

# **BILLET D'ÉTAT No. XIV, 2007**

**30<sup>th</sup> May 2007**

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	<i>Page</i>
Projet de Loi entitled “The Disclosure (Bailiwick of Guernsey) Law, 2007”	1
Projet de Loi entitled “The Motor Taxation and Licensing (Guernsey) (Amendment) Law, 2007”	34
The Motor Vehicles, Traffic and Licensing (Amendment) Ordinance, 2007	50
The Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2007	70
The Housing (Control of Occupation) (Extension) Ordinance, 2007	74
The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2007	75

# PROJET DE LOI

ENTITLED

## **The Disclosure (Bailiwick of Guernsey) Law, 2007**

### ARRANGEMENT OF SECTIONS

#### PART I

#### DISCLOSURE OF INFORMATION BY FINANCIAL SERVICES BUSINESSES AND BY NON FINANCIAL SERVICES BUSINESSES

1. Failure to disclose knowledge or suspicion etc. of money laundering - financial services businesses.
2. Failure to disclose knowledge or suspicion etc. of money laundering - nominated officers in financial services businesses.
3. Failure to disclose knowledge or suspicion etc. of money laundering - non financial services businesses.
4. Tipping-off.
5. Penalties.

#### PART II

#### DISCLOSURE OF INFORMATION BY AUTHORISED PERSONS

6. Disclosure of information to police officer by authorised persons.
7. Interpretation of Part II.

#### PART III

#### DISCLOSURE OF INFORMATION BY POLICE OFFICERS

8. Disclosure of information by police officers.

#### PART IV

#### DISCLOSURE OF INFORMATION BY AND TO ADMINISTRATOR OF INCOME TAX

9. Disclosure of information by Administrator of Income Tax.
10. Disclosure of information to Administrator of Income Tax by relevant officer.

#### PART V

#### POWER TO PRESCRIBE FORM AND MANNER OF AND OTHER MATTERS CONCERNING DISCLOSURES

11. Power to prescribe form and manner of, and other matters concerning, disclosures.

PART VI  
MISCELLANEOUS AMENDMENTS

12. Amendment of definition of "officer of police" in Fiduciaries Law.
13. Amendment of Drug Trafficking Law.

PART VII  
GENERAL

14. Power to amend law relating to disclosure of information by Ordinance.
15. Power of Commission to make rules and issue guidance.
16. Ordinances, regulations, rules and guidance.
17. Interpretation.
18. Part IV not to apply to Sark.
19. Citation.
20. Commencement.

# PROJET DE LOI

ENTITLED

## **The Disclosure (Bailiwick of Guernsey) Law, 2007**

**THE STATES**, in pursuance of their Resolutions of the 31<sup>st</sup> May, 2002<sup>a</sup>, 28<sup>th</sup> September, 2005<sup>b</sup> and 27<sup>th</sup> July, 2006<sup>c</sup>, 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

#### DISCLOSURE OF INFORMATION BY FINANCIAL SERVICES BUSINESSES AND BY NON FINANCIAL SERVICES BUSINESSES

#### **Failure to disclose knowledge or suspicion etc. of money laundering - financial services businesses.**

1. (1) A person commits an offence if each of the following conditions is satisfied.

(2) The first condition is that he -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering.

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<sup>a</sup> Article VI of Billet d'État No. IX of 2002.

<sup>b</sup> Article XI of Billet d'État No. XIV of 2005.

<sup>c</sup> Article XXIV of Billet d'État No. XIII of 2006.

- (3) The second condition is that the information or other matter -
  - (a) on which his knowledge or suspicion is based, or
  - (b) which gives reasonable grounds for such knowledge or suspicion,

came to him in the course of the business of a financial services business.

(4) The third condition is that he does not make the required disclosure as soon as is practicable after the information or other matter comes to him.

(5) The required disclosure is a disclosure of the information or other matter -

- (a) to a nominated officer or a police officer,
- (b) in the form and manner (if any) prescribed for the purposes of this subsection by regulations under section 11.

- (6) But a person does not commit an offence under this section if-
  - (a) he has a reasonable excuse for not disclosing the information or other matter,
  - (b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances, or

(c) subsection (7) applies to him.

(7) This subsection applies to a person if -

- (a) he does not know or suspect that another person is engaged in money laundering, and
- (b) he has not been provided by his employer with such training as is required by regulations made under section 49 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>d</sup>.

(8) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules or guidance which were at the time concerned -

- (a) made or issued by the Commission under section 15 or any other enactment, and
- (b) published in a manner it approved as appropriate in its opinion to bring the rules or guidance to the attention of persons likely to be affected by it.

(9) A disclosure to a nominated officer is a disclosure which -

- (a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section, and

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<sup>d</sup> Order in Council No. VIII of 1999.

- (b) is made in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose.

(10) For the purposes of a disclosure to a nominated officer -

- (a) references to a person's employer include any body, association or organisation (including a voluntary organisation) in the course of the business of which the person carries out a function (whether or not for gain or reward), and
- (b) references to employment are to be construed accordingly.

(11) Information or another matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him -

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
- (b) by (or by a representative of) a person seeking legal advice from the adviser, or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(12) But subsection (11) does not apply to information or another matter which is communicated or given with a view to furthering a criminal purpose.

(13) A disclosure to a nominated officer or to a police officer does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

**Failure to disclose knowledge or suspicion etc. of money laundering - nominated officers in financial services businesses.**

2. (1) A person who is a nominated officer under section 1(9)(a) commits an offence if the conditions in subsections (2) to (4) are satisfied.

(2) The first condition is that he -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering.

(3) The second condition is that the information or other matter -

(a) on which his knowledge or suspicion is based, or

(b) which gives reasonable grounds for such knowledge or suspicion,

came to him in consequence of a disclosure made under section 1.

(4) The third condition is that he does not make the required disclosure as soon as is practicable after the information or other matter comes to him.

(5) The required disclosure is a disclosure of the information or



other matter -

- (a) to a police officer,
- (b) in the form and manner (if any) prescribed for the purposes of this subsection by regulations under section 11.

(6) But a person does not commit an offence under this section if he has a reasonable excuse for not disclosing the information or other matter.

(7) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules or guidance which were at the time concerned -

- (a) made or issued by the Commission under section 15 or any other enactment, and
- (b) published in a manner it approved as appropriate in its opinion to bring the rules or guidance to the attention of persons likely to be affected by it.

(8) A disclosure to a police officer does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

**Failure to disclose knowledge or suspicion etc. of money laundering - non financial services businesses.**

3. (1) A person commits an offence if each of the following conditions is satisfied.

(2) The first condition is that he -

(a) knows or suspects, or

(b) has reasonable grounds for knowing or suspecting,

that another person is engaged in money laundering.

(3) The second condition is that the information or other matter -

(a) on which his knowledge or suspicion is based, or

(b) which gives reasonable grounds for such knowledge or suspicion,

came to him in the course of the business of a non financial services business.

(4) The third condition is that he does not make the required disclosure as soon as is practicable after the information or other matter comes to him.

(5) The required disclosure is a disclosure of the information or other matter to a police officer.

