

BILLET D'ÉTAT No. XVI, 2009

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PROJET DE LOI

ENTITLED

The Digital Switchover (Disclosure of Information) (Guernsey and Alderney) Law, 2009

THE STATES, in pursuance of their Resolution of the 29th April, 2009^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Alderney, Herm and Jethou.

Disclosure of information.

1. (1) The Social Security Department may, at the request of a relevant person, supply a relevant person with social security information for use (by the person to whom it is supplied or by another relevant person) in connection with switchover help functions.

(2) The Health and Social Services Department and the Housing Department may, at the request of a relevant person, supply a relevant person with care home residency information for use (by the person to whom it is supplied or by another relevant person) in connection with switchover help functions.

(3) The Guernsey Blind Association may, at the request of a relevant person, supply a relevant person with visual impairment information for

^a Article X of Billet d'État No. XI of 2009.

use (by the person to whom it is supplied or by another relevant person) in connection with switchover help functions.

(4) Any department or body or any parochial officer or other person may, at the request of a relevant person, supply a relevant person with information of a prescribed description for use (by the person to whom it is supplied or by another relevant person) in connection with switchover help functions where that department, body, parochial officer or other person is prescribed to supply such information.

(5) In this Law "**relevant person**" means -

(a) the BBC,

(b) any company in respect of which any one or more of the following -

(i) the BBC,

(ii) the Secretary of State, or

(iii) a nominee of the BBC or the Secretary of State,

hold at least 51% of the issued ordinary share capital or possess at least 51% of the voting rights, or

(c) any person who is engaged by the BBC, the Secretary of State or any company falling within paragraph (b) to provide any service connected with switchover help functions, to carry out a switchover help function or to

carry out any function connected with switchover help functions.

- (6) In this Law "**switchover help functions**" means -
- (a) the identification of persons who may be eligible for help under a switchover help scheme,
 - (b) making contact with such persons with a view to the provision of such help, and
 - (c) the establishment of any person's entitlement to such help.

Kinds of information referred to in section 1.

2. (1) This section applies for the purposes of section 1.

(2) "**Social security information**" means information of a prescribed description held by the Social Security Department (or on its behalf) and obtained as a result of, or for the purpose of, the exercise of that Department's functions including, without limitation, its functions under -

- (a) the Supplementary Benefit (Guernsey) Law, 1971^b,

^b Ordres en Conseil Vol. XXIII, p. 26; amended by Vol. XXVI, p. 292; Vol. XXXI, p. 278, Order in Council No. VI of 1999 and as amended by Ordinance No. XIV of 1993 and as varied by Ordinance No. IX of 2005.

- (b) the Social Insurance (Guernsey) Law, 1978^c,
- (c) the Attendance and Invalid Care Allowances (Guernsey) Law, 1984^d, and
- (d) the Long-term Care Insurance (Guernsey) Law, 2002^e.

(3) **"Care home residency information"** means information of a prescribed description held by, or on behalf of -

- (a) the Health and Social Services Department and obtained as a result of, or for the purpose of, the exercise of its functions in relation to care homes, or
- (b) the Housing Department and obtained as a result of, or for the purpose of, the exercise of its functions in relation to care homes.

^c Ordres en Conseil Vol. XXVI, p. 292; amended by Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; No. V of 1990; No. XII of 1993; 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 and No. XVIII of 2007 and by Ordinance No. XIV of 1993.

^d Ordres en Conseil Vol. XXVIII, p. 353; amended by Vol. XXIX, p. 198; No. XIV of 1991; No. X of 1993 and No. VI of 1999; and No. X of 2003 and as amended by Recueil d'Ordonnances Tome XXVI, p. 177 and by Ordinance No. XLII of 2008.

^e Order in Council No. XXIII of 2002 as amended by Ordinance No. XLII of 2007.

(4) **"Visual impairment information"** means information of a prescribed description about persons who are registered as blind or partially sighted in a register maintained by or on behalf of the Guernsey Blind Association.

Offences.

3. (1) A relevant person must not disclose without lawful authority any information supplied to him or another relevant person under section 1.

(2) A person -

(a) who is or who has been employed by a relevant person,

(b) who is or who has been engaged -

(i) in the provision of services to a relevant person in connection with the carrying out of a switchover help function, or

(ii) to carry out any switchover help function, or to carry out any function in connection with the carrying out of a switchover help function, or

(c) who is or who has been employed by, or who is or who has been engaged in the provision of services to, or to carry out a function for, a person mentioned in paragraph (b),

must not disclose without lawful authority information supplied to a relevant person under section 1.

(3) A person who contravenes subsection (1) or (2) commits an offence.

(4) It is not an offence under this section -

(a) to disclose information in the form of a summary or collection of information so framed as not to enable information supplied under section 1 relating to any particular person to be ascertained from it, or

(b) to disclose information which has previously been disclosed to the public with lawful authority.

(5) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence he believed -

(a) that he was making the disclosure in question with lawful authority, or

(b) that the information in question had previously been disclosed to the public with lawful authority,

and that he had no reasonable cause to believe otherwise.

(6) For the purposes of this section, a disclosure is to be regarded as made with lawful authority if, but only if, it is made -

- (a) for the purpose of carrying out a switchover help function, or for doing anything connected with the carrying out of a switchover help function,
 - (b) in accordance with any enactment or court order,
 - (c) for the purpose of instituting, or otherwise for the purposes of, proceedings before a court, or
 - (d) with the consent of the person to whom the information relates or of any person authorised to act on that person's behalf.
- (7) A person guilty of an offence under this section is liable -
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both, or
 - (b) on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 4 on the uniform scale, or both.

Liability of directors etc.

4. (1) If an offence under section 3 committed by a body corporate is shown -

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) "**Officer**", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

General provisions as to orders.

5. (1) Orders under this Law -

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

(b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Home Department to be necessary or expedient, and

(c) shall be laid before a meeting of the States as soon as possible after being made and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of a new order.

(2) Any power conferred by this Law to make an order may be

exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
 - (iii) any such provision either unconditionally or subject to any conditions specified in the order.

Interpretation

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

"**the BBC**" means the British Broadcasting Corporation,

"**care home**" means premises managed by or on behalf of the Health and Social Services Department or the Housing Department providing residential accommodation and personal care for persons in need of such

accommodation and care by reason of age, disablement, infirmity or mental disorder,

"department" means -

- (a) any department, council or committee (however called) of the States of Guernsey, and
- (b) any committee of the States of Alderney,

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

"Health and Social Services Department" means the States of Guernsey Health and Social Services Department,

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

"Housing Department" means the States of Guernsey Housing Department,

"prescribed" means prescribed by order of the Home Department,

"relevant person" has the meaning given by section 1(5),

"Secretary of State" means Her Majesty's Secretary of State for Culture, Media and Sport or Her Majesty's Secretary of State for any government department, or any other Minister of the Crown, to whom his functions are transferred,

"Social Security Department" means the States of Guernsey Social Security Department,

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

"switchover help functions" has the meaning given by section 1(6),

"switchover help scheme" means any scheme for the provision of help to individuals in connection with digital switchover which is agreed between the BBC and the Secretary of State in pursuance of the BBC Charter and Agreement, as the scheme has effect from time to time, and

"uniform scale" means the uniform scale of fines from time to time in force under the Uniform Scale (Bailiwick of Guernsey) Law, 1989^f.

(2) In this section -

"the BBC Charter and Agreement" means the following documents, or any one or more of them, so far as they are for the time being in force -

- (a) a Royal Charter for the continuance of the BBC,
- (b) supplemental Charters obtained by the BBC under such a Royal Charter,

^f Ordres en Conseil Vol. XXX1, p. 278.

- (c) an agreement between the BBC and the Secretary of State entered into (whether before or after the passing of this Law) for purposes that include the regulation of activities carried on by the BBC,

"**broadcasting**" means broadcasting by wireless telegraphy (as defined by section 116 of the Wireless Telegraphy Act 2006^g, as that Act has effect in the islands of Guernsey, Herm and Jethou) otherwise than by satellite, and

"**digital switchover**" means the replacement of the broadcasting of television services in the islands of Guernsey, Alderney, Herm and Jethou in analogue form with their broadcasting in digital form.

- (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.

Extent.

7. This Law extends to the islands of Guernsey, Alderney, Herm and Jethou.

Citation.

8. This Law may be cited as the Digital Switchover (Disclosure of Information) (Guernsey and Alderney) Law, 2009.

^g An Act of Parliament (2006 c.36); the Act was extended to Guernsey with modifications, including to s.116, by the Wireless Telegraphy (Guernsey) Order 2006 (U.K. S.I. 2006/3325).

Commencement.

9. This Law shall come into force on the day it is registered on the Records of the Island of Guernsey.

PROJET DE LOI

ENTITLED

The Statements Obtained Under Compulsion (Restriction of Use) (Bailiwick of Guernsey) Law, 2009

THE STATES, in pursuance of their Resolution of the 27th May, 2009^a has approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Amendment of provisions relating to the use of statements obtained under compulsion.

1. In the statutes listed in Column 1 of the Schedule, the provisions listed in Column 2 are replaced by the provisions detailed in Column 3.

Amendment of the Schedule.

2. The Schedule may be amended by Ordinance of the States where –

- (a) a provision in a statute provides that a statement obtained under compulsion may be used in evidence and the proposed amendment limits the use of such statements, or
- (b) a provision in a statute provides that a statement obtained under compulsion may not be used in evidence in proceedings and the proposed amendment permits the use of such statements –

^a Article VI of Billet d'État No. IX of 2002.

