

BILLET D'ÉTAT No. XVI, 2006

27th September, 2006

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PROJET DE LOI

ENTITLED

The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006

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PROJET DE LOI

ENTITLED

The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006

THE STATES, in pursuance of their Resolutions of the 24th February, 2005^a and the 27th September, 2006^b, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

PART I

REMOVAL OF DISCRIMINATION AGAINST ILLEGITIMATE PERSONS

Removal of discrimination against illegitimate persons.

1. (1) The provisions of this section shall apply to -
 - (a) the intestate succession to the estate, whether real or personal, of a person dying after the date of the commencement of this section ("the said date"),
 - (b) the testamentary succession to, and légitime in, the personal estate of a person whose will of personalty is executed after the said date,

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

^b Article * of Billet d'État No. * of 2006.

- (c) the testamentary succession to the real estate of a person whose will of realty is executed after the said date, and
- (d) the provisions of any relevant instrument.

(2) Any rule of law (whether statutory or otherwise) or custom by or pursuant to which, for the purposes of succession to any property, whether real or personal, an illegitimate person is, by reason of his illegitimacy, distinguished from a legitimate person, is abolished.

(3) Any reference in any will or relevant instrument, however expressed, to any relationship between two persons shall be construed, unless the contrary intention appears, without regard to whether either of those persons, or any person through whom the relationship is deduced, is legitimate or illegitimate.

(4) For the purposes of this section an illegitimate person shall be presumed not to have been survived by his father, or by any person related to him only through his father, unless the contrary is shown.

(5) For the purposes of this section -

- (a) the fact that a person is named as the father of an illegitimate person in that person's birth certificate or in an official register of births shall constitute prima facie evidence of paternity,
- (b) subject to paragraph (c), a finding in affiliation proceedings that a person is the father of an illegitimate child shall constitute conclusive evidence

of paternity,

- (c) the Court may make a declaration as to paternity on the application of a person claiming to be entitled to succeed to any property or, with the leave of the Court, any other interested person, provided that no such application shall, except with the leave of the Court (which shall only be granted in exceptional circumstances), be commenced after the expiration of six years beginning on the date of the death of the person in respect of whose property the application is made,
 - (d) the burden of proving paternity shall be on the person seeking to establish the fact.
- (6) Nothing in this section shall affect -
- (a) the succession to the property of a person who has died prior to the commencement of this Part, or
 - (b) a direction made by any person by his will of personalty pursuant to the provisions of section 1 of the Law of Inheritance (Guernsey) Law, 1979 that any illegitimate child of his shall be treated for the purposes of the Law entitled "Loi relative à la portion disponible des biens-meubles des pères et mères" registered on the 20th January, 1930 as if that child were a child of his born in lawful wedlock.

(7) In this section -

"affiliation proceedings" means proceedings in a court of competent jurisdiction by or as a result of which a person is declared by the court to be the father of an illegitimate child, whether or not the principal purpose of those proceedings was to establish the paternity of the child, but excluding proceedings the recognition or enforcement of which would be contrary to public policy,

"illegitimate child" and **"illegitimate person"** shall mean a person whose father and mother were not married to each other at the time of his birth and who has not been legitimated or adopted and who is not otherwise treated in law as legitimate, and **"illegitimate"** shall be construed accordingly,

"official register of births" means -

- (a) the register of births kept by the Registrar-General of Births and Deaths of the Island of Guernsey, or
- (b) a register of births kept elsewhere by an authority with functions comparable to those of the Registrar-General,

"relevant instrument" means an instrument executed after the said date and which is -

- (a) an instrument by which a trust is created, whether immediately or with effect from a future date, or

- (b) a policy of insurance effected by any person for the benefit of his children, whether or not his spouse is also a beneficiary, pursuant to the provisions of section 12 of the Married Women's Property Law, 1928, as amended^c, and

and includes any instrument which is made pursuant to, or for the purposes of, any instrument or policy of insurance referred to in subsections (a) or (b) above.

(8) For the avoidance of doubt, the provisions of this section do not apply to the testamentary succession to the estate, whether real or personal, of a person whose will was executed before the said date notwithstanding that one or more codicils to that will were executed after the said date.

(9) For the purposes of this section, the time of a person's birth shall be taken to include any time during the period beginning with -

- (a) the insemination resulting in his birth, or
- (b) where there was no such insemination, his conception,

and (in either case) ending with his birth.

Power to make Ordinances in respect of Part I.

2. The States may, by Ordinance -

- (a) amend the provisions of section 1(5),

^c Ordres en Conseil Vol. VIII, p. 215.

- (b) make provision for proof of paternity,
- (c) amend the definition of "**affiliation proceedings**" in section 1(7), and
- (d) amend the definition of "**relevant instrument**" in section 1(7) so as to amend or add to the classes of instrument included in that definition.

Consequential amendments.

3. In section 4 of the Law of Inheritance, 1954^d -

- (a) paragraphs (c) and (e) of subsection (1), and
- (b) subsection (5),

are repealed.

PART II

UNASCERTAINED HEIRS TO REAL PROPERTY

Administration orders.

4. (1) Where a person ("the deceased") dies intestate as to Guernsey real property, or having made a will of real property, and immediately before his death he was the owner of any such property ("the property"), and -

- (a) no heirs to the property have been identified but there

^d Ordres en Conseil Vol. XVI, p. 10; Vol. XXVII, p. 164.

is reason to believe that heirs exist,

- (b) some heirs to the property have been identified but there is reason to believe that other heirs exist,
- (c) whether or not all heirs have been identified, some or all of the identified heirs cannot be found after proper and extensive enquiries, or
- (d) in any other case where ownership of the property after the death of the deceased is, for any reason, uncertain,

the Court may grant an administration order in accordance with the provisions of this Part.

(2) An administration order under this section may be made at the instance of any person included in the following classes -

- (a) Her Majesty's Procureur,
- (b) any heir to the property, whether presumptive or absolute, who is of full age,
- (c) the legal guardian of a person who would be included in the class described in paragraph (b) but who is subject to a legal disability, whether as to age or otherwise, or
- (d) such other class or classes of persons whom the States

may by Ordinance prescribe,

and, where the applicant is a person within paragraphs (b), (c) or (d), Her Majesty's Procureur shall have the right to make representations at the hearing of the application.

(3) An administration order made under this section shall appoint as the administrator of the property one or more of the following -

- (a) Her Majesty's Procureur,
- (b) the applicant for the administration order, provided that he is ordinarily resident in Guernsey,
- (c) an advocate of the Royal Court,
- (d) the Public Trustee, or
- (e) with the approval of Her Majesty's Procureur, any other person who is ordinarily resident in Guernsey,

and any such order which appoints more than one administrator may empower the survivor of them to act alone.

(4) Only a natural person may be appointed as an administrator.

Duration of administration order.

5. (1) Subject to the following provisions of this section, an administration order shall remain in force until the proceeds of sale have been distributed in accordance with this Part of this Law or otherwise as the Court may

direct.

(2) An administrator may apply to the Court to be discharged from his functions under the administration order and the Court, before discharging him, may require an account of the administration of the property or its proceeds of sale, or both, as the case may be.

(3) An administrator may be removed by the Court if, in the opinion of the Court, he becomes incapable of acting, or refuses, neglects, or is unfit, to act.

(4) An application for removal of an administrator under subsection (3) may be made by any person at whose instance an administration order could have been made in respect of the property pursuant to section 4(2).

Appointment of replacement administrator.

6. (1) Where an administrator dies, is discharged from his functions pursuant to section 5(2), or is removed by the Court pursuant to section 5(3), and no other person is empowered to act as administrator of the property, the Court shall appoint one or more persons included in the categories set out in section 4(3) to carry out the functions of administrator in place of the administrator who has died, been so discharged or removed.

(2) Where an administrator who was acting jointly with another person or persons dies or is so discharged or removed the Court may appoint one or more additional persons to act jointly with the continuing administrator or administrators as it thinks fit.

Oath.

7. An administrator appointed by the Court shall take an oath or

affirmation in the form set out in the Schedule.

Remuneration and expenses of administrator.

8. An administrator shall be entitled to reimbursement of all reasonable expenses properly incurred during the course of the administration and to such reasonable fees for acting as administrator as the Court may approve, all such reasonable expenses and fees to be recoverable from, and which shall constitute a charge against, the proceeds of sale of the property in priority to all other claims.

Powers and duties of administrator.

9. (1) Where the Court grants an administration order pursuant to section 4, the property shall thereupon vest in the administrator to hold the same as trustee for the benefit of the heirs, whether or not yet identified ("the heirs"), and the administrator shall -

- (a) subject to subsection (5), sell the property and distribute the proceeds of sale,
- (b) pending the sale of the property, administer the property, and
- (c) pending distribution of the proceeds of sale, administer the said proceeds,

in accordance with the provisions of this Part.

(2) An administrator shall, in the exercise of his functions -

- (a) observe the utmost good faith,

- (b) act only in the interests of the heirs,
- (c) act en bon père de famille,
- (d) keep accurate accounts and records of the administration of the property and of the proceeds of sale, and
- (e) at any time, at the written request of any of the heirs, or at the direction of the Court, provide full and accurate information as to the state of the property and any income received and expenditure incurred in relation thereto and, after the sale of the property, provide full and accurate accounts in relation to the proceeds of sale.

(3) An administrator, in acting en bon père de famille, shall -

- (a) so far as is reasonable, preserve the value, and
- (b) so far as may be appropriate in the circumstances, enhance the value,

of the property pending its sale and, thereafter, of the proceeds of sale thereof.

(4) An administrator, in the exercise of his functions -

- (a) shall have, subject to the provisions of subsection (5)(b), in relation to the property, all the powers vested in the deceased immediately before his death,

including (where appropriate and without limitation) the power to let the property and, in connection with the exercise of those powers, the power to incur liabilities,

- (b) may sue and be sued as administrator,
- (c) may consult professional persons in relation to the administration and sale of the property and the administration of the proceeds of sale, but may not (subject to section 12 and to any order of the Court) delegate his functions, and
- (d) may apply to the Court for directions in relation to the administration of the property or its proceeds of sale.

(5) The administrator -

- (a) may postpone, but shall not unreasonably delay, the sale of the property, but
- (b) may not, pending the sale of the property, borrow against the security of the property, or otherwise cause any charge to be attached to the property, without the prior approval of the Court.

(6) The administrator selling, letting or otherwise dealing with real property in accordance with this Law, shall be deemed to have, and to be able to convey, all such right, title and interest in the property as was vested in the deceased immediately before his death, to the exclusion of any other person and for

all purposes.

(7) The administrator shall take all such steps as are reasonably practicable to identify the heirs entitled to the property and their respective interests therein.

(8) Following the sale of the property, which may be by private treaty or public auction, the administrator shall -

(a) hold the proceeds of sale, and any income accrued in relation to the property prior to the sale, less any fees and expenses properly deductible pursuant to section 8, separate from his own property and separately identifiable from any other property of which he is administrator, for a minimum period, subject to subsection (9), of six years commencing on the date of the sale, and

(b) as soon as reasonably practicable after the expiration of the said period of six years, apply to the Court for permission to distribute the proceeds of sale, less any further fees and expenses properly deductible pursuant to section 8, to the persons whom the administrator has identified as the heirs entitled to the proceeds of sale or, if no such heirs have been identified, or the administrator has reason to believe that some only have been identified, apply to the Court for directions.

(9) Notwithstanding the provisions of subsection (8)(b), the Court may, on application by the administrator, order the distribution of the proceeds of

sale of the property, less any further fees and expenses properly deductible pursuant to section 8, before the expiration of the said period of six years.

(10) Where the Court has ordered distribution of the proceeds of sale before the expiration of the said period of six years -

- (a) such distribution shall be made without prejudice to any claim during the remainder of that period by any heir to whom distribution has not been made against the heirs to whom distribution was made, and
- (b) any such heir to whom distribution has not been made shall, until the expiration of the said period of six years, have a lien on the proceeds of sale, but
- (c) the administrator, having made the distribution in accordance with the order of the Court, shall be discharged from personal liability in respect of the distribution.

(11) An application made under subsection (8)(b) or (9) shall -

- (a) describe, by affidavit, the steps taken by the administrator to identify the heirs, and state whether or not, and to what extent, the administrator is satisfied that all the heirs have been identified, and identify the heirs to whom the administrator proposes to distribute the proceeds of sale, or
- (b) make such application for directions as the

administrator thinks fit.

Liability for breach of trust.

10. (1) Subject to the provisions of this Law, an administrator who commits or concurs in a breach of trust is liable for -

- (a) any loss or depreciation in value of the property or the proceeds of sale resulting from the breach, and
- (b) any profit which would have accrued had there not been a breach.

(2) An administrator is not liable for a breach of trust committed by another person prior to his appointment.

(3) An administrator is not liable for a breach of trust committed by a co-administrator unless -

- (a) he was aware, or becomes or ought to have become aware, of the breach, or of the intention of his co-administrator to commit the breach, and
- (b) he actively conceals the breach or intention, or fails within a reasonable time to take proper steps to protect or restore the property or the proceeds of sale or to prevent the breach.

(4) Where co-administrators are liable for a breach of trust, they are liable jointly and severally.

(5) An administrator who becomes aware of a breach of trust to which subsection (3) applies shall take all reasonable steps to remedy the breach.

Non-disclosure of deliberations etc.

11. Subject to an order of the Court to the contrary, an administrator is not obliged to disclose any documents which reveal -

- (a) his deliberations as to how he should exercise his functions as administrator,
- (b) the reasons for any decision made in the exercise of those functions, or
- (c) the material upon which such a decision was or might have been based.

Appointment of attorney.

12. An administrator may appoint any person as his attorney for the purpose of executing any document (including a document creating or evidencing any charge on the property) or attending in court to consent to a sale of the property, but, in any such case, subject to the prior approval of the administrator to the terms of the document or the sale: and nothing in this section shall relieve the administrator from any liability therefor.

Court may relieve administrator of liability.