(6) But a person does not commit an offence under this section if-

(a) he does not know or suspect that another person is engaged in money laundering and he has not been provided by his employer with any training required by regulations made under section 49A of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey)

Law, 1999<sup>e</sup>,

- (b) if paragraph (a) does not apply, the person was in employment at the time in question and he disclosed the information or other matter to the appropriate person in accordance with any procedure established by his employer for the making of such disclosures,
- (c) he has some other reasonable excuse for not disclosing the information or other matter, or
- (d) he is a professional legal adviser and the information or other matter came to him in privileged circumstances.

(7) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant rules or guidance which were at the time concerned -

- (a) made or issued by the Commission under section 15 or any other enactment, and
- (b) published in a manner it approved as appropriate in its opinion to bring the rules or guidance to the attention of persons likely to be affected by it.

(8) Information or another matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him -

- (a) by (or by a representative of) a client of his in

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<sup>e</sup> Order in Council No. VIII of 1999.

connection with the giving by the adviser of legal advice to the client,

- (b) by (or by a representative of) a person seeking legal advice from the adviser, or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(9) But subsection (8) does not apply to information or another matter which is communicated or given with a view to furthering a criminal purpose.

(10) A disclosure to a police officer does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

**Tipping-off.**

4. (1) A person is guilty of an offence if -

- (a) he knows, or suspects, that -
  - (i) a required disclosure has been made to a police officer, or a nominated officer, under section 1, 2 or 3, or
  - (ii) any information or other matter concerning the required disclosure has been communicated to a police officer, or nominated officer, whether or not in the form and manner (if any) prescribed for the purposes under section 11, and

(b) he discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following -

(i) the making of the required disclosure under paragraph (a)(i), or

(ii) the communication of the information or other matter under paragraph (a)(ii).

(2) Nothing in subsection (1) makes it an offence for a professional legal adviser to disclose any information or other matter -

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client, or

(b) to any person -

(i) in contemplation of, or in connection with, legal proceedings, and

(ii) for the purpose of those proceedings.

(3) Subsection (2) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(4) In proceedings against a person for an offence under subsection (1), it is a defence to prove that he did not know or suspect that the disclosure under paragraph (b) of that subsection was likely to be prejudicial in the way mentioned in that paragraph.

(5) No police officer or other person is guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Law or of any other enactment relating to criminal conduct.

**Penalties.**

5. A person guilty of an offence under section 1, 2, 3 or 4 is liable -
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the uniform scale or to both, or
  - (b) on conviction or indictment, to imprisonment for a term not exceeding five years or to a fine or to both.

PART II

DISCLOSURE OF INFORMATION BY AUTHORISED PERSONS

**Disclosure of information to police officer by authorised person.**

6. (1) An authorised person may disclose to a police officer any information held by a government department if the disclosure is made for the purpose of -
- (a) any criminal investigation which is being or may be carried out, whether in the Bailiwick or elsewhere,
  - (b) any criminal proceedings which have been or may be initiated, whether in the Bailiwick or elsewhere,

- (c) the initiation or bringing to an end of any such investigation or proceedings, or
- (d) facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end.

(2) Subsection (1) does not apply to any information in the possession of the Administrator of Income Tax.

(3) No disclosure of information shall be made by virtue of this section unless the authorised person who makes the disclosure is satisfied that the making of the disclosure is proportionate to what is thereby sought to be achieved.

(4) Nothing in this section prejudices any power to disclose information which exists apart from this section.

(5) The information that may be disclosed by virtue of this section includes information obtained before this Law came into force.

(6) A disclosure under this section does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

## **Interpretation of Part II.**

7. In this Part-

**"authorised person"** means -

- (a) in Guernsey, a person employed in a department of the States of Guernsey who is authorised by -

- (i) the chief officer of the department, or
- (ii) in the event that the department has no chief officer, the Chief Executive of the States of Guernsey,

to make disclosures under this Law,

- (b) in Alderney, the Chief Executive of the States of Alderney, and
- (c) in Sark, a person appointed by the Chief Pleas of Sark to make disclosures under this Law,

**"department of the States of Guernsey"** means any department or committee (however called) of the States of Guernsey, and includes the Policy Council, and

**"government department"** means -

- (a) in Guernsey, any department of the States of Guernsey,
- (b) in Alderney, any Committee of the States of Alderney, and
- (c) in Sark, any Committee of the Chief Pleas of Sark.

### PART III

#### DISCLOSURE OF INFORMATION BY POLICE OFFICERS



**Disclosure of information by police officers.**

8. (1) Subject to subsection (4), information obtained by a police officer -

- (a) under this Law or any other enactment, or
- (b) in connection with the carrying out of any of the officer's functions,

may be disclosed to any other person if the disclosure is for any purposes set out in subsection (2).

(2) The purposes are any of the following -

- (a) the prevention, detection, investigation or prosecution of criminal offences, whether in the Bailiwick or elsewhere,
- (b) the prevention, detection or investigation of conduct for which penalties other than criminal penalties are provided under the law of any part of the Bailiwick or of any country or territory outside the Bailiwick,
- (c) the carrying out -
  - (i) by the Commission, or
  - (ii) by a body in another country or territory which carries out any similar function to the Commission,

of its functions,

- (d) the carrying out of any functions of any intelligence service, or
- (e) the carrying out of any function which appears to the Home Department to be a function of a public nature and which it designates as such by order.

(3) A disclosure under this section does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(4) Nothing in this section authorises -

- (a) a disclosure in contravention of any provisions of the Data Protection (Bailiwick of Guernsey) Law, 2001<sup>f</sup> of personal data which are not exempt from those provisions,
- (b) a disclosure which is prohibited by Part I of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003<sup>g</sup>, or
- (c) a disclosure in contravention of section 9(5).

#### PART IV

#### DISCLOSURE OF INFORMATION BY AND TO ADMINISTRATOR OF

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<sup>f</sup> Order in Council No. V of 2002.

<sup>g</sup> Order in Council No. XXX of 2003.

## INCOME TAX

**Disclosure of information by Administrator of Income Tax.**

9. (1) This section applies to information which is held by or on behalf of the Administrator of Income Tax including information obtained before the coming into force of this section.

(2) No obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise prevents the disclosure to a police officer, in accordance with the following provisions of this section, of information to which this section applies if the disclosure is made for the purpose of -

- (a) facilitating the carrying out of the functions of any intelligence service,
- (b) any criminal investigation which is being or may be carried out, whether in the Bailiwick or elsewhere,
- (c) any criminal proceedings which have been or may be initiated, whether in the Bailiwick or elsewhere,
- (d) the initiation or bringing to an end of any such investigation or proceedings, or
- (e) facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end.

(3) No obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise prevents the

disclosure to the Commission, or a body in another country or territory which carries out any similar function to the Commission, in accordance with the following provisions of this section, of information to which this section applies if the disclosure is made for the purpose of enabling -

- (a) the Commission, or
- (b) a body in another country or territory which carries out any similar function to the Commission,

to carry out its functions.

(4) No disclosure of information to which this section applies shall be made under this section unless the person by whom the disclosure is made is satisfied that the making of the disclosure is proportionate to what is thereby sought to be achieved.

(5) Information to which this section applies shall not be disclosed to -

- (a) a police officer,
- (b) the Commission, or
- (c) a body in another country or territory which carries out any similar function to the Commission,

by virtue of this section except by the Administrator of Income Tax.

