

BILLET D'ÉTAT No. XXIII, 2015

9th DECEMBER 2015

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**The Income Tax (Zero 10)
(Company Higher Rate)
(Amendment) (Guernsey) Ordinance, 2015**

THE STATES, in pursuance of their Resolution of the ** October, 2015^a, and in exercise of the powers conferred on them by sections 203A and 208C of the Income Tax (Guernsey) Law, 1975^b and all other powers enabling them in that behalf, hereby orders:-

Amendment of 1975 Law.

1. The Income Tax (Guernsey) Law, 1975 ("**the Law**"), as amended, is further amended as follows.

2. After section 2(2)(b)^c insert the following paragraphs -

"(ba) income from gas and hydrocarbons business,

(bb) income from large retail business,".

3. After section 7B^d insert the following section -

"Calculation of income from gas and hydrocarbons business and large retail business.

7BA. For the avoidance of doubt, income from gas and hydrocarbons business and large retail business shall be calculated in the same manner as income from any other business.".

^a Proposition II of Billet d'État No. XIX of 2015.

^b Ordres en Conseil Vol. XXV, p. 124; section 203A was inserted by Order in Council No. XVII of 2005 and section 208C was inserted by Order in Council No. V of 2011.

^c Section 2 was substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007 (Order in Council No. V of 2011).

^d Section 7B was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007 (Order in Council No. VI of 2011).

4. After section 47G(b)^e insert the following paragraphs -

"(ba) gas and hydrocarbons business carried on in Guernsey,

(bb) large retail business carried on in Guernsey,".

5. After section 139(4)^f insert the following subsection -

"(5) In addition, subsection (2) does not apply in any year of charge to the losses of a company where -

(a) in the year of charge 2015 the company's income fell within class 2(2)(d),

(b) the company is carrying on the same business as it was carrying on in the year of charge 2015, and

(c) the company's income falls within class 2(2)(ba) or 2(2)(bb).".

6. In section 209(1) insert the following definitions at the appropriate places -

"gas and hydrocarbons business" means the business of the importation and/or supply of gas or hydrocarbon oil in Guernsey, except where the business does not import gas or hydrocarbon oil and supplies it solely by means of a retail outlet from which it is sold directly to the public solely for use in motor vehicles or boats, and for the purposes of this definition -

^e Section 47G was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007 (Order in Council No. VI of 2011).

^f Section 139(4) was added by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015 (Ordinance No. XXV of 2015).

- (a) **"gas"** means -
- (i) any substance in a gaseous state which consists wholly or mainly of -
 - (A) methane, ethane, propane, butane, hydrogen or carbon monoxide,
 - (B) a mixture of two or more of those gases, or
 - (C) a combustible mixture of one or more of those gases and air, and
 - (ii) any other substance in a gaseous state which is gaseous at a temperature of 15 degrees C and a pressure of 1013.25 millibars and which is not exempted by statement of practice issued by the Director under section 204, and
- (b) **"hydrocarbon oil"** means any petroleum oil, coal tar or oil produced from coal, shale, peat or any other bituminous substance, or any liquid hydrocarbon, except any hydrocarbon or bituminous or asphaltic substance which is -
- (i) solid or semi-solid at a temperature of 15 degrees Celsius, or
 - (ii) gaseous at a temperature of 15 degrees Celsius and under a pressure of 1013.25 millibars,

and which is ordinarily used as fuel for the propulsion of any vehicle, vessel or aircraft or as boiler or furnace fuel,"

"large retail business" means a retail business carried on in Guernsey the taxable profits arising or accruing from which in any year of charge exceed £500,000, provided that -

- (a) in the case of a retail business carried on in Guernsey for only a proportion of any year of charge, the threshold of £500,000 referred to in this definition, above which the business from which the taxable profits arose or accrued is considered to be a large retail business, shall in respect of that year of charge be reduced pro rata to the same proportion,
- (b) a retail business more than 95% of the customers of which are outside Guernsey shall not be considered to be a large retail business,
- (c) the taxable profits arising or accruing from associated companies carrying on retail business in Guernsey shall be considered to have arisen or accrued from the same business and shall accordingly be aggregated for the purposes of calculating the threshold of £500,000 referred to in this definition (reduced pro rata where appropriate in accordance with paragraph (a)), and the liability to tax shall be apportioned between the companies according to their respective profits whether or not the taxable profits arising or accruing to the company in question exceeded the said threshold,