- (i) in proceedings other than criminal proceedings,
- (ii) in proceedings for making a false statement,
- (iii) in proceedings for perjury,
- (iv) in proceedings for perverting the course of justice,
- (v) in proceedings for contempt of court.

Interpretation.

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

"**States**" means, in relation to each statute, whichever of the States of Deliberation, States of Alderney or Chief Pleas of Sark approved the statute in order for it to have effect,

"**statute**" means Laws and Ordinances which apply in any one or more of the Islands in the Bailiwick of Guernsey.

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

(3) The provisions of the Interpretation (Guernsey) Law, 1948^b apply to the interpretation of this Law throughout the Bailiwick.

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

General provisions as to subordinate legislation.

4. (1) An Ordinance under this Law -
- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
 - (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient including, without limitation, provisions repealing, amending or modifying any enactment (whether passed before or after the commencement of this Law).
- (2) Any power conferred by this Law to make any Ordinance, may be exercised -
- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
 - (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of

case for different purposes,

- (iii) any such provision either unconditionally or subject to any prescribed conditions.

Citation.

5. This Law may be cited as the Statements Obtained Under Compulsion (Restriction of Use) (Bailiwick of Guernsey) Law, 2009.

SCHEDULE

Section 1

Title of Statute (Column 1)	Provision to be replaced (Column 2)	New provision (Column 3)
Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance 2006 ^c ,	Section 23(5)	<p>23(5) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (2),</p> <p>(B) some other offence where, in giving</p>

^c Ordinance No. XXXIV of 2006

		<p>evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
<p>Banking Supervision (Bailiwick of Guernsey) Law, 1994^d</p>	<p>Section 25(13) and (13A)</p>	<p>25(13) A statement made by a person in response to a requirement imposed by or under any provision of this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p>

^d Order in Council No. XIII of 1994; amended by No's. XVII and XXI of 2002, No. XVI of 2003; No. XVI of 2008; No. IV of 2009; Ordinance No. XXXIII of 2003 and Statutory Instrument No.1 of 2008.

		<p>(A) an offence under subsection (12) or section 47(1)(b) (but only in relation to a requirement imposed by or under this section),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 26A(6) and (7)</p>	<p>26A(6) A statement made by a person in response to a requirement imposed under a warrant granted under section 26 –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p>

		<p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (5) or section 47(1)(b) (but only in relation to a requirement imposed by or under this section),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 27(9) and (9A)</p>	<p>27(9) A statement made by a person in response to a requirement imposed by or under any provision of this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is</p>

		<p>adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (8) or section 47(1)(b) (but only in relation to a requirement imposed by or under this section),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 28(4) and (4A)</p>	<p>28(4) A statement made by a person in response to a requirement imposed by or under any provision of this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in</p>

		<p>criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (3) or section 47(1)(b) (but only in relation to a requirement imposed by or under this section),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 29(6) and (7)</p>	<p>29(6) A statement made by a person in response to a requirement imposed by or under any provision of this section -</p> <p>(a) may be used in evidence against him in</p>

		<p>proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (5) or section 47(1)(b) (but only in relation to a requirement imposed by or under this section),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
Companies (Alderney) Law,	Section 149(2)	149(2) A statement made by a person in compliance with a requirement made of him by an inspector for

1994 ^e		<p>the purposes of an investigation under this Part of this Law -</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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^e Order in Council No. XXXIV of 1994, as amended by No. XV of 2002.

<p>Companies (Guernsey) Law, 2008^f</p>	<p>Section 264(3)</p>	<p>264(3) A statement made by a person in response to a requirement under this section -</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under section 266,</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p>
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^f Order in Council No. VIII of 2008.

		(D) perverting the course of justice.
	Section 265(4)	<p>265(4) A statement made by a person in response to a requirement under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 266,</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>

<p>Company Securities (Insider Dealing) (Bailiwick of Guernsey) Law, 1996^g</p>	<p>Section 10(8)</p>	<p>10(8) A statement made by a person in compliance with a requirement imposed under this section -</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under section 16(1) or 17(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p>
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^g Order in Council No. III of 1996; amended by No. XVI of 2001 and by Ordinance XXXIII of 2003.

		(D) perverting the course of justice.
	Section 11(4)	<p>11(4) A statement made by a person in compliance with a requirement imposed under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 16(1) or 17(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p>

		(D) perverting the course of justice.
Conditions of Employment (Guernsey) Law, 1985 ^h	Section 10A(10)	<p>10A(10) A statement made by a person in compliance with a requirement imposed under this section -</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (4),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p>

^h Ordres en Conseil Vol. XXIX, p. 42; amended by No. I of 1992; No. XXIII of 1994; Ordinance XXXIII of 2003; and Ordinance XXXI of 2005.

		<p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
<p>Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) Law, 1991ⁱ</p>	<p>Section 1(7)</p>	<p>1(7) A statement by a person in response to a requirement imposed by virtue of this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (12),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the</p>

ⁱ Order in Council No. III of 1991; amended by Order in Council No. II of 2003 and Ordinance No. XXXIII of 2003.

		<p>inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
<p>Criminal Justice (Proceeds of Crime) Law, 1999^j</p>	<p>Section 48E</p>	<p>48E. A statement made by a financial services business in response to a customer information order –</p> <p>(a) may be used in evidence against it in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against it in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that financial services business, or</p> <p>(ii) in proceedings –</p> <p>(A) under Part I,</p>

^j Order in Council No. VIII of 1999, as amended by Orders in Council Nos. II of 2005, and XV of 2007; Ordinances Nos. XXVIII of 1999, XII of 2002, XXXIII of 2003, XLVII of 2007, XXXVII of 2008; and, G.S.I. Nos 27 of 2002, 33 of 2007, 48 of 2008 and 73 of 2008.

		<p>(B) for an offence under section 48D(1) or (3),</p> <p>(C) for some other offence where, in giving evidence, the financial services business makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(D) for perjury, or</p> <p>(E) for perverting the course of justice.</p>
	Section 48K	<p>48K. A statement made by a financial services business in response to an account monitoring order –</p> <p>(a) may be used in evidence against it in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against it in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that financial services business, or</p> <p>(ii) in proceedings –</p>

		<p>(A) under Part I,</p> <p>(B) for an offence under section 48J(1) or (3),</p> <p>(C) for some other offence where, in giving evidence, the financial services business makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(D) for perjury, or</p> <p>(E) for perverting the course of justice.</p>
	Section 49B(5)	<p>49B(5) A statement made by a person in response to a requirement under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p>

		<p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (7) or (8),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 49C(6)</p>	<p>49C(6) A statement made by a person in response to a requirement imposed by or under a warrant under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p>

		<p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (8) or (9),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
Drug Trafficking (Bailiwick of Guernsey) Law, 2000 ^k	Section 67E	<p>67E. A statement made by a financial services business in response to a customer information order –</p> <p>(a) may be used in evidence against it in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against it in criminal proceedings except –</p> <p>(i) where evidence relating to the statement is adduced, or a question relating to it</p>

^k Order in Council No. VII of 2000; No. II of 2005; No. XVII of 2007; No. XVI of 2007; No. XVII of 2008; Ordinance No. XXXIII of 2003; and No. XXXVIII of 2008.

		<p>is asked, in the proceedings by or on behalf of that financial services business, or</p> <p>(ii) in proceedings –</p> <p>(A) under Part I,</p> <p>(B) for an offence under section 67D(1) or (3),</p> <p>(C) for some other offence where, in giving evidence, the financial services business makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(D) for perjury, or</p> <p>(E) for perverting the course of justice.</p>
	Section 67K	<p>67K A statement made by a financial services business in response to an account monitoring order –</p> <p>(a) may be used in evidence against it in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against it in criminal proceedings except –</p>

		<p>(i) where evidence relating to the statement is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that financial services business, or</p> <p>(ii) in proceedings –</p> <p>(A) under Part I,</p> <p>(B) for an offence under section 67J(1) or (3),</p> <p>(C) for some other offence where, in giving evidence, the financial services business makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(D) for perjury, or</p> <p>(E) for perverting the course of justice.</p>
Duty on Share Transfers	Section 11(5)	11(5) A statement made by a person in compliance with a requirement of the Clerk under subsection (1)

(Alderney) Law, 1994 ¹		<p>–</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 12(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
Environmental	Section	60(2) A statement made by a person in response to a

¹ Order in Council No. II of 1994.

<p>Pollution (Guernsey) Law, 2004^m</p>	<p>60(2)</p>	<p>requirement imposed by or under this Law –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection 67(3),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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^m Order in Council No. XIII of 2004.

<p>False Documents and Domicile etc (Bailiwick of Guernsey) Law, 1998ⁿ</p>	<p>Section 6(4)</p>	<p>6(4) A statement made by a person in compliance with a requirement imposed under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 7(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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ⁿ Order in Council No. V of 1998.

Financial Services Commission (Site Visits) (Bailiwick of Guernsey) Ordinance ^o , 2008	Section 8	<p>8. A statement made by a person in response to a requirement under section 1, 2, 3, or 5, or imposed by or under a warrant under section 6 –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 9,</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p>
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^o Ordinance No.II of 2008.

