

# BILLET D'ÉTAT No. XIII, 2011

27<sup>th</sup> JULY 2011

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## **The Social Insurance (Guernsey) Law (Amendment) Ordinance, 2011**

**THE STATES**, in pursuance of their Resolution of the 30<sup>th</sup> September, 2010<sup>a</sup>, and in exercise of the powers conferred on them by sections 115A and 116 of the Social Insurance (Guernsey) Law, 1978, as amended<sup>b</sup>, and all other powers enabling them in that behalf, hereby order: -

### **Amendment of the Social Insurance (Guernsey) Law, 1978.**

1. In section 39A(1) of the Law, for "persons entitled to benefit under this Part of this Law" substitute "insured persons".

2. In section 64 of the Law -

(a) for the full stop at the end of subsection (4)(e), substitute a semi-colon, and

(b) immediately after subsection (4)(e), insert -

"(f) for enabling the Authority to deduct, or to authorise the deduction, from any sum payable by way of benefit any fee, cost or charge (including any bank charge) incurred by the Authority, or any other person or body, in connection with making payment of that sum.".

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<sup>a</sup> Article V of Billet d'État No. XX of 2010.

<sup>b</sup> Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; Vol. XXXII, p. 59; Vol. XXXIV, p. 510.; Vol. XXXV(1), p. 161; Vol. XXXVI, pp. 123 and 343; Vol. XXXIX, p. 107; Vol. XL, p. 351; Vol XLI, p. 267; Order in Council No. XXIII of 2002; No. XXIV of 2003; No. XI of 2004 and No. XVIII of 2007; Recueil d'Ordonnances Tome XXVI, p. 177 and Ordinance No. XLII of 2009.

**Interpretation.**

3. (1) In this Ordinance the expression "**the Law**" means the Social Insurance (Guernsey) Law, 1978, and any other expressions have the same meaning as in, and for the purposes of, the Law.

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

**Extent.**

4. This Ordinance shall have effect in the Island of Alderney as it has effect in the Islands of Guernsey, Herm and Jethou.

**Citation.**

5. This Ordinance may be cited as the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2011.

**Commencement.**

6. This Ordinance shall come into force on the 27<sup>th</sup> July 2011.

## **The Land Planning and Development (Fees and Miscellaneous Amendments) Ordinance, 2011**

**THE STATES**, in pursuance of their Resolutions of the 27<sup>th</sup> June 2002, the 26<sup>th</sup> January 2005, the 26<sup>th</sup> September 2007 and the 25<sup>th</sup> March 2009<sup>a</sup>, and in exercise of the powers conferred on them by sections 17(3), 81, 87(9) and 89 of the Land Planning and Development (Guernsey) Law, 2005<sup>b</sup>, hereby order:-

### **PART I**

#### **FEEES TO ACCOMPANY APPEALS**

#### **Amendment of the 2008 Ordinance.**

1. (1) The Land Planning and Development (Fees and Commencement) Ordinance, 2008<sup>c</sup> is amended as follows.

(2) After section 4 (refund of part of fee) insert the following Part.

### **"PART IIA**

#### **FEEES FOR CERTAIN APPEALS**

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<sup>a</sup> Billet d'État No. XI of 2002, Article I of Billet d'État No. I of 2005, Articles III and XV of Billet d'État No. XX of 2007 and Article VI of Billet d'État No. VIII of 2009.

<sup>b</sup> Order in Council No. XVI of 2005 as amended by Recueil d'Ordonnances Tome XXXII, pp. 224, 257, 369, 419 and 439.

<sup>c</sup> Ordinance No. XLI of 2008 as amended by G.S.I. No. 6 of 2010.

**Application of this Part.**

**4A.** (1) This Part shall apply in relation to an appeal to the Planning Tribunal made under section 68(1) of the Law, made on or after 1<sup>st</sup> September, 2011, against -

- (a) the refusal of an application for full planning permission or outline permission,
- (b) the refusal of an application for approval of reserved matters, or
- (c) the grant of outline permission where the application in question was an application for full planning permission.

(2) This Part shall apply in relation to an appeal to an Adjudicator made under section 10(2)(a) or 10(3)(a) of the Appeals Ordinance, made on or after 1<sup>st</sup> September, 2011, against a rejection of full plans under the building regulations.

**Fee payable in respect of an appeal under section 68(1) of the Law.**

**4B.** (1) A fee is payable in respect of an appeal to the Planning Tribunal, to which this Part applies, under section 68(1) of the Law.

