alderney) Ordinance, 2002,

"States" means the States of Guernsey,

"States Departmental Senior Finance Officer" means a post within the Guernsey Civil Service which is designated as such in accordance with any Resolution of the States^q,

"teacher" includes a warden of a community centre, a leader of a youth club or similar institution, and a youth worker,

"work" includes -

- (a) work of any kind, whether paid or unpaid, and whether under a contract of service or apprenticeship, under a contract for services, or otherwise than under a contract, and
- (b) any office, whether established by or by virtue of an enactment or otherwise,

and related expressions are to be construed accordingly.

^q The current Resolution as at the commencement of this Ordinance is that of 27th May 1999 on Article VII of Billet d'État No. XI of 1999.

(2) The Interpretation (Guernsey) Law, 1948^r shall apply to the interpretation of this Ordinance throughout the Bailiwick.

(3) Any reference in this Ordinance to an enactment or a States Resolution is a reference thereto as from time to time amended, replaced, re-enacted (with or without modification), extended or applied.

Citation.

10. This Ordinance may be cited as the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006.

^r Ordres en Conseil Vol. XIII, p. 355.

SCHEDULE 1

Sections 3 and 6

PROFESSIONS, OFFICES, EMPLOYMENTS AND OCCUPATIONS

PART I
PROFESSIONS

1. Medical practitioner.
2. Advocate or other lawyer.
3. Accountant.
4. Dentist, dental hygienist, dental auxiliary.
5. Veterinary surgeon.
6. Nurse, midwife, health visitor.
7. Pharmacist, pharmaceutical chemist.
8. Ophthalmic optician, dispensing optician.
9. Teacher.

PART II
OFFICES AND EMPLOYMENTS

1. Judicial appointments.
2. Her Majesty's Procureur, Her Majesty's Comptroller, or any employment in the Law Officers' Chambers.
3. Her Majesty's Greffier, or any of his deputies, or any office or employment at the Greffe.

4. The Greffier of Alderney, the Greffier of Sark, the deputy of either, or any employment in their offices.
5. Any office or employment as a police officer, special constable or police cadet, or the duties of which include assisting police officers.
6. Any office or employment in the States Customs and Immigration Service, or the duties of which include assisting customs officers.
7. Probation officers appointed under the Loi relative à la Probation de Délinquants, 1929^s, and any appointment the duties of which include assisting probation officers.
8. Any employment or work concerned with the administration of, or otherwise normally carried out wholly or partly within the precincts of, the prison.
9. Any office or employment in the States Fire and Rescue Service, and any appointment the duties of which include assisting fire officers.
10. Any employment which is concerned with monitoring communications by means of the internet, for the purpose of child protection.
11. Member of the Guernsey Financial Services Commission appointed pursuant to section 1(3) of and Schedule 1 to the Financial Services Commission (Bailiwick of Guernsey) Law, 1987.
12. Any appointment or employment as an officer, servant or agent of the Guernsey Financial Services Commission.

^s Ordres en Conseil Vol. VIII, p. 365.

PART III
REGULATED OCCUPATIONS

1. Firearms dealer.
2. Any occupation or work connected with, in the employment of, or undertaken by the holder of, or an applicant for, a licence, certificate, registration or any other permission required under the Gambling Laws.
3. Any occupation or work connected with, in the employment of, or undertaken by the holder of, or an applicant for, a licence under the Explosives Laws.
4. Any occupation or work connected with, in the employment of, or undertaken by the holder of, or an applicant for, a road service licence under the Public Transport Ordinance, 1986^t.

^t Recueil d'Ordonnances, Tome XXIII, p 351; Tome XXIV, pp 103 and 265; Tome XXV, p 211; Tome XXVI, pp 152 and 370; Ordinance Nos. VI and XXI of 2001.

SCHEDULE 2

Section 3(1)(d)

EXCEPTED LICENCES, CERTIFICATES, PERMITS ETC.

1. Firearms certificates and shot gun certificates and any other certificate, licence or permit issued under the Firearms Laws.
2. Licences issued under the Explosives Laws authorising a person to keep, sell or import fireworks or other explosives.
3. Licences issued under the Gambling Laws.
4. Road service licences issued under the Public Transport Ordinance, 1986.
5. Certificates of registration in relation to nurseries and child-minders issued under Part III of the Child Protection (Guernsey) Law, 1972^u.
6. Registration under the Nursing Homes and Residential Homes (Guernsey) Law, 1976^v.
7. Designation as an approved care provider under the Long-term Care Insurance (Guernsey) Law, 2002.
8. Permits issued under section 3 of the Employment Permits (Alderney) Law, 1975^w.

^u Ordres en Conseil Vol. XXIII, p. 238.

^v Ordres en Conseil Vol. XXVI, p. 71.

^w Ordres en Conseil Vol. XXV, p. 31.

9. Registration under the Nursing and Residential Homes (Registration and Occupation) (Alderney) Law, 1987^x.
10. Permits issued under section 3 of the Employment Permits (Sark) Law, 1987^y.

^x Ordres en Conseil Vol. XXX, p. 371.

^y Ordres en Conseil Vol. XXX, p. 228.

SCHEDULE 3

Sections 4 and 6

WORK WITH CHILDREN ETC

1. Any position where the normal duties include work in -
 - (a) a school which is exclusively or mainly for the education of children,
 - (b) a hospital or nursing home which is exclusively or mainly for children,
 - (c) an institution which is exclusively or mainly for the care or detention of children,

disregarding any work which is done on a part of the premises in which children are not looked after, or at times when children are not looked after.
2. Any position where the normal duties include caring for, training, supervising or being in charge of children, otherwise than in the course of the children's employment.
3. Any office or employment concerned with the provision of accommodation, care, leisure and recreational facilities, schooling, social services, supervision or training to children, where the normal duties of the position enable the holder to have contact with children; and any other work where the normal duties of the position are carried out wholly or partly on the premises where such provision takes place.

WORK WITH VULNERABLE PERSONS

4. Any employment or work which is concerned with the provision of care services and of such a kind as to enable the employee or person engaged in that work to have access to any of the following persons in the normal course of his duties -
- (a) persons who are or have been ill,
 - (b) persons who have or have had a mental disorder,
 - (c) persons who are blind, deaf, dumb, disabled or infirm,
 - (d) persons who are or have been dependent on alcohol or drugs,
 - (e) other persons who are or may be unable to care for themselves, or to protect themselves against harm or exploitation, whether by reason of disability, age, illness or otherwise.
5. Any employment or work which is concerned with the provision of health services, and of such a kind as to enable the employee or person engaged in that work to have access to persons in receipt of such services in the normal course of his duties.
6. In this Schedule -
- "care services" means -
- (a) any services, accommodation, nursing or personal care

provided in a nursing home, a residential home, or an approved care establishment, or

- (b) personal care or nursing or support for a person to live independently in his own home, or otherwise than in such a home or establishment as is mentioned in paragraph (a),

"health services" means services designed to secure improvement -

- (a) in the physical or mental health of persons within the Bailiwick or elsewhere, or
- (b) in the prevention, diagnosis and treatment of illness and disease,

and includes medical, dental, nursing, hospital, ambulance, ophthalmic, pharmaceutical, physiotherapy and similar services.

SCHEDULE 4

Sections 5 and 6

FINANCIAL AND RELATED SERVICES

1. Any licence, consent, authorisation, certificate, registration or other permission required to be obtained from the Guernsey Financial Services Commission by or under any enactment.
2. Any consent pursuant to the Control of Borrowing (Bailiwick of Guernsey) Ordinance, 1959.
3. Any office, occupation or work in the employment of, or undertaken on behalf of, the holder of a financial or related services permission.
4. Any office, occupation or work in the employment of, or undertaken on behalf of, an applicant for a financial or related services permission.

SCHEDULE 5

Section 7

EXCEPTED PROCEEDINGS

1. Proceedings in respect of a person's admission to, or disciplinary proceedings against a member of, any profession specified in Part I of Schedule 1, including proceedings before a Chambre de Discipline or the Royal Court in the exercise of their disciplinary jurisdiction in respect of Advocates.
2. Disciplinary proceedings against a holder of any appointment, office or employment specified in Part II of Schedule 1.
3. Proceedings before the appropriate Bailiwick Government authority established under the Gambling Laws with responsibility for the regulation of gambling.
4. Proceedings under the Firearms Laws in respect of -
 - (a) the registration of a person as a firearms dealer, the removal of a person's name from a register of firearms dealers or the imposition, variation or revocation of conditions of any such registration,
 - (b) the grant, renewal, variation or revocation of a firearm certificate,
 - (c) the grant, renewal, variation or revocation of a shot gun certificate, or

- (d) the grant of any other certificate, permit or authority.
- 5. Proceedings in respect of a determination by the States Education Department under the Education (Guernsey) Law, 1970^z as to the suitability of a person -
 - (a) for employment as a teacher in a school or establishment for further education, or in determining the extent to which a person may be employed as such a teacher, or
 - (b) to be the proprietor of an independent school.
- 6. Proceedings in respect of an application for, or cancellation of, registration in respect of a nursing home or residential home under the Nursing Homes and Residential Homes (Guernsey) Law, 1976, or the Nursing and Residential Homes (Registration and Occupation) (Alderney) Law, 1987.
- 7. Proceedings under the Long-term Care Insurance (Guernsey) Law, 2002 by way of appeal against the variation, revocation or suspension of the designation of a an approved care provider.
- 8. Proceedings connected with an application for a licence under the Explosives Laws concerning the fitness of the applicant to keep, sell or import fireworks or other explosives.
- 9. Proceedings held in respect of an application for the grant, renewal or variation of a road service licence under the Public Transport Ordinance, 1986.

^z Ordres en Conseil Vol. XXII, p. 318.

10. In relation to a relevant spent conviction, any proceedings connected with or arising out of the exercise by the Commission of its functions under any enactment.
11. Proceedings by way of appeal against, or review of, any decision taken, by virtue of any of the provisions of this Ordinance, on consideration of a spent conviction.
12. Proceedings held for the receipt of evidence affecting the determination of any question arising in any proceedings specified in this Schedule.

SCHEDULE 6

Section 8

**DISREGARD OF SERVICE DISCIPLINARY CONVICTIONS FOR CERTAIN
PURPOSES**

1. Any conviction mentioned in this Schedule is a conviction referred to in section 5(4)(c) of the Law (convictions to be disregarded for the purposes of extending a period of rehabilitation following subsequent conviction).
2. Any offence under any of the provisions of the Army Act 1955 or the Air Force Act 1955 listed in the first column of the following table -

<i>Provision</i>	<i>Subject Matter</i>
Section 29	Offences by or in relation to sentries, persons on watch etc.
Section 29A	Failure to attend for duty, neglect of duty etc.
Section 33	Insubordinate behaviour.
Section 34	Disobedience to lawful commands.
Section 34A	Failure to provide a sample for drug testing.
Section 35	Obstruction of provost officers.
Section 36	Disobedience to standing orders.
Section 38	Absence without leave.
Section 39	Failure to report or apprehend deserters or absentees.
Section 42	Malingering.
Section 43	Drunkenness.

Section 43A	Fighting, threatening words etc.
Section 44	Damage to, and loss of, public or service property etc.
Section 44A	Damage to, and loss of, Her Majesty's aircraft or aircraft material.
Section 44B	Interference etc, with equipment, messages or signals.
Section 45	Misapplication and waste of public or service property.
Section 46	Offences relating to issues and decorations.
Section 47	Billeting offences.
Section 48	Offences relating to requisitioning of vehicles
Section 50	Inaccurate certification.
Section 51	Low flying.
Section 52	Annoyance by flying.
Section 54	Permitting escape, and unlawful release of prisoners.
Section 55	Resistance to arrest.
Section 56	Escape from confinement.
Section 57	Offences in relation to courts-martial.
Section 61	Making of false statements on enlistment.
Section 62	Making of false documents.
Section 63	Offences against civilian population.
Section 69	Conduct to prejudice of military discipline or air force discipline.

3. Any offence under section 68 or 68A of the Army Act 1955 in relation to an offence under any of the provisions of that Act listed in paragraph 2.
4. Any offence under section 68 or 68A of the Air Force Act 1955 in relation to an offence under any of the provisions of that Act listed in paragraph 2.

