

# **BILLET D'ÉTAT No. XV, 2008**

**26<sup>th</sup> November, 2008**

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**The Charities and Non Profit Organisations  
(Registration) (Guernsey) Law, 2008  
(Amendment) (No. 2) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolution of the 26<sup>th</sup> November, 2008<sup>a</sup>, and in exercise of the powers conferred on them by section 11(1) of the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, as amended<sup>b</sup>, and all other relevant enabling powers, hereby order:-

**Amendment of Law of 2008.**

1. The Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, as amended ("**the Law**"), is further amended as follows.

2. In section 1(5) of the Law for "paragraph 2(1)(a)(i)" substitute "paragraph 2(1)(a)".

3. In section 4(1)(a) of the Law for "any registered organisation" substitute "any registered or manumitted organisation".

4. In section 12(1) of the Law -

(a) in the definition of "Administrator" after "the Assistant Administrator" insert "and any other person or body to whom the Administrator, by instrument in writing, delegates his

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<sup>a</sup> Article \*\* of Billet d'État No. \*\*\* of 2008.

<sup>b</sup> The Law was approved by the States on the 12<sup>th</sup> March, 2008 and amended by the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 (Amendment) Ordinance, 2008.

functions under this Law",

- (b) in the definition of "based in" for "or using business services in" substitute "or controlled in",
- (c) after the definition of "the Law of 1975" insert the following definition -

**""manumitted organisation"** means an organisation which is administered, controlled or operated by a person -

- (a) who holds or is deemed to hold a licence granted by the Guernsey Financial Services Commission under the regulatory Laws, and
  - (b) who administers, controls or operates the organisation in the course of his regulated activities,"
- (d) in the definition of "non profit organisation" after "means any organisation established" insert "solely or principally",
- (e) after the definition of "registered organisation" insert the following definitions -

**""regulated activities"** means activities which can only lawfully be carried on under the authority of a licence granted by the Guernsey Financial Services Commission under the regulatory Laws,

**"regulatory Laws" means -**

- (a) the Protection of Investors (Bailiwick of Guernsey) Law, 1987,
- (b) the Banking Supervision (Bailiwick of Guernsey) Law, 1994,
- (c) the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000,
- (d) the Insurance Business (Bailiwick of Guernsey) Law, 2002,
- (e) the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002,".

**5.** For paragraph 1(2)(a) of the Schedule to the Law substitute the following -

- "(a) public inspection of that part of the Register on which details of registered organisations -
  - (i) which solicit or accept donations, funds and contributions from the public, or
  - (ii) which elect to be inscribed there,

are inscribed, and".

6. In paragraph 1(2)(b) of the Schedule to the Law for "in the Register" substitute "in that part of the Register".

7. For paragraph 2(1)(a) and (b) of the Schedule to the Law substitute the following -

"(a) the Island of Guernsey, Herm or Jethou with gross assets and funds of, or over, £10,000 or gross annual income of, or over, £5,000 and which is not a manumitted organisation, must,

(b) the Island of Guernsey, Herm or Jethou (other than an organisation referred to in item (a) above) or any other Island of the Bailiwick of Guernsey, may,".

8. In paragraph 8 of the Schedule to the Law -

(a) in the title after "registered" insert "and manumitted",

(b) in subparagraph (1) after "registered" insert "and manumitted",

(c) at the beginning of the text in subparagraph (1)(b) and (c) insert "in the case of a registered organisation,", and

(d) in subparagraph (3) after "registered" insert "or manumitted".

9. In paragraph 9(1) of the Schedule to the Law after "registered" insert

"or manumitted".

**10.** After paragraph 12 of the Schedule to the Law insert the following paragraphs -

**"Use of information by Administrator."**

**13.** (1) Subject to the provisions of subparagraph (2), no person -

- (a) who under or for the purposes of this Law receives information relating to the business or other affairs of any person,
- (b) who obtains any such information directly or indirectly from a person who has so received it,

shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was so obtained.

(2) Subparagraph (1) does not preclude -

- (a) the disclosure of -
  - (i) information which at the time of disclosure is or has already been made available to the public from other sources, or
  - (ii) information in the form of a summary

or collection of information so framed as not to enable information relating to any particular person to be ascertained from it,

- (b) the disclosure of information for the purpose of enabling or assisting the Administrator to discharge his functions,
- (c) where, in order to enable or assist him to discharge his functions conferred by or under this Law, the Administrator considers it necessary to seek advice from a qualified person on any matter of law, accountancy or valuation or any other matter requiring the exercise of professional skill, the disclosure by the Administrator to that person of such information as appears to the Administrator to be necessary to ensure that that person is properly informed as to the matters on which his advice is sought,
- (d) the disclosure of information for the purpose of enabling or assisting an authority exercising, in a place outside the Bailiwick, functions equivalent to those of the Administrator under this Law to exercise its functions,
- (e) the disclosure of information for the purposes of the investigation, prevention or detection of



crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings in the Bailiwick or elsewhere,

- (f) the disclosure of information for the purposes of enabling or assisting Her Majesty's Procureur to discharge his functions,
- (g) the disclosure of information in connection with any other proceedings arising out of this Law,
- (h) the disclosure of information to comply with an order of a court.

(3) A person who discloses or causes or permits the disclosure of any information in contravention of this paragraph is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 5 on the uniform scale or to both.

**Legal professional privilege, liens and duties of confidentiality.**

**14.** (1) Nothing in this Law compels the production or divulgence by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(2) Where a person claims a lien on a document, its production under this Law is without prejudice to his lien.

(3) A requirement imposed by or under this Law to provide any information or document has effect notwithstanding any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise; and, accordingly, the obligation or restriction is not contravened by the making of a disclosure pursuant to such a requirement. "

**Interpretation.**

11. In this Ordinance "**the Law**" means the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008.

**Citation.**

12. This Ordinance may be cited as the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 (Amendment) (No. 2) Ordinance, 2008.

**Commencement.**

13. This Ordinance shall come into force on the 26<sup>th</sup> November, 2008.

# PROJET DE LOI

ENTITLED

## **The Prescribed Businesses (Bailiwick of Guernsey) Law, 2008**

### ARRANGEMENT OF SECTIONS

#### PART I APPLICATION OF LAW

##### *Preliminary*

1. Application of Law.

#### PART II WINDING UP ETC OF REGISTERED PRESCRIBED BUSINESSES

2. Application of this Part.
3. Winding up and injunctions.

#### PART III SUPPLEMENTARY MATTERS

##### *Appeals*

4. Appeals against decisions of Commission.

##### *Power of Commission to obtain information*

5. Power to request and obtain information and documents.
6. Investigations by inspectors.
7. Investigation of suspected offences.
8. Power of Bailiff to grant warrant.
9. Powers conferred by Bailiff's warrant.
10. Legal professional privilege, liens and duties of confidentiality.
11. Falsification, etc, of documents during investigation.

##### *Enforcement powers*

- 12. Power to issue private reprimand.
- 13. Power to issue discretionary financial penalties.
- 14. Power to issue public statements.
- 15. Disqualification orders.
- 16. Injunctions to restrain unlawful business, etc

*Notice of decisions*

- 17. Notice of intended decision
- 18. Notice of decision
- 19. Disclosure of reason for decision

*Disclosure of information*

- 20. Restrictions on disclosure of information.
- 21. Cases where disclosure is permitted.

PART IV  
GENERAL PROVISIONS

*Criminal proceedings*

- 22. Offences as to false or misleading information, etc.
- 23. Penalties.
- 24. Criminal proceedings against unincorporated bodies.
- 25. Criminal liability of directors, etc.
- 26. Defence of due diligence.
- 27. Jurisdiction.

*Liability of States, etc.*

- 28. Exclusion of liability.

*Miscellaneous*

- 29. Service of notices and documents.
- 30. Verification of information.
- 31. Evidence.
- 32. Interpretation.
- 33. References to prescribed businesses.
- 34. "Carrying on" business.
- 35. Provision as to publication of notices in Alderney and Sark and on Commission's website.
- 36. Citation.

37. Commencement.

#### SCHEDULE

Schedule: Meaning of "holding company" and "subsidiary company".

# PROJET DE LOI

ENTITLED

## **The Prescribed Businesses (Bailiwick of Guernsey) Law, 2008**

**THE STATES**, in pursuance of their Resolution of the \*\* October, 2008<sup>a</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

#### REGULATION OF PRESCRIBED BUSINESSES

##### *Preliminary*

##### **Application of Law to prescribed businesses.**

1. (1) This Law applies to any prescribed business.

(2) A "**prescribed business**" means any business which is a relevant business for the purposes of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>b</sup> Law, but does not include -

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<sup>a</sup> Article VII on Billet d'État No. XIII of 2008.

<sup>b</sup> Order in Council No. VIII of 1999; amended by Order in Council No. II of 2005; Order in Council No. XV of 2007; Ordinance XXVIII of 1999; Ordinance XII of 2002; Ordinance XXXIII of 2003; Ordinance XLVII of 2007; G.S.I. No. 27 of 2002; G.S.I. No. 33 of 2007 ; and certain sections of the Law are modified in their application to external confiscation orders by Ordinance XXXIII of 1999.

- (a) a business of a type described in paragraphs 2 ("High value dealing") or 4 ("Casinos and organised gambling") of Schedule 2 to that Law, or
- (b) a small business.

## PART II

### WINDING UP ETC OF REGISTERED PRESCRIBED BUSINESSES

#### **Application of this Part.**

2. This Part applies to any person carrying on a registered prescribed business.

#### **Winding up and injunctions.**

3. (1) A court may -

- (a) make an order for the winding up -
  - (i) in accordance with the Companies (Guernsey) Law, 2008<sup>c</sup>, of a Guernsey company, or
  - (ii) in accordance with the Companies (Alderney) Law, 1994<sup>d</sup>, of an Alderney company,

which is carrying on a registered prescribed business in the Bailiwick, or

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<sup>c</sup> Order in Council No. VIII of 2008.

<sup>d</sup> Order in Council No. XXXIV of 1994; amended by No. I of 2001 and No. XV of 2002.

- (b) grant an injunction prohibiting a person who is, or has been, carrying on a registered prescribed business from carrying on that business in the Bailiwick,

on any of the grounds referred to in subsection (2).

- (2) The grounds are -

- (a) that the person carrying on the registered prescribed business has -

- (i) contravened in a material particular any provision of, or made under -

- (A) this Law, or

- (B) any of the relevant enactments, or

- (ii) committed an offence under such a provision,

in respect of that business, or

- (b) that the winding up, or grant of an injunction, appears to be necessary in order to counter -

- (i) financial crime, or

- (ii) the financing of terrorism,



in the Bailiwick, or elsewhere.

(3) An application under subsection (1) for -

(a) the winding up of a company, or

(b) the grant of an injunction,

may only be made to a court by the Commission.

(4) For the purposes of this section, "**court**" means -

(a) in the case of an application for -

(i) the winding up of a Guernsey company, or

(ii) the grant of an injunction in respect of -

(A) a Guernsey company, or

(B) a person carrying on a registered  
prescribed business in Guernsey,

the Royal Court,

(b) in the case of an application for -

(i) the winding up of an Alderney company, or

(ii) the grant of an injunction in respect of -

(A) an Alderney company, or

(B) a person carrying on a registered prescribed business in Alderney,

the Court of Alderney, and

(c) in the case of an application for the grant of an injunction in respect of a person carrying on a registered prescribed business in Sark, the Court of the Seneschal.

(5) The provisions of this section are without prejudice to the Royal Court's powers under section 410 of the Companies (Guernsey) Law, 2008.

### PART III

#### SUPPLEMENTARY MATTERS

##### *Appeals*

##### **Appeals against decisions of Commission.**

4. (1) A person aggrieved by a decision of the Commission -

(a) to impose a requirement under section 5,

(b) to appoint an inspector under section 6,

(c) to serve a notice on him under sections 17 and 18,

- (d) to issue a private reprimand under section 12,
- (e) to issue a discretionary financial penalty under section 13, or
- (f) to issue a public statement under section 14,

may appeal to the Court against the decision.

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

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

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

- (a) within a period of 28 days immediately following the date of the notice of the Commission's decision, and
- (b) by summons served on the Chairman of the Commission stating the grounds and material facts on

which the appellant relies.

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

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

and the provisions of this subsection are without prejudice to the inherent powers of the Court or to any other rule of law empowering the Court to dismiss the appeal or the application for want of prosecution.

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

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

(6) On an appeal under this section against a decision described in subsection (1)(c) the Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the condition in question, or the variation or rescission thereof, pending the

determination of the appeal.

(7) In this section, "**the Court**" means the Royal Court constituted by the Bailiff sitting unaccompanied by the Jurats, and the Court may appoint one or more assessors to assist it in the determination of the proceedings or any matter relevant thereto.

(8) An appeal from a decision of the Royal Court made under this Law (including a decision made on an appeal from the Court of Alderney or the Court of the Seneschal) shall lie to the Court of Appeal on a question of law.

*Power of Commission to obtain information*

**Power to request and obtain information and documents.**

5. (1) The Commission may, by notice in writing served on a registered prescribed business, require it to provide the Commission -

- (a) at such times or intervals, at such place and in respect of such periods as may be specified in the notice, with such information as the Commission may reasonably require for the performance of its functions,
- (b) with a report, in such form as may be specified in the notice, by a person who has relevant professional skill and who is nominated or approved by the Commission, on or on any aspect of any matter in relation to which the Commission may require information under paragraph (a).

(2) The Commission may, by notice in writing served on a registered prescribed business-

- (a) require it to produce, within such time and at such place as may be specified in the notice, such documents or documents of such description as may be so specified,
- (b) require it to furnish forthwith, to any of the Commission's officers, servants or agents authorised for the purposes of this paragraph, on production of evidence of such authority, such information and documents as the officer, servant or agent may specify,

being information or documents reasonably required by the Commission for the performance of its functions.

(3) Where under subsection (2) the Commission or any officer, servant or agent thereof has power to require the production of any documents from a registered prescribed business, the Commission or that officer, servant or agent shall have the like power to require the production of those documents from any person who appears to be in possession of them (but without prejudice to any lien claimed by such a person on any documents produced by him).

(4) The power conferred by this section to require a person to produce any documents includes power -

- (a) if the documents are produced, to take copies of them or extracts from them and to require -

- (i) that person, or
- (ii) any other person who is a present or past director, controller, partner, senior officer or beneficial owner of that prescribed business,

to provide an explanation of them, and

- (b) if the documents are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(5) If it appears to the Commission to be desirable to do so for the protection of the public or the protection and enhancement of the reputation of the Bailiwick, the Commission may also exercise the powers conferred by this section in relation to any person who is or has at any relevant time been an associated party of the prescribed business.

(6) The foregoing provisions of this section shall apply in relation to a former registered prescribed business as they apply in relation to a registered prescribed business, but only, unless the Commission directs otherwise in any particular case, for a period of 6 years immediately after the date on which the former registered prescribed business ceased to be registered.

(7) The Commission may exercise the powers conferred by subsections (1) to (4) in relation to, where the prescribed business is a company, any person who is a significant shareholder of the prescribed business if the Commission considers that it is desirable to do so for the protection of the public or for the protection or enhancement of the reputation of the Bailiwick.

(8) A person who without reasonable excuse fails to comply with a requirement imposed on him by or under this section is guilty of an offence.

(9) 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 in any criminal proceedings except -

- (a) in proceedings for an offence under subsection (8), or
- (b) in proceedings for some other offence where in giving evidence he makes a statement inconsistent with it.

(10) A statement may not be used by virtue of subsection (9)(b) against a person unless -

- (a) evidence relating to it is adduced, or
- (b) a question relating to it is asked,

by or on behalf of that person in the proceedings arising out of the prosecution.

(11) A notice under subsection (1), (2) or (3) shall give particulars of the right of appeal conferred by section 4.

#### **Investigations by inspectors.**

6. (1) The Commission may, in relation to any registered prescribed business if it considers it desirable to do so for the protection of the public or for the protection or enhancement of the reputation of the Bailiwick,



appoint one or more competent persons (hereinafter called "**inspectors**") to investigate and report to the Commission on the compliance of the prescribed business in question with any provision of, or made under, this Law or any of the relevant enactments and the Commission shall give notice in writing of the appointment to the business concerned.

(2) An inspector may also, if he thinks it necessary to do so for the purposes of his investigation, subject to the provisions of subsection (3), investigate the business of any person who is or has at any relevant time been an associated party of the prescribed business under investigation.

(3) An inspector may not investigate the business of a party under subsection (2) unless and until the Commission has given notice in writing to that party of the proposed investigation.

(4) A prescribed business or party being investigated under subsection (1) or (2) and any person who is or has been a director, controller, partner, senior officer, employee or agent of a prescribed business or party being so investigated, or who is or has been a significant shareholder in relation to such a prescribed business or party -

(a) shall produce to an inspector, at such time and place as the inspector may require, all documents in his custody or power relating to that prescribed business or party; and the inspector may take copies of or extracts from any documents produced to him under this paragraph,

(b) shall attend before an inspector at such time and place as the inspector may require and answer such

questions as the inspector may put to him in relation to that prescribed business or party, and

- (c) otherwise shall give an inspector all assistance in connection with the investigation which he is reasonably able to give.

(5) An inspector shall, if so required, produce evidence of his authority.

(6) A person who without reasonable excuse -

- (a) fails to comply with any provision of subsection (4), or
- (b) obstructs, fails to comply with any requirement of or fails to give all reasonable assistance to an inspector exercising or purporting to exercise any right conferred by this section,

is guilty of an offence.

(7) A statement made by a person in response to a requirement imposed by or under any provision of this section may not be used in evidence against him in any criminal proceedings except -

- (a) in proceedings for an offence under subsection (6), or
- (b) in proceedings for some other offence where in giving evidence he makes a statement inconsistent

with it.

(8) A statement may not be used by virtue of subsection (7)(b) against a person unless -

(a) evidence relating to it is adduced, or

(b) a question relating to it is asked,

by or on behalf of that person in the proceedings arising out of the prosecution.

(9) Subject to the provisions of subsection (10), if the Commission so determines, the costs, fees and expenses of an investigation and report under subsection (1) or (2) shall be met by the prescribed business, the compliance of which is being investigated under subsection (1); and those costs, fees and expenses may, subject as aforesaid, be recovered by the Commission from that prescribed business as a civil debt.

