

# BILLET D'ÉTAT No. V, 2014

26<sup>th</sup> MARCH 2014

	<i>Page</i>
The Alderney (Application of Legislation) (Food and Drugs) Ordinance, 2014	1

## *Ordinances laid before the States*

The Protection of Investors (Limitation of Liability) (Bailiwick of Guernsey) Ordinance, 2014	4
The Aviation Registry (Guernsey) (Amendment) Ordinance, 2014	10

## **The Alderney (Application of Legislation) (Food and Drugs) Ordinance, 2014**

**THE STATES**, in pursuance of their Resolution of the 27<sup>th</sup> May, 2011<sup>a</sup>, and in exercise of the powers conferred upon them by section 1 of the Alderney (Application of Legislation) Law, 1948<sup>b</sup>, and of all other powers enabling them in that behalf, hereby order:-

### **New section 7A of 1970 Law to have effect in Alderney.**

1. (1) Section 7A of the 1970 Law, as inserted by section 5 of the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014, has effect in the Island of Alderney as it has effect in the Island of Guernsey, subject to the modification in subsection (2).

(2) In the definition of "**Council Regulation**" in section 7A(2) of the 1970 Law, for "European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014", substitute "European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Alderney) Ordinance, 2014".

### **New section 47B of 1970 Law to have effect in Alderney.**

2. (1) Section 47B of the 1970 Law, as inserted by section 12(a) of the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, has effect in the Island of Alderney as it has effect in the Island of Guernsey, subject to the modification in subsection (2).

---

<sup>a</sup> Article VII of Billet d'État No. VIII of 2011.

<sup>b</sup> Ordres en Conseil Vol. XIII, p. 448; as amended by Vol. XXIV, p. 210; Vol. XXIX, p. 299; Vol. XXX, p. 224; No. XVI of 1997.

(2) In section 47B of the 1970 Law, for "European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014", substitute "European Communities (Implementation of Food Supplements Directive) (Alderney) Ordinance, 2014".

**Substituted definition of "the States Analyst" to have effect in Alderney.**

3. The definition of "**the States Analyst**" in section 54(1) of the 1970 Law, as substituted by section 12(b) of the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014, has effect in the Island of Alderney as it has effect in the Island of Guernsey.

**Interpretation.**

4. (1) In this Ordinance, "**the 1970 Law**" means the Food and Drugs (Guernsey) Law, 1970<sup>c</sup>.

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

**Citation.**

5. This Ordinance may be cited as the Alderney (Application of Legislation) (Food and Drugs) Ordinance, 2014.

---

<sup>c</sup> Ordres en Conseil Vol. XXII, p. 412; as amended by Ordres en Conseil Vol. XXIV, p. 273; Ordres en Conseil Vol. XXV, p. 378; Ordres en Conseil Vol. XXIX, p. 329; Ordres en Conseil Vol. XXXI, p. 278; Ordres en Conseil Vol. XXXVI, p. 235; Ordres en Conseil Vol. XXXVI, p. 648; Recueil d'Ordonnances Tome XXIX, p. 406; the European Communities (Implementation of Council Regulation on Nutrition and Health Claims) (Guernsey) Ordinance, 2014 and the European Communities (Implementation of Food Supplements Directive) (Guernsey) Ordinance, 2014. This Law is applied to the Island of Alderney by Recueil d'Ordonnances Tome XVII, p. 75 and Tome XX, p. 368. See also Recueil d'Ordonnances Tome XXVII, pp. 2 and 377; G.S.I. No. 9 of 1996.