(2) The fee payable shall, subject to the following provisions of this Ordinance, be the same as that required under Part I of this Ordinance to accompany the application to which the appeal relates except that the fee shall be calculated as if the appeal were made on the date of the notification sent in accordance with section 4D(1).

(3) A discount of twenty-five per cent shall be applied to the fee payable in accordance with subsection (2) where -

(a) the appeal in question is one in relation to which a single professional member of the Planning Panel may be appointed to hear and determine the appeal without a hearing on the basis of written representations in accordance with section 6(1) of the Appeals Ordinance, and

(b) the appellant has given (and not later withdrawn) his written consent to the appeal in question proceeding on that basis,

whether or not the appeal is in fact determined on that basis.

**Fee payable in respect of an appeal in relation to a rejection of full plans under the building regulations.**

4C. (1) A fee is payable in respect of an appeal to an Adjudicator, to which this Part applies, against the rejection of full plans under the building regulations.

(2) The fee payable shall, subject to the following provisions of this Ordinance, be the same as that required under Part II of this Ordinance to accompany the deposit of full plans under the building regulations to which the appeal relates except that the fee shall be calculated as if the appeal were made on the date of the notification sent in accordance with section 4D(1).

(3) For the avoidance of doubt, in calculating the fee payable in accordance with subsection (2), the provisions of section 4 (refund of part of fee) shall not apply.

(4) A discount of twenty-five per cent shall be applied to the fee payable in accordance with subsection (2) where the Policy Council have appointed an Adjudicator to determine the appeal in question without a hearing on the basis of written representations.

**Procedure for payment of appeal fee.**

**4D.** (1) As soon as possible after the appointment of the Appellate Body to determine the appeal in question, the Appellate Body shall notify the appellant -

- (a) of the fee payable, in relation to the appeal, in accordance with this Part, and
- (b) that, in accordance with subsection (2), the Appellate Body need not take any further action in relation to the appeal until such fee is paid in full.

(2) The Appellate Body need not take any further action in relation to the appeal until the whole of the fee is paid including, for the avoidance of doubt, publication of the notice of appeal under section 14 of the Appeals Ordinance.

(3) Time shall not run for the purpose of any provision under the Law relating to an appeal to which this Part applies until the

whole fee is paid.

**Power of Policy Council to provide for level of fee.**

4E. The Policy Council may by regulations amend this Ordinance so as to substitute the fee payable under this Part, in relation to an appeal to which this Part applies, for such other amount as the Policy Council thinks fit including, without limitation, substituting the percentage of any discount applied under this Part."

(3) In section 6(1)(c) (fee to accompany request for non-domestic property search), for the words "one of more" substitute "one or more".

(4) After section 9 (exemption from fees payable under Part II for certain building work in relation to controlled services or fittings) insert the following sections -

**'Reduction or waiver of fee payable under Part IIA for certain persons.**

9A. Where it appears to the -

- (a) Chairman of the Planning Panel, in the case of an appeal to the Planning Tribunal, or
- (b) the Adjudicator, in the case of an appeal to that Adjudicator,

that the payment of any fee payable under Part IIA would, owing to the exceptional circumstances of the particular case, involve undue financial hardship to the appellant, the Chairman of the Planning Panel or the Adjudicator, as the case may be, may reduce or waive the fee payable in



that case.

**Power to refund whole or part of fee payable under Part IIA.**

**9B.** The Appellate Body may, where it thinks fit, refund any fee, in whole or in part, paid in accordance with Part IIA where any of the following occurs in relation to an appeal -

- (a) the Department concedes the appeal, in whole or in part, under section 68(7) of the Law,
- (b) the Appellate Body declines to determine, or to proceed with the determination of, the appeal in accordance with section 69(4) of the Law or regulation 1 of the Appeals Regulations,
- (c) the Planning Tribunal dismisses the appeal under section 69(5) of the Law, or
- (d) prior to any hearing in relation to the appeal, the appellant agrees to withdraw the appeal following an agreement in writing with the Department in relation to the application or deposit of plans to which the appeal relates."