13. The Court may relieve an administrator wholly or partly of liability for a breach of trust if the Court is satisfied that the administrator -

- (a) has acted honestly and reasonably, and

(b) ought fairly to be excused -

(i) for the breach, and

(ii) for failing to obtain the directions of the Court in the matter in respect of which the breach arose.

Power of Court in event of default.

14. If an administrator does not comply with an order of the Court requiring him to do anything, then without prejudice to its other powers, the Court may, on such terms and conditions as it thinks fit, order that the thing be done by another person nominated for the purpose by the Court, at the personal expense of the administrator or otherwise as the Court directs; and a thing so done has effect in all respects as if done by the administrator.

Dealings by administrator with third parties.

15. (1) Where, in a transaction or matter affecting the property or the proceeds of sale, an administrator informs a third party that he is acting as trustee, a claim by the third party in respect of the transaction or matter shall, subject to subsection (3), extend only to the value of the property at the time of the transaction, or the amount of the proceeds of sale from time to time, as the case may be.

(2) If an administrator fails to inform the third party that he is acting as trustee and the third party is otherwise unaware of the fact -

(a) the administrator incurs personal liability to the third party in respect of the transaction or matter, and

- (b) he has a right of indemnity against the property or the proceeds of sale in respect of his personal liability, unless he acted in breach of trust.

(3) Nothing in this section prejudices an administrator's liability for breach of trust or any claim for breach of warranty of authority.

(4) In this section "third party" means a person other than any person mentioned in section 4(2), except where the administrator is transacting with such a person.

Applications for directions.

16. An administrator may apply to the Court for directions as to how he should or might act in the course of his administration, and the court may make such order as it thinks fit.

General powers of the Court.

17. (1) On the application of any person mentioned in subsection (2), the Court may -

- (a) make an order in respect of -
 - (i) the execution or enforcement of the administration of the property,
 - (ii) the administrator, including (without limitation) an order as to the exercise by the administrator of his functions, the removal of the administrator, the appointment, remuneration or conduct of the administrator, the keeping

and submission of accounts, and the making or payments, whether into court or otherwise,

(iii) the heirs, or any person connected or concerned with the administration,

(iv) any property, real or personal, subject to the administration, including an order as to its vesting, preservation, application or recovery,

(b) rescind or vary an order or direction, or make a new or further order or direction.

(2) An application under subsection (1) may be made by Her Majesty's Procureur, the administrator, or an heir, or, with leave of the Court, any other person.

(3) Where the Court appoints or removes an administrator under this Part, it may impose such requirements and conditions as it thinks fit, including (without limitation) requiring an administration bond to be given in any case.

Power to make Ordinances in respect of Part II.

18. The States may by Ordinance amend the provisions of this Part.

Interpretation of Part II.

19. In this Part, unless the context otherwise requires -

"the administrator" shall include more than one administrator acting jointly,

"Her Majesty's Procureur" shall include Her Majesty's Comptroller.

PART III

LAW RELATING TO WILLS

Will disposing of real and personal property.

20. A will of real property may be made in the same document as a will of personal property.

Signing and attestation of wills and codicils.

21. (1) No will or codicil shall be valid unless -

- (a) it is in writing and signed by the testator or by some other person in his presence and by his direction,
- (b) it appears that the testator intended by his signature to give effect to the will,
- (c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and
- (d) each witness either -
 - (i) attests and signs the will, or
 - (ii) acknowledges his signature,

in the presence of the testator (but not necessarily in

the presence of any other witness),

but no form of attestation is necessary.

(2) Any person who has attained the age of 14 years, and who is not the spouse or a descendant of the testator, is competent to attest the execution of a will in accordance with the provisions of subsection (1).

(3) Any gift in a will to a person, or to the spouse of a person, who attested the execution of the will, shall be void and of no effect.

(4) No person shall, on account of his being an executor of a will, be incompetent to attest the execution of such will.

(5) Nothing in this section shall affect the making or validity of a holographic will of personal property pursuant to Article 2 of the Loi relative aux Testaments de Meubles of 1847^e.

Saving as to wills of soldiers and mariners.

22. Nothing in this Law shall prevent any soldier being in actual military service, or any mariner or seaman being at sea, from disposing of his estate as he might have done before the commencement of this Part.

Will not to be void on account of incompetence of attesting witness.

23. Where any person who attests the execution of a will is, whether at the time of such execution or at any time thereafter, incompetent as a witness to prove the execution of that will, such will shall not for that reason be invalid.

^e Ordres en Conseil Vol. I, p. 163.

Revocation of wills.

24. A will or codicil may be revoked -

- (a) by another will or codicil executed in accordance with the formalities set out in this Part,
- (b) by a declaration in writing of the testator's intention to revoke such will or codicil, executed in accordance with the said formalities, or
- (c) by the physical destruction of such will or codicil, by the testator or by some other person in his presence and by his direction, with the intention of revoking the same.

Alterations after execution.

25. (1) Subject to subsection (2), no alteration made in a will after execution shall be valid, except in so far as the words or the effect of the will before alteration are not apparent.

(2) Where an alteration is made in a will after execution, the altered will shall be deemed to be duly executed if the signatures of the testator and the witnesses are appended -

- (a) in the margin or on some other part of the will near such alteration, or
- (b) at the foot or end of, or opposite to, a memorandum referring to such alteration, written at the end of some other part of the will.

Revival of revoked will.

26. No will or codicil, or any part thereof, which has been revoked, shall be revived except by the re-execution thereof, or by a codicil executed in accordance with the formalities set out in this Part and showing an intention to revive the same; and when any will or codicil which has been partly revoked, and afterwards wholly revoked, is revived, such revival shall not extend to that part as had been revoked before the revocation of the whole, unless an intention to the contrary is shown.

Gift to testator's issue.

27. (1) Where -

- (a) a will contains a gift to a child or remoter descendant of the testator,
- (b) the intended beneficiary dies before the testator, leaving issue, and
- (c) issue of the intended beneficiary are living at the date of the testator's death,

then, unless a contrary intention appears by the will, the gift shall take effect as a gift to the issue living at the testator's death.

(2) Where -

- (a) a will contains a gift to a class of person consisting of children or remoter descendants of the testator,

- (b) a member of the class dies before the testator, leaving issue, and
- (c) issue of that member are living at the date of the testator's death,

then, unless a contrary intention appears by the will, the gift shall take effect as if the class included the issue of its deceased member living at the testator's death.

(3) This section shall apply to issue in all degrees but such issue shall receive, in equal shares if more than one, any gift or share which their parent would have taken, and shall not take if such parent is living at the date of the testator's death.

(4) For the purposes of this section, a person conceived before the testator's death and born living thereafter is deemed to have been living at the date of the testator's death.

Consequential repeals.

28. The following enactments are repealed -

- (a) Articles 15 and 16 of the Law entitled "Loi sur les Successions" registered on the 3rd August 1840^f,
- (b) sections 3 to 10 of the Loi relative aux Testaments de Meubles of 1847,
- (c) Articles 1, 4, 5 and 8 of the Law entitled "Des

^f Ordres en Conseil Vol. I, p. 51.

Formalités requises pour les Testaments d'Immeubles" registered on the 26th June 1852^g, so far as they apply to the Island of Guernsey,

- (d) subsections (2) and (3) of section 4 of the Law of Inheritance, 1954.

Interpretation of Part III.

29. In this Part of this Law, except where the context otherwise requires, the word "will" shall extend to a testament, and to a codicil, and to an appointment by will or by writing in the nature of a will in exercise of a power, and also to an appointment by will of a guardian of a child, and to any other testamentary disposition.

Application of Part III.

30. This Part of this Law shall apply to any will, or to any alteration to any will, executed after the commencement of this Part.

PART IV PRESCRIPTION

Amendment of prescription period in certain cases.

31. (1) Notwithstanding the provisions of the Law entitled "Loi relative à la Prescription Immobilière" registered on the 23rd April 1909^h ("the 1909 Law"), and subject to subsection (2), any action, proceeding, claim or right in respect of any real property by or vested in any person claiming to be an heir to that real property against a person who has acquired it, whether for value or otherwise,

^g Ordres en Conseil Vol. I, p. 212.

^h Ordres en Conseil Vol. IV, p. 281.

in good faith from the heirs, or persons purporting to be the heirs (which would otherwise be prescribed by the lapse of twenty years), shall be prescribed by the lapse of six years from the date of the acquisition.

(2) If it appears to the court in the circumstances of any case that it would be equitable to allow an action to proceed notwithstanding that the action would otherwise, pursuant to the provisions of subsection (1), be prescribed, the court may at its discretion extend the period within which the action may be brought provided that such extended period shall not exceed twenty years.

(3) Where, on the coming into force of this section ("the operative date"), a period of prescription has already commenced to run under the 1909 Law, and that period would, under the 1909 Law, expire more than six years after the operative date, that period of prescription shall be reduced to six years commencing on the operative date, subject to the court's discretion to extend the period pursuant to subsection (2).

(4) Nothing in this section shall affect any period of prescription which, at the operative date, has already commenced to run under the 1909 Law and which at that date has six years or less still to run.

(5) In this section "the court" means the court in which the action has been brought.

PART V

ABOLITION OF RETRAIT LIGNAGER

Abolition of right of retrait lignager

32. (1) Subject to subsection (3), the right of redemption of real property ("droit de retrait lignager") is abolished.

(2) The Law entitled "Loi relative au Retrait Lignager, aux Appropriements, et à la Lecture des Contrats aux Plaids d'Héritage" registered on the 12th January 1924ⁱ ("the 1924 Law") is repealed.

(3) Nothing in this Part shall affect any proceedings en retrait lignager instituted before the commencement of this Part.

PART VI

MISCELLANEOUS AND GENERAL

Additional provisions as to Ordinances.

33. (1) An Ordinance made under this Law may amend, extend, adapt, modify or disapply (so far as it has effect in Guernsey) any enactment and any rule of customary law.

(2) An Ordinance made under this Law -

(a) may be amended or repealed by a subsequent Ordinance hereunder, and

(b) may contain such transitional, consequential, incidental, supplementary and savings provisions as the States think fit.

(3) Any power conferred by this Law to make an Ordinance may be exercised -

ⁱ Ordres en Conseil Vol. VII, p. 176.

- (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.

Delegation of powers to the Royal Court.

34. (1) The States may by Ordinance confer on the Royal Court the power to make provision by rules of court in respect of any matter for which, under this Law, the States are empowered to make provision by Ordinance.

(2) The provisions of section 35(2) shall apply to any rules made under this section.

Rules of Court.

35. (1) The Royal Court may make provision by rules of court for

any purpose for which it appears to that Court that it is necessary or expedient that provision should be made in connection with any of the provisions of this Law.

(2) Rules made under this section -

- (a) may contain such supplementary, incidental, transitional and consequential provision as may appear to be necessary or expedient,
- (b) may be amended or repealed by subsequent Rules of Court, and
- (c) may make different provision in relation to proceedings before different courts in the Island of Guernsey.

Interpretation.

36. (1) In this Law, unless the context otherwise requires -

"**Court**" means the Royal Court sitting as an Ordinary Court which, for the purposes of this Law, may be validly constituted by the Bailiff sitting alone,

"**heir**" means a person who is a beneficiary pursuant to the will of a person who dies testate or a person entitled to benefit in the estate of a person who dies (whether wholly or partially) intestate, but does not include the Crown,

"**real property**" means real property situate in the Island of Guernsey and includes (without limitation) any right or interest which by the

law of Guernsey is or is deemed to be real property.

(2) Unless the context otherwise requires -

- (a) a reference in this Law to a numbered or lettered Part, section, subsection, paragraph or Schedule is a reference to the Part, section, subsection or paragraph of, or to the Schedule to, this Law which is so numbered or lettered, and
- (b) a reference in a provision of this Law to a numbered or lettered subsection or paragraph is a reference to the subsection or paragraph of that provision which is so numbered or lettered.

(3) Unless the context otherwise requires, references in this Law to an enactment are references thereto as amended, re-enacted (with or without modification), extended or applied.

Citation.

37. This Law may be cited as the Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006.

Commencement.

38. This Law shall come into force on the day next following the expiration of one calendar month from the date of registration.

SCHEDULE

Section 7

Oath or affirmation for administrators

"You swear and promise on the faith and truth that you owe to God [or "*You promise*"] that well and faithfully you will discharge the duties attaching to the office of administrator of the real estate of the late [*name of deceased*].

PROJET DE LOI

ENTITLED

The Animal Welfare (Enabling Provisions) (Guernsey) Law, 2006

THE STATES, in pursuance of their Resolution of the 28th February, 2003^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.

Power to enact Ordinances in relation to animal welfare.

1. The States may by Ordinance make such provision as they think fit in relation to animal welfare and the protection of animals.

Specific matters for which Ordinances may make provision.

2. An Ordinance under section 1 may, without limitation, make provision prohibiting or regulating, or otherwise in relation to, the following matters -

- (a) cruelty to animals, including causing them pain, injury, suffering, fear and distress and ill-treating, neglecting and abandoning them,
- (b) the importation, exportation and transportation of animals,

^a Article VI of Billet d'État No. III of 2003.