(6) Information obtained by means of a disclosure authorised by subsection (2) or (3) shall not be further disclosed by a police officer or the

Commission except -

- (a) for a purpose mentioned in those subsections, and
- (b) with the consent of the Administrator of Income Tax.

(7) A consent for the purposes of subsection (6) may be given either in relation to a particular disclosure or in relation to disclosures made in such circumstances as may be specified or described in the consent.

(8) Nothing in this section authorises a disclosure, in contravention of any provisions of the Data Protection (Bailiwick of Guernsey) Law, 2001<sup>h</sup>, of personal data which are not exempt from those provisions.

(9) Nothing in this section prejudices any power to disclose information which exists apart from this section.

**Disclosure of information to Administrator of Income Tax by relevant officer.**

**10.** (1) A relevant officer may disclose to the Administrator of Income Tax any information in his possession which he reasonably believes may assist the Administrator to carry out his functions.

(2) The information that may be disclosed under this section includes information obtained before this Law came into force.

(3) No disclosure of information shall be made under this section unless the relevant officer who makes the disclosure is satisfied that the making of the disclosure is proportionate to what is thereby sought to be achieved.

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<sup>h</sup> Order in Council No. V of 2002.

(4) Nothing in this section prejudices any power to disclose information which exists apart from this section.

(5) A disclosure under this section does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(6) For the purposes of this section "**a relevant officer**" means -

- (a) Her Majesty's Procureur,
- (b) a member of the salaried police force of the Island of Guernsey who holds the rank of inspector or above,
- (c) a member of any police force which may be established by the States of Alderney who holds the rank of inspector or above, or
- (d) a customs officer of the grade of senior investigation officer or above.

## PART V

### POWER TO PRESCRIBE FORM AND MANNER OF AND OTHER MATTERS CONCERNING DISCLOSURES

#### **Power to prescribe form and manner of, and other matters concerning, disclosures.**

11. (1) The Home Department may by regulations prescribe -

- (a) the form and manner in which a disclosure under section 1, 2 or 3 must be made, and

- (b) such other matters as are reasonably necessary to enable any person to whom a disclosure is made under this Law, or any other enactment, to obtain additional information.

(2) Without prejudice to the generality of the power under subsection (1), regulations made thereunder may make provision for, or concerning-

- (a) the period of time within which any additional information must be supplied by the discloser following its request,
- (b) the form and manner in which any such request must be made, and
- (c) the creation, trial (summarily or on indictment) and punishment of offences, provided that the penalties for the punishment of any such offences shall not exceed those prescribed under section 5.

(3) A disclosure made in pursuance of a request made under regulations under subsection (1) does not contravene any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise.

(4) For the purposes of this section -

**"additional information" -**

- (a) means information which is reasonably necessary to

enable the person to whom any disclosure is made to decide -

- (i) where the disclosure concerns money laundering, whether to start a money laundering investigation, or
  - (ii) where the disclosure concerns any other matter, whether to pass the information on so that a decision may be made as to whether to start a criminal investigation in the Bailiwick or elsewhere, and
- (b) includes financial, administrative and law enforcement information,

**"a money laundering investigation"** is an investigation into whether a person has engaged in money laundering, and

**"discloser"** means the person making a disclosure under any provision referred to in subsection (1)(a).

## PART VI

### MISCELLANEOUS AMENDMENTS

#### **Amendment of definition of "officer of police" in Fiduciaries Law.**

**12.** In section 58(1) of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000<sup>i</sup> immediately after paragraph (c) of the definition of "officer of police", insert -

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<sup>i</sup> Order in Council No. 1 of 2001.



" and

- (d) includes an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>j</sup>."

**Amendment of Drug Trafficking Law.**

13. (1) Section 60 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000<sup>j</sup> is repealed, but not subsections (7) and (8).

(2) In section 61(2)(a) of that Law for "58, 59 or 60" substitute "58 or 59".

(3) In section 61(3)(a) of that Law for "58(5), 59(8) or 60(5)" substitute "58(5) or 59(8)".

(4) In section 62(2) the expression "60 or" is repealed.

PART VII  
GENERAL

**Power to amend law relating to disclosure of information by Ordinance.**

14. (1) Subject to subsection (3), the States may by Ordinance amend this Law and any other enactment, or any rule of law (including customary or common law), which relates to or concerns, whether directly or indirectly, the disclosure of information.

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<sup>j</sup> Order in Council No. VII of 2000.

(2) Without prejudice to the generality of subsection (1) and any other provisions of this Law, 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, and

(b) may make provision as to -

(i) the disclosure of information to any person including -

(aa) a police officer, or

(bb) the Administrator of Income Tax, and

(ii) the form and manner in which any disclosure must be made.

(3) The power under subsection (1) shall -

(a) where it is exercised in respect of Alderney, be exercised following consultation with the Policy and Finance Committee of the States of Alderney, and

(b) where it is exercised in respect of Sark, be exercised following consultation with the General Purposes and

Finance Committee of the Chief Pleas of Sark,

but a failure to comply with this subsection does not invalidate any Ordinance.

**Power for Commission to make rules and issue guidance.**

15. (1) The Commission may make rules, and issue guidance, for the purposes of this Law, or any other enactment or any rule of law (including customary or common law) which relates to or concerns, whether directly or indirectly -

- (a) the disclosure of information, or
- (b) money laundering.

(2) Without prejudice to the generality of subsection (1), rules and guidance thereunder may make provision for, or concerning -

- (a) the policies, procedures and controls which are to be established by financial services businesses and non financial services businesses for the purposes of the disclosure of information,
- (b) the nomination of any person as a nominated officer for the purposes of Part I, and
- (c) the circumstances in which any information or other matter disclosed under section 1, 2 or 3, or any other enactment, shall, or may also, be disclosed to the Commission.

**Ordinances, regulations, rules and guidance.**

16. (1) Any Ordinance, regulation, rule or guidance under any

provision of this Law -

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

(2) Any power conferred by this Law to enact, make or issue an Ordinance, regulation, rule or guidance, may be exercised -

- (a) in relation to all cases to which the power extends, 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 enact or make, as respects the cases in relation to which it is exercised -
  - (i) the full provision to which the power extends, or any less provision (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 but for different purposes, and
  - (iii) any such provision either unconditionally or

subject to specified conditions.

(3) Any regulations under this Law must be laid before a meeting of the States as soon as possible after being made; and if, at that or their next meeting, the States resolve to annul the regulations, they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

### **Interpretation.**

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

**"Administrator of Income Tax"** means the Administrator referred to in section 205 of the Income Tax (Guernsey) Law, 1975<sup>k</sup> and includes the Assistant Administrator,

**"Bailiwick"** means the Bailiwick of Guernsey,

**"business"** includes any trade, profession or economic activity,

**"Commission"** means the Guernsey Financial Services Commission established by the Financial Services Commission (Bailiwick of Guernsey)

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<sup>k</sup> Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146, 200 and 292; Vol. XXVII, pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; No's. IV and VIII of 1993; No. XXV of 1994; No's. III and VII of 1995; No. V of 1996; No's. IV and XXII of 1997; No's. II and VI of 1999; No. IV of 2000; No's. VI and XVII of 2001; No. VII of 2002; No's. IV, VIII and XXVI of 2003; No's. XII and XVI of 2004; No's. V and VI of 2005; the Income Tax (Residence) (Guernsey) (Amendment) Law, 2005; the Income Tax (Guernsey) (Amendment) Law, 2005; and the Income Tax (Surcharges and Supplements) (Guernsey) (Amendment) Law, 2005. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2004.