(10) No sum in respect of the costs, fees and expenses of an investigation and report under subsection (1) or (2) may be recovered by the Commission from a prescribed business as a civil debt where the court is satisfied that -

(a) the sum is not reasonable in amount or was not reasonably incurred, or

(b) the Commission acted unreasonably, frivolously or vexatiously in incurring that sum.

(11) A notice under subsection (1) or (3) shall give particulars of

the right of appeal conferred by section 4.

(12) The provisions of this section apply in relation to a former registered prescribed business as they apply in relation to a registered prescribed business, but only in connection with the compliance of the former registered prescribed business at a time when it was registered.

**Investigation of suspected offences.**

7. (1) Where the Commission has reasonable grounds for suspecting that a person has committed an offence under any of the relevant enactments, the Commission may by notice in writing require that person or any other person -

- (a) to furnish, at such place as may be specified in the notice and either forthwith or at such time as may be so specified, such information, documents or description of documents as may be specified and as may reasonably be required for the purpose of investigating the suspected offence,
- (b) to attend at such place and time as may be specified in the notice and answer questions relevant for determining whether such an offence has been committed.

(2) An officer, servant or agent of the Commission may, on production if required of evidence of his authority -

- (a) take copies of or extracts from, and require an explanation of, any document furnished in

accordance with the requirements of a notice under subsection (1),

- (b) in the case of any document which is not furnished as required by a notice under subsection (1), require the person on whom the notice was served to state to the best of his knowledge and belief the whereabouts of that document.

(3) A person who without reasonable excuse fails to comply with any requirement of a notice under subsection (1) or obstructs or fails to comply with any requirement of a person exercising or purporting to exercise any right conferred by subsection (2) is guilty of an offence.

(4) A statement made by a person in response to a requirement imposed by or under any provision of this section may not be used in evidence against him in any criminal proceedings except -

- (a) in proceedings for an offence under subsection (3), or
- (b) in proceedings for some other offence where in giving evidence he makes a statement inconsistent with it.

(5) A statement may not be used by virtue of subsection (4)(b) against a person unless -

- (a) evidence relating to it is adduced, or
- (b) a question relating to it is asked,

by or on behalf of that person in the proceedings arising out of the prosecution.

(6) A notice under subsection (1) shall give particulars of the right of appeal conferred by section 4.

**Power of Bailiff to grant warrant.**

8. (1) If the Bailiff (within the meaning of subsection (4)) is satisfied by information on oath -

- (a) that a notice has been served under section 5 on any person and that there are reasonable grounds for suspecting -
  - (i) that there has been a failure to comply with any requirement imposed by or under the notice,
  - (ii) that there has been a failure by that person to comply with any other requirement imposed by or under section 5, or
  - (iii) the accuracy or completeness of any information or documents furnished pursuant to any requirement mentioned in subparagraph (i) or (ii),
- (b) that it is not practicable to serve a notice under section 5, or

- (c) that there are reasonable grounds for suspecting that if such a notice were served -
  - (i) it would not be complied with,
  - (ii) any documents to which it would relate would be removed, tampered with or destroyed, or
  - (iii) the service of the notice might seriously prejudice the performance by the Commission of its functions,

he may grant a warrant conferring the powers set out in section 9.

(2) If the Bailiff is satisfied by information on oath that the Commission has appointed inspectors under section 6 to carry out an investigation under that section, and that there are reasonable grounds for suspecting -

- (a) that an offence under this Law has been committed in relation to the investigation,
- (b) the accuracy or completeness of any information or documents furnished in the course of the investigation, or
- (c) that, if a warrant were not granted -
  - (i) any documents which the inspectors wish or might wish to inspect would be removed, tampered with or destroyed, or

- (ii) the investigation might be seriously prejudiced,

he may grant a warrant conferring the powers set out in section 9.

(3) If the Bailiff is satisfied by information on oath that there are reasonable grounds for suspecting that a person has committed an offence under any of the relevant enactments and that -

- (a) a person has failed to comply with any requirement of a notice under section 7(1) or any other requirement imposed by or under section 7,
- (b) there are reasonable grounds for suspecting the accuracy or completeness of any information or documents furnished pursuant to such a notice or requirement,
- (c) it is not practicable to serve a notice under section 7(1), or
- (d) there are reasonable grounds for suspecting that if such a notice were served -
  - (i) it would not be complied with,
  - (ii) any documents to which it would relate would be removed, tampered with or destroyed, or



- (iii) the service of the notice might seriously prejudice the investigation of the suspected offences,

he may grant a warrant conferring the powers set out in section 9.

- (4) In this section the expression "**Bailiff**" means -
  - (a) where the warrant is to be executed in Alderney, the Chairman of the Court of Alderney or, if he is unavailable, a Jurat thereof,
  - (b) where the warrant is to be executed in Sark, the Seneschal or his deputy,
  - (c) in any other case, the Bailiff, Deputy-Bailiff, Lieutenant-Bailiff, Judge of the Royal Court or Juge Délégué.

**Powers conferred by Bailiff's warrant.**

9. (1) A warrant granted under section 8(1) shall authorise any officer of police, together with any other person named in the warrant (including, without limitation, any officer, servant or agent of the Commission) -

- (a) to enter any premises specified in the warrant, being premises -
  - (i) which are occupied by the person upon whom the notice under section 5 was or could be served,

(ii) upon which the documents to which the notice under section 5 relates are reasonably believed to be, or

(iii) where no notice under section 5 has been served, upon which the documents to which the notice would relate are reasonably believed to be,

using such force as is reasonably necessary for the purpose,

(b) to search the premises and, in relation to any documents-

(i) which were required by the notice under section 5, or

(ii) where no notice under section 5 has been served, which are of a class or description specified in the warrant and which could have been required by a notice under section 5,

to take possession of them or to take any other steps which may appear to be necessary for preserving them or preventing interference with them,

(c) to take copies of or extracts from any such documents,

- (d) to require any person named in, or of a class or description specified in, the warrant -
  - (i) to answer any questions which could have been put to him under section 5,
  - (ii) to state to the best of his knowledge and belief the whereabouts of any documents described in paragraph (b),
  - (iii) to make an explanation of any such documents.

(2) A warrant granted under section 8(2) shall authorise any officer of police, together with any other person named in the warrant (including, without limitation, any officer, servant or agent of the Commission) -

- (a) to enter any premises specified in the warrant, being premises -
  - (i) which are occupied by the prescribed business or other person being investigated by inspectors under section 6, or
  - (ii) upon which any documents to which the investigation under section 6 relates are reasonably believed to be,

using such force as is reasonably necessary for the

purpose,

- (b) to search the premises and, in relation to any documents appearing to be relevant for the purpose of the investigation under section 6, to take possession of them or to take any other steps which may appear to be necessary for preserving them or preventing interference with them,
- (c) to take copies of or extracts from any such documents,
- (d) to require any person named in, or of a class or description specified in, the warrant -
  - (i) to answer any questions relevant to the investigation under section 6,
  - (ii) to state to the best of his knowledge and belief the whereabouts of any documents described in paragraph (b),
  - (iii) to make an explanation of any such documents.

(3) A warrant granted under section 8(3) shall authorise any officer of police, together with any other person named in the warrant (including, without limitation, any officer, servant or agent of the Commission) -

- (a) to enter any premises specified in the warrant, being

premises -

- (i) which are occupied by the person upon whom the notice under section 7(1) was served,
- (ii) upon which there are reasonably believed to be the documents to which the notice under section 7(1) relates, or
- (iii) where no notice under section 7(1) has been served, upon which the documents to which the notice would relate are reasonably believed to be,

using such force as is reasonably necessary for the purpose,

- (b) to search the premises and, in relation to any documents appearing to be relevant for the purpose of investigating the suspected offence, to take possession of them or to take any other steps which may appear to be necessary for preserving them or preventing interference with them,
- (c) to take copies of or extracts from any such documents,
- (d) to require any person named in, or of a class or description specified in, the warrant -

- (i) to answer questions relevant for determining whether he or any other person has committed an offence under this Law,
- (ii) to state to the best of his knowledge and belief the whereabouts of any documents described in paragraph (b),
- (iii) to make an explanation of any such documents.

(4) A warrant granted under section 8 shall cease to be valid on the expiration of 28 days immediately following the day on which it was issued.

(5) Any documents of which possession is taken under the powers conferred by a warrant granted under section 8 may be retained -

- (a) for a period of three months or such longer period as the Bailiff may, when issuing the warrant or at any time thereafter, direct, or
- (b) if within that period proceedings to which the documents are relevant are commenced against any person, until the conclusion of those proceedings.

(6) A person who, without reasonable excuse, obstructs or fails to comply with any requirement of a person exercising or purporting to exercise any power conferred by a warrant granted under section 8, is guilty of an offence.

(7) A statement made by a person in response to a requirement

imposed under a warrant granted under section 8, may not be used in evidence against him in any criminal proceedings except -

- (a) in proceedings for an offence under subsection (6), or
- (b) in proceedings for some other offence where, in giving evidence, he makes a statement inconsistent with it.

(8) A statement may not be used by virtue of subsection (7)(b) against a person unless -

- (a) evidence relating to it is adduced, or
- (b) a question relating to it is asked,

by or on behalf of that person in the proceedings arising out of the prosecution.

**Legal professional privilege, liens and duties of confidentiality.**

**10.** (1) Nothing in -

- (a) section 5, 6 or 7, or
- (b) a warrant granted under section 8,

shall compel the production or divulgence by an advocate or other legal adviser of a communication subject to legal professional privilege, but an advocate or other legal adviser may be required to give the name and address of any client.

(2) Where a person claims a lien on a document, its production

under -

- (a) section 5, 6 or 7, or
- (b) a warrant granted under section 8,

is without prejudice to his lien.

(3) A requirement imposed by or under -

- (a) section 7, 8 or 9, or
- (b) a warrant granted under section 8,

shall have effect notwithstanding any obligation as to confidentiality or other restriction upon the disclosure of information imposed by statute, contract or otherwise, and, accordingly, the obligation or restriction is not contravened by the making of a disclosure pursuant to such a requirement.

**Falsification, etc, of documents during investigation.**

**11.** A person upon whom a notice under section 5 or 7 has been served or who knows or has reasonable grounds to suspect -

- (a) that such a notice is likely to be served on him, or
- (b) that an inquiry or investigation is being or is likely to be carried out under section 5, 6 or 7,

and who falsifies, conceals, destroys, removes or otherwise disposes of, or causes or permits to be falsified, concealed, destroyed, removed or otherwise disposed of,



documents which he knows or has reasonable grounds to suspect -

- (i) would be inspected or requested during such a site visit or are or would be relevant thereto,
- (ii) are or would be specified in such a notice, or
- (iii) are or would be relevant to such an inquiry or investigation,

is guilty of an offence unless he proves that he had no intention of concealing facts disclosed by the documents from the Commission or, as the case may be, from the persons carrying out such a site visit, inquiry or investigation.

### *Enforcement powers*

#### **Power to issue private reprimand.**

**12.** (1) Without prejudice to any other powers of the Commission, where the Commission considers that it is appropriate to do so, having regard to compliance with any provision of, or made under, this Law or any of the relevant enactments, a registered prescribed business or any person who is a director, controller, partner, senior officer or beneficial owner of a registered prescribed business, the Commission may, subject to the provisions of section 4, issue to the prescribed business a private reprimand.

(2) Where the Commission decides to issue a private reprimand, the Commission shall serve on the prescribed business in question notice in writing of the decision.

(3) A private reprimand issued under subsection (1) may be taken into account by the Commission in considering any matter under this Law concerning the prescribed business in question.

**Power to issue discretionary financial penalties.**

13. (1) Without prejudice to any other powers of the Commission, where the Commission considers that a registered prescribed business or any person who is a director, controller, partner, senior officer or beneficial owner of a registered prescribed business, has contravened or not fulfilled in a material particular a provision of, or made under, this Law or any of the relevant enactments, the Commission may, subject to the provisions of section 4, impose on him a penalty in respect of the contravention or non-fulfilment of such amount not exceeding £200,000 as it considers appropriate.

(2) In deciding whether or not to impose a penalty under this section and, if so, the terms thereof the Commission must take into consideration the following factors -

- (a) whether the contravention or non-fulfilment was brought to the attention of the Commission by the person concerned,
- (b) the seriousness of the contravention or non – fulfilment,
- (c) whether or not the contravention or non-fulfilment was inadvertent,

- (d) what efforts, if any, have been made to rectify the contravention or non-fulfilment and to prevent a recurrence,
- (e) the potential financial consequences to the person concerned, and to third parties including clients and creditors of that person, of publishing a statement, and
- (f) the penalties imposed by the Commission under this section in other cases.

(3) Where a penalty is imposed on a person under this section, the Commission may publish his name and the amount of the penalty

**Power to issue public statements**

**14.** (1) Without prejudice to any other powers of the Commission, where the Commission considers that, a registered prescribed business or any person who is a director, controller, partner, senior officer or beneficial owner of a registered prescribed business has contravened or not fulfilled in a material particular a provision of, or made under, this Law or any of the relevant enactments, the Commission may, subject to the provisions of section 4 publish a statement to that effect.

(2) In deciding whether or not to publish a statement under this section and, if so, the terms thereof the Commission must take into consideration the following factors -

- (a) whether the contravention or non-fulfilment was brought to the attention of the Commission by the person concerned,
- (b) the seriousness of the contravention or non – fulfilment,
- (c) whether or not the contravention or non-fulfilment was inadvertent,
- (d) what efforts, if any, have been made to rectify the contravention or non-fulfilment and to prevent a recurrence,
- (e) the potential financial consequences to the person concerned, and to third parties including clients and creditors of that person, of publishing a statement, and
- (f) the action taken by the Commission under this section in other cases.

**Disqualification orders.**

**15.** (1) Where the Royal Court ("the Court") considers that a person has contravened in a material particular any provision of, or made under, this Law or any of the relevant enactments, or has committed an offence under such a provision, the Court may, if satisfied that it is desirable in the public interest to do so, make and subsequently renew (on one or more occasions) an order against him (a "disqualification order") prohibiting him, without the leave of the Court -

- (a) from being a director, controller, partner or senior officer of any, or any specified, prescribed business, or
- (b) from participating in, or being in any way concerned in, directly or indirectly, the management, formation or promotion of any or any specified, prescribed business.

(2) A disqualification order and any renewal thereof shall have effect for such period not exceeding 15 years as shall be specified therein.

(3) A disqualification order and any renewal thereof may contain such incidental and ancillary terms and conditions as the Court thinks fit.

(4) An application for a disqualification order or for a renewal thereof may be made by the Commission, by Her Majesty's Procureur, by any prescribed business of which the person in question is, or has been, a director, controller, partner or senior officer, by any liquidator, member or creditor of such a prescribed business or, with the leave of the Court, by any other interested party.

(5) A person who contravenes any provision of a disqualification order or a renewal thereof -

- (a) shall be guilty of an offence, and
- (b) shall be personally liable for any debts and liabilities of the prescribed business in relation to which the contravention was committed which were incurred at any time when he was acting in contravention of the

disqualification order or the renewal thereof.

(6) A person's liability under subsection (5)(b) is joint and several with that of the prescribed business and of any other person so liable in relation to that prescribed business.

(7) A disqualification order may be renewed at any time before, or within a period of one month immediately succeeding, the date of the expiration of the order.

(8) A person subject to a disqualification order or renewal thereof may apply to the Court for a revocation of the order or renewal on the ground that any contravention in a material particular of any provision of, or made under, this Law or any of the relevant enactments in relation to a prescribed business has been remedied; and the Court may grant the application if satisfied that -

- (a) it would not be contrary to the public interest to do so, and
- (b) any contravention in a material particular of any provision of, or made under, this Law or any of the relevant enactments, in relation to a prescribed business, has been remedied.

(9) An application under subsection (8) for the revocation of a disqualification order or renewal shall not be heard unless the person upon whose application the disqualification order or (as the case may be) the renewal was made has been served with notice of the application to revoke not less than 28 days (or such other period as the Court may in its absolute discretion direct) before the date

of the hearing; and, without prejudice to the foregoing, the Court may -

- (a) direct that notice of the application to revoke shall also be served on such other persons as the Court thinks fit, and
- (b) for that purpose adjourn the hearing of the application.

(10) For the removal of doubt, a disqualification order or renewal thereof, or an application under subsection (8) for the revocation of a disqualification order or renewal, may, with the agreement of the parties, and in the Court's absolute discretion, be granted by consent.

(11) The provisions of this section are without prejudice to the Court's powers under Part XXV of the Companies (Guernsey) Law, 2008.

**Injunctions to restrain unlawful business, etc.**

**16.** (1) If on the application of the Commission or, with the leave of the Court, any other person, the Court is satisfied that -

- (a) there is a reasonable likelihood that a person will contravene any provisions of this Law or regulation 16(1) of the prescribed business money laundering regulations, or
- (b) a person may have contravened any provision of this Law or regulation 16(1) of the prescribed business money laundering regulations and there is a reasonable likelihood that the contravention will

continue or be repeated,

the Court may grant an injunction restraining the contravention.

(2) If on the application of the Commission the Court is satisfied that a person may have contravened any provisions of this Law, the Court may grant an injunction restraining him or any of his associates or controllers from disposing of or otherwise dealing with any assets or class or description of assets while the suspected contravention is investigated.

(3) An injunction under subsection (1) or (2) may be granted on such terms and conditions, and may contain such incidental, ancillary, consequential or supplementary provision, as the Court thinks fit including, without prejudice to the generality of the foregoing, provision for the appointment of a receiver or other person to exercise such powers as the Court may consider necessary or expedient for the purpose of ensuring that any assets subject to the injunction are not disposed of or otherwise dealt with in contravention of the injunction, including powers to locate, ascertain, hold, gather in, sequester or take possession or control of any such assets.

(4) An application by the Commission for an injunction under this section may, with the approval of the Court, and on such terms as the Court may direct, be made ex parte.

(5) In this section "**the Court**" means -

(a) where the person against whom the injunction under this section is sought is within the jurisdiction of the Court of Alderney or the Court of the Seneschal, then the Court of Alderney or, as the case may be, the



Court of the Seneschal,

(b) in any other case, the Royal Court.

(6) The powers conferred upon the Royal Court by this section are in addition to and not in derogation from the powers conferred by the Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1987<sup>e</sup>, and the provisions of Parts I and V of that Law (apart from section 1(1) and (7)) shall apply in relation to injunctions of the Royal Court under this section.