- (c) experimental and scientific procedures involving the use of animals,
- (d) the hunting, taking and trapping of animals,
- (e) the killing, slaughter, destruction and euthanasia of animals,
- (f) the protection of the dens, burrows, sets and other homes, and the young, of animals including, without limitation, the nests and eggs of birds,
- (g) the keeping, possession, ownership, breeding, buying, selling and other disposal of animals, and disqualification from those activities,
- (h) the feeding, watering, treatment, care, shelter and housing of animals,
- (i) the marking, ringing, tagging, tattooing, micro-chipping or identification in any other manner of animals,
- (j) the importation, exportation, possession, buying and selling of, and other trading or dealing in, dead animals and their skins, plumage or other parts or any derivative thereof,
- (k) the removal, seizure, detention, custody and

confiscation of animals,

- (l) the disposal of animal carcasses,
- (m) the control and restraint of animals, and liability for injury or damage caused by them,
- (n) the carrying out of operations on animals, the use of anaesthetics and the practice of veterinary surgery and the paraveterinary professions,
- (o) the provision of services in relation to or ancillary to animals and the care and keeping of animals,
- (p) the licensing of slaughtermen, knackers and farriers,
- (q) the issue of codes of practice, guidance and recommendations, and their status in law,
- (r) the ownership and operation of buildings and other premises and land in or on which animals are kept (including, without limitation, sanctuaries, pet shops, boarding and breeding establishments, kennels, livery and riding stables, slaughterhouses, zoos, aquariums, parks and farms of any description),
- (s) the public exhibition of animals and public performances by them including, without limitation, displays, shows, circuses and competitions,

- (t) the training of animals,
- (u) stray and abandoned animals,
- (v) dangerous, wild and exotic animals,
- (w) the farming and fishing of animals,
- (x) animal fighting,
- (y) the control of disease, infection and infestation in animals and the control of animals on the grounds of nuisance or the protection of public health, plant health or animal health,
- (z) the use of poisons, baits and traps,
- (aa) exceptions and derogations from any prohibition or restriction imposed by an Ordinance or other instrument under this Law including, without limitation, exceptions and derogations for the purposes of education, research and science,
- (bb) powers of entry, inspection, search, detention and arrest for the purpose of ensuring compliance with the provisions of any Ordinance or other instrument under this Law,
- (cc) the seizure and deprivation of ownership or possession of animals,

(dd) the seizure, deprivation of ownership or possession, destruction and disposal of substances, equipment and other objects and things,

(ee) the implementation of -

(i) any international instrument relating to animal welfare and the protection of animals or any aspect thereof,

(ii) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under any such international instrument,

subject to such exceptions, adaptations and modifications as may be specified in the Ordinance,

(ff) the administration and enforcement of the provisions of any Ordinance or other instrument under this Law and the authorisation of persons (whether police officers, officers of the Department or any other persons or class or description of persons) for the purposes of such administration and enforcement,

(gg) the granting (conditionally or otherwise), variation, revocation and suspension of licences or other descriptions of authorisation for the doing of anything restricted, regulated or controlled by any Ordinance or

other instrument under this Law,

- (hh) the making of applications for such licences or authorisations,
- (ii) the establishment of a tribunal to deal with appeals against decisions made under any Ordinance or other instrument under this Law, and a panel of persons from whom the members of the tribunal are to be drawn,
- (jj) the jurisdiction and powers of the courts, and the constitution and procedure of the courts, in relation to any Ordinance or other instrument under this Law,
- (kk) the levying of fees, and
- (ll) the recovery of costs associated with the administration and enforcement of any Ordinance or other instrument under this Law.

General provisions as to Ordinances, etc.

3. (1) An Ordinance under this Law -

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
- (b) may contain such transitional, consequential, incidental, supplementary and savings provisions as the States think fit.

(2) Any power to make an Ordinance under this Law 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) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

(a) may make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences and may (for the avoidance of doubt) specify

penalties which may be imposed by the Magistrate's Court which exceed the limits of jurisdiction for the time being imposed on that Court by section 10 of the Magistrate's Court (Guernsey) Law 1954^b,

- (b) may empower the Department, any other department of the States and any other body (including, without limitation, any court in Guernsey) to make or issue orders, rules, regulations, codes or guidance, whether as to matters in respect of which an Ordinance can be made under this Law or otherwise,
- (c) may make provision for the purpose of dealing with matters arising out of or related to animal welfare and the protection of animals or any international instrument relating thereto,
- (d) may provide that no liability shall be incurred by any specified person or body in respect of anything done or omitted to be done in the discharge or purported discharge of any of their functions under the Ordinance unless the thing is done or omitted to be done in bad faith,
- (e) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,

^b Ordres en Conseil Vol. XVI, p. 103; Vol. XXVII, p. 170; Vol. XXVIII, p. 5; and No. V of 1989.

- (f) may repeal, replace, amend, extend, adapt, modify or disapply -
 - (i) any enactment (including, without limitation, this Law and any enactment specified in the Schedule), but only to the extent that it has force of law in Guernsey, and
 - (ii) any rule of custom or law,
- (g) may make provision of any such extent as is made or as may be made by or under any enactment specified in the Schedule, and
- (h) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by Projet de Loi, but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.

Interpretation.

- 4.** (1) In this Law, unless the context requires otherwise -

"animal" means any living creature except man,

"animal welfare and the protection of animals" includes, without limitation, the matters set out in section 2,

"the Department" means the States Commerce and Employment

Department,

"a department" means any department, council or committee of the States, however styled,

"enactment" means any Law, Ordinance, Act of Parliament, Order in Council, regulation, order, rule of court or other legislative instrument having effect in Guernsey, and includes any provision of this Law,

"Guernsey" includes Herm and Jethou,

"implementation", in relation to -

- (a) any international instrument relating to animal welfare and the protection of animals,
- (b) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under any such international instrument,

includes the enforcement or enactment thereof, and the securing of the administration, execution, recognition, exercise or enjoyment thereof, in or under domestic law,

"instrument under this Law" includes any order, rule, regulation, code or guidance made or issued under an Ordinance under this Law,

"international instrument" means -

- (a) any convention, treaty, protocol or other international instrument, or any provision thereof, and
- (b) any Community provision within the meaning of section 3(1) of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^c,

whether or not binding on Guernsey,

"**penalty**" includes fines, imprisonment, confiscation, forfeiture, deprivation of ownership and disqualification from ownership,

"**States**" means the States of Guernsey.

(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.

Territorial waters.

5. This Law extends to the territorial waters adjacent to Guernsey.

Citation.

6. This Law may be cited as the Animal Welfare (Enabling Provisions) (Guernsey) Law, 2006.

^c Order in Council No. III of 1994.

SCHEDULE

ENACTMENTS WHICH MAY BE REPEALED, ETC BY ORDINANCE
UNDER THIS LAW

1. Ordonnance pour la Protection des Pigeons, 1933^d.
2. The Stray Dogs Ordinance, 1941^e.
3. Slaughter of Livestock (Use of Humane Killers) Ordinance, 1948^f.
4. Protection of Wild Birds Ordinance, 1949^g.
5. Pests (Control and Destruction) Ordinance, 1965^h.
6. The Protection of Animals Ordinance, 1976ⁱ.
7. Dogs (Liability and Protection of Livestock) Ordinance, 1982^j.
8. Summary Offences (Bailiwick of Guernsey) Law, 1982^k (sections 2 and 5).
9. Control of Birds Ordinance, 1985^l.
10. Veterinary Surgery and Animal Welfare Ordinance, 1987^m.

^d Recueil d'Ordonnances Tome VIII, p. 301; and Tome XXIII, p. 262.

^e Recueil d'Ordonnances Tome IX, p. 144 and Tome X, p. 315.

^f Recueil d'Ordonnances Tome VIII, p. 21; and No. XVI of 1996.

^g Recueil d'Ordonnances Tome IX, p. 306; Tome XIV, p. 102; Tome XIX, p. 338; and Tome XXII, p. 136.

^h Recueil d'Ordonnances Tome XIV, p. 103; and Tome XXII, p. 161.

ⁱ Recueil d'Ordonnances Tome XX, p. 369; Tome XXIII, p. 472; and Tome XXVI, p. 110.

^j Recueil d'Ordonnances Tome XXII, p. 190.

^k Ordres en Conseil Vol. XXVII, p. 397; and Vol. XXXII, p. 380.

^l Recueil d'Ordonnances Tome XXIII, p. 258.

^m Recueil d'Ordonnances Tome XXIV, p. 51.

11. Animal Experiments (Bailiwick of Guernsey) Law, 1992ⁿ.
12. Protection of Game Ordinance, 1994^o.
13. Any enactment made under an enactment mentioned in this Schedule.

ⁿ Order in Council No. X of 1992.

^o Recueil d'Ordonnances Tome XXVI, p. 337.

PROJET DE LOI

ENTITLED

The Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006

ARRANGEMENT OF SECTIONS

PART I POLICE PROPERTY

1. Power to make orders in respect of property in possession of police.
2. Regulations with respect to unclaimed property in possession of police.

PART II FORFEITURE

3. Powers to deprive offender of property used, etc, for purposes of crime.
4. Property which is in possession of police by virtue of section 3.
5. Application of proceeds of forfeited property.

INTERPRETATION, ETC.

6. Interpretation.
7. Power to amend Law by Ordinance.
8. Citation and commencement.

PROJET DE LOI

ENTITLED

The Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006

THE STATES, in pursuance of their Resolution of the 27th April, 2006^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 Bailiwick of Guernsey.

PART I

POLICE PROPERTY

Power to make orders in respect of property in possession of police.

1. (1) Where any property comes into the possession of the police in connection with their investigation of a suspected offence, the Magistrate's Court may, on application by a police officer or by a claimant of the property -

- (a) make an order for the delivery of the property to the person appearing to the court to be the owner thereof, or
- (b) if the owner cannot be ascertained, make such order in respect of the property as the court thinks fit.

(2) An order under this section does not affect the right of any

^a Article XI of Billet d'État No. VIII of 2006.

person to take, within 6 months from the date of the order, legal proceedings against any person in possession of property delivered by virtue of the order for the recovery of the property, but on the expiration of those 6 months the right shall cease.

Regulations with respect to unclaimed property in possession of police.

2. (1) The States Home Department ("**the Department**") may make regulations for the disposal of property which comes into the possession of the police under the circumstances mentioned in this Part in cases where the owner of the property has not been ascertained and no order of a competent court has been made in respect thereof.

(2) The regulations may authorise the sale of any such property, and the application of the proceeds of any such sale, and the application of any money of which the owner cannot be ascertained, to all or any of the following purposes -

- (a) the expenses of executing the regulations,
- (b) the payment of reasonable compensation to any person by whom the property has been delivered into the possession of the police, or
- (c) such other purposes as the Department may consider expedient.

(3) The regulations may also provide that where, in the case of property other than money -

- (a) the property has remained in the possession of the

police for a year,

- (b) the police would under the regulations have power to sell the property,
- (c) in the opinion of the Department, the property can be used for police purposes, and
- (d) the Department determines, in such manner as may be prescribed by the regulations, that the property is to be retained by the Department,

the Department is to become the owner of the property on the making of the determination or at such later time as the regulations may specify.

(4) Where the property is a perishable article or its custody involves unreasonable expense or inconvenience it may be sold at any time, but the proceeds of sale shall not be disposed of until they have remained in the possession of the police for a year.

In any other case the property shall not be sold until it has remained in the possession of the police for a year.

(5) The regulations may also provide for -

- (a) the investment of money,
- (b) the audit of accounts, and
- (c) the publication of determinations falling within

subsection (3)(d).

(6) The regulations apply whether the property to which they relate comes into the possession of the police before or after the making of the regulations.

(7) Regulations under this section 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 to annul the regulations, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

The provisions of section 7(2)(b) and (c) and (3) apply to regulations under this section as they apply to an Ordinance under this Law.

PART II FORFEITURE

Powers to deprive offender of property used, etc, for purposes of crime.

3. (1) Where a person is convicted of an offence and the court by or before which he is convicted is satisfied that any property which has been lawfully seized from him, or which was in his possession or under his control at the time when he was apprehended for the offence or when a summons in respect of it was issued -

(a) has been used for the purpose of committing, or facilitating the commission of, any offence, or

(b) was intended by him to be used for that purpose,

the court may, subject to subsection (5), make an order under this section in respect

of that property.

(2) Where a person is convicted of an offence and the offence, or an offence which the court takes into consideration in determining his sentence, consists of unlawful possession of property which -

- (a) has been lawfully seized from him, or
- (b) was in his possession or under his control at the time when he was apprehended for the offence of which he has been convicted or when a summons in respect of that offence was issued,

the court may, subject to subsection (5), make an order under this section in respect of that property.

(3) An order under this section operates to deprive the offender of his rights, if any, in the property to which it relates, and the property shall, if not already in their possession, be taken into the possession of the police.

(4) Any power conferred on a court by subsection (1) or (2) may be exercised -

- (a) whether or not the court also deals with the offender in any other way in respect of the offence of which he is convicted, and
- (b) without regard to any restrictions on forfeiture in any enactment in force before this Law came into force.

(5) In considering whether to make an order under this section in respect of any property, the court shall have regard -

- (a) to the value of the property, and
- (b) to the likely financial and other effects on the offender of making the order, taken together with any other order that the court contemplates making.

(6) Where a person commits an offence to which this subsection applies by -

- (a) driving, attempting to drive, or being in charge of a vehicle,
- (b) failing to comply with a requirement made under section 3 or 3A of the Road Traffic (Drink Driving) (Guernsey) Law 1989^b (failure to provide specimen for analysis or laboratory test or to give permission for such a test), or section 3 of the Road Traffic (Driving under the Influence of Drink or Drugs) (Alderney) Law, 1987^c (failure to provide specimen for analysis or laboratory test) in the course of an investigation into whether the offender had committed an offence while driving, attempting to drive or being in charge of a vehicle, or

^b Ordres en Conseil Vol. XXXI, p. 512.

^c Ordres en Conseil Vol. XXX, p 203.

- (c) failing, as the driver of a vehicle, to comply with Article XII(2) or (3) of the Ordonnance relative au Trafic Véhiculaire en cette Île, 1929^d or section 8 of the Alderney Road Traffic and Public Highways Ordinance, 1966^e (duty to stop and give information or report accident),

the vehicle shall be regarded for the purposes of subsection (1) and section 4(1)(b) as used for the purpose of committing the offence and for the purpose of committing any offence of aiding, abetting, counselling or procuring the commission of the offence.

- (7) Subsection (6) applies to -

- (a) a road traffic offence which is punishable with imprisonment, and
- (b) an offence of manslaughter.

(8) For the purposes of subsection (1) "**facilitating**" the commission of an offence includes taking any steps after it has been committed for the purpose of -

- (a) disposing of any property to which it relates, or

^d Recueil d'Ordonnances Tome VIII, pp. 184 and 194; Article XII(2) and (3) were substituted by Tome XVI, p.187.