Law, 1987<sup>**l**</sup>,

**"conduct"** includes acts, omissions and statements,

**"criminal conduct"** means any conduct which -

- (a) constitutes a criminal offence under the law of any part of the Bailiwick, or
- (b) is, or corresponds to, conduct which, if it all took place in any part of the Bailiwick, would constitute an offence under the law of that part of the Bailiwick,

**"criminal investigation"** means an investigation of any criminal conduct including an investigation of alleged or suspected criminal conduct or an investigation of whether criminal conduct has taken place,

**"criminal proceedings"** does not include legal proceedings outside the Bailiwick unless the conduct with which the defendant in those proceedings is charged is criminal conduct or conduct which, to a substantial extent, consists of criminal conduct,

**"customs officer"** means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>**m**</sup>,

**"financial services business"** has the same meaning as in the

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<sup>**l**</sup> Ordres en Conseil Vol. XXX, p. 243; Orders in Council No. XX of 1991; No. XIII of 1994; No. II of 1997; No. I of 1998; and No. XVII of 2002.

<sup>**m**</sup> Ordres en Conseil Vol. XXIII, p.573, and XIII of 1991.

Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>n</sup>,

**"Her Majesty's Procureur"** includes Her Majesty's Comptroller,

**"Home Department"** means the Home Department of the States of Guernsey,

**"information"** includes documents,

**"intelligence service"** has the same meaning as in section 67 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003<sup>o</sup>,

**"money laundering"** is any act which -

- (a) constitutes an offence under section 38, 39 or 40 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,
- (b) constitutes an offence under section 57, 58 or 59 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,
- (c) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a) or (b),
- (d) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a) or (b), or

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<sup>n</sup> Order in Council No. VIII of 1999.

<sup>o</sup> Order in Council No. XXX of 2003.

- (e) would constitute an offence specified in paragraph (a), (b), (c) or (d) if done in the Bailiwick,

irrespective of the value of the property involved, and for the purposes of this definition having possession of any property shall be taken to be doing an act in relation to it,

**"non financial services business"** is a business which is not a financial services business,

**"police officer"** means -

- (a) in relation to Guernsey, Herm and Jethou -
  - (i) a member of the salaried police force of the Island of Guernsey, and
  - (ii) within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,
- (b) in relation to Alderney -
  - (i) a member of the salaried police force of the Island of Guernsey,
  - (ii) a member of any police force which may be established by the States of Alderney, and
  - (iii) within the limits of his jurisdiction, a member of the Alderney Special Constabulary appointed



pursuant to section 47 of the Government of Alderney Law, 2004<sup>p</sup>, and

- (c) in relation to Sark -
  - (i) the Constable,
  - (ii) the Vingtenier, and
  - (iii) a member of the salaried police force of the Island of Guernsey,

and "**police officer**" includes a customs officer,

"**uniform scale**" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>q</sup>.

(2) The Interpretation (Guernsey) Law, 1948<sup>r</sup> 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, repealed and re-enacted (with or without modification), extended or applied.

#### **Part IV not to apply to Sark.**

18. Part IV does not apply to Sark.

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<sup>p</sup> Order in Council No. III of 2004.

<sup>q</sup> Ordres en Conseil Vol. XXXI, p. 278.

<sup>r</sup> Ordres en Conseil Vol. XIII, p. 355.

**Citation.**

19. This Law may be cited as the Disclosure (Bailiwick of Guernsey) Law, 2007.

**Commencement.**

20. This Law shall come into force on the day appointed by order of the Home Department; and different dates may be appointed for different provisions of this Law and for different purposes.

# PROJET DE LOI

ENTITLED

## **The Motor Taxation and Licensing (Guernsey) (Amendment) Law, 2007**

**THE STATES**, in pursuance of their Resolutions of the 24<sup>th</sup> February, 2000<sup>a</sup>, the 31<sup>st</sup> March, 2006<sup>b</sup> and the 26<sup>th</sup> October, 2006<sup>c</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey and Alderney.

### **Amendments to Law of 1987.**

1. The Motor Taxation and Licensing (Guernsey) Law, 1987, as amended<sup>d</sup> ("**the Law of 1987**"), is further amended as follows.

2. In the arrangement of sections in the Law of 1987 -

- (a) for the entry relating to section 2A<sup>e</sup> substitute  
"Regulations as to registration, motor taxation,  
licences and fees.",

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<sup>a</sup> Article VI of Billet d'État No. VI of 2000.

<sup>b</sup> Article VIII of Billet d'État No. VII of 2006.

<sup>c</sup> Article XII of Billet d'État No. XVII of 2006.

<sup>d</sup> Ordres en Conseil Vol. XXX, p. 341; amended by No's XI of 1995 and IX of 2000.

<sup>e</sup> Section 2A was inserted by No. IX of 2000.

- (b) in the entry relating to section 3 the words "and taxed" are repealed,
- (c) the entries relating to sections 4, 6, 13, 16 and 17 are repealed,
- (d) for the entry relating to section 14 substitute "Form of applications and documents, etc under this Law.", and
- (e) the following entries are inserted at the appropriate places -

"2C. Inspection of motor vehicles."

"2D. Registration of vehicles owned by corporations."

"14A. Provision of information to Committee."

"28A. Power to amend Law by Ordinance, and provisions as to Ordinances."

"28B. References to repealed enactments."

**3. In section 2 of the Law of 1987 -**

- (a) in paragraph (2), the words "and the charges payable therefor" are repealed,
- (b) paragraphs (6), (7), (11), (12) and (28) are repealed,

- (c) in paragraph (15) the words "and the surcharge payable for the issue of licences of lesser periods" are repealed, and
- (d) in paragraphs (17) to (22) after "licence" and "licences" wherever appearing insert "and/or trade plates".

4. In section 2A of the Law of 1987<sup>f</sup> -

- (a) for the heading substitute "Regulations as to registration, motor taxation, licences and fees.", and
- (b) after paragraph (d) insert the following additional paragraphs -

"(e) the classes of vehicles which shall not be treated as motor vehicles for the purposes of this Law,

(f) the classes or uses of motor vehicles exempted from the requirement to register,

(g) subject to the approval of the Treasury and Resources Department, the classes or uses of motor vehicles exempted from the requirement to pay motor tax,

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<sup>f</sup> Section 2A was inserted by No. IX of 2000.

- (h) subject to the approval of the Treasury and Resources Department, the classes or uses of motor vehicles entitled to preferential rates of taxes and the preferential rates of taxes chargeable thereunder,
- (i) subject to the approval of the Treasury and Resources Department, the surcharge payable for the issue of licences of particular periods,
- (j) without prejudice to section 15, the fees chargeable upon first and subsequent registration of a motor vehicle and for all other administrative services relating to licensing and vehicle registration, including (without limitation) -
  - (i) the issue of duplicate registration books, tax discs and other documents,
  - (ii) the issue and renewal of trade plates, and trade plate deposits, and
  - (iii) the making of refunds,
- (k) the definition of the expression "motor vehicle", or of any class or use of motor vehicle, for the purposes of this Law,

- (l) the classes or uses of motor vehicles the driving of which is exempted from the requirement to hold a driving licence, and
- (m) the layout, dimensions, size, arrangement, content and display of, and other requirements (whether as to construction or otherwise) in respect of, registration marks and other marks, signs, badges, symbols and plates which, under this Law, are to be displayed on motor vehicles."

