

BILLET D'ÉTAT No. XXIV, 2007

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PROJET DE LOI

ENTITLED

The Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007

THE STATES, in pursuance of their Resolutions of the 28th September, 2005^a, the 30th June, 2006^b, the 30th May, 2007^c the 25th July, 2007^d and the 26th September, 2007^e, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the islands of Guernsey and Herm.

Amendment of 1975 Law.

1. This Law amends the Income Tax (Guernsey) Law, 1975, as amended^f ("the Law of 1975").

^a Article XII of Billet d'État No. XIV of 2005.

^b Billet d'État No. XI of 2006.

^c Article XI of Billet d'État No. XIV of 2007.

^d Article VIII of Billet d'État No. XIX of 2007.

^e Articles IV and VI of Billet d'État No. XX of 2007.

^f Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146, 200 and 292; Vol. XXVII, pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; No's. IV and VIII of 1993; No. XXV of 1994; No's. III and VII of 1995; No. V of 1996; No's. IV and XXII of 1997; No's. II and VI of 1999; No. IV of 2000; No's. VI and XVII of 2001; No. VII of 2002; No's. IV, XVIII and XXVI of 2003; No's. XII and XVI of 2004; No's. V, VI and XVII of 2005; No's. II and VII of 2006; the Income Tax (Guernsey) (Amendment) Law, 2007; and the Income Tax (Zero 10) (Guernsey) Law, 2007; also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

2. In sections 5(1), 8(2A)(c), 36(1), 51(4), 51A(2), 52(1), 153(1)(a), 153(5), 153(6), 157A(5A), 157AA(1), and 157C(3) of the Law of 1975^g for references to the "standard rate" substitute references to the "appropriate rate".

3. For section 5(1)(d) of the Law of 1975^h substitute the following paragraph -

"(d) in the case of an individual or company not resident in Guernsey, in accordance with the provisions of Chapter IV of Part IV.".

4. In subsection 5(1A) of the Law of 1975ⁱ -

(a) for "paragraphs (b) and (d) of subsection (1) of this section, dividends" substitute "paragraph (b) of subsection (1) of this section, distributions",

(b) in paragraphs (a) and (b) the words "or company" are repealed, and

(c) after paragraph (b) insert the following text -

"For the avoidance of doubt, and without limitation, "any other income of a similar nature" does not include income arising or accruing from the ownership

^g Paragraph (d) of section 5(1) was substituted by Vol. XXVI, p. 200.

^h Paragraph (d) of section 5(1) was substituted by Vol. XXVI, p. 200.

ⁱ Subsection (1A) of section 5 was inserted by No. XXIII of 1989.

of lands and buildings situate in Guernsey.".

5. In subsection 5(1B) of the Law of 1975^j after paragraph (ii) insert the following words –

"Income falling within paragraphs (i) or (ii) shall be "**disregarded partnership income**".".

6. After section 6(3A) of the Law of 1975 insert the following subsection –

"(3B) Notwithstanding the provisions of subsection (3) –

(a) the deemed cessation of trading at midnight on 31 December 2007 does not prevent the company from carrying forward losses available at that date for the purpose of being set-off, in accordance with the provisions of this Law, against profits or income arising in subsequent years, and

(b) in addition –

(i) the proviso in subsection (2) shall apply as if the words from and including "except the year of charge in which the business is commenced" to the end of the subsection were omitted, and

^j Subsection (1B) of section 5 was inserted by No. V of 1996.

- (ii) that deemed cessation of trading does not constitute a permanent discontinuance of the business for the purposes of section 142."

7. After section 7A of the Law of 1975^k insert the following section -

"Calculation of income from activities regulated by OUR.

7B. For the avoidance of doubt, income from activities regulated by the Office of the Director General of Utility Regulation shall be calculated in the same manner as income from any other business."

8. After section 8(7)(b) of the Law of 1975 insert the following paragraph -

"(c) the director is non-resident."

9. After section 9(3) of the Law of 1975 insert the following subsection-

"(4) For the purposes of this Law income from the ownership of land and buildings (Class 2(1)(c) income, in the case of an individual, or Class 2(2)(c) income, in the case of a company) includes income from property development.

However -

^k Section 7A was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007.

- (a) income from property development shall be computed for the purposes of this Law in the same manner as if it were income from business, and
- (b) the only allowances and deductions available in respect thereof shall be those available in respect of income from business."

10. In sections 9, 10, 12, 13 and 16 of the Law of 1975 the words "situate in Guernsey" and "situated in Guernsey", wherever appearing, are repealed.

11. In Chapter IV of Part IV of the Law of 1975, immediately before section 48 insert the following sections -

"CHAPTER IV NON-RESIDENTS

Introduction

Overview of Chapter.

47A. (1) This Chapter provides for limits on the liability to income tax of non-residents.

(2) See sections 47B to 47D in the cases of a non-resident individual.

- (3) See sections 47G to 47H in the case of a non-resident company.

Liability to tax for non-resident individuals

Liability to income tax for non-resident individuals.

47B. Subject to the provisions of this Chapter, a non-resident individual is liable to be charged income tax on his income arising or accruing from –

- (a) businesses carried on in Guernsey,
- (b) offices or employments held or exercised in Guernsey,
- (c) the ownership of lands and buildings situate in Guernsey, and
- (d) any other source in Guernsey.

Limit for non-resident individuals

Limit on liability to income tax of non-resident individuals.

47C. (1) This section applies to income tax to which a non-resident individual is liable.

(2) The non-resident individual's liability to income tax for a year of charge is limited to the sum of amounts A and B.

- (3) Amount A is the sum of –

- (a) any sums representing income tax deducted from the non-resident individual's income for the year of charge,
- (b) any sums representing income tax that are treated as deducted from or paid in respect of that income, and
- (c) any tax credits in respect of that income.

(4) Amount B is the amount that, apart from this section, would be the non-resident individual's liability to income tax for the year of charge, if the following were left out of account -

- (a) the non-resident individual's disregarded individual income for the year of charge, and
- (b) any allowance to which the non-resident individual is entitled for the year of charge as a result of -
 - (i) section 51, or
 - (ii) double taxation arrangements under Part XV.

Meaning of "disregarded individual income".

47D. (1) For the purposes of this Chapter income arising or deemed to have arisen to a non-resident individual is "**disregarded individual income**" if it is -

- (a) income consisting of distributions where it has been proved to the satisfaction of the Administrator that the person to whom the income arose or was deemed to have arisen was a non-resident individual,
- (b) income consisting of interest,
- (c) income consisting of royalties,
- (d) any other income of a similar nature to income described in paragraph (a), (b) or (c),
- (e) disregarded deemed income (see section 47E),
- (f) disregarded transaction income (see section 47F),
- (g) disregarded partnership income (see section 5(1B)),
- (h) the emoluments of the office of director, or
- (i) income of such other description as the Department may by regulations designate for the purposes of this section.

(2) For the avoidance of doubt, and without limitation, **"any other income of a similar nature"** does not include income arising or accruing from the ownership of lands and buildings situate in Guernsey.

(3) However, if the non-resident individual carries on business in Guernsey through a permanent establishment situate in Guernsey in such circumstances that the profits arising from, or attributable to, the permanent establishment are chargeable to tax as income derived from business, then any income to be taken into account in computing the profits so chargeable is not disregarded individual income for the purposes of this Chapter.

Meaning of "disregarded deemed income".

47E. (1) In this Chapter -

"deemed income" means -

- (a) a deemed distribution within the meaning of Chapter VIIIA, and
- (b) a qualifying loan within the meaning of Chapter XII, and

"disregarded deemed income" means deemed income in respect of which it has been proved to the satisfaction of the Administrator that the person to whom the income arose or was deemed to have arisen was a non-resident individual or a non-resident company.

Meaning of "disregarded transaction income".

47F. (1) Subsection (2) applies if a non-resident individual carries on (alone or in partnership) a business through a broker in Guernsey.

(2) Income is "**disregarded transaction income**", subject to subsection (3), if -

- (a) it arises from sales or transactions, and
- (b) the independent broker conditions are met in relation to the sale or transaction in question.

(3) This section needs to be read with -

- (a) section 47J (the independent broker conditions), and
- (b) section 47K (transactions through brokers).

Liability to tax for non-resident companies

Liability to income tax for non-resident companies.

47G. Subject to the provisions of this Chapter, a non-resident company is liable to be charged income tax on its income arising or accruing from -

- (a) banking business carried on in Guernsey,
- (b) activities in Guernsey regulated by the Office of the Director General of Utility Regulation,

- (c) the ownership of lands and buildings situate in Guernsey, and
- (d) any other businesses (other than businesses referred to in any other paragraph of this section), offices and employments, and other sources, in Guernsey.

Limit for non-resident companies

Limit on liability to income tax of non-resident companies.

47H. (1) This section applies to income tax to which a non-resident company is liable.

(2) The non-resident company's liability to income tax for a year of charge is limited to the sum of amounts A and B.

(3) Amount A is the sum of -

- (a) any amounts representing income tax deducted from the non-resident company's income for the year of charge,
- (b) any amounts representing income tax that are treated as deducted from or paid in respect of that income, and
- (c) any tax credits in respect of that income.

(4) Amount B is the amount that, apart from this section, would be the non-resident company's liability to income tax for the year of charge if the non-resident company's disregarded company income for the year of charge were left out of account.