^e Alderney Ordinance No. III of 1966; section 8 was substituted by the Alderney Road Traffic and Public Highways Ordinance, 1981 (No. V).

- (b) avoiding apprehension or detection.

Property which is in possession of police by virtue of section 3.

4. (1) Part I applies with the following modifications to property which is in the possession of the police by virtue of section 3 -

- (a) no application shall be made under section 1(1) by any claimant of the property after the end of six months from the date on which the order in respect of the property was made under section 3, and
- (b) no such application shall succeed unless the claimant satisfies the court -
 - (i) that he had not consented to the offender having possession of the property, or
 - (ii) where an order is made under section 3(1), that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in that section.

(2) In relation to property which is in the possession of the police by virtue of section 3, the power to make regulations under section 2 shall, subject to subsection (3), include power to make regulations for disposal (including disposal by vesting in the Department) in cases where no application by a claimant of the property has been made within the period specified in subsection (1)(a) or no such application has succeeded.

- (3) The regulations may not provide for the vesting in the

Department of property in relation to which an order has been made under section 5.

(4) Nothing in section 2(3)(a) or (4) limits the power to make regulations under that section by virtue of subsection (2).

Application of proceeds of forfeited property.

5. (1) Where a court makes an order under section 3 in a case where-

- (a) the offender has been convicted of an offence which has resulted in a person suffering personal injury, loss or damage, or
- (b) any such offence is taken into consideration by the court in determining sentence.

the court may also make an order that any proceeds which arise from the disposal of the property and which do not exceed a sum specified by the court shall be paid to that person.

(2) The court may make an order under this section only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under which the offender would have been required to pay compensation of an amount not less than the specified amount.

(3) An order under this section has no effect -

- (a) before the end of the period specified in section 4(1)(a), or

- (b) if a successful application under section 1(1) has been made.

PART III INTERPRETATION, ETC.

Interpretation.

6. (1) In this Law, unless the context requires otherwise -

"Customs and Excise division" means the Chief Officer of Customs and Excise appointed by the States Policy Council and includes any customs officer,

"customs officer" means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^f,

"Department" means the States Home Department,

"Magistrate's Court" means -

- (a) in Guernsey, the Magistrate's Court established by section 1 of the Magistrate's Court (Guernsey) Law, 1954^g,

^f Ordres en Conseil Vol. XXIII, p. 573 and No. XIII of 1991.

^g Ordres en Conseil Vol. XVI, p. 103.

(b) in Alderney, the Court of Alderney, and

(c) in Sark, the Court of the Seneschal,

"police" means the salaried police force of the Island of Guernsey, the Customs and Excise division and also -

(a) in relation to Alderney, any police force which may be established by the States of Alderney, and

(b) in relation to Sark, the Constable and the Vingtenier,

"police officer" means a member of the salaried police force of the Island of Guernsey, a customs officer and also -

(a) in relation to Guernsey, Herm and Jethou, and within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

(b) in relation to Alderney, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed pursuant to section 47 of the Government of Alderney Law, 2004^h, and

(c) in relation to Sark, the Constable and the Vingtenier,

"States" means the States of Guernsey.

^h

Order in Council No. III of 2005.

(2) The Interpretation (Guernsey) Law, 1948ⁱ applies to the interpretation of this Law throughout the Bailiwick.

(3) 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.

Power to amend Law by Ordinance.

7. (1) The States may by Ordinance amend this Law.

(2) An Ordinance under this Law -

(a) may, for the avoidance of doubt -

(i) create new offences, and

(ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,

(b) may be amended or repealed by a subsequent Ordinance hereunder, and

(c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient.

ⁱ Ordres en Conseil Vol. XIII, p. 355.

(3) Any power conferred by this Law to make an Ordinance 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.

Citation and commencement.

8. (1) This Law may be cited as the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006.

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

PROJET DE LOI

ENTITLED

The Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006

THE STATES, in pursuance of their Resolution of the 27th April, 2006^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 Island of Guernsey.

Amendment of Law of 1989

1. The Road Traffic (Drink Driving) (Guernsey) Law, 1989, as amended^b ("**the Law of 1989**"), is further amended in accordance with the provisions of this Law.

2. After section 1 of the Law of 1989 insert the following section -

"Causing death by careless driving when under influence of drink or drugs.

1A. (1) If a person causes the death of another person by driving a motor vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, and -

^a Article XI of Billet d'État No. VIII of 2006.

^b Ordres en Conseil Vol. XXXI, p. 512; amended by Vol. XXXII, p. 391 and No. V of 2004.

- (a) he is, at the time when he is driving, unfit to drive through drink or drugs,
- (b) he has consumed so much alcohol that the proportion of it in his breath, blood or urine at that time exceeds the prescribed limit, or
- (c) he is, within 18 hours after that time, required to provide a specimen in pursuance of section 3, but without reasonable excuse fails to provide it,

he is guilty of an offence.

(2) For the purposes of this section a person shall be taken to be unfit to drive at any time when his ability to drive properly is impaired."

3. In section 3(1) of the Law of 1989 after "section 1" insert ", section 1A".

4. After section 3 of the Law of 1989 insert the following section -

"Specimens of blood taken from persons incapable of consenting.

3A. (1) An officer of police may make a request to a medical practitioner for him to take a specimen of blood from a person ("**the person concerned**") irrespective of whether that person consents if -

- (a) that person is a person from whom the officer

of police would (in the absence of any incapacity of that person and of any objection under section 4) be entitled under section 3 to require the provision of a specimen of blood for a laboratory test,

- (b) it appears to the officer of police that that person has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter,
 - (c) it appears to the officer of police that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood, and
 - (d) it appears to the officer of police that that person's incapacity is attributable to medical reasons.
- (2) A request under this section -
- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned, and
 - (b) shall not be made to a medical practitioner

other than a police medical practitioner unless -

- (i) it is not reasonably practicable for the request to be made to a police medical practitioner,
- (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.

(3) It shall be lawful for a medical practitioner to whom the request is made under this section, if he thinks fit -

- (a) to take a specimen of blood from the person concerned irrespective of whether that person consents, and
- (b) to provide the sample to an officer of police.

(4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken -

- (a) has been informed that it was taken, and
- (b) has been required by an officer of police to give his permission for a laboratory test of the specimen, and

(c) has given his permission.

(5) An officer of police must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission may render him liable to prosecution.

(6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.

(7) In this section "**police medical practitioner**" means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of the salaried police force of the Island of Guernsey."

5. After section 8(1) of the Law of 1989 insert the following subsection-

"(1A) A person guilty of an offence under section 1A -

- (a) is liable on conviction on indictment to imprisonment for a term not exceeding 14 years, or to a fine, or to both, and
- (b) shall also be disqualified from holding or obtaining a driving licence for a period of not less than 2 years from the date of conviction, unless the court for special reasons thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified."

6. In section 8(2) of the Law of 1989 -
 - (a) after "section 3(9)" insert "or 3A(6)", and
 - (b) delete ", on summary conviction".
7. In section 8(2)(a) of the Law of 1989 -
 - (a) after "attempting to drive" insert "or was in charge of a motor vehicle",
 - (b) for "three months" substitute "6 months".
8. In section 8(2)(b) of the Law of 1989 for "two months" substitute "3 months".
9. In section 8(3) of the Law of 1989 after "section 3(9)" insert "or 3A(6)".
10. After section 9 of the Law of 1989 insert the following section -

"Special reasons."

9A. If, following the conviction of a person for an offence under any provision of this Law, the court finds a special reason for not disqualifying the person for the offence, it may nonetheless proceed to impose a disqualification for any period of time if, in the opinion of the court, it is warranted because of the person's standard of driving at the time of the commission of the offence."

11. After section 10 of the Law of 1989 insert the following section -

"Power to amend Law by Ordinance."

10A. (1) The States may by Ordinance amend this Law.

(2) An Ordinance under this Law -

(a) may, for the avoidance of doubt -

(i) create new offences, and

(ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,

(b) may be amended or repealed by a subsequent Ordinance hereunder, and

(c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient.

(3) Any power conferred by this Law to make an Ordinance 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."

Citation.

12. This Law may be cited as the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006.

Commencement.

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

The Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006

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-
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The Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 26th April, 2006^a, and in exercise of the powers conferred on them by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^b and of all other powers enabling them in that behalf, hereby order: -

PART I

ORDER MAKING POWERS TO MAKE DIRECTIONS IN RELATION TO PRECAUTIONARY MEASURES

Pre-conditions on exercise of powers to make directions by Order.

1. (1) The States Commerce and Employment Department ("**the Department**") may by Order make directions in accordance with the following provisions of this Ordinance provided that -

- (a) it has reasonable grounds to believe that it is necessary to give such directions to prevent or minimise the spread, or the risk of the spread, of avian influenza within or to Guernsey, and
- (b) it has first carried out an assessment of the risks to the health of birds and other animals and to public health in the event of avian influenza spreading within or to

^a Billet d'État No. IX of 2006.

^b Order in Council No. III of 1994.

Guernsey and has consulted with the States Veterinary Officer as to –

- (i) whether the measures are proportionate, and
- (ii) the need for, appropriateness and practicability of the proposed directions,

taking into account those risks.

Measures in relation to domestic birds.

2. Subject to section 1, the Department may by Order direct that –

- (a) the owner or person in charge of any domestic bird registers any of the following details in relation to that bird with the Department –

- (i) its species and the species and number of any other domestic birds kept at the same premises,
- (ii) the name and address of the owner or person in charge of the bird,
- (iii) the address of the premises at which the bird is kept, or
- (iv) any changes to the information in sub-paragraphs (i) to (iii),

and the Department may by Order amend the matters

set out in sub-paragraphs (i) to (iv),

- (b) the movement of any domestic bird between or within premises is prohibited or restricted,
- (c) any domestic bird be isolated, confined, housed or kept in such manner, subject to such conditions, by such date and for such period as it may specify,
- (d) any domestic bird be fed and watered in such manner and subject to such conditions, by such date and for such period as it may specify,
- (e) any feed, bedding or litter or any other thing -
 - (i) intended for use by or for any domestic bird, be stored, held or otherwise kept at such place, in such manner, subject to such conditions, by such date and for such period as it may specify,
 - (ii) used by any domestic bird or any waste produced by such a bird, be disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify,
- (f) any domestic bird be inspected, tested or treated at such place, by such person and by such means as it may specify, or

- (g) any domestic bird be kept under supervision in such manner as it may specify for the purpose of reporting any specified significant changes in particular to mortality rates, egg production or uptake of food and water to the Department in such manner as the Department may specify.

Measures in relation to imported birds.

3. Subject to section 1, where any imported bird has been imported into Guernsey from any other part of the Bailiwick or another country or territory where there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or suspected outbreak occurring and the Department has reasonable grounds to believe that such a bird represents a significant threat to the health of birds or other animals or to public health then the Department may by Order direct that -

- (a) such a bird be immediately returned to the part of the Bailiwick in question or to the country or territory of origin or last dispatch,
- (b) such a bird be isolated, confined, housed or kept in such manner and subject to such conditions, by such date and for such period as it may specify,
- (c) such a bird be inspected, tested or treated at such place, by such person and by such means as it may specify,
- (d) such a bird be compulsorily slaughtered and the carcase disposed of or destroyed at such place, by such

means and by such person as it may specify,

- (e) the owner or person in charge of such a bird shall not have contact with any domestic bird for such period as it may specify or other than in accordance with such conditions as it may specify, or
- (f) any feed, bedding, litter or any other thing used by such a bird and any waste produced by such a bird is –
 - (i) cleansed, disinfected or otherwise treated, or
 - (ii) disposed of or destroyed,

at such place, by such means, by such person and in accordance with such conditions as it may specify.

Measures in relation to wild birds.

4. Subject to section 1, where the Department has reasonable grounds to believe that any wild bird -

- (a) may have travelled to Guernsey from another part of the Bailiwick or from another country or territory in which there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or a suspected outbreak occurring,
- (b) may have been in contact with any bird that might have been infected with avian influenza or in any other way exposed to infection by that disease in any place

referred to in paragraph (a), or

- (c) may have otherwise become infected with avian influenza,

then the Department may by Order direct that it is inspected, tested or treated at such a place, by such a person and by such means as it may specify.

Measures in relation to eggs.

5. Subject to section 1, where the Department has reasonable grounds to believe that any eggs represent a significant threat to the health of birds or other animals or to public health it may -

- (a) in the case of such a threat arising from eggs produced by domestic birds in Guernsey, by Order direct that -
 - (i) the removal of such eggs is prohibited or restricted,
 - (ii) such eggs are cleansed, disinfected or otherwise treated or disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify,
- (b) in the case of such a threat arising from eggs imported into Guernsey, by Order -
 - (i) direct that the import of such eggs, other than hatching eggs falling within section 1(1) of the

Poultry and Hatching Eggs (Importation and Exportation) Ordinance, 1962^c, is prohibited or restricted,

(ii) where such eggs have been imported into Guernsey from any other part of the Bailiwick or another country or territory in which there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or suspected outbreak occurring -

(A) direct that such eggs be immediately returned to the part of the Bailiwick in question or to the country or territory of origin or last dispatch,

(B) direct that such eggs are cleansed, disinfected or otherwise treated, or disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify, or

(C) direct that such eggs be held at such place, subject to such conditions and for such period as it may specify, or

^c Recueil d'Ordonnances Tome XIII, p.130; amended by Tome XXII p. 107.

- (c) in the case of such a threat arising from eggs produced by wild birds in Guernsey, by Order direct that the eggs of any such birds be collected or disposed of or destroyed by such person, at such place and in such manner as the Department may specify.

Measures in relation to the use of fertilisers.