5. Any offence under any of the provisions of the Naval Discipline Act 1957 listed in the first column of the following table -

<i>Provision</i>	<i>Subject matter</i>
Section 6	Offences by or in relation to sentries, persons on watch, etc
Section 7	Failure to attend for duty, neglect of duty, etc.
Section 11	Insubordinate behaviour.
Section 12	Disobedience to lawful commands.
Section 12A	Failure to provide a sample for drug testing.
Section 13	Fighting, threatening words etc.
Section 14	Obstruction of provost officers.
Section 14A	Disobedience to standing orders.
Section 17	Absence without leave etc.
Section 18	Failure to report deserters and absentees.
Section 21	Low flying.
Section 22	Annoyance by flying.
Section 25	Inaccurate certification.
Section 27	Malingering.
Section 28	Drunkenness.
Section 29	Damage to, and loss of public or service property etc.
Section 29A	Damage to, and loss of, Her Majesty's aircraft or aircraft material.
Section 29B	Interference etc. with equipment, messages or signals.
Section 30	Misapplication and waste of public or service property.
Section 31	Offences relating to issues and decorations.

Section 32	Billeting offences.
Section 33	Offences in relation to the requisitioning of vehicles etc.
Section 33A	Permitting escape, and unlawful release of prisoners.
Section 33B	Resistance to arrest.
Section 34A	False statements on entry.
Section 35	Falsification of documents.
Section 35A	Offences against civilian population.
Section 38	Offences in relation to courts-martial.
Section 39	Conduct to the prejudice of naval discipline.

6. Any offence under section 40 or 41 of the Naval Discipline Act 1957 in relation to an offence under any of the provisions of that Act listed in paragraph 5.

Article VIII.2

**The Protected Cell Companies (Amendment)
Ordinance, 2006**

ARRANGEMENT OF SECTIONS

1. Non-cellular assets not to be used to satisfy cellular liabilities.
2. Further provision on cell shares.
3. Companies which may be protected cell companies.
4. Receivership orders subject to secured interests.
5. Administration orders subject to secured interests.
6. Criminal penalties.
7. Interpretation.
8. Citation.
9. Commencement.
10. Savings.

Schedule: Non-cellular assets and cellular liabilities

The Protected Cell Companies (Amendment)

Ordinance, 2006

THE STATES, in pursuance of their Resolutions of the 28th September, 2005^a and the 26th April, 2006, and in exercise of the powers conferred on them by section 1 of the Companies (Enabling Provisions) (Guernsey) Law, 1996^b and all other powers enabling them in that behalf, hereby order:-

Non-cellular assets not to be used to satisfy cellular liabilities.

1. The Schedule (which amends the Protected Cell Companies Ordinance, 1997^c ("**the 1997 Ordinance**") to provide that non-cellular assets shall not, subject to any recourse agreement, be used to satisfy cellular liabilities) shall have effect.

Further provision on cell shares.

2. In section 5 of the 1997 Ordinance (cell shares and share capital) after subsection (5) insert the following subsection -

"(6) For the avoidance of doubt -

- (a) cell shares may be shares with a par value or shares of no par value within the meaning of the Companies (Shares of No Par Value)

^a Article XIII of Billet d'État No. XIV of 2005.

^b Order in Council No. XII of 1996.

^c No. V of 1997, amended by No. XV of 1998 and XXI of 2005.

Ordinance, 2002^d),

- (b) a protected cell company may purchase cell shares of its own cells in accordance with the Companies (Purchase of Own Shares) Ordinance, 1998^e, and
- (c) a protected cell company may give financial assistance for the acquisition of its cell shares in accordance with the provisions of the Companies (Financial Assistance for Acquisition of Own Shares) Ordinance, 1998^f."

Companies which may be protected cell companies.

3. (1) In section 7(1) of the 1997 Ordinance (companies which can, with the consent of the Commission, be protected cell companies) after paragraph (b) insert the following paragraph -

"(ba) which is administered and whose affairs are administered (or which will and whose affairs will, when incorporated, be administered) by a licensed person with a place of business in Guernsey (provided that the company is not itself a licensed person) and for the purposes of this paragraph a licensed person means -

^d No. VI of 2002.

^e No. VII of 1998.

^f No. V of 1998.

- (i) a person who carries on a controlled investment business within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^g and who holds a licence under section 4 of that Law,
- (ii) a person who is a licensed institution within the meaning of the Banking Supervision (Bailiwick of Guernsey) Law, 1994^h,
- (iii) a person who is a licensee within the meaning of the Insurance Business (Bailiwick of Guernsey) Law, 2002ⁱ or the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey)

^g Ordres en Conseil Vol. XXX, p. 281; amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; No. XIII of 1994; No. XII of 1995; No. II of 1997; No. XVII of 2002; and by No's XV and XXXII of 2003. Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Ordinances X and XX of 1998; and the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^h No. XIII of 1994; amended by Nos. XVII and XXI of 2002; No. XVI of 2003; and the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

ⁱ No. XXI of 2002; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

Law, 2002^j, or

- (iv) a person who holds a full fiduciary licence within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000^k, or".

(2) The Protected Cell Companies (Prescribed Company) Regulations, 2005^l (which prescribe types of companies which can be protected cell companies) are repealed.

Receivership orders subject to secured interests.

4. For section 17(5) of the 1997 Ordinance (no proceedings may be taken and no security enforced during operation of receivership order) substitute the following subsections -

"(5) When an application has been made for, and during the period of operation of a receivership order, no proceedings may be commenced or continued against the protected cell company in relation to the cell in respect of which the receivership order was made except with the consent of the receiver or the leave of the Court and subject (where the Court gives leave) to such terms and conditions as the Court may impose (but, for the

^j No. XXII of 2002; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^k Order in Council No. I of 2001; amended by No. XIV of 2003; and by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^l GSI No. 31 of 2005.

avoidance of doubt and without limitation, rights of set-off and secured interests, including security interests (within the meaning of the Security Interests (Guernsey) Law, 1993)^m and rights of enforcement thereof, are unaffected by the provisions of this subsection).

(5A) In subsection (5), "security" means any mortgage, charge, hypothèque, lien or other security, and "secured interest" shall be read accordingly."

Administration orders subject to secured interests.

5. For section 22(6) of the 1997 Ordinance (no proceedings may be taken and no security enforced during operation of administration order) substitute the following subsections -

"(6) When an application has been made for, and during the period of operation of an administration order in respect of a protected cell company or a cell thereof, no proceedings may be commenced or continued against the protected cell company in relation to the company or (as the case may be) the cell except with the consent of the administrator or the leave of the Court and subject (where the Court gives leave) to such terms and conditions as the Court may impose (but, for the avoidance of doubt and without limitation, rights of set-off and secured interests, including security interests (within the meaning of the Security Interests (Guernsey) Law, 1993) and rights of enforcement thereof, are unaffected by the provisions of this subsection).

^m Order in Council No. III of 1993.

(6A) In subsection (6), "security" means any mortgage, charge, hypothèque, lien or other security, and "secured interest" shall be read accordingly."

Criminal penalties.

6. After section 25 of the 1997 Ordinance (offences) insert the following section -

"Criminal penalties.

25A. (1) Where a protected cell company is liable to any criminal penalty, whether under this Ordinance or otherwise, due to the act or default of an officer acting in relation to a cell thereof, the penalty -

- (a) may only be met by the company from the cellular assets attributable to the cell, and
- (b) shall not be enforceable in any way against any other assets of the company, whether cellular or non-cellular.

(2) Where a protected cell company is liable to any criminal penalty, whether under this Ordinance or otherwise, due to the act or default of an officer acting in relation to the core, the penalty -

- (a) may only be met by the company from non-cellular assets, and
- (b) shall not be enforceable in any way against any cellular assets."

Interpretation.

7. (1) In this Ordinance, "**the 1997 Ordinance**" means the Protected Cell Companies Ordinance, 1997.

(2) References in this Ordinance to an enactment are references thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

8. This Ordinance may be cited as the Protected Cell Companies (Amendment) Ordinance, 2006.

Commencement.

9. This Ordinance shall come into force on the 1st day of May, 2006.

Savings.

10. Sections 1, 4 and 5 shall not have any effect upon transactions or securities entered into or liabilities incurred before their coming into force.

SCHEDULE
NON-CELLULAR ASSETS AND CELLULAR LIABILITIES

1. The Protected Cell Companies Ordinance, 1997 is amended as follows.

2. In section 2 (purpose of creation of cells) for the words "the purpose of segregating and protecting cellular assets" substitute the words "the purpose of segregating and protecting cellular and non-cellular assets".

3. After section 2 insert the following section -

"Demarcation of the core."

2A. The core is the protected cell company excluding its cells."

4. In section 3(6) (non-cellular assets) for the words "assets of the company which are not cellular assets" substitute the words "assets of the core".

5. After section 3 insert the following section -

"Recourse agreements."

3A. (1) A recourse agreement is a written agreement between a protected cell company and a third party which provides that, pursuant to an arrangement effected by the protected cell company (within the meaning of section 14A), protected assets (within the meaning of section 4) may, notwithstanding the provisions of this Ordinance, be subject to a liability owed to that third party.

(2) Before entering into a recourse agreement, each

director of the protected cell company who authorises it must make a declaration that he believes, on reasonable grounds -

- (a) that no creditor of the company will be unfairly prejudiced by the recourse agreement, and
- (b) that (unless the memorandum or articles provide to the contrary) -
 - (i) where the protected assets are assets attributable to a cell, the members of that cell, or
 - (ii) where the protected assets are non-cellular assets, the members of the company,

have passed a resolution approving the recourse agreement.

(3) A director who makes a declaration under subsection (2) without having the grounds to do so is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

(4) Any member or creditor of the protected cell company or cell thereof may, subject to such reasonable restrictions as the protected cell company may impose, inspect or request a copy of the directors' declaration.

(5) If a company fails to allow an inspection or refuses a

request for a copy under subsection (4), it is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale."

6. In section 4 (position of creditors) -

- (a) for subsections (1) and (2) substitute the following subsections -

"(1) Subject to the terms of any recourse agreement, the rights of creditors of a protected cell company shall correspond with the liabilities provided for in sections 10 and 10AA.

(2) Subject to the terms of any recourse agreement, no such creditor shall have any rights other than the rights referred to in this section and in sections 4A, 4B, 10 and 10AA.",

- (b) in subsection (3) for the words "cellular assets attributable to any cell of the company in respect of a liability not attributable to that cell", in each place where they occur, substitute the words "protected assets",
- (c) in subsection (5), at the end, insert the following words "or (as the case may be) the core",
- (d) for subsection (6) substitute the following subsection -

"(6) In the event of any protected assets being taken in execution in respect of a liability to which they are not attributable, and in so far as such assets or compensation in respect thereof cannot otherwise be restored to the cell affected or (as the case may be) the core, the company shall -

(a) cause or procure its auditor, acting as expert and not as arbitrator, to certify the value of the assets lost to the cell affected or (as the case may be) the core, and

(b) transfer or pay, from the cellular or non-cellular assets to which the liability was attributable, to the cell affected or (as the case may be) the core, assets or sums sufficient to restore to the cell affected or (as the case may be) the core, the value of the assets lost.",

(e) subsection (7) is repealed,

(f) after subsection (8) insert the following subsection -

"(9) In this Ordinance "**protected assets**" means -

- (a) any cellular assets attributable to any cell of the protected cell company in respect of a liability not attributable to that cell, and
- (b) any non-cellular assets in respect of a liability attributable to a cell."

7. In section 4A (recourse to cellular assets by creditors) after the words "sections 4 and 10," insert the words "and subject to the terms of any recourse agreement,".

8. After section 4A insert the following section -

"Recourse to non-cellular assets by creditors."

4B. Without prejudice to the provisions of sections 4 and 10AA, and subject to the terms of any recourse agreement, non-cellular assets of a protected cell company -

- (a) shall only be available to the creditors of the company who are creditors in respect of the core and who shall thereby be entitled, in conformity with the provisions of this Ordinance, to have recourse to the non-cellular assets,
- (b) shall be absolutely protected from the creditors of the company who are not creditors in respect

of the core and who accordingly shall not be entitled to have recourse to the non-cellular assets."