Meaning of "disregarded company income".

47I. (1) For the purposes of this Chapter income arising or deemed to have arisen to a non-resident company is "**disregarded company income**" if it is –

- (a) income consisting of distributions,
- (b) income consisting of interest,
- (c) income consisting of royalties,
- (d) any other income of a similar nature to income described in paragraph (a), (b) or (c),
- (e) disregarded deemed income (see section 47E),
- (f) income arising from a transaction carried out on behalf of the non-resident company in the course of the company's trade through a broker in Guernsey, in relation to which the independent broker conditions are met,
- (g) disregarded partnership income (see section 5(1B)),

- (h) the emoluments of the office of director, or
- (i) income of such other description as the Department may by regulations designate for the purposes of this section.

(2) For the avoidance of doubt, and without limitation, **"any other income of a similar nature"** does not include income arising or accruing from the ownership of lands and buildings situate in Guernsey.

(3) However, if the non-resident company carries on business in Guernsey through a permanent establishment situate in Guernsey in such circumstances that the profits arising from, or attributable to, the permanent establishment are chargeable to tax as income derived from business, then any income to be taken into account in computing the profits so chargeable is not disregarded company income for the purposes of this Chapter.

(4) This section needs to be read with -

- (a) section 47J (the independent broker conditions),
- (b) section 47K (transactions through brokers).

The independent broker conditions

The independent broker conditions.

47J. The independent broker conditions are met in relation to a transaction carried out on behalf of a non-resident company or individual by a broker in Guernsey if the following conditions are met -

- (a) that at the time of the transaction the broker is carrying on the business of a broker,
- (b) that the transaction is carried out by the broker in the ordinary course of that business, and
- (c) that the remuneration which the broker receives in respect of the transaction for the provision of the services of a broker to the non-resident individual is not less than is customary for that class of business.

Transactions through brokers.

47K. (1) For the purposes of this Chapter a person is regarded as carrying out a transaction on behalf of another if the person -

- (a) undertakes the transaction, whether on behalf of or to the account of the other, or
- (b) gives instructions for it to be so carried out by another.

(2) In the case of a person who acts as a broker as part only of a business, this Chapter has effect as if that part were a separate business."

12. In section 48 of the Law of 1975 –

- (a) in subsection (1), for the words "section fifty of this Law", substitute "this Chapter", and
- (b) in subsection (2), the second proviso is repealed.

13. In section 53(1) of the Law of 1975 for the words "standard rate" substitute "appropriate rate (as if it were income of the person beneficially entitled to that income)".

14. After section 53(1) of the Law of 1975 insert the following subsection -

"(1A) If the income to which subsection (1) relates arises under or is comprised in a settlement which is deemed by section 65(3) to be revocable, references in subsection (1) to the person beneficially entitled to such income and other references of a similar nature may, at the discretion of the Administrator, and without prejudice to the liability of the trustee and the person beneficially entitled, be deemed to include references to the settlor.

For the purposes of this subsection "**settlement**" and "**settlor**" have the meanings given by section 65(4).".

15. In sections 56, 61, 62, 69, 173(5), 173(7) and 174 of the Law of 1975 for the word "dividend" substitute "distribution".

16. For the heading to Chapter VIII of Part IV of the Law of 1975 ("Matters relating to dividends") substitute "Matters relating to distributions".

17. In section 57 of the Law of 1975 -

- (a) for the word "dividend" substitute "distribution", and
- (b) after the words "entitled to receive them" insert ", or deemed to have received them in accordance with section 62AB,".

18. For sections 58 and 59 of the Law of 1975 substitute the following sections -

"Computation of gross income represented by Guernsey distributions."

58. Subject as hereinafter provided, a distribution paid by a company resident in Guernsey shall, to the extent to which it is paid out of profits and gains, be deemed, for all the purposes of this Law, to represent income of such an amount as would, after deduction of tax in accordance with section 81B, be equal to the net amount received.

Guernsey distributions paid without full deduction of tax.

59. (1) Where any distribution from which deduction of tax is required by section 81B is paid without deduction of tax, the amount received in respect thereof shall, for the purposes of this Law, be deemed to be a net amount received in respect of a distribution from the gross amount of which such deduction as is required by that section has been made, and the provisions of -

- (a) section 58, and
- (b) section 60 (which relates to the form of

dividend warrants and other documents),

shall apply accordingly.

(2) The provisions of this section shall apply where, though a deduction is made from a distribution, that deduction is less than the full amount required, as it applies where no deduction is made."

19. In section 60 of the Law of 1975 -

(a) in subsection (1), after the words "distribution was" insert "actually", and

(b) in subsection (1B)^I the words "a dividend and" are repealed.

20. In section 61 of the Law of 1975 -

(a) for "beneficially entitled to a dividend from which tax is authorised to be deducted under the provisions of section fifty-seven of this Law shall, on receiving the said dividend and" substitute "the beneficial member in respect of the distribution from which tax is required to be deducted under the provisions of section 81B, shall", and

(b) for the word "authorised" substitute "required".

^I Section 60(1B) was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007.

21. In section 62 of the Law of 1975 the words "distribution or" are repealed^m.

22. After section 62 of the Law of 1975 insert the following sections -

"Meaning of distribution."

62AA. (1) For the purposes of this Law a "**distribution**" shall include any distribution made out of the assets of a company including a dividend, save that it shall not include any repayment of capital to the member or the amount of value of any new consideration given by the member for that distribution.

(2) Subsection (1) may be amended by regulations of the Department.

Person to whom the distribution is made for the purposes of this Law.

62AB. (1) For the purpose of this Law, where the person ("Person A") to whom the distribution has actually been made is -

- (a) resident in Guernsey, the distribution shall be deemed to have been made to the beneficial member unless Person A requests that it be deemed to have been made to them, or
- (b) not resident in Guernsey, the distribution shall be deemed to have been made to the beneficial

^m The word "distribution" was substituted for the word "dividend" by section 15 of this Law.

member.

(2) The beneficial member referred to in subsection (1) shall be the "**beneficial member**" of a company in respect of that distribution (within the meaning of section 62D).

(3) For the avoidance of doubt, this section does not require a company to pay a distribution other than to those entitled to receive that distribution."

23. In Part IV of the Law of 1975, insert the following Chapter after Chapter VIII -

**"CHAPTER VIIIA
DEEMED DISTRIBUTION OF INCOME**

Deemed distribution of company profits and income.

62A. (1) Where a company has undistributed income -

- (a) the company shall be deemed to have distributed the income in the cases or circumstances, at the times and to the persons mentioned in section 62B,
- (b) the deemed distribution shall comprise income in those persons' hands and shall be assessable and tax shall be charged accordingly,
- (c) the company must account for tax on the income in accordance with section 81B, and

- (d) this Law (including for the avoidance of doubt section 40A and any Ordinance under it) applies in relation to the deemed distribution in the same way as it applies in relation to company income which has been distributed.

(2) In this Chapter "**undistributed income**" means income which is assessable to income tax (including disregarded company income) and which has arisen or accrued on or after the 1st January, 2008, and -

- (a) which has not been distributed, or
- (b) which has not previously been deemed under this Chapter to have been distributed,

but excludes income which has been taxed at the company higher rate or any numerically equivalent or higher rate imposed by any other jurisdiction.

For the purposes of this Chapter the Administrator may issue a statement of practice as to the method of calculation of undistributed income.

(3) The States may by Ordinance provide that for the purpose of computing the amount of a company's undistributed income deemed under this Chapter to have been distributed, the income shall (without prejudice to any other provision of this Law relating to allowable deductions from income) be subject to such deductions and allowances as may be specified in the Ordinance.

(4) The Department may by Regulation amend, adapt, modify or disapply -

- (a) any provision of this Chapter, and
- (b) any other provision of this Law relating to undistributed income and the deemed distribution thereof,

either generally or in its application to -

- (i) any company or group of companies or class or description thereof,
- (ii) any member or class or description thereof,
- (iii) any distribution or class or description thereof.

For the purposes of this Chapter a "group" of companies means a number of companies associated in the manner specified in the regulations made under this subsection.

(5) Any income which has been taxed as a deemed distribution pursuant to this Chapter is not liable to be taxed again -

- (a) as an actual or deemed distribution, or

(b) as income in the company's hands.

(6) Any income which has been taxed in the company's hands at the company intermediate rate is only liable to be taxed as a deemed distribution pursuant to this Chapter at a rate equivalent to the difference between the company intermediate rate and the company higher rate.

(7) If a company with undistributed income is deemed pursuant to the provisions of this Part to have made a distribution, the distribution shall be deemed to have been made from the company's undistributed income and only from the company's capital to the extent that the company's undistributed income is insufficient to cover the amount of the distribution; and the provisions of this Part of this Law shall apply accordingly.

Cases in which income is deemed to have been distributed.