**5.** In section 2B of the Law of 1987<sup>g</sup> -

- (a) in paragraph (c) after the words "necessary or expedient" insert "including, without limitation, provision repealing, amending or modifying this Law or any other enactment", and
- (b) for paragraph (d) substitute the following paragraphs -
  - "(d) may make provision in relation to all cases to which section 2A extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
  - (dd) may make, as respects the cases in relation to

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<sup>g</sup> Section 2B was inserted by No. IX of 2000.

which they are made -

- (i) the full provision to which section 2A 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, and".

6. After section 2B of the Law of 1987<sup>h</sup> insert the following sections -

**"Inspection of motor vehicles.**

2C. (1) A person applying for the registration of a motor vehicle under this Law shall, if the Committee so requires, make the vehicle available for inspection and examination by or on behalf of the Committee at such time and place as the Committee may require.

(2) If there is a failure to comply with any requirement of the Committee under subsection (1) the Committee

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<sup>h</sup> Section 2B was inserted by No. IX of 2000.



may refuse to register the motor vehicle in question.

**Registration of vehicles owned by corporations.**

**2D.** The Committee shall refuse -

- (a) to register a motor vehicle on the application of a body corporate (wherever incorporated), or
- (b) to register a body corporate (wherever incorporated) as the keeper of a motor vehicle,

if not satisfied that the body corporate is carrying on a business in this Island and that the vehicle will be based or operated in this Island for the purposes of that business."

**7.** In section 3 of the Law of 1987 (which shall come into force on the 1<sup>st</sup> January, 2008) -

- (a) in the marginal note the words "and taxed" are repealed,
- (b) in subsection (1) -
  - (i) the words "and taxed" and "or to pay motor tax, as the case may be," are repealed,
  - (ii) after "Ordinance" insert "or regulations",
  - (iii) for "to pay motor tax" substitute "to be registered",

(c) in subsection (2) -

- (i) the words "or taxed, as the case may be," are repealed,
- (ii) the words "not exceeding forty-eight hours" are repealed,
- (iii) in paragraph (a) before "from" insert "not exceeding 48 hours", and
- (iv) in paragraph (b) before "from" insert "not exceeding 14 days",

(d) subsection (3) is repealed.

8. Sections 4, 6 and 13 of the Law of 1987 are repealed.

9. For section 14 of the Law of 1987 substitute the following sections -

**"Form of applications and documents, etc under this Law.**

**14.** Any document (including, without limitation, any registration document, licence or certificate and any application for such) and any information to be issued or furnished by or to the Committee under or for the purposes of this Law or any other enactment relating to motor vehicles -

- (a) shall be in such form (including, without limitation, in electronic or facsimile form or in

the form of a copy),

- (b) shall contain such particulars,
- (c) shall be furnished and verified in such manner,  
and
- (d) shall be accompanied by such additional  
documents and information,

as the Committee may require.

**Provision of information to Committee.**

**14A.** The owner of a motor vehicle shall furnish to the Committee such documents and information, whether relating to the vehicle or the registration thereof or otherwise, as the Committee may require under or for the purposes of this Law."

**10.** Sections 16 and 17 of the Law of 1987 are repealed.

**11.** Section 18 of the Law of 1987 shall come into force on the 1<sup>st</sup> January, 2008.

**12.** In section 22 of the Law of 1987 -

- (a) in paragraph (c) after "whatsoever" insert "or otherwise under or for the purposes of this Law", and
- (b) the proviso is repealed.

13. In section 23 of the Law of 1987 after "under any Ordinance" insert "or regulations".

14. In section 26(1) of the Law of 1987 -

- (a) in the definition of "category" paragraph (b) is repealed,
- (b) in the definition of "conditions" paragraph (b) is repealed,
- (c) the definition of "motor tax" is repealed,
- (d) in the definition of "prescribed" after "Ordinance" insert "or regulations",
- (e) the definition of "taxed" is repealed,
- (f) after the definition of "test of competence to drive" insert the following definition -  
  

**"this Island"** means the Islands of Guernsey and Alderney, ",
- (f) the definition of "trade licence" is repealed,
- (g) in the definition of "under this Law" after "Ordinance" insert "or regulations", and
- (h) the definition of "vehicle licence" is repealed.

**15.** In section 28(1) of the Law of 1987, after "modified by an Ordinance" insert "or regulations".

**16.** After section 28 of the Law of 1987 insert the following sections -

**"Power to amend Law by Ordinance, and provisions as to Ordinances."**

**28A.** (1) The States may by Ordinance amend this Law.

(2) The power conferred by subsection (1) is without prejudice to any other power conferred by this Law to enact Ordinances or regulations (and vice versa).

(3) 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,

(c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient including, without limitation,

provisions repealing, amending or modifying any enactment.

(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.

**References to repealed enactments.**

**28B.** Any reference in any enactment to an enactment -

- (a) which is amended by or under this Law, or
- (b) which is repealed and re-enacted with or without modification by or under this Law,

shall be construed as a reference thereto as from time to time amended or, as the case may be, re-enacted."

**Consequential amendment to Compulsory Third-party Insurance Law.**

17. In section 1(1) of the Road Traffic (Compulsory Third-party Insurance) (Guernsey) Law, 1936<sup>i</sup>, as amended, for the words "in relation to which the provisions of section three of that Law apply", wherever appearing<sup>j</sup>, substitute "in relation to which the provisions of section three of that Law would apply, were that section still in force".

**Savings for Ordinances.**

18. Notwithstanding the repeal by this Law of certain words and provisions of the Law of 1987, any Ordinance -

- (a) which was in force immediately before the commencement of this Law, and
- (b) which was made under or by virtue of any of the words or provisions repealed,

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<sup>i</sup> Ordres en Conseil Vol. X, p. 388.

<sup>j</sup> Those words were inserted by Ordres en Conseil Vol. XVIII, p. 257; and Vol. XX, p. 246.

shall continue to have effect until repealed, amended or modified by an Ordinance or regulations under the Law of 1987.

**References to amended enactments.**

19. Any reference in any enactment to an enactment which is amended by this Law shall be construed as a reference thereto as from time to time amended.

**Repeals.**

20. The Laws named in the Schedule are repealed to the extent specified therein.

**Application of this Law and 1987 Law to Alderney.**

21. (1) This Law has effect in the islands of Guernsey and Alderney.

(2) For the avoidance of doubt, the Law of 1987, the Motor Taxation and Licensing (Amendment) (Guernsey) Law, 1995<sup>k</sup> and the Motor Taxation and Licensing (Guernsey) (Amendment) Law, 2000<sup>l</sup> shall be deemed to have effect, and to have had effect since their coming into force, in the Islands of Guernsey and Alderney.

**Interpretation.**

22. (1) In this Law "the Law of 1987" means the Motor Taxation and Licensing (Guernsey) Law, 1987<sup>m</sup>.

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<sup>k</sup> Order in Council No. XI of 1995.

<sup>l</sup> Order in Council No. IX of 2000.

<sup>m</sup> Ordres en Conseil Vol. XXX, p. 341; amended by No's XI of 1995 and IX of 2000.