*Notice of decisions*

**Notice of intended decision**

17. (1) Where the Commission proposes to make a decision in respect of which a right of appeal is conferred by section 4 it shall serve on the person concerned a notice in writing –

- (a) stating that the Commission is proposing to make the decision,
- (b) stating the terms of, and the grounds for, the proposed decision,
- (c) stating that he may, within a period of 28 days beginning on the date of the notice, make written or oral representations to the Commission in respect of

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<sup>e</sup> Ordres en Conseil Vol. XXX, p. 145.

the proposed decision in such manner as the Commission may from time to time determine, and

- (d) giving particulars of the right of appeal which would be exercisable under section 4 if the Commission were to make the decision.

(2) The Commission shall consider any representations made in response to a notice served under subsection (1) before giving further consideration to the proposed decision.

(3) The period of 28 days mentioned in subsection (1)(c) may be reduced in any case in which the Commission considers it necessary to do so in the interests of the public or any class thereof, or any particular persons, or the reputation of the Bailiwick.

If by reason of those interests the Commission considers that the decision in question needs to be taken immediately as a matter of urgency then the procedure prescribed in this section may be dispensed with altogether.

(4) For the avoidance of doubt –

- (a) a notice about a proposal to publish a statement must set out the terms of the statement, and
- (b) a notice about a proposal to impose a financial penalty must state the amount of the penalty.

**Notice of decision**

**18.** Where the Commission decides (having taken into account, where appropriate, any representations made by the person concerned) to make a decision in respect of which a right of appeal is conferred by section 4 it shall serve on the person concerned notice in writing of the decision -

- (a) stating the terms of, and the grounds for, the decision and
- (c) giving particulars of the right of appeal conferred by section 4.

**Disclosure of reasons for decisions.**

**19.** (1) Where the Commission makes a decision in respect of which a right of appeal is conferred by section 4, the person concerned may, whether or not he institutes an appeal, but subject to the provisions of subsection (2), require the Commission to furnish him with a written statement of the reasons for the decision.

(2) Subsection (1) does not require the Commission to specify any reason which would in its opinion involve the disclosure of confidential information the disclosure of which would be prejudicial to -

- (a) a criminal investigation (whether in the Bailiwick or elsewhere),
- (b) co-operation or relations with investigatory, regulatory or prosecuting authorities in any other place, or

- (c) a third party (wherever situated).

(3) Where, pursuant to subsection (2), the Commission omits any matter from a statement of reasons, it shall inform the person concerned of the fact that there has been such an omission and give particulars of the right of appeal conferred by section 4.

### *Disclosure of information*

#### **Restrictions on disclosure of information.**

**20.** (1) Subject to the provisions of section 21, and without prejudice to the provisions of section 21 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 -

- (a) no person who under or for the purposes of this Law receives information relating to the business or other affairs of any person,
- (b) no person who obtains any such information directly or indirectly from a person who has so received it,

shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was so obtained.

(2) A person who discloses information in contravention of this section is guilty of an offence.

#### **Cases where disclosure is permitted.**

**21.** Section 20 does not preclude -

- (a) the disclosure of -
  - (i) information which at the time of disclosure is or has already been made available to the public from other sources, or
  - (ii) information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it,
- (b) the disclosure of information for the purpose of enabling or assisting the Commission to discharge its functions conferred by or under this Law,
- (c) without prejudice to the generality of paragraph (b), where, in order to enable or assist it to discharge its functions conferred by or under this Law, or the relevant enactments, the Commission considers it necessary to seek advice from a qualified person on any matter of law, accountancy or valuation or any other matter requiring the exercise of professional skill, the disclosure by the Commission to that person of such information as appears to the Commission to be necessary to ensure that he is properly informed as to the matters on which his advice is sought,
- (d) the disclosure by the Commission of information for the protection of the public or for the protection or

enhancement of the reputation of the Bailiwick,

- (e) the disclosure of information for the purpose of enabling or assisting a relevant supervisory authority in a country outside the Bailiwick to exercise its functions,
- (f) the disclosure of information in compliance with, or for the purposes of enabling or assisting a person to comply with, any of the provisions of, or made under, this Law,
- (g) the disclosure of information -
  - (i) for the purposes of the investigation, prevention or detection of crime, or
  - (ii) with a view to the instigation of or otherwise for the purposes of any criminal proceedings,

whether under this Law or otherwise,
- (h) the disclosure of information in connection with any other proceedings arising out of any of the provisions of, or made under, this Law,
- (i) the disclosure by the Commission to Her Majesty's Procureur or an officer of police of information obtained under section 6 or 7 or information in the possession of the Commission as to any suspected

offence in relation to which the powers conferred by those sections are exercisable, or

- (j) where information is disclosed to an officer of police under paragraph (i), the disclosure of that information by an officer of police for the purposes of an investigation or prosecution either in the Bailiwick or, with the prior consent of Her Majesty's Procureur to such disclosure, elsewhere.

#### PART IV GENERAL PROVISIONS

##### *Criminal proceedings*

#### **Offences as to false or misleading information, etc.**

- 22. (1) If a person -
  - (a) in purported compliance with a requirement imposed by or under, or otherwise for the purposes of, this Law, or
  - (b) otherwise than as mentioned in paragraph (a) but in circumstances in which that person intends, or could reasonably be expected to know, that any statement, information or document provided by him would or might be used by the Commission for the purpose of exercising its functions conferred by or under this Law,

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 or document 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 or document which is false, deceptive or misleading in a material particular,

he is guilty of an offence.

(2) A prescribed business, or any director, controller, partner, senior officer or beneficial owner of a prescribed business, who fails to provide the Commission with any information in his possession knowing or having reasonable cause to believe-



- (a) that the information is relevant to the exercise by the Commission of its functions under this Law in relation to the prescribed business, and
- (b) that the withholding of the information is likely to result in the Commission being misled as to any matter which is relevant to and of material significance to the exercise of those functions in relation to the prescribed business,

is guilty of an offence.

**Penalties.**

23. (1) A person or body guilty of an offence under section 22(2) is liable –

- (a) on conviction on indictment, to a fine,
- (b) on summary conviction, to a fine not exceeding level 5 on the uniform scale.

(2) A person or body guilty of an offence under any other provision of this Law is liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both,
- (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the uniform scale or to both.

(3) In relation to offences tried before the Court of Alderney or the Court of the Seneschal, the penalties stipulated by subsections (1)(b) and (2)(b) are applicable notwithstanding the provisions of section 13 of the Government of Alderney Law, 2004<sup>f</sup> and section 11 of the Reform (Sark) Law, 2008<sup>g</sup>.

(4) Where an offence under this Law involves a public display or exhibition of any name or description, there is a fresh offence on each day on which the display or exhibition continues.

**Criminal proceedings against unincorporated bodies.**

24. (1) Where an offence under this Law is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

he as well as the unincorporated body is guilty of the offence and may be

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<sup>f</sup> Ordres en Conseil No. III of 2005.

<sup>g</sup> Order in Council No. V of 2008.

proceeded against and punished accordingly.

(2) Where an offence under this Law is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of that body and not in the name of any of its members and, for the purpose of such proceedings, the service of any document (including any summons) on that body shall be carried out in accordance with the provisions of section 39.

(3) A fine imposed on an unincorporated body on its conviction of an offence under this Law shall be paid from the funds of that body.

**Criminal liability of directors, etc.**

**25.** (1) Where an offence under this Law is committed by a company and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, controller, partner, senior officer or beneficial owner or any person purporting to act in any such capacity, he as well as the company is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a company are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

**Defence of due diligence.**

**26.** In proceedings for an offence under this Law it is a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself and by any person under his control.

**Jurisdiction.**

27. Without prejudice to any jurisdiction exercisable apart from this section, proceedings for an offence under this Law may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the Bailiwick.

*Liability of States etc.***Exclusion of liability.**

28. No liability shall be incurred -

- (a) by, or by any department of, the States of Guernsey, the States of Alderney or the Chief Pleas of Sark,
- (b) by the Commission, or
- (c) by any member, officer or servant of any body mentioned in paragraph (a) or (b),

in respect of anything done or omitted to be done after the commencement of this Law in the discharge or purported discharge of any function conferred by or under this Law, unless the thing is done or omitted to be done in bad faith.

*Miscellaneous***Service of notices and documents.**

29. (1) Any document other than a summons to be given or served under any of the provisions of, or made under, this Law may be given to or served upon -

- (a) 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) a company with a registered office in the Bailiwick, by being left at, or sent by post or transmitted to, that office,
- (c) a company without a registered office in the Bailiwick, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in the Bailiwick or, if there is no such place, its registered office or principal or last known principal place of business outside the Bailiwick,
- (d) an unincorporated body, by being given to or served on any partner, member of the committee or other similar governing body, manager or other similar 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 the Bailiwick or, if there is no such place, its principal or last known principal place of business elsewhere,
- (e) the Commission or its Chairman, by being left at, or sent by post or transmitted to, the principal office of the Commission in the Bailiwick,

and in this section -

- (i) the expression "**by post**" means by special delivery, recorded delivery or ordinary letter post,
- (ii) the expression "**transmitted**" means transmitted by electronic communication, facsimile transmission or other similar means which produce a document containing the text of the communication, in which event the document shall be regarded as served when it is received, and
- (iii) the expression "**summons**" includes any document compelling a person's attendance before the court.

(2) If a person notifies the Commission of an address for service within the Bailiwick for the purposes of this Law, any document other than a summons to be given to or served upon 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 on two occasions, the second of which occurs at least 14 days after the first, in La Gazette Officielle.

(4) Subsections (1), (2) and (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 Commission or its Chairman under this Law shall be deemed to have been given or served until it is received.

(6) If a person upon whom a document is to be served under this Law is an infant or person under guardianship, the notice or document shall be served on his guardian, and if there is no guardian, the Commission (or, with leave of the Court, any other person) may apply to the Court for the appointment of a person to act as guardian for the purposes of this Law, and in this subsection "**the Court**" means -

- (a) where the person in respect of whom the guardian is to be appointed is within the jurisdiction of the Court of Alderney or the Court of the Seneschal, then the Court of Alderney or, as the case may be, the Court of the Seneschal,
- (b) in any other case, the Royal Court.

(7) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Law 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,
- (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 within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958<sup>h</sup>.

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

**Verification of information.**

30. The Commission may direct that any information, document or statement provided to it in compliance or purported compliance with any requirement imposed by or under any provision of, or made under, this Law shall be verified in such manner as the Commission may reasonably specify, and any information, document or statement which is not verified in accordance with a direction given under this section shall be deemed for the purposes of that provision not to have been provided in accordance with the said requirement and the said requirement shall accordingly be deemed not to have been complied with.

**Evidence.**

31. (1) In any proceedings, a certificate signed on behalf of the Commission and certifying -

- (a) that a particular person or body is or is not a registered prescribed business or was or was not a registered prescribed business at a particular time,
- (b) the date on which a particular prescribed business obtained or ceased to hold a registration,

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<sup>h</sup> Ordres en Conseil Vol. XVII, p. 384, Vol. XXIV, p. 84, No. XI of 1993, and No. XIV of 1994.



- (c) the terms of any conditions imposed in respect of a particular registration,

is admissible in evidence.

(2) A certificate purporting to be signed as mentioned in subsection (1) shall be deemed to have been duly signed unless the contrary is shown.

### **Interpretation.**

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

**"advertisement"** includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph films or by way of sound broadcasting, television or any other electronic media,

**"advocate"** means an Advocate of the Royal Court of Guernsey,

**"Alderney company"** means a company the memorandum and articles of which are registered in the Register of Companies within the meaning of section 163(1) of the Companies (Alderney) Law, 1994,

**"associate"**, in relation to any person, means -

- (a) the spouse, child or stepchild of that person,
- (b) any person who is an employee of, or who is in partnership with, that person,

- (c) any body of which that person is a director,
- (d) where that person is a company -
  - (i) any director or employee of that company,
  - (ii) any subsidiary of that company, and
  - (iii) any director or employee of any such subsidiary,
- (e) where that person is an unincorporated body, any director of that body,
- (f) if that person has with some other person an agreement or arrangement as to the acquisition, holding or disposal of shares or other interests in a company or under which they undertake to act together in exercising their voting power in relation to a company, that other person,

**"associated party"**, in relation to any person, means -

- (a) any person who is in partnership with that person,
- (b) any company of which that person is a controller,
- (c) any body of which that person is a director,

- (d) where that person is a company -
  - (i) a holding company, subsidiary or related company of that person,
  - (ii) a subsidiary or related company of a holding company of that person,
  - (iii) a holding company of a subsidiary of that person, or
  - (iv) a company in the case of which a shareholder controller of that person, alone or with associates, is entitled to exercise, or control the exercise of, more than 50% of the voting power in general meeting,

and where, under the above provisions, any person or body is an associated party in relation to another person or body, then that other person or body is an associated party in relation to that first-mentioned person or body,

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

**"beneficial owner"** means, in relation to a business relationship or occasional transaction –

- (a) the natural person who ultimately owns or controls the client, and
- (b) a person on whose behalf the business

relationship or occasional transaction is to be or is being conducted and, in the case of a trust or other legal arrangement, this shall mean -

- (i) any beneficiary in whom an interest has vested, and
- (ii) any other person who appears likely to benefit from that trust or other legal arrangement,

**"body"** includes a body incorporated under the law of any State or territory and any unincorporated body,

**"business"** includes any trade, profession or economic activity, whether or not carried on for profit,

**"business relationship"** means a continuing arrangement between the prescribed business in question and another party, to facilitate the carrying out of transactions, in the course of such prescribed business -

- (a) on a frequent, habitual, or regular basis, and
- (b) where the monetary value of any transactions to be carried out in the course of the arrangement is not known on entering into the arrangement,

**"carrying on" business:** see section 34,

**"chief executive"**, in relation to a body, means a person who, alone or jointly with other persons, is responsible under the immediate authority of the directors for the conduct of the business of the body and, in relation to a body whose principal place of business is outside the Bailiwick, includes a person who, alone or jointly with other persons, is responsible for the conduct of its business in the Bailiwick,

**"the Commission"** means the Guernsey Financial Services Commission established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987<sup>i</sup>,

**"company"** means a body corporate, of whatever description, incorporated with or without limited liability in any part of the world, and includes a Guernsey company and an Alderney company,

**"contract of employment"** means a contract of service or apprenticeship, or a contract personally to execute any work or labour, whether express or implied and whether written or oral,

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

**"controller"**, in relation to a company, means

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<sup>i</sup> 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. XXII of 2003; No. III 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).

- (a) a managing director or chief executive of that company or of any other company of which that company is a subsidiary,
- (b) a shareholder controller or an indirect controller,

"**country**" includes any territory or other place,

"**Court of Appeal**" means the Court of Appeal established under the Court of Appeal (Guernsey) Law, 1961<sup>j</sup>,

"**Court of the Seneschal**" means the Court of the Seneschal of Sark,

"**director**" includes any person who occupies the position of or fulfils the role of director, by whatever name called, and also includes -

- (a) the chief executive or any member of the committee or other similar governing body, and
- (b) any person in accordance with whose directions or instructions any director is accustomed to act,

"**documents**" includes information recorded in any form (including, without limitation, in an electronic form) and -

- (a) in relation to information recorded otherwise than in legible form, references to its production, howsoever

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<sup>j</sup>

Ordres en Conseil Vol. XVIII. p. 315.

expressed, include (without limitation) references to the production of a copy of the information in legible form,

- (b) without prejudice to paragraph (a), references to the production of documents, howsoever expressed, include (without limitation) references to the production of a copy thereof in the English language,

**"employee"** means an individual who has entered into or who works under (or, where the employment has ceased, who worked under) a contract of employment and cognate expressions shall be construed accordingly,

**"equity share capital"** means, in relation to a company, its issued share capital excluding any part thereof which, as respects neither dividends nor capital, carries any right to participate beyond a specified amount in a distribution,

**"group"** in relation to a company, means that company, any other company which is its holding company or subsidiary and any other company which is a subsidiary of that holding company,

**"Guernsey company"** means a body corporate on the Register of Companies kept and maintained under section 496 of the Companies (Guernsey) Law, 2008,

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

**"holding company"** has the meaning given in the Schedule

**"indirect controller"**, in relation to a company, means a person in accordance with whose directions or instructions any director of that company or of any other company of which that company is a subsidiary, or any controller of that company, is accustomed to act,

**"inspector"** means a person appointed by the Commission under section 7,

**"manager"** in relation to a company, means a person other than a chief executive who, under the immediate authority of a director or chief executive of the company -

- (a) exercises managerial functions, or
- (b) is responsible for maintaining accounts or other records of the company,

**"money laundering reporting officer"** has the meaning given in the prescribed business money laundering regulations,

**"officer of police"** means a member of the salaried police force of the Island of Guernsey, any officer of customs and excise within the meaning of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>k</sup> and -

- (a) in relation to Guernsey, Herm and Jethou, and within

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<sup>k</sup> Ordres en Conseil Vol. XXIII, p. 573; Vol. XXIV, p. 87; Vol. XXXI, p. 278; No. XIII of 1991; No. X of 2004; and the Excise Duties (Budget) Ordinance, 2005 (No. XXXII).