9. In section 5A(11)(b) (reduction of cell share capital, assets insufficient to meet liabilities) for the words "(when account is taken of the company's non-cellular assets, unless there are no creditors in respect of that cell entitled to have recourse to the company's non-cellular assets)" substitute the words "(and, where the company has entered into a recourse agreement, the assets liable under that agreement)".

10. In section 10 (liability of cellular assets) -

(a) for subsection (1) substitute the following subsection -

"(1) Subject to the provisions of subsection (2), and to the terms of any recourse agreement, where any liability arises which is attributable to a particular cell of a protected cell company -

(a) the cellular assets attributable to that cell shall be liable,

(b) the liability shall not be a liability of any protected assets.",

(b) for subsection (2) substitute the following subsections -

"(2) In the case of loss or damage which is

suffered by a particular cell of a protected cell company and which is caused by fraud perpetrated by or upon the core or another cell, the loss or damage shall be the liability solely of the company's non-cellular assets or (as the case may be) that other cell's assets, without prejudice to any liability of any person other than the company.",

- (c) in subsection (4)(a) for the proviso substitute the following proviso -

"Provided that the provisions of this paragraph shall not apply in any situation where there is a recourse agreement, or where any of the liabilities of the company's cellular assets arises from fraud such as is referred to in subsection (2).",

- (d) subsection (4)(b) is repealed.

11. After section 10 insert the following section -

"Liability of non-cellular assets."

10AA. (1) Subject to the provisions of subsection (2), and to the terms of any recourse agreement, where any liability arises which is attributable to the core of a protected cell company -

- (a) the non-cellular assets shall be liable,
- (b) the liability shall not be a liability of any protected assets.

(2) In the case of loss or damage which is suffered by the core of a protected cell company and which is caused by fraud perpetrated by or upon a cell, the loss or damage shall be the liability solely of the cellular assets of that cell, without prejudice to any liability of any person other than the company.

(3) This section shall have extra-territorial effect."

12. Section 14A(8) (court order following intra-cell arrangements, non-cellular assets to make up shortfall) is repealed.

13. In section 15 -

(a) in subsection (1)(a) (making of receivership order, assets insufficient to meet liabilities) for the words "(when account is taken of the company's non-cellular assets, unless there are no creditors in respect of that cell entitled to have recourse to the company's non-cellular assets)" substitute the words "(and, where the company has entered into a recourse agreement, the assets liable under that agreement)",

(b) in subsection (3)(b) (function of receiver) after the words "the distribution of the cellular assets attributable to the cell" insert the words "(and, where the company has entered into a recourse agreement, the assets liable under that agreement)".

14. For section 17(6)(b) (receiver of cell deemed a director of company

in respect of non-cellular assets) substitute the following paragraph -

"(b) where the company has entered into a recourse agreement, the receiver of the cell shall be deemed a director of the protected cell company in respect of the assets liable under that agreement.".

15. Section 19(b) (receiver of a cell remunerated from non-cellular assets) and the word "and" immediately before it are repealed.

16. In section 20 -

(a) in subsection (1)(a) (making of administration order, assets insufficient to meet liabilities) for the words "(when account is taken of the company's non-cellular assets, unless there are no creditors in respect of that cell entitled to have recourse to the company's non-cellular assets)" substitute the words "(and, where the company has entered into a recourse agreement, the assets liable under that agreement)",

(b) for subsection (3) (function of administrator) substitute the following subsection -

"(3) An administration order is an order directing that, during the period for which the order is in force -

(a) the business and assets of or

attributable to the cell,

(b) where the company has entered into a recourse agreement, the assets liable under that agreement, or (as the case may be),

(c) the business and assets of the company,

shall be managed by a person (an "**administrator**") appointed for the purpose by the Court.",

(c) for subsection (4)(b) (purposes for which administration order may be made) substitute the following paragraph -

"(b) the more advantageous realisation of -

(i) the business and assets of or attributable to the cell,

(ii) where the company has entered into a recourse agreement, the assets liable under that agreement, or (as the case may be),

(iii) the business and assets of the

company,

than may be achieved by a receivership of the cell or (as the case may be) by the liquidation of the company."

17. For section 22(7)(a)(ii) (administrator of a cell deemed a director of company in respect of non-cellular assets) substitute the following subparagraph -

"(ii) where the company has entered into a recourse agreement, the administrator of the cell shall be deemed a director of the protected cell company in respect of the assets liable under that agreement,".

18. Section 24(a)(ii) (administrator of a cell remunerated from non-cellular assets) and the word "and" immediately before it are repealed.

19. In section 27(1) (interpretation) -

- (a) in the definition of "cell" for the words "the purpose of segregating and protecting cellular assets" substitute the words "the purpose of segregating and protecting cellular and non-cellular assets",
- (b) insert the following definitions in the appropriate place in alphabetical order -

""**core**"" means the protected cell company excluding its cells,"

""**protected assets**"" means -

- (a) any cellular assets attributable to any cell of a protected cell company in respect of a liability not attributable to that cell, and
- (b) any non-cellular assets in respect of a liability attributable to a cell,"

""**recourse agreement**"" means a written agreement between a protected cell company and a third party which provides that, pursuant to an arrangement effected by the protected cell company (within the meaning of section 14A), protected assets may, notwithstanding the provisions of this Ordinance, be subject to a liability owed to that third party,".

*Article VIII.3***The Incorporated Cell Companies Ordinance, 2006**

ARRANGEMENT OF SECTIONS

Formation and nature of incorporated cell company

1. Incorporation of incorporated cell company.
2. Consent of Commission required for incorporated cell company.
3. Name of incorporated cell company.
4. Status of incorporated cell company.

Formation and nature of incorporated cell

5. Incorporation of incorporated cell.
6. Consent of Procureur not required for registration of an incorporated cell.
7. Constitution of incorporated cell.
8. Name of incorporated cell.
9. Status of incorporated cell.

Separate nature of incorporated cell company and its incorporated cells

10. Separation of assets and liabilities.
11. Transactions.

Application of Companies Laws to incorporated cells

12. General application of Companies Laws to incorporated cells.
13. Annual return in respect of incorporated cells.
14. Minute books of incorporated cells.
15. Register of directors and secretaries of incorporated cells.
16. Register of members of incorporated cells.
17. Index of members of incorporated cells.
18. Inspection of minute books, registers and index of incorporated cells.
19. Accounting records of incorporated cells.
20. Accounts of incorporated cells.
21. Annual general meetings of incorporated cells.

- 22. Directors' report where no annual general meeting held.
- 23. Auditors where no annual general meeting held.
- 24. Incorporated cell company responsibility for audit of its incorporated cells.
- 25. Combining audit of incorporated cells with their incorporated cell company.
- 26. Relief for members of incorporated cell unfairly prejudiced by incorporated cell company.
- 27. Striking off incorporated cells when their incorporated cell company is struck off.

Winding up

- 28. Winding up of incorporated cell company not to prejudice its incorporated cells.
- 29. Directors of incorporated cell during winding up of its incorporated cell company.
- 30. No dissolution of incorporated cell company until position of its incorporated cells resolved.
- 31. Commission may be heard on winding up application.

Administration

- 32. Administration orders.
- 33. Administration of incorporated cell company not to prejudice its incorporated cells.
- 34. Application for administration order.
- 35. Effect of application for administration order.
- 36. Effect of administration order.
- 37. Notification of administration order.
- 38. General powers of administrator.
- 39. General duties of administrator.
- 40. Co-operation with, and by, administrator.
- 41. Discharge or variation of administration order.
- 42. Remuneration, and swearing in, of administrator.
- 43. Vacation of office.
- 44. Release of administrator.
- 45. Information to be given by administrator.
- 46. Statement of affairs to be submitted to administrator.
- 47. Protection of interests of creditors and members.
- 48. Exclusion of other administration provisions.

Alterations

- 49. Amendment of constitution of incorporated cells.
- 50. Conversion of company into incorporated cell company.
- 51. Conversion of protected cell company into incorporated cell company.
- 52. Conversion of incorporated cell into independent company.
- 53. Transfer of incorporated cells between incorporated cell companies.
- 54. Conversion of company into incorporated cell and transfer to incorporated cell company.
- 55. Expulsion of incorporated cell from its incorporated cell company.
- 56. Directors' declarations.
- 57. Conversions, transfers or expulsions not a default.

General provisions

- 58. Criminal liability of officers, etc.
- 59. Applications for directions.
- 60. Power of Court to grant relief in certain cases.
- 61. Power of the Commission to make regulations.
- 62. Power of Department to make regulations amending fees.
- 63. Regulations generally.
- 64. Special resolutions.
- 65. Modification of document duty in its application to incorporated cells.
- 66. Interpretation.
- 67. Citation.
- 68. Commencement.

SCHEDULE 1: Powers of administrator.

SCHEDULE 2: Modification of document duty in its application to incorporated cells.

The Incorporated Cell Companies Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 26th day of April, 2006, and in exercise of the powers conferred on them by section 1 of the Companies (Enabling Provisions) (Guernsey) Law, 1996^a, sections 1 and 6 of the Document Duty (Guernsey) Law, 1973^b, and all other powers enabling them in that behalf, hereby order:-

Formation and nature of incorporated cell company

Incorporation of incorporated cell company.

1. (1) It shall be lawful, subject to the provisions of this Ordinance, to incorporate a company which shall be an incorporated cell company.

(2) The provisions of section 9 of the Protected Cell Companies Ordinance 1997^c ("**the 1997 Ordinance**") (incorporation of company as protected cell company) shall apply to incorporated cell companies as they apply to protected cell companies.

(3) The memorandum of an incorporated cell company shall state that it is an incorporated cell company.

Consent of Commission required for incorporated cell company.

2. (1) The provisions of section 7 (consent of Commission required

^a Order in Council No. XII of 1996.

^b Ordres en Conseil Vol. XXIV, pp 74 and 236; Vol. XXV, p. 43; Order in Council No. XXVI of 2002; Recueil d'Ordonnances Tome XXVI, pp. 139 and 465; Ordinance No. IX of 1997; No. XXII of 2000; No. XXXVI of 2001.

^c No. V of 1997.

for protected cell company) and section 8 (application for consent of Commission) of the 1997 Ordinance shall apply to the incorporation of incorporated cell companies as they apply to the incorporation of protected cell companies.

(2) The Commission shall have the same power to prescribe fees in respect of applications for consent for the incorporation of incorporated cell companies as it does for applications for consent for the incorporation of protected cell companies.

Name of incorporated cell company.

3. The name of an incorporated cell company shall, without prejudice to the provisions of section 21 of the Companies (Guernsey) Law, 1994^d ("**the 1994 Law**"), include the expression "Incorporated Cell Company", "ICC" or any cognate expression approved in writing by the Commission.

Status of incorporated cell company.

4. An incorporated cell company is a company and accordingly the Companies Laws shall, subject to the provisions of this Ordinance, and unless the context requires otherwise, apply in relation to it.

Formation and nature of incorporated cell

Incorporation of incorporated cell.

5. (1) An incorporated cell company may, by special resolution which complies with the requirements of this section ("**the cell resolution**"), incorporate one or more incorporated cells.

(2) The cell resolution shall -

^d No. XXXIII of 1994.

- (a) assign a name to the incorporated cell, and
- (b) specify the terms of its memorandum and articles, setting out, amongst other things, the matters mentioned in sections 2 and 4 of the 1994 Law,

(3) When the cell resolution has been passed, the directors of the incorporated cell company may make an application to the Court for the registration of the incorporated cell's memorandum and articles, under the authority of an Act of Court, in the Register of Companies.

(4) An application under subsection (3) shall be deemed to be an application under section 3 of the 1994 Law, that has complied with subsection (2) of that section and accordingly -

- (a) the incorporated cell may be registered as a company in accordance with Part I of the 1994 Law, and
- (b) section 120 of the 1994 Law shall apply to the application (Greffier may rely upon Act of Court when registering company).

Consent of Procureur not required for registration of an incorporated cell.

6. The prior consent of Her Majesty's Procureur shall not be required for the registration of an incorporated cell.

Constitution of incorporated cell.