- (d) a business shall not be considered to be a retail business for the purposes of this definition to the extent that its taxable profits arise or accrue from the provision of services, and
- (e) for the avoidance of doubt a retail business includes an online retail business, but excludes wholesale trade,

and companies shall be considered to be "**associated companies**" for the purposes of this definition if at the time in question one of the companies has control over the other or both companies are under the control of the same person or persons (and for the purposes of this definition the expression "control" shall be construed in accordance with section 122(1)).

The Department may by regulation amend this definition,".

7. In the Fifth Schedule in the table therein insert the following entries immediately below the entry relating to "Income from trading activities regulated by the Guernsey Competition and Regulatory Authority"⁸ -

"2(2)(ba)	Income from gas and hydrocarbons business	company higher rate	20%
2(2)(bb)	Income from large retail business	company higher rate	20%".

Year of computation: special provision.

8. Section 6(3A) of the Law applies to any company where the applicable rate of taxation of that company's income is altered by the provisions of this Ordinance *mutatis mutandis*.

⁸ The Fifth Schedule was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007 (Order in Council No. V of 2011).

Citation.

9. This Ordinance may be cited as the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015.

Commencement.

10. This Ordinance shall come into force on the 1st January, 2016.

The Income Tax (Tax Relief on Interest Payments) (Guernsey) (Amendment) Ordinance, 2015

THE STATES, in pursuance of their Resolution of the ** October, 2015^a, and in exercise of the powers conferred on them by sections 39A, 203A and 208C of the Income Tax (Guernsey) Law, 1975, as amended^b and all other powers enabling them in that behalf, hereby order:-

Amendment of Ordinance.

1. For section 1(2)(b)(ii) of the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007^c, substitute the following subparagraph -

"(ii) the amount of interest paid and in respect of which the deduction is claimed exceeds the amount specified in column 1 of the table below for any individual borrower (or the amount specified in column 2 for a married couple where each party to the marriage is the borrower) in the applicable year of charge specified in column 3 :-

^a Proposition V of Billet d'État No. XIX of 2015.

^b Ordres en Conseil Vol. XXV, p. 124; section 39A was inserted by Order in Council No. XVII of 2001 (Ordres en Conseil Vol. XLI, p. 597); section 203A was inserted by Order in Council No. XVII of 2005; and section 208C was inserted by Order in Council No. V of 2011.

^c Ordinance No. I of 2008 (Receuil d'Ordonnances Tome XXXIII, p. 1); subparagraph (ii) was substituted by the Income Tax (Tax Relief on Interest Payments) (Guernsey) (Amendment) Ordinance, 2014 (No. XX of 2014).

1. Amount for an individual borrower	2. Amount for a married couple	3. Year of charge in which those amounts are applicable
£13,000	£26,000	2016
£11,000	£22,000	2017
£9,500	£19,000	2018
£8,000	£16,000	2019
£6,500	£13,000	2020
£5,000	£10,000	2021
£3,500	£7,000	2022
£2,000	£4,000	2023
£1,000	£2,000	2024
£0	£0	2025 and subsequent years of charge".

Citation.

2. This Ordinance may be cited as the Income Tax (Tax Relief on Interest Payments) (Guernsey) (Amendment) Ordinance, 2015.

Commencement.

3. This Ordinance shall come into force on the 1st January, 2016.

The Income Tax (Guernsey) (Amendment) Ordinance, 2015

THE STATES, in pursuance of their Resolution of the ** October, 2015^a, and in exercise of the powers conferred on them by sections 203A and 208C of the Income Tax (Guernsey) Law, 1975^b and all other powers enabling them in that behalf, hereby order:-

Amendment of 1975 Law.

1. The Income Tax (Guernsey) Law, 1975, as amended, is further amended as follows.

2. In section 43(1) -

- (a) after the words "living with her husband shall" insert ", in a case where the marriage occurred before the 1st January, 2016, ", and
- (b) in the proviso after the words "Provided that if," insert "in any such case, ".

3. In section 44 after the word "Where" insert ", in a case of a husband and wife whose marriage occurred before the 1st January, 2016".