(2) References in this Law to an enactment are references thereto as from time to time amended, repealed and replaced (with or without modification), extended or applied.

**Citation and commencement.**

**23.** (1) This Law may be cited as the Motor Taxation and Licensing (Guernsey) (Amendment) Law, 2007.

(2) This Law shall come into force on the 1<sup>st</sup> January, 2008.

## SCHEDULE

## Section 20

## REPEALS

1. NAME OF LAW	2. EXTENT OF REPEAL
The Indirect Taxes, Duties and Impôts (Increase of Rates) (Guernsey) Law, 1970 <sup>n</sup>	Sections 3 to 8 and the Schedule <sup>o</sup>
Indirect Taxes, Duties and Impôts (Miscellaneous Amendments and Repeals) (Guernsey) Law, 1974 <sup>p</sup>	The whole Law

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<sup>n</sup> Ordres en Conseil Vol. XXII, p. 473.

<sup>o</sup> Sections 1 and 2 were repealed by (respectively) No. X of 2004 and Vol. XXVI, p. 86.

<sup>p</sup> Ordres en Conseil Vol. XXIV, p. 236.

## **The Motor Vehicles, Traffic and Licensing (Amendment) Ordinance, 2007**

**THE STATES**, in pursuance of their Resolutions of the 24<sup>th</sup> February, 2000<sup>a</sup>, the 31<sup>st</sup> March, 2006<sup>b</sup> and the 26<sup>th</sup> October, 2006<sup>c</sup>, and in exercise of the powers conferred on them by section 1 of the Motor Vehicles (International Circulation) Law, 1956, as amended<sup>d</sup>, sections 2 and 28 of the Motor Taxation and Licensing (Guernsey) Law, 1987, as amended<sup>e</sup> and all other powers enabling them in that behalf, hereby order:-

### **Amendment of Traffic Véhiculaire Ordonnance of 1932.**

1. (1) The Ordonnance supplémentaire à l'Ordonnance ayant rapport au Trafic Véhiculaire en cette île, 1932<sup>f</sup> is amended as follows.

(2) In Article 7(1) for "in respect of which a license<sup>g</sup> is issued" substitute "which is required to be registered under the Motor Taxation and Licensing (Guernsey) Law, 1987<sup>h</sup>".

(3) In Article 8 -

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<sup>a</sup> Article VI of Billet d'État No. VI of 2000.

<sup>b</sup> Article VIII of Billet d'État No. VII of 2006.

<sup>c</sup> Article XII of Billet d'État No. XVII of 2006.

<sup>d</sup> Ordres en Conseil Vol. XVII, p. 19; Vol. XXXII, p. 377.

<sup>e</sup> Ordres en Conseil Vol. XXX, p. 341; No. XI of 1995; and No. IX of 2000.

<sup>f</sup> Recueil d'Ordonnances, Tome VI, p. 89.

<sup>g</sup> The spelling "license" is used throughout the original text of the 1932 Ordinance.

<sup>h</sup> Ordres en Conseil Vol. XXX, p. 341; No. XI of 1995; and No. IX of 2000.

- (a) the expression "(other than an alteration of the nature referred to in Article 9 of this Ordinance)" is repealed,
  - (b) the words "licensed and" are repealed, and
  - (c) the proviso is repealed.
- (4) Article 9 is repealed.
- (5) In Article 10(1)<sup>i</sup> for "immediately" substitute "as soon as is reasonably practicable and in any case within a period of 14 days beginning on the day of the sale or disposal".
- (6) In Article 10(2) -
- (a) the words from and including "and unless" to the end of the first sentence are repealed, and
  - (b) the third sentence (which begins "Upon expiry") is repealed.
- (7) In Article 11 for "forthwith" substitute "as soon as is reasonably practicable and in any case within a period of 14 days beginning on the day of the change ".

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<sup>i</sup>

Article 10 was inserted by Recueil d'Ordonnances Tome XVI, p. 503.

- (8) For Article 12<sup>j</sup> substitute the following Article -

**"Destruction or export of vehicle.**

**12.** (1) When a motor vehicle is broken up, destroyed or otherwise scrapped the person carrying out the scrapping ("the scrap merchant") shall provide the owner of the vehicle with a receipt showing -

(a) the scrap merchant's name and address,  
and

(b) the date when, and place where, he  
scrapped the vehicle.

(2) A copy of that receipt, together with the registration book for the vehicle, shall be furnished by the owner to the Committee as soon as is reasonably practicable and in any case within a period of 14 days beginning on the day on which the scrap merchant scrapped the vehicle.

(3) When a motor vehicle is permanently exported from Guernsey and Alderney, the registration book for the vehicle shall be forwarded by the owner to the Committee as soon as is reasonably practicable and in any case within a period of 14 days beginning on the day of the exportation."

- (9) In Article 13 -

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<sup>j</sup> Article 12 was inserted by Recueil d'Ordonnances Tome XVI, p. 503.

- (a) for paragraph (1) substitute the following paragraphs -

"(1) If a registration book issued by the Committee is lost, destroyed or accidentally defaced or the figures or particulars thereon become illegible, the owner of the vehicle shall apply to the Committee for the issue to him of a duplicate.

(1A) The Committee, if satisfied as to the circumstances mentioned in paragraph (1), shall issue the duplicate on payment of a fee of £1 (or such other amount as the Committee may by regulation determine).

(1B) The duplicate so issued has the same effect as the original registration book.",

- (b) in paragraph (2) the words "license or" are repealed.

(10) In Article 15(4)<sup>k</sup> the words "and licence" (wherever appearing) are repealed.

(11) In Article 24 for "in respect of which a license has been issued" substitute "which is required to be registered under the Motor Taxation and Licensing (Guernsey) Law, 1987".

### **Amendment of Licences de Commerçant Ordinance of 1932.**

2. In the Ordinance of the Royal Court of 1932 relating to Licences de

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<sup>k</sup> Article 15 was inserted by Ordinance XXXVI of 1997.

Commerçant<sup>1</sup> -

- (a) in article 1 the definition of "trade licence" is repealed,
- (b) in article 2(1) -
  - (i) in the marginal note for "Licenses" substitute "plates",
  - (ii) for "a General Trade License or a Limited Trade License" substitute "trade plates",
  - (iii) the word "all" is repealed, and
  - (iv) for "Licenses severally" substitute "plates",
- (c) in article 2(2) -
  - (i) in the marginal note for "Licenses" substitute "plates",
  - (ii) for "fully licensed" substitute "registered",
  - (iii) the words "license and" are repealed,
  - (iv) for "the appropriate duty ("droits") prescribed

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<sup>1</sup> Recueil d'Ordonnances, Tome VIII, p. 229; amended by Ordinances of 1933 and 1937 (Tome VIII, p. 233).

in the said Law" substitute "a fee of £30",

(v) for "2s. 6d." substitute "£15 (or such other amount as the Committee may in either case by regulation determine)",

(vi) the words from and including "Every Trade License shall contain" to the end of paragraph (f) are repealed, and

(vii) in the wording after paragraph (f) -

(A) for "Licenses" substitute "plates", and

(B) for "and may be renewed" substitute "and, subject to payment of a fee of £30 (or such other amount as the Committee may by regulation determine), may be renewed",