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 by the Court of Alderney under section 47 of the Government of Alderney Law, 2004,

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

**"partnership"** has the meaning given by section 1 of the Partnership (Guernsey) Law, 1995<sup>1</sup>, and cognate expressions shall be construed accordingly,

**"person"** includes a body of persons (whether a company or an unincorporated body),

**"Policy Council"** means the States of Guernsey Policy Council,

**"prescribed business"**: see sections 1(2) and 33,

**"prescribed business money laundering regulations"** means the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008,

**"protected cell company"** means a company incorporated as, or

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<sup>1</sup> Order in Council No. VIII of 1995.

converted into, a protected cell company in accordance with the provisions of the Protected Cell Companies Ordinance, 1997<sup>m</sup>,

**"the public"** includes any section of the public, however selected, in the Bailiwick or elsewhere, including, in relation to a body, a section selected as members, debenture holders, policyholders, depositors or investors of, in or with that body;

**"registered"** means registered by the Commission under the prescribed business money laundering regulations and related expressions shall be construed accordingly,

**"registration"** means a registration granted under regulation 16 of the prescribed business money laundering regulations

**"regulated business"** has the meaning given by Part II of Schedule 1 to the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008,

**"related company"** in relation to the company in question, means any company (other than one which is a group company in relation to the company in question) in which the company in question holds for a significant period a qualifying capital interest for the purpose of securing a contribution to the company in question's own activities by the exercise of any control or influence arising from that interest, and for the purposes of this Law -

(a) a **"qualifying capital interest"** means, in relation to

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<sup>m</sup> Ordinance No. V of 1997; amended by No. XV of 1998; No. XXI of 2005; and No. XVII of 2006.

any company, an interest in shares comprised in the equity share capital of that company of a class carrying rights to vote in all circumstances at general meetings of that company,

(b) where -

(i) a company holds a qualifying capital interest in another company, and

(ii) the nominal value of any relevant shares in that other company held by the first-mentioned company is equal to 20% or more of the nominal value of all relevant shares in that other company,

the first-mentioned company shall be presumed to hold that interest on the basis and for the purpose mentioned above, unless the contrary is shown, and

(c) in paragraph (b) "**relevant shares**" means, in relation to any company, any such shares in that company as are mentioned in paragraph (a),

**"relevant enactments"** means -

(a) the Money Laundering (Disclosure of Information) (Guernsey) Law, 1995<sup>n</sup>,

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<sup>n</sup> Order in Council No.IV of 1995.

- (b) the Money Laundering (Disclosure of Information) (Alderney) Law, 1998<sup>o</sup>,
- (c) the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>p</sup>,
- (d) the Drug Trafficking (Bailiwick of Guernsey) Law, 2000<sup>q</sup>,
- (e) the Money Laundering (Disclosure of Information) (Sark) Law, 2001<sup>r</sup>
- (f) the Terrorism (United Nations Measures) (Channel Islands) Order 2001,
- (g) the Al-Qaida and Taliban (United Nations Measures) (Channel Islands) Order 2002,
- (h) the Terrorism and Crime (Bailiwick of Guernsey)

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<sup>o</sup> Order in Council No.VII of 1998.

<sup>p</sup> Order in Council No. VIII of 1999; Order in Council No. II of 2005; the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Law, 2007; Ordinance XXVIII of 1999, Ordinance XII of 2002, Ordinance XXXIII of 2003; the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2007; the Criminal Justice (Proceeds of Crime) Regulations, 2007.

<sup>q</sup> Order in Council No. VII of 2000; No. II of 2005; and Ordinance No. XXXIII of 2003; the Drug Trafficking (Bailiwick of Guernsey) (Amendment) Law, 2007.

<sup>r</sup> Order in Council No.XXXII of 2001.

Law, 2002<sup>s</sup>,

- (i) the Disclosure (Bailiwick of Guernsey) Law, 2007<sup>t</sup>,
- (j) the Transfer of Funds (Guernsey) Ordinance, 2007<sup>u</sup>,
- (k) the Transfer of Funds (Alderney) Ordinance, 2007<sup>v</sup>,
- (l) the Transfer of Funds (Sark) Ordinance, 2007, and
- (m) such other enactments relating to money laundering and terrorist financing as may be enacted or made from time to time in respect of the Bailiwick or any part thereof,

**"relevant supervisory authority"**, in relation to a country outside the Bailiwick, means an authority discharging in that place functions corresponding to any functions of the Commission under this Law, under the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 or under the relevant enactments,

**"Royal Court"** means the Royal Court sitting as an Ordinary Court,

**"senior officer"** includes, without limitation, a manager and a

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<sup>s</sup> Order in Council No. XVI of 2002; amended by Order in Council No. XIII of 2006 and by Ordinance XXXIII of 2003.

<sup>t</sup> Order in Council No. XVI of 2007.

<sup>u</sup> Ordinance No. XIX of 2007.

<sup>v</sup> Ordinance of the States of Alderney No. VI of 2007.

money laundering reporting officer,

**"shareholder controller" -**

- (a) in relation to a company, and subject to paragraph (b), means a person who, alone or with associates, is entitled to exercise, or control the exercise of, 15% or more of the voting power in general meeting of that company or of any other company of which that company is a subsidiary,
- (b) in relation to a protected cell company, means a person who, alone or with associates, beneficially owns 50% or more of the cell shares issued in respect of any cell of that company,

**"significant shareholder"** in relation to a company, means a person who, alone or with associates, is entitled to exercise, or control the exercise of, 5% or more but less than 15% of the voting power in general meeting of that company or of any other company of which that company is a subsidiary,

**"small business"** means

- (a) a business in respect of which the total turnover of the person carrying on the business does not exceed £50,000 per annum,
- (b) where the business -

- (i) if it is an estate agent, does not hold deposits, or
- (ii) if it is a business other than an estate agent, does not carry out occasional transactions, that is to say any transactions involving more than £10,000 carried out by the business in question in the course of that business, where no business relationship has been proposed or established, including such transactions carried out in a single operation or two or more operations that appear to be linked,
- (c) the services of the business are provided only to customers resident in the Bailiwick, and
- (d) the funds received by the business are drawn on a bank operating from or within the Bailiwick,

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

"**subsidiary company**" has the meaning given in the Schedule and "**subsidiary**" has the same meaning as subsidiary company, and

"**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>w</sup>.

(2) Unless the context otherwise requires, references in this Law to the Policy and Finance Committee of the States of Alderney and the General Purposes and Advisory Committee of the Chief Pleas of Sark are references to the committees of those islands for the time being performing the functions respectively conferred by or under this Law on the said Policy and Finance Committee or (as the case may be) the said General Purposes and Advisory Committee.

(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.

(4) In this Law any words importing the neuter gender include the masculine and the feminine, and any words importing the masculine gender include the feminine and the neuter.

(5) The Interpretation (Guernsey) Law, 1948<sup>x</sup> applies to the interpretation of this Law throughout the Bailiwick.

**References to prescribed businesses.**

33. References in this Law to a prescribed business (however expressed) include references to a person carrying on such a business.

**"Carrying on" business.**

34. (1) For the purposes of any provision of, or made under, this

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<sup>w</sup> Ordres en Conseil Vol. XXXI, p. 278; Ordinance No. XXIX of 2006.

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



Law or the relevant enactments, except to the extent that in any particular case the Commission may otherwise direct, a business holds itself out as carrying on business in or from within the Bailiwick if -

- (a) by way of business it occupies premises in the Bailiwick or makes it known by an advertisement or by an insertion in a directory or by means of letterheads that it may be contacted at a particular address in the Bailiwick,
- (b) it invites a person in the Bailiwick, by issuing an advertisement or otherwise, to enter into or to offer to enter into a contract or otherwise to undertake business, or
- (c) it is otherwise seen to be carrying on business in or from within the Bailiwick.

(2) For the purposes of this section an advertisement issued or other invitation made by any person on behalf of or to the order of another person shall be treated as an advertisement issued or other invitation made, as the case may be, by that other person.

**Provision as to publication of notices in Alderney and Sark and on Commission's website.**

**35.** (1) If, pursuant to any requirement imposed by or under this Law, any document or information is published in La Gazette Officielle -

- (a) a copy of the document or information shall be published in the Alderney Official Gazette, and

- (b) a copy of the document or information shall be sent or delivered to the Seneschal of Sark who shall forthwith cause a copy of the document or information to be inserted in the Sark notice box.

(2) Any requirement imposed on the Commission by or under this Law to publish any document or information in La Gazette Officielle shall be construed as including a requirement to publish that document or information on the Commission's official web site.

**Citation.**

36. This Law may be cited as the Prescribed Businesses (Bailiwick of Guernsey) Law, 2008.

**Commencement.**

37. This Law shall come into force on the day of its registration on the Records of the Island of Guernsey.

## SCHEDULE

**Meaning of "holding company" and "subsidiary company".**

1. For the purposes of any provision of, or made under, this Law a company is, subject to the provisions of paragraph 3, a subsidiary of another if, but only if -

- (a) that other -
  - (i) is a member of it and controls the composition of its board of directors, or
  - (ii) holds more than half in nominal value of its equity share capital, or
- (b) the first-mentioned company is a subsidiary of any company which is that other's subsidiary.

2. For the purposes of paragraph 1 the composition of a company's board of directors shall be deemed to be controlled by another company if, but only if, that other company has some power, exercisable without the consent or concurrence of any other person, to appoint or remove the holders of all or a majority of the directorships; and that other company shall be deemed to have power to appoint a person to any directorship in respect of which any of the following conditions is satisfied -

- (a) that a person cannot be appointed thereto without the

exercise in his favour by that other company of such a power,

- (b) that a person's appointment thereto follows necessarily from his appointment as director of that other company,
- (c) that the directorship is held by that other company itself or by a subsidiary of it.

3. In determining whether a company is a subsidiary of another -

- (a) any shares held or power exercisable by that other in a fiduciary capacity shall be treated as not held or exercisable by it;
- (b) subject to paragraphs (c) and (d), any shares held or power exercisable -
  - (i) by any person as a nominee for that other (except where that other is concerned only in a fiduciary capacity),
  - (ii) by, or by a nominee for, a subsidiary of that other, not being a subsidiary which is concerned only in a fiduciary capacity,

shall be treated as held or exercisable by that other;

- (c) any shares held or power exercisable by any person

by virtue of the provisions of any debentures of the first-mentioned company or of a trust instrument for securing any issue of such debentures shall be disregarded;

- (d) any shares held or power exercisable by, or by a nominee for, that other or its subsidiary (not being held or exercisable as mentioned in paragraph (c)) shall be treated as not held or exercisable by that other if the ordinary business of that other or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered into in the ordinary course of that business.

4. For the purposes of any provision of, or made under, this Law a company shall be deemed to be another's holding company if, but only if, that other is its subsidiary.

# PROJET DE LOI

ENTITLED

## **The Income Tax (Guernsey) (Amendment) Law, 2008**

**THE STATES**, in pursuance of their Resolutions of the 28<sup>th</sup> May, 2008<sup>a</sup> and the 30<sup>th</sup> July, 2008<sup>b</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 Herm.

### **Amendment of Income Tax Law - information powers.**

1. In section 75C(1) of the Income Tax (Guernsey) Law, 1975, as amended<sup>c</sup> ("**the Law of 1975**") for "subsection (2)" substitute "section 75CA".

2. Section 75C(2) of the Law of 1975 is repealed.

3. After section 75C of the Law of 1975 insert the following section -

### **"Scrutiny of requests for information under TIEA's.**

**75CA.** (1) The Administrator may not exercise his powers under sections 75A and 75B by virtue of section 75C unless a member of the Guernsey Tax Tribunal appointed for the purpose by the President (or in his

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<sup>a</sup> Article XIX of Billet d'État No. VII of 2008.

<sup>b</sup> Article XVI of Billet d'État No. XI of 2008.

<sup>c</sup> Ordres en Conseil Vol. XXV, p. 124; section 75C was inserted by No. XVII of 2005.

absence the Vice-President) thereof ("**the appointed member**") has reviewed the request for information and considers that it is, on its face, made in accordance with the formal and procedural requirements of the approved international agreement pursuant to which it is made.

(2) For the avoidance of doubt the appointed member is not under any duty to inquire into the substantive issues of law or fact raised in or relating to the request for information including, without limitation, any liability or alleged liability, or the circumstances of or giving rise to any liability or alleged liability, to tax under the law of the requesting state.

(3) No appeal lies against a decision of the appointed member under this section.

(4) A member of the Guernsey Tax Tribunal -

(a) when exercising his functions under this section is not acting on behalf of or as a member of the Guernsey Tax Tribunal but is exercising an independent office, and

(b) in the case of the appointed member, may not sit as a member of the Guernsey Tax Tribunal when it is hearing any appeal, question or issue connected or relating to the subject matter of the request.

(5) A member of the Guernsey Tax Tribunal may not perform any function under this section unless he has taken an oath or made an affirmation of confidentiality under section 206(1).

(6) No liability shall be incurred by any member of the Guernsey Tax Tribunal in respect of anything done or omitted to be done in the discharge or purported discharge of any function under this section unless the thing is done or omitted to be done in bad faith or is attributable to his own fraud or wilful misconduct.

(7) The Policy Council may determine the costs, fees, expenses and allowances payable to a member of the Guernsey Tax Tribunal in respect of the performance of any functions under this section."

**4.** In section 75K of the Law of 1975<sup>d</sup> -

- (a) in subsection (3) for "10 days" substitute "30 days",
- (b) in subsection (5)(b) after "the Bailiff's decision" insert "or such longer period as the Court of Appeal may in any particular case allow",
- (c) in subsection (6) -
  - (i) in paragraph (a) after "some other error of law" insert "(not being one mentioned in paragraph (b))",
  - (i) for "section 75B" substitute "section 75A or 75B", and
  - (iii) after "the ground mentioned in paragraph (b)" insert "unless the Bailiff, when giving leave to appeal under

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<sup>d</sup> Section 75K was inserted by No. XVII of 2005.



subsection (3), is satisfied -

- (i) that the material error as to the facts relates to the notice itself (including, without limitation, facts relating to the identity of the taxpayer or other person to whom the notice is addressed) and not to the circumstances of or giving rise to the liability or alleged liability to tax under the law of the requesting state, and
  - (ii) that it would be just and convenient for the decision to be challenged on that ground in the courts of Guernsey", and
- (d) in subsection (7)(a) after "subsection (3) or (5)" insert "or such longer period as the Royal Court may in any particular case allow".

5. After section 206(1)(b) of the Law of 1975 insert the following paragraph -

"(bb) is a member of the Tribunal, for the purposes of exercising the functions of an appointed member under section 75CA, or".

**Amendment of Income Tax Law - taxation of benefits in kind.**

6. (1) In section 68A of the Law of 1975<sup>e</sup> -

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<sup>e</sup> Section 68A was inserted by the Income Tax (Zero-10) (Guernsey) (No. 2) Law, 2007.

- (a) in the title, after "chargeable" insert "or deductible",
- (b) after "a return as to his income" insert "or under section 70(1) requiring him to deliver a return as to his employees", and
- (c) in paragraph (a) after "which is chargeable to tax" insert "or from which tax is deductible (as the case may be)".

(2) After section 81A(12) of the Law of 1975<sup>f</sup> insert the following subsection -

"(13) References in this section and in any regulations made under it to the payment of, or on account of, any income or emoluments arising or accruing from an office or employment include references to the provision of any benefit derived from that office or employment and comprised in the emoluments thereof.".

**Amendment of Income Tax Law - exchange of information.**

- 7. Section 206(7) of the Law of 1975<sup>g</sup> is repealed.
- 8. After section 206 of the Law of 1975 insert the following sections -

**"Exchange of information with Social Security Department.**

**206A.** (1) Nothing in section 206 or in any oath taken in

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<sup>f</sup> Section 81A was inserted by Vol. XXVII, p. 118.

<sup>g</sup> Section 206 was substituted by No. VI of 1992.

accordance with it precludes the Administrator from disclosing to the States Social Security Department or the Administrator thereof, for the purposes of enabling them to perform their respective functions under the Social Insurance (Guernsey) Law, 1978 (or any other enactment conferring functions on them) -

- (a) the name and address of any person,
- (b) information relating to the income of any person, and
- (c) information relevant to -
  - (i) any liability to tax, or contributions under the Social Insurance (Guernsey) Law, 1978, to which any person is or may be subject, or
  - (ii) the amount of any such liability.

(2) Information disclosed to the States Social Security Department or the Administrator thereof under subsection (1) may, without prejudice to the provisions of the Social Insurance (Guernsey) Law, 1978 (or any other enactment conferring functions on them) authorising the disclosure and use of information, be used by them for the purposes mentioned in subsection (1).

**Power to amend sections relating to disclosure of information.**

**206B.** (1) The States may by Ordinance amend any provision of section 206 or 206A.

(2) The provisions of subsection (1) are without prejudice to any other provision of this Law conferring power to enact Ordinances or regulations (and vice versa).

(3) The powers in section 208C(3) apply to an Ordinance under this section as they apply to an Ordinance under that section."

**Amendment of Social Insurance Law - exchange of information.**

9. After section 112 of the Social Insurance (Guernsey) Law, 1978, as amended<sup>h</sup> insert the following sections -

**"Exchange of information with Administrator of Income Tax.**

**112A.** (1) Nothing in sections 111 to 112 precludes the Administrator or the Department from disclosing to the Administrator or Assistant Administrator of Income Tax, for the purposes of enabling them to perform their respective functions under the Income Tax (Guernsey) Law, 1975 (or any other enactment conferring functions on them) -

- (a) the name and address of any person,
- (b) information relating to the income of any person, and
- (d) information relevant to -

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<sup>h</sup> Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; No. V of 1990; Nos. V and XII of 1993; Ordinance No. XIV of 1993; Ordres en Conseil No. V of 1994, Nos. VI and XIII of 1995; No. I of 1998; No. VI of 1999; No. X of 2000; No. IX of 2001; No XXIV of 2003.

- (i) any liability to income tax, or contributions under this Law, to which any person is or may be subject, or
- (ii) the amount of any such liability.

(2) Information disclosed to the Administrator or Assistant Administrator of Income Tax under subsection (1) may, without prejudice to the provisions of the Income Tax (Guernsey) Law, 1975 (or any other enactment conferring functions on them) authorising the disclosure and use of information, be used by them for the purposes mentioned in subsection (1).

**Power to amend sections relating to disclosure of information.**

**112B.** (1) The States may by Ordinance amend any provision of sections 111 to 112A.

(2) The provisions of subsection (1) are without prejudice to any other provision of this Law conferring power to enact Ordinances or regulations (and vice versa).

(3) The powers in section 115A(1)(b) and (2) apply to an Ordinance under this section as they apply to an Ordinance under that section."

**Citation.**

**10.** This Law may be cited as the Income Tax (Guernsey) (Amendment) Law, 2008.

**Commencement.**

11. (1) Section 6 of this Law shall have effect, by virtue of the States' resolutions of the 30<sup>th</sup> July, 2008<sup>i</sup> and the 26<sup>th</sup> November, 2008, under and subject to the provisions of the Taxes and Duties (Provisional Effect) (Guernsey) Law, 1992<sup>j</sup>, on and from the 1<sup>st</sup> January, 2009, as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the Island of Guernsey.

(2) The remainder of this Law shall come into force on the date of registration of this Law on the records of the Island of Guernsey.