7. (1) The cell resolution may provide that the incorporated cell shall be wound up and dissolved upon -

- (a) the bankruptcy, death, dissolution, expulsion, insolvency, legal incapacity, resignation or retirement of any member of the incorporated cell,
 - (b) the expiration of a fixed period of time, or
 - (c) the happening of some other event.
- (2) The cell resolution may provide that -
- (a) in respect of the incorporated cell it creates, there may be issued shares with a par value or shares of no par value within the meaning of the Companies (Shares of No Par Value) Ordinance, 2002^e,
 - (b) the incorporated cell may be a company limited by guarantee within the meaning of the Guarantee Companies Ordinance, 1997^f,
 - (c) the incorporated cell may purchase its own shares in accordance with the provisions of the Companies (Purchase of Own Shares) Ordinance, 1998^g,
 - (d) the incorporated cell may give financial assistance for the acquisition of its shares in accordance with the

^e No. VI of 2002.

^f No. X of 1997.

^g No. VIII of 1998.

provisions of the Companies (Financial Assistance for Acquisition of Own Shares) Ordinance, 1998^h, and

- (e) the incorporated cell may hold its shares as treasury shares in accordance with the provisions of the Companies (Purchase of Own Shares) (Treasury Shares) Ordinance, 2006.

(3) There shall be taken to be included in the memorandum or articles of an incorporated cell -

- (a) a provision that the incorporated cell may not own shares in its incorporated cell company, and
- (b) unless the contrary intention appears in the memorandum or articles, a provision that the incorporated cell may own shares in any other incorporated cell of its incorporated cell company.

Name of incorporated cell.

8. The name of an incorporated cell shall, without prejudice to the provisions of section 21 of the 1994 Law, include the expression "Incorporated Cell", "IC" or any cognate expression approved in writing by the Commission.

Status of incorporated cell.

9. (1) An incorporated cell is a company.

(2) Notwithstanding the provisions of any other enactment, an

^h No. V of 1998.

incorporated cell is not a subsidiary of its incorporated cell company solely by virtue of the fact of it being an incorporated cell of its incorporated cell company.

(3) An incorporated cell may not itself be an incorporated cell company or a protected cell company.

(4) An incorporated cell shall have the same -

(a) registered office, and

(b) (subject to the provisions of this Ordinance) directors,

as its incorporated cell company.

Separate nature of incorporated cell company and its incorporated cells

Separation of assets and liabilities.

10. (1) It shall be the duty of the directors of an incorporated cell company and its incorporated cells -

(a) to keep the assets and liabilities of the incorporated cell company separate and separately identifiable from the assets and liabilities of its incorporated cells,

(b) to keep the assets and liabilities of each incorporated cell separate and separately identifiable from the assets and liabilities of the other incorporated cells of the incorporated cell company.

(2) The duty imposed by subsection (1) is not breached by reason

only that the directors cause or permit assets of the incorporated cell company or any of its incorporated cells to be collectively invested, or collectively managed by an investment manager, provided that the assets in question remain separately identifiable in accordance with subsection (1).

Transactions.

11. (1) An incorporated cell company shall have no power, by virtue of its position as an incorporated cell company, to enter into transactions on behalf of any of its incorporated cells.

(2) An incorporated cell shall have no power, by virtue of its position as an incorporated cell, to enter into transactions on behalf of its incorporated cell company.

(3) The directors and officers of an incorporated cell company or its incorporated cells must ensure that, in respect of every transaction that the incorporated cell company or incorporated cell enters into, it is stated whether the transaction is being entered into by the incorporated cell company or by an incorporated cell and, if it is by an incorporated cell, which incorporated cell.

Application of Companies Laws to incorporated cells

General application of Companies Laws to incorporated cells.

12. Save as otherwise provided by this Ordinance or any other enactment, the provisions of the Companies Laws shall apply to an incorporated cell as if a reference in the Companies Laws -

(a) to a company were a reference to an incorporated cell,

(b) to the directors of a company were a reference to the

directors of the incorporated cell,

- (c) to the memorandum or articles of a company were a reference to the memorandum or articles of the incorporated cell,
- (d) to the members of a company were a reference to the members of the incorporated cell,
- (e) to shares in a company were a reference to shares in the incorporated cell,
- (f) to assets and liabilities of a company were a reference to the assets and liabilities of the incorporated cell, and
- (g) to the share capital of a company were a reference to the share capital of the incorporated cell.

Annual return in respect of incorporated cells.

13. (1) Section 28 of the 1994 Law (annual return) shall not apply to an incorporated cell.

(2) However, an incorporated cell company must -

- (a) include in its annual return the information required by that section in respect of each of its incorporated cells, and
- (b) in addition, in respect of each of its incorporated cells, deliver to the Greffier a copy of so much of its annual

return as relates to the incorporated cell.

(3) An incorporated cell company that fails to comply with subsection (2) -

- (a) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale, and
- (b) is liable, together with its incorporated cells, to be struck off the Register of Companies in accordance with section 28(4)(b) of the 1994 Law, and subsection (4)(c) of that section shall apply accordingly.

Minute books of incorporated cells.

14. (1) The duties imposed on a company by section 53 of the 1994 Law (minute books) shall, in the case of an incorporated cell, be performed by its incorporated cell company.

(2) An incorporated cell company that fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

Register of directors and secretaries of incorporated cells.

15. (1) The duties imposed on a company by section 54 of the 1994 Law (register of directors and secretaries) shall, in the case of an incorporated cell, be performed by its incorporated cell company.

(2) Accordingly, an incorporated cell company must, in addition to keeping a register of its directors and secretaries, keep separate registers of the

directors and secretaries of each of its incorporated cells, which it must keep in accordance with that section.

(3) An incorporated cell company that fails to comply with this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

Register of members of incorporated cells.

16. (1) The duties imposed on a company by section 55 of the 1994 Law (register of members) shall, in the case of an incorporated cell, be performed by its incorporated cell company.

(2) Accordingly, an incorporated cell company must, in addition to keeping a register of its members, keep separate registers of the members of each of its incorporated cells, which it must keep in accordance with that section.

(3) An incorporated cell company that fails to comply with this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

Index of members of incorporated cells.

17. (1) The duties imposed on a company by section 57 of the 1994 Law (index of members) shall, in the case of an incorporated cell, be performed by its incorporated cell company.

(2) An incorporated cell company that fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

Inspection of minute books, registers and index of incorporated cells.

18. (1) The duties imposed on a company by section 58 of the 1994 Law (inspection of minute books, registers and index) shall, in the case of an incorporated cell, be performed by its incorporated cell company.

(2) An incorporated cell company that fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

Accounting records of incorporated cells.

19. (1) Section 59 of the 1994 Law (accounting records) shall not apply to an incorporated cell.

(2) However, an incorporated cell company shall keep accounting records, in respect of each of its incorporated cells, that comply with the requirements of that section.

(3) The accounting records kept by an incorporated cell company in respect of itself under that section may include matters included by it in any accounting records kept by the company in respect of its incorporated cells under subsection (2).

(4) An incorporated cell company that fails to comply with this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Accounts of incorporated cells.

20. (1) The requirements of Part IX of the 1994 Law (company records and accounts) shall not apply to an incorporated cell in respect of the preparation of a profit and loss account and balance sheet (in this section "**the annual accounts**").

(2) However, an incorporated cell company shall prepare separate annual accounts, in respect of each of its incorporated cells, that comply with the requirements of that Part, and those accounts shall be treated as the annual accounts of the incorporated cell for the purposes of the Companies Laws.

(3) The requirement in subsection (2) shall be satisfied if an incorporated cell, with the agreement of the directors of its incorporated cell company elects -

- (a) in its memorandum or articles, or
- (b) by way of a special resolution,

that the preparation of its annual accounts may be combined with the preparation of the annual accounts of -

- (i) its incorporated cell company, or
- (ii) another incorporated cell of its incorporated cell company which also so elects,

and that preparation is so combined.

(4) Where no election has been made under subsection (3), the annual accounts of an incorporated cell company prepared by it under that Part need not include matters already included by it in the annual accounts of an incorporated cell prepared by it in accordance with subsection (2).

(5) Subject to any provision in the memorandum or articles of an

incorporated cell or its incorporated cell company to the contrary -

- (a) a member of the incorporated cell company who is not a member of the incorporated cell shall only be entitled to be provided with so much of the annual accounts of the incorporated cell company as is prepared under that Part,
- (b) a member of an incorporated cell shall only be entitled to be provided with so much of the annual accounts as is mentioned in subsection (2) as relate to the incorporated cell of which he is a member.

(6) An incorporated cell company that fails to comply with this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Annual general meetings of incorporated cells.

21. An incorporated cell is not required to hold annual general meetings under section 68(1) of the 1994 Law unless it is so required by -

- (a) its memorandum or articles,
- (b) a special resolution, or
- (c) the Court, under section 68(6) of the 1994 Law.

Directors' report where no annual general meeting held.

22. (1) If, in accordance with section 21, an incorporated cell does not hold an annual general meeting, its directors shall -

- (a) firstly, within a period of 18 months beginning on the date on which the incorporated cell is entitled to commence business, and
- (b) thereafter, at least once in every calendar year,

send every member of the incorporated cell a copy of the directors' report referred to in section 68(4) of the 1994 Law.

(2) No more than 15 months may elapse between the sending of successive directors' reports.

(3) If default is made in sending a directors' report in accordance with any provision of subsection (1) or (2), the incorporated cell is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

Auditors where no annual general meeting held.

23. If, in accordance with section 21, and subject to section 24, an incorporated cell does not hold an annual general meeting -

- (a) the duty of the members at each annual general meeting to appoint auditors under section 62(1) of the 1994 Law shall be carried out by the directors of the incorporated cell -
 - (i) firstly, within a period of 18 months beginning on the date on which the incorporated cell is entitled to commence business, and

- (ii) thereafter, at least once in every calendar year,

and no more than 15 months may elapse between successive appointments of auditors,
- (b) the directors of the incorporated cell shall fix the remuneration of those auditors,
- (c) the auditors' report referred to in section 64(1) of the 1994 Law shall be made by reference to the profit and loss account and balance sheet contained in the directors' report,
- (d) subject to section 25, the auditors' report shall not be laid before the company in general meeting in accordance with section 64(1) of the 1994 Law but the directors shall include a copy of it in each directors' report sent out to members in accordance with section 22.

Incorporated cell company responsibility for audit of its incorporated cells.

24. (1) The requirements of Part X of the 1994 Law (audit), in respect of the appointment and remuneration of auditors, shall apply to an incorporated cell of an incorporated cell company unless, with the agreement of the directors of the incorporated cell company, that incorporated cell has elected -

- (a) in its memorandum or articles, or
- (b) by way of a special resolution,

that those requirements shall not apply.

(2) Where an incorporated cell has made an election under subsection (1), those requirements shall apply to the directors of the incorporated cell company in respect of that incorporated cell.

Combining audit of incorporated cells with their incorporated cell company.

25. (1) The requirement in Part X of the 1994 Law to have an audit shall be satisfied if an incorporated cell, with the agreement of the directors of its incorporated cell company, elects -

- (a) in its memorandum or articles, or
- (b) by way of a special resolution,

that its audit may be combined with the audit of -

- (i) its incorporated cell company, or
- (ii) another incorporated cell of its incorporated cell company which also so elects,

and those audits are so combined.

(2) Subject to any provision in the memorandum or articles of an incorporated cell or its incorporated cell company to the contrary -

- (a) a member of the incorporated cell company who is not a member of the incorporated cell shall only be

entitled to be provided with so much of the auditors' report of the incorporated cell company as relates to that company,

- (b) a member of an incorporated cell shall only be entitled to be provided with so much of the auditors' report of the incorporated cell company as relates to that incorporated cell of which he is a member.

Relief for members of incorporated cell unfairly prejudiced by incorporated cell company.

26. A member of an incorporated cell may apply to the Court under section 75 of the 1994 Law (relief for members unfairly prejudiced) in respect of an incorporated cell company an incorporated cell of which he is a member, and section 75 shall apply to such an application as if the applicant were a member of that incorporated cell company.

Striking off incorporated cells when their incorporated cell company is struck off.

27. (1) Where subsection (1) of section 76 of the 1994 Law (striking a company off the Register) applies to an incorporated cell company, the other provisions of that section shall also apply to its incorporated cells, and accordingly its incorporated cells shall be struck off the Register if their incorporated cell company is struck off the Register.

(2) An incorporated cell may only be restored to the Register under section 77 of the 1994 Law if its incorporated cell company has been so restored, and an application for restoration of an incorporated cell company under that section may also include an application for restoration of one or more of its incorporated cells.

