

# **BILLET D'ÉTAT No. XXI, 2006**

**13<sup>th</sup> December, 2006**

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	<i>Page</i>
Projet de Loi entitled “The Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006”	1

# PROJET DE LOI

ENTITLED

## **The Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006**

**THE STATES**, in pursuance of their Resolution of the 27<sup>th</sup> July, 2006<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### **Amendment of Financial Services Commission Law.**

1. After section 23 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended<sup>b</sup>, insert the following section -

#### **"Power of the States to amend Law by Ordinance.**

**23A.** (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, orders or regulations (and vice versa).

(3) An Ordinance under this section may, for the

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<sup>a</sup> Article XIX of Billet d'État No. XIII of 2006.

<sup>b</sup> Ordres en Conseil Vol. XXX, p. 243; amended by No. XX of 1991; No. XIII of 1994; No. II of 1997; No. II of 1998; No's. XVII and XXI of 2002; No's. III and XXII of 2003; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII); and the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005 (No. XXXIV).

avoidance of doubt -

- (a) create offences, and
- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.

(4) Any department, council or committee of the States of Guernsey shall -

- (a) before recommending the States to agree to make an Ordinance under this section, consult the General Purposes and Finance Committee of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance, and
- (b) inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon.

(5) A failure to comply with subsection (4) does not invalidate an Ordinance under this section."

**Amendment of Banking Supervision Law.**

2. After section 55 of the Banking Supervision (Bailiwick of Guernsey)

Law, 1994, as amended<sup>c</sup>, insert the following section -

**"Power of States to amend Law by Ordinance.**

**55A.** (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, regulations or rules (and vice versa).

(3) An Ordinance under this section may, for the avoidance of doubt -

(a) create offences, and

(b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.

(4) Any department, council or committee of the States of Guernsey shall -

(a) before recommending the States to agree to make an Ordinance under this section, consult the General Purposes and Finance Committee of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in

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<sup>c</sup> No. XIII of 1994; amended by No's. XVII and XXI of 2002; No. XVI of 2003; and the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

relation to the terms of the proposed Ordinance, and

- (b) inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon.

(5) A failure to comply with subsection (4) does not invalidate an Ordinance under this section."

**Amendment of Protection of Investors Law.**

3. For section 43 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended<sup>d</sup>, substitute the following sections -

**"Power of States to amend Law by Ordinance.**

43. (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, orders, regulations or rules (and vice versa).

(3) An Ordinance under this section may, for the avoidance of doubt -

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<sup>d</sup> Ordres en Conseil Vol. XXX, p. 281; amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; No. XIII of 1994; No. XII of 1995; No. II of 1997; No. XVII of 2002; and by No's XV and XXXII of 2003. Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Ordinances X and XX of 1998; and the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

- (a) create offences, and
- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.

(4) Any department, council or committee of the States of Guernsey shall -

- (a) before recommending the States to agree to make an Ordinance under this section, consult the General Purposes and Finance Committee of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance, and
- (b) inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon.

(5) A failure to comply with subsection (4) does not invalidate an Ordinance under this section.

**Other provisions relating to Ordinances.**

**43A.** (1) The States may by Ordinance make provision for the purpose of carrying this Law into effect and for any matter for which provision may be made under this Law by Ordinance of the States.

(2) The States may by Ordinance empower the Committee to prescribe by regulations anything for which provision may be made under this Law by Ordinance of the States.

(3) An Ordinance under this Law -

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient.

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

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -
  - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
  - (ii) the same provision for all cases, or

different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

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

**Amendment of Regulation of Fiduciaries Law.**

4. After section 57 of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000, as amended<sup>e</sup>, insert the following section -

**"Power of States to amend Law by Ordinance.**

**57A.** (1) The States may by Ordinance amend this Law.

(2) Subsection (1) is without prejudice to any other provision of this Law conferring power to enact Ordinances, regulations or rules (and vice versa).

(3) An Ordinance under this section may, for the avoidance of doubt -

(a) create offences, and

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<sup>e</sup> Order in Council No. I of 2001; amended by No. XIV of 2003; and by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).



- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.

(4) Any department, council or committee of the States of Guernsey shall -

- (a) before recommending the States to agree to make an Ordinance under this section, consult the General Purposes and Finance Committee of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance, and
- (b) inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon.

(5) A failure to comply with subsection (4) does not invalidate an Ordinance under this section; but such an Ordinance does not have effect -

- (a) in Sark if, within a period of four months immediately following the day of its approval by the States of Deliberation, the Chief Pleas of Sark disapprove its application to Sark, or
- (b) in Alderney if, within a period of four months immediately following the day of its approval

by the States of Deliberation, the States of Alderney disapprove its application to Alderney."

**Amendment of Insurance Business Law.**

5. After section 85(1) of the Insurance Business (Bailiwick of Guernsey) Law, 2002, as amended<sup>f</sup>, insert the following subsection -

"(1A) An Ordinance under this section may, for the avoidance of doubt -

- (a) create offences, and
- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law."

**Amendment of Insurance Managers and Insurance Intermediaries Law.**

6. After section 62(1) of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002, as amended<sup>g</sup>, insert the following subsection -

"(1A) An Ordinance under this section may, for the avoidance of doubt -

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<sup>f</sup> No. XXI of 2002; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

<sup>g</sup> No. XXII of 2002; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

- (a) create offences, and
- (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law."

**Citation.**

7. This Law may be cited as the Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006.