		(D) perverting the course of justice.
Forfeiture of Money etc, in Civil Proceedings (Bailiwick of Guernsey) Law, 2007 ^P	Section 32	<p>32. A statement made by a bank in response to a customer information order –</p> <p>(a) may be used in evidence against the bank in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against the bank in criminal proceedings except –</p> <p>(i) where evidence relating to the statement is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that bank, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 31(1) or (3),</p> <p>(B) some other offence where, in giving evidence, the bank makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p>

^P Order in Council No. XVII of 2008; amended by No. XXX of 2008.

		<p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 38	<p>38. A statement made by a bank in response to an account monitoring order –</p> <p>(a) may be used in evidence against the bank in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against the bank in criminal proceedings except –</p> <p>(i) where evidence relating to the statement is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 37(1) or (3),</p> <p>(B) some other offence where, in giving evidence the bank makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p>

		<p>(D) perverting the course of justice.</p>
	<p>Section 44</p>	<p>44. A statement made by a person in response to a requirement imposed on him under a disclosure order –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 43(1) or (3),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p>

		(C) perjury, or (D) perverting the course of justice.
Income Tax (Guernsey) Law ^q	Section 75M(4)	75M(4) A statement made by a person in response to a requirement described in subsection (1) – (a) may be used in evidence against him in proceedings other than criminal proceedings, and (b) may not be used in evidence against him in criminal proceedings except – (i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or

^q Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146, 200 and 292; Vol. XXVII, pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; No's. IV and VIII of 1993; No. XXV of 1994; No's. III and VII of 1995; No. V of 1996; No's. IV and XXII of 1997; No's. II and VI of 1999; No. IV of 2000; No's. VI and XVII of 2001; No's. VII and XXI of 2002; No's. IV, XVIII and XXVI of 2003; No's. XII and XVI of 2004; No's. V, VI and XVII of 2005; No's. II and VII of 2006; No. XXI of 2007; No. XXVI of 2008; (with effect from the 1st January, 2008) the Income Tax (Zero 10) (Guernsey) Law, 2007 and the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007;(with effect from the 1st January, 2009) section 6 of the Income Tax (Guernsey) (Amendment) Law, 2008; and (with effect from the 28th January, 2009) by the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009. Also amended by Ordinance No. XXXIII of 2003 and by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009 and Order in Council No. XXI of 2002.

		<p>(ii) in proceedings for –</p> <p>(A) an offence under section 75L(3),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice,</p> <p>and for the purposes of this subsection proceedings under this Law in respect of the enforcement of a penalty or surcharge are not criminal proceedings.</p>
Insurance Business (Bailiwick of Guernsey) Law, 2002 ^r ,	Section 68(10)	<p>68(10) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p>

^r Order in Council No. XXI of 2002; amended by Ordinance No. XXXIII of 2003; Ordinance No. XII of 2008; Ordinance No. L of 2008; G.S.I. No. 33 of 2004 and No. 4 of 2008.

		<p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (9) or section 87(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 69(7)	<p>69(7) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p>

		<p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (6) or section 87(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 70(4)	<p>70(4) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p>

		<p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (3) or section 87(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 72(7)	<p>72(7) A statement made by a person in response to a requirement imposed under a warrant granted under section 71 –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in</p>

		<p>criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (6) or section 87(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law,	Section 45(10)	<p>45(10) A statement made by a person in response to a requirement imposed by or under this section -</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in</p>

2002 ^s ,		<p>criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (9) or section 64(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 46(7)	<p>46(7) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p>

^s Order in Council No. XXII of 2002 amended by Ordinance No. XXXIII of 2003; Ordinance No. XIII of 2008 and G.S.I. No. 2 of 2008.

		<p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (6) or section 64(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 47(4)	<p>47(4) A statement made by a person in response to a requirement imposed by or under this section -</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p>

		<p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (3) or section 64(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 49(7)	<p>49(7) A statement made by a person in response to a requirement imposed under a warrant granted under section 48 -</p> <p>(a) may be used in evidence against him in</p>

		<p>proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (6) or section 64(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
Land Planning and Development	Section 85(7)	85(7) A statement made by a person in response to a requirement imposed by or under this Law -

(Guernsey) Law, 2005 ^t		<p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under section 91,</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
Merchant	Section	249(11) An answer given by a person in response to a

^t Order in Council No. XVI of 2005 amended by Ordinances No. XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XIX and XXX of 2007.

<p>Shipping (Bailiwick of Guernsey) Law, 2002^u</p>	<p>249(11)</p>	<p>requirement under subsection (2)(i) –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection 250(1)(c),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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^u Order in Council No. VIII of 2004, amended by Ordinance XXXIII of 2003.

<p>Minimum Wage (Guernsey) Law, 2009</p>	<p>Section 13(6) and (7)</p>	<p>13(6) A statement made by a person in response to a requirement imposed by or under any provision of this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 21(5) or (6),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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<p>Protection of Investors (Bailiwick of Guernsey) Law, 1987^v,</p>	<p>Section 27 (7) and (7A)</p>	<p>27(7) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under section 38(2)(c) or 38(6),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p>
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^v Ordres en Conseil Vol. XXX, p. 281 amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; No. XIII of 1994; No. XII of 1995; No. II of 1997; No. XVII of 2002; No's XV and XXXII of 2003 and No. XVIII of 2008. Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Ordinance X and XX of 1998; Ordinance XXXIII of 2003; and Ordinance XXXI of 2008

		<p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 27E (7) and (7A)</p>	<p>27E (7) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (6) or section 38(2)(d),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p>

		<p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 41L(7)</p>	<p>41L(7) A statement by a person in response to a requirement imposed by virtue of this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (11),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p>

		<p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
<p>Public Trustee (Bailiwick of Guernsey) Law, 2002^w</p>	<p>Section 15(5)</p>	<p>15(5) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (4) or section 19(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the</p>

^w Order in Council No. III of 2003, amended by No. III of 2008; amended by Ordinance Nos. XXXIII of 2003 and No. XVIII of 2004.

		<p>inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 17(5)</p>	<p>17(5) A statement made by a person in response to a requirement imposed under a warrant granted under section 16 –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (4) or section 19(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to</p>

		<p>the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
<p>Registration of Non-regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008^x,</p>	<p>Section 18(10) and (10A)</p>	<p>18(10) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (9) or section 32(1) (but only in relation to a requirement imposed by or under this section),</p>

^x Order in Council No. of XV of 2008; amended by Ordinance No. XXXII of 2008) and G.S.I. No. 75 of 2008.

		<p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 19(7) and (7A)</p>	<p>19(7) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (6) or section 32(1) (but only in relation to a</p>

		<p>requirement imposed by or under this section),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 20(4) and (4A)</p>	<p>20(4) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p>

		<p>(A) an offence under subsection (3) or section 32(1) (but only in relation to a requirement imposed by or under this section),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	<p>Section 22(7) and (7A)</p>	<p>22(7) A statement made by a person in response to a requirement imposed under a warrant granted under section 21 –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p>

		<p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (6) or section 32(1) (but only in relation to a requirement imposed by or under this section),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
Registration of Fiduciaries, Administration Businesses and Company Directors etc (Bailiwick of	Section 23(13)	<p>23(13) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in</p>

Guernsey) Law, 2000 ^y		<p>criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (12) or section 46(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 24(7)	<p>24(7) A statement made by a person in response to a requirement imposed by or under this section -</p> <p>(a) may be used in evidence against him in</p>

^y Order in Council No. I of 2001 amended by No. XIV of 2003; No. XVI of 2007; No. VIII of 2008; No. XXV of 2008; Ordinance No. XXXIII of 2003 and G.S.I. No. 3 of 2008.

		<p>proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (6) or section 46(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 25(4)	25(4) A statement made by a person in response to a requirement imposed by or under any provision of this section -

		<p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (3) or section 46(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
	Section 27(7)	27(7) A statement made by a person in response to a requirement imposed under a warrant granted under section 26 -

		<p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except -</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for -</p> <p>(A) an offence under subsection (6) or 46(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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<p>Renewable Energy (Alderney) Ordinance, 2008^z</p>	<p>Section 23(7) and 23(8)</p>	<p>23(7) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (6),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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^z Ordinance of the States of Alderney No. XIV of 2008

	<p>Section 24(5) and 24(6)</p>	<p>24(5) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (4),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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	Section 26(6) and 26(7)	<p>26(6) A statement made by a person in response to a requirement imposed under a warrant granted under section 25 –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (5),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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<p>Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007^{aa}</p>	<p>Section 17(6)</p>	<p>17(6) A statement made by a person in response to a requirement imposed by or under this section –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (5) or section 50(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p>
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^{aa} Ordinance No. XXXIII of 2007; amended by No. XXXVI of 2007; No. X of 2008; G.S.I. 2008 No. 54; and the Property Tax (Rates) (Guernsey and Alderney) Ordinance, 2008.

		<p>(D) perverting the course of justice,</p> <p>and, for the avoidance of doubt, proceedings for the recovery of property tax and any penalty or interest in respect thereof are not criminal proceedings.</p>
	<p>Section 20(4)</p>	<p>20(4) A statement made by a person in response to a requirement imposed under a warrant granted under section 19 –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subsection (3) or section 50(1),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the</p>

		<p>inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice,</p> <p>and, for the avoidance of doubt, proceedings for the recovery of property tax and any penalty or interest in respect thereof are not criminal proceedings.</p>
<p>Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^{bb}</p>	<p>Schedule.5 paragraph 6(3)</p>	<p>6(3) A statement by a person in response to a requirement imposed under this paragraph –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under subparagraph (4),</p>

^{bb} Order in Council No. XVI of 2002; amended by Order in Council No. XIII of 2006 and by Ordinances XXXIII of 2003 and XLVI of 2007.