*Winding up***Winding up of incorporated cell company not to prejudice its incorporated cells.**

28. The winding up of an incorporated cell company shall be carried out in such a way as not to prejudice the affairs, business and property of any of its incorporated cells, and accordingly, during the winding up, the incorporated cell company shall continue to carry on business to the extent necessary for the continuance of business of its incorporated cells.

Directors of incorporated cell during winding up of its incorporated cell company.

29. (1) The appointment of a liquidator in respect of an incorporated cell company shall not affect the position of the directors of its incorporated cells, subject to any direction to the contrary given by -

- (a) the liquidator,
- (b) the incorporated cell in general meeting, or
- (c) the Court,

in the course of a winding up.

(2) The Commission may make an application to the Court for the Court to give a direction under subsection (1).

No dissolution of incorporated cell company until position of its incorporated cells resolved.

30. An incorporated cell company that is being wound up shall not be dissolved until each of its incorporated cells is either -

- (a) converted into companies independent of their incorporated cell company under section 50,
- (b) transferred to another incorporated cell company under section 53,
- (c) expelled from its incorporated cell company under section 55,
- (d) continued as a body corporate under the law of another jurisdiction, or
- (e) wound up,

and the Court may stay such dissolution on such terms as it thinks fit.

Commission may be heard on winding up application.

31. In section 96A(3) of the 1994 Law (Commission may be heard on winding up application) after paragraph (c) insert the following paragraph -

- "(ca) a company which is an incorporated cell company or an incorporated cell within the meaning of the Incorporated Cell Companies Ordinance, 2006;"

Administration

Administration orders.

32. (1) Subject to the provisions of this section, if the Court -

(a) is satisfied that -

(i) an incorporated cell company, or

(ii) an incorporated cell,

(in this section, the "**company**") is or is likely to become unable to pay its debts, and

(b) considers that the making of an order under this section may achieve one or more of the purposes set out in subsection (3),

the Court may make an order under this section (an "**administration order**") in relation to that company.

(2) An administration order is an order directing that, during the period for which the order is in force, the affairs, business and property of the company shall be managed by a person (the "**administrator**") appointed for the purpose by the Court.

(3) The purposes for the achievement of which an administration order may be made are -

(a) the survival of the company, and the whole or any part of its undertaking, as a going concern,

- (b) a more advantageous realisation of the company's assets than would be effected on a winding up,

and the order shall specify the purpose or purposes for which it is made.

- (4) An administration order may be made notwithstanding that -
 - (a) an order for the company's winding up has been made by the Court, or
 - (b) the company has passed a resolution for voluntary winding up,

and, if an administration order is so made, then -

- (i) the order for the company's winding up shall be discharged or suspended, or (as the case may be),
- (ii) the resolution for voluntary winding up shall cease to have effect or shall be suspended,

on such terms and conditions as the Court thinks fit.

Administration of incorporated cell company not to prejudice its incorporated cells.

33. The administration of an incorporated cell company shall be carried on in such a way as to not prejudice the affairs, business and property of any of its incorporated cells, and accordingly, during the administration, the incorporated cell company shall continue to carry on business to the extent necessary for the continuance of business of its incorporated cells.

Application for administration order.

34. (1) An application for an administration order in respect of an incorporated cell company may be made by -

- (a) the incorporated cell company,
- (b) an incorporated cell of the incorporated cell company,
- (c) the directors of the incorporated cell company,
- (d) any shareholder of the incorporated cell company,
- (e) any creditor of the incorporated cell company, including any contingent or prospective creditor,
- (f) the Commission,
- (g) in the case of an incorporated cell company in respect of which the Court has made an order for winding up or which has passed a resolution for voluntary winding up, the liquidator,

or by all or any of those parties, together or separately.

(2) An application for an administration order in respect of an incorporated cell may be made by -

- (a) the incorporated cell,

- (b) its incorporated cell company,
- (c) the directors of the incorporated cell,
- (d) any shareholder of the incorporated cell,
- (e) any creditor of the incorporated cell, including any contingent or prospective creditor,
- (f) the Commission,
- (g) in the case of an incorporated cell in respect of which the Court has made an order for winding up or which has passed a resolution for voluntary winding up, the liquidator,

or by all or any of those parties, together or separately.

(3) The Court, on hearing an application for an administration order, may, on such terms and conditions as it thinks fit -

- (a) grant or dismiss the application,
- (b) adjourn the hearing, conditionally or unconditionally,
or
- (c) make an interim order or any other order it thinks fit.

(4) An interim order under subsection (3) may, without limitation, restrict the performance of any functions of the directors or of the

incorporated cell company or the incorporated cell, whether by reference to the consent of the Court or otherwise.

(5) Notice of an application to the Court for an administration order in respect of an incorporated cell company shall, unless the Court orders otherwise, be served on -

- (a) the incorporated cell company,
- (b) each incorporated cell of the incorporated cell company,
- (c) the Commission, and
- (d) such other persons, if any, as the Court may direct, including (without limitation) any creditor,

who shall each be given an opportunity of making representations to the Court before the order is made.

(6) Notice of an application to the Court for an administration order in respect of an incorporated cell shall, unless the Court orders otherwise, be served on -

- (a) the incorporated cell,
- (b) its incorporated cell company,
- (c) the Commission, and

- (d) such other persons, if any, as the Court may direct, including (without limitation) any creditor,

who shall each be given an opportunity of making representations to the Court before the order is made.

(7) Notice of an application for an administration order shall be placed in La Gazette Officielle at least 2 clear days before the day of the making of the application or, if that is not reasonably practicable, then as soon as reasonably practicable thereafter.

Effect of application for administration order.

35. (1) During the period between the presentation of an application for an administration order and ending with the making of such an order or the dismissal of the application -

- (a) no resolution may be passed or order made for the winding up of -

- (i) the incorporated cell company, or

- (ii) the incorporated cell,

to which the application relates (in this section the "**company**"),

- (b) no proceedings may be commenced or continued against the company except with the leave of the Court and subject to such terms and conditions as the Court may impose (but, for the avoidance of doubt and

without limitation, rights of set-off and secured interests, including security interests (within the meaning of the Security Interests (Guernsey) Law, 1993ⁱ) and rights of enforcement thereof, are unaffected by the provisions of this paragraph).

(2) Nothing in subsection (1) requires the leave of the Court for the presentation of an application for the company's winding up.

Effect of administration order.

36. (1) On the making of an administration order any application for the winding up of -

- (a) the incorporated cell company, or
- (b) the incorporated cell

to which the order relates (in this section the "**company**") shall be dismissed.

(2) During the period for which an administration order is in force -

- (a) no resolution may be passed or order made for the company's winding up, and
- (b) no proceedings may be commenced or continued against the company except with the consent of the administrator or the leave of the Court and subject

ⁱ Order in Council No. III of 1993.

(where the Court gives leave) to such terms and conditions as the Court may impose (but, for the avoidance of doubt and without limitation, rights of set-off and secured interests, including security interests (within the meaning of the Security Interests (Guernsey) Law, 1993) and rights of enforcement thereof, are unaffected by the provisions of this paragraph).

Notification of administration order.

37. (1) Every invoice, order for goods, business letter or other document which, at a time when an administration order is in force in relation to -

- (a) an incorporated cell company, or
- (b) an incorporated cell,

(in this section the "**company**") is issued by or on behalf of the company or the administrator, being a document on or in which the company's name appears, shall also contain the administrator's name and a statement that the affairs, business and property of the company are being managed by the administrator.

(2) If default is made in complying with this section, the company and any of the following persons who without reasonable excuse authorises or permits the default, namely, the administrator and any officer of the company, is guilty of an offence and liable to a fine not exceeding level 5 on the uniform scale.

General powers of administrator.

38. (1) The administrator of -

- (a) an incorporated cell company, or
- (b) an incorporated cell,

(in this section the "**company**") may do all such things as may be necessary or expedient for the management of the affairs, business and property of the company.

(2) Without prejudice to subsection (1), and unless the Court orders otherwise, the administrator of the company has the powers specified in Schedule 1.

(3) The administrator may apply to the Court for directions in relation to -

- (a) the extent or performance of any function, and
- (b) any matter arising in the course of his administration,

and on such an application the Court may make such order, on such terms and conditions, as it thinks fit.

(4) In performing his functions the administrator is deemed to act as the company's agent, but shall not incur personal liability except to the extent that he is fraudulent, reckless or grossly negligent or acts in bad faith.

(5) A person dealing with the administrator in good faith is not concerned to enquire whether the administrator is acting within his powers.

(6) The administrator also has power -

- (a) to remove any director of the company and to appoint any person to be a director of it, whether to fill a vacancy or otherwise,
- (b) to call any meeting of members or creditors of the company.

(7) In the case of the administration of an incorporated cell company, the administrator also has power -

- (a) to remove any director of any of its incorporated cells and to appoint any person to be a director of them, whether to fill a vacancy or otherwise,
- (b) to call any meeting of members or creditors of any of its incorporated cells.

General duties of administrator.

39. (1) The administrator of -

- (a) an incorporated cell company,
- (b) or an incorporated cell,

(in this section the "**company**") shall, on his appointment, take into his custody or under his control all the property to which the company is or appears to be entitled.

(2) The administrator shall manage the affairs, business and property of the company in accordance with any directions given by the Court.

Co-operation with, and by, administrator.

40. (1) Any function conferred on -

- (a) an incorporated cell company,
- (b) any of its incorporated cells, or
- (c) any of their respective officers,

whether by the Companies Law or by the memorandum or articles or otherwise, which could be performed during the administration of the incorporated cell company or (as the case may be) the cell, in such a way as to interfere with the performance by the administrator of his functions, may not be performed except with the consent of the administrator, which may be given either generally or in relation to particular cases.

(2) Any function conferred on an incorporated cell or its officers, whether by the Companies Law or by the memorandum or articles or otherwise, which could be performed during the administration of its incorporated cell company in such a way as to interfere with the performance by the administrator of his functions may not be performed except with the consent of the administrator, which may be given either generally or in relation to particular cases.

(3) Any function conferred on an incorporated cell company or its officers, whether by the Companies Law or by the memorandum or articles or otherwise, which could be performed during the administration of any of its incorporated cells in such a way as to interfere with the performance by the administrator of his functions may not be performed except with the consent of the administrator, which may be given either generally or in relation to particular cases.

(4) The administrator of an incorporated cell company shall co-operate, in the management of the affairs, business and property of the incorporated cells of the incorporated cell company, with -

(a) those incorporated cells, and

(b) their directors and officers,

to the extent that such co-operation will not interfere with the performance of his functions as administrator.

(5) The administrator of an incorporated cell shall co-operate, in the management of the affairs, business and property of the incorporated cell company with -

(a) the incorporated cell company, and

(b) its directors and officers,

to the extent that such co-operation will not interfere with the performance of his functions as administrator.

Discharge or variation of administration order.

41. (1) The administrator of -

(a) an incorporated cell company, or

(b) an incorporated cell,

(in this section the "**company**") may at any time apply to the Court for the administration order to be discharged or varied.

(2) The administrator of the company shall apply to the Court for the administration order to be discharged or varied if it appears to him that -

- (a) the purpose or each of the purposes specified in the order has been achieved or is incapable of achievement, or
- (b) it would otherwise be desirable or expedient to discharge or vary the order.

(3) The Court, on hearing an application under this section for the discharge or variation of an administration order, may, on such terms and conditions as it thinks fit -

- (a) grant or dismiss the application,
- (b) adjourn the hearing, conditionally or unconditionally, or
- (c) make an interim order or any other order it thinks fit.

(4) Where an administration order is discharged or varied under this section -

- (a) the Greffier shall enter a copy of the order effecting the discharge or variation in the Register of Companies, and

- (b) the administrator shall, within such time as the Court may direct, send a copy thereof to such persons as the Court may direct.

Remuneration, and swearing in, of administrator.

42. (1) The administrator's remuneration, and any costs, charges and expenses properly incurred in the administration of -

- (a) an incorporated cell company, or
- (b) an incorporated cell,

(in this section the "**company**"), are payable from the company's assets in priority to all other claims.

(2) The administrator's fees shall be fixed by the Court.

(3) An administrator shall be sworn before the Court when the Court makes the administration order or at any other time directed by the Court.