(5) In section 13 (interpretation) insert the following definitions at the appropriate places -

""**Adjudicator**" means a person appointed by the Policy Council under section 13 of the Appeals Ordinance to hear and determine an appeal

under section 10 of the Appeals Ordinance,

**"Appeals Ordinance"** means the Land Planning and Development (Appeals) Ordinance, 2007,

**"Appeals Regulations"** means the Land Planning and Development (Appeals) Regulations, 2008,

**"Appellate Body"** means in relation to an appeal made under -

- (a) section 68(1) of the Law, the Planning Tribunal, and
- (b) section 10 of the Appeals Ordinance, an Adjudicator,

**"Chairman of the Planning Panel"** means the person who is designated, from time to time, as the Chairman of the Planning Panel pursuant to section 86(3)(c) of the Law or, if he is unavailable, the Deputy Chairman of the Planning Panel,

**"Deputy Chairman of the Planning Panel"** means the person who is designated, from time to time, as the Deputy Chairman of the Planning Panel pursuant to section 86(3)(d) of the Law,

**"notify"** means notify in writing and related expressions shall be construed accordingly,

**"Planning Panel"** means the Planning Panel established under section 86 of the Law,

**"Planning Tribunal"** means the Tribunal the members of which are appointed under section 87 of the Law to hear and determine an appeal under the Law,

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

**"reserved matters"** shall be construed in accordance with section 18(1) of the Land Planning and Development (General Provisions) Ordinance, 2007, ".

PART II  
AMENDMENTS OF THE LAW AND THE SPECIAL CONTROLS  
ORDINANCE

**Amendment of the Law.**

2. (1) The Land Planning and Development (Guernsey) Law, 2005 is amended as follows.

(2) In section 45A (glasshouse land etc.) for the words "any Plan or Brief" substitute "any Development Plan, Subject Plan or Local Planning Brief".

(3) In section 46 (power to make provision where special or additional controls required) for each reference to "Chapters 1 to 6" substitute "Chapters 1 to 5A".

(4) In section 63(4) (evidential presumptions), for the words "section 59(3)(c)" substitute "section 70(1)(c)".

(5) In section 84(2) (entry on land for authorised purposes), for paragraph (d) substitute -

"(d) a member of the Planning Tribunal or an Adjudicator (within the meaning of the Land Planning and Development (Appeals) Ordinance, 2007) appointed to determine an appeal under this Law."

**Amendment of the Special Controls Ordinance.**

3. In section 4(2) (notifications and publicity) of the Land Planning and Development (Special Controls) Ordinance, 2007<sup>d</sup>, omit the first reference to "brief particulars of".

**Amendment of the Appeals Ordinance.**

4. In section 6 (determination of appeals by single Planning Tribunal member) of the Land Planning and Development (Appeals) Ordinance, 2007<sup>e</sup>, renumber the second subsection (2) as subsection (3).

**Interpretation.**

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

**Citation and Commencement.**

6. This Ordinance may be cited as the Land Planning and Development

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<sup>d</sup> Recueil d'Ordonnances Tome XXXII, p. 371.

<sup>e</sup> Recueil d'Ordonnances Tome XXXII, p. 439 as amended by Ordinance No. XLI of 2008.

(Fees and Miscellaneous Amendments) Ordinance, 2011 and shall come into force on the 27<sup>th</sup> July, 2011.

## **The Income Tax (Guernsey) (Approval of Agreements with Romania, Canada and South Africa) Ordinance, 2011**

**THE STATES**, in exercise of the powers conferred on them by section 75C of the Income Tax (Guernsey) Law, 1975, as amended<sup>a</sup>, 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) Romania, signed on the 12<sup>th</sup> January 2011 and the 17<sup>th</sup> January 2011 by Romania and Guernsey respectively,
- (b) Canada, signed on the 19<sup>th</sup> February 2011, and
- (c) the Republic of South Africa, signed on the 21<sup>st</sup> February 2011

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 Romania, Canada and South Africa) Ordinance,

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<sup>a</sup> Ordres en Conseil Vol. XXV, p. 124; section 75C was inserted by section 5 of the Income Tax (Guernsey) (Amendment) Law, 2005 (Order in Council No. XVII).

2011.

**Commencement.**

3. This Ordinance shall come into force on the 27<sup>th</sup> July 2011.

*ORDINANCE LAID BEFORE THE STATES*

**The Iran (Freezing of Funds)  
(Guernsey) Ordinance, 2011**

**THE STATES LEGISLATION SELECT COMMITTEE**, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994<sup>a</sup> and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948<sup>b</sup>, and all other powers enabling the States in that behalf, hereby orders:-

**Application of, and infringement of, EU Regulation.**

1. (1) Council Regulation (EU) No. 359/2011 of the 12<sup>th</sup> April, 2011<sup>c</sup> concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran ("**the EU Regulation**") is, subject to such exceptions, adaptations and modifications as may be specified in this Ordinance, applicable in Guernsey in all respects as if Guernsey were a Member State.