		<p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
Transfrontier Shipment of Waste (Alderney) Ordinance, 2002 ^{cc}	The proviso in the final paragraph of Section 11(9)	<p>(10) However, a statement made by a person to an officer of customs and excise in response to a requirement imposed under section 9(3)(i) or (ii) –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p> <p>(ii) in proceedings for –</p>

^{cc} Ordinance of the States of Alderney No. II of 2002.

		<p>(A) an offence under paragraph (b) or (c),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
Transfrontier Shipment of Waste Ordinance, 2002 ^{dd}	The proviso in the final paragraph of Section 11(9)	<p>(10) However, a statement made by a person to an officer of customs and excise in response to a requirement imposed under section 9(3)(i) or (ii) –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or</p>

^{dd} Ordinance No. I of 2002.

		<p>(ii) in proceedings for –</p> <p>(A) an offence under paragraph (b) or (c),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
<p>Transfrontier Shipment of Waste (Sark) Ordinance, 2001^{ee}</p>	<p>The proviso in the final paragraph of Section 11(9)</p>	<p>(10) However, a statement made by a person to an officer of customs and excise in response to a requirement imposed under section 9(3)(i) or (ii) –</p> <p>(a) may be used in evidence against him in proceedings other than criminal proceedings, and</p> <p>(b) may not be used in evidence against him in criminal proceedings except –</p> <p>(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person,</p>

^{ee} Folio 120 of the Chief Pleas of Sark made on 6th May 2001.

		<p>or</p> <p>(ii) in proceedings for –</p> <p>(A) an offence under paragraph (b) or (c),</p> <p>(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,</p> <p>(C) perjury, or</p> <p>(D) perverting the course of justice.</p>
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PROJET DE LOI

ENTITLED

The Evidence in Civil Proceedings (Guernsey) Law, 2009

ARRANGEMENT OF SECTIONS

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1. Admissibility of hearsay evidence.

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2. Notice of proposal to adduce hearsay evidence.
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11. Convictions as evidence in civil proceedings.
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The Evidence in Civil Proceedings (Guernsey) Law, 2009

THE STATES, in pursuance of their Resolutions of the 24th February, 2000^a, the 31st May 2006^b and the 25th February 2009^c, have approved the following provisions, which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

Admissibility of hearsay evidence

Admissibility of hearsay evidence.

1. (1) In civil proceedings, evidence shall not be excluded on the ground that it is hearsay.

(2) In this Law -

- (a) **"hearsay"** means a statement made otherwise than by a person while giving oral evidence in the proceedings which is tendered as evidence of the matters stated, and
- (b) references to hearsay include hearsay of whatever degree.

(3) Nothing in this Law affects the admissibility of evidence which is admissible by virtue of other enactments or under customary law.

^a Article V of Billet d'État No. VI of 2000.

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

^c Article I of Billet d'État No. VII of 2009.

(4) The provisions of sections 2 to 6 do not apply in relation to hearsay evidence admissible apart from this section, notwithstanding that it may also be admissible by virtue of this section.

Safeguards in relation to hearsay evidence

Notice of proposal to adduce hearsay evidence.

2. (1) A party proposing to adduce hearsay evidence in civil proceedings shall, subject to the following subsections, give to the other party or parties to the proceedings -

- (a) notice of that fact, and
- (b) at their request, such particulars of or relating to the evidence,

as is reasonable and practicable in the circumstances for the purpose of enabling the parties to deal with any matters arising from its being hearsay.

(2) Rules of court may make provisions -

- (a) specifying classes of proceedings or evidence in relation to which subsection (1) does not apply, and
- (b) as to the manner in which (including the time within which) the duties imposed by subsection (1) are to be complied with in the cases where it does apply.

(3) Subsection (1) may be excluded by agreement of the parties, and the requirement to give notice may, in any case, be waived by the person to whom notice is required to be given.

(4) At any stage in the proceedings, the court may relieve a party from the requirements of subsection (1) if it considers it necessary or desirable to do so.

(5) Failure to comply with subsection (1), or with rules made under subsection (2)(b), does not affect the admissibility of the evidence but may be taken into account by the court -

- (a) in considering the exercise of its powers with respect to the course of proceedings and costs, and
- (b) as a matter adversely affecting the weight to be given to the evidence in accordance with section 4.

Power to call witness for cross-examination on hearsay statement.

3. Rules of court may provide that where a party to civil proceedings adduces hearsay evidence of a statement made by a person and does not call that person as a witness, any other party to the proceedings may, with the leave of the court, call that person as a witness and cross-examine him on the statement as if -

- (a) he had been called by the first-mentioned party, and
- (b) the hearsay statement were his evidence in chief.

Considerations relevant to weighing of hearsay evidence.

4. (1) In estimating the weight (if any) to be given to hearsay evidence in civil proceedings, the court shall have regard to any circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of the evidence.

(2) Regard may be had, in particular, to the following -

- (a) whether it would have been reasonable and practicable for the party by whom the evidence was adduced to have produced the maker of the original statement as a witness,
- (b) whether the original statement was made contemporaneously with the occurrence or existence of the matters stated,
- (c) whether the evidence involves multiple hearsay,
- (d) whether any person involved had any motive to conceal or misrepresent matters,
- (e) whether the original statement was an edited account, or was made in collaboration with another or for a particular purpose,
- (f) whether the circumstances in which the evidence is adduced as hearsay suggest an attempt to prevent proper evaluation of its weight, and

- (g) any other circumstances which the court may, in the interests of justice, consider relevant.

Supplementary provisions as to hearsay evidence

Competence and credibility.

5. (1) Hearsay evidence shall not be admitted in civil proceedings if it is shown to consist of, or to be proved by means of, a statement made by a person who, when making the statement was not competent as a witness.

(2) For the purpose of subsection (1) "not competent as a witness" means suffering from such mental or physical infirmity, or lack of understanding, as would render a person incompetent as a witness in civil proceedings; but a child shall be treated as competent as a witness if he satisfies the requirement of sections 5(1)(a) and (b) of the Administration of Justice (Bailiwick of Guernsey) Law, 1991.^d

(3) Where in civil proceedings hearsay evidence is adduced and the maker of the original statement, or of any statement relied upon to prove another statement, is not called as a witness -

- (a) evidence which if he had been so called would be admissible for the purpose of attacking or supporting his credibility as a witness, is admissible for that purpose in the proceedings, and
- (b) evidence which tends to prove that, whether before or after he made the statement, he made any other

^d Order in Council No. I of 1991.

statement inconsistent with it, is admissible for the purpose of showing that he had contradicted himself,

Provided that evidence may not be given of any matter of which, if he had been called as a witness and had denied that matter in cross-examination, evidence could not have been adduced by the cross-examining party.

Previous statements of witnesses.

6. (1) The provisions of this Law as to hearsay evidence in civil proceedings also apply (but with any necessary modifications) in relation to a previous statement made by a person called as a witness in the proceedings, subject to the following provisions.

(2) A party who has called or intends to call a person as a witness in civil proceedings may only adduce evidence of a previous statement made by that person -

(a) with the leave of the court, or

(b) for the purpose of rebutting a suggestion that his evidence has been fabricated.

(3) Subsection (2) does not prevent a witness statement (that is, a written statement of oral evidence which a party to the proceedings intends to lead) from being adopted by a witness in giving evidence or treated as his evidence.

(4) Where, in any civil proceedings, Article 28 of the 1865 Law applies (*Déclarations faites hors de cour par témoin*), this Law does not authorise the adducing of evidence of a previous inconsistent or contradictory statement

except in accordance with that Article, or otherwise as the court may determine in the interests of justice.

This provision is without prejudice to any provision made by rules of court under section 3 (power to call witnesses for cross examination on hearsay statement).

(5) Nothing in this Law affects any rule of law as to the circumstances in which, where a person called as a witness in civil proceedings is cross-examined on a document used by him to refresh his memory, that document may be made evidence in the proceedings.

(6) Nothing in this section prevents a statement of any description referred to above from being admissible by virtue of section 1 (admissibility of hearsay evidence) as evidence of the matters stated.

Evidence formerly admissible at customary law.

7. (1) In any civil proceedings a statement which, if this Law had not been passed, would by virtue of any rule of law mentioned in subsection (2) have been admissible as evidence of any fact stated therein, shall be admissible as evidence of that fact.

(2) The rules of law referred to in subsection (1) are those where in any civil proceedings -

- (a) an admission adverse to a party to the proceedings, whether made by that party or by another person, may be given in evidence against that party for the purpose of proving any fact stated in the admission,

- (b) published works dealing with matters of a public nature (for example, histories, scientific works, dictionaries and maps) are admissible as evidence of facts of a public nature stated therein,
- (c) public documents (for example, public registers, and returns made under public authority with respect to matters of public interest) are admissible as evidence of facts stated therein, or
- (d) records (for example, the records of certain courts, Orders in Council, treaties, Crown grants, pardons and commissions) are admissible as evidence of facts stated therein.