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<sup>i</sup> Article XVI of Billet d'État No. XI of 2008.

<sup>j</sup> Order in Council No. XI of 1992.

## **The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolution of the \*\* October 2008<sup>a</sup>, and in exercise of the powers conferred on them by section 53A of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>b</sup>, hereby order:-

### **Amendment of Proceeds of Crime Law.**

1. The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, as amended<sup>c</sup> is hereby further amended, in section 41(2)(a), by inserting the words “or will be” immediately after the words “has been”.

### **Interpretation.**

2. (1) The Interpretation (Guernsey) Law, 1948<sup>d</sup> applies to the interpretation of this Ordinance throughout the Bailiwick of Guernsey.

(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.

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<sup>a</sup> Article VI of Billet d'État No. XIII of 2008.

<sup>b</sup> Order in Council No. VIII of 1999; section 53A was inserted by Order in Council No. XV of 2007.

<sup>c</sup> Order in Council No. VIII of 1999; amended by Order in Council No. II of 2005; the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Law, 2007; Ordinance XXVIII of 1999; Ordinance XII of 2002; Ordinance XXXIII of 2003; Ordinance XLVII of 2007; and G.S.I. No. 27 of 2002.

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

**Extent.**

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

**Citation.**

4. This Ordinance may be cited as the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2008.

**Commencement.**

5. This Ordinance shall come into force on the 26<sup>th</sup> November 2008.



## **The Drug Trafficking (Bailiwick of Guernsey) (Amendment) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolution of the \*\* October 2008<sup>a</sup>, and in exercise of the powers conferred on them by section 71A of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000<sup>b</sup>, hereby order:-

### **Amendment of Drug Trafficking Law.**

1. The Drug Trafficking (Bailiwick of Guernsey) Law, 2000, as amended<sup>c</sup>, is hereby further amended, in section 61(2)(a), by inserting the words “or will be” immediately after the words “has been”.

### **Interpretation.**

2. (1) The Interpretation (Guernsey) Law, 1948<sup>d</sup> applies to the interpretation of this Ordinance throughout the Bailiwick of Guernsey.

(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.

### **Extent.**

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

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<sup>a</sup> Article VI of Billet d'État No. XIII of 2008.

<sup>b</sup> Order in Council No. VII of 2000; section 71A was inserted by Order in Council No. XVII of 2007.

<sup>c</sup> Order in Council No. VII of 2000; amended by Order in Council No. II of 2005; and Ordinance No. XXXIII of 2003.

**Citation.**

4. This Ordinance may be cited as the Drug Trafficking (Bailiwick of Guernsey) (Amendment) Ordinance, 2008.

**Commencement.**

5. This Ordinance shall come into force on the 26<sup>th</sup> November 2008.

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

## **The Disclosure (Bailiwick of Guernsey) (Amendment) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolution of the \*\* October 2008<sup>a</sup>, and in exercise of the powers conferred on them by section 14 of the Disclosure (Bailiwick of Guernsey) Law, 2007<sup>b</sup>, hereby order:-

### **Amendment of Disclosure Law.**

1. The Disclosure (Bailiwick of Guernsey) Law, 2007 is hereby amended, in section 4(1)(a)(i) and (ii), by inserting the words “or will be” immediately after the words “has been” in each place where they occur.

### **Interpretation.**

2. (1) The Interpretation (Guernsey) Law, 1948<sup>c</sup> applies to the interpretation of this Ordinance throughout the Bailiwick of Guernsey.

(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.

### **Extent.**

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

### **Citation.**

4. This Ordinance may be cited as the Disclosure (Bailiwick of

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<sup>a</sup> Article VI of Billet d'État No. XIII of 2008.

<sup>b</sup> Order in Council No. XVI of 2007.

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

Guernsey) (Amendment) Ordinance, 2008.

**Commencement.**

- 5.** This Ordinance shall come into force on the 26<sup>th</sup> November 2008.

## **The Prevention of Corruption (Bailiwick of Guernsey) (Amendment) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolution of the 27th September, 2006<sup>a</sup>, and in exercise of the powers conferred on them by section 2(2) of the Prevention of Corruption (Bailiwick of Guernsey) Law, 2003<sup>b</sup>, hereby order:-

### **Amendment to 2003 Law.**

1. For section 2(1) of the Prevention of Corruption (Bailiwick of Guernsey) Law, 2003 substitute -

"(1) In this Law -

**"agent"** includes -

- (a) any person employed by or acting for another and,
- (b) without prejudice to the generality of paragraph (a), a person of any of the following descriptions -
  - (i) a member of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark,

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<sup>a</sup> Article XIII of Billet d'État No. XVI of 2006.

<sup>b</sup> Order in Council No. I of 2004.

- (ii) the Bailiff, the Deputy Bailiff or a Lieutenant-Bailiff,
- (iii) a Judge of the Court of Appeal,
- (iv) a Judge of the Royal Court,
- (v) a Judge or Deputy Judge of the Magistrate's Court,
- (vi) the Magistrate, any Assistant Magistrate or any Acting Magistrate,
- (vii) a Jurat of the Royal Court or any Juré-Justicier Suppléant,
- (viii) the President or Vice President of the States of Alderney,
- (ix) any Juge Délégué of Alderney or any person appointed under section 9 of the Government of Alderney Law, 2004<sup>c</sup>,
- (x) a Jurat of the Court of Alderney,
- (xi) the Seigneur or any Deputy Seigneur of Sark,

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<sup>c</sup> Order in Council No. III of 2005

- (xii) the Sénéschal, any Deputy Sénéschal or Lieutenant Sénéschal of Sark,
- (xiii) a member of any tribunal created by or under any enactment of the Bailiwick or any part thereof,
- (xiv) Her Majesty's Procureur or any Procureur Délégué,
- (xv) Her Majesty's Comptroller or any Contrôle Délégué,
- (xvi) Her Majesty's Greffier or any Deputy Greffier,
- (xvii) Her Majesty's Sheriff or any Deputy Sheriff,
- (xviii) Her Majesty's Sergeant or any Deputy Sergeant,
- (xix) the Greffier appointed under section 20(1) of the Government of Alderney Law, 2004,
- (xx) the Greffier of Sark or any Deputy Greffier,

- (xxi) the Prevôt of Sark or any Deputy Prevôt,
- (xxii) the Constable, Vingtenier or any Assistant Constable of Sark,
- (xxiii) the Treasurer or the Deputy Treasurer of Sark,
- (xxiv) a person elected to Parochial office in Guernsey,
- (xxv) a member of a Parish Douzaine,
- (xxvi) an auditor,
- (xxvii) an arbitrator or umpire (whether appointed by virtue of an arbitration agreement, by a court or by any other means),
- (xxviii) a non States member of a States Department or Committee,
- (xxix) a non Chief Pleas member of a Chief Pleas Committee,
- (xxx) a member of any body created by or under any enactment responsible for the regulation of any type of business or



other activity, and

(xxxi) any other person employed by or acting on behalf of the public administration in any part of the Bailiwick, and

(c) without prejudice to the generality of paragraph (a), a person of any of the following descriptions -

(i) a member of the government of any other country or territory,

(ii) a member of a public assembly exercising legislative or administrative powers in any other country or territory,

(iii) a mayor of a municipality in any other country or territory,

(iv) a member of the European Parliament,

(v) a member of the Court of Auditors of the European Communities,

(vi) a member of the Commission of the European Communities,

(vii) a public prosecutor in any other country

or territory,

- (viii) a judge of a court in any other country or territory,
- (ix) a lay person who has the responsibility of deciding on the guilt of an accused person in criminal proceedings in any other country or territory,
- (x) a lay person who has the responsibility of deciding on matters of fact, law or both in civil or administrative proceedings in any other country or territory,
- (xi) an arbitrator or umpire (whether appointed by virtue of an arbitration agreement, by a court or by any other means) appointed in any other country or territory,
- (xii) a judge of any court established under an international agreement,
- (xiii) a member of, or any other person employed by or acting for or on behalf of, any body established under an international agreement,

- (xiv) a member of a body created by law in any other country or territory responsible for the regulation of any type of business or other activity, and
- (xv) any other person employed by or acting on behalf of the public administration of any other country or territory, and
- (d) a company or other body corporate."

**Repeal.**

2. The Prevention of Corruption (Bailiwick of Guernsey) Law, 2003 (Amendment) Ordinance, 2007 is hereby repealed.

**Interpretation.**

3. (1) The Interpretation (Guernsey) Law, 1948<sup>d</sup> applies to the interpretation of this Ordinance throughout the Bailiwick of Guernsey.

(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.

**Extent.**

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

**Citation.**

5. This Ordinance may be cited as the Prevention of Corruption

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

(Bailiwick of Guernsey) (Amendment) Ordinance, 2008.

## **The Land Planning and Development (Fees and Commencement) Ordinance, 2008**

### **ARRANGEMENT OF SECTIONS**

#### **PART I**

#### **FEEES TO ACCOMPANY APPLICATIONS IN RELATION TO PLANNING PERMISSION**

1. Fee to accompany application for planning permission.
2. Fee to accompany application for approval of reserved matters.

#### **PART II**

#### **FEEES TO ACCOMPANY DEPOSITING OF FULL PLANS UNDER THE BUILDING REGULATIONS**

3. Fee to accompany depositing of full plans.
4. Refund of part of fee.

#### **PART III**

#### **FEEES TO ACCOMPANY REQUESTS FOR PROPERTY SEARCHES**

5. Fee to accompany request for domestic property search.
6. Fee to accompany request for non-domestic property search.

#### **PART IV**

#### **EXEMPTIONS AND MISCELLANEOUS**

7. Exemptions from fees payable under Parts I and II.

8. Exemptions from fees payable under Part I.
9. Exemption from fees payable under Part II for certain building work in relation to controlled services or fittings.
10. Application not duly made for the purposes of section 68(8) of the Law.
11. Power of Department to charge a fee for supply of plans and other documents.
12. Power of Department to amend Schedules by regulations.
13. Interpretation.
14. Amendment of the Plans and Appeals Ordinances.
15. Commencement of the Law.
16. Citation and commencement.

SCHEDULE 1 Fees to accompany an application for planning permission.

SCHEDULE 2 Fees to accompany depositing of full plans under the building regulations.

SCHEDULE 3 Exemption from fees payable under Part II for certain building work in relation to controlled services or fittings.

## **The Land Planning and Development (Fees and Commencement) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolutions of the 27<sup>th</sup> June 2002, the 26<sup>th</sup> January 2005 and the 26<sup>th</sup> September 2007<sup>a</sup>, and in exercise of the powers conferred on them by sections 12(1) and (2), 16(6), 17(3), 29(4), 31(2)(c), 33(6), 35(2)(c), 81, 89 and 96 of the Land Planning and Development (Guernsey) Law, 2005<sup>b</sup>, hereby order:-

### PART I

#### FEES TO ACCOMPANY APPLICATIONS IN RELATION TO PLANNING PERMISSION

##### **Fee to accompany application for planning permission.**

1. (1) An application for planning permission made on or after the 5th October, 2009 must, subject to the following provisions of this Ordinance, be accompanied by a fee calculated in accordance with Schedule 1.

(2) Where an application for planning permission is made in respect of development which has been carried out without planning permission required under the Law or in breach of any term (including any condition or limitation) of a planning permission, the fee payable, to the extent that the application relates to such development, is double that calculated in accordance with Schedule 1.

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<sup>a</sup> Billet d'État No. XI of 2002, Article I of Billet d'État No. I of 2005 and Articles III and XV of Billet d'État No. XX of 2007.

<sup>b</sup> Order in Council No. XVI of 2005 as amended by Ordinances Nos. XXI, XXII, XXV, XXVII and XXVIII of 2007.

**Fee to accompany application for approval of reserved matters.**

2. (1) An application for approval of reserved matters made on or after the 5th October, 2009 must, subject to the following provisions of this Ordinance, be accompanied by a fee.

(2) The fee payable shall be that payable in accordance with section 1 for an application for full planning permission for the development to which the reserved matters application relates.

**PART II**

**FEES TO ACCOMPANY DEPOSITING OF FULL PLANS UNDER THE  
BUILDING REGULATIONS**

**Fee to accompany depositing of full plans.**

3. (1) Full plans deposited under regulation 10(1)(b) or 14 of the Building Regulations 1992<sup>c</sup> on or after 8th June, 2009 must, subject to the following provisions of this Ordinance, be accompanied by a fee, calculated in accordance with Schedule 2.

(2) Where full plans are deposited in respect of building work or a material change of use which has been carried out without approval of full plans required under the building regulations or without complying with any other relevant requirement of the building regulations, the fee payable, to the extent that such plans relate to such work or change of use, is double that calculated in accordance with Schedule 2.

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<sup>c</sup> G.S.I. No. 27 of 1992 as amended by G.S.I. No. 39 of 2006.



**Refund of part of fee.**

4. Where the Department rejects full plans deposited under the Building Regulations it shall, as soon as reasonably practicable after such rejection, refund to the person by whom or on whose behalf such plans were deposited fifty per cent of the fee paid in accordance with section 3.

**PART III****FEES TO ACCOMPANY REQUESTS FOR PROPERTY SEARCHES****Fee to accompany request for domestic property search.**

5. (1) Any request for a standard property search relating to -
- (a) a building or other land in domestic use,
  - (b) subject to paragraph (c), a building or other land part of which is in domestic use and part of which is in any use other than domestic use, where the request relates primarily to the part in domestic use, or
  - (c) a building containing flats in domestic use where the request arises primarily in relation to one or more such flats contained within that building and not to the building as a whole,

must be made in writing and accompanied by a fee of £80 for each site in respect of which the request is made or such other fee as the Department may by regulations prescribe.

- (2) Any request for an enhanced property search relating to any

land of a description set out in subsection (1)(a) to (c) must be made in writing and accompanied by a fee of £120 for each site in respect of which the request is made or such other fee as the Department may by regulations prescribe.

(3) The Department may, where it allows the supervised viewing of any file of the Department relating to any land of a description set out in subsection (1)(a) to (c), charge a fee of £65 per half hour for each site in respect of which such a viewing is made, or such other fee as the Department may by regulations prescribe.

(4) The Department may refuse to allow such a supervised viewing of any file if a fee has not been paid in advance to cover the estimated time of the viewing.

**Fee to accompany request for non-domestic property search.**

6. (1) Any request for a standard property search relating to -
  - (a) a building or other land in any use other than domestic use,
  - (b) subject to paragraph (c), a building or other land, part of which is in any use other than domestic use and part of which is in domestic use, where the request relates primarily to the part in any use other than domestic use, or
  - (c) a building containing flats in domestic use where the request arises primarily in relation to that building as a whole and not to one of more of such flats contained within that building,

must be made in writing and accompanied by a fee of £120 for each site in respect of which the request is made or such other fee as the Department may by regulations prescribe.

(2) Any request for an enhanced property search relating to any land of a description set out in subsection (1)(a) to (c) must be made in writing and accompanied by a fee of £200 for each site in respect of which the request is made or such other fee as the Department may by regulations prescribe.

(3) The Department may, where it allows the supervised viewing of any file of the Department relating to any land of a description set out in subsection (1)(a) to (c), charge a fee of £100 per half hour for each site in respect of which such a viewing is made, or such other fee as the Department may by regulations prescribe.

(4) The Department may refuse to allow such a supervised viewing of any file if a fee has not been paid in advance to cover the estimated time of the viewing.

## PART IV

### EXEMPTIONS AND MISCELLANEOUS

#### **Exemptions from fees payable under Parts I and II.**

7. (1) Sections 1 to 3 shall not apply where the Department is satisfied that the application or deposit of plans in question relates solely to -

- (a) the provision of a means of access for, or
- (b) other facilities designed to secure the greater safety,

health or comfort of,

a disabled person.

(2) Sections 1 and 2 shall not apply in relation to an application for planning permission or approval of reserved matters made in respect of development to be carried out -

- (a) for or on behalf of the States and solely or substantially in the public interest, or
- (b) for or on behalf of another person who is acting in partnership with the States for the purposes of a programme, policy or other initiative, however named, which has been approved by the States.

(3) Section 3 shall not apply in relation to a deposit of full plans made in respect of building work or a material change of use which is to be carried out as set out in subsection (2)(a) or (b).

**Exemptions from fees payable under Part I.**

8. Sections 1 and 2 shall not apply where an application for planning permission or approval of reserved matters is made to the Department which seeks to revise development in respect of which a prior application for planning permission or approval of reserved matters has been refused, subject to the following conditions being met -

- (a) the Department is satisfied that the revision in question is made primarily to overcome the reasons for the previous refusal,

- (b) the refusal of planning permission or refusal of approval of reserved matters to which the revision relates was given within a period of six months ending with the date on which the application is received by the Department,
- (c) the application can reasonably be said to be in respect of substantially the same land and development as the application previously refused, and
- (d) there has been no significant change in any material circumstances since that refusal.

**Exemption from fees payable under Part II for certain building work in relation to controlled services or fittings.**

9. Section 3 shall not apply to a deposit of full plans to the extent that the building work to which those plans relate falls within Schedule 3.

**Application not duly made for purposes of section 68(8) of the Law.**

10. For the purposes of section 68(8) of the Law (calculation of periods for purposes of certain appeals) a planning application or a reserved matters application shall not be considered to be duly made until the Department has received the fee payable in accordance with this Ordinance.

**Power of Department to charge a fee for supply of plans and other documents.**

11. Where the Department supplies a plan or any other document to any person in connection with -

- (a) any planning or other application made or to be made

under the Law,

- (b) the deposit or proposed deposit of full plans under the building regulations, or
- (c) any other provision under the Law,

it may charge a fee to cover the reasonable administrative, printing, photocopying and other costs of so doing.

**Power of Department to amend Schedules by regulations.**

- 12. The Department may by regulations amend the Schedules.

**Interpretation.**

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

**"application for full planning permission"** means an application for planning permission not subject to the reservation of particular matters for subsequent approval,

**"building"** where used in relation to -

- (a) a deposit of full plans under the building regulations,  
or
- (b) a standard property search or an enhanced property search insofar as it relates to building control history,

shall have the meaning in the Building Regulations, 1992<sup>d</sup>,

**"building control history"** means details of any action taken by the Department, or any committee (however called) of the States which previously carried out functions under the building regulations, the Building (Guernsey) Law, 1956<sup>e</sup> or the Building Regulations, 1957<sup>f</sup>, in relation to requirements imposed under those regulations including, without limitation, details of -

- (a) approval or rejection of full plans and issuing of licences to carry out building works under such regulations, and
- (b) any enforcement action in respect of the requirements of such regulations taken under such regulations, the Law or the Building (Guernsey) Law, 1956,

**"building regulations"** means regulations made by the Department under section 17 of the Law<sup>g</sup>,

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<sup>d</sup> Guernsey S.I. No. 27 of 1992, as amended by Guernsey S.I. No. 39 of 2006.