6. Subject to section 1, where the Department has reasonable grounds to believe that any fertiliser, which consists of or contains either bird excrement or any other bird product, represents a significant threat to the health of birds or other animals or to public health then it may by Order -

- (a) direct that the spreading or use of such fertiliser is prohibited or restricted, or
- (b) where such fertiliser has been imported into Guernsey from any other part of the Bailiwick or another country or territory where there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or such a suspected outbreak occurring -
 - (i) direct that such fertiliser be immediately returned to the part of the Bailiwick in question or to the country or territory of origin or last dispatch, or
 - (ii) direct that such fertiliser or any packaging or containers in which it is transported is -

- (A) cleansed, disinfected, treated, or disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify, or
- (B) held at such place, subject to such conditions and for such period as it may specify.

Measures in relation to bird products or products intended for use by or for birds.

7. Subject to section 1, where the Department has reasonable grounds to believe that any bird product or bedding material, litter or any other thing intended for use by or for birds represents a significant threat to the health of birds or other animals or to public health then it may by Order –

- (a) direct that the import of any such product other than –
 - (i) any poultry carcase the import of which is prohibited other than in accordance with a licence pursuant to sections 1 and 2 of the Poultry Carcasses Importation Ordinance, 1981^d, or
 - (ii) any product which falls within Schedule 1 to the Import and Export of Goods (Control)

^d Recueil d'Ordonnances Tome XXII, p. 109.

(Guernsey) Order, 1990^e,

is prohibited or restricted, or

- (b) where such product has been imported into Guernsey from any other part of the Bailiwick or another country or territory where there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such outbreak or such suspected outbreak occurring, direct that such product -
 - (i) be immediately returned to the part of the Bailiwick in question or to the country or territory of origin or last dispatch,
 - (ii) be cleansed, disinfected or otherwise treated, or disposed of or destroyed at such place, by such means, by such person and in accordance with such conditions as it may specify,
 - (iii) be held at such place, subject to such conditions and for such period as it may specify, or
 - (iv) be subjected to such inspection or testing, by such person and by such means as the

^e Guernsey S.I. No. 24 of 1990 as amended by Guernsey S.I.s Nos. 19 of 1999, 12 of 2000, 26 of 2000 and 5, 7 and 9 of 2001.

Department may specify.

Measures in relation to eggs, fertiliser, bird products or products intended for use by or for birds which have been distributed or sold.

8. Subject to section 1, where the Department has reasonable grounds to believe that any eggs, fertiliser, bird product or bedding material, litter or any other thing intended for use by or for birds –

- (a) was imported into Guernsey from a place where the circumstances in Section 7(b) applied at the time of import,
- (b) represents a significant threat to the health of birds or other animals or to public health, and
- (c) has been distributed in Guernsey for sale or for final use or has been sold,

then the Department may by Order direct that such product be returned to such place as it may specify and may by Order make the same directions in respect of that product as it may make in respect of a product under section 7(b).

Measures in relation to personal possessions.

9. Subject to section 1, the Department may by Order direct that any possessions of, including any clothing worn by, a person travelling to Guernsey from any other part of the Bailiwick or another country or territory where there is an outbreak or a suspected outbreak of avian influenza or within 30 days of such an outbreak or such a suspected outbreak occurring, are cleansed or treated in such manner as the Department may specify –

- (a) prior to arrival in Guernsey, or
- (b) at a port or any other place in Guernsey.

Measures in relation to premises.

10. Subject to section 1, the Department may by Order –

- (a) direct that such biosecurity measures as the Department may specify are implemented on premises where any bird is present, and such measures may include any of the measures set out in Schedule 1, and
- (b) amend Schedule 1.

Measures in relation to the slaughter etc. of birds and the disposal or destruction of carcasses.

11. Subject to section 1, where any bird is slaughtered for meat or for any other purpose, is put down for humane reasons or culled the Department may by Order direct that –

- (a) such a bird is so slaughtered, put down or culled –
 - (i) in accordance with such conditions as it may specify, or
 - (ii) under the authority of and subject to any conditions attached to a licence issued by it,
- (b) the carcase of such a bird is transported for disposal or destruction by such means or person and in accordance

with such conditions as it may specify, or

- (c) the carcase of such a bird is disposed of or destroyed at such place, by such means and by such person as it may specify or under the authority of and subject to any conditions attached to a licence issued by it.

Measures in relation to the cleansing of vehicles.

12. Subject to section 1, the Department may by Order direct that any vehicle –

- (a) used to transport any bird, eggs, fertiliser or bird product or any feed, bedding, litter or any other thing used by or for a bird, or
- (b) landed at a port in Guernsey from any other part of the Bailiwick or any other country or territory,

be cleansed or disinfected at such times, in such manner and by such person as it may specify.

Measures in relation to the regulation of specified activities.

13. Subject to section 1, the Department may by Order direct that the holding or carrying out of the following activities is prohibited or restricted –

- (a) any show, display, fair, exhibition, competition or other event involving any gathering of birds,
- (b) the lawful carrying out of any of the actions specified in sections 2 to 4 of the Protection of Wild Birds

Ordinance 1949^f,

- (c) the flying of birds of prey,
- (d) the deliberate release of game birds, or
- (e) any such other activity as the Department may by Order prescribe.

PART II

ADDITIONAL ORDER MAKING POWERS IN RELATION TO PRECAUTIONARY MEASURES

Monitoring and surveillance programmes.

14. (1) Subject to subsection (2), the Department may by Order provide for such monitoring and surveillance programmes as it considers reasonably necessary to establish whether or not avian influenza is present on Guernsey and such monitoring or surveillance programmes may include any of the following -

- (a) the inspection and testing of any bird or animal,
- (b) the inspection and testing of any bird product, fertiliser, eggs or anything that may have been in contact with any bird, and

^f Recueil d'Ordonnances Tome IX, p. 306; amended by Tome XIV, p. 102, Tome XIX p. 338, Tome XXII p. 136, Tome XXIII, p. 258 and Ordinance No. VII of 2006.

- (c) the inspection and testing of anything that may harbour or be a host to avian influenza, and

and any measures to be comprised in any such programme may be carried out in such manner, by such person, at such place and, where relevant, at such frequency as the Department may by Order prescribe.

(2) Section 1 shall apply to the exercise of the powers in subsection (1) as it applies to the making by Order by the Department of directions under this Ordinance.

Powers of seizure.

15. (1) Subject to subsection (2), the Department may by Order provide -

- (a) for the seizure of anything, animate or inanimate, in relation to which an offence has been committed under this Ordinance,
- (b) for the seizure of anything, animate or inanimate, in respect of which the Department considers it is necessary to take immediate action to prevent avian influenza from spreading to or within Guernsey,
- (c) where provision is made for seizure pursuant to paragraph (a) or (b) -
 - (i) for the holding, examination, treatment, disposal or burial of anything so seized,

- (ii) for the return to its place of origin of any imported thing so seized,
- (iii) for the slaughter of any bird so seized or the destruction of any inanimate thing so seized, or
- (d) where provision is made for seizure pursuant to paragraph (b), for the payment of compensation, including its method of calculation, for anything so seized.

(2) Section 1 shall apply to the exercise of the powers in subsection (1) as it applies to the making by Order by the Department of directions.

Application to other animals or other compulsory slaughter diseases.

16. The Department may by Order apply the provisions of this Ordinance, with appropriate modifications to -

- (a) any animal which it reasonably considers is susceptible to avian influenza, or
- (b) any other compulsory slaughter disease which it reasonably considers to represent a significant threat to the health of any animals or to public health.

PART III
SUPPLEMENTARY PROVISIONS

Supplementary provisions in relation to inspection and testing.

17. (1) Where any inspection or test of anything, animate or inanimate, is carried out under this Ordinance and the results of such inspection or test are inconclusive then the Department may -

- (a) arrange for the carrying out of a further inspection or test after such period and in such manner as it may so decide, and
- (b) require that the thing to be tested or inspected is kept in such manner as it may specify pending the outcome of the inspection or test,

and the Department shall give any owner or person in charge of the thing to be tested prior notice of any action to be taken under paragraphs (a) or (b).

(2) Where any inspection or test is carried out under this Ordinance any owner or person in charge of the thing being so tested must not do, or cause or permit to be done, anything which is likely to affect the result of such test or inspection.

Supplementary provisions in relation to inspection, testing, treatment or slaughter.

18. Where any inspection, testing, treatment or slaughter is carried out under this Ordinance of -

- (a) any bird, then any owner or person in charge of that bird must provide the Department in writing with any information that the Department may reasonably request regarding the number and location of any other birds that he owns or has in his charge,

- (b) anything, animate or inanimate, then the owner or person in charge of that thing -
 - (i) may be present but the absence of such person shall not invalidate any such procedure, and
 - (ii) shall comply with any reasonable requirements of an authorised person with a view to facilitating the action being taken.

Supplementary provisions in relation to the slaughter of birds.

19. Where the Department provides by Order under this Ordinance for the slaughter of any bird under sections 3(d) or 15(1)(c) then the provisions of section 8 (compensation) of the Animal Health Ordinance, 1996^g shall apply in relation to the owner of such a bird who has complied with all provisions applicable to him under this Ordinance as they apply in relation to the owner of an animal under that 1996 Ordinance except that they shall apply as if the valuation referred to in the 1996 Ordinance were required to be carried out -

- (a) as soon as reasonably possible after the slaughter of the bird, and
- (b) on the basis of all reasonably available information.

Supplementary provisions in relation to licences.

^g Ordinance No. XI of 1996 as amended by No. XXXII of 2003 and No. VII of 2006 and Guernsey S.I. No. 56 of 2002.

20. Where the Department provides under this Ordinance for any activity to be carried out under authority of a licence issued by the Department then the provisions of Schedule 2 shall apply in relation to such a licence.

Supplementary provisions in relation to the keeping of records.

21. (1) Where the Department makes an Order under the provisions of this Ordinance, that Order may also provide for the keeping of records relevant to the subject matter of the Order in question in such form, for such period and by such person as the Department may provide.

(2) Where records are required to be kept under this Ordinance, then the person who is keeping the records shall allow an authorised person access to such records and to take copies of any such records at all reasonable times upon request or forthwith upon request in the circumstances set out in subsection (3).

(3) Subject to section 25(2), an authorised person may gain access to records at any time if there are reasonable grounds to believe that -

- (a) there has been a breach of any provisions of any legislation relevant to avian influenza, or
- (b) there is an immediate risk of avian influenza spreading to or within Guernsey.

Supplementary provisions in relation to signs and notices.

22. (1) Where the Department takes or requires measures to be taken under this Ordinance on or in relation to particular premises it may put up, maintain and remove notices or signs notifying the public of such measures.

(2) Any person who intentionally or recklessly and without reasonable excuse takes down, damages, destroys or obscures such a notice or sign is guilty of an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the uniform scale.

PART IV

GENERAL PROVISIONS

Provision of information.

23. (1) Where the Department believes that any person holds information which the Department reasonably considers it requires for the purpose of -

- (a) carrying out any of its functions or those of an authorised person under this Ordinance, or
- (b) preventing or minimising the spread, or the risk of the spread, of avian influenza within or to Guernsey,

then it may serve on that person a notice requiring him to furnish such information as may be specified in the notice to an authorised person and to do so in such form, in such manner and within such reasonable time as the Department may specify.

(2) Subject to subsections (4) and (5), it shall be the duty of a person who receives a notice under subsection (1) to disclose the information to the authorised person within the time specified.

(3) The duty under subsection (2) overrides any duty of confidentiality to which a person may be subject under an enactment or any other rule of law.

(4) Nothing in this section shall compel the production by an advocate or other legal adviser of a document containing a privileged communication made by him in that capacity.

(5) A statement made by a person in response to a requirement imposed by or under this section may not be used in evidence against him except in proceedings for an offence in relation to a failure to comply with subsection (2) or in proceedings for some offence where in giving evidence he makes a statement inconsistent with it.

Powers of Department in case of default.

24. (1) If any person fails to comply with a requirement imposed under this Ordinance the Department may take such steps as it reasonably considers are necessary to ensure that the requirement is met.

(2) In taking steps under this section the Department may direct any person in writing to take or refrain from specified action in respect of any place, bird or other animal, vehicle, bird product, eggs, fertiliser or other thing or any activities.

(3) Any steps taken under this section are without prejudice to proceedings for an offence arising out of the default.

(4) The person in default must reimburse any reasonable expenses incurred by the Department in taking such steps which it would not otherwise have

incurred except for that default and any such reimbursement is recoverable as a civil debt due to the States.

Powers of entry.

25. (1) Subject to subsection (2), an authorised person may enter any land at any reasonable time for the purpose of -

- (a) deciding whether and in what manner any function of the Department or an authorised person under this Ordinance ought to be exercised,
- (b) carrying out any function of the Department or an authorised person under this Ordinance,
- (c) ascertaining whether any conditions attached to a licence issued under this Ordinance have been or are being complied with,
- (d) investigating any alleged offence under this Ordinance,
- (e) ensuring that any obligations arising under a notice served or requirement imposed under this Ordinance have been or are being complied with, or
- (f) where he considers that it is necessary to do so, preventing a serious risk to the health of birds or other animals or to public health arising from avian influenza.

(2) An authorised person -

- (a) is not entitled to demand admission as of right to any land which is occupied unless, other than in the case of an emergency, 24 hours written notice has been given to the occupier,
- (b) may, if necessary, be accompanied by a police officer, who may use reasonable force to restrain any person obstructing or threatening to obstruct the authorised person, and
- (c) may take with him such other persons and any equipment as may be necessary for carrying out the purposes for which he has entered.

Liability.

26. No liability shall be incurred or civil action lie against the States of Guernsey or any person in respect of anything done or omitted to be done in the discharge or purported discharge of any function under this Ordinance unless the thing is done or omitted to be done maliciously or in bad faith.

Costs.

27. (1) Orders under this Ordinance may make provision for liability as to any costs arising from any action carried out under such an Order.

(2) Subject to the provisions of any Order made under subsection (1) and to subsection (3) and section 24(4), the Department shall meet the costs of any of the following carried out under this Ordinance -

- (a) any inspection, test, treatment, cleansing or disinfection,
- (b) the supervision by or on behalf of the Department of any bird held in isolation,
- (c) the compulsory slaughter of any bird or the disposal or destruction of any carcase,
- (d) the collection, disposal or destruction of the eggs of any wild bird, and
- (e) any monitoring or surveillance programme.