**Commencement.**

6. This Ordinance shall come into force on the 1<sup>st</sup> April, 2014.

**The Protection of Investors (Limitation of Liability)  
(Bailiwick of Guernsey) Ordinance, 2014**

**THE STATES LEGISLATION SELECT COMMITTEE**, in exercise of the powers conferred on the States by sections 37 and 43 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended<sup>a</sup> and all other powers enabling the States in that behalf, and in exercise of the powers conferred on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948, as amended<sup>b</sup>, and having regard to the report of the States Policy Council<sup>c</sup>, hereby orders:-

**Limitation of liability.**

1. (1) No liability shall be incurred by the Channel Islands Securities Exchange Authority Limited (hereinafter referred to as "CISEAL") in respect of anything done or omitted to be done after the commencement of this Ordinance in the discharge or purported discharge of any of the functions conferred on that body by or under the Law of 1987 (being the functions specified in the Schedule, which were conferred upon CISEAL by conditions of the licence granted to that body under section 4 of the Law of 1987 by the Commission on the 20<sup>th</sup> December, 2013) unless the thing is done or omitted to be done in bad faith.

---

<sup>a</sup> Ordres en Conseil Vol. XXX, p. 281; as amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; Vol. XXXV(1), p. 271; Vol. XXXVI, p. 264; Vol. XXXVII, p. 24; Vol. XLII(1), p. 644; No. XV of 2003; No. XXXII of 2003; No. XVIII of 2008; No. XIII of 2010; No. XX of 2010; Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Tome XXVIII, p. 51; Tome XXVIII, p. 87; Tome XXIX, p. 406; Tome XXXIII, p. 136; Tome XXXIII, p. 472; G.S.I. No. 83 of 2010.

<sup>b</sup> Ordres en Conseil Vol. XIII, p. 288.

<sup>c</sup> Article \*\* of Billet d'État No. \*\* of 2014.

- (2) For the avoidance of doubt, the provisions of subsection (1) -
- (a) do not apply in respect of liability for a criminal offence under the laws of the Bailiwick, and
  - (b) are without prejudice to the performance and enforcement of the Commission's powers and duties conferred by or under the regulatory Laws.

**Interpretation.**

2. (1) In this Ordinance -

"**CISEAL**" means Channel Islands Securities Exchange Authority Limited,

"**the Commission**" means the Guernsey Financial Services Commission,

"**the Law of 1987**" means the Protection of Investors (Bailiwick of Guernsey) Law, 1987,

"**the regulatory Laws**" means -

- (a) the Financial Services Commission (Bailiwick of Guernsey) Law, 1987<sup>d</sup>,
- (b) the Protection of Investors (Bailiwick of Guernsey)

---

<sup>d</sup> Ordres en Conseil Vol. XXX, p. 243.

Law, 1987<sup>e</sup>,

- (c) the Banking Supervision (Bailiwick of Guernsey) Law, 1994<sup>f</sup>,
- (d) the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000<sup>g</sup>,
- (e) the Insurance Business (Bailiwick of Guernsey) Law, 2002<sup>h</sup>,
- (f) the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002<sup>i</sup>,
- (g) the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008<sup>j</sup>,
- (h) the Financial Services Commission (Site Visits) (Bailiwick of Guernsey) Ordinance, 2008<sup>k</sup>,

---

<sup>e</sup> Ordres en Conseil Vol. XXX, p. 281.

<sup>f</sup> Order in Council No. XIII of 1994.

<sup>g</sup> Order in Council No. I of 2000.

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

<sup>i</sup> Order in Council No. XXII of 2002.

<sup>j</sup> Order in Council No. XV of 2008.

<sup>k</sup> Ordinance No. II of 2008.

- (i) the Protection of Investors (Administration and Intervention) (Bailiwick of Guernsey) Ordinance, 2008<sup>l</sup>,
- (j) any Ordinance, order, rule or regulation made under any of the above Laws or Ordinances, and
- (k) any other enactment or statutory instrument specified for the purposes of this Ordinance by regulations of the States Policy Council.

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

(3) 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.

**Citation.**

3. This Ordinance may be cited as the Protection of Investors (Limitation of Liability) (Bailiwick of Guernsey) Ordinance, 2014.

**Commencement.**

4. This Ordinance shall come into force on the 20<sup>th</sup> January, 2014.

---

<sup>l</sup> Ordinance No. LII of 2008.

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



## SCHEDULE

### **Regulatory functions of CISEAL in respect of which the limitation of liability provided for by section 1 is applicable**

1. The admission of issuers to the official list by reference to the Listing Rules and CISEAL's policy on issuer suitability.
2. The admission of members of CISEAL by reference to the Membership Rules and CISEAL's policy on member suitability.
3. The suspension or cancellation of an issuer from the official list in accordance with the Listing Rules.
4. The re-admission to the official list in accordance with the Listing Rules following suspension save where suspension was at the request of the issuer and CISEAL concludes that the criteria for re-admission are not met.
5. The suspension or cancellation of membership of CISEAL in accordance with the Membership Rules.
6. The re-admission to membership of CISEAL in accordance with the Membership Rules following suspension save where suspension was at the request of the member and CISEAL concludes that the criteria for re-admission are not met.
7. The enforcement against members of the Membership Rules and / or Listing Rules in accordance with the Discipline Chapter of those Rules.

**8.** Liaising with the Guernsey Financial Services Commission and other regulatory authorities and organisations as applicable on all matters relating to the operation of the Official List and the membership of CISEAL.

**9.** The taking of positive steps to undertake market surveillance which obligations include -

- (a) weekly monitoring of trading activity,
- (b) daily review of movements in prices and transactions,
- (c) news alert monitoring,
- (d) the reporting to the Guernsey Financial Services Commission within 1 trading day of -
  - (i) price movements in excess of 30% of the starting price at opening, and
  - (ii) transactions where market abuse as defined in the Law of 1987 is capable of being reasonably suspected.

**10.** The taking of positive steps to monitor ongoing issuer compliance with the Listing Rules.

**11.** The taking of positive steps to monitor ongoing member compliance with the Listing Rules and Membership Rules.

## **The Aviation Registry (Guernsey) (Amendment) Ordinance, 2014**

**THE STATES LEGISLATION SELECT COMMITTEE**, in pursuance of the Resolutions of the States of the 30<sup>th</sup> September, 2011<sup>a</sup> and the 1<sup>st</sup> November, 2012<sup>b</sup>, and in exercise of the powers conferred on the States by section 52 of the Aviation Registry (Guernsey) Law, 2013<sup>c</sup> and all other powers enabling them in that behalf, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948<sup>d</sup>, hereby orders:-

### **Amendment of 2013 Law.**

1. The Aviation Registry (Guernsey) Law, 2013 is amended as follows.
2. In the Arrangement of Sections, immediately after the entry in relation to section 35 ("Priority of charges and debts."), insert –  
  
"35A. Powers on default."
3. In section 31(3)(b), for the words "or assigned", substitute ", assigned or otherwise transferred".
4. Immediately after section 35, insert the following section –

---

<sup>a</sup> Article XVI of Billet d'État No. XV of 2011.

<sup>b</sup> Article V of Billet d'État No. XXI of 2012.

<sup>c</sup> Order in Council No. XIII of 2013.

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

**"Powers on default."**

**35A.** (1) The provisions of this section, with such variations as may have been agreed by the chargor and the chargee, shall regulate the rights and powers of the parties under a registered charge over a registered aircraft asset.

(2) Where –

- (a) the chargor or the registered owner is in default within the meaning of subsection (3), and
- (b) the chargor and the chargee have at any time so agreed,

the chargee may exercise such of the rights conferred upon him by the following provisions of this section as he considers appropriate, and any such right shall be in addition to, and not in derogation from, any other remedy whether arising from the registered charge or any other agreement between the parties or otherwise.

(3) The chargor or the registered owner shall be in default if –

- (a) the chargee has required the discharge or performance of any debt, obligation or liability to which the registered charge relates and the chargor fails to meet that requirement,

- (b) the chargor or the registered owner has failed to comply with any other term or condition of the registered charge, or
- (c) any other event or circumstance specified by agreement between the chargor and the chargee to constitute a default or otherwise give rise to the rights and remedies specified in this section has occurred or arisen.

(4) Where the chargor or the registered owner is in default within the meaning of subsection (3), the chargee may take possession of the registered aircraft asset subject to the charge.