(3) In any civil proceedings, a statement which tends to establish reputation or family tradition with respect to any matter and which, if this Law had not been passed, would have been admissible in evidence by virtue of any rule of law mentioned in subsection (4) -

- (a) is admissible in evidence in so far as it is not capable of being rendered admissible under section 2 (notice of proposal to adduce hearsay evidence) or 4 (considerations relevant to weighing of hearsay evidence) of this Law, and
- (b) if given in evidence (whether by virtue of paragraph (a) or otherwise) shall be admissible as evidence of the matter reputed or handed down,

and without prejudice to paragraph (b), reputation shall, for the purposes of this Law, be treated as a fact and not as a statement or multiplicity of statements dealing with the matter reputed.

(4) The rules of law referred to in subsection (3) are those where in any civil proceedings -

(a) evidence of a person's reputation is admissible for the purpose of establishing his good or bad character,

(b) evidence of reputation or family tradition is admissible for the purpose of -

(i) proving or disproving pedigree or the existence of the marriage, or

(ii) proving or disproving the existence of any public or general right or identifying any person or thing.

Privilege

Privilege against incrimination of self or spouse.

8. (1) The right of a person in any legal proceedings, other than criminal proceedings, to refuse to answer any question or produce any document or thing if to do so might expose that person to proceedings for an offence or for the recovery of a penalty -

- (a) shall apply only as regards criminal offences under the law of Guernsey and penalties provided for by such law, and
- (b) shall include a like right to refuse to answer any question or produce any document or thing, if to do so would tend to expose the husband or wife of that person to proceedings for any such criminal offence or for the recovery of any such penalty.

(2) In so far as any enactment conferring powers of inspection or investigation confers on a person any right otherwise than in criminal proceedings to refuse to answer any question or give any evidence tending to incriminate that person, subsection (1) shall apply to that right; and every such enactment shall be construed accordingly.

(3) In so far as any existing enactment provides that in any proceedings other than criminal proceedings a person shall not be excused from answering any question or giving any evidence on the ground that to do so may incriminate that person, that enactment shall be construed as providing also that in such proceedings a person shall not be excused from answering any question or giving any evidence on the ground that to do so may incriminate the husband or wife of that person.

(4) Where any existing enactment that -

- (a) confers any powers of inspection or investigation, or
- (b) provides as mentioned in subsection (3),

and further provides that any answer or evidence given by a person shall not be admissible in evidence against that person in any proceedings or class of proceedings (whether criminal or not), that enactment shall be construed as providing also that any answer or evidence given by that person shall not be admissible in evidence against the husband or wife of that person in the proceedings or class of proceedings in question.

(5) In this section "**existing enactment**" means enactments passed before this Law.

Abolition of certain privileges.

9. The following rules of law are hereby abrogated -

- (a) the rule whereby, in any legal proceedings, a person cannot be compelled to answer any question or produce any document or thing if to do so would tend to expose him to a forfeiture,
- (b) the rule whereby, in any civil proceedings, a party to the proceedings cannot be compelled to produce any document relating solely to his own case and in no way tending to impeach that case or support the case of any opposing party,

but the rule in paragraph (a) shall not be abrogated in relation to criminal proceedings.

Consequential amendments relating to privilege.

10. (1) Section 1(3) of the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949^e (which confers powers with respect to the taking of evidence before certain tribunals of enquiry and provides that a witness before any such tribunal shall be entitled to the same privileges and immunities as if he were a witness before the Royal Court), shall have effect as if after the word "witness" in the second place where it occurs, there were inserted the words "in civil proceedings" and, so far as it applies to Guernsey, any other existing enactment, which in relation to any tribunal, investigation or inquiry confers on persons required to answer questions or give evidence any privilege described by reference to the privileges of witnesses in proceedings before any court shall, unless the contrary intention appears, be construed as referring to the privileges of witnesses in civil proceedings before that court.

(2) Section 8(5) applies for the purposes of this section as it applies for the purposes of section 8.

Convictions, etc., as evidence in civil proceedings

Convictions as evidence in civil proceedings.

11. (1) In any civil proceedings, the fact that a person has been convicted of an offence by or before any court in Guernsey or by a court martial there or elsewhere shall, (subject to subsection (3)) be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those proceedings, that he committed that offence -

- (a) whether he was so convicted upon a plea of guilty or otherwise, and

^e Ordres en Conseil Vols. XIV, p. 45 and XXIV, p. 185.

- (b) whether or not he is a party to the civil proceedings;

but no conviction other than a subsisting one shall be admissible in evidence under this section.

(2) In any civil proceedings in which, under this section, a person is proved to have been convicted of an offence by or before any court in Guernsey or by a court martial there or elsewhere -

- (a) he shall be taken to have committed that offence unless the contrary is proved, and
- (b) without prejudice to any other admissible evidence received for the purpose of identifying the facts on which the conviction was based, the contents of any document which is admissible as evidence of the conviction, and the contents of the indictment or charge on which the person in question was convicted, shall be admissible in evidence for that purpose.

(3) Nothing in this section prejudices the operation of section 13 of this Law or any other enactment where a conviction or a finding of fact in any criminal proceedings is, for the purposes of any other proceedings, made conclusive evidence of any fact.

(4) Where in any civil proceedings the contents of any document are admissible in evidence under subsection (2), a copy of that document, or of the material part of it, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document, shall be admissible

in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.

(5) In this section "**court martial**" means a court martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 and in relation to a court martial "**conviction**", means a finding of guilty which is, or falls to be treated as, the finding of the court and "**convicted**" shall be construed accordingly.

Findings of adultery and paternity as evidence in civil proceedings.

12. (1) In any civil proceedings -

- (a) the fact that a person has been found to have committed adultery in any matrimonial proceedings, and
- (b) the fact that a person has been found to be the father of a child in relevant proceedings before any court in Guernsey or elsewhere or has been adjudged to be the father of a child in affiliation proceedings before any court in Guernsey or elsewhere,

shall (subject to subsection (3)) be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those civil proceedings, that he -

- (i) committed the adultery to which the findings relates or,
- (ii) as the case may be, is (or was) the father of that child,

whether or not he offered any defence to the allegation of adultery or paternity and whether or not he is a party to the civil proceedings.

No finding or adjudication other than a subsisting one shall be admissible in evidence under this section.

(2) In any civil proceedings in which, under this section, a person is proved to have been found guilty of adultery as mentioned in subsection (1)(a), or to have been found or adjudged to be the father of a child as mentioned in subsection (1)(b) -

- (a) he shall be deemed to have committed the adultery to which the finding relates, or as the case may be, to be (or have been) the father of that child, unless the contrary is proved, and
- (b) without prejudice to any other admissible evidence received for the purpose of identifying the facts on which the finding or adjudication was based, the contents of any document which was before the court, or which contains any pronouncement of the court, in the other proceedings in question shall be admissible in evidence for that purpose.

(3) Nothing in this section prejudices the operation of any enactment where a finding of fact in any matrimonial or affiliation proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.

(4) Section 11(4) of this Law shall apply for the purposes of this section as if the reference to subsection (2) were a reference to subsection (2) of this section.

(5) In this section -

"affiliation proceedings" means any action of affiliation,

"relevant proceedings" means any proceedings where the issue of paternity is being determined, and

"matrimonial proceedings" means matrimonial proceedings in the Royal Court or any division thereof or in the Magistrate's Court of Guernsey or any appeal arising out of any such proceedings.

Conclusiveness of convictions for purposes of defamation actions.

13. (1) In an action for libel or slander in which the question whether a person did or did not commit a criminal offence is relevant to an issue arising in that action, proof that, at the time when that issue falls to be determined, he stands convicted of that offence shall be conclusive evidence that he committed that offence; and his conviction shall thus be admissible in evidence.

(2) In any action under subsection (1) where a person is proved to have been convicted of an offence, the contents of any document which is admissible as evidence of the conviction, and the contents of the indictment or charge on which that person was convicted, shall, without prejudice to any other admissible evidence received for the purpose of identifying the facts on which the conviction was based, be admissible in evidence for the purpose of identifying those facts.

(3) For the purposes of this section a person shall be taken to stand convicted of an offence if, but only if, there subsists against him a conviction of that offence by or before a court in Guernsey or by a court martial there or elsewhere.

(4) Sections 11(4) and (5) shall apply for the purposes of this section as they apply for the purposes of section 11, but as if in section 11(4) the reference to subsection (2) were a reference to subsection (2) of this section.

(5) The provisions of this section shall apply for the purposes of any action begun after the passing of this Law, whenever the cause of action arose, but shall not apply for the purposes of any action begun before this Law comes into force or any appeal or other proceedings arising out of any such action.

Other matters

Proof of statements contained in documents.

14. (1) Where a statement contained in a document is admissible as evidence in civil proceedings, it may be proved -

- (a) by the production of that document, or
- (b) whether or not that document is still in existence, by the production of a copy of that document or of the material part of it,

authenticated in such manner as the court may approve.

(2) It is immaterial for this purpose how many removes there are between a copy and the original.

Proof of records of business or public authority.

15. (1) A document which is shown to form part of the records of a business or public authority may be received in evidence in civil proceedings without further proof.

(2) A document shall be taken to form part of the records of a business or public authority if there is produced to the court a certificate to that effect signed by an officer of the business or authority to which the records belong.