Vacation of office.

43. (1) The administrator -

- (a) may at any time be removed from office by order of the Court,
- (b) may resign his office by giving notice of resignation to the Court, and

- (c) shall vacate office if the administration order is discharged.

(2) Where there is a vacancy in the office of administrator the Court may, on the application of any interested party, appoint a replacement.

Release of administrator.

44. (1) A person who has ceased to be the administrator of an incorporated cell company or an incorporated cell has his release with effect from -

- (a) in the case of a person who has died, the time at which notice is given to the Court that he has ceased to hold office,
- (b) in any other case, such time as the Court may determine.

(2) Where a person has his release under this section he is, with effect from the time of release, discharged from all liability both in respect of his acts and omissions in the administration and otherwise in relation to his conduct as administrator, except to the extent that he has incurred personal liability by virtue of section 38(4).

(3) However, nothing in this section prevents the exercise, in relation to a person who has his release under this section, of the Court's powers under section 106 of the 1994 Law (remedy against delinquent officers).

Information to be given by administrator.

45. (1) Where an administration order has been made, the administrator shall -

(a) forthwith send to -

(i) the incorporated cell company, or

(ii) the incorporated cell,

in respect of which the order was made (in this section the "**company**") and publish in La Gazette Officielle notice of the order, and

(b) within 28 days after the day of the making of the order-

(i) unless the Court orders otherwise, send notice of the order to all creditors of the company (so far as he is aware of their addresses),

(ii) where the order is in respect of an incorporated cell company, send notice of the order to its incorporated cells,

(iii) where the notice is in respect of an incorporated cell, send notice of the order to its incorporated cell company, and

(iv) send notice of the order to the Commission.

(2) Where an administration order has been made -

- (a) the Greffier shall enter a copy of the order in the Register of Companies, and
- (b) the administrator shall, within such time as the Court may direct, send a copy of the order to such persons as the Court may direct.

Statement of affairs to be submitted to administrator.

46. (1) Where an administration order has been made, the administrator may require all or any of the persons mentioned in subsection (3) to make out and submit to him a statement in such form as he may require as to the affairs of -

- (a) the incorporated cell company, or
- (b) the incorporated cell,

in respect of which the order was made (in this section the "**company**").

(2) The statement shall be verified by affidavit of the persons required to submit it (or in such other manner as the administrator may require) and shall show -

- (a) particulars of the company's assets, debts and liabilities,
- (b) the names and addresses of its creditors,
- (c) any securities held by any of its creditors,

- (d) the dates when those securities were respectively given, and
 - (e) such further or other information as the administrator may require.
- (3) The persons referred to in subsection (1) are -
- (a) those who are or have been officers of the company,
 - (b) those who have taken part in the company's formation at any time within the period of one year before the date of the administration order ("the preceding year"),
 - (c) those who are in the company's employment or have been in its employment within the preceding year, and are in the administrator's opinion capable of giving the information required,
 - (d) those who are or have within the preceding year been officers of or in the employment of a company which is, or within the preceding year was, an officer of the company,

and in this subsection "employment" includes employment under a contract for services.

(4) Where any persons are required under this section to submit a statement of affairs to the administrator, they shall do so (subject to the next

subsection) within a period of 21 days after the day on which written notice of the requirement is given to them by the administrator.

(5) The administrator, if he thinks fit, may -

- (a) at any time release a person from an obligation imposed on him under subsection (1) or (2), or
- (b) either when giving notice under subsection (4) or subsequently, extend the period mentioned in that subsection,

and where the administrator has refused to exercise a power conferred by this subsection, the Court, if it thinks fit, may exercise it.

(6) If a person without reasonable excuse fails to comply with any obligation imposed under this section, he is guilty of an offence and liable to a fine not exceeding level 5 on the uniform scale and to a further fine not exceeding level 2 on the uniform scale for each day on which the failure to comply continues after the date of conviction.

(7) Nothing in this section compels the production or divulgence by an advocate or other legal adviser of an item subject to legal professional privilege (within the meaning of section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^j), but an advocate or other legal adviser may be required to give the name and address of any client.

(8) A requirement imposed by an administrator under this section

^j Order in Council No. XXIII of 2003.

has effect notwithstanding any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise, and accordingly the obligation or restriction is not contravened by the making of a disclosure pursuant to such a requirement.

Protection of interests of creditors and members.

47. (1) At any time when an administration order is in force, the Commission, or a creditor or member of -

- (a) the incorporated cell company, or
- (b) the incorporated cell,

to which the order relates (in this section the "**company**") may apply to the Court for an order under this section on the ground -

- (i) that the company's affairs, business and property are being or have been managed by the administrator in a manner which is unfairly prejudicial to the interests of its creditors or members generally, or of some part of its creditors or members (including, except where the applicant is the Commission, at least the applicant himself),
- (ii) that any actual or proposed act or omission of the administrator is or would be so prejudicial, or
- (iii) that it would otherwise be desirable or expedient for an order under this section to be made.

(2) The Court, on hearing an application for an order under this section, may, on such terms and conditions as it thinks fit -

- (a) dismiss the application, or make such order as it thinks fit for giving relief in respect of the matters complained of,
- (b) adjourn the hearing, conditionally or unconditionally, or
- (c) make an interim order or any other order that it thinks fit.

(3) An order under this section may in particular -

- (a) regulate the future management by the administrator of the company's affairs, business and property,
- (b) require the administrator to refrain from doing or continuing an act complained of by the applicant, or to do an act which the applicant has complained he has omitted to do,
- (c) require the summoning of a meeting of members for the purpose of considering such matters as the Court may direct,
- (d) discharge the administration order and make such consequential provision as the Court thinks fit.

(4) Where the administration order is discharged -

- (a) the Greffier shall enter a copy of the order effecting the discharge in the Register of Companies, and
- (b) the administrator shall, within such time as the Court may direct, send a copy thereof to such persons as the Court may direct.

(5) An application for an order under this section may also be made, with leave of the Court, by a person other than one described in subsection (1).

Exclusion of other administration provisions.

48. After section 77O of the 1994 Law (exclusion of protected cell companies from administration provisions)^k insert the following section -

"Exclusion of incorporated cell companies.

77OA. An administration order may not be made under this Part of this Law in respect of an incorporated cell company or an incorporated cell (within the meaning of the Incorporated Cell Companies Ordinance, 2006), and the making of administration orders in respect of incorporated cell companies or incorporated cells shall continue to be governed by that Ordinance."

Alterations

^k As proposed to be inserted by the Projet de Loi entitled "The Companies (Guernsey) (Amendment) Law, 2005" approved by resolution of the States on 26th October 2005, Billet D'État XV, Article 1.

Amendment of constitution of incorporated cells.

49. The articles of an incorporated cell may be amended -

- (a) in the manner set out in those articles, or
- (b) in the absence of such a provision, by special resolution of both the incorporated cell and of its incorporated cell company.

Conversion of company into incorporated cell company.

50. (1) A company may be converted into an incorporated cell company in accordance with the provisions of this section.

(2) The company must -

- (a) have the consent of the Commission to so convert,
- (b) pass a special resolution to authorise that conversion and to alter its memorandum to state that it is an incorporated cell company,
- (c) change its name, to comply with section 3, in accordance with section 22 of the 1994 Law,

and in addition, each of its directors who has authorised the conversion must sign a declaration that he believes, on reasonable grounds, that the requirements of this section have been fulfilled.

(3) The provisions of section 7 (consent of Commission required for protected cell company) and section 8 (application for consent of Commission)

of the 1997 Ordinance shall apply to the conversion of a company into an incorporated cell company as they apply to the conversion of a company into a protected cell company.

(4) The Commission shall have the same power to prescribe fees in respect of an application for consent for the conversion of a company into an incorporated cell company as it does for the conversion of a company into a protected cell company.

(5) The company shall deliver to the Greffier -

- (a) a copy of the consent of the Commission,
- (b) a copy of the special resolution altering its memorandum,
- (c) a copy of its amended memorandum,
- (d) a copy of the special resolution authorising its change of name,
- (e) the declaration of the directors under subsection (2),
and
- (f) a fee of £150.

(6) The Greffier shall file in the Register of Companies a copy of the Commission's consent granted under section 7(1) of the 1997 Ordinance.

(7) The Greffier shall, upon receipt of the documents and fee

specified in subsection (5) issue a certificate of conversion into incorporated cell company, and the certificate shall state the date upon which the certificate has effect.

Conversion of protected cell company into incorporated cell company.

51. (1) A protected cell company may be converted into an incorporated cell company in accordance with the provisions of this section.

(2) The protected cell company must -

- (a) have the consent of the Commission to so convert,
- (b) pass a special resolution authorising that conversion and altering its memorandum and articles accordingly,
- (c) change its name, in order to -
 - (i) remove from its name the expression required by section 6 of the 1997 Ordinance, and
 - (ii) comply with section 3 of this Ordinance,

in accordance with section 22 of the 1994 Law,

and in addition -

- (d) the holders of cell shares of each cell must pass a special resolution -
 - (i) authorising its conversion into an incorporated

cell of the incorporated cell company,

- (ii) specifying its new name (which must comply with the requirements of section 8), and
 - (iii) specifying its memorandum and articles accordingly, and
- (e) each of its directors who authorised the conversion must sign a declaration in accordance with subsection (5).

(3) The provisions of section 7 (consent of Commission required for protected cell company) and section 8 (application for consent of Commission) of the 1997 Ordinance shall apply to the conversion of a protected cell company into an incorporated cell company as they apply to the conversion of a company into a protected cell company.

(4) The Commission shall have the same power to prescribe fees in respect of an application for consent for the conversion of a protected cell company into an incorporated cell company as it does for the conversion of a company into a protected cell company.

(5) The declaration referred to in subsection (2)(e) must state that each such director believes on reasonable grounds that -

- (a) the protected cell company is able to discharge its liabilities as they fall due,
- (b) there are no creditors of the protected cell company

whose interests will be unfairly prejudiced by the conversion, and

(c) the requirements of this section have been fulfilled.

(6) Notice of an application under this section shall, before the application is made, be placed in La Gazette Officielle on two successive weekly occasions setting out the terms of the application.

(7) The protected cell company shall deliver to the Greffier -

- (a) a copy of the consent of the Commission,
- (b) a copy of the special resolution of the protected cell company,
- (c) a copy of the special resolution passed by the holders of cell shares of each cell,
- (d) a copy of its amended memorandum and articles,
- (e) a copy of the memorandum and articles of its cells,
- (f) a copy of the special resolution authorising its change of name,
- (g) the declaration of the directors under subsection (2)(e),
and
- (h) a fee of £150 together with a fee of £125 for each cell.

(8) The special resolution passed by the holders of cell shares of each cell of the protected cell company shall be treated as a cell resolution within the meaning of section 5, and accordingly subsections (3) and (4) of that section shall apply to it.

(9) Upon receipt of the documents and fee specified in subsection (7), and if the Court authorises the registration of the cells' memorandum and articles submitted under subsection (8), and if the Court by order confirms the change of name in accordance with section 22 of the 1994 Law, the Greffier shall -

(a) in respect of the protected cell company -

- (i) issue to it a certificate of conversion from protected cell company into incorporated cell company, and the certificate shall state the date upon which the certificate has effect,
- (ii) register its conversion into an incorporated cell company, and
- (iii) register its amended memorandum and articles, and

(b) in respect of each cell of the protected cell company -

- (i) register the conversion of those cells into incorporated cells of the incorporated cell company,

- (ii) register their memorandum and articles,
- (iii) issue to them a certificate of registration which shall be conclusive evidence that they are duly registered, and
- (iv) allocate a registration number to them.

(10) Where a protected cell company is converted into a incorporated cell company by virtue of this section -

- (a) all property and rights to which the core of the protected cell company (within the meaning of the 1997 Ordinance) was entitled immediately before its conversion remain the property and rights of the incorporated cell company,
- (b) the incorporated cell company remains subject to all criminal and civil liabilities, and all contracts, debts and other obligations, to which the core of the protected cell company was subject immediately before its conversion,
- (c) all actions and other legal proceedings which, immediately before the conversion, were pending by or against the core of the protected cell company may be continued by or against the incorporated cell company,
- (d) all property and rights attributable to a cell of the

protected cell company immediately before its conversion become the property and rights of the incorporated cell which it has become,

- (e) an incorporated cell becomes subject to all criminal and civil liabilities, and all contracts, debts and other obligations, which immediately before the conversion were attributable to the cell of the protected cell company which it was,
- (f) all actions and other legal proceedings which, immediately before the conversion, were pending by or against the protected cell company in respect of any of its cells, may be continued by or against the incorporated cell which that cell has become.