(3) Where any person contravenes section 17(2) or 18(b)(ii) then the Department, may, without prejudice to any proceedings for an offence arising out of that contravention, take all necessary steps to facilitate the reliable testing of the thing concerned and recover from that person any expenses reasonably incurred in so doing it.

Authorised persons.

28. (1) A person may be authorised in writing by the Department to perform any of the functions of an authorised person under this Ordinance and such authorisation shall specify which of such functions the particular person is authorised to carry out.

(2) A person purporting to carry out the functions of an authorised person under this Ordinance shall, upon request, produce evidence of his authority.

Offences and penalties.

29. Any person who -

- (a) contravenes, attempts to contravene, or fails to comply with, any requirement made under this Ordinance,
- (b) prevents any other person from complying with any requirement made under this Ordinance,
- (c) obstructs or attempts to obstruct an authorised person exercising any functions under this Ordinance,
- (d) wilfully or recklessly does anything which is likely to make measures required to be taken under this Ordinance ineffective, or
- (e) in connection with an application for a licence made under this Ordinance or in purported compliance with any requirement imposed under this Ordinance, does any of the following -
 - (i) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
 - (ii) dishonestly or otherwise, recklessly makes a statement which is false, deceptive or misleading in a material particular,

- (iii) produces or furnishes or causes or permits to be produced or furnished any information which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (iv) dishonestly or otherwise, recklessly produces or furnishes or recklessly causes or permits to be produced or furnished any information which is false, deceptive or misleading in a material particular,

is guilty of an offence and is liable on conviction to a fine not exceeding level 4 on the uniform scale.

Notices.

30. (1) Any notice to be given, sent to or served on a person under this Ordinance may be given or served -

- (a) on an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, his usual or last known place of abode,
- (b) on a body corporate with a registered office in Guernsey, by being left at, or sent by post or transmitted to, that office,
- (c) on a body corporate without a registered office in Guernsey, by being left at, or sent by post or transmitted to, its principal or last known principal

place of business in Guernsey or, if there is no such place, its registered or principal office elsewhere,

- (d) on an unincorporated body, by being given to or served on any partner, member, manager or officer thereof in accordance with paragraph (a), or by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in Guernsey or, if there is no such place, its principal or last known principal place of business elsewhere,

and in this section the expression "**by post**" means by ordinary letter post, registered post or recorded delivery service and the expression "**transmitted**" means transmitted by facsimile transmission, electronic mail or other similar means which produce or enable the production of a document containing the text of the communication.

(2) If a person notifies the Department of an address for service within Guernsey for the purposes of any requirement under this Ordinance, any document to be given to or served on him may be given or served by being left at, or sent by post or transmitted to, that address.

(3) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served by being published in La Gazette Officielle on two occasions respectively falling in successive weeks, and a document served under this subsection is sufficient if addressed to the person for whom it is intended.

(4) Subsections (1) to (3) are without prejudice to any other lawful method of service.

(5) Notwithstanding the provisions of subsections (1) to (4) and of any other rule of law in relation to the service of documents, no document to be given to or served on the Department under this Ordinance shall be deemed to have been given or served until it is received.

(6) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Ordinance to have been received -

- (a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting, or
- (b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any non-business day; and in this subsection a "**non-business day**" means a Saturday, a Sunday, Christmas Day and Good Friday, and any day appointed as a public holiday by Ordinance of the States under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958^h.

(7) Service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

General provisions as to Orders.

31. (1) Orders under this Ordinance -

^h Ordres en Conseil Vol. XVII, p. 384 and amended by Vol. XXIV, p. 84; No. XI of 1993; No. XIV of 1994.

- (a) may be amended or repealed by subsequent Orders hereunder,
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Department to be necessary or expedient,
- (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 a new Order, and
- (d) other than those made wholly under sections 2(a) (in relation to varying the matters set out in sections 2(a)(i) to (iv)), 10(b), 16 and 31, shall provide for their expiry no later than the end of the period of 12 months beginning with the day on which they were made.

(2) The Department, as soon as reasonably possible after an Order is made, other than those wholly made under the sections referred to in subsection (1)(d), must publicise it by -

- (a) placing a notice in La Gazette Officielle of the making of that Order including a concise summary of its provisions, or

- (b) where it reasonably considers it can identify all persons who may be subject to any requirements of the Order, sending such a notice to all such persons.
- (3) Any power conferred by this Ordinance to make Orders 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, or
 - (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, or
 - (iii) any such provision either unconditionally or subject to any conditions specified in the Order.

Interpretation.

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

"animal" means any living creature except man,

"anything animate or inanimate" includes any living creature except Man,

"authorised person" shall be construed in accordance with section 28,

"avian influenza" means an infection of poultry or other domestic birds caused by any influenza A virus of the subtypes H5 or H7 or with an intravenous pathogenicity index in six week old chickens greater than 1.2,

"biosecurity measures" means measures taken to prevent the spread of causative agents of avian influenza,

"bird product" means a carcass or anything originating or made (whether in whole or in part) from a bird or a carcass except for eggs and fertiliser,

"carcass" means the carcass of a bird and includes part of a carcass, and the meat, bones, skin, feathers or any other part of a bird, separately or otherwise,

"causative agent" includes any virus, bacterium and any other organism or infectious substance which may cause or transmit avian influenza,

"compulsory slaughter disease" shall have the meaning in section

32(1) of the Animal Health Ordinance, 1996,

"Department" means the States Commerce and Employment Department,

"domestic bird" means any bird kept by or under the control of a person including any free range bird but excluding -

- (a) for the avoidance of doubt, any bird which is owned but has been released into the wild, and
- (b) any bird falling within paragraph (a) or (b) of the definition of imported bird,

"egg" means any bird egg or any part of such an egg,

"enactment" includes a Law, an Ordinance and any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation,

"fertiliser" includes bird excrement which is intended for use as a fertiliser,

"game bird" includes collared dove, partridge, pheasant, snipe and woodcock,

"infected" includes acting as a host to or harbouring,

"information" includes documents and written records including those held in electronic form,

"imported bird" means any bird -

(a) which has been imported into Guernsey but which is present at or in transit to or from any of the following places -

(i) a place which is approved or appointed for any of the purposes of section 7,

(ii) a shed or depot which is approved under section 10A, or

(iii) any place to which it has been moved pursuant to a direction under section 11,

of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 ("1972 Law")ⁱ,

(b) to which any of the circumstances in section 22(i) to (iii) of the 1972 Law applied on its importation, or

(c) which has been in Guernsey no more than 30 days from the date of its importation,

"inspection" includes detailed examination and the taking of any

ⁱ Ordres en Conseil Vol. XXIII, p. 573; Vol. XXIV, P. 87; Vol. XXXI, p. 278; No. XIII of 1991; No. X of 2004 and Ordinance No. XXXII of 2005.

samples,

"notice" means notice in writing,

"owner" means the person having, or appearing to the Department to have, the right to dispose of the bird, premises or thing in question, as the case may be,

"person" includes any body or authority,

"police officer" means a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

"premises" includes buildings and other land and if a person occupies two or more non-adjacent areas each of them comprise separate premises for the purposes of this Ordinance,

"prohibited or restricted" means -

- (a) prohibited,
- (b) prohibited subject to compliance with any conditions specified by the Department, or
- (c) prohibited other than under authority of and subject to any conditions attached to a licence issued by the Department,

"States" means the States of Guernsey,

"subordinate legislation" includes any regulation or order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

"treatment" includes vaccination,

"under this Ordinance" includes under any Order or direction made under this Ordinance or pursuant to any licence issued under such an Order,

"vehicle" means any form of transport, and

"wild bird" means any bird in a wild or feral state and includes any bird which reasonably appears to have been abandoned.

(2) 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.

Amendment of the Animal Health Ordinance, 1996.

33. Schedule 3 shall have effect.

Consequential Amendments and Repeals.

34. Schedule 4 shall have effect.

Extent.

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

Citation.

36. This Ordinance may be cited as the Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006.

Commencement.

37. This Ordinance shall come into force on the 27th September, 2006.

SCHEDULE 1

Section 10

PRECAUTIONARY MEASURES IN RELATION TO PREMISES-
BIOSECURITY MEASURES

The biosecurity measures which may be specified by the Department include measures requiring that -

- (a) any bird is isolated in accordance with such conditions as it may specify,
- (b) the movement of anything, animate or inanimate, is restricted or prohibited within, onto or from the premises,
- (c) the movement of any person, other than the owner or occupier of the premises, is restricted or prohibited within, onto or from the premises,
- (d) any bird is housed or kept subject to such conditions as the Department may specify, or
- (e) any clothing, equipment, materials, goods, vehicles or other things moving onto or from the premises are disinfected or cleansed and that disinfectant is provided at specified places on the premises.

SCHEDULE 2

Section 20

LICENCES

1. Any person who requests the Department to issue or renew a licence shall submit an application to the Department in such form as the Department may specify.

2. On receipt of an application, the Department may request in writing such further information in writing as it considers necessary to determine the application.

3. Before it considers any application the Department may require that any premises, equipment, vehicle or other facilities which are relevant to the application are inspected by an authorised person.

4. The Department may in response to an application -

- (a) issue a licence subject to such conditions as it considers appropriate,
- (b) issue a notice specifying any requirements that have to be met before a licence may be issued, or
- (c) reject the application by notice in which case such notice shall include a statement of the reasons why.

5. Where a licence has been issued and the Department has reasonable grounds to believe that there has been a breach of any conditions attached to that licence it may -

- (a) issue a notice to the licensee stating the nature of the breach of the conditions, setting out any action that is required to rectify the breach and any time period during which any requirements must be carried out, and
- (b) if the requirements in a notice issued under the provisions of item (a) are not carried out within the time period specified in that notice, issue a further notice stating that if the requirements of the original notice are not met within 14 days of the second notice, the licence will be revoked.

6. The Department may revoke a licence issued without issuing a notice under paragraph 5 where it believes that there has been a significant breach of a licence condition and that it is necessary to take immediate action to prevent or minimise the spread or the risk of the spread of avian influenza within or to Guernsey.

SCHEDULE 3

Section 33

AMENDMENT OF THE ANIMAL HEALTH ORDINANCE, 1996

1. The Animal Health Ordinance, 1996 shall be amended as follows.

2. In section 6A (special provisions in the event of a serious threat to public or animal health) -

(a) in paragraph (b) for the words "sections 5(a)" substitute "sections 5",

(b) for paragraph (c) substitute -

"(c) the Department may decide to treat -

(i) an animal which is an inconclusive reactor in respect of a test conducted under section 3, for the compulsory slaughter disease in question,

(ii) any susceptible animal which has been herded with or otherwise been in contact with any animal which has reacted to such a test, or

(iii) any susceptible animal which it reasonably suspects of being infected with or exposed to the compulsory

slaughter disease in question,

as though it had reacted positively to a test conducted under section 3, and".

3. In section 15 (infected area restrictions) -

(a) in subsection (2), for the words "this section" substitute "subsection (1)", and

(b) at the end add -

" (3) Whilst an Order declaring an infected area is in force the Department may direct that -

(a) any susceptible animal in the area is isolated, confined, housed or kept in such manner, subject to such conditions, by such date and for such period as the Department may specify,

(b) no person, except for the owner or occupier of the premises, shall enter any premises in the area where any susceptible animal is kept, except with the permission of the States Veterinary Officer,

(c) such biosecurity measures as the Department may specify are implemented on any premises in the area, or

(d) the holding of any show, display, fair, exhibition, competition or any other event in the area involving a gathering of any susceptible animals is -

(i) prohibited, or

(ii) prohibited subject to compliance with any conditions specified by the Department, or

(iii) prohibited other than under authority of and subject to any conditions attached to a licence issued by the Department.

(4) The Department shall, as soon as reasonably possible after it has made a direction under subsection (3) publicise it by -

(a) placing a notice in La Gazette

Officielle of the making of that direction which must include a summary of the directions made, or

- (b) where it reasonably considers it can identify all persons who may be subject to any directions, sending such a notice to all such persons.

(5) In subsection (3) "**biosecurity measures**" means measures taken to prevent the spread of causative agents of a notifiable animal disease and "**causative agent**" includes any virus, bacterium and any other organism or infectious substance which may cause or transmit the disease in question."

4. In paragraph 1(h) of Schedule 2 (compensation for slaughtered animals-valuation of animals) for the word "poultry" substitute "bird".

SCHEDULE 4

Section 34

CONSEQUENTIAL AMENDMENTS AND REPEALS

1. (1) The Protection of Wild Birds Ordinance, 1949 shall be amended as follows.

(2) In section 4A (actions pursuant to 1985 and 1996 Ordinances)-

(a) for the heading substitute –

"Actions pursuant to other Ordinances.", and

(b) for paragraph (a) substitute -

"(a) pursuant to the Animal Health Ordinance, 1996 or the Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006 or any Order or direction made under them or any licence issued under such an Order, or "

2. Sections 2 (exceptions), 4 (prohibitions on hatching), 5(1)(b) (powers of the Department) and the definition of "fowl pest" in section 7 of the Poultry and Hatching Eggs (Importation and Exportation) Ordinance, 1962, shall be repealed.

The Bar (Amendment) (No. 2) Ordinance, 2006

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

Qualifying period for admission as Advocate.

1. In section 3 of the Bar Ordinance, 1949, as amended^a, for "three years" substitute "two years".

Citation.

2. This Ordinance may be cited as the Bar (Amendment) (No. 2) Ordinance, 2006.

Commencement.

3. This Ordinance shall come into force on the 27th September, 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; No. II of 2005; and the Bar (Amendment) Ordinance, 2006.

The Drug Trafficking (Designated Countries and Territories) (Amendment) Ordinance, 2006

THE STATES, in exercise of the powers conferred upon them by sections 35 and 72 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000^a, and all other powers enabling them, and on the representations of the Home Department, hereby order:-

Amendments to Schedule 1 to the Ordinance of 2000.