(3) For this purpose -

(a) a document purporting to be a certificate signed by an officer of a business or public authority shall be deemed to have been duly given by such an officer and signed by him, and

(b) a certificate shall be treated as signed by a person if it purports to bear a facsimile of his signature.

(4) The absence of an entry in the records of a business or public authority may be proved in civil proceedings by affidavit of an officer of the business or authority to which the records belong.

(5) In this section -

"records" means records in whatever form,

"**business**" includes any activity regularly carried on over a period of time, whether for profit or not, by any body (whether corporate or not) or by an individual,

"**officer**" includes any person occupying a responsible position in relation to the relevant activities of the business or public authority or in relation to its records, and

"**public authority**" includes any public or statutory undertaking, any department of the States, and any person holding office under Her Majesty.

(6) The court may, having regard to the circumstances of the case direct that all or any of the provisions of this section do not apply in relation to a particular document or record, or description of documents or records.

Admissibility and proof of actuarial tables.

16. (1) The actuarial tables (together with explanatory notes) for use in personal injury and fatal accident cases issued from time to time by the UK Government Actuary's Department are admissible in evidence for the purpose of assessing, in an action for personal injury, the sum to be awarded as general damages for future pecuniary loss.

(2) They may be proved by the production of a copy published by, or under the authority of, Her Majesty's Stationery Office, or in such other manner as the court may consider to be just and convenient.

(3) For the purposes of this section -

- (a) **"personal injury"** includes any disease and any impairment of a person's physical or mental condition, and
- (b) **"action for personal injury"** includes an action brought by virtue of the Fatal Accidents (Guernsey) Laws 1900 and 1961^f.

Provisions as to rules of court.

17. (1) Any power to make rules of court regulating the practice or procedure of the court in relation to civil proceedings includes power to make such provision as may be necessary or expedient for carrying into effect the provisions of this Law.

(2) Any rules of court made for the purposes of this Law as it applies in relation to proceedings in the Royal Court or any division thereof apply, except in so far as their operation is excluded by agreement, to arbitration proceedings to which this Law applies, subject to such modifications as may be appropriate.

Any question arising as to what modifications are appropriate shall be determined, in default of agreement, by the arbitrator or umpire, as the case may be.

Rules of court with respect to expert reports and oral expert evidence.

18. (1) Notwithstanding any enactment or rule of law by virtue of which documents prepared for the purpose of pending or contemplated civil proceedings or in connection with the obtaining or giving of legal advice are in

^f Ordres en Conseil Vols. III p.235 (Loi Relative à la Compensation qui pourra être accordée aux Familles de Personnes dont la Mort aura été causée par Accident) and XVIII p.283.

certain circumstances privileged from disclosure, provision may be made by rules of court -

- (a) for enabling the court in any civil proceedings to direct, with respect to medical matters or matters of any other class which may be specified in the direction, that the parties or some of them shall each by such date as may be so specified (or such later date as may be permitted or agreed in accordance with the rules) disclose to the other or others in the form of one or more expert reports the expert evidence on matters of that class which he proposes to adduce as part of his case at the trial, and
- (b) for prohibiting a party who fails to comply with a direction given in any such proceedings under rules of court made under paragraph (a) from adducing in evidence except with the leave of the court, any statement (whether of fact or opinion) contained in any expert report whatsoever in so far as that statement deals with matters of any class specified in the direction.

(2) Provision may be made by rules of court as to the conditions subject to which oral expert evidence may be given in civil proceedings.

(3) Without prejudice to the generality of subsection (2), rules of court made under that subsection may make provision for prohibiting a party who fails to comply with a direction given as mentioned in subsection (1)(b) from

adducing, except with the leave of the court, any oral expert evidence whatsoever with respect to matters of any class specified in the direction.

(4) Any rules of court made under this section may make different provision for different classes of cases, for expert reports dealing with matters of different classes, and for other different circumstances.

(5) References in this section to an expert report are references to a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

(6) Nothing in the foregoing provisions shall prejudice any power contained in any other enactment to make rules of court.

Admissibility of expert opinion and certain expressions of non-expert opinion.

19. (1) Subject to any rules of court made under this Law, where a person is called as a witness in any civil proceedings, his opinion on any relevant matter on which he is qualified to give expert evidence shall be admissible in evidence.

(2) It is hereby declared that where a person is called as a witness in any civil proceedings, a statement of opinion by him on any relevant matter on which he is not qualified to give expert evidence, if made as a way of conveying relevant facts personally perceived by him, is admissible as evidence of what he perceived.

(3) In this section "**relevant matter**" includes an issue in the proceedings in question.

Evidence of foreign law.

20. (1) In civil proceedings, a person who is suitably qualified to do so on account of his knowledge or experience, is competent to give expert evidence as to the law of any country or territory outside Guernsey, or of any part thereof, irrespective of whether he has acted or is entitled to act as a legal practitioner there.

(2) For the avoidance of doubt, where more than one person gives expert evidence under subsection (1) and a dispute or conflict arises between the evidence given, the presiding judge shall decide which evidence is to be preferred in determining the proceedings.

(3) Where any question as to the law of any country or territory outside Guernsey, or of any part thereof, with respect to any matter has been determined (whether before or after the passing of this Law) in any such proceedings as are mentioned in subsection (5), then in any civil proceedings (not being proceedings before a court which can take judicial notice of the law of that country, territory or part with respect to that matter) -

- (a) any finding made or decision given on that question in the first-mentioned proceedings shall, if reported or recorded in citable form, be admissible in evidence for the purpose of proving the law of that country, territory or part with respect to that matter, and
- (b) if that finding or decision, as so reported or recorded, is adduced for that purpose, the law of that country, territory or part with respect to that matter shall be taken to be in accordance with that finding or decision unless the contrary is proved:

Provided that paragraph (b) shall not apply in the case of a finding or decision which conflicts with another finding or decision on the same question adduced under this subsection in the same proceedings.

(4) A party to any civil proceedings shall not be permitted to adduce any finding or decision under subsection (3) unless he has -

- (a) given notice that he intends to do so, pursuant to rules of court given to every other party to the proceedings, or
- (b) obtained the leave of the court.

(5) The proceedings referred to in subsection (3) are the following, whether civil or criminal, namely -

- (a) proceedings at first instance in any of the courts in Guernsey,
- (b) appeals arising out of proceedings mentioned in paragraph (a),
- (c) proceedings before the Judicial Committee of the Privy Council on appeal (whether to Her Majesty in Council or to the Judicial Committee as such) from a decision of any court outside Guernsey.

(6) For the purposes of this section, a finding or decision on any such question as is mentioned in subsection (3) shall be taken to be reported or

recorded in citable form, if, but only if, it is reported or recorded in writing in a report, transcript or other document which, if that question had been a question as to the law of Guernsey, could be cited as an authority in legal proceedings in Guernsey.

General

Interpretation.

21. (1) In this Law -

"civil proceedings" includes, in addition to civil proceedings in any of the ordinary courts of law -

- (a) civil proceedings before any other tribunal, being proceedings in relation to which the strict rules of evidence apply,
- (b) an arbitration or reference, whether under an enactment or not, and
- (c) without limitation and for the avoidance of doubt, administrative proceedings,

but does not include civil proceedings in relation to which the strict rules of evidence do not apply,

"court" in relation to an arbitration or reference, means the arbitrator or umpire and, in relation to proceedings before a tribunal (not being one of the ordinary courts of law), means the tribunal, and **"rules of court"** shall be construed accordingly,

"customary law" includes common law,

"department" means any department, council or committee of the States of Guernsey howsoever called or styled,

"document" means anything in which information of any description is recorded, and **"copy"**, in relation to a document, means anything onto which information recorded in the document has been copied or transcribed, by whatever means and whether directly or indirectly,

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

"hearsay" shall be construed in accordance with section 1(2),

"information" includes data, however recorded,

"judge" means the Bailiff, Deputy Bailiff, Lieutenant Bailiff or any Judge of the Royal Court,

"legal proceedings" includes an arbitration or reference, whether under an enactment or not,

"the 1865 Law" means the Law entitled "Loi relative aux Preuves" registered on 8th July, 1865, as amended^g,

"oral evidence" includes evidence which, by reason of a defect of speech or hearing, a person called as a witness gives in writing or by signs,

^g Ordres en Conseil Vol. I, p. 422; Vol. III, p. 248; Vol. XVII, p. 272; Vol. XVIII, p. 75.

"the original statement", in relation to hearsay evidence, means the underlying statement (if any) by -

- (a) in the case of evidence of fact, a person having personal knowledge of that fact, or
- (b) in the case of evidence of opinion, the person whose opinion it is,

"rule of law" includes any rule of customary or common law,

"States" means the States of Guernsey,

"statement" means any representation of fact or opinion, however made, and

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

(2) For the avoidance of doubt it is hereby declared that in any enactment references to a person's husband or wife do not include references to a person who is no longer married to that person.

(3) A reference in this Law to any other enactment is, unless the context otherwise requires, a reference thereto as amended, re-enacted (with or without modification), extended or applied, whether by or under any other enactment.

(4) References to giving evidence in sections 8(4) and 22(1) are references to giving evidence in any manner, whether by furnishing information, making discovery, producing documents or otherwise.

(5) The provisions of the Interpretation (Guernsey) Law, 1948^h shall apply to the interpretation of this Law.

Savings and amendments to the 1865 Law.