(d) in article 2(3) -

(i) in the marginal note for "Licenses" substitute "plates",

(ii) for "A Trade License" substitute "Trade plates",

(iii) the words "the license or" and "in connection therewith" are repealed,



- (iv) for "the license is issued" substitute "the plate is issued",
- (e) in article 2(4) -
  - (i) for "A Trade License" substitute "Trade plates",
  - (ii) for "such license" substitute "such plates",
- (f) article 2(5)(a) is repealed,
- (g) in article 2(5)(b) for "A Limited Trade License" substitute "Trade plates",
- (h) in article 2(6) -
  - (i) for "a Trade License" substitute "trade plates",
  - (ii) for the words following "authorised to be used" substitute "by article 3(2)",
- (i) article 3(1) is repealed,
- (j) in article 3(2) -
  - (i) the words "LIMITED TRADE LICENSES" are repealed, and

- (ii) for "a Limited Trade License" substitute "trade plates",
- (k) for article 4<sup>m</sup> substitute the following article -

**"Exemption from Law of 1987."**

4. While a motor vehicle is being used under trade plates in conformity with the provisions of this Ordinance the vehicle shall be deemed to be validly registered under and for the purposes of the Motor Taxation and Licensing (Guernsey) Law, 1987, as amended.",

- (l) article 5 is repealed,
- (m) in article 6<sup>n</sup> -
  - (i) in the marginal note for "Licenses" substitute "plates", and
  - (ii) in paragraph (1) for "a Trade License" substitute "trade plates".

**Amendment of Motor Vehicles Ordinance of 1962.**

- 3. In the Motor Vehicles (Miscellaneous Provisions) Ordinance, 1962<sup>o</sup> -

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<sup>m</sup> Article 4 was substituted by Tome VIII, p. 233.

<sup>n</sup> Article 6 was substituted by Tome VIII, p. 233.

<sup>o</sup> Recueil d'Ordonnances Tome XIII, p. 87; amended by Tome XIV, p. 152 and Tome XXIII, p.422.

- (a) in section 1 in the definition of "owner" for "licensed" substitute "registered",
- (b) in section 6<sup>P</sup> -
  - (i) in subsection (2)(a) and (b) for "licensed" wherever appearing substitute "registered",
  - (ii) in subsection (3) the words from and including "and shall issue" to the end of the subsection are repealed,
  - (iii) subsection (4) is repealed,
  - (iv) in subsection (6) the words "and shall return to the Board the disc issued in respect of such motor vehicle in accordance with the provisions of subsection (3) of this section" are repealed, and
  - (v) in subsection (9) the expression "subsection (4) or" is repealed.

**Amendment of Motor Licences Ordinance of 1970.**

4. In the Vehicular Traffic (Motor Licences) (Amendment) Ordinance,

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<sup>P</sup> Section 6 was inserted by Tome XIV, p. 152.

1970<sup>q</sup>, section 1(d) is repealed.

**Amendment of International Circulation Ordinance of 1974.**

5. (1) The Motor Vehicles (International Circulation) Ordinance, 1974<sup>r</sup> is amended as follows.

(2) In section 1(3) for "the Law of 1926" substitute "the Motor Taxation and Licensing (Guernsey) Law, 1987<sup>s</sup>".

(3) In section 2(1) for "the Law of 1926" substitute "the Driving Licences (Guernsey) Ordinance, 1995<sup>t</sup>".

(4) In section 2(2) for the words beginning with "paragraph 14" to the end of the subsection substitute "the Road Traffic (Permits to Drive Public Service Vehicles) Ordinance, 1986<sup>u</sup>".

(5) In section 2(3) for "the Law of 1926" substitute "the Driving Licences (Guernsey) Ordinance, 1995".

(6) In section 3 -

(a) in the marginal note for "motor tax" substitute "registration",

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<sup>q</sup> Recueil d'Ordonnances Tome XVI, p. 503.

<sup>r</sup> Recueil d'Ordonnances Tome XIX, p. 285; Tome XXV, p. 133; Tome XXVI, p. 90; No. VIII of 1989; and No. XXXIII of 2003.

<sup>s</sup> Ordres en Conseil Vol. XXX, p. 341; No. XI of 1995; and No. IX of 2000.

<sup>t</sup> Recueil d'Ordonnances Tome XXVI, p. 374.

<sup>u</sup> Recueil d'Ordonnances Tome XXIII, p. 393.

(b) in subsection (1) -

- (i) for "in respect of which motor tax is not payable" substitute "which", and
- (ii) after "the next following section" insert "need not be registered",

(c) in subsection (2) -

- (i) for "the Law of 1926" substitute "the Motor Taxation and Licensing (Guernsey) Law, 1987",
- (ii) the words "motor tax shall not be payable in respect of" are repealed, and
- (iii) after "any person" insert "need not be registered",

(d) in subsection (3) -

- (i) for "Article 1 of the Law of 1926" substitute "Section 3(1) of the Motor Taxation and Licensing (Guernsey) Law, 1987", and
- (ii) for the words "in respect of" to the end of the subsection substitute "which by virtue of this section need not be registered",

- (e) in subsection (4) for the words preceding paragraph (a) substitute "Where by virtue of this section any motor vehicle has not been registered",
- (f) in subsection (5) -
  - (i) for "in respect of which payment of motor tax has not been made by virtue of this section" substitute "which by virtue of this section has not been registered", and
  - (ii) for paragraph (a) substitute -
    - "(a) that motor vehicle shall no longer be exempt from registration, and".
- (7) In section 4 -
  - (a) in the marginal note for "motor tax" substitute "registration",
  - (b) in subsection (2) -
    - (i) for "the Law of 1926" substitute "the Motor Taxation and Licensing (Guernsey) Law, 1987",
    - (ii) for "motor tax shall not be payable" substitute "the motor vehicle need not be registered",

- (c) in subsection (3) -
  - (i) for "Article 1 of the Law of 1926" substitute "Section 3(1) of the Motor Taxation and Licensing (Guernsey) Law, 1987", and
  - (ii) for the words "in respect of" to the end of the subsection substitute "which by virtue of this section need not be registered",
- (d) in subsection (4) -
  - (i) in paragraph (b) for "liability to pay motor tax" substitute "registration",
  - (ii) in paragraph (c) the words "for the payment of the motor tax which, but for this section, would be payable in respect of the motor vehicle and" are repealed,
- (e) in subsection (5) -
  - (i) the words "motor tax is not payable" and "in respect of" are repealed, and
  - (ii) after "any motor vehicle" insert "need not be registered",
- (f) in subsection (6) -

- (i) the words "payment of motor tax has not been made as aforesaid in respect of" are repealed, and
    - (ii) after "any motor vehicle" insert "has not by virtue of this section been registered",
  - (g) in subsection (8) -
    - (i) for "in respect of which payment of motor tax has not been made by virtue of this section" substitute "which by virtue of this section has not been registered", and
    - (ii) for paragraph (a) substitute -
      - "(a) that motor vehicle shall no longer be exempt from registration, and",
  - (h) in subsection (9) for "in respect of which motor tax is not for the time being payable by virtue of this section" substitute "which by virtue of this section need not be registered".
- (8) Section 8 is repealed.
  - (9) In section 10(1) -
    - (a) in the definition of "entitled person" for "motor tax"



substitute "registration",

- (b) in the definition of "exempted motor vehicle" for "in respect of which motor tax is not for the time being payable under and by virtue of this Ordinance" substitute "which under and by virtue of this Ordinance need not be registered",
- (c) the definitions of "the Law of 1926" and "motor tax" are repealed,
- (d) after the definition of "the Ordinance of 1930" insert the following definition -

**"registered"** means registered under the Motor Taxation and Licensing (Guernsey) Law, 1987 (and related expressions shall be construed accordingly),".