1. Schedule 1 to the Drug Trafficking (Bailiwick of Guernsey) Law (Designated Countries and Territories) Ordinance, 2000^b is amended by the insertion, at the appropriate places in alphabetical order, of the countries and territories specified in the Schedule to this Ordinance.

Citation.

2. This Ordinance may be cited as the Drug Trafficking (Designated Countries and Territories) (Amendment) Ordinance, 2006.

^a Order in Council No. VII of 2000.

^b Ordinance No. XXVII of 2000.

SCHEDULE

Section 1

DESIGNATED COUNTRIES AND TERRITORIES

Austria

Benin

Botswana

Hungary

Kazakhstan

Tonga

United Republic of Tanzania

The Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 31st May, 2006^a, and in exercise of the powers conferred on them by sections 40A and 40B of the Income Tax (Guernsey) Law, 1975, as amended^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of 1989 Ordinance.

1. In the Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989, as amended^c -

- (a) in section 2(2)(c), after the words "a category A, B or C body" insert ", but only if the Department so directs in any particular case", and
- (b) in Schedule 2, paragraph 1 of Category B and paragraph 3 of Category C are repealed.

^a Article XIII of Billet d'État No. VIII of 2004.

^b Ordres en Conseil Vol. XXV, p. 124; sections 40A and 40B were inserted by Vol. XXVIII, p. 409 and amended by Vol. XXXI, p. 473 and No. VI of 1992.

^c Recueil d'Ordonnances Tome XXV, p. 106; Tome XXVI, p. 41; No. I of 1995; No. VI of 1996; (No. I of 1995 never came into force and was repealed by No. VI of 1996); and No. XXXIX of 1997.

Citation.

2. This Ordinance may be cited as the Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2006.

Commencement.

3. This Ordinance shall come into force on the 1st October, 2006.

The Machinery of Government
(Transfer of Functions) (Guernsey) (No. 2)
Ordinance, 2006

THE STATES, in pursuance of their Resolution of the 27th April, 2006^a, and in exercise of the powers conferred on them by sections 1, 2 and 3 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^b and all other powers enabling them in that behalf, hereby order:-

Transfer of functions of departments.

1. The functions, rights and liabilities of a department named in column 1 of the Schedule and of its Minister arising under or by virtue of the enactment specified in relation to that department in column 2 of the Schedule are transferred to and vested in, respectively, the department named in column 3 of the Schedule and its Minister.

Amendment of statutory references to departments.

2. For any reference in an enactment specified in column 2 of the Schedule to the department named in relation to that enactment in column 1 of the Schedule or its Minister, however expressed, there is substituted a reference to the department named in column 3 of the Schedule or (as the case may be) its Minister.

Savings and transitional provisions.

3. Anything done before the date of commencement of this Ordinance or in the process of being done on that date by or in relation to a department named

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

^b Order in Council No. XXI of 1991.

in column 1 of the Schedule or its Minister under or by virtue of the enactment specified in relation to that department in column 2 of the Schedule shall have effect as if done or (as the case may be) may be continued by or in relation to the department named in column 3 of the Schedule or (as the case may be) its Minister.

Subordinate legislation.

4. The provisions of sections 1, 2 and 3 apply in relation to any subordinate legislation made or having effect as if made under an enactment specified in column 2 of the Schedule as they apply in relation to the enactment itself; and the provisions of the enactment under which the subordinate legislation was made are varied insofar as is necessary to give effect to this section.

Interpretation.

5. (1) In this Ordinance -

"**Minister**" means, in relation to the Emergency Powers Authority, its Chairman,

"**subordinate legislation**" means -

- (a) any Ordinance made under a Law, and
- (b) any statutory instrument, regulation, rule, order, byelaw, scheme, code and other subordinate instrument of a legislative nature.

(2) 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.

Citation.

6. This Ordinance may be cited as the Machinery of Government (Transfer of Functions) (Guernsey) (No. 2) Ordinance, 2006.

Commencement.

7. This Ordinance shall come into force on the 27th September, 2006.

SCHEDULE

Section 1

TRANSFER OF FUNCTIONS
UNDER ENACTMENTS

1. DEPARTMENT FROM WHICH FUNCTIONS ARE TRANSFERRED	2. ENACTMENT UNDER WHICH FUNCTIONS ARISE	3. DEPARTMENT TO WHICH FUNCTIONS ARE TRANSFERRED
Home Department	Loi relative aux Ventes Publiques à l'encan, 1914 ^c	Commerce and Employment Department
Health and Social Services Department	Article X in Part 5 of the Ordonnance relative à la Santé Publique, 1936 ^d	Emergency Powers Authority
Home Department	Beaucette Quarry (Yacht Marina) (Control of Development and Use) Law, 1968 ^e	Public Services Department
Home Department	Food and Environment Protection Act 1985 ^f	Health and Social Services Department

^c Ordres en Conseil Vol. V, p. 41.

^d Recueil d'Ordonnances Tome VIII, p. 316.

^e Ordres en Conseil Vol. XXI, p. 301.

^f An Act of Parliament (1985 c. 48); extended to the Bailiwick by United Kingdom S.I.'s 1987/665 and 1997/1770.

The Trade Marks (Bailiwick of Guernsey) (Amendment) Ordinance, 2006

THE STATES, on the representations of the Commerce and Employment Department, and in exercise of the powers conferred on them by sections 1 and 3 of the Intellectual Property (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004^a and all other powers enabling them in that behalf, hereby order:-

Amendment of Ordinance.

1. After section 6(3) of the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006^b insert the following subsection -

"(4) Notwithstanding the provisions of this section, the expression "**earlier trade mark**" does not include an international trade mark (UK), Community trade mark or international trade mark (EC) except to the extent provided by regulations of the Department for the time being in force under this section or section 52 or 54."

Citation.

2. This Ordinance may be cited as the Trade Marks (Bailiwick of Guernsey) (Amendment) Ordinance, 2006.

Extent.

3. This Ordinance has effect throughout the Bailiwick.

^a Order in Council No. XIV of 2004.

^b Ordinance No. I of 2006.

Commencement.

4. This Ordinance shall come into force on the 1st October, 2006.

*Article XI***PROJET DE LOI**

ENTITLED

**The Financial Services Legislation (Bailiwick of Guernsey)
(Amendment) Law, 2006**

THE STATES, in pursuance of their Resolution of the 27th July^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 Bailiwick of Guernsey.

Amendment of Financial Services Commission Law.

1. After section 23 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended^b, insert the following section -

"Power of the States to amend Law by Ordinance.

23A. (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, orders or regulations (and vice versa).

^a Article XIX of Billet d'État No. XIII of 2006.

^b Ordres en Conseil Vol. XXX, p. 243; amended by No. XX of 1991; No. XIII of 1994; No. II of 1997; No. II of 1998; No's. XVII and XXI of 2002; No's. III and XXII of 2003; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII); and the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005 (No. XXXIV).

(3) An Ordinance under this section may, for the avoidance of doubt -

- (a) create offences, and
- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.

(4) Any department, council or committee of the States of Guernsey shall -

- (a) before recommending the States to agree to make an Ordinance under this section, consult the General Purposes and Finance Committee of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance, and
- (b) inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon.

(5) A failure to comply with subsection (4) does not invalidate an Ordinance under this section."

Amendment of Banking Supervision Law.

2. After section 55 of the Banking Supervision (Bailiwick of Guernsey) Law, 1994, as amended^c, insert the following section -

"Power of States to amend Law by Ordinance.

55A. (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, regulations or rules (and vice versa).

(3) An Ordinance under this section may, for the avoidance of doubt -

(a) create offences, and

(b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.

(4) Any department, council or committee of the States of Guernsey shall -

(a) before recommending the States to agree to make an Ordinance under this section, consult the General Purposes and Finance Committee of the Chief Pleas of Sark and the Policy and

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

Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance, and

- (b) inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon.

(5) A failure to comply with subsection (4) does not invalidate an Ordinance under this section."

Amendment of Protection of Investors Law.

3. For section 43 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended^d, substitute the following sections -

"Power of States to amend Law by Ordinance.

43. (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, orders, regulations or rules (and vice versa).

(3) An Ordinance under this section may, for the avoidance of doubt -

^d 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 (No. XXXIII).

- (a) create offences, and
 - (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.
- (4) Any department, council or committee of the States of Guernsey shall -
 - (a) before recommending the States to agree to make an Ordinance under this section, consult the General Purposes and Finance Committee of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance, and
 - (b) inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon.
- (5) A failure to comply with subsection (4) does not invalidate an Ordinance under this section.

Other provisions relating to Ordinances.

43A. (1) The States may by Ordinance make provision for the purpose of carrying this Law into effect and for any matter for which provision may be made under this Law by Ordinance of the States.

(2) The States may by Ordinance empower the Committee to prescribe by regulations anything for which provision may be made under this Law by Ordinance of the States.

(3) An Ordinance under this Law -

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

(4) Any power conferred by this Law to make an Ordinance 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."

Amendment of Regulation of Fiduciaries Law.

4. After section 57 of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000, as amended^e, insert the following section -

"Power of States to amend Law by Ordinance.

57A. (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, regulations or rules (and vice versa).

(3) An Ordinance under this section may, for the avoidance of doubt -

- (a) create offences, and

^e 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 (No. XXXIII).

- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.
- (4) Any department, council or committee of the States of Guernsey shall -
 - (a) before recommending the States to agree to make an Ordinance under this section, consult the General Purposes and Finance Committee of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance, and
 - (b) inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon.
- (5) A failure to comply with subsection (4) does not invalidate an Ordinance under this section."

Amendment of Insurance Business Law.

5. After section 85(1) of the Insurance Business (Bailiwick of Guernsey) Law, 2002, as amended^f, insert the following subsection -

"(1A) An Ordinance under this section may, for the

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

avoidance of doubt -

- (a) create offences, and
- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law."

Amendment of Insurance Managers and Insurance Intermediaries Law.

6. After section 62(1) of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002, as amended^g, insert the following subsection -

"(1A) An Ordinance under this section may, for the avoidance of doubt -

- (a) create offences, and
- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law."

Citation.

7. This Law may be cited as the Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006.

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

The Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2006

THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by sections 1, 2 and 3 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^a and all other powers enabling the States in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b, hereby orders:-

Transfer of functions.

1. The functions, rights and liabilities of the States Home Department arising under or by virtue of the States Fort George Development Committee (Transfer of Functions) (Guernsey) Law, 1987^c are transferred to and vested in the States Treasury and Resources Department.

Amendment of statutory references.

2. For any reference in the States Fort George Development Committee (Transfer of Functions) (Guernsey) Law, 1987 to the States Home Department, however expressed, there is substituted a reference to the States Treasury and Resources Department.

Savings and transitional provisions.

3. Anything done before the date of commencement of this Ordinance

^a Order in Council No. XXI of 1991.

^b Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

^c Ordres en Conseil Vol. XXX, p. 215; the functions specified in that Law were transferred to the Home Department from the Board of Administration by Ordinance XXXIII of 2003.

or in the process of being done on that date by or in relation to the States Home Department under or by virtue of the States Fort George Development Committee (Transfer of Functions) (Guernsey) Law, 1987 shall have effect as if done or (as the case may be) may be continued by or in relation to the States Treasury and Resources Department.

The Agreements.

4. The provisions of sections 1, 2 and 3 apply in relation to the Agreements specified in section 3 of the States Fort George Development Committee (Transfer of Functions) (Guernsey) Law, 1987 as they apply in relation to that Law itself; and the provisions of that Law are varied insofar as is necessary to give effect to this section.

Citation.

5. This Ordinance may be cited as the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2006.

Commencement.

6. This Ordinance shall come into force on the 14th August, 2006.

Article XIX

**CODE OF CONDUCT
for
MEMBERS OF THE
STATES OF DELIBERATION**

**Approved by Resolution of the States
on the XX XXXX 2006**

**CODE OF CONDUCT
for
MEMBERS OF THE
STATES OF DELIBERATION**

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Code of Conduct for Members of the States of Deliberation

approved by Resolution of the States on the XX XXXX 2006, pursuant to article 20F(1) of The Reform (Guernsey) Law, 1948, as amended¹.

PART I

Purpose of the Code

1. The purpose of the Code of Conduct is to assist elected Members of the States of Deliberation [hereinafter referred to as “Members”] in the discharge of their obligations to the States, their constituents and the public. All Members are required to comply with the provisions of this code in all aspects of their public life. Whilst it does not seek to regulate what Members do in their purely private and personal lives they must, however, be aware that some private and personal matters may impinge on their public rôles.

Public Duty

2. Members, before entering office², take an oath or affirm allegiance to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law. They also take an oath of office or make an affirmation in which they promise that “well and faithfully” they will perform the duties attaching to membership of the States of Deliberation.

¹ Article 20F(1) inserted by The Reform (Guernsey) (Amendment) Law, 2006

² Article 19 of The Reform (Guernsey) Law, 1948, as amended

3. The primary duty of Members is to act in the public interest. In so doing Members have a duty on all occasions to act in accordance with their oaths, and in accordance with the public trust placed in them.
4. Members have a duty to respect the rule of law and the administration of justice. In this context “law” includes such international law and treaty obligations as are for the time being applicable.
5. Whilst Members have a general duty to act in the best interests of the public as a whole they have a special duty to be accessible to the people of the electoral district for which they have been elected to serve and to represent their interests conscientiously.

Personal Conduct

6. Members shall observe the following general principles of conduct for holders of public office –

- **Selflessness**

Members shall take decisions solely in terms of the public interest. They shall not do so in order to gain financial or other material benefits for themselves, their family or friends, their business associates or any voluntary or charitable organisation with which they are involved.

- **Integrity**

Members shall not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

- **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members shall make choices on merit.

- **Accountability**

Members are accountable for their decisions and actions to the States and the public and must submit themselves to whatever scrutiny is appropriate to their office.

- **Openness**

Members shall be as open as possible about all decisions and actions that they take and must not knowingly deceive or mislead. They shall give reasons for their decisions and restrict information only when the wider public interest, or statutory provision, clearly demand.