(5) The power of taking possession conferred by subsection (4) in respect of a registered aircraft asset which is an aircraft extends to any aircraft documents carried in it, and any such documents may, if the registered aircraft asset is sold or made subject of a lease under this section, be transferred by the chargee to the purchaser or the lessee, as the case may be; and for the purposes of this subsection "**aircraft documents**" means any certificate of registration, maintenance or airworthiness of that aircraft, any log book relating to the use of that aircraft or its equipment and any similar document.

(6) Where a chargee has taken possession of a registered aircraft asset, the chargee may –

- (a) manage or use the asset,

- (b) collect or receive any income or profit arising from the management or use of the asset,
- (c) pay insurance premiums and expenses of such management or use,
- (d) effect repairs and make replacements of parts, and
- (e) recover all expenses, payments and disbursements incurred by him in relation to the exercise of these powers as sums due under his registered charge with interest thereon at the rate stipulated therein from the respective dates of payment or disbursement.

(7) Where the chargor or the registered owner is in default within the meaning of subsection (3), the chargee may sell or grant a lease over the registered aircraft asset subject to the registered charge in accordance with the following provisions of this subsection –

- (a) the registered chargee who intends to sell or grant a lease over the registered aircraft asset shall give not less than 60 days notice in writing of that intention to the chargor, the registered owner and every other person holding a prior registered charge over the registered aircraft asset, but the said period of notice may be dispensed with or shortened

with the consent of all the persons to whom notice is required to be given,

- (b) on the expiry of, or the dispensing with, the period of notice, or, as the case may be, of the shortened period of notice, the chargee may sell or grant a lease over the registered aircraft asset with the consent in writing of every other prior chargee holding a registered charge over the registered aircraft asset, and
- (c) in the event of any prior chargee who holds a registered charge over the registered aircraft asset withholding his consent, the chargee who has served the notice may apply to the Royal Court for permission to sell or grant a lease over the registered aircraft asset; any such application shall be served upon any chargee who has withheld his consent and may be granted by the Court, subject to such conditions as it thinks reasonable in all the circumstances.

(8) Upon a sale or grant of a lease under this section, the chargee must take all reasonable steps to ensure that the sale or lease is made at the best price reasonably obtainable at the time of sale or lease having regard to his own interests and the method of sale adopted.

(9) Moneys received by a chargee –

- (a) from the sale of or grant of a lease over, or
- (b) in accordance with subsection (6)(b) in relation to,

the registered aircraft asset shall, after payment of all expenses properly incurred by him in connection with any sale or grant of a lease, or any prior attempted sale or grant of a lease of the registered aircraft asset, be held by him in trust to be applied in accordance with the provisions of section 35, and any residue of the moneys so received shall be paid to the registered owner or to any person authorised by the chargor to give receipts therefor.

(10) If a registered charge provides that a power of sale, grant of a lease or power to act in accordance with subsection (6) shall be exercised only on the authority of an order of the Court, then the Court, on the application of the chargee –

- (a) shall grant such an order upon being satisfied that a power of sale, power to grant a lease or power to act in accordance with subsection (6) has arisen and has become enforceable under this Law, but
- (b) subject to subsection (8), may grant the order either unconditionally or on such conditions as the Court thinks fit, and
- (c) may order the chargor to do such acts and things as to the Court seem requisite for the effective execution of the power of sale, power to grant a lease or power to act in accordance with subsection (6)."



5. In section 37, after "and the charge shall" insert ", subject to the provisions of section 35,".

**Amendment of 1636 Ordinance.**

6. In the Ordinance concerning "Hypothèques etc" passed at the Chief Pleas after Easter 1636<sup>e</sup> after the words "la loi intitulée "the Security Interests (Guernsey) Law, 1992"" insert "ou dans un meuble anglicé "a registered aircraft asset" selon les provisions de la loi intitulée "the Aviation Registry (Guernsey) Law, 2013"".

**Citation.**

7. This Ordinance may be cited as the Aviation Registry (Guernsey) (Amendment) Ordinance, 2014.

**Commencement.**

8. This Ordinance shall come into force on the 23<sup>rd</sup> January, 2014.

---

<sup>e</sup> Recueil d'Ordonnances, Tome I, p. 174.