

**THE IMAGE RIGHTS (BAILIWICK OF GUERNSEY) (AMENDMENT) ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Image Rights (Bailiwick of Guernsey) (Amendment) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

**EXPLANATORY MEMORANDUM**

This Ordinance amends the Image Rights (Bailiwick of Guernsey) Ordinance 2012 so as to insert a power enabling the Registrar to issue, after consultation with the Economic Development Committee and other interested parties, Codes of Practice giving guidance as to procedures and best practice in relation to registered image rights, including standards of conduct to be observed by registered image rights agents. The provisions of such codes and any breach thereof may be taken into account by the Registrar in exercising his functions and in any legal proceedings. An amendment is also made to the Image Rights (Bailiwick of Guernsey) Regulations 2012 so as to enable the Registrar to obtain information from agents regarding standards of practice etc in order to assist him in exercising his functions under the Ordinance.



# **The Image Rights (Bailiwick of Guernsey) (Amendment) Ordinance, 2017**

**THE STATES**, in pursuance of their Resolution of the 30<sup>th</sup> September, 2011<sup>a</sup>, and in exercise of the powers conferred on the States by sections 1 and 3 of the Intellectual Property (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004<sup>b</sup>, and all other powers enabling the States in that behalf, hereby orders:-

## **Amendment to the Image Rights (Bailiwick of Guernsey) Ordinance, 2012.**

1. (1) The Image Rights (Bailiwick of Guernsey) Ordinance, 2012 is amended as follows.

(2) After section 81, insert the following section –

### **"Codes of practice.**

81A. (1) The Registrar may, after consultation with –

- (a) the Committee, and
- (b) such other persons as appear to the Registrar to be appropriate including, without limitation, persons representative of the intellectual property industry,

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

<sup>b</sup> Orders in Council No. XIV of 2004; as amended by Recueil d'Ordonnances Tome XXIX, p. 406, No. XXXIX of 2015 and No. IX of 2016.

issue such codes of practice as the Registrar thinks necessary –

- (i) for the purpose of providing guidance as to the duties, requirements and standards (including, without limitation, standards of professional conduct and practice) to be complied with and the procedures and best practices to be observed by registered image rights agents,
- (ii) generally for the purposes of this Ordinance.

(2) A code of practice under this section may contain such transitional or savings provisions as appear to the Registrar to be necessary or expedient.

(3) The Registrar may, after consultation as mentioned in subsection (1), revise the whole or any part of a code of practice issued under this section and issue that revised code.

(4) A contravention by any person of a provision of a code of practice under this section shall not of itself render him liable to any proceedings; but –

- (a) the Registrar may take the provision of the code and the contravention thereof into account in determining whether and in what

manner to exercise the powers conferred on the Registrar by or under this Ordinance, and

- (b) in any legal proceedings, whether or not under this Ordinance, the provision of the code shall be admissible in evidence, and if the provision appears to the court or other tribunal before which the proceedings are being conducted to be relevant to any question arising in the proceedings then the provision may be taken into account in determining that question."

**Amendment to the Image Rights (Bailiwick of Guernsey) Regulations, 2012.**

2. (1) The Image Rights (Bailiwick of Guernsey) Regulations, 2012<sup>c</sup> are amended as follows.

(2) After regulation 8 of the Image Rights (Bailiwick of Guernsey) Regulations, 2012, insert the following regulation –

**"Notification to the Registrar.**

8A. (1) The Registrar may require a registered image rights agent to notify the Registrar in writing of any matter that is determined by the Registrar to be relevant or material in relation to the duties, requirements and standards (including, without limitation, standards of professional conduct and practice) to be complied with, and the procedures and best practices to be observed, by registered image rights agents.

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<sup>c</sup> Guernsey Statutory Instrument No. 55 of 2012.

(2) A requirement made by the Registrar under paragraph (1) may be in such form and manner as the Registrar thinks fit (including, without limitation, by written notice or the issue of a code of practice).".

**Extent.**

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

**Citation.**

4. This Ordinance may be cited as the Image Rights (Bailiwick of Guernsey) (Amendment) Ordinance, 2017.

**Commencement.**

5. This Ordinance shall come into force on the 1<sup>st</sup> April, 2017.