4. In section 45(1) after the words "a married woman living with her husband," insert "then, in a case where the marriage occurred before the 1st January, 2016,".

5. In section 46(1) for the words "An application" substitute "In a case where the marriage occurred before the 1st January, 2016, an application".

^a Proposition VI of Billet d'État No. XIX of 2015.

^b Ordres en Conseil Vol. XXV, p. 124; section 203A was inserted by Order in Council No. XVII of 2005 and section 208C was inserted by Order in Council No. V of 2011.

6. In section 46(2) after the words "A notice of withdrawal of application" insert "in such a case".

7. In section 47 after the words "Whilst any such application is in force" insert "in a case where the marriage occurred before the 1st January, 2016, ".

8. After section 47 insert the following section -

"Equivalent treatment for same sex marriages and civil partnerships."

47AA. (1) Two individuals of the same sex who have together entered into a marriage or a civil partnership shall be treated for the purposes of this Law in the same way as a husband and wife, and references in this Law or any Ordinance or regulation under it (however expressed) to a husband, wife or widow, a spouse, a marriage or a party to a marriage, or an individual who is married or unmarried, shall be construed accordingly.

(2) For the purposes of section 43(1) any income of the younger partner to the same sex marriage or civil partnership living with the elder partner thereto shall for the purposes of assessment, charge, collection, computation of total income and reliefs be treated as if it were the income of the elder partner, and the other provisions of this Chapter shall apply accordingly, mutatis mutandis.

(3) A marriage under the law of any territory is not prevented from being recognised for the purposes of this Law only because it is the marriage of a same sex couple.

(4) A "**civil partnership**" means -

- (a) the relationship between two persons who have registered as civil partners under the Civil Partnership Act 2004^c, or under the Civil

^c An Act of Parliament (2004 c. 33).

Partnership (Jersey) Law 2012, or who are treated under the Civil Partnership Act 2004 as having formed a civil partnership by virtue of having registered an overseas relationship within the meaning of that Act, and whose civil partnership, or registered overseas relationship, has not been dissolved or annulled, or

- (b) a relationship established under the law of a territory other than the United Kingdom or Jersey and of a character which in the opinion of the Director is equivalent or substantially similar to a civil partnership formed under the Civil Partnership Act 2004, and which relationship has not been dissolved or annulled.

(5) The Department may by regulation amend this section."

9. In section 81A(1)(c)^d after "the provisions of subsection (1) of section forty-three of this Law" insert "(as read with section 47AA)".

10. In section 81B(1)(c)^e after "the provisions of section 43(1)" insert "(as read with section 47AA)".

Citation.

11. This Ordinance may be cited as the Income Tax (Guernsey) (Amendment) Ordinance, 2015.

Commencement.

^d Section 81A was inserted by Order in Council No. VII of 1979 (Vol. XXVII, p. 118).

^e Section 81B was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007 (Order in Council No. V of 2011).

12. This Ordinance shall come into force on the 1st January, 2016.

The Elections Ordinance, 2015

THE STATES, in pursuance of their Resolutions of the 25th June, 2015^a and 29th September, 2015^b, and in exercise of the powers conferred on them by Articles 29(3), 34(11), 39(2) and 44(1) of the Reform (Guernsey) Law, 1948, as amended^c and all other powers enabling them in that behalf, hereby order:-

Date of People's Deputies' Election.

1. The date for the General Election of People's Deputies to be held in April 2016 shall be the 27th April, 2016.

Closure of Entries to Electoral Roll.

2. In relation to the General Election referred to in section 1, the Electoral Roll shall be closed on 29th February, 2016.

Electoral expenditure: People's Deputies.

3. A candidate in an election for the office of People's Deputy may, during the period beginning on the day on which he delivers his nomination form to the Presiding Officer of the States and ending on the day of the election, expend money or give value in money's worth in respect of that election up to a maximum

^a Article X of Billet d'État No. XI of 2015.

^b Billet d'État No. XVII of 2015.

^c Ordres en Conseil Vol. XIII, p. 288; Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, p. 84; Vol. XIX, p. 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, p. 164; Vol. XXXII, p. 41; Vol. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, pp 150 and 295; Order in Council No. XIII of 2003; No. III of 2004; Nos. II and XX of 2007; Nos. XIII and XXII of 2008; No. VII of 2010; No. II of 2012; Ordinance No. XXXIII of 2003 and No. XXVI of 2008.

of £2,300.

Hours of Polling for certain Districts.

4. At every election for the office of People's Deputy held in the Electoral Districts of St Peter Port South, St Peter Port North, the Castel, the West, the South-East and the Vale every polling station must open at 8.00 a.m. and be kept open until 8.00 p.m.

Repeals.

5. (1) The Elections Ordinance, 2011^d is repealed.

(2) Section 2 of the By-election (Saint Peter Port North) Ordinance, 2015 is repealed.

Citation.

6. This Ordinance may be cited as the Elections Ordinance, 2015.

Commencement.

7. This Ordinance shall come into force on the 1st January, 2016.

^d Ordinance No. XXX of 2011.

The Sunday Trading (Repeal) Ordinance, 2015

THE STATES, in pursuance of their Resolution of the 1st October 2015^a, and in exercise of the powers conferred on them by section 2 of the Sunday Trading (Guernsey) Law, 1973^b, hereby order: -

Repeal.

1. The following Ordinances are repealed -
 - (a) the Sunday Trading Ordinance, 2002^c,
 - (b) the Sunday Trading (Amendment) Ordinance, 2003^d, and
 - (c) the Sunday Trading (Amendment) Ordinance, 2004^e.

Extent.

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

Citation and Commencement.

3. This Ordinance may be cited as the Sunday Trading (Repeal) Ordinance, 2015 and shall come into force on 11th December, 2015.

^a Article XVI of Billet d'État XVI of 2015.

^b Ordres en Conseil Vol. XXIV, p. 48.

^c Ordinance No. XIV of 2002; as by amended Ordinance No. XXVIII of 2003; No. XXXIII of 2003 and No. XXXIV of 2004.

^d Ordinance No. XXVIII of 2003.

^e Ordinance No. XXXIV of 2004.

The Burundi (Restrictive Measures) (Guernsey) Ordinance, 2015

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^a, as amended 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^b, as amended, hereby orders:-

Application and infringement of EU Regulation.

1. (1) Subject to the modifications in section 2, Council Regulation (EU) No. 1755/2015 of the 1st October 2015^c, concerning restrictive measures in respect of the situation in Burundi ("**the EU Regulation**") has full force and effect in Guernsey.

(2) A person who contravenes, or causes or permits any contravention of, any of the prohibitions in or requirements of the EU Regulation is guilty of an offence.

Modification of Regulation.

2. The modifications referred to in section 1 are as follows -

- (a) Articles 15 and 16 shall not apply,
- (b) a reference to the competent authority of a Member State shall be construed so as to include the Policy Council,

^a Ordres en Conseil Vol. XXXV(1), p. 65.

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

^c OJ L 257, 2.10.2015, p.1.

- (c) a reference to the obligation of a competent authority of a Member State, or Member State, to inform or notify shall be construed as an obligation on the part of the Policy Council to inform or notify one of Her Majesty's Principal Secretaries of State,
- (d) a reference to the obligation of any natural or legal person, entity or body to transmit information to the Commission shall be construed as an obligation to transmit such information to the Policy Council,
- (e) a reference to a Member State shall be construed so as to include Guernsey,
- (f) a reference to the Union shall be construed so as to include Guernsey,
- (g) a reference to a vessel under the jurisdiction of a Member State shall be construed so as to include a Guernsey ship and a Guernsey fishing vessel,
- (h) a reference to an aircraft under the jurisdiction of a Member State shall be construed so as to include an aircraft registered on the Register of Aircraft established under the Aviation Registry (Guernsey) Law, 2013^d,
- (i) a reference to the territory of the Union and its airspace shall be construed so as to include Guernsey, its airspace and the territorial waters adjacent thereto, and
- (j) the inclusion of any natural or legal person, entity or body in the list provided for by Article 2 of the EU

^d Order in Council No. XIII of 2013; Ordinance No. XI of 2014.

Regulation shall be subject to any annulment of the EU Regulation in its application to that person, entity or body by the Court of Justice of the European Union and having effect in the European Union for the time being.

Appeals against decisions of Policy Council.

3. (1) A person aggrieved by a decision of the Policy Council made under the EU Regulation 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) An appeal under this section shall be instituted -

- (a) within a period of 28 days immediately following the date of the decision of the Policy Council (or such other period as the Ordinary Court may in any particular case direct), and
- (b) by summons served on the Chief Minister stating the grounds and material facts on which the appellant relies.

(3) The Chief Minister may, where an appeal under this section has been instituted, apply to the Ordinary Court, by summons served on the

appellant, for an order that the appeal shall be dismissed for want of prosecution; and, on hearing the application, the Court may -

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

and the provisions of this subsection are without prejudice to the inherent powers of the Royal Court or to the provisions of rule 52(3) of the Royal Court Civil Rules, 2007^e.

(4) On an appeal under this section the Ordinary 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.

(5) On an appeal under this section the Ordinary 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.

(6) An appeal from a decision of the Ordinary Court made on an appeal under this section lies, with leave of the Ordinary Court or Court of Appeal, to the Court of Appeal on a question of law.

(7) Section 21 of the Court of Appeal (Guernsey) Law, 1961^f

^e O.R.C. No. IV of 2007; amended by No. II of 2008.

^f Ordres en Conseil Vol. XVIII, p. 315; there are amendments not material to this Ordinance.

("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under subsection (6) as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Powers to obtain information.

4. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Policy Council, of information and documents 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 any obligation to provide information to or co-operate with the Policy Council in the exercise of any power to request or demand the provision of information, or the co-operation of any person, under any article of the EU Regulation is guilty of an offence.

Furnishing of false information etc.

6. A person who in purported compliance with any article 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.

Offences by legal persons and unincorporated bodies.

8. (1) Where a legal person 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, or any foundation official, of the legal person, or any person purporting to act in any such capacity, he as well as the legal person is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a legal person 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 legal person.

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

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

in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where an offence under this Ordinance is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of that body and not in the name of any of its members.

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

Certain provisions of Customs and Excise Law applicable.

9. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 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, fines, penalties and proceedings for offences under this Ordinance as they apply to offences, fines, penalties and proceedings for offences under the customs Laws or excise Laws.

Interpretation.

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

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

"**Bailiff**" includes the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff, a Juge-Délégué and a Judge of the Royal Court,

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

"**Court of Appeal**" means the court established by the Court of Appeal (Guernsey) Law, 1961,

"**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,

"**enactment**" includes a Law, an Ordinance and any subordinate legislation,

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

"**foundation official**" has the same meaning as it does under the Foundations (Guernsey) Law, 2012^g,

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

"**Guernsey fishing vessel**" and "**Guernsey ship**" have the meanings given by section 294(1) of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^h,

"**Judge of the Royal Court**" means the office of that name established by section 1 of the Royal Court (Reform) (Guernsey) Law, 2008ⁱ,

"**Ordinary Court**" means the Royal Court of Guernsey sitting as an Ordinary Court which, for the purposes of this Ordinance, may be validly constituted by the Bailiff sitting alone,

^g Order in Council No. I of 2013.

^h Ordres en Conseil Vol. XLIV(2), p. 1; Orders in Council No. XIII of 2010 and No. VIII of 2015; Recueil d'Ordonnances Tome XXIX, p. 406; Tome XXXIII, p. 624; Ordinance No. LIV of 2012 .

ⁱ Order in Council No. XXII of 2008.

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

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance, 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, 1989¹,

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.

11. This Ordinance may be cited as the Burundi (Restrictive Measures) (Guernsey) Ordinance, 2015.

Commencement.

12. This Ordinance shall come into force on the 6th October, 2015.

¹ Ordres en Conseil Vol. XXXI, p. 278.

SCHEDULE
INFORMATION

Section 4

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 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 legal person, any other person who is a present or past officer of, or is employed by, the legal person, 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, tampers with, falsifies, secretes, removes or otherwise disposes of 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 or order 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 right of

Guernsey,

- (c) on the authority of the Policy Council, to the European Commission, to any of the competent authorities listed in or under the EU Regulation or any annex thereto, or to one of Her Majesty's Principal Secretaries of State, for the purpose of assisting the Commission, that competent authority or that Principal Secretary of State 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.