<sup>e</sup> Ordres en Conseil Vol. XVII, p. 56.

<sup>f</sup> Guernsey S.I. No. 24 of 1957 (revoked by Guernsey S.I. No. 27 of 1992).

<sup>g</sup> By virtue of section 93(7) of the Law, the Building Regulations, 1992, as amended, have effect as if made under section 17 of the Law.

**"building work"** shall have the meaning in the Building Regulations, 1992,

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

**"development"** shall be construed in accordance with section 13(1) of the Law and Part I of the Land Planning and Development (General Provisions) Ordinance, 2007<sup>h</sup>,

**"disabled person"** means a person with a physical or mental impairment which has a significant adverse effect on their ability to carry out normal day-to-day activities,

**"domestic use"** means a use falling within any of residential use classes 1 to 5 in the Land Planning and Development (Use Classes) Ordinance, 2007<sup>i</sup>,

**"employee"** shall have the meaning in section 1(1) of the Health and Safety at Work etc. (Guernsey) Law, 1979<sup>j</sup>,

**"enactment"** means any Law, Ordinance or subordinate legislation,

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<sup>h</sup> Ordinance No. XXI of 2007.

<sup>i</sup> Ordinance No. XXVI of 2007.

<sup>j</sup> Ordres en Conseil Vol. XXVII p. 155 as amended by Order in Council No. XIV of 1993.



**"enhanced property search"** means a search by the Department to provide information held by it, in connection with its functions under the Law, including insofar as it relates to -

- (a) the planning history of the land, information from any date before 1st January 2002, or
- (b) the building control history of the land, information from any date before 1st January, 2002,

**"flat"** where used in relation to -

- (a) a planning application, a standard property search or enhanced property search insofar as it applies to planning history, means a self-contained dwelling comprising part of a building and lying wholly or partly above or below some other part of that building,
- (b) a deposit of full plans under the building regulations or a standard property search or an enhanced property search insofar as it applies to building control history, shall have the meaning in the Building Regulations, 1992,

**"full plans"** shall have the meaning in the Building Regulations, 1992,

**"glasshouse"** means a structure made predominantly of glass or other

transparent or translucent material, which is not attached to a dwelling-house, and which is designed and used for growing plants,

**"the Law"** means the Land Planning and Development (Guernsey) Law, 2005,

**"material change of use"** -

- (a) where used in relation to an application for planning permission or approval of reserved matters, shall be construed in accordance with section 13(3) of the Law, or
- (b) where used in relation to the deposit of full plans under the building regulations, shall have the meaning in the Building Regulations, 1992,

**"outline permission"** means planning permission subject to the reservation of particular matters for subsequent approval,

**"planning permission"** means the permission which is required under section 14 of the Law for the carrying out of any development of land,

**"the public"** includes any section of the public,

**"standard property search"** means a search made by the Department to provide information held by it, in connection with its functions under the Law, only including, insofar as it relates to -

- (a) the planning history of the land, information from any date on or after 1st January, 2002, or
- (b) the building control history of the land, information from any date on or after 1st January, 2002,

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

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

"**under the Law**" includes provisions made under the Law.

(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 Plans and Appeals Ordinances.**

**14.** (1) In section 17(1) (interpretation) of the Land Planning and Development (Plans) Ordinance, 2007<sup>k</sup>, in the definition of "**Plans Regulations**" for "2007" substitute "2008".

(2) In section 21(1) (interpretation) of the Land Planning and Development (Appeals) Ordinance, 2007<sup>l</sup>, in the definition of "**Appeals**

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<sup>k</sup> Ordinance No. XXII of 2007.

<sup>l</sup> Ordinance No. XXVIII of 2007.

**Regulations"** for "2007" substitute "2008".

**Commencement of the Law.**

**15.** The Land Planning and Development (Guernsey) Law, 2005 shall come into force on the 6th April, 2009.

**Citation and Commencement.**

**16.** This Ordinance may be cited as the Land Planning and Development (Fees and Commencement) Ordinance, 2008 and shall come into force on the 6th April, 2009.

## SCHEDULE 1

section 1

## FEES TO ACCOMPANY AN APPLICATION FOR PLANNING PERMISSION

## PART I

**Fee payable.**

1. The fee payable is to be calculated in accordance with the Table below and the notes in Part II.

TABLE OF FEES

<b>CATEGORY</b>	<b>DEVELOPMENT TO WHICH APPLICATION RELATES OR TYPE OF APPLICATION</b>	<b>FEE (£)</b>
<b>1</b>	<b>An application for outline permission.</b>	
A	in respect of a site of 2.25 verges (1 acre or 0.4 of a hectare) in area or less	475
B	in respect of a site exceeding 2.25 verges in area, for each 2.25 verges (1 acre or 0.4 of a hectare) and for any additional part remaining of less than 2.25 verges	475
<b>2</b>	<b>The erection of a new dwelling or the change of use of a building to form a dwelling (including in either case any associated works).</b>	
A	for each flat erected or formed	265
B	for each dwelling-house erected or formed	475
<b>3</b>	<b>The erection of a new building or the extension of an existing building -</b>	

	<p>(a) not falling within category 2 or 4, and</p> <p>(b) including any associated works,</p> <p>and any other material alteration to a building not falling within category 5 to this Table.</p>	
A	for the erection of a building or an extension to a building of less than 20 square metres in floor area	85
B	for the erection of a building or an extension to a building of 20 square metres or more but less than 50 square metres in floor area	160
C	for the erection of a building or an extension to a building of 50 square metres or more but less than 100 square metres in floor area	265
D	for the erection of a building or an extension to a building of 100 square metres or more but less than 250 square metres in floor area	475
E	for the erection of a building or an extension to a building of 250 square metres or more in floor area, for each 250 square metres and for any additional part remaining of less than 250 square metres	475
F	for a material alteration to a building where the estimated cost of the alteration is less than £10,000	85
G	for a material alteration to a building where the	160

	estimated cost of the alteration is £10,000 or more	
<b>4</b>	<b>Operations for specified purposes including any associated works.</b>	
A	<p>for the erection of or an extension to a glasshouse, polytunnel or similar structure for agricultural or horticultural purposes -</p> <p>(a) of less than 500 square metres, or</p> <p>(b) of 500 square metres or more, for each 500 square metres and for any additional part remaining of less than 500 square metres</p>	160
B	<p>for the erection of or an extension to a structure, other than a glasshouse, polytunnel or similar structure, for agricultural or horticultural purposes -</p> <p>(a) of less than 500 metres, or</p> <p>(b) of 500 square metres or more, for each 500 square metres and for any additional part remaining of less than 500 square metres</p>	265
C	for operations consisting of mineral extraction or working or the storage of minerals in the open or operations in preparation for or otherwise enabling the carrying out of such operations -	790

	<p>(a) in respect of a site of 2.25 verges (1 acre or 0.4 of a hectare) in area or less, or</p> <p>(b) in respect of a site exceeding 2.25 verges in area, for each 2.25 verges (1 acre or 0.4 of a hectare) and for any additional part remaining of less than 2.25 verges</p>	
D	<p>for operations consisting of the disposal or depositing of waste or in preparation for or otherwise enabling the carrying out of such operations -</p> <p>(a) for a site of 2.25 verges (1 acre or 0.4 of a hectare) in area or less, or</p> <p>(b) in respect of a site exceeding 2.25 verges in area, for each 2.25 verges (1 acre or 0.4 of a hectare) and for any additional part remaining of less than 2.25 verges</p>	790
5	<b>The carrying out of certain minor and other specified development not carried out as associated works described as falling within any other category to this Table.</b>	
A	for the erection, alteration or demolition of a	42



	wall, fence or other similar structure, for each such structure, alteration or removal	
B	for the formation or alteration of a vehicular access, for each such access	85
C	for the creation, extension or alteration of a domestic car parking area on land within the curtilage of a dwelling-house, flat or of a building containing one or more flats for the use of the occupants of that dwelling-house, flat, or flats, for each such car parking area	85
D	<p>for the installation of -</p> <p style="padding-left: 40px;">(a) an unenclosed swimming-pool or an unenclosed spa, or</p> <p style="padding-left: 40px;">(b) any other pool or pond,</p> <p>and the creation of any associated landscaping, for each such pool or pond</p>	160
E	for the installation or material alteration of a container for the storage of any type of fuel, for each such container	42
F	for the installation of a satellite dish antenna, for each antenna	42
G	for the replacement of existing doors or windows within an existing aperture, for any number of such doors or windows	42
H	for the installation of a flag-pole, for each flag-	42

	pole	
I	for attaching to or painting or otherwise exhibiting on the exterior of any structure, or placing on any land an advertisement or sign, for each advertisement or sign	42 (up to a maximum of £210 per application)
J	for the replacement or material alteration of a shop front, for each shop front	160
K	for the erection or installation of a mobile phone antenna or other telecommunications apparatus which has a similar function, including any structure supporting such antenna or apparatus and any associated works, for each such antenna or apparatus	265 (up to a maximum of £790 per application)
L	for the placing on land of a moveable structure, for each such structure	125
M	for the erection of a structure for the support of plants, for each such structure	42
N	for the creation, extension or re-surfacing of a hard-surfaced area, including timber decking, not falling within any other sub-category to this category, for each such area	42
O	for the demolition of a hedge, for each such hedge demolished	42
P	for the installation of a traffic mirror including any means of fixing, for each such mirror	42
Q	for the installation of an air conditioning unit including any means of fixing, for each such unit	42
R	for the installation of-	42

	<p>(a) a solar panel or similar solar-powered apparatus on a dwelling house or within the curtilage of a dwelling-house, for each such panel or apparatus</p> <p>(b) a domestic wind-turbine within the curtilage of a dwelling-house, for each such wind-turbine</p>	
<b>6</b>	<b>The carrying out of operations not falling within any other category to this Table.</b>	
A	in respect of a site of 0.56 of a vergee ( $\frac{1}{4}$ of an acre or 0.1 of a hectare) in area or less	125
B	in respect of a site exceeding 0.56 of a vergee in area but less than 2.25 vergees (1 acre or 0.4 of a hectare) in area	265
C	in respect of a site exceeding 2.25 vergees in area, for each 2.25 vergees (1 acre or 0.4 of a hectare) and for any additional part remaining of less than 2.25 vergees	265
<b>7</b>	<b>Material changes of use other than to use as a dwelling.</b>	
A	<p>for a material change of use of a building or other land other than to -</p> <p>(a) use as a dwelling, or</p> <p>(b) a use falling within paragraphs B</p>	265

	or C of this category	
B	<p>for each material change of use of a building or other land to use for mineral extraction or working or for the storage of minerals in the open-</p> <p>(a) in respect of a site of 2.25 verges (1 acre or 0.4 of a hectare) in area or less, or</p> <p>(b) in respect of a site exceeding 2.25 verges in area, for each 2.25 verges (1 acre or 0.4 of a hectare) and for any additional part remaining of less than 2.25 verges</p>	790
C	<p>for a material change of use of a building or other land to use for the disposal or depositing of waste-</p> <p>(a) in respect of a site of 2.25 verges (1 acre or 0.4 of a hectare) in area or less, or</p> <p>(b) in respect of a site exceeding 2.25 verges in area, for each 2.25 verges (1 acre or 0.4 of a hectare) and for any additional part</p>	790

	remaining of less than 2.25 verges	
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## PART II

### NOTES TO TABLE

#### **General notes to Table.**

2. (1) For the avoidance of doubt, a lettered sub-category must also be construed by reference to the numbered category of which it forms part.

(2) Where an application for outline permission is made the only fee payable is that payable under category 1.

(3) Where an application for full planning permission is made in respect of more than one sub-category of development listed in the Table the fee payable is, subject to the following provisions of this Schedule, the aggregate of all the fees payable in respect of the development in question.

(4) Notwithstanding subparagraph (3), where a category or sub-category of development is described as including works associated with that development a separate fee shall not be payable in respect of those associated works where they also fall within another category or sub-category of the Table.

(5) Where demolition is necessary to carry out other development falling within categories 2 to 6 of this Table no additional fee shall be payable in respect of that demolition.

#### **Adjustment of fee payable in specified circumstances.**

3. (1) Where an application for planning permission or approval of reserved matters is made to the Department which seeks to revise development in

respect of which planning permission or approval of reserved matters has been given ("**revised application**"), the fee payable shall, subject to the following conditions being met, be calculated as if the application were made only in respect of the revised part of the development -

- (a) the planning permission or approval to which the revised part of the development relates was given within a period of twelve months ending with the date on which the revised application is received by the Department,
- (b) the revised application can reasonably be said to be in respect of substantially the same land and development as the development previously approved, and
- (c) there has been no significant change in any material circumstances since that approval.

(2) No fee shall be payable in respect of an application to the extent that it relates to development which is such only by virtue of that development falling within -

- (a) section 1 (operations in relation to protected monuments) or 2 (operations in relation to protected buildings), or
- (b) section 5 (operations in relation to protected trees),

of the Land Planning and Development (General Provisions) Ordinance, 2007 but, for the avoidance of doubt, a fee is payable, subject to subparagraph (3), in respect

of an application relating to such development where it also falls within another description of development under the Law.

(3) Where an application is made for the carrying out of development in relation to or within the curtilage of a protected monument or a protected building no fee shall be payable in respect of that application where such development would not constitute development or would be exempt development if it were carried out other than in relation to or within the curtilage of a protected monument or a protected building.

**Category 3.**

4. In Category 3 to the Table -

(a) the "**extension to a building**" -

- (i) includes, for the avoidance of doubt, the extension of an existing building by the creation of a balcony area or an extension thereto and any extension to an existing carport,
- (ii) includes, for the avoidance of doubt, the formation of an extension by the conversion of an existing loft, roofspace, basement or cellar area, integral garage, non-integral garage or outbuilding to form any habitable, office or other accommodation for purposes ancillary to the principal use of the existing building,

but in calculating the fee payable for an application in respect of the conversion of an existing loft or roofspace a multiplier of 50% shall be applied to the fee payable in accordance with the Table and the other paragraphs of this Schedule, and

- (b) the "**erection of a building**" includes the erection of a carport.

### **Categories 3 and 4.**

5. For the avoidance of doubt, where an application relates to more than one extension to the same building the fee shall be calculated by aggregating the floor area of all extensions created or formed by the development.

### **Interpretation of Schedule 1.**

6. In this Schedule, unless the context requires otherwise -

"**associated works**" means any works which can reasonably be regarded as necessary in order to carry out the description of development in question and related terms shall be construed accordingly,

"**estimated cost**" means such reasonable amount as may be charged by a person in business to carry out the development in question,

"**exempt development**" means development which is exempted from the requirement for planning permission under the Land Planning and Development (Exemptions) Ordinance, 2007<sup>m</sup>,

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<sup>m</sup>

Ordinance No. XXV of 2007.



**"floor area"** means the gross aggregate of the area of all new floors created or formed by the development, measured internally, including any floor area covered by internal walls or partitions,

**"protected building"** means a building, or any part of a building, which is of special historic, architectural, traditional or other interest and which is listed on the protected buildings list,

**"protected monument"** means a monument, structure, artefact, cave, ruin or remains which are of archaeological, historic, traditional, artistic or other special interest and which is listed on the protected monuments list,

**"protected tree"** means any tree, group or area of trees or woodlands in relation to which a tree protection order has been made,

**"the Table"** means the Table in Part I,

**"waste"** includes -

- (a) scrap material, effluent or other unwanted surplus arising from any process, and
- (b) anything which requires to be disposed of as being broken, worn out, contaminated, spoiled or redundant,

and other terms used in this Schedule which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

## SCHEDULE 2

section 3

FEES TO ACCOMPANY DEPOSITING OF FULL PLANS UNDER THE  
BUILDING REGULATIONS

## PART I

**Fee payable.**

1. The fee payable is to be calculated in accordance with the Table below and the notes in Part II.

TABLE OF FEES

CATEGORY	BUILDING WORK OR MATERIAL CHANGE OF USE TO WHICH FULL PLANS RELATE	FEE (£)
<b>1</b>	<b>The creation of a new dwelling (whether by its erection or by a material change of use) including-</b>  <div style="margin-left: 40px;"> <b>(a) any detached garage or parking area which is for purposes ancillary to the enjoyment of the dwelling as such, and</b>   <b>(b) any other associated building work.</b> </div>	
A	for each flat created up to and including 20	490
B	for each additional flat created up to and including 40	375
C	for each additional flat created over 40	260
D	for each dwelling-house created up to and including 20	770
E	for each additional dwelling-house up to and including 40	555
F	for each additional dwelling-house created over 40	325
<b>2</b>	<b>The extension of or other alteration to a dwelling, not</b>	

	<b>falling within category 1, and other specified building work in relation to a dwelling and any associated building work.</b>	
A	for the extension of a dwelling, not falling within sub-category C, D, E or K of this category, by less than 20 square metres in floor area	330
B	for the extension of a dwelling, not falling within sub-category C, D, E or K of this category, by 20 square metres or more in floor area	555
C	for the extension of a dwelling by the conversion of an existing loft or roofspace to form habitable accommodation	375
D	for the extension of a dwelling by the conversion of an existing basement or cellar area to form habitable accommodation	375
E	for the extension of a dwelling by the conversion of an existing integral or non-integral garage to form habitable accommodation	375
F	for the erection of or an extension to a garage, shed or garden store (which in each case is predominantly for purposes ancillary to the enjoyment of a dwelling as such) of less than 20 square metres in floor area	110
G	for the erection of or extension to a garage, shed or garden store (which in each case is predominantly for purposes ancillary to the enjoyment of a dwelling as such) of 20 square metres or more in floor area	220
H	for an alteration to a dwelling, other than an alteration falling within any other sub-category to this category, where the estimated cost of the building work is less than £5,000	125
I	for an alteration to a dwelling, other than an alteration falling within any other sub-category to this category, where the	215

	estimated cost of the building work is at least £5,000 but no more than £20,000	
J	for an alteration to a dwelling, other than an alteration falling within any other sub-category to this category, where the estimated cost of the building work is more than £20,000	480
K	for the erection of a conservatory or a sun lounge	115
L	for the replacement of existing windows within an existing aperture, for any number of such windows	63
3	<p><b>Building work or a material change of use -</b></p> <p>(a) not falling within category 1 or 2, for the erection of or extension to a building for purposes ancillary to the enjoyment of a dwelling as such, and</p> <p>(b) other than in relation to a dwelling,</p> <p><b>and any associated building work.</b></p>	
A	for the erection of or an extension to a building of less than 20 square metres in floor area for purposes other than storage	325
B	for the erection of or an extension to a building of 20 square metres or more but less than 50 square metres in floor area for purposes other than storage	555
C	for the erection of or an extension to a building of 50 square metres or more but less than 100 square metres in floor area for purposes other than storage	775
D	for the erection of or an extension to a building of 100 square metres or more but less than 250 square metres in floor area for purposes other than storage	1260