(11) A creditor or member of the protected cell company (including a creditor or member in respect of any of its cells) may apply to the Court, within the period of 30 days following the date upon which the certificate comes into effect, to set aside the conversion on the grounds that it, or its terms, will unfairly prejudice his interests.

(12) The Court on hearing an application under subsection (11) may make such order, on such terms and conditions, as it thinks fit.

Conversion of incorporated cell into independent company.

52. (1) An incorporated cell may be converted into a company independent of its incorporated cell company in accordance with the provisions of this section.

(2) The incorporated cell must -

- (a) pass a special resolution to that effect,
- (b) change its name in order to remove from its name the expression required by section 8 of this Ordinance, in accordance with section 22 of the 1994 Law,

and in addition, each of its directors who has authorised the conversion must sign a declaration that he believes, on reasonable grounds, that the requirements of this section have been fulfilled.

(3) The incorporated cell shall deliver to the Greffier -

- (a) a copy of the special resolution referred to in subsection (2)(a),
- (b) a copy of the special resolution authorising its change of name,
- (c) a copy of its amended memorandum,
- (d) the declaration of the directors under subsection (2),
and
- (e) a fee of £150.

(4) Upon receipt of the documents and fee specified in subsection (3), and if the Court by order confirms the change of name in accordance with section 22 of the 1994 Law, the Greffier shall issue a certificate of conversion of

incorporated cell into company, and the certificate shall state the date upon which it has effect.

(5) Where an incorporated cell is converted into a company by virtue of this section -

- (a) all property and rights to which it was entitled immediately before its conversion remain its property and rights,
- (b) it remains subject to all criminal and civil liabilities, and all contracts, debts and other obligations to which it was subject immediately before its conversion,
- (c) all actions and other legal proceedings which, immediately before its conversion, were pending by or against it may be continued by or against it.

(6) A member of the incorporated cell who objects to its conversion may apply to the Court for an order under section 75 of the 1994 Law, to set aside the conversion on the grounds that the conversion or the terms of the conversion unfairly prejudice his interests.

(7) An application under subsection (6) may not be made after the expiration of the period of 30 days following the date on which the certificate comes into effect.

(8) The prior consent of Her Majesty's Procureur shall be required for the conversion of an incorporated cell into a company independent of its incorporated cell company.

Transfer of incorporated cells between incorporated cell companies.

53. (1) An incorporated cell of an incorporated cell company may be transferred to another incorporated cell company in accordance with the provisions of this section.

(2) The incorporated cell companies shall enter into a written agreement that sets out the terms of the transfer ("**the transfer agreement**").

(3) A transfer of an incorporated cell is approved when -

(a) the directors of each incorporated cell company have approved the transfer agreement,

(b) the transfer agreement is approved by a special resolution of -

(i) the incorporated cell company to which the incorporated cell is being transferred, and

(ii) the incorporated cell which is being transferred.

(4) Within 21 days of a transfer agreement being approved, the incorporated cell company to which the incorporated cell is being transferred shall deliver to the Greffier -

(a) a copy of the special resolution of the company approving the transfer agreement,

- (b) a copy of the special resolution of the incorporated cell being transferred approving the transfer agreement,
- (c) a copy of the transfer agreement,
- (d) a copy of any amended memorandum and articles of the incorporated cell being transferred,
- (e) a declaration made in accordance with subsection (5), signed by each director of the incorporated cell company transferring the incorporated cell who authorised the transfer, and
- (f) a fee of £150.

(5) The declaration referred to in subsection (4)(e) must state that each such director believes on reasonable grounds that -

- (a) the incorporated cell being transferred is able to discharge its liabilities as they fall due,
- (b) the transfer agreement has been approved in accordance with this section, and
- (c) the requirements of this section have been fulfilled.

(6) The Greffier shall, upon receipt of the documents and fee specified in subsection (4) -

- (a) issue to the incorporated cell a certificate of transfer of

incorporated cell, and the certificate shall state the date upon which it has effect,

- (b) register the transfer of the incorporated cell and any amended memorandum and articles of the incorporated cell, and
- (c) record that the incorporated cell has ceased to be an incorporated cell of the incorporated cell company that transferred it.

(7) Where an incorporated cell is transferred by virtue of this section -

- (a) the incorporated cell ceases to be an incorporated cell of the incorporated cell company that transferred it,
- (b) the incorporated cell becomes an incorporated cell of the incorporated cell company to which it has been transferred,
- (c) the memorandum and articles of the incorporated cell shall be as provided for in the transfer agreement,
- (d) all property and rights to which the incorporated cell was entitled immediately before its transfer remain the property and rights of the incorporated cell,
- (e) all civil and criminal liabilities and all contracts, debts and other obligations to which the incorporated cell

was subject immediately before its transfer remain the liabilities, contracts, debts and other obligations of the incorporated cell, and

- (f) all actions and other legal proceedings which, immediately before its transfer were pending by or against the incorporated cell may be continued by or against the incorporated cell.

Conversion of company into incorporated cell and transfer to incorporated cell company.

54. (1) A company that is neither an incorporated cell company nor a protected cell company ("**the non-cellular company**") may become an incorporated cell of an incorporated cell company in accordance with the provisions of this section.

(2) The non-cellular company and the incorporated cell company shall enter into a written agreement that sets out the terms of the transfer ("**the transfer agreement**").

(3) The non-cellular company shall change its name, to comply with section 8, in accordance with section 22 of the 1994 Law.

(4) A transfer of a non-cellular company is approved when -

- (a) the directors of the non-cellular company and the incorporated cell company have approved the transfer agreement, and
- (b) the transfer agreement is approved by a special

resolution of the non-cellular company and the incorporated cell company.

(5) Within 21 days of a transfer agreement being approved, the incorporated cell company shall deliver to the Greffier -

- (a) a copy of the special resolution of the non-cellular company,
- (b) a copy of the special resolution of the incorporated cell company,
- (c) a copy of the transfer agreement,
- (d) a copy of the amended memorandum and articles of the non-cellular company,
- (e) a declaration made in accordance with subsection (6), signed by each director of the non-cellular company and the incorporated cell company who authorised the transfer, and
- (f) a fee of £150.

(6) The declaration referred to in subsection (5)(e) must state that each such director believes on reasonable grounds that -

- (a) the non-cellular company is able to discharge its liabilities as they fall due,

(b) the transfer agreement has been approved in accordance with this section, and

(c) the requirements of this section have been fulfilled.

(7) If an incorporated cell company fails to deliver the documents and fee specified in subsection (5) within the period mentioned in that subsection, it is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

(8) Upon receipt of the documents and fee specified in subsection (5), and if the Court by order confirms the change of name in accordance with section 22 of the 1994 Law, the Greffier shall -

(a) issue to the non-cellular company a certificate of conversion into incorporated cell, and the certificate shall state the date upon which it has effect,

(b) register the conversion of the non-cellular company and its transfer as an incorporated cell to the incorporated cell company, and

(c) register any amended memorandum and articles of the non-cellular company.

(9) Where a non-cellular company becomes the incorporated cell of an incorporated cell company by virtue of this section -

(a) its memorandum and articles shall be as provided for in the transfer agreement,

- (b) all property and rights to which it was entitled immediately before its conversion remain its property and rights,
- (c) all civil and criminal liabilities and all contracts, debts and other obligations to which it was subject immediately before its conversion remain its liabilities, contracts, debts and other obligations,
- (d) all actions and other legal proceedings which, immediately before its conversion, were pending by or against it may be continued by or against it.

Expulsion of incorporated cell from its incorporated cell company.

55. (1) An application to the Court to expel an incorporated cell from its incorporated cell company, on a ground set out in subsection (2), may be made by -

- (a) the Commission,
- (b) the incorporated cell company,
- (c) the administrator of the incorporated cell company, or
- (d) the liquidator of the incorporated cell company.

(2) The grounds referred to in subsection (1) are -

- (a) that the affairs of the incorporated cell are being or

have been conducted in a manner which is unfairly prejudicial to its incorporated cell company or any incorporated cell of that company, or to the members of that company or its incorporated cells,

- (b) that the incorporated cell is being or has been used for fraudulent purposes,
- (c) that to fail to do so would jeopardize the reputation of the Bailiwick as a finance centre, or
- (d) that it would be just and equitable to do so.

(3) The Court can make such order as it thinks fit upon an application under this section and upon such terms and conditions as it thinks fit, including an order requiring the incorporated cell to convert into a company.

Directors' declarations.

56. (1) The Greffier, when performing his functions under section 50, 51, 52, 53 or 54, may rely upon the documents given to him under those sections by the directors in all respects and accordingly shall not be bound to enquire further as to whether, in relation to those companies, the provisions of this Ordinance have been complied with.

(2) A director who makes a declaration under section 50, 51, 52, 53 or 54 without having the grounds to do so is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Conversions, transfers or expulsions not a default.

57. The operation of sections 50 to 55 shall not be regarded -

- (a) as a breach of contract or confidence or otherwise as a civil wrong,
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities, or
- (c) as giving rise to any remedy, by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.

General provisions

Criminal liability of officers, etc.

58. (1) Where an offence under this Ordinance committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the company or any person purporting to act in any such capacity, he as well as the company is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a company are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were an officer.

(3) For the purposes of this section a person in accordance with whose directions or instructions any officer of a company acts shall be deemed to be an officer of the company.

(4) In section 117(1) of the 1994 Law -

- (a) in the definition of "officer" after the word "liquidator" insert the words ", administrator of an incorporated cell company or incorporated cell", and
- (b) insert the following definition in the appropriate place-

"administrator of an incorporated cell company or incorporated cell" means a person appointed by the Court to manage the affairs, business and property of an incorporated cell company or an incorporated cell under an administration order made by the Court under the Incorporated Cell Companies Ordinance, 2006."

Applications for directions.

59. (1) A director of an incorporated cell company or incorporated cell may apply to the Court for directions as to how he should or might act in any of the affairs of the incorporated cell company or incorporated cell, and upon such an application the Court may make such order as it thinks fit.

(2) An application under subsection (1) may be made ex parte.

(3) The Court hearing an application under this section may direct that the whole or any part of the application shall be heard in camera, and an application for a direction under this subsection shall be heard in camera unless the Court directs otherwise.

Power of Court to grant relief in certain cases.

60. (1) If in proceedings for negligence, default, breach of duty or breach of trust against an officer of an incorporated cell company or an incorporated cell, it appears to the court hearing the case that the officer is or may be liable but that -

- (a) he acted honestly and reasonably, and
- (b) having regard to all the circumstances of the case (including those connected with his appointment) he ought fairly to be excused,

the court may relieve him, either wholly or in part, from his liability on such terms as it thinks fit.

(2) If any such officer of a company has reason to apprehend that a claim will or might be made against him in respect of negligence, default, breach of duty or breach of trust -

- (a) he may apply to the Court for relief, and
- (b) the Court has the same power to relieve him as it would have had if it had been a court before which proceedings against him for negligence, default, breach of duty or breach of trust had been brought.

Power of the Commission to make regulations.

61. (1) The Commission may, after consultation with the Department, make such regulations as it thinks fit concerning incorporated cell companies and incorporated cells.

(2) Without prejudice to the generality of subsection (1), regulations of the Commission under this Ordinance may make provision in respect of any of the following matters -

- (a) the conduct of the business of incorporated cell companies and incorporated cells,
- (b) the manner in which incorporated cell companies and incorporated cells may carry on, or hold themselves out as carrying on, business,
- (c) the form and content of the accounts of incorporated cell companies and incorporated cells,
- (d) the winding up or administration of incorporated cell companies and incorporated cells, and
- (e) generally for the implementation of this Ordinance.

(3) Regulations of the Commission under this Ordinance may provide that the provisions of this Ordinance shall apply in relation to any class or description of company specified by or prescribed under section 7(1) of the 1997 Ordinance, as it applies to this Ordinance, subject to such exceptions, adaptations and modifications as may be specified in the regulations.