(10) In the Second Schedule -

- (a) in paragraph 1 for "the Law of 1926" substitute "the Driving Licences (Guernsey) Ordinance, 1995",
- (b) in paragraph 3 -
  - (i) for "Article 13 of the Law of 1926" substitute "section 23 of the Driving Licences (Guernsey) Ordinance, 1995", and
  - (ii) the expression "(gallicized "autorisation à

conduire")" is repealed.

**Amendment of Traffic Signs Ordinance of 1995.**

6. After section 16 of the Traffic Signs and Traffic Light Signals Ordinance, 1988<sup>v</sup> insert the following section -

**"Amendment of Schedules by order.**

**16A.** (1) The Committee may by order -

- (a) amend or repeal any entry in Schedules 1, 2, 3 and 4, and
- (b) add any traffic sign or traffic light signal to any of those Schedules.

(2) An order under subsection (1) -

- (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, common or statutory law,
- (b) may be amended or repealed by a subsequent order hereunder,

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<sup>v</sup> Recueil d'Ordonnances Tome XXIV, p. 275.

- (c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient including, without limitation, provision amending this Ordinance, and
- (d) shall be laid before a meeting of the States as soon as possible after being made; and if at that or the next meeting the States resolve that the order be annulled, then it shall cease to have effect, but without prejudice to anything done under it or to the making of a new order.

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

(4) Any reference in this Ordinance or any other enactment to Schedule 1, 2, 3 or 4 is a references thereto as from time to time amended (whether under this section or otherwise).".

**Amendment of Driving Licences Ordinance of 1995.**

7. (1) The Driving Licences (Guernsey) Ordinance, 1995<sup>w</sup> is amended as follows.

(2) After section 1(8) insert the following subsections -

"(8A) Notwithstanding subsection (8), a person who holds -

- (a) a provisional licence authorising him to drive a motor vehicle of a class included in categories P, A and A1, and
- (b) a certificate of completion of a training course for motor cyclists approved for the purposes of section 2A,

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<sup>w</sup> Recueil d'Ordonnances Tome XXVI, p. 374.

may renew that provisional licence in accordance with section 6(1).

(8B) The provisional licence as renewed -

- (a) shall come into force immediately on the expiration of the previous provisional licence, but
- (b) subject to subsection (8C), does not authorise the holder to drive a motor vehicle of a class included in categories P, A and A1 on a public highway unless, within a period of one month immediately after the expiration of the previous provisional licence, the holder has retaken a training course for motor cyclists approved for the purposes of section 2A and has obtained a certificate of completion in respect thereof.

(8C) Subsection (8B)(b) does not apply to a person who holds a provisional licence authorising him to drive a motor vehicle of a class included in category A if he holds, and has held for a period of at least twelve months, a full licence authorising him to drive a motor vehicle of a class included in category A1."

(3) In section 6(1) after "one month" insert "(or such longer period as the Committee thinks fit)".

(4) In section 6(2) after "two months" insert "(or such longer period as the Committee thinks fit)".

**Extent.**

8. (1) Subject to subsection (2), this Ordinance has effect in the Islands of Guernsey and Alderney.

(2) Sections 3, 5 and 6 have effect only in the Island of Guernsey.

**Interpretation.**

9. References in this Ordinance to an enactment are references thereto as from time to time amended, repealed and replaced (with or without modification), extended or applied.

**Citation and commencement.**

10. (1) This Ordinance may be cited as the Motor Vehicles, Traffic and Licensing (Amendment) Ordinance, 2007.

(2) This Ordinance comes into force on the 1<sup>st</sup> January, 2008.

**The Machinery of Government**  
**(Transfer of Functions) (Guernsey)**  
**Ordinance, 2007**

**THE STATES**, 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<sup>a</sup> and all other powers enabling them in that behalf, hereby order:-

**Transfer of functions of departments.**

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

**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, however expressed, there is substituted a reference to the department named in column 3 of the Schedule.

**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 the department named in column 1 of the Schedule under or by virtue of an 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

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<sup>a</sup> Order in Council No. XXI of 1991.

in column 3 of the Schedule.

**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.

**Repeal.**

5. The bottom row in the Schedule to the Machinery of Government (Transfer of Functions) (Guernsey) (No. 3) Ordinance, 2006<sup>b</sup> (which refers to the "Public Services Department") is repealed.

**Interpretation.**

6. (1) In this Ordinance -

"the Law of 2004" means the Environmental Pollution (Guernsey) Law, 2004<sup>c</sup>, and

"subordinate legislation" means -

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

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<sup>b</sup> Ordinance No. XLIX of 2006.

<sup>c</sup> Order in Council No. XIII of 2004.



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) Ordinance, 2007.

**Commencement.**

7. This Ordinance shall come into force on the 1<sup>st</sup> June, 2007.

## 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
Environment Department	Sections 30(1)(b), (c) and (d) and 31(1), (2) and (3) of the Law of 2004	Public Services Department <sup>d</sup>

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<sup>d</sup> The Public Services Department was designated as the Waste Disposal Authority by the Environmental Pollution (Guernsey) Law, 2004 (Commencement and Designation of Waste Disposal Authority) Ordinance, 2006 (Ordinance No. XXVII of 2006).

## **The Housing (Control of Occupation) (Extension) Ordinance, 2007**

**THE STATES**, in pursuance of their Resolution of the 28<sup>th</sup> March, 2007<sup>a</sup>, and in exercise of the powers conferred on them by section 77 of the Housing (Control of Occupation) (Guernsey) Law, 1994<sup>b</sup> and all other powers enabling them in that behalf, hereby order:-

### **Extension of the Housing (Control of Occupation) (Guernsey) Law 1994.**

1. The Housing (Control of Occupation) (Guernsey) Law, 1994, as amended, shall remain in force until the 30<sup>th</sup> June, 2009.

### **Citation.**

2. This Ordinance may be cited as the Housing (Control of Occupation) (Extension) Ordinance, 2007.

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<sup>a</sup> Article II of Billet d'État No. IV of 2007.

<sup>b</sup> Order in Council No. IV of 1994; amended by No. VI of 1998 and No. III of 2002.

## **The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2007**

**THE STATES**, in exercise of the powers conferred on them by section 297 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002<sup>a</sup> and all other powers enabling them in that behalf, hereby order:-

### **Commencement of certain sections of Parts IV, V, XII & XIII of the Law.**

1. Sections 80-83, 85-100, 103-110, 123-129, 270, 289-295 and 297 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 shall come into force on the 30<sup>th</sup> May 2007.

### **Extent.**

2. This Ordinance has effect throughout the Bailiwick of Guernsey.

### **Citation.**

3. This Ordinance may be cited as the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2007.

### **Commencement.**

4. This Ordinance shall come into force on the 30<sup>th</sup> May 2007.

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<sup>a</sup> Order in Council No. VIII of 2004.