(2) A person who infringes, or causes or permits any infringement of, Article 2 or 9 of the EU Regulation is guilty of an offence.

**Modification of Regulation.**

2. The EU Regulation in its application to Guernsey is modified as follows -

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<sup>a</sup> Ordres en Conseil Vol. XXXV(1), p. 65.

<sup>b</sup> Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

<sup>c</sup> OJ L 100, 14.4.2011, p. 1.



- (a) Articles 1(e) and 14 shall not apply,
- (b) in Article 4.1 -
  - (i) for the words "the competent authorities of the Member States, as indicated on the websites listed in Annex II" substitute "the States of Guernsey Policy Council ("the Policy Council")", and
  - (ii) for the words "they deem" substitute "it deems",
- (c) in Article 5.1, for "the competent authorities in the Member States, as listed in Annex II," substitute "the Policy Council",
- (d) in Article 6.2 -
  - (i) for "the Union" substitute "Guernsey", and
  - (ii) for "the relevant competent authority" substitute "the Policy Council",
- (e) in Article 7 -
  - (i) for "the competent authorities of the Member States, as indicated on the websites listed in Annex II," substitute "the Policy Council",

- (ii) in paragraph (a), for "the competent authority concerned" substitute "the Policy Council", and
  - (iii) in paragraph (b), omit ", at least two weeks prior to the grant of the authorisation,",
- (f) in Articles 4, 5, 7 and 10 references to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council to inform or notify one of Her Majesty's Principal Secretaries of State,
- (g) in Article 9.1 -
  - (i) in paragraph (a), for "the competent authority in the Member State where they are resident or located, as indicated on the websites listed in Annex II, and shall transmit such information, either directly or through the Member States, to the Commission" substitute "the Policy Council", and
  - (ii) in paragraph (b), for "that competent authority" substitute "the Policy Council", and
- (h) in Article 15 -
  - (i) in paragraph (a), for "the territory of the Union" substitute "Guernsey, including the territorial

waters adjacent thereto",

- (ii) in paragraph (b), the reference to a Member State shall be construed as including Guernsey,
- (iii) in paragraph (d), the reference to the law of a Member State shall be construed as including the law of Guernsey, and
- (iv) in paragraph (e), the reference to the Union shall be construed as including Guernsey.

**Appeals against decisions of Policy Council.**

3. (1) A person aggrieved by a decision of the Policy Council made under Article 4, 5 or 7 of the EU Regulation, or a decision of the Policy Council not to exercise its powers under any of those Articles, may appeal to the Ordinary Court against that decision on the grounds that -

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

- (2) On an appeal under this section the Court may -
- (a) set the decision of the Policy Council aside and, if the Court considers it appropriate to do so, remit the matter to the Policy Council with such directions as the Court thinks fit, or
  - (b) confirm the decision, in whole or in part.

(3) On an appeal under this section the Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision in question, pending the determination of the appeal.

**Information.**

4. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Policy Council, of information for the purpose of ensuring compliance with the EU Regulation.

**Failure to provide information or to co-operate.**

5. A person who, without reasonable excuse, fails to comply with the obligation to supply information to or co-operate with the Policy Council under Article 9.1 of the EU Regulation is guilty of an offence.

**Furnishing of false information etc.**

6. A person who in purported compliance with Article 9.1 of the EU Regulation intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

**Penalties and proceedings.**

7. (1) A person guilty of an offence under -

(a) section 1(2), 5 or 6, or

(b) paragraph 2(b) or (c) of the Schedule,

is liable -

(i) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both,

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

(2) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(3) Where a body corporate is guilty of an offence under this Ordinance, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) 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 corporate.

**Certain provisions of customs Laws and excise Laws applicable.**

8. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>d</sup> applies to the detention of a person for an offence under section 1 as it applies to the detention of a person for an offence under the customs Laws or excise Laws.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 apply in relation to offences, penalties and proceedings for offences under this Ordinance as they apply to offences, penalties and proceedings for offences under the customs Laws or excise Laws.