Power of Department to make regulations amending fees.

62. The Department may by regulations amend any fee payable to the Greffier under this Ordinance.

Regulations generally.

63. (1) Regulations of the Commission under section 61 or of the Department under section 62 -

- (a) may be amended or repealed by subsequent regulations hereunder,
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Commission or Department, as the case may be, to be necessary or expedient including provision amending this Ordinance,
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(2) Any power conferred upon the Commission or Department, as the case may be, by this Ordinance to make regulations may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

Special resolutions.

64. Notwithstanding section 73(3)(a) of the 1994 Law (resolutions void ab initio), and without prejudice to any provision of the Companies Laws requiring a special resolution to be approved by the Court, any special resolution referred to in this Ordinance shall not be void ab initio for failing to comply with any provision of section 73(2) (time within which special resolution must be delivered to Greffier).

Modification of document duty in its application to incorporated cells.

65. Schedule 2, which amends the Document Duty Ordinance, 2003¹, as it has effect in Guernsey, shall have effect.

Interpretation.

66. (1) In this Ordinance, unless the context requires otherwise -

¹ No. VI of 2003; modified by G.S.I 2002 No. 6; and amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

"administration order" means an administration order made by the Court in respect of an incorporated cell company or an incorporated cell under section 32,

"administrator" means a person appointed by the Court to manage the affairs, business and property of an incorporated cell company or an incorporated cell under an administration order,

"cell resolution" means a special resolution of an incorporated cell company, complying with the requirements of section 5, creating an incorporated cell,

"certificate of conversion from protected cell company into incorporated cell company" means a certificate issued by the Greffier under section 51,

"certificate of conversion into incorporated cell" means a certificate issued by the Greffier under section 54,

"certificate of conversion into incorporated cell company" means a certificate issued by the Greffier under section 50,

"certificate of conversion of incorporated cell into company" means a certificate issued by the Greffier under section 52,

"certificate of transfer of incorporated cell" means a certificate issued by the Greffier under section 53,

"Commission" means the Guernsey Financial Services Commission,

"Companies Laws" means -

- (a) the Companies (Guernsey) Law, 1994
- (b) the Companies (Enabling Provisions) Law, 1996,
- (c) the Amalgamation of Companies Ordinance, 1997,
- (d) the Guarantee Companies Ordinance, 1997,
- (e) the Migration of Companies Ordinance, 1997,
- (f) the Companies (Purchase of Own Shares) Ordinance, 1998,
- (g) the Companies (Financial Assistance for Acquisition of Own Shares) Ordinance, 1998,
- (h) the Companies (Shares of No Par Value) Ordinance, 2002,
- (i) the Companies (Purchase of Own Shares) (Treasury Shares) Ordinance, 2006,
- (j) this Ordinance, and
- (k) all other enactments which make provision for companies.

"Department" means the Commerce and Employment Department,

"enactment" includes a Law, an Ordinance and any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation,

"incorporated cell" means a cell of an incorporated cell company,

"incorporated cell company" means a company incorporated as, or converted into, an incorporated cell company in accordance with the provisions of this Ordinance,

"non-cellular company" means a company which is neither an incorporated cell company nor a protected cell company,

"protected cell company" has the same meaning as in the Protected Cell Companies Ordinance, 1997,

"security" means any mortgage, charge, hypothèque, lien or other security, and **"secured interest"** shall be read accordingly,

"special resolution" has the same meaning as in section 73 of the 1994 Law,

"subordinate legislation" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

"the 1994 Law" means the Companies (Guernsey) Law, 1994,

"the 1997 Ordinance" means the Protected Cell Companies

Ordinance, 1997,

"transfer agreement" means an agreement either between -

- (a) two incorporated cell companies setting out the terms of the transfer of an incorporated cell between them, in accordance with the provisions of section 53, or
- (b) an incorporated cell company and a non-cellular company setting out the terms of the transfer of the non-cellular company as an incorporated cell to the incorporated cell company, in accordance with the provisions of section 54.

(2) Expressions used in this Ordinance shall, unless the context requires otherwise, have the same meanings as in the 1994 Law.

(3) References in this Ordinance to an enactment are references thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

67. This Ordinance may be cited as the Incorporated Cell Companies Ordinance, 2006.

Commencement.

68. (1) Subject to subsection (2), this Ordinance shall come into force on the 1st day of May, 2006.

(2) Section 48 shall come into force on the same day as section 4

of the Project de Loi entitled "The Companies (Guernsey) (Amendment) Law, 2005".

SCHEDULE 1
POWERS OF ADMINISTRATOR

Section 38

In the application of this Schedule to the administrator of an incorporated cell company or incorporated cell (in this Schedule "the company"), the word "he" and related expressions refer to the administrator.

1. Power to take possession of, collect and get in the property of the company and, for that purpose, to take such proceedings as may seem to him expedient.
2. Power to sell or otherwise dispose of the property of the company by public auction or private contract.
3. Power to raise or borrow money and grant security for that purpose over the property of the company.
4. Power to appoint an Advocate or accountant or other professionally qualified person to assist him in the performance of his functions.
5. Power to bring or defend any action or other legal proceedings in the name and on behalf of the company.
6. Power to refer to arbitration any question affecting the company.
7. Power to effect and maintain insurances in respect of the business and property of the company.
8. Power to use the company's seal.

9. Power to do all acts and to execute in the name and on behalf of the company any receipt or other document.

10. Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company.

11. Power to appoint any agent to do any business which he is unable to do himself or which can more conveniently be done by an agent and power to employ and dismiss employees.

12. Power to do all such things (including the carrying out of works) as may be necessary for the realisation of the property of the company.

13. Power to make any payment which is necessary or incidental to the performance of his functions.

14. Power to carry on the business of the company.

15. Power to establish subsidiaries of the company.

16. Power to transfer to subsidiaries of the company the whole or any part of the business and property of the company.

17. Power to grant or accept a surrender of a lease or tenancy of any of the property of the company, and to take a lease or tenancy of any property required or convenient for the business of the company.

18. Power to make any arrangement or compromise on behalf of the company.

19. Power to call up any uncalled capital of the company.
20. Power to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of any person indebted to the company, or in désastre or saisie proceedings in relation to any such person, and to receive dividends, and to accede to trust deeds for the creditors of any such person.
21. Power to present or defend an application for the winding up of the company.
22. Power to change the situation of the company's registered office.
23. Power to do all other things incidental to the exercise of the foregoing powers.

SCHEDULE 2
MODIFICATION OF DOCUMENT DUTY IN ITS APPLICATION TO
INCORPORATED CELLS

Section 65

In Schedule 1 of the Document Duty Ordinance, 2003 for items 12 to 15 substitute the following items-

"12.	Memorandum of a Guernsey limited liability company, other than a company limited by guarantee or a company with power to issue shares of no par value.	(a) £25, or 0.25% of the nominal capital of the company, up to a nominal capital not exceeding £1,000,000, whichever is the greater, in the case of an incorporated cell of an incorporated cell company, or (b) £50, or 0.5% of the nominal capital of the company, up to a nominal capital not exceeding £1,000,000, whichever is the greater, in any other case.
13.	(a) Special Resolution, or Resolution passed in General Meeting, of a Guernsey limited liability company increasing the nominal capital of the company. (b) Special Resolution of a Guernsey limited liability company other than one - (i) increasing the nominal capital of the company or increasing the maximum number of members of a company limited by guarantee, or	0.5% (or, in the case of an incorporated cell of an incorporated cell company, 0.25%) of the increase in the nominal capital of the company, up to a nominal capital not exceeding £1,000,000. £5.00.

	(ii) incorporating an incorporated cell of an incorporated cell company.	
14.	Annual Return of a Guernsey limited liability company.	<p>£100.00: except that no document duty is payable under this paragraph in the case of a company limited by guarantee -</p> <p>(i) which has been certified by the Guernsey Financial Services Commission as set out at item 15 (c), and</p> <p>(ii) which continues to be a company the objects of which are exclusively for charitable, social, cultural, recreational or other purposes, in each case not involving any purpose of private gain or commercial undertaking,</p> <p>provided that there is submitted to the Greffier in lieu of the fee for the annual return a statement, executed for and in the name of the company, that the conditions of (a) and (b) above are satisfied in relation to the company.</p> <p>And, for the avoidance of doubt, no additional duty shall be payable in respect of a copy of so much of the annual return of the incorporated cell company as relates to an incorporated cell, as is required to be delivered to the Greffier in accordance with section 13(2)(b) of the Incorporated Cell Companies Ordinance, 2006.</p>
14A.	Memorandum of a company with power to issue shares of no par value.	(a) In the case of a company which will be declared by the Commission to be an authorised collective investment scheme under section 8

		<p>of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended, or which will be a closed-ended investment company within the meaning of paragraph 2(2) of Schedule 1 to that Law -</p> <p>(i) £1,000 in the case of an incorporated cell of an incorporated cell company, or</p> <p>(ii) £2000 in any other case.</p> <p>(b) In the case of a company other than one described in subparagraph (a), but subject to the provisions of subparagraph (c) -</p> <p>(i) £150 in the case of an incorporated cell of an incorporated cell company, or</p> <p>(ii) £300 in any other case.</p> <p>(c) In the case of a company other than one described in subparagraph (a) which has power to issue both shares of no par value and shares with a par or nominal value -</p> <p>(i) in the case of an incorporated cell of an incorporated cell company, £150 plus (in respect of that part of the company's share capital with a par or nominal value) the greater of -</p> <p>(A) £25, or</p> <p>(B) 0.25% of the nominal capital of the</p>
--	--	--

		<p>company, up to a nominal capital not exceeding 1,000,000, or</p> <p>(ii) in any other cases, £300 plus (in respect of that part of the company's share capital with a par or nominal value) the greater of -</p> <p>(A) £50, or</p> <p>(B) 0.5% of the nominal capital of the company, up to a nominal capital not exceeding 1,000,000.</p>
14B.	Special resolution of a company altering its memorandum to authorise issue of shares of no par value.	<p>(a) In the case of a company described in subparagraph (a) of paragraph 14B -</p> <p>(i) £1,000 in the case of a company so described which is an incorporated cell of an incorporated cell company, or</p> <p>(ii) £2000 in any other case</p> <p>less the amount of document duty paid on incorporation of the company.</p> <p>(b) In the case of a company other than one described in subparagraph (a) of paragraph 14B -</p> <p>(i) £150 in the case of a company not so described which is an incorporated cell of an incorporated cell company, or</p>

		(ii) £300 in any other case.
15.	<p>As respects a Guernsey company limited by guarantee -</p> <p>(a) the company's memorandum, where paragraph (c) does not apply</p> <p>(b) a special resolution of the company increasing the maximum number of its members, where paragraph (c) does not apply</p>	<p>The greater of £50 (or, in the case of an incorporated cell of an incorporated cell company, £25), or 0.5% (or in the case of an incorporated cell of an incorporated cell company 0.25%) of the sum of the following amounts, that is to say-</p> <p>(i) the amount of the nominal share capital of the company (in cases where the company has a share capital), and</p> <p>(ii) the total amount which (pursuant to the memorandum) the members of the company have collectively undertaken to contribute to the company's assets in accordance with section 4(a)(i) of the Guarantee Companies Ordinance, 1997 in the event of the company being wound up,</p> <p>up to a maximum sum of £1,000,000.</p> <p>The difference between -</p> <p>(i) the amount of document duty which, were the company being incorporated, would be payable in accordance with the provisions of item (a) by reference to its membership as increased, and</p> <p>(ii) the amount of document</p>

		<p>duty which, were the company being incorporated, would be so payable by reference to its Membership immediately before the increase,</p> <p>and such additional duty shall be payable upon delivery by the company of the special resolution to the Greffier.</p>
	<p>(c) the memorandum of the company, or a special resolution increasing the maximum number of its members, if at the time of the dutiable event, the company is certified by the Guernsey Financial Services Commission (such fee in respect of that certification as may from time to time be specified by regulation of the States Policy Council having been paid) as being a company the objects of which are exclusively for charitable, social, cultural, recreational or other purposes, in each case not involving any purpose of private gain or commercial undertaking.</p>	<p>(i) In the case of the registration of the memorandum of the company, £50.00,</p> <p>(ii) in the case of an increase in membership of the company, zero."</p>