62B. (1) For the purposes of section 62A -

- (a) immediately prior to the date of a transaction consisting of the disposal, repurchase and/or redemption of a beneficial member's shares in the company, there shall be deemed to have been distributed to him an amount of the company's undistributed income equivalent to the amount which would have been payable to him had the company distributed all that income at that time,
- (b) immediately prior to the date of the death of a beneficial member, there shall (subject to such

provision as the Administrator may by statement of practice make in respect of relief by way of deferral of tax) be deemed to have been distributed to him an amount of the company's undistributed income equivalent to the amount which would have been payable to him had the company distributed all that income at that time,

- (c) immediately prior to the date of a beneficial member ceasing to be resident in Guernsey, there shall be deemed to have been distributed to him an amount of the company's undistributed income equivalent to the amount which would have been payable to him had the company distributed all that income at that time,
- (d) immediately prior to the date of the migration of a company registered in Guernsey pursuant to the Migration of Companies Ordinance, 1997ⁿ, there shall be deemed to have been distributed to each beneficial member an amount of the company's undistributed income equivalent to the amount which would have been payable to him had the company distributed all that income at that time,

ⁿ Order in Council No. XXVI of 1997.

- (e) immediately prior to the date of the amalgamation of a company there shall be deemed to have been distributed to each beneficial member an amount of the company's undistributed income equivalent to the amount which would have been payable to him had the company distributed all that income at that time,
- (f) immediately prior to the date of the dissolution of a company, there shall be deemed to have been distributed to each beneficial member an amount of the company's undistributed income equivalent to the amount which would have been payable to him had the company distributed all that income at that time,
- (g) in the case of undistributed investment income arising or accruing to a company, there shall be deemed to have been distributed to each beneficial member an amount of that income equivalent to the amount which would have been payable to him had the company distributed all that income on the last day of the calendar quarter in which it arose or accrued,
- (h) immediately prior to the date of the permanent cessation of the whole, or substantially the whole, of a company's business there shall (subject to such provision as the Administrator

may by statement of practice make in respect of relief by way of deferral of tax) be deemed to have been distributed to each beneficial member an amount of the company's undistributed income equivalent to the amount which would have been payable to him had the company distributed all that income at that time,

- (i) there shall be deemed to have been distributed any other undistributed income in respect of which the Administrator has, pursuant to section 67, made an adjustment as respects the liability of any person to tax in order to counteract any avoidance, reduction or deferral of liability.

(2) For the purposes of this section an amount is considered to be "**payable**" to a person if he has rights entitling him, or which in any circumstances whatsoever would entitle him, to receive any such amount from the company, directly or indirectly.

Transitional provisions.

62C. (1) Assessable income of a company which has accrued or arisen on or prior to the 31st December, 2007 and which on that date –

- (a) has been assessed but on which tax has not been paid, shall be deemed to be undistributed income for the purposes of this Chapter on the 1st January, 2008 ("**the operative date**"), or

- (b) has not been assessed but which is later assessed, and on which tax has not been paid by the reporting date of the calendar quarter after the quarter in which the liability to tax arose, shall be deemed to be undistributed income for the purposes of this Chapter on that reporting date ("**the operative date**"),

unless payment of all outstanding liabilities to tax, penalties, surcharges and additional surcharges is made to the satisfaction of the Administrator in accordance with arrangements approved by the Administrator.

On the operative date there shall be deemed to have been distributed to each beneficial member an amount of the company's undistributed income equivalent to the amount which would have been payable to him had the company distributed all that income immediately prior to that date.

(2) When income described in subsection (1) is deemed to be distributed, any tax deducted on the deemed distribution pursuant to sections 62A and 81B shall be set off against the liability of the company in respect of the unpaid tax on that income.

(3) For the avoidance of doubt, surcharges and additional surcharges shall cease to accrue in respect of tax on income which is deemed to be distributed, and is taxed accordingly, under this section.

Interpretation.

62D. (1) For the purposes of this Chapter, a "**beneficial**

member" of a company means an individual who has a beneficial interest or any part of a beneficial interest in a share or any part of a share in that company (but does not include an individual who holds only the legal title of any share or any part of a share).

(2) An individual has the "**beneficial interest**" in a share or any part of a share of a company if he is the beneficial owner thereof or if he has an equitable interest or contractual interest therein (but does not include a bare legal owner of any share or part of a share).

(3) In order to ascertain whether an individual has a beneficial interest in a company, the interest may be traced through any number of companies, partnerships, trusts, agreements or other arrangements of any description.

(4) For the purposes of this section -

(a) "**share**" includes stock, any interest of a capital nature and the capital interest of a member in a company limited by guarantee,

(b) an "**equitable interest**" includes an interest which arises under a trust, or which may in future arise under a trust as a result of -

(i) the exercise of a power or discretion by the trustees or other persons in accordance with the terms of the trust (whether or not with the consent of another),

- (ii) the effluxion of time, or
- (iii) a change of residence,
- (c) without limitation, a person has a "**contractual interest**" where, under an agreement or arrangement -
 - (i) he is entitled or permitted to vote in respect of any share or stock,
 - (ii) the exercise of any of the rights of other persons interested in the company or its shares or stock requires his consent, or
 - (iii) other persons interested in the company can be required or are accustomed to exercise their rights in accordance with his instructions."

24. In section 65(3) of the Law of 1975 before "the wife or husband of the settlor" insert "(irrespective of whether she or he is resident in Guernsey)".

25. After section 65(3) of the Law of 1975 insert the following subsections -

"(3A) For the purposes of this section, references (however expressed) to income which may arise under or be comprised in a settlement, or arising by virtue or in consequence of a settlement, include

the income of –

- (a) any company, or
- (b) other entity,

where that company or other entity is held by, vested in or otherwise under the control (direct or indirect) of the trustees of the settlement (whether alone or with any other person) for the purposes of the settlement, being income attributable to the settlement.

(3B) In ascertaining whether –

- (a) any income arises under or is comprised in a settlement, or
- (b) any company or other entity is held by, vested in or otherwise under the control (direct or indirect) of the trustees of a settlement for the purposes of the settlement,

the income or (as the case may be) the holding, vesting or control may be traced through any number of companies, partnerships, trusts, agreements or other arrangements of any description and, for that purpose, section 62D(2) shall apply (subject to the necessary modifications) in determining whether a person has an interest in any company, partnership, trust, agreement or arrangement through which the interest is traced.

(3C) For the avoidance of doubt –

- (a) income which arises under or is comprised in a settlement and which is not distributed does not, by reason of being accumulated, cease to be chargeable to tax under this Law,
- (b) income arising under or comprised in a settlement which has been taxed at the individual standard rate or the company higher rate in any person's hands is not liable to be taxed again in that or any other person's hands, and
- (c) income arising under or comprised in a settlement which has been taxed at the company intermediate rate in any person's hands is only liable to be taxed again in that or any other person's hands at a rate equivalent to the difference between the company intermediate rate and the company higher rate.

(3D) Where a settlement is deemed revocable under this section, nothing in this section affects the liability of the trustee or any person beneficially entitled to or in receipt of the income to be charged in his own name, irrespective of whether the settlor is resident or non-resident."

26. In section 65(4) in the definition of "settlement" after the words "agreement or arrangement" insert "and any transfer of assets (including, without limitation, the making of any loan, advance or other transfer of funds or other assets on terms under which those assets will be repaid, or reimbursement will be made, or consideration will be provided in money or money's worth, but not

including a bona fide transfer made at arms' length)".

27. After section 66(1) insert the following subsection -

"(1A) Nothing in this section affects the liability of the trustee or any person beneficially entitled to or in receipt of the income to be charged in his own name, irrespective of whether the settlor is resident or non-resident."

28. In Part IV of the Law of 1975, insert the following Chapter after Chapter XI -

"CHAPTER XII LOANS TO PARTICIPATORS

Loans to participators.

66A. (1) If a company with income taxed at a rate less than the company higher rate makes a loan to -

- (a) any participator of the company,
- (b) any officer of the company,
- (c) any person connected to a participator or officer of the company, or
- (d) a third person ("Person A") for the benefit of any person mentioned in paragraph (a), (b) or (c) ("Person B"),

it shall be a "**qualifying loan**".

(2) Where a qualifying loan has been made under the circumstances described in paragraph (d) of subsection (1), then the loan shall be deemed to have been made to Person B for the purpose of this Chapter, and references to the person to whom the loan was made and cognate expressions shall apply accordingly.

(3) Where a qualifying loan has been made to a person described in paragraph (c) of subsection (1) who is not resident in Guernsey, then the loan shall be deemed to have been made to the participator or officer to whom that person is connected for the purpose of this Chapter, and references to the person to whom the loan was made and cognate expressions shall apply accordingly.

(4) Notwithstanding subsection (1), a loan shall not be a qualifying loan if -

- (a) it was advanced at the company's normal commercial rate, and the company is authorised by the Guernsey Financial Services Commission, or by any person or body exercising, in a place outside the Bailiwick, functions corresponding to the functions of the Commission, to carry on a business which includes the lending of money,
- (b) it is a debt incurred for the supply by the company of goods or services in the ordinary course of its business unless the period of

credit given exceeds 6 months or is longer than that normally given to the company's customers,

(c) it is made to an officer or employee of the company, or an officer or employee of a company with whom the company is connected, unless the officer or employee and any person connected to him has, directly or indirectly, control of more than 5 per cent of the issued share capital of the company or any company connected with it, or

(d) it is of such class or description, or satisfies such conditions, as may be prescribed by regulations of the Department; and regulations under this paragraph may in addition amend paragraphs (a), (b) and (c), whether by prescribing additional conditions with which loans described in those paragraphs must comply with, or otherwise.

(5) A loan shall become a qualifying loan if it has been made to a person who did not, at the time the loan was made, meet the conditions of subsection (1), but who later meets any of those conditions.