E	for the erection of or an extension to a building of 250 square metres or more in floor area for purposes other than storage, for each 250 square metres and for any additional part remaining of less than 250 square metres	1260
F	for the erection of or an extension to a building of less than 20 square metres for storage purposes	260
G	for the erection of or an extension to a building of 20 square metres or more but less than 50 square metres in floor area for storage purposes	375
H	for the erection of or an extension to a building of 50 square metres or more but less than 100 square metres in floor area for storage purposes	490
I	for the erection of or an extension to a building of 100 square metres or more but less than 250 square metres in floor area for storage purposes	890
J	for the erection of or an extension to a building of 250 square metres or more in floor area for storage purposes, for each 250 square metres and for any additional part remaining of less than 250 square metres	890
K	for the alteration of a building, other than an alteration falling within any other sub-category to this Table, where the estimated cost of the building work is less than £10,000	165
L	for the alteration of a building, other than an alteration falling within any other sub-category to this Table, where the estimated cost of the building work is £10,000 or more but less than £50,000	480
M	for the alteration of a building, other than an alteration falling within any other sub-category to this Table, where the estimated cost of the building work is £50,000 or more but	610

	less than £100,000	
N	for the alteration of a building, other than an alteration falling within any other sub-category to this Table, where the estimated cost of the building work is £100,000 or more	1000
O	for the material change of use of a building other than to use as a dwelling	555
<b>4</b>	<b>The carrying out of specified building work not carried out as part of any building work falling within any other category to this Table.</b>	
A	for the provision or alteration of a drainage system including the installation of a cesspit, for each such drainage system	105
B	for the provision or alteration of a controlled service or fitting not falling within any other sub-category of this category, for each such controlled service or fitting	80
C	for the erection of a retaining wall, for each such wall	330
D	for building work involving the underpinning of a building, for each building underpinned	330
E	for the replacement or alteration of a shop front, for each shop front	165
F	for the erection of a garden or boundary wall, for each such wall	105
G	for the installation of a swimming-pool or a reservoir, for each such pool or reservoir	105
H	for the erection of or extension to a glasshouse, for each such extension or glasshouse -  (a) of less than 500 square metres, or	105

	(b) of 500 square metres or more, for each 500 square metres and for any additional part remaining of less than 500 square metres	
I	for the construction of a service or an estate road, for each such road -  (a) of less than 250 square metres, or  (b) of 250 square metres or more, for each 250 square metres and any additional part remaining of less than 250 square metres	105
J	for the demolition of any building	105

## PART II

## NOTES TO TABLE

**General notes to Table.**

2. (1) For the avoidance of doubt, a lettered sub-category must also be construed by reference to the numbered category of which it forms part.

(2) Where the deposit of full plans is made in respect of more than one sub-category of building work or material change of use listed in the Table, the fee payable is, subject to the following provisions of this Schedule, the aggregate of all the fees payable in respect of the building work or material change of use in question.

(3) Notwithstanding subparagraph (2), where a category or sub-category of building work or material change of use is described as including works

associated with that building work or material change of use a separate fee shall not be payable in respect of those associated works where they also fall within another category or sub-category of the Table.

**Adjustment of fee payable in specified circumstances.**

3. Where a person seeks to revise full plans approved by the Department by depositing such plans with revisions, the fee payable shall be calculated as if the depositing of plans were made only in respect of the revision in question to the building work or material change of use proposed.

**Categories 1 and 2.**

4. (1) For the avoidance of doubt, the sub-categories in category 1 must be applied progressively to building work or a material change of use so that the first 20 flats or dwelling-houses created by any such works or material change of use will be subject to the fee for up to and including 20 flats or dwelling-houses, as the case may be, and the next 20 at the rate shown for the next sub-category and so on up to the last sub-category.

(2) Building work to convert a building containing two or more dwellings to one containing a single dwelling shall be treated as falling within category 2 and not within category 1.

**Category 2.**

5. (1) Where the deposit of plans relates to -
- (a) building work falling within category 2 in relation to more than one dwelling, a separate fee is payable in respect of each dwelling,
  - (b) building work falling within more than one sub-



category of category 2 in relation to the same dwelling, the fee payable in respect of that building work shall be as if the deposit of plans were made only in relation to the building work for which the highest fee is specified in the Table, or

- (c) the conversion of an integral garage or a garage attached to a dwelling to form a habitable room the deposit of plans shall be treated, for the purposes of calculating the fee payable, as if made in relation to an alteration to a dwelling falling within category 2H, I or J, as the case may be.

(2) For the avoidance of doubt building work to convert a building containing two or more dwellings to one containing a single dwelling shall be treated as an alteration to a dwelling falling within category 2H, I or J, as the case may be.

(3) In category 2A and B "**the extension of a dwelling**" includes, for the avoidance of doubt, the extension of a dwelling by the creation of a balcony area or an extension thereto.

### **Categories 2 and 3.**

6. In categories 2 and 3, where a deposit of plans relates to more than one extension to the same building the fee shall be calculated by aggregating the floor area of all extensions created or formed by the building work or material change of use.

### **Category 3.**

- 7. (1) In category 3, where the deposit of plans relates to building

work or a material change of use in relation to more than one building, a separate fee is payable in respect of each building.

(2) In category 3 -

(a) an "**extension to a building**" includes, for the avoidance of doubt -

(i) the extension of an existing building by the creation of a balcony area or an extension thereto or the extension of an existing carport,

(ii) the formation of an extension by the conversion of an existing loft, roofspace, basement or cellar area or outbuilding to form any office or other accommodation, as the case may be, for purposes ancillary to the principal use of the building,

(b) the "**erection of a building**" includes the erection of a carport,

except that this shall not be construed as inferring that category 3 extends to any such extensions in relation to a dwelling falling within category 2.

#### **Category 4.**

8. Where the deposit of plans relates to -

(a) building work falling within category 4 in respect of more than one building, a separate fee is payable in

respect of each building,

- (b) building work falling within more than one sub-category of category 4 in respect of the same building, the fee payable in respect of that building work shall be as if the deposit of plans were made only in relation to the sub-category for which the highest fee is specified in the Table.

### **Interpretation of Schedule 2.**

9. (1) In this Schedule, unless the context requires otherwise -

**"associated building work"** means any building work which can reasonably be regarded as necessary to carry out the description of building work or material change of use in question and related terms shall be construed accordingly,

**"conservatory"** means a structure -

- (a) which is attached to a dwelling,
- (b) the roof of which is more than 75 per cent formed of translucent material,
- (c) the walls of which are more than 50 per cent formed of translucent material, and
- (d) which is separated from the rest of that dwelling by a door,

**"estimated cost"** means such reasonable amount as may be charged by a person in business to carry out the work in question,

**"sun lounge"** means a structure -

- (a) which is attached to a dwelling,
- (b) the walls of which are more than 75 per cent formed of translucent material, and
- (c) which is separated from the rest of that dwelling by a door, and

**"the Table"** means the Table in Part I.

(2) In this Schedule, unless the context requires otherwise, **"controlled service or fitting"**, **"demolition"**, **"dwelling"**, **"estate road"**, **"extension"**, **"floor area"** and **"service road"** shall have the same meaning as in the Building Regulations, 1992.

## SCHEDULE 3

section 9

**EXEMPTION FROM FEES PAYABLE UNDER PART II FOR CERTAIN  
BUILDING WORK IN RELATION TO CONTROLLED SERVICES OR  
FITTINGS**

The building work referred to in section 9 is that specified in Column 1 of the Table where carried out by a person specified in the corresponding entry in Column 2 of the Table.

<b>Column 1-building work</b>	<b>Column 2-person carrying out work</b>
<p>The installation of -</p> <p style="padding-left: 40px;">(a) a heat producing gas appliance or a liquefied petroleum gas fuelled storage facility, or</p> <p style="padding-left: 40px;">(b) a heating system or a hot water service system connected to a heat producing gas appliance or the installation of controls associated with either such a system.</p>	<p>A person, or an employee of a person, who is a member of a class of persons approved for the time being for the purposes of section 3(3) of the Health and Safety (Gas) (Guernsey) Ordinance, 2006<sup>n</sup>.</p>

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<sup>n</sup> Ordinance No. XIV of 2006.

<p>The installation of -</p> <p>(a) a heat producing oil-fired appliance which has a rated heat output of 100 kilowatts or less or a fixed storage tank for the storage of fuel oil,</p> <p>(b) a heating system or hot water service system connected to a heat producing oil-fired combustion appliance or the installation of controls associated with either such a system.</p>	<p>An individual registered under the Oil Firing Registration Scheme by the Oil Firing Technical Association for the Petroleum Industry Limited in respect of that type of building work.</p>
<p>The installation of a hot water storage vessel which does not incorporate a vent pipe to the atmosphere.</p>	<p>A person, or an employee of a person, who is a member of a class of persons approved for the time being for the purposes of section 3(3) of the Health and Safety (Gas) (Guernsey) Ordinance, 2006, or an individual registered under the Oil Firing Registration Scheme by the Oil Firing Technical Association for the Petroleum Industry Limited in respect of that type of building work.</p>

<p>The installation of -</p> <p>(a) a heat producing solid fuel burning appliance which has a rated heat output of 50 kilowatts or less,</p> <p>(b) a heating system or a hot water service system connected to a heat producing solid fuel burning combustion appliance or the installation of controls associated with either such a system.</p>	<p>An individual registered under the Registration Scheme for Companies and Engineers involved in the Installation and Maintenance of Domestic Solid Fuel Fired Equipment by HETAS Ltd in respect of that type of building work.</p>
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## **The Attendance and Invalid Care Allowances Ordinance, 2008**

**THE STATES**, in pursuance of their Resolution of the 24<sup>th</sup> September, 2008<sup>a</sup>, and in exercise of the powers conferred upon them by sections 1(4), 2(3)(b) and 3 of the Attendance and Invalid Care Allowances (Guernsey) Law, 1984, as amended<sup>b</sup>, and all other powers enabling them, hereby order:-

### **Entitlement to attendance allowance.**

1. The amount determined for the purposes of section 1(4) of the Law is £79,000.

### **Entitlement to invalid care allowance.**

2. The amount determined for the purposes of section 2(3)(b) of the Law is £79,000.

### **Rates of allowances.**

3. (1) The weekly rate of an attendance allowance determined for the purposes of section 3 of the Law is £86.00.

(2) The weekly rate of an invalid care allowance determined for the purposes of section 3 of the Law is £69.50.

### **Interpretation.**

4. (1) In this Ordinance the expression "**the Law**" means the Attendance and Invalid Care Allowances (Guernsey) Law, 1984, and expressions used in the Law shall, when used in this Ordinance, have the same meaning as they

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<sup>a</sup> Article XI of Billet d'État No. XII of 2008.

<sup>b</sup> Ordres en Conseil Vol. XXVIII, p. 353; Vol. XXIX, p. 198; Order in Council No. XIV of 1991; No. X of 1993 and No. VI of 1999 and Ordinance No. XIV of 1993 (Tome XXVI, p. 177).



have under the Law.

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

(3) The Interpretation (Guernsey) Law, 1948<sup>c</sup> shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney, Herm and Jethou.

### **Repeal.**

5. The Attendance and Invalid Care Allowances Ordinance, 2007<sup>d</sup> is repealed.

### **Citation.**

6. This Ordinance may be cited as the Attendance and Invalid Care Allowances Ordinance, 2008.

### **Extent.**

7. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

### **Commencement.**

8. This Ordinance shall come into force on the 5<sup>th</sup> January, 2009.

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

<sup>d</sup> Ordinance No. XL of 2007.

## **The Family Allowances Ordinance, 2008**

**THE STATES**, in pursuance of their Resolution of the 24<sup>th</sup> September, 2008<sup>a</sup>, and in exercise of the powers conferred upon them by sections 1 and 3 of, and paragraph 1 of the Schedule to, the Family Allowances (Guernsey) Law, 1950, as amended<sup>b</sup> and all other powers enabling them, hereby order:-

### **Amount of allowance.**

1. The amount of allowance referred to in section 1(1) of the Family Allowances (Guernsey) Law, 1950, as amended ("**the Law of 1950**") in respect of each child in the family shall be at the rate of £14.60 a week.

### **Amount as to contribution to the cost of providing for a child.**

2. The amount in respect of the contribution to the cost of providing for a child referred to in -

- (a) section 3(2) of the Law of 1950 shall be at the rate of £14.60 a week or more, and
- (b) the proviso to paragraph 1(1) of the Schedule to the Law of 1950 shall be at the rate of £14.60 a week.

### **Interpretation.**

3. The Interpretation (Guernsey) Law, 1948<sup>c</sup> shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney,

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<sup>a</sup> Article XI of Billet d'État No. XII of 2008.

<sup>b</sup> Ordres en Conseil Vol. XIV, p. 332; Vol. XVI, p. 280; Vol. XX, p. 63; Vol. XXI, p. 34; Vol. XXIII, pp. 3 and 238; and Order in Council No. VI of 1999. See also Recueil d'Ordonnances Tome XXI, p. 460 and Tome XXVI, p. 177.

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

Herm and Jethou.

**Repeal.**

4. The Family Allowances Ordinance, 2007<sup>d</sup> is repealed.

**Citation.**

5. This Ordinance may be cited as the Family Allowances Ordinance, 2008.

**Extent.**

6. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

**Commencement.**

7. This Ordinance shall come into force on the 5<sup>th</sup> January, 2009.

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<sup>d</sup> Ordinance No. XLI of 2007.

## **The Health Service (Benefit) (Amendment) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolutions of the 28<sup>th</sup> September, 2007<sup>a</sup> and 24<sup>th</sup> September, 2008<sup>b</sup>, and in exercise of the powers conferred upon them by sections 2, 6, 13, 35 and 39 of the Health Service (Benefit) (Guernsey) Law, 1990<sup>c</sup>, as amended and all other powers enabling them, hereby order:-

### **Amendment of 1990 Ordinance.**

1. For Schedule 1 to the Health Service (Benefit) Ordinance, 1990<sup>d</sup>, substitute the schedule set out in the Schedule to this Ordinance.

### **Interpretation.**

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

(2) The Interpretation (Guernsey) Law, 1948<sup>e</sup> shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney,

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<sup>a</sup> Article XVI of Billet d'État No. XX of 2007.

<sup>b</sup> Article XI of Billet d'État No. XII of 2008.

<sup>c</sup> Ordres en Conseil Vol. XXXII, p. 192; amended by Ordinance No. XIV of 1993 (Tome XXVI, p. 177); Nos. XXXIV and XXXV of 1995 (Tome XXVI, pp. 177 and 483); No. XXII of 2002; and No. IX of 2003 and modified by Ord. Nos. XXXVI and XL of 1995; No. XI of 1997; and No. I of 1998.

<sup>d</sup> Recueil d'Ordonnances Tome XXV, p. 191; Ordinance No. XXIII of 1996; No. XXX of 1998; No. LIII of 2001; No. XXII of 2002; Nos. X and XXI of 2003; Nos. II and XLV of 2004, Nos. VII and XXIII of 2005, No. XLII of 2006 and No. XLIII of 2007.

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

Herm and Jethou.

**Repeal.**

3. Section 2 of the Health Service (Benefit) (Annual Grant and Amendment) Ordinance, 2007<sup>f</sup> is repealed.

**Citation.**

4. This Ordinance may be cited as the Health Service (Benefit) (Amendment) Ordinance, 2008.

**Extent.**

5. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

**Commencement.**

6. This Ordinance shall come into force on the 1<sup>st</sup> January, 2009.

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<sup>f</sup> Ordinance No. XLIII of 2007.

## SCHEDULE

## “SCHEDULE 1

## PRESCRIPTION CHARGES

WITH EFFECT FROM:	PER ITEM OF PHARMACEUTICAL BENEFIT SUPPLIED IN GUERNSEY:	PER ITEM OF PHARMACEUTICAL BENEFIT SUPPLIED IN ALDERNEY:
1 <sup>st</sup> January 2008	£2.70	£2.70
1 <sup>st</sup> January 2009	£2.80	£2.80”

## **The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolutions of the 28<sup>th</sup> September 2006<sup>a</sup> and the 24<sup>th</sup> September, 2008<sup>b</sup> and in exercise of the powers conferred on them by sections 2 and 5 of the Long-term Care Insurance (Guernsey) Law, 2002<sup>c</sup> and all other powers enabling them, hereby order:-

### **Rates of benefit.**

1. (1) The maximum weekly rates of care benefit shall be -
  - (a) for persons resident in a residential home, £359.94, and
  - (b) for persons resident in a nursing home or the Guernsey Cheshire Home, £672.00.
- (2) The maximum weekly rates of respite care benefit shall be -
  - (a) for persons receiving respite care in a residential home, £522.34, and
  - (b) for persons receiving respite care in a nursing home or the Guernsey Cheshire Home, £834.40.

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<sup>a</sup> Article XVI of Billet d'État No. XVI of 2006

<sup>b</sup> Article XI of Billet d'État No. XII of 2008.

<sup>c</sup> Order in Council No. XXIII of 2002.

**Co-payment by way of contribution**

2. The weekly co-payment which a claimant shall make by way of contribution towards or for the cost of his care -

- (a) as a condition of the right to care benefit, and
- (b) which shall be taken into account for the purposes of determining the rate of care benefit,

shall be £162.40.