- **Honesty**

Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

- **Leadership**

Members shall promote and support these principles by leadership and example.

The Principles in Practice

Conflict between public and private interest

7. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

Members' Conduct

8. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Deliberation and never undertake any action which would bring the States, or its Members generally, into disrepute.
9. Members shall at all times treat other Members, civil servants and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process.

Relationship with the Civil Service

10. Members shall uphold the political impartiality of the Civil Service and shall not ask civil servants to act in a manner which would conflict with the Civil Service Code. Members should familiarize themselves with the contents of that Code. In reaching decisions they shall give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice from other persons.

Gifts and Hospitality

11. The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any matter submitted or intended to be submitted to the States of Deliberation, or any Department or Committee of the States, is contrary to law.³
12. The acceptance of hospitality may be acceptable in appropriate circumstances as a means of effecting States' business. However, Members shall not accept gifts, hospitality or services that might appear to place the recipient under any form of obligation to the giver. In receiving any gift or hospitality Members should consider subjectively whether they would be prepared to justify acceptance to the public.
13. Members must comply with the detailed provisions regarding gifts and hospitality set out in Schedule 1 to this Code.

Use of States facilities

14. To avoid misrepresentation of the States and to avoid the improper use of States' assets, Members must not use any goods, services or facilities provided for the functioning of government
 - (a) for private purposes; nor
 - (b) except where generally available in accordance with published arrangements to all Members, for electoral district purposes.

³ The Prevention of Corruption (Bailiwick of Guernsey) Law, 2003

Register and Declaration of Members' Interests

15. Members must fulfil conscientiously the requirements of the Rules of Procedure of the States of Deliberation in respect of the registration of interests in the Register of Members' Interests and must always draw attention to any relevant and material interest in any proceedings of the States of Deliberation, its Departments or Committees.
16. In any activities with, or on behalf of, any organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with the Presiding Officer, Law Officers, Ministers, Members and officials.

Payments from Third Parties

17. Members must not accept, from a third party, any payment or gift in respect of their participation in any proceedings of the States, its Departments or Committees.

Confidential Information

18. Members must bear in mind that confidential information which they receive in the course of their duties may only be used in connection with those duties, and that such information must never be used for the purpose of financial gain or otherwise in their own personal interest or that of their families, friends, business associates or any voluntary or charitable organisation with which they are involved.

19. In addition, Members shall not disclose publicly, or to any third party, personal information about named individuals which they receive in the course of their duties, unless it is both lawful and clearly in the wider public interest to do so. Members must, at all times, have regard to all relevant data protection, human rights and other legislation when dealing with confidential information and must be aware of the consequences of breaching confidentiality.

PART II

States Members' Conduct Panel

20. There shall be established a States Members' Conduct Panel [hereinafter referred to as "the Panel"] the purpose of which shall be to investigate complaints referred to it in accordance with procedures set out in Part III of this Code.
21. The Panel shall comprise a Chairman, a Deputy Chairman and eight ordinary members appointed in writing by the Presiding Officer for a period of five years. Members of the States and their spouses shall not be eligible to serve on the Panel. A person so appointed may at any time resign his appointment by notice in writing delivered to the Presiding Officer.
22. Members whose term of office comes to an end by effluxion of time shall be eligible, if otherwise qualified, for re-appointment.
23. If it appears to the Presiding Officer that a Member of the Panel
 - (a) has been absent from the Island for a period longer than six consecutive months; or

- (b) is incapacitated by physical or mental illness; or
- (c) is otherwise unable or unfit to discharge the functions of a member of the Panel

the Presiding Officer may declare his office to be vacant and thereupon shall appoint a person to fill the position vacated.

24. A member of the Panel who has any direct or indirect personal interest in a matter referred to the Panel shall forthwith declare that interest to the Chairman of the Panel and shall take no further part in the investigation of the matter concerned. In the case of the Chairman he shall declare any such interest to the Deputy Chairman of the Panel.
25. In the event that both the Chairman and Deputy Chairman are unable to act, the Presiding Officer shall appoint one of the ordinary members to be Acting Chairman in respect of the particular matter to be investigated.

PART III

Procedure for Complaints relating to Part I matters

26. Complaints, whether from Members or from members of the public, alleging that the conduct of a Member is in breach of the Code of Conduct set out in Part I must be addressed in writing to the Chairman of the Panel.
27. Unsubstantiated allegations will not be considered by the Chairman of the Panel. Complainants are required to supply the Chairman of the Panel with supporting evidence and a complaint founded only upon a media report will not normally be treated as a substantiated allegation. Anonymous complaints will not be considered.

28. If the Chairman of the Panel is satisfied that there is prima facie evidence to support the complaint he will ask the Member concerned to respond to the complaint and will then conduct an investigation. The Investigation Panel will comprise the Chairman and two other members of the Conduct Panel, one of whom shall be nominated by the Chairman, and the other being nominated by the Member under investigation. If the Member declines to so nominate, or fails to do so within such period as shall be determined by the Chairman, he shall forfeit his right and the Chairman shall make the appointment. The Member concerned will at every stage be given full details of the nature of the complaint and will be invited to address the Investigation Panel.
29. All Members are required to co-operate fully and promptly with the Investigation Panel during any investigation, even if the Member concerned considers that the alleged breach is unsubstantiated. Failure to co-operate in any investigation will, in itself, be regarded as a breach of the Code.
30. The Investigation Panel may request the production of papers and records and may request the attendance of any person before it, and may request that specific documents in the possession of a Member relating to its inquiries be laid before it.
31. If the Chairman when considering the prima facie evidence or the Investigation Panel in the course of the investigation has cause to believe that a criminal offence may have been committed, he or it (as the case may be) shall immediately suspend the proceedings and forthwith refer the matter to the Chief Officer of Police. The investigation shall not be resumed until either judicial proceedings have been concluded or the Chief Officer of Police has certified to the Chairman that he has no further interest in the matter.

32. Where the Investigation Panel finds that a complaint has been substantiated but is of the view that the breach of conduct was of a minor nature it will normally dispose of the matter by cautioning the Member concerned. A report of the Investigation Panel's decision in such cases shall be forwarded to the Presiding Officer and to Her Majesty's Greffier who shall make the said report available for public inspection whenever the Greffe is open for normal business.
33. Where the Panel finds that a complaint has been substantiated and it is of the opinion that the Member should be formally reprimanded, suspended or expelled, or, where a Member refuses to accept a caution in the circumstances set out in the previous paragraph, it shall report its findings to the House Committee which, in turn, shall report to the States on the matter, with appropriate recommendations.
34. Where the complaint concerns the Chairman or a Member of the House Committee, and where the Panel finds that the complaint has been substantiated and is of the opinion that the Member should be formally reprimanded, suspended or expelled, it shall report its findings to the Chief Minister who, in turn, shall report to the States on the matter, with appropriate recommendations.

PART IV

Absolute Privilege for States Proceedings

35. The Law⁴ confers absolute privilege on Members in respect of any words spoken in, or in any report to, the States or any Department or Committee thereof. This includes requêtes, amendments, sursis,

⁴ Article 20A of The Reform (Guernsey) Law, 1948, as amended

questions, reports and other written documents. Absolute privilege is a complete defence to any legal proceedings arising as a result of what is said or published. It confers protection even when the words complained of are spoken or published maliciously, or when their being spoken or published would otherwise amount to a criminal offence.

36. Members are afforded this immunity to enable them to air any matter, regardless of the power, wealth or status of those criticised.
37. The counter-balance to privilege, however, is responsibility; and Part V of this Code sets out the mechanism for the investigation of allegations of abuse of privilege and, where such an allegation is found to be substantiated, the penalties which may be imposed on the Member concerned.

PART V

Investigation of Allegations of Abuse of Privilege

38. A Privileges Panel convened for the purpose of investigating an allegation of abuse of privilege shall comprise five of the ten most senior Members, by length of service, appointed by the Presiding Officer, save that
 - (a) if the Presiding Officer deems it inappropriate for some or all of the ten most senior Members to sit on the Privileges Panel he may appoint some or all of the next ten most senior Members as Members of the Panel;
 - (b) the two Members appointed to sit on the First Instance Panel shall not be eligible to sit on the Privileges Panel.

39. A Member alleging that another Member has abused privilege shall request the Presiding Officer to direct that the alleged abuse be referred to a Privileges Panel for consideration.
40. A request that an alleged abuse of privilege be referred to a Privileges Panel shall include a statement that it is a motion laid pursuant to this paragraph and shall set out the full details of the basis on which the Member making the request alleges abuse of privilege. In particular, the said Member shall provide sufficient information to show that there is a prima facie case for the matter to be referred to a Privileges Panel.
41. A request made pursuant to the previous paragraph shall be referred by the Presiding Officer to a First Instance Panel selected by him and comprising two of the ten most senior Members, by length of service and one of the Law Officers.
42. The alleged abuse shall only be referred to a Privileges Panel if the First Instance Panel has resolved that a prima facie case has been made by the Member alleging the abuse of privilege.
43. The Member concerned will be invited to address the Privileges Panel. All Members are required to co-operate fully with the Privileges Panel during any investigation, even if the Member concerned considers that the alleged abuse is unsubstantiated. Failure to co-operate in an investigation will be regarded as a breach of the Code.
44. The Privileges Panel may request the production of papers and records and may request the attendance of any person before it, and may request that specific documents in the possession of a Member relating to its inquiries be laid before it.

45. When the Privileges Panel has concluded its investigations it shall report its findings directly to the States, and if the allegation is upheld, the Privileges Panel shall advise the States as to whether they should reprimand, suspend or expel the offending Member. When a suspension is proposed the terms of the proposed suspension shall be set out in the report of the Privileges Panel. Members of either the First Instance Panel or Privileges Panel shall not be precluded from taking part in the States proceedings.

PART VI

Suspension of a Member

46. The States may, in dealing with breaches of conduct or abuse of privilege, suspend a Member either from all States service or from a particular office or function, e.g. from the membership of a particular Department or Committee.
47. A Member suspended from a particular office or function may not take part in any meetings or other matters relating to that office or function but may, in all other matters, continue to serve as a Member of the States.
48. A Member suspended from all States service shall not, during the period of his suspension:
- Enter the States Chamber or its precincts when the States are meeting;
 - Take part in any meeting or other matter relating to the States or a Department or Committee of the States;

- Sign any report, requête or other document relating to the business of the States;
- Ask any question pursuant to Rule 6 of the Rules of Procedure.

49. The States shall, when resolving that a Member be suspended, specify in each case whether any or all of the allowances payable to the Member pursuant to the Rules for Payments to States Members should cease during the period of suspension.

PART VII

General

Applicability to Non-States Members of States Departments and Committees

50. This Code shall, where the context so permits, apply to Non-States Members of States Departments and Committees.

Definitions

51. In this Code
- “absolute privilege” has the meaning assigned to it in Article 20A of the Reform (Guernsey) Law, 1948, as amended;
 - “abuse of privilege” means abuse of absolute privilege;
 - “Members of the States of Deliberation” and “Members” means People’s Deputies and Alderney Representatives.
52. In Part III reference to “the Chairman” includes “the Deputy Chairman” where the context so permits.

Commencement

53. This Code of Conduct shall come into force on the day following the registration in the Royal Court of The Reform (Guernsey) (Amendment) Law, 2006.

SCHEDULE 1

GIFTS, BENEFITS AND HOSPITALITY

Any gift or material benefit received by a Member, or to the Member's knowledge by any of his close family or associates, must be declared in accordance with this schedule if it:

- (a) in any way relates to membership of the States; and**
- (b) is of a value greater than 1% of the basic allowance for the time being payable to States Members.**

1. Declarations in accordance with this schedule must be made to the Chairman of the House Committee in such form as the House Committee may from time to time determine, not later than the 31st May each year in respect of the 12 months ending on the previous 30th April. Such declarations shall be available for public inspection at the Greffe during normal opening hours. Declarations by the Chairman of the House Committee shall be made to the Vice-Chairman of the Committee.
2. The specified financial value above which gifts of money or tangible items (e.g. jewellery, glassware), or other benefits (e.g. hospitality, tickets to sporting and cultural events, relief from indebtedness, loan concessions, provision of services, etc.) must be registered is 1% of the current basic allowance payable to States Members. Any such money or tangible gifts received by a Member may not be retained but must be transferred or delivered into the ownership of the States.
3. The rule means that any gift, or other benefit, which in any way relates to membership of the States and which is given gratis, or at a cost below that generally available to members of the public, shall be registered

whenever the value of the gift or benefit is greater than the amount specified in paragraph 2. Any similar gift or benefit which is received by any company or organisation in which the Member and any of his close family jointly have a controlling interest must also be registered.

4. Gifts and other benefits from the same or associated sources in the course of the relevant 12 months which cumulatively are of greater value than the amount specified in paragraph 2 must be registered, even if each single gift or benefit is of lesser value.
5. Benefits, such as tickets to sporting or cultural events, received by another person together with or on behalf of a Member must be registered as if they had been received by the Member.
6. Gifts or other benefits from another Member of the States are to be registered in the same way as those received from other persons.
7. Excepted from the provisions of this Schedule:
 - (a) are gifts and benefits known to be available to all Members of the States;
 - (b) is attendance at a conference or a site visit within the Bailiwick, the United Kingdom, Jersey and the Isle of Man in the context of legitimate States business where the organiser meets reasonable travel and subsistence costs only;
 - (c) is hospitality provided in the context of legitimate States business by the States of Guernsey, States of Alderney, Chief Pleas of Sark or the governments the United Kingdom, Jersey or the Isle of Man or the devolved institutions in Scotland, Wales or Northern Ireland.

Gifts and material benefits are exempt from registration if they do not relate in any way to membership of the States. Whether this exemption applies in any particular case is necessarily a matter of judgment. Both the possible motive of the giver and the use to which the gift is put have to be considered: if it is clear on both counts that the gift or benefit is entirely unrelated to membership of the States, and would not reasonably be thought by others to be so related, it need not be registered. If there is any doubt it shall be registered.