(6) A qualifying loan shall not be permitted as a deduction in calculating the company's profits for the purposes of this Law.

(7) Where a company makes a qualifying loan –

- (a) the loan shall be deemed to comprise income in the hands of the person to whom it was made and shall be assessable and tax shall be charged accordingly,
 - (b) the company must account for tax on the income in accordance with section 66C.
- (8) For the purposes of this Law -
 - (a) a person is "**connected to**" another person if -
 - (i) there is a "**corporate relationship**" between them, which exists between a company and the person controlling that company, and between a company and any person with a partnership, personal, or trust relationship with the person controlling the company, control for these purposes includes partial control or control together with other people,
 - (ii) there is a "**partnership relationship**" between them, which exists between two partners in a partnership, and between a partner and any person with a personal relationship to another partner in the partnership,

- (iii) there is a "**personal relationship**" between them, which includes every form of relationship by blood, adoption, marriage or cohabitation (or any combination of those factors) regardless of whether the law recognises the validity, legitimacy or existence of the relationship, and includes a former personal relationship which has in law or in fact terminated,
- (iv) there is a "**trust relationship**" between them, which exists between co-trustees, between a trustee and settlor, between a trustee and beneficiary, and between trustees of related trusts, and between a trustee and any person with a corporate, partnership or personal relationship with a settlor or beneficiary, or
- (v) there is a corporate relationship, partnership relationship, personal relationship, or trust relationship between one of them and a third person, and there is a corporate relationship, partnership relationship, personal relationship, or trust relationship between the other of them and the same third person, and

(b) **"participator"** means any member of the company or any person having a share or interest in the capital or income of the company and, without prejudice to the generality of the foregoing, includes -

(i) any person who possesses, or is entitled to acquire, share capital or voting rights in the company,

(ii) any loan creditor of the company,

(iii) any person who possesses, or is entitled to acquire, a right to receive or participate in distributions of the company or any amounts payable by the company (in cash or in kind) to loan creditors by means of premium on redemption, and

(iv) any person who is entitled to secure that income or assets (whether present or future) of the company will be applied directly or indirectly for such person's benefit.

(9) For the purpose of this Chapter **"loan"** includes a debt and any assignment of a loan or a debt due to a third person to the company.

Repayment of qualifying loans.

66B. (1) When a qualifying loan is repaid in whole or in part within 6 years of being made, then the person who paid the tax to the Administrator shall be entitled to claim repayment of the tax paid in respect of the loan or the part repaid.

However, any such claim must be made before the reporting date for the calendar quarter in which the loan or part thereof is repaid.

(2) Where more than one loan is made to a person, a qualifying loan shall only be considered to have been repaid once -

- (a) any qualifying loan made before it in time, or
- (b) any other loan made before the 1st January, 2008 which would have been a qualifying loan had this section then been in force,

has been repaid.

(3) Where a qualifying loan is written off (in whole or in part) the person to whom the loan was made shall be deemed -

- (a) to have received income in the amount of the loan written off and tax paid in respect of that amount, with a credit for that tax, and
- (b) if the tax was paid by the company, to have paid that tax, save that the deemed payment of tax shall not be permitted as a deduction in calculating that person's income tax liability.

(4) When a qualifying loan is not repaid in whole or in part within 6 years of being made, then the company shall be deemed to have written off the amount of the loan not repaid.

Collection of tax on qualifying loans to participators.

66C. (1) The provisions of this section have effect for the purpose of requiring tax to be paid when a company makes a qualifying loan, subject to and in accordance with regulations made by the Department under this section.

(2) A loan is chargeable to income tax in the calendar quarter in which it becomes a qualifying loan.

(3) For the purpose of calculating the tax payable on a qualifying loan, the loan shall be deemed to have been paid net of tax.

(4) Where any qualifying loan is made, tax shall be paid to the Administrator by the company that made the loan in accordance with the provisions of this section.

(5) Tax on a qualifying loan shall be paid at -

- (a) the individual standard rate (where the person to whom the qualifying loan is made is an individual), or
- (b) the company higher rate (where the person to whom the qualifying loan is made is a company).

(6) For the avoidance of doubt if any qualifying loan on which tax has been paid has not been included in any assessment of tax made under section 73(2)(a) then the tax paid on such loan shall not, under subsection (4), be applied towards the payment of tax due from that assessment.

(7) The Department may from time to time make regulations for the purposes of carrying out the provisions of this section.

(8) Any regulations made under subsection (7) do not have effect unless and until approved by a resolution of the States.

(9) Any tax paid by a company on a qualifying loan in accordance with this section shall be payable by the company in such manner and at such times as may be prescribed by or under regulations made under subsection (7).

(10) Where a company fails to pay to the Administrator any tax due on a qualifying loan in the manner and at the times prescribed by or under this section, the amount is (without prejudice to any other remedy or penalty under this Law) recoverable by the Administrator from the person to whom the qualifying loan was made.

(11) Where any qualifying loan is made, the company shall make a quarterly return to the Administrator detailing -

- (a) the name and address of the person to whom the loan is made,

- (b) the date and amount of the loan,
- (c) the date and amount of tax due or paid,
- (d) the dates and amounts of repayments of the loan, and
- (e) the amount of the loan outstanding at the reporting dates.

(12) The quarterly return required under subsection (11) must be filed with the Administrator within 15 days of the relevant reporting date, together with payment for any income tax due under this Chapter.

(13) If the Administrator believes that a company has not complied with the requirements of subsection (12), the Administrator may make an assessment of the tax due, in the same form and manner in which an additional assessment may be made under section 75."

29. In section 68 of the Law of 1975 after "such accounts or other information" insert "(including without limitation, accounting records required to be kept by a company under section 59 of the Companies (Guernsey) Law, 1994)".

30. After section 68 of the Law of 1975 insert the following section -

"Duty to declare income on which tax chargeable.

68A. Without prejudice to any other provision of this Law, a person shall, whether or not he has received a notice from the Administrator under section 68 requiring him to make a return as to his income, on discovering that he has failed -

- (a) to declare any income which is chargeable to tax, or
- (b) to deduct any tax from income in accordance with section 81A or 81B,

give notice of the fact within fourteen days thereafter to the Administrator."

31. In section 81B of the Law of 1975⁰ -

- (a) for subsection (3) substitute the following -

"(3) Tax shall be deducted at -

- (a) where the person to whom the distribution is made is an individual -
 - (i) the individual standard rate, or
 - (ii) where section 62A(6) applies, a rate equivalent to the difference between the company intermediate rate and the company higher rate, and
- (b) where the person to whom the distribution is made is a company, the company higher rate."

⁰ Section 81B was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007.

- (b) in subsection (9) for the text preceding paragraph (a) substitute -

"Where a company fails to deduct from a distribution of undistributed income the tax which it is required to deduct under this section, the amount of tax payable shall be determined in accordance with section 59 and shall be payable by the company as if it had been deducted accordingly, and where the amount of any such tax is paid by the company -",

- (c) in subsection (12)(a) after the words "the name" insert "and address",

- (d) in subsection (15) the words "a dividend and" are repealed, and

- (e) after subsection (15) insert the following subsection -

"(16) Where a distribution has been deemed to have been made to an individual ("Person A") under section 62AB or 62D, then references in this section (except subsection (12)) to the person to whom the distribution was made shall be construed as referring to Person A only.".

32. After section 81B of the Law of 1975 insert the following section -

"Collection of tax on disregarded individual income and disregarded company income."

81BB. Notwithstanding the provisions of Chapter XII of Part IV (in

the case of a qualifying loan within the meaning of that Chapter) and sections 81A and 81B, tax shall not be deducted on disregarded individual income within the meaning of section 47D or on disregarded company income within the meaning of section 47I."

33. After section 139 of the Law of 1975 insert the following section -

"Right to carry forward post-2007 profits to future years."

139A. (1) Where -

- (a) in relation to any year of charge after 2007 a company has sustained a loss, and
- (b) in relation to any preceding year of charge after 2007 that company has accrued assessed income of class 2(2)(d),

then the company may claim that the income or any part thereof against which any loss has not previously been offset shall be carried forward to the year of charge in relation to which the loss was sustained and, as far as may be, set off against that loss.

(2) However, if the States by Resolution change the company standard rate under section 5(2) then income taxed at the new rate may not be carried forward under this section unless the Resolution specifically so provides."

34. In section 152(3) of the Law of 1975 for the words "standard rate" substitute "appropriate rate (applicable in respect of the income from which the payment was made)".

35. Sections 164 to 168A of the Law of 1975 are repealed.

36. In section 170(2)(b) of the Law of 1975 for "section fifty-seven of the principal Law" substitute "section 81B".

37. After section 173(1) of the Law of 1975 insert the following subsection -

"(1A) Where the person entitled to the income is a company, and the income is liable to be taxed in the company's hands at the company intermediate rate or the company standard rate, then, if the company distributes that income or any part thereof -

(a) to an individual resident in Guernsey, or

(b) to a company resident in Guernsey in a case where the income is liable to be taxed in that company's hands at the company intermediate rate or the company higher rate,

that individual or company shall be deemed to be the person entitled to the income and shall for the purposes of this section be entitled to the credit against tax or the balance of the credit by way of double taxation relief accordingly."