**Interpretation.**

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

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

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

"**customs Laws**" and "**excise Laws**" mean those provisions of the

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<sup>d</sup> Ordres en Conseil Vol. XXIII, p. 573; Vol. XXXIII, p. 217; and Order in Council No. X of 2004.

Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 and any other enactment for the time being in force relating to customs or, as the case may be, excise,

"**EU Regulation**" has the meaning given by section 1,

"**Guernsey**" means the Bailiwick of Guernsey apart from the Islands of Alderney and Sark,

"**Ordinary Court**" means the Royal Court of Guernsey sitting as an Ordinary Court, and

"**uniform scale of fines**" means the scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>e</sup>,

and other terms used in this Ordinance and the EU Regulation shall have the same meaning as in the EU Regulation.

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

**Citation.**

**10.** This Ordinance may be cited as the Iran (Freezing of Funds) (Guernsey) Ordinance, 2011.

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

**Commencement.**

11. This Ordinance shall come into force on the 17<sup>th</sup> May, 2011.



## SCHEDULE

Section 4

## INFORMATION

1. (1) The Policy Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish or produce to it (or, as the case may be, to that authorised person) such information and documents in his possession or control as the Policy Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EU Regulation; and a person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

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

(4) Where a person is convicted of an offence under this Schedule of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(5) The power conferred by this paragraph to request any person

to produce documents shall include power to take copies of or extracts from any document so produced and to request that person or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

**2.** A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time is specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, to any person exercising his powers under this Schedule, or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence.

**3.** (1) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except -

- (a) with the consent of the person by whom the information was furnished or the document was

produced: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this item but such consent may instead be given by any person who is entitled to that information or to possession of that document in his own right,

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of Guernsey,
- (c) on the authority of the Policy Council, to the European Commission or to any of the competent authorities listed in Annex IV to the EU Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EU Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an offence.

*ORDINANCE LAID BEFORE THE STATES*

**The Libya (Restrictive Measures)  
(Guernsey) (Amendment) (No.2) Ordinance, 2011**

**THE STATES LEGISLATION SELECT COMMITTEE**, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994<sup>a</sup> and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948<sup>b</sup>, and all other powers enabling the States in that behalf, hereby orders:-

**Amendment of Libya (Restrictive Measures) (Guernsey) Ordinance, 2011.**

1. (1) The Libya (Restrictive Measures) (Guernsey) Ordinance, 2011<sup>c</sup> ("**the Ordinance**") is amended as follows.

(2) In section 1(2) of the Ordinance, for "Article 2, 3, 4 or 5" substitute "Article 2, 3, 4, 4a, 4b, 5 or 9a".

(3) For section 2 of the Ordinance, substitute the following section -

**"Modification of Regulation.**

2. The EU Regulation in its application to Guernsey is modified

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<sup>a</sup> Ordres en Conseil Vol. XXXV(1), p. 65.

<sup>b</sup> Ordres en Conseil Vol. XIII, p.288; there are amendments not material to this Ordinance.

<sup>c</sup> Made by the States Legislation Select Committee on 4<sup>th</sup> March 2011; amended by the Libya (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2011 made by the States Legislation Select Committee on 23<sup>rd</sup> March 2011.

as follows -

- (a) Articles 1(g) and 18 shall not apply,
- (b) in Article 2.4, for "the competent authorities in the Member States as listed in Annex IV" substitute "the States of Guernsey Policy Council ("the Policy Council")",
- (c) in Articles 3.3, 8 and 8a, for "the competent authorities in the Member States, as listed in Annex IV," substitute "the Policy Council",
- (d) in Article 4 -
  - (i) for "the customs territory of the Union" substitute "Guernsey",
  - (ii) immediately after "(EEC) No 2454/93 laying down provisions for the implementation thereof", insert "and under or in accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 and any other enactment for the time being in force in Guernsey relating to customs or, as the case may be, excise ", and
  - (iii) for "competent customs authorities of

the Member States concerned" substitute "Chief Officer of Customs and Excise for the time being appointed by the Policy Council in accordance with section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972",

- (e) in Articles 4a and 4b, in paragraph 1 of each of those articles, any references to the territory of the Union and the Union shall be construed as including Guernsey,
- (f) in Article 7.1, for "the competent authorities in the Member States as identified on the websites listed in Annex IV," substitute "the Policy Council",
- (g) in Article 7.2 -
  - (i) for "the competent authorities in the Member States, as indicated on the websites listed in Annex IV" substitute "the Policy Council", and
  - (ii) in paragraph (b) -
    - (A) for "the competent authority" substitute "the Policy Council", and