22. (1) Nothing in this Law shall prejudice the operation of any enactment or rule of law which provides that any answer or evidence given by a person in specified circumstances shall not be admissible in evidence against him or some other person in any proceedings or class of proceedings.

(2) Nothing in this Law shall prejudice -

(a) any power of a court, in any legal proceedings, to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion, or

(b) the operation of any agreement (whenever made) between the parties to any legal proceedings as to the evidence which is to be admissible (whether generally or for any particular purpose) in those proceedings.

(3) Nothing in this Law affects the exclusion of evidence on grounds other than that it is hearsay.

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

This applies whether the evidence falls to be excluded in pursuance of any enactment or rule of law, for failure to comply with rules of court or an order of the court, or otherwise.

(4) Nothing in this Law affects the proof of documents by means other than those specified in section 14 or 15.

(5) In the 1865 Law, insofar as it applies to Guernsey -

(a) Article 30 is repealed,

(b) in Article 35, insert after "le contenu de la pièce" the words "excepté dans les cas speciaux reconnus par la loi", and

(c) Article 36 has effect subject to the provisions of this Law.

(6) For the avoidance of doubt, the States may, in accordance with sections 23 and 24, make further amendments to the 1865 Law insofar as it applies to Guernsey.

Power to make Ordinances in relation to evidence etc.

23. (1) The States may by Ordinance make provision for and in relation to evidence in civil proceedings.

(2) Without prejudice to the generality of subsection (1), an Ordinance under this section may make provision for and in relation to -

- (a) the matters which are to constitute evidence and the extent to which evidence is admissible,
- (b) the manner and way in which evidence is adduced,
- (c) the requirements to be satisfied before evidence may be adduced,
- (d) the circumstances in which evidence shall or may be excluded,
- (e) the weight to be given to any evidence,
- (f) the evidential means by which matters may be proved,
- (g) the procedural requirements and safeguards relating to the receipt of evidence,
- (h) the taking of evidence anywhere in Guernsey or elsewhere, for use in civil proceedings in Guernsey or elsewhere, and
- (i) the attendance, competence and compellability of witnesses.

Additional provision as to Ordinances.

24. (1) An Ordinance under this Law -

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

- (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient (including, without limitation, provision making consequential amendments to this Law and any other enactment), and
- (c) may delegate to the Royal Court power to provide by rules of court for any matter for which provision may be made by Ordinance and in any such case the provisions of paragraphs (a) and (b) and subsection (2) shall apply as if -
 - (i) for the expressions "Ordinance" or "an Ordinance" (wherever appearing) there were substituted "rules of court", and
 - (ii) for the expression "a subsequent Ordinance" (in paragraph (a)) there were substituted "subsequent rules of court".

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

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

- (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Without prejudice to the generality of the foregoing provisions, an Ordinance under this Law may make such provision of any such extent as might be made by *Projet de Loi*.

Transitional provisions.

25. (1) Subject to subsection (2), the provisions of this Law shall not apply in relation to proceedings begun before commencement.

(2) Transitional provisions for the application of the provisions of this Law to proceedings begun before commencement may be made by rules of court or practice directions.

Citation.

26. This Law may be cited as The Evidence in Civil Proceedings (Guernsey) Law, 2009.

Commencement.

27. This Law shall come into operation on a date or dates to be appointed by Ordinance of the States; and such an Ordinance may appoint different days for different provisions and different purposes.

PROJET DE LOI

ENTITLED

The General Sales Tax (Enabling Provisions) (Guernsey and Alderney) Law, 2009

THE STATES, in pursuance of their Resolution of the 30th June, 2006^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Alderney and Herm.

Power to make Ordinances as to general sales tax.

1. (1) The States may by Ordinance make such provision as they think fit in respect of the taxation of the supply of goods and services in the Islands.

(2) The tax levied in respect of the supply of goods and services under an Ordinance made under this Law is called "**a general sales tax**".

(3) Without prejudice to the generality of subsection (1), an Ordinance under this Law may make provision as to the following matters -

- (a) the classes, descriptions and categories of goods, services, supply of goods and services, businesses and undertakings which are subject to general sales tax,
- (b) the rates of general sales tax in respect of any class,

^a Billet d'État No. XI of 2006.

description or category of goods, services, supply of goods and services, business or undertaking,

- (c) the times at which, the events and circumstances in which, the periods in respect of which and the manner in which general sales tax is payable,
- (d) the times at which and the events and circumstances in which a supply of goods or services occurs or is deemed to occur,
- (e) the businesses, undertakings, suppliers of goods and services and other persons -
 - (i) liable to pay and account for general sales tax, and
 - (ii) excepted or exempted from liability,
- (f) the basis on which and the manner in which -
 - (i) the supply of goods and services is to be valued and assessed for the purposes of general sales tax,
 - (ii) general sales tax is to be calculated, assessed and levied, and
 - (iii) the price or value of goods and services, or in respect of the supply of goods and services, is

to be ascertained or substantiated,

- (g) the administration, payment, collection and recovery of general sales tax and the enforcement of liabilities to pay it,
- (h) for the purposes of paragraph (g) -
 - (i) the investigation of businesses, undertakings, suppliers of goods and services and other persons,
 - (ii) the entry and search of premises,
 - (iii) the obtaining of information and documents,
 - (iv) the examination, removal and retention of goods, services and documents,
 - (v) the taking of samples of goods and services,
- (i) allowances, discounts, deductions, reliefs and exemptions from or in respect of, and postponement of the incidence of, general sales tax, and claims therefor,
- (j) the making of refunds, repayments and credits in respect of general sales tax, and claims therefor,
- (k) the levying of interest, surcharges, penalties and

enhanced rates in the event of the non-payment of general sales tax or other non-compliance or default,

- (l) powers of entry for the purpose of valuing, measuring, assessing and categorising goods, services, the supply of goods and services, businesses and undertakings,
- (m) the preparation and maintenance of invoices, accounts, returns, statements and other records and the information to be entered on them,
- (n) the registration of undertakings, suppliers of goods and services and other persons and the information to be entered on any register,
- (o) the public inspection and evidencing of such records and registers and the information in them,
- (p) the exchange between departments of information in respect of goods, services, the supply of goods and services, businesses and undertakings,
- (q) the making of declarations and notifications, and the obtaining and exchange of information, in respect of-
 - (i) goods, services, the supply of goods and services, businesses and undertakings, and the class, description or category into which they fall,

- (ii) the persons who own or control, or have any other prescribed interest in, businesses or undertakings, including (without limitation), where those persons are bodies corporate, the ownership and control of the bodies corporate and the shareholdings in them,
- (r) the confidentiality of information,
- (s) the making of returns and assessments in respect of general sales tax and the preparation of statements of account,
- (t) the country, territory or place to which suppliers or recipients of goods or services are deemed for the purposes of any Ordinance under this Law to belong or in which supplies of goods or services occur,
- (u) appeals in relation to -
 - (i) the calculation, assessment and levying of general sales tax,
 - (ii) registration,
 - (iii) the valuation, assessment and categorisation of goods, services, the supply of goods and services, businesses and undertakings, and
 - (iv) other matters arising in the administration of

any Ordinance under this Law,

including the forum and grounds of such appeals and the parties thereto,

- (v) the establishment of a tribunal to deal with such appeals and a panel of persons from whom the members of the tribunal are to be drawn,
- (w) the jurisdiction, powers, constitution and procedure of the courts of the Islands, and any tribunal established under paragraph (v), in relation to such appeals and otherwise in relation to the administration of any Ordinance under this Law or matters arising thereunder,
- (x) the imposition of time limits and other restrictions subject to which -
 - (i) any claim for the payment or repayment of general sales tax, and
 - (ii) any other proceedings in respect of the administration, collection and recovery of general sales tax,

must be made or instituted,

- (y) the cancellation of liability to any description of tax or charge due under an enactment repealed, amended,

modified or disappplied by any Ordinance under this Law,

- (z) the person, body, authority or department responsible for the administration of general sales tax and any Ordinance under this Law,
- (aa) the appointment by undertakings and the suppliers of goods and services of representatives and agents for the purposes of the administration of general sales tax, and their functions,
- (bb) anti-avoidance measures,
- (cc) the service of notices,
- (dd) the levying of fees (whether in respect of registration or otherwise),
- (ee) the meaning of the expressions "business", "undertaking", "supply", "goods", "services" and "price" in this Law (and an Ordinance made in exercise of the powers conferred by this paragraph may amend or modify section 3 of this Law).

General provisions as to Ordinances.

- 2. (1) An Ordinance under this Law -
 - (a) may be amended or repealed by a subsequent Ordinance hereunder, and

- (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient (including, without limitation, provision making consequential amendments to this Law and any other enactment).

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

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

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

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

- (iii) any such provision either unconditionally or subject to any prescribed conditions,

- (iv) different provision for different classes, descriptions and categories of goods, services, supply of goods or services, business or undertaking, and for different Islands.

(3) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

- (a) may, subject to subsection (4), make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences,
- (b) may make provision for the purpose of dealing with matters arising out of or related to the taxation of the supply of goods and services,
- (c) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (d) may empower the Department, and any other person, body, authority or department (including, without limitation, the Royal Court and any other court of the Islands), to make subordinate legislation, codes or guidance as to matters in relation to which an Ordinance may be made under this Law,
- (e) may empower the States to pass resolutions specifying or prescribing matters described in paragraph (d),

- (f) may repeal, replace, amend, extend, adapt, modify or disapply any rule of custom or law,
 - (g) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by Projet de Loi, but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.
- (4) An Ordinance under this Law may not -
- (a) provide for offences to be triable only on indictment,
 - (b) 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) authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years.