38. In section 174(1) of the Law of 1975 for "section fifty-seven of this Law (which relates to deduction of tax from Guernsey dividends)" substitute "section 81B".

39. Section 174(3) of the Law of 1975 is repealed.

40. In section 174(4) of the Law of 1975 in the definition of "**distribution**"^P for "section fifty-seven of this Law" substitute "section 81B".

41. In sections 191 and 192 of the Law of 1975 after the words "in any material particular," insert "or who fails to comply with section 68A,".

42. In section 199A of the Law of 1975^Q insert the following subsection -

"(7) A supplement is not payable in respect of the repayment of any tax deducted on the amount of a qualifying loan.".

43. In section 201A of the Law of 1975^R -

- (a) for the heading substitute "Offences relating to ETI certificates and deductions at source.",
- (b) after "81A" wherever appearing insert "or 81B", and
- (c) for "or under regulations made under subsection (4) of that section" substitute "that section or by regulations thereunder".

44. After section 203 of the Law of 1975^S insert the following section -

^P The word "distribution" was substituted for the word "dividend" by section 15 of this Law.

^Q Section 199A was inserted by No. VII of 2006.

^R Section 201A was inserted by No. XXVI of 1990.

"Statements of Practice."

204. (1) The Administrator may issue statements of practice for the purpose of providing practical guidance in respect of any provision made by or under this Law and in connection with the administration of this Law.

(2) Statements of practice shall come into force on such date as the Administrator may appoint.

(3) The Administrator may revoke or vary any statement of practice, and a statement of practice may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient.

(4) The Administrator shall publish statements of practice and any revision thereof in such manner as he considers appropriate.

(5) Statements of practice must be taken into account by the Administrator in exercising his functions under this Law.

(6) In any proceedings -

(a) before the appropriate body under section 76,
or

(b) before the Royal Court on a reference or appeal from the appropriate body,

^s The original section 204 was repealed by the Income Tax (Zero 10) (Guernsey) Law, 2007.

a relevant provision of a statement of practice may be relied on as tending to support or, as the case may be, defeat the Administrator's decision.

(7) The powers conferred by subsection (1) are without prejudice to any other power conferred by this Law to issue statements of practice.

(8) Section 203A(2) applies to statements of practice as it applies to regulations."

45. (1) In section 209(1) of the Law of 1975 insert the following definitions in the appropriate places -

"appropriate rate" means the rate of income tax applicable to the class into which the income in question falls, as detailed in the Fifth Schedule,

"connected to" has the meaning assigned to it in section 66A(8)(a),

"corporate relationship" has the meaning assigned to it in section 66A(8)(a)(i),

"distribution" has the meaning assigned to it in section 62AA,

"income from the ownership of land and buildings" means income from the ownership of land and buildings situate in Guernsey, and cognate expressions shall be construed accordingly,

"participator" has the meaning assigned to it in section 66A(8),

"partnership relationship" has the meaning assigned to it in section 66A(8),

"personal relationship" has the meaning assigned to it in section 66A(8),

"property development" includes the exploitation of land by the exploration, excavation, excision, extrication, extirpation, exsiccation, expropriation or extraction or recovery of stone, minerals and other inorganic solid materials for the purpose of profit,

"qualifying loan" has the meaning assigned to it in section 66A(8),

"trust relationship" has the meaning assigned to it in section 66A(8).

(2) In section 209(1) of the Law of 1975 in the definition of "Guernsey" after "Herm" insert "and (for the avoidance of doubt) Alderney".

(3) In section 209(2) of the Law of 1975 before "amended" insert "from time to time".

46. In paragraph 1 of the Fourth Schedule to the Law of 1975^t after the words "Banking Supervision (Bailiwick of Guernsey) Law, 1994" insert -

"and any business that, in the usual course of its business, provides or makes available credit facilities.

"**Credit facilities**" means the making of any advance or the granting of any credit to customers and includes -

- (1) the provision, in connection with the supply of goods by hire-purchase, conditional sale or credit sale, of credit in instalments for which a separate charge is made and disclosed to the customer, and
- (2) any assignment to the business of an advance or credit repayable to a third person."

47. In paragraph 2 of the Fourth Schedule to the Law of 1975^u insert the following subparagraph -

"or (3) arising from the provision or making available of credit facilities."

^t The Fourth Schedule was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007.

^u The Fourth Schedule was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007.

48. In the Sixth Schedule to the Law of 1975^V after the words "Income tax on income from any other sources shall not be subject to this limit." insert -

"Income from non-Guernsey sources does not include any income arising or accruing from -

- (a) businesses carried on in Guernsey,
- (b) offices or employments held or exercised in Guernsey,
- (c) the ownership of lands and buildings situate in Guernsey, and
- (d) any other source in Guernsey,

and in determining for the purposes of this Schedule whether any income does arise in Guernsey the income may be traced through any number of companies, partnerships, trusts, agreements or other arrangements of any description and, for that purpose, section 62D(2) shall apply (subject to the necessary modifications) in determining whether a person has an interest in, or income arises from, any company, partnership, trust, agreement or arrangement through which the interest or income is traced."

Citation.

49. This Law may be cited as the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007.

^V The Sixth Schedule was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007.

Commencement.

50. This Law shall have effect, by virtue of the States' resolution of the 28th November, 2007^w, under and subject to the provisions of the Taxes and Duties (Provisional Effect) (Guernsey) Law, 1992^x, on and from the 1st January, 2008, as if it were a Law sanctioned by Her Majesty in Council and registered on the records of the Island of Guernsey.

^w Article ** of Billet d'État No. ** of 2007.

^x Order in Council No. XI of 1992.

PROJET DE LOI

ENTITLED

The Evidence in Civil Proceedings (Bailiwick of Guernsey) Law, 2007

ARRANGEMENT OF SECTIONS

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1. Admissibility of hearsay evidence.

Safeguards in relation to hearsay evidence

2. Notice of proposal to adduce hearsay evidence.
3. Power to call witness for cross-examination on hearsay statement.
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11. Convictions as evidence in civil proceedings.
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The Evidence in Civil Proceedings (Bailiwick of Guernsey) Law, 2007

THE STATES, in pursuance of their Resolutions of the 24th day of February, 2000^a and 31st of May 2006^b, 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.

Admissibility of hearsay evidence

Admissibility of hearsay evidence.

1. (1) In civil proceedings, evidence shall not be excluded on the ground that it is hearsay.

(2) In this Law -

(a) "**hearsay**" means a statement made otherwise than by a person while giving oral evidence in the proceedings which is tendered as evidence of the matters stated; and

(b) references to hearsay include hearsay of whatever degree.

(3) Nothing in this Law affects the admissibility of evidence which is admissible by virtue of other enactments or under customary law.

^a Article V of Billet d'État No. VI of 2000.

(4) The provisions of sections 2 to 6 do not apply in relation to hearsay evidence admissible apart from this section, notwithstanding that it may also be admissible by virtue of this section.

Safeguards in relation to hearsay evidence

Notice of proposal to adduce hearsay evidence.

2. (1) A party proposing to adduce hearsay evidence in civil proceedings shall, subject to the following subsections, give to the other party or parties to the proceedings-

- (a) notice of that fact, and
- (b) at their request, such particulars of or relating to the evidence,

as is reasonable and practicable in the circumstances for the purpose of enabling the parties to deal with any matters arising from its being hearsay.

(2) Rules of court may make provisions -

- (a) specifying classes of proceedings or evidence in relation to which subsection (1) does not apply, and
- (b) as to the manner in which (including the time within which) the duties imposed by subsection (1) are to be complied with in the cases where it does apply.

^b Article X of Billet d'État No. X of 2006.

(3) Subsection (1) may be excluded by agreement of the parties, and the requirement to give notice may, in any case, be waived by the person to whom notice is required to be given.

(4) At any stage in the proceedings, the court may relieve a party from the requirements of subsection (1) if it considers it necessary or desirable to do so.

(5) Failure to comply with subsection (1), or with rules made under subsection (2)(b), does not affect the admissibility of the evidence but may be taken into account by the court -

- (a) in considering the exercise of its powers with respect to the course of proceedings and costs, and
- (b) as a matter adversely affecting the weight to be given to the evidence in accordance with section 4.

Power to call witness for cross-examination on hearsay statement.

3. Rules of court may provide that where a party to civil proceedings adduces hearsay evidence of a statement made by a person and does not call that person as a witness, any other party to the proceedings may, with the leave of the court, call that person as a witness and cross-examine him on the statement as if -

- (a) he had been called by the first-mentioned party and
- (b) the hearsay statement were his evidence in chief.

Considerations relevant to weighing of hearsay evidence.

4. (1) In estimating the weight (if any) to be given to hearsay evidence in civil proceedings, the court shall have regard to any circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of the evidence.

(2) Regard may be had, in particular, to the following -

- (a) whether it would have been reasonable and practicable for the party by whom the evidence was adduced to have produced the maker of the original statement as a witness,
- (b) whether the original statement was made contemporaneously with the occurrence or existence of the matters stated,
- (c) whether the evidence involves multiple hearsay,
- (d) whether any person involved had any motive to conceal or misrepresent matters,
- (e) whether the original statement was an edited account, or was made in collaboration with another or for a particular purpose,
- (f) whether the circumstances in which the evidence is adduced as hearsay suggest an attempt to prevent proper evaluation of its weight,

- (g) any other circumstances which the court may, in the interests of justice, consider relevant.