- (B) for "the other competent authorities of the Member States and to the Commission at least two weeks before the authorisation" substitute "one of Her Majesty's Principal Secretaries of State",
- (h) in Articles 7, 8, 8a and 10, references to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council,
- (i) in Article 8(f) and Article 8a, for "the other Member States and the Commission" substitute "one of Her Majesty's Principal Secretaries of State",
- (j) in Article 9 -
- (i) for "the Union" substitute "Guernsey",  
and
- (ii) for "the relevant competent authority" substitute "the Policy Council",
- (k) in Article 10 -
- (i) for "the competent authorities in the

Member States, as indicated on the websites listed in Annex IV" substitute "the Policy Council",

- (ii) in paragraph (a), for "competent authority concerned" substitute "the Policy Council", and
- (iii) in paragraph (c), for ", at least two weeks prior to the grant of the authorisation, notified the other Member States and the Commission" substitute "notified one of Her Majesty's Principal Secretaries of State",
- (l) in Article 12, immediately after "or any Member State" insert "or the Policy Council",
- (m) in Article 13 -
  - (i) in paragraph 1(a), for "the competent authority in the Member State where they are resident or located, as indicated on the websites listed in Annex IV, and shall transmit such information, either directly or through the Member States, to the Commission" substitute "the Policy Council", and



- (ii) in paragraph 1(b), for "that competent authority" substitute "the Policy Council", and
- (n) in Article 19 -
- (i) in paragraph (a), for "the territory of the Union, including its airspace" substitute "Guernsey, including its airspace and the territorial waters adjacent thereto",
  - (ii) in paragraph (b), the reference to a Member State shall be construed as including Guernsey,
  - (iii) in paragraph (d), the reference to the law of a Member State shall be construed as including the law of Guernsey, and
  - (iv) in paragraph (e), the reference to the Union shall be construed as including Guernsey."
- (4) In section 3(1) of the Ordinance, immediately before "or 10" insert ", 8a".

**Repeals.**

2. The Libya (Restrictive Measures) (Guernsey) (Amendment)

Ordinance, 2011 is repealed.

**Citation.**

3. This Ordinance may be cited as the Libya (Restrictive Measures) (Guernsey) (Amendment) (No.2) Ordinance, 2011.

**Commencement.**

4. This Ordinance shall come into force on the 17<sup>th</sup> May, 2011.

*ORDINANCE LAID BEFORE THE STATES*

**The Ivory Coast (Freezing of Funds)  
(Guernsey) (Amendment) Ordinance, 2011**

**THE STATES LEGISLATION SELECT COMMITTEE**, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994<sup>a</sup> and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948<sup>b</sup>, and all other powers enabling the States in that behalf, hereby orders:-

**Amendment of Ivory Coast (Freezing of Funds) (Guernsey) Ordinance, 2006.**

1. (1) The Ivory Coast (Freezing of Funds) (Guernsey) Ordinance, 2006<sup>c</sup> ("**the Ordinance**") is amended as follows.

(2) In section 1(2) of the Ordinance, for "Article 2 or 8" substitute "Article 2, 8 or 9a".

(3) For section 2 of the Ordinance, substitute the following section -

**"Modification of Regulation.**

2. The EU Regulation in its application to Guernsey is modified as follows -

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<sup>a</sup> Ordres en Conseil Vol. XXXV(1), p. 65.

<sup>b</sup> Ordres en Conseil Vol. XIII, p.288; there are amendments not material to this Ordinance.

<sup>c</sup> Receuil d'Ordonnances Tome XXXI, p. 285.

- (a) in Article 3.1, for "the competent authorities of the Member States, as identified on the websites listed in Annex II" substitute "the States of Guernsey Policy Council ("the Policy Council")",
- (b) in Articles 3.2, 3.3 and 4, for "the competent authorities of the Member States, as identified on the websites listed in Annex II," substitute "the Policy Council",
- (c) in Articles 3.1, 3.2 and 3.3, for "they deem" substitute "it deems",
- (d) in Articles 3a and 3b, for "the competent authorities of the Member States, as indicated on the websites listed in Annex II," substitute "the Policy Council",
- (e) in Article 3b -
  - (i) for "the competent authority concerned" substitute "the Policy Council",
  - (ii) omit the words "at least two weeks prior to the grant of the authorisation", and
  - (iii) for "the other Member States and the Commission" substitute "one of Her

Majesty's Principal Secretaries of State",

- (f) in Article 4, for "contrary to public policy in the Member State concerned" substitute "contrary to public policy in Guernsey",
- (g) in Article 5, for "the other Member States and the Commission" substitute "one of Her Majesty's Principal Secretaries of State",
- (h) in Article 7, for "the relevant competent authority" substitute "the Policy Council",
- (i) in Article 8 -
  - (i) in paragraph 1(a), for "the competent authorities of the Member States listed in Annex II where they are resident or located, and shall transmit such information, directly or through these competent authorities, to the Commission" substitute "the Policy Council", and
  - (ii) in paragraph 1(b), for "the competent authorities listed in Annex II" substitute "the Policy Council",
- (j) in Articles 3, 3a, 3b, 4, 5 and 10, references

to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council, and

(k) in Article 13 -

(i) in paragraph (a), for "the territory of the Union, including its airspace" substitute "Guernsey, including its airspace and the territorial waters adjacent thereto",

(ii) in paragraph (b), the reference to a Member State shall be construed as including Guernsey,

(iii) in paragraph (d), the reference to the law of a Member State shall be construed as including the law of Guernsey, and

(iv) in paragraph (e), the reference to the Union shall be construed as including Guernsey.

(4) After section 2 of the Ordinance, insert the following section -

**"Appeals against decisions of Policy Council.**

**2A.** (1) A person aggrieved by a decision of the Policy Council made under Article 3, 3a, 3b or 4 of the EU Regulation, or a

decision of the Policy Council not to exercise its powers under any of those Articles, may appeal to the Ordinary Court against that decision on the grounds that -

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

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

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

(3) On an appeal under this section the Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision in question, pending the determination of the appeal."

(5) In section 3 of the Ordinance and in the Schedule to the Ordinance, for "the Council" substitute "the Policy Council".

(6) In section 6 of the Ordinance -

(a) omit the definition of "**Council**", and

(b) after the definition of "**Guernsey**", omit the word "and" and insert -

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

**Citation.**

2. This Ordinance may be cited as the Ivory Coast (Freezing of Funds) (Guernsey) (Amendment) Ordinance, 2011.

**Commencement.**

3. This Ordinance shall come into force on the 17<sup>th</sup> May, 2011.



*ORDINANCE LAID BEFORE THE STATES***The Syria (Restrictive Measures)  
(Guernsey) Ordinance, 2011**

**THE STATES LEGISLATION SELECT COMMITTEE**, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994<sup>a</sup> and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948<sup>b</sup>, and all other powers enabling the States in that behalf, hereby orders:

**Application and infringement of EU Regulation.**

1. (1) Council Regulation (EC) No. 442/2011 of the 9<sup>th</sup> May, 2011<sup>c</sup> concerning restrictive measures in view of the situation in Syria ("**the EU Regulation**") is, subject to such exceptions, adaptations and modifications as may be specified in this Ordinance, applicable in Guernsey in all respects as if Guernsey were a Member State.

(2) A person who infringes, or causes or permits any infringement of, Article 2, 3 or 4 of the EU Regulation is guilty of an offence.

**Modification of Regulation.**

2. The EU Regulation in its application to Guernsey is modified as follows -

(a) Articles 1(f) and 16 shall not apply,

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<sup>a</sup> Ordres en Conseil Vol. XXXV(1), p. 65.

<sup>b</sup> Ordres en Conseil Vol. XIII, p. 288 (there are amendments not material to this Ordinance).

<sup>c</sup> OJ L 121, 10.5.2011, p.1

- (b) in Article 2.3, for the words "the competent authorities in the Member States, as listed in Annex III" substitute "the States of Guernsey Policy Council ("the Policy Council")",
- (c) in Article 6 -
  - (i) for the words "the competent authorities in the Member States, as identified on the websites listed in Annex III" substitute "the Policy Council", and
  - (ii) in paragraph (d) -
    - (A) for the words "relevant competent authority" substitute "the Policy Council", and
    - (B) omit the words "at least two weeks before the authorisation",
- (d) in Article 7, for the words "the competent authorities in the Member States, as listed in Annex III" substitute "the Policy Council",
- (e) in Article 8.2 -
  - (i) for the words "the Union" substitute "Guernsey", and
  - (ii) for the words "the relevant competent

authority" substitute "the Policy Council",

(f) in Article 9, for the words "the competent authorities of the Member States, as indicated on the websites listed in Annex III" substitute "the Policy Council",