**Interpretation.**

3. (1) In this Ordinance unless the context otherwise requires "nursing home" and "residential home" have the meanings given by section 18(1) of the Nursing Homes and Residential Homes (Guernsey) Law, 1976<sup>d</sup>.

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

(3) The Interpretation (Guernsey) Law, 1948<sup>e</sup> shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney, Herm and Jethou.

**Repeal and amendment.**

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<sup>d</sup> Ordres en Conseil Vol. XXVI, p. 71.

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



4. (1) Sections 2 and 3 of the Long-term Care Insurance (Guernsey) (Annual Grant and Rates) Ordinance, 2007<sup>f</sup> are repealed.

(2) In section 1 of the Long-term Care Insurance (Guernsey) (Annual Grant and Rates) Ordinance, 2007 for "1990" substitute "2002".

**Citation.**

5. This Ordinance may be cited as the Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2008.

**Extent.**

6. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

**Commencement.**

7. This Ordinance shall come into force on the 5<sup>th</sup> January, 2009.

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<sup>f</sup> Ordinance No. XLII of 2007.

## **The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolutions of the 28<sup>th</sup> September, 2007<sup>a</sup> and 24<sup>th</sup> September, 2008<sup>b</sup> and in exercise of the powers conferred upon them by sections 5, 5(1A), 6, 8, 17(2), 19, 48(2), 49(4), 50(1), 57, 60, 61, 62, 101, 101A and 115A of the Social Insurance (Guernsey) Law, 1978, as amended<sup>c</sup> and all other powers enabling them, hereby order:-

### **Percentage rates of primary and secondary Class 1 contributions.**

1. For the purposes of the Law -
  - (a) the percentage rate of a primary Class 1 contribution shall be 6.0%, and
  - (b) the percentage rate of a secondary Class 1 contribution shall be 6.5%.

### **Upper weekly and upper monthly earnings limits for the purpose of primary and secondary Class 1 contributions.**

2. For the purposes of the Law –

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<sup>a</sup> Article XVI of Billet d'État No. XX of 2007.

<sup>b</sup> Article XI of Billet d'État No. XII of 2008.

<sup>c</sup> Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; Vol. XXXII, p. 59; Orders in Council No. XII of 1993; No. V of 1994; No.'s VI and XIII of 1995; No. VI of 1999; No. X of 2000; No. IX of 2001; No. XI of 2004 and the Social Insurance (Guernsey) (Amendment) Law, 2006 and Ordinance No. XIV of 1993 (Tome XXVI, p. 177).

- (a) the upper weekly earnings limit shall be £1,329 and the upper monthly earnings limit shall be £5,759 for the purpose of primary Class 1 contributions.
- (b) the upper weekly earnings limit shall be £2,214 and the upper monthly earnings limit shall be £9,594 for the purpose of secondary Class 1 contributions.

**Lower annual income limit.**

3. For the purposes of the Law, the lower annual income limit shall be £14,560.

**Percentage rates of Class 2 contributions.**

4. For the purposes of the Law, the percentage rates of a Class 2 contribution shall be -

- (a) in respect of any person other than a person to whom the following paragraph of this section applies, 10.5%,
- (b) in respect of an overseas voluntary contributor, being a person who is not resident in Guernsey and who, satisfying prescribed conditions, is desirous of paying Class 2 contributions under the Law, 6.3%.

**Percentage rates of Class 3 contributions.**

5. (1) For the purposes of the Law, the percentage rates of a Class 3 contribution shall be -

- (a) in respect of a voluntary contributor, being a person who is not liable to pay a Class 3 contribution, but,

satisfying prescribed conditions, is desirous of paying contributions in accordance with section 8(2) or (4) of the Law, 5.7%,

(b) in respect of a person who has attained pensionable age, 2.6%,

(c) in respect of a person who, having attained the age of 60 years, has elected not to be liable to pay a social insurance contribution, 4.2%, and

(d) in respect of all other persons, 9.9%.

(2) The percentage of a minimum Class 3 contribution payable in accordance with section 8(5) of the Law by a person who is normally in employed contributor's employment shall be 100%.

**Rates and amounts of benefits.**

6. (1) For the purposes of the Law, the weekly rate of each description of benefit set out in column 1 of Part I of the first schedule to this Ordinance shall be the rate specified in relation thereto in column 2, and the amounts by which that rate may be increased in respect of a child or children or an adult dependant, as the case may be, shall be the appropriate amounts specified in columns 3 and 4.

(2) For the purposes of the Law, where the extent of the disablement is assessed for the period to be taken into account as amounting to 20% or more, industrial disablement benefit shall be payable for that period at the appropriate weekly rate specified in Part II of the first schedule to this Ordinance.

(3) For the purposes of the Law, the amounts of death grant, maternity grant and bereavement payment shall be the appropriate amounts specified in relation thereto in Part III of the first schedule to this Ordinance.

**Guernsey Health Service Fund Allocation and Long-term Care Insurance Fund Allocation.**

7. The percentages determined in respect of the contribution year for the purposes of sections 101 (the Guernsey Health Service Fund Allocation) and 101A (the Long-term Care Insurance Fund Allocation) of the Law are those specified in columns 2 and 3 of the second schedule to this Ordinance of the aggregate amount paid in respect of each of the classes of contribution specified in column 1 of that schedule.

**Interpretation.**

8. (1) In this Ordinance, except where the context otherwise requires, “**the Law**” means the Social Insurance (Guernsey) Law, 1978 as amended.

(2) The Interpretation (Guernsey) Law, 1948<sup>d</sup>, shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney, Herm and Jethou.

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

**Repeals.**

9. (1) Sections 2 to 8 of, and the First and Second Schedules to the

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

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007<sup>e</sup> are repealed.

**Citation.**

10. This Ordinance may be cited as the Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2008.

**Extent.**

11. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

**Commencement.**

12. (1) Section 6 of this Ordinance shall come into force on the 5<sup>th</sup> January, 2009.

(2) All other sections of this Ordinance shall come into force on the 1<sup>st</sup> January, 2009.

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<sup>e</sup> Ordinance No. XLIV of 2007.

## FIRST SCHEDULE

## RATES AND AMOUNTS OF BENEFITS

## PART I

**Benefit, other than industrial disablement benefit, death grant,  
maternity grant and bereavement payment**

Description of Benefit	Weekly rate	Increase for child (where payable)	Increase for adult dependant (where payable)
(1)	(2)	(3)	(4)
1. Industrial injury benefit	£126.00	Nil	Nil
2. Invalidity benefit	£153.44	Nil	Nil
3. Maternity allowance	£126.00	-	-
4. Old age pension:			
(a) payable to a woman by virtue of her husband's insurance while he is alive	£85.75	-	-
(b) in any other case	£171.25	Nil	£85.75

5. Sickness benefit	£126.00	Nil	Nil
6. Unemployment benefit	£126.00	Nil	Nil
7. Widowed parent's allowance	£180.00	Nil	-
8. Widow's pension	£154.75	-	-

## PART II

**Industrial disablement benefit**

Degree of disablement	Weekly rate
100%	£138.00
90%	£124.20
80%	£110.40
70%	£96.60
60%	£82.80
50%	£69.00
40%	£55.20
30%	£41.40
20%	£27.60



## PART III

**Death grant, maternity grant and bereavement payment**

Description of grant	Amount
1. Death grant	£490
2. Maternity grant	£316
3. Bereavement payment	£1,553

## SECOND SCHEDULE

GUERNSEY HEALTH SERVICE FUND ALLOCATION AND LONG-TERM  
CARE INSURANCE FUND ALLOCATION

<b>Class and sub-class of contribution</b> (1)	<b>Health Service Fund Allocation</b> (2)	<b>Long-term Care Insurance Fund Allocation</b> (3)
Class 1 primary and secondary contributions paid in respect of employed persons of pensionable age	24.62%	Nil
Class 1 primary and secondary contributions other than those referred to above	24.00%	11.20%
Class 2 contributions paid in respect of overseas voluntary contributors (6.3%)	Nil	Nil
Class 2 contributions other than those referred to above (10.5%)	26.67%	13.33%
Class 3 contributions paid in respect of voluntary contributors (5.7%)	Nil	Nil
Class 3 contributions paid by persons over the age of 65 years (2.6%)	46.15%	53.85%
Class 3 contributions paid by a person over the age of 60 years who has elected not to pay social insurance contributions (4.2%)	66.67%	33.33%
Class 3 contributions other than those referred to above (9.9%)	28.28%	14.14%

## **The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2008**

**THE STATES**, in pursuance of their Resolution of the 24<sup>th</sup> September, 2008<sup>a</sup>, and in exercise of the powers conferred on them by sections 3(2) and 15 of the Supplementary Benefit (Guernsey) Law, 1971<sup>b</sup>, and all other powers enabling them, hereby order:-

### **Amendment of Supplementary Benefit (Implementation) Ordinance 1971.**

**1.** For the numbered Tables set out in the appendix to the First Schedule of the Supplementary Benefit (Implementation) Ordinance, 1971, as amended<sup>c</sup>, substitute the numbered Tables set out in the Schedule to this Ordinance.

### **Interpretation.**

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

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<sup>a</sup> Article XI of Billet d'État No. XII of 2008.

<sup>b</sup> Ordres en Conseil Vol. XXIII, p. 26; amended by Vol. XXVI, p. 292; Vol. XXXI, p. 278 and Order in Council No. VI of 1999; has effect in Alderney by Recueil d'Ordonnances Tome XVII, p. 168; Tome XXIV, p. 468 and Tome XXVI, pp. 177 and 317 and as varied by Ordinance No. IX of 2005.

<sup>c</sup> Recueil d'Ordonnances Tome XVII, pp. 139 and 179; Tome XVIII, pp. 119 and 126; Tome XIX, pp. 23, 106, 216 and 280; Tome XX, pp. 81, 158, 359 and 392; Tome XXI, pp. 44, 72, 156, 283 and 452; Tome XXII, pp. 60, 185 and 537; Tome XXIII, pp. 48, 277, 314 and 453; Tome XXIV, pp. 88, 471 and 495; Tome XXV, pp. 49, 168 and 338; Tome XXVI, pp. 75, 194, 319, and 458; Ordinances No. XXVI of 1996; No. XXX of 1997; No. XXXII of 1998; Nos. XIII and XXII of 1999; Nos. IV and XVII of 2000; Nos. XVII and XLVI of 2001; No. XXIV of 2002; Nos. VIII and XXIV of 2003, No. XXXV of 2004, Nos. VIII and XXV of 2005, No. XLVII of 2006 and No. XLV of 2007.

(2) The Interpretation (Guernsey) Law, 1948<sup>d</sup> shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney, Herm and Jethou.

**Repeal.**

3. Section 1(9) of, and the Schedule to, the Supplementary Benefit (Implementation) (Amendment) Ordinance, 2007<sup>e</sup> are repealed.

**Citation.**

4. This Ordinance may be cited as the Supplementary Benefit (Implementation) (Amendment) Ordinance, 2008.

**Extent.**

5. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

**Commencement.**

6. This Ordinance shall come into force on the 9<sup>th</sup> January, 2009.

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

<sup>e</sup> Ordinance No. XLV of 2007.

## SCHEDULE

"Table 1

(Paragraph 3)

Limitation of weekly benefit payable as from the week commencing  
9 January 2009

<i>Community</i>	<i>Residential Home</i>	<i>Nursing Home, etc</i>	<i>Personal Allowance</i>	<i>UK Personal Allowance</i>
£387.00	£454.00	£651.00	£26.50	£44.60

Table 2

(Paragraph 5(1))

Short-term Weekly Requirements as from week commencing 9 January 2009

<i>Description</i>	<i>Amount</i>
Husband and wife or other persons falling within paragraph 2(1) (" <b>Couple</b> ")	£173.15
Person not falling within paragraph 2(1) who is directly responsible for household necessities and rent (if any) (" <b>Single householder</b> ")	£120.25
Person who is not a householder (" <b>Non-householder</b> ") -	
Aged 18 years or over;	£91.55
Aged 16 years but less than 18;	£77.75

Aged 15 years	£48.10
Member of a household -	
Aged 18 years or over;	£91.55
Aged 16 years but less than 18;	£77.75
Aged 12 years but less than 16;	£48.10
Aged 5 years but less than 12;	£34.90
Aged less than 5 years	£25.45

Table 3

(Paragraph 5(2))

Long-term Weekly Requirements as from week commencing 9 January 2009

<i>Description</i>	<i>Amount</i>
Husband and wife or other persons falling within paragraph 2(1) (" <b>Couple</b> ")	£213.65
Person not falling within paragraph 2(1) who is directly responsible for household necessities and rent (if any) (" <b>Single householder</b> ")	£147.85
Person who is not a householder (" <b>Non-householder</b> ") -	
Aged 18 years or over;	£114.75
Aged 16 years but less than 18;	£97.20
Aged 15 years	£60.15
Member of a household -	

Aged 18 years or over;	£114.75
Aged 16 years but less than 18;	£97.20
Aged 12 years but less than 16;	£60.15
Aged 5 years but less than 12;	£43.55
Aged less than 5 years	£32.20"

*ORDINANCE TO BE LAID BEFORE THE STATES*

**The Charities and Non Profit Organisations (Registration)  
(Guernsey) Law, 2008 (Amendment) Ordinance, 2008**

**THE STATES LEGISLATION SELECT COMMITTEE**, in exercise of the power conferred on the States by section 11(1) of the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 and in exercise of the powers conferred on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948<sup>a</sup> and in pursuance of the States Resolution of the 27<sup>th</sup> September, 2007<sup>b</sup>, hereby orders:-

**Amendment of section 11 of Law of 2008.**

1. (1) Section 11 of the Law of 2008 is amended as follows.

(2) For section 11(1)(a) substitute -

"(a) amend section 12 or the Schedule where it appears to the States to be necessary or expedient to do so for the purpose of -

(i) enabling the person charged with the keeping of the Register more effectively to carry out any of his functions under this Law,

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<sup>a</sup> Ordres en Conseil Vol. XIII, p. 288

<sup>b</sup> Articles VIII and IX of Billet d'État No. XX of 2007.



- (ii) enhancing or protecting the reputation or economic interests of the Bailiwick or any part thereof,
- (iii) improving or enhancing the investigation, prevention or detection of crime,
- (iv) facilitating the instigation of, or otherwise for the purposes of, any criminal proceedings,
- (v) facilitating the detection, seizure and forfeiture of the proceeds of crime or assets intended for use in crime,
- (vi) discharging any international obligation to which the Bailiwick is subject, or
- (vii) assisting, in the interests of the public or otherwise, any authority which appears to the States to exercise in a place outside the Bailiwick functions corresponding to any of the functions under this Law of the person charged with the keeping of the Register, and".

(3) Immediately before the words "as to the creation" in section 11(3)(c)(i), insert "subject to subsection (3A),".

(4) Immediately after section 11(3) insert -

"(3A) The power conferred by subsection (3)(c)(i) to create new liabilities, obligations, penalties and offences does not include power -

- (a) to provide for offences to be triable only on indictment,
- (b) to authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008, or
- (c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years."

**Interpretation.**

2. In this Ordinance, "**the Law of 2008**" means the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008.

**Citation.**

3. This Ordinance may be cited as the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 (Amendment) Ordinance, 2008.

**Commencement.**

4. This Ordinance shall come into force on the same day as section 11 of the Law of 2008.

*ORDINANCE TO BE LAID BEFORE THE STATES*

**The Road Traffic (Drink Driving)  
(Amendment) Ordinance, 2008**

**THE LEGISLATION SELECT COMMITTEE**, in pursuance of the Resolution of the States of the 27<sup>th</sup> April, 2006<sup>a</sup>, and in exercise of the powers conferred on the States by section 10A of the Road Traffic (Drink Driving) (Guernsey) Law, 1989, as amended<sup>b</sup> and all other relevant enabling powers, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948<sup>c</sup>, hereby order:-

**Amendment of Drink Driving Law of 1989.**

1. The Road Traffic (Drink Driving) (Guernsey) Law, 1989, as amended, is further amended as follows.

2. In section 4(1)(b) for "subsection (2)" substitute "subsection (3)".

3. For section 4(2) substitute the following subsections -

"(2) While a person is at a hospital as a patient, no specimen of blood may be taken from him under section 3A and he shall not be required by an officer of police to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner

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<sup>a</sup> Article XI of Billet d'État No. VIII of 2006.

<sup>b</sup> Ordres en Conseil Vol. XXXI, p. 512; amended by Vol. XXXII, p. 391; No. V of 2004; and the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006; also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

<sup>c</sup> Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

immediately in charge of his case -

- (a) has been notified of the proposal to take the specimen or to make the requirement, and
- (b) has not objected on the ground specified in subsection (3).

(3) The ground on which the medical practitioner may object is -

- (a) in a case falling within subsection (1), that the requirement, the provision of the specimen or the warning required under section 3(10) would be prejudicial to the proper care or treatment of the patient,
- (b) in a case falling within subsection (2), that the taking of the specimen, the requirement or the warning required under section 3A(5) would be so prejudicial."

**4.** In section 5(1) after "section 1" insert ", section 1A".

**5.** In section 5(2) -

- (a) for "or a specimen" substitute "in a specimen",
- (b) after "provided by" insert "or taken from",

- (c) in paragraph (a), after "provided the specimen" insert "or had it taken from him".

**6.** For section 5(4) substitute the following -

"(4) A specimen of blood shall be disregarded unless -

- (a) it was taken from the accused with his consent by a medical practitioner, or
- (b) it was taken from the accused by a medical practitioner under section 3A and the accused subsequently gave his permission for a laboratory test of the specimen,

and evidence that a specimen of blood was taken by a medical practitioner -

- (i) with the consent of the accused, or
- (ii) in pursuance of a request of an officer of police under section 3A,

may be given by the production of a document purporting to certify that fact and to be signed by that medical practitioner."

**7.** In section 5(5) for "such a certificate" substitute "such a statement or certificate".

**8.** In section 5(6)(a) for "one 2 of" substitute "one of two".

9. After section 5(6) insert the following subsection -

"(6A) Where a specimen of blood was taken from the accused under section 3A, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless -

- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken, and
- (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with."

**Citation and commencement.**

10. (1) This Ordinance may be cited as the Road Traffic (Drink Driving) (Amendment) Ordinance, 2008.

(2) This Ordinance shall come into force on the date of commencement of the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006.