Supplementary provisions as to hearsay evidence

Competence and credibility.

5. (1) Hearsay evidence shall not be admitted in civil proceedings if it is shown to consist of, or to be proved by means of, a statement made by a person who, when making the statement was not competent as a witness.

(2) For the purpose of subsection (1) "**not competent as a witness**" means suffering from such mental or physical infirmity, or lack of understanding, as would render a person incompetent as a witness in civil proceedings; but a child shall be treated as competent as a witness if he satisfies the requirement of section 5(1)(a) and (b) of the Administration of Justice (Bailiwick of Guernsey) Law, 1991.^c

(3) Where in civil proceedings hearsay evidence is adduced and the maker of the original statement, or of any statement relied upon to prove another statement, is not called as a witness -

- (a) evidence which if he had been so called would be admissible for the purpose of attacking or supporting his credibility as a witness, is admissible for that purpose in the proceedings, and
- (b) evidence which tends to prove that, whether before or after he made the statement, he made any other

statement inconsistent with it, is admissible for the purpose of showing that he had contradicted himself,

Provided that evidence may not be given of any matter of which, if he had been called as a witness and had denied that matter in cross-examination, evidence could not have been adduced by the cross-examining party.

Previous statements of witnesses.

6. (1) The provisions of this Law as to hearsay evidence in civil proceedings also apply (but with any necessary modifications) in relation to a previous statement made by a person called as a witness in the proceedings, subject to the following provisions.

(2) A party who has called or intends to call a person as a witness in civil proceedings may only adduce evidence of a previous statement made by that person -

- (a) with the leave of the court, or
- (b) for the purpose of rebutting a suggestion that his evidence has been fabricated.

(3) Subsection (2) does not prevent a witness statement (that is, a written statement of oral evidence which a party to the proceedings intends to lead) from being adopted by a witness in giving evidence or treated as his evidence.

(4) Where, in any civil proceedings, Article 28 of the 1865 Law applies (*Déclarations faites hors de cour par témoin*), this Law does not authorise

^c Order in Council No. I of 1991.

the adducing of evidence of a previous inconsistent or contradictory statement except in accordance with that Article, or otherwise as the court may determine in the interests of justice.

This provision is without prejudice to any provision made by rules of court under section 3 (power to call witnesses for cross examination on hearsay statement).

(5) Nothing in this Law affects any rule of law as to the circumstances in which, where a person called as a witness in civil proceedings is cross-examined on a document used by him to refresh his memory, that document may be made evidence in the proceedings.

(6) Nothing in this section prevents a statement of any description referred to above from being admissible by virtue of section 1 (admissibility of hearsay evidence) as evidence of the matters stated.

Evidence formerly admissible at customary law.

7. (1) In any civil proceedings a statement which, if this Law had not been passed, would by virtue of any rule of law mentioned in subsection (2) have been admissible as evidence of any fact stated therein, shall be admissible as evidence of that fact.

(2) The rules of law referred to in subsection (1) are those where in any civil proceedings -

- (a) an admission adverse to a party to the proceedings, whether made by that party or by another person, may be given in evidence against that party for the purpose of proving any fact stated in the admission,

- (b) published works dealing with matters of a public nature (for example, histories, scientific works, dictionaries and maps) are admissible as evidence of facts of a public nature stated therein,
- (c) public documents (for example, public registers, and returns made under public authority with respect to matters of public interest) are admissible as evidence of facts stated therein, or
- (d) records (for example, the records of certain courts, Orders in Council, treaties, Crown grants, pardons and commissions) are admissible as evidence of facts stated therein.

(3) In any civil proceedings, a statement which tends to establish reputation or family tradition with respect to any matter and which, if this Law had not been passed, would have been admissible in evidence by virtue of any rule of law mentioned in subsection (4) -

- (a) is admissible in evidence in so far as it is not capable of being rendered admissible under section 2 (notice of proposal to adduce hearsay evidence) or 4 (considerations relevant to weighing of hearsay evidence) of this Law; and
- (b) if given in evidence (whether by virtue of paragraph (a) or otherwise) shall be admissible as evidence of the matter reputed or handed down;

and without prejudice to paragraph (b), reputation shall, for the purposes of this Law, be treated as a fact and not as a statement or multiplicity of statements dealing with the matter reputed.

(4) The rules of law referred to in subsection (3) are those where in any civil proceedings -

(a) evidence of a person's reputation is admissible for the purpose of establishing his good or bad character;

(b) evidence of reputation or family tradition is admissible for the purpose of -

(i) proving or disproving pedigree or the existence of the marriage; or

(ii) proving or disproving the existence of any public or general right or identifying any person or thing.

Privilege

Privilege against incrimination of self or spouse.

8. (1) The right of a person in any legal proceedings, other than criminal proceedings, to refuse to answer any question or produce any document or thing if to do so might expose that person to proceedings for an offence or for the recovery of a penalty -

- (a) shall apply only as regards criminal offences under the law of Guernsey, the law of Alderney or the law of Sark and penalties provided for by such laws, and
- (b) shall include a like right to refuse to answer any question or produce any document or thing, if to do so would tend to expose the husband or wife of that person to proceedings for any such criminal offence or for the recovery of any such penalty.

(2) In so far as any enactment conferring powers of inspection or investigation confers on a person any right otherwise than in criminal proceedings to refuse to answer any question or give any evidence tending to incriminate that person, subsection (1) shall apply to that right; and every such enactment shall be construed accordingly.

(3) In so far as any existing enactment provides that in any proceedings other than criminal proceedings a person shall not be excused from answering any question or giving any evidence on the ground that to do so may incriminate that person, that enactment shall be construed as providing also that in such proceedings a person shall not be excused from answering any question or giving any evidence on the ground that to do so may incriminate the husband or wife of that person.

(4) Where any existing enactment that -

- (a) confers any powers of inspection or investigation,
- (b) provides as mentioned in subsection (3), or

further provides that any answer or evidence given by a person shall not be admissible in evidence against that person in any proceedings or class of proceedings (whether criminal or not), that enactment shall be construed as providing also that any answer or evidence given by that person shall not be admissible in evidence against the husband or wife of that person in the proceedings or class of proceedings in question.

(5) In this section "existing enactment" means enactments passed before this Law.

Abolition of certain privileges.

9. The following rules of law are hereby abrogated -

- (a) the rule whereby, in any legal proceedings, a person cannot be compelled to answer any question or produce any document or thing if to do so would tend to expose him to a forfeiture,
- (b) the rule whereby, in any civil proceedings, a party to the proceedings cannot be compelled to produce any document relating solely to his own case and in no way tending to impeach that case or support the case of any opposing party,

but the rule in paragraph (a) shall not be abrogated in relation to criminal proceedings.

Consequential amendments relating to privilege.

10. (1) Section 1(3) of the Tribunals of Inquiry (Evidence) (Guernsey) Law 1949 (which confers powers with respect to the taking of evidence

before certain tribunals of enquiry and provides that a witness before any such tribunal shall be entitled to the same privileges and immunities as if he were a witness before the Royal Court), shall have effect as if after the word "witness" in the second place where it occurs, there were inserted the words "in civil proceedings" and, so far as it applies to Guernsey, any other existing enactment, which in relation to any tribunal, investigation or inquiry confers on persons required to answer questions or give evidence any privilege described by reference to the privileges of witnesses in proceedings before any court shall, unless the contrary intention appears, be construed as referring to the privileges of witnesses in civil proceedings before that court.

(2) Section 8(5) applies for the purposes of this section as it applies for the purposes of section 8.

Convictions, etc., as evidence in civil proceedings

Convictions as evidence in civil proceedings.

11. (1) In any civil proceedings, the fact that a person has been convicted of an offence by or before any court in the Bailiwick or by a court martial there or elsewhere shall, (subject to subsection (3)) be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those proceedings, that he committed that offence -

- (a) whether he was so convicted upon a plea of guilty or otherwise, and
- (b) whether or not he is a party to the civil proceedings;

but no conviction other than a subsisting one shall be admissible in evidence under this section.

(2) In any civil proceedings in which, under this section, a person is proved to have been convicted of an offence by or before any court in the Bailiwick or by a court martial there or elsewhere -

- (a) he shall be taken to have committed that offence unless the contrary is proved, and
- (b) without prejudice to any other admissible evidence received for the purpose of identifying the facts on which the conviction was based, the contents of any document which is admissible as evidence of the conviction, and the contents of the indictment or charge on which the person is question was convicted, shall be admissible in evidence for that purpose.

(3) Nothing in this section prejudices the operation of section 13 of this Law or any other enactment where a conviction or a finding of fact in any criminal proceedings is, for the purposes of any other proceedings, made conclusive evidence of any fact.

(4) Where in any civil proceedings the contents of any document are admissible in evidence under subsection (2), a copy of that document, or of the material part of it, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document, shall be admissible in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.

(5) In this section "court martial" means a court martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval

Discipline Act 1957 and in relation to a court martial "conviction", means a finding of guilty which is, or falls to be treated as, the finding of the court and "convicted" shall be construed accordingly.

Findings of adultery and paternity as evidence in civil proceedings.