(g) in Article 11.1 -

(i) in paragraph (a), for the words "the competent authority in the Member State where they are resident or located, as indicated on the websites listed in Annex III, and shall transmit such information, either directly or through the Member States, to the Commission" substitute "the Policy Council", and

(ii) in paragraph (b), for the words "that competent authority" substitute "the Policy Council",

(h) in Articles 6, 7, 12 and 15.2, references to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council to inform or notify one of Her Majesty's Principal Secretaries of State,

(i) in Article 17 -

(i) in paragraph (a), for "the territory of the Union, including its airspace" substitute "Guernsey, including its airspace and the

territorial waters adjacent thereto",

- (ii) in paragraph (b), the reference to a Member State shall be construed as including Guernsey,
- (iii) in paragraph (d), the reference to the law of a Member State shall be construed as including the law of Guernsey, and
- (iv) in paragraph (e), the reference to the Union shall be construed as including Guernsey.

**Appeals against decisions of Policy Council.**

3. (1) A person aggrieved by a decision of the Policy Council made under Article 6, 7 or 9 of the EU Regulation, or a decision of the Policy Council not to exercise its powers under any of those Articles, may appeal to the Ordinary Court against that decision on the grounds that -

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

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

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

(3) On an appeal under this section the Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision in question, pending the determination of the appeal.

**Information.**

4. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Policy Council, of information for the purpose of ensuring compliance with the EU Regulation.

**Failure to provide information or to co-operate.**

5. A person who, without reasonable excuse, fails to comply with the obligation to provide information to or co-operate with the Policy Council under Article 11.1 of the EU Regulation is guilty of an offence.

**Furnishing of false information etc.**

6. A person who in purported compliance with Article 11.1 of the EU Regulation intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

**Penalties and proceedings.**

- 7. (1) A person guilty of an offence under -
  - (a) section 1(2), 5 or 6, or

(b) paragraph 2(b) or (c) of the Schedule,

is liable -

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

(2) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(3) Where a body corporate is guilty of an offence under this Ordinance, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) 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 corporate.

**Certain provisions of customs Laws and excise Laws applicable.**

8. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>d</sup> applies to the detention of a person for an offence under section 1 as it applies to the detention of a person for an offence under the customs Laws or excise Laws.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 apply in relation to offences, penalties and proceedings for offences under this Ordinance as they apply to offences, penalties and proceedings for offences under the customs Laws or excise Laws.

**Interpretation.**

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

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

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

"**customs Laws**" and "**excise Laws**" mean those provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 and any other enactment for the time being in force relating to customs or, as the case may be, excise,

"**EU Regulation**" has the meaning given by section 1,

"**Guernsey**" means the Bailiwick of Guernsey apart from the Islands of Alderney and Sark,

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<sup>d</sup> Ordres en Conseil Vol. XXIII, p. 573; Vol. XXXIII, p. 217; and Order in Council No. X of 2004.

**"Ordinary Court"** means the Royal Court of Guernsey sitting as an Ordinary Court, and

**"uniform scale of fines"** means the scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>e</sup>,

and other terms used in this Ordinance and the EU Regulation shall have the same meaning as in the EU Regulation.

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

**Citation.**

**10.** This Ordinance may be cited as the Syria (Restrictive Measures) (Guernsey) Ordinance, 2011.

**Commencement.**

**11.** This Ordinance shall come into force on the 17<sup>th</sup> May, 2011.

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



## SCHEDULE

Section 4

## INFORMATION

1. (1) The Policy Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish or produce to it (or, as the case may be, to that authorised person) such information and documents in his possession or control as the Policy Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EU Regulation; and a person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

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

(4) Where a person is convicted of an offence under this Schedule of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(5) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person or, where that person is a body

corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

2. A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time is specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, to any person exercising his powers under this Schedule, or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence.

3. (1) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except -

- (a) with the consent of the person by whom the information was furnished or the document was produced: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this item but such

consent may instead be given by any person who is entitled to that information or to possession of that document in his own right,

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of Guernsey,
- (c) on the authority of the Policy Council, to the European Commission or to any of the competent authorities listed in Annex II to the EU Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EU Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an offence.