Interpretation.

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

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

"**a department**" means any department, council or committee of the

States of Guernsey or the States of Alderney, however styled,

"the Department" means the Treasury and Resources Department,

"document" includes information stored or recorded in any form (including, without limitation, in electronic form); and, in relation to information stored or recorded otherwise than in legible form, references to its production, however expressed, include (without limitation) references to the production of the information in a form -

- (a) in which it can be taken away, and
- (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form,

"electronic form", in relation to the storage or recording of documents, includes storage or recording by means of any form of information storage technology,

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

"general sales tax" : see section 1(2),

"information" includes data, however recorded,

"the Islands" means the Islands of Guernsey, Alderney and Herm,

"person" includes an individual and also -

- (a) a body corporate, and

(b) a partnership or other unincorporated body of persons, incorporated or established with or without limited liability in any part of the world,

"prescribed" means prescribed by or under an Ordinance under this Law,

"price" includes any charge, fee or valuable consideration of any description, and any discount, margin or other element of a price,

"service" includes any benefit, advice, privilege or facility which is, or which is to be, provided, granted or conferred in the course of business,

"States" means the States of Guernsey.

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

"supply" includes -

- (a) in relation to goods, supply (including re-supply) by way of sale, exchange, lease, hire or hire-purchase,
- (b) in relation to services, provide, sell, lease, grant or confer, and
- (c) importation and exportation,

"**undertaking**" means a person carrying on a business and includes an association, whether or not incorporated, which consists of or includes such persons.

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Law throughout the Islands.

(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.

Citation.

4. This Law may be cited as the General Sales Tax (Enabling Provisions) (Guernsey and Alderney) Law, 2009.

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

**The Income Tax (Guernsey) (Approval of Agreements with
France, Germany and Ireland)
Ordinance, 2009**

THE STATES, in exercise of the powers conferred on them by section 75C of the Income Tax (Guernsey) Law, 1975, as amended^a, and all other powers enabling them in that behalf, hereby order:-

Approval of Agreements.

1. The agreements providing for the obtaining and exchanging of information in relation to tax made between the States of Guernsey and the governments of -

- (a) the French Republic, signed at Paris on the 24th March, 2009,
- (b) the Federal Republic of Germany, signed at London on the 26th March, 2009, and
- (c) Ireland, signed on the 26th March, 2009,

are, pursuant to section 75C of the Income Tax (Guernsey) Law, 1975, as amended, hereby specified for the purposes of that Law.

Citation.

2. This Ordinance may be cited as the Income Tax (Guernsey) (Approval of Agreements with France, Germany and Ireland) Ordinance, 2009.

^a Ordres en Conseil Vol. XXV, p. 124; section 75C was inserted by section 5 of the Income Tax (Guernsey) (Amendment) Law, 2005 (No. XVII).

Commencement.

3. This Ordinance shall come into force on the 24 June 2009.

The Income Tax (Forms of Oath) (Amendment) Ordinance, 2009

THE STATES, in pursuance of their Resolutions of the 28th May, 2008^a and the 24th September, 2008^b, and in exercise of the powers conferred on them by section 206 of the Income Tax (Guernsey) Law, 1975, as amended^c, and all other powers enabling them in that behalf, hereby order:-

Amendment of 1992 Ordinance.

1. The Income Tax (Forms of Oath) Ordinance, 1992^d is amended as follows.

2. In section 1(a) after "a member of the Guernsey Tax Tribunal," insert "a member of the Guernsey Tax Tribunal for the purposes of exercising the functions of an appointed member under section 75CA of the Income Tax Law,".

3. In part 1 of the Schedule -

(a) in the heading after "members of the Guernsey Tax Tribunal," insert "members of the Guernsey Tax Tribunal for the purposes of exercising the functions of an appointed member," and

^a Article XIX of Billet d'État No. VII of 2008.

^b Article VI of Billet d'État No. XII of 2008.

^c Ordres en Conseil Vol. XXV, p. 124; Vol. XXXIV, p. 201; the Income Tax (Guernsey) (Amendment) Law, 2008; and the Income Tax (Miscellaneous Provisions) (Guernsey) (Amendment) Law, 2009.

^d Recueil d'Ordonnances Tome XXVI, p. 1.

- (b) in the first paragraph of the form of oath after "[member of the Guernsey Tax Tribunal]" insert "[member of the Guernsey Tax Tribunal for the purposes of exercising the functions of an appointed member]".

4. In parts 1, 2 and 3 of the Schedule after "You swear and promise upon the faith and truth that you owe to God" insert "[OR - You solemnly affirm]".

Citation.

5. This Ordinance may be cited as the Income Tax (Forms of Oath) (Amendment) Ordinance, 2009.

Commencement.

6. (1) Sections 2 and 3 of this Ordinance shall come into force on the date of registration on the records of the Island of Guernsey of the Income Tax (Guernsey) (Amendment) Law, 2008.

(2) The remainder of this Ordinance shall come into force on the 24th June, 2009.

The Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2009

THE STATES, in pursuance of their Resolution of the 30th January, 2009^a, and in exercise of the powers conferred on them by sections 40A and 40B of the Income Tax (Guernsey) Law, 1975, as amended^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of 1989 Ordinance.

1. The Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989, as amended^c ("**the Ordinance**"), is further amended as follows.

2. (1) In the provisions of the Ordinance specified in subsection (2) for "Department", wherever appearing^d, substitute "Director of Income Tax".

(2) The provisions are sections 2(1)(a), 2(1) [in paragraph (i) of the proviso], 2(2)(a), 2(2)(c), 2(2)(c)(iv), 3(1), 3(1)(c), 3(3), 4(1), 4(2)(a), 4(2)(b), 4(2)(c)(i), 4(3), 6, 6(a), 7(1) [in the definition of "managerial and secretarial services"] and, in Schedule 2, paragraph 2 of category B.

^a Article XII of Billet d'État No. II of 2009.

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

^c Recueil d'Ordonnances Tome XXV, p. 106; Tome XXVI, p. 41; No. I of 1995; No. VI of 1996; (No. I of 1995 never came into force and was repealed by No. VI of 1996); No. XXXIX of 1997; No. XXXIII of 2003; No. XXXVII of 2006; and (with effect from the 1st January, 2008) the Income Tax (Zero 10) (Guernsey) Law, 2007.

^d The references to the Department were substituted for references to the Authority by Ordinance XXXIII of 2003 (the Machinery of Government (Transfer of Functions) (Guernsey) (Ordinance), 2003).

3. For any other reference in the Ordinance to the Department, however expressed, substitute a reference to the Director of Income Tax (for example, by substituting "he" or "him" for "it").

4. In section 3(1) of the Ordinance the words ", or a designated subcommittee comprising at least two members thereof," are repealed.

5. In section 4(2)(c)(i) of the Ordinance for "to satisfy the Director of Income Tax that" substitute "to satisfy him that".

6. In section 7(1) of the Ordinance the definition of "the Department" is repealed.

Citation.

7. This Ordinance may be cited as the Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2009.

Commencement.

8. This Ordinance shall come into force on the same day as section 10 of the Income Tax (Guernsey) (Amendment) Law, 2009 (being the section of that Law which amends section 40A of the Income Tax (Guernsey) Law, 1975).

The Housing (Control of Occupation) (Extension) Ordinance, 2009

THE STATES, in pursuance of their Resolution of the 28th November, 2008^a, and in exercise of the powers conferred on them by section 77 of the Housing (Control of Occupation) (Guernsey) Law, 1994^b and all other powers enabling them in that behalf, hereby order:-

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

1. The Housing (Control of Occupation) (Guernsey) Law, 1994, as amended, shall remain in force until the 31st December, 2011.

Citation.

2. This Ordinance may be cited as the Housing (Control of Occupation) (Extension) Ordinance, 2009.

^a Article XVII of Billet d'État No. XV of 2008.

^b Order in Council No. IV of 1994; amended by No. VI of 1998, No. III of 2002 and No. VIII of 2007 and Ordinance No. XXXIII of 2003 and No. XVII of 2008.

ORDINANCE TO BE LAID BEFORE THE STATES

**The Criminal Justice (Proceeds of Crime) (Bailiwick of
Guernsey) (Enforcement of Overseas Confiscation Orders)
(Amendment) Ordinance, 2009**

THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred upon the States by sections 35 and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^a and all other powers enabling them in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b, hereby orders:-

Amendments to Schedule 1 to the Ordinance of 1999.

1. Schedule 1 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Enforcement of Overseas Confiscation Orders) Ordinance, 1999^c, as amended, is amended by the insertion, at the appropriate place in alphabetical order in the column entitled "*Designated country*", of "Bangladesh" and "Indonesia".

Citation.

2. This Ordinance may be cited as the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Enforcement of Overseas Confiscation Orders) (Amendment) Ordinance, 2009.

^a Order in Council No. VIII of 1999.

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

^c Recueil d'Ordonnances Tome XXVIII, p. 274 (Ordinance No. XXXIII of 1999); Tome XXIX, p. 90 (No. VIII of 2002), Tome XXIX, p. 586 (No. XLIV of 2004) and Tome XXXI, p. 539 (No. XXVI of 2006).