12. (1) In any civil proceedings -

- (a) the fact that a person has been found to have committed adultery in any matrimonial proceedings; and
- (b) the fact that a person has been found to be the father of a child in relevant proceedings before any court in the Bailiwick or elsewhere or has been adjudged to be the father of a child in affiliation proceedings before any court in the Bailiwick or elsewhere,

shall (subject to subsection (3)) be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those civil proceedings, that he -

- (i) committed the adultery to which the findings relates or,
- (ii) as the case may be, is (or was) the father of that child,

whether or not he offered any defence to the allegation of adultery or paternity and whether or not he is a party to the civil proceedings.

No finding or adjudication other than a subsisting one shall be admissible in evidence under this section.

(2) In any civil proceedings in which, under this section, a person is proved to have been found guilty of adultery as mentioned in subsection (1)(a), or to have been found or adjudged to be the father of a child as mentioned in subsection (1)(b) -

- (a) he shall be deemed to have committed the adultery to which the finding relates, or as the case may be, to be (or have been) the father of that child, unless the contrary is proved, and
- (b) without prejudice to any other admissible evidence received for the purpose of identifying the facts on which the finding or adjudication was based, the contents of any document which was before the court, or which contains any pronouncement of the court, in the other proceedings in question shall be admissible in evidence for that purpose.

(3) Nothing in this section prejudices the operation of any enactment where a finding of fact in any matrimonial or affiliation proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.

(4) Section 11(4) of this Law shall apply for the purposes of this section as if the reference to subsection (2) were a reference to subsection (2) of this section.

(5) In this section -

"affiliation proceedings" means any action of affiliation,

"relevant proceedings" means any proceedings where the issue of paternity is being determined, and

"matrimonial proceedings" means matrimonial proceedings in the Royal Court or any division thereof or in the Magistrates Court, of Guernsey, in the Court of Alderney or the Court of the Seneschal of Sark, or any appeal arising out of any such proceedings.

Conclusiveness of convictions for purposes of defamation actions.

13. (1) In an action for libel or slander in which the question whether a person did or did not commit a criminal offence is relevant to an issue arising in that action, proof that, at the time when that issue falls to be determined, he stands convicted of that offence shall be conclusive evidence that he committed that offence; and his conviction shall thus be admissible in evidence.

(2) In any action under subsection (1) where a person is proved to have been convicted of an offence, the contents of any document which is admissible as evidence of the conviction, and the contents of the indictment or charge on which that person was convicted, shall, without prejudice to any other admissible evidence received for the purpose of identifying the facts on which the conviction was based, be admissible in evidence for the purpose of identifying those facts.

(3) For the purposes of this section a person shall be taken to stand convicted of an offence if, but only if, there subsists against him a conviction of that offence by or before a court in the Bailiwick or by a court martial there or elsewhere.

(4) Sections 11(4) and (5) shall apply for the purposes of this section as they apply for the purposes of section 11, but as if in section 11(4) the reference to subsection (2) were a reference to subsection (2) of this section.

(5) The provisions of this section shall apply for the purposes of any action begun after the passing of this Law, whenever the cause of action arose, but shall not apply for the purposes of any action begun before this Law comes into force or any appeal or other proceedings arising out of any such action.

Other matters

Proof of statements contained in documents.

14. (1) Where a statement contained in a document is admissible as evidence in civil proceedings, it may be proved

- (a) by the production of that document, or
- (b) whether or not that document is still in existence, by the production of a copy of that document or of the material part of it,

authenticated in such manner as the court may approve.

(2) It is immaterial for this purpose how many removes there are between a copy and the original.

Proof of records of business or public authority.

15. (1) A document which is shown to form part of the records of a business or public authority may be received in evidence in civil proceedings without further proof.

(2) A document shall be taken to form part of the records of a business or public authority if there is produced to the court a certificate to that effect signed by an officer of the business or authority to which the records belong.

(3) For this purpose-

(a) a document purporting to be a certificate signed by an officer of a business or public authority shall be deemed to have been duly given by such an officer and signed by him, and

(b) a certificate shall be treated as signed by a person if it purports to bear a facsimile of his signature.

(4) The absence of an entry in the records of a business or public authority may be proved in civil proceedings by affidavit of an officer of the business or authority to which the records belong.

(5) In this section -

"records" means records in whatever form,

"business" includes any activity regularly carried on over a period of time, whether for profit or not, by any body (whether corporate or not) or by an individual,

"officer" includes any person occupying a responsible position in relation to the relevant activities of the business or public authority or in relation to its records,

"**public authority**" includes any public or statutory undertaking, any department of the States, and any person holding office under Her Majesty.

(6) The court may, having regard to the circumstances of the case direct that all or any of the provisions of this section do not apply in relation to a particular document or record, or description of documents or records.

Admissibility and proof of Ogden Tables

16. (1) The actuarial tables (together with explanatory notes) for use in personal injury and fatal accident cases issued from time to time by the UK Government Actuary's Department are admissible in evidence for the purpose of assessing, in an action for personal injury, the sum to be awarded as general damages for future pecuniary loss.

(2) They may be proved by the production of a copy published by, or under the authority of, Her Majesty's Stationery Office, or in such other manner as the court may consider to be just and convenient.

(3) For the purposes of this section –

(a) "personal injury" includes any disease and any impairment of a person's physical or mental condition;
and

- (b) "action for personal injury" includes an action brought by virtue of the Fatal Accidents (Guernsey) Laws 1900 and 1961^d.

Provisions as to rules of court.

17. (1) Any power to make rules of court regulating the practice or procedure of the court in relation to civil proceedings includes power to make such provision as may be necessary or expedient for carrying into effect the provisions of this Law.

(2) Any rules of court made for the purposes of this Law as it applies in relation to proceedings in the Royal Court or any division thereof, in the Court of Alderney or the Court of the Seneschal of Sark apply, except in so far as their operation is excluded by agreement, to arbitration proceedings to which this Law applies, subject to such modifications as may be appropriate.

Any question arising as to what modifications are appropriate shall be determined, in default of agreement, by the arbitrator or umpire, as the case may be.

Rules of court with respect to expert reports and oral expert evidence.

18. (1) Notwithstanding any enactment or rule of law by virtue of which documents prepared for the purpose of pending or contemplated civil proceedings or in connection with the obtaining or giving of legal advice are in certain circumstances privileged from disclosure, provision may be made by rules of court -

^d Ordres en Conseil Vols. III p.235 (Loi Relative à la Compensation qui pourra être accordée aux Familles de Personnes dont la Mort aura été causée par Accident) and XVIII p.283.

- (a) for enabling the court in any civil proceedings to direct, with respect to medical matters or matters of any other class which may be specified in the direction, that the parties or some of them shall each by such date as may be so specified (or such later date as may be permitted or agreed in accordance with the rules) disclose to the other or others in the form of one or more expert reports the expert evidence on matters of that class which he proposes to adduce as part of his case at the trial, and
- (b) for prohibiting a party who fails to comply with a direction given in any such proceedings under rules of court made under paragraph (a) from adducing in evidence except with the leave of the court, any statement (whether of fact or opinion) contained in any expert report whatsoever in so far as that statement deals with matters of any class specified in the direction.

(2) Provision may be made by rules of court as to the conditions subject to which oral expert evidence may be given in civil proceedings.

(3) Without prejudice to the generality of subsection (2), rules of court made under that subsection may make provision for prohibiting a party who fails to comply with a direction given as mentioned in subsection (1)(b) from adducing, except with the leave of the court, any oral expert evidence whatsoever with respect to matters of any class specified in the direction.

(4) Any rules of court made under this section may make different provision for different classes of cases, for expert reports dealing with matters of different classes, and for other different circumstances.

(5) References in this section to an expert report are references to a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

(6) Nothing in the foregoing provisions shall prejudice any power contained in any other enactment to make rules of court.

Admissibility of expert opinion and certain expressions of non-expert opinion

19. (1) Subject to any rules of court made under this Law, where a person is called as a witness in any civil proceedings, his opinion on any relevant matter on which he is qualified to give expert evidence shall be admissible in evidence.

(2) It is hereby declared that where a person is called as a witness in any civil proceedings, a statement of opinion by him on any relevant matter on which he is not qualified to give expert evidence, if made as a way of conveying relevant facts personally perceived by him, is admissible as evidence of what he perceived.

(3) In this section "**relevant matter**" includes an issue in the proceedings in question.

Evidence of foreign law

20. (1) In civil proceedings, a person who is suitably qualified to do so on account of his knowledge or experience, is competent to give expert evidence as to the law of any country or territory outside the Bailiwick, or of any

part of the Bailiwick, irrespective of whether he has acted or is entitled to act as a legal practitioner there.

(2) For the avoidance of doubt, where more than one person gives expert evidence under subsection (1) and a dispute or conflict arises between the evidence given, the presiding judge shall decide which evidence is to be preferred in determining the proceedings.

(3) Where any question as to the law of any country or territory outside the Bailiwick, or of any part of the Bailiwick, with respect to any matter has been determined (whether before or after the passing of this Law) in any such proceedings as are mentioned in subsection (5), then in any civil proceedings (not being proceedings before a court which can take judicial notice of the law of that country, territory or part with respect to that matter) -

- (a) any finding made or decision given on that question in the first-mentioned proceedings shall, if reported or recorded in citable form, be admissible in evidence for the purpose of proving the law of that country, territory or part with respect to that matter, and
- (b) if that finding or decision, as so reported or recorded, is adduced for that purpose, the law of that country, territory or part with respect to that matter shall be taken to be in accordance with that finding or decision unless the contrary is proved:

Provided that paragraph (b) shall not apply in the case of a finding or decision which conflicts with another finding or decision on the same question adduced under this subsection in the same proceedings.

(4) A party to any civil proceedings shall not be permitted to adduce any finding or decision under subsection (3) unless he has -

- (a) given notice that he intends to do so, pursuant to rules of court given to every other party to the proceedings, or
- (b) obtained the leave of the court.

(5) The proceedings referred to in subsection (3) are the following, whether civil or criminal, namely -

- (a) proceedings at first instance in any of the courts in the Bailiwick;
- (b) appeals arising out of proceedings mentioned in paragraph (a);
- (c) proceedings before the Judicial Committee of the Privy Council on appeal (whether to Her Majesty in Council or to the Judicial Committee as such) from any decision of any court outside the Bailiwick.

(6) For the purposes of this section, a finding or decision on any such question as is mentioned in subsection (3) shall be taken to be reported or recorded in citable form, if, but only if, it is reported or recorded in writing in a report, transcript or other document which, if that question had been a question as to the law of Guernsey, the law of Alderney or the law of Sark, could be cited as an authority in legal proceedings in the Bailiwick.

*General***Interpretation.**

21. (1) In this Law -

"**civil proceedings**" includes, in addition to civil proceedings in any of the ordinary courts of law -

- (a) civil proceedings before any other tribunal, being proceedings in relation to which the strict rules of evidence apply,
- (b) an arbitration or reference, whether under an enactment or not, and
- (c) without limitation and for the avoidance of doubt, administrative proceedings,

but does not include civil proceedings in relation to which the strict rules of evidence do not apply,

"**court**" in relation to an arbitration or reference, means the arbitrator or umpire and, in relation to proceedings before a tribunal (not being one of the ordinary courts of law), means the tribunal, and "**rules of court**" shall be construed accordingly,

"**customary law**" includes common law,

"**department**" means any department, council or committee of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark, howsoever called or styled,

"document" means anything in which information of any description is recorded, and **"copy"**, in relation to a document, means anything onto which information recorded in the document has been copied or transcribed, by whatever means and whether directly or indirectly,

"enactment" includes any Law, Ordinance, Order in Council and any subordinate legislation made thereunder,

"hearsay" shall be construed in accordance with section 1(2),

"information" includes data, however recorded,

"judge" means -

- (a) the Bailiff, Deputy Bailiff, Lieutenant Bailiff or any Judge of the Royal Court,
- (b) the Chairman of the Court of Alderney, or
- (c) the Seneschal, Deputy Seneschal or any Lieutenant Seneschal,

"legal proceedings" includes an arbitration or reference, whether under an enactment or not,

"the 1865 Law" means the Law entitled "Loi relative aux Preuves" registered on 8th July, 1865, as amended^e,

"oral evidence" includes evidence which, by reason of a defect of speech or hearing, a person called as a witness gives in writing or by signs,

"the original statement", in relation to hearsay evidence, means the underlying statement (if any) by -

- (a) in the case of evidence of fact, a person having personal knowledge of that fact, or
- (b) in the case of evidence of opinion, the person whose opinion it is,

"rule of law" includes any rule of customary or common law,

"States" means the States of Guernsey,

"statement" means any representation of fact or opinion, however made, and

"subordinate legislation" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect.

^e Ordres en Conseil Vol. I, p. 422; Vol. III, p. 248; Vol. XVII, p. 272; Vol. XVIII, p. 75.

(2) For the avoidance of doubt it is hereby declared that in any enactment references to a person's husband or wife do not include references to a person who is no longer married to that person.

(3) A reference in this Law to any other enactment is, unless the context otherwise requires, a reference thereto as amended, re-enacted (with or without modification), extended or applied, whether by or under any other enactment.

(4) References to giving evidence in subsections 8(4) and 22(1) are references to giving evidence in any manner, whether by furnishing information, making discovery, producing documents or otherwise.

(5) The provisions of the Interpretation (Guernsey) Law, 1948^f shall apply to the interpretation of this Law throughout the Bailiwick.

Savings and amendments to the 1865 Law.

22. (1) Nothing in this Law shall prejudice the operation of any enactment or rule of law which provides that any answer or evidence given by a person in specified circumstances shall not be admissible in evidence against him or some other person in any proceedings or class of proceedings.

(2) Nothing in this Law shall prejudice -

(a) any power of a court, in any legal proceedings, to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion; or

^f Ordres en Conseil Vol. XIII, p. 355.

- (b) the operation of any agreement (whenever made) between the parties to any legal proceedings as to the evidence which is to be admissible (whether generally or for any particular purpose) in those proceedings.

(3) Nothing in this Law affects the exclusion of evidence on grounds other than that it is hearsay.

This applies whether the evidence falls to be excluded in pursuance of any enactment or rule of law, for failure to comply with rules of court or an order of the court, or otherwise.

(4) Nothing in this Law affects the proof of documents by means other than those specified in section 14 or 15.

(5) In the 1865 Law -

- (a) Article 30 is repealed,
- (b) in Article 35, insert after "le contenu de la pièce" the words "excepté dans les cas spéciaux reconnus par la loi",
- (c) Article 36 has effect subject to the provisions of this Law.

(6) For the avoidance of doubt, the States may, in accordance with sections 23 and 24, make further amendments to the 1865 Law.

Power to make Ordinances in relation to evidence etc.

23. (1) The States may by Ordinance make provision for and in relation to evidence in civil proceedings.

(2) Without prejudice to the generality of subsection (1), an Ordinance under this section may make provision for and in relation to -

- (a) the matters which are to constitute evidence and the extent to which evidence is admissible,
- (b) the manner and way in which evidence is adduced,
- (c) the requirements to be satisfied before evidence may be adduced,
- (d) the circumstances in which evidence shall or may be excluded,
- (e) the weight to be given to any evidence,
- (f) the evidential means by which matters may be proved,
- (g) the procedural requirements and safeguards relating to the receipt of evidence,
- (h) the taking of evidence anywhere in the Bailiwick or elsewhere, for use in civil proceedings in the Bailiwick or elsewhere,

- (i) the attendance, competence and compellability of witnesses.

Additional provision as to Ordinances.

24. (1) An Ordinance under this Law may amend, extend, adapt, modify or disapply any enactment, including (without limitation) this Law and any rule of law, in so far as the same relates to evidence in civil proceedings.

(2) Notwithstanding the provisions of subsection (1), an Ordinance made under this section shall be made by the States after consultation with the Policy and Finance Committee of the States of Alderney (where the Ordinance is to have effect in Alderney) and the General Purposes and Finance Committee of the Chief Pleas of Sark (where the Ordinance is to have effect in Sark).

(3) An Ordinance under this Law -

- (a) may be amended or repealed by a subsequent Ordinance hereunder,
- (b) may contain such transitional, consequential, incidental and supplementary provisions as the States think fit, and
- (c) may delegate to the Royal Court, Court of Alderney or the Seneschal, power to provide by rules of court for any matter for which provision may be made by Ordinance and in any such case the provisions of sections 21 and 22 shall apply as if for the expressions "the States" and "Ordinance" (wherever appearing)

there were respectively substituted "the Royal Court" and "rules of court".

(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.

(5) Without prejudice to the generality of the foregoing provisions, an Ordinance under this Law may make such provision of any extent as might be made by *Projet de Loi* other than any provision which provides that a

person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.

Transitional provisions.

25. (1) Subject to subsection (2), the provisions of this Law shall not apply in relation to proceedings begun before commencement.

(2) Transitional provisions for the application of the provisions of this Law to proceedings begun before commencement may be made by rules of court or practice directions.

Citation.

26. This Law may be cited as The Evidence in Civil Proceedings (Bailiwick of Guernsey) Law, 2007.

Commencement.

27. This Law shall come into operation on a date or dates to be appointed by Ordinance of the States; and such an Ordinance may appoint different days for different provisions and different purposes.

The Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) (Amendment) Ordinance, 2007

THE STATES, in pursuance of their Resolution of the 30th day of November, 2005^a, and in exercise of the powers conferred upon them by section 14 of the Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of section 4 of the Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006.

1. For section 4(1) of the Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006, substitute -

"(1) Where a community service order is in force in respect of any offender and, on the application of the offender or the relevant officer, it appears to the court that made the order that it would be in the interests of justice to do so having regard to the circumstances which have arisen since the order was made, the court may -

- (a) vary the order,
- (b) revoke the order, or
- (c) revoke the order and deal with the offender for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the

^a Article XII of Billet d'État No. XX of 2005.

^b Passed by the States of Deliberation on 13th December 2006.

court of the offence."

Interpretation.

2. (1) The provisions of the Interpretation (Guernsey) Law, 1948^c shall apply to the interpretation of this Ordinance throughout the Bailiwick of Guernsey.

(2) Any reference in this Ordinance to an enactment is a reference thereto or from time to time amended, replaced, re-enacted, extended or applied.

Citation.

3. This Ordinance may be cited as the Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) (Amendment) Ordinance, 2007.

^c Ordres en Conseil Vol. XIII, p. 355.

The Document Duty (Amendment) Ordinance, 2007

THE STATES, in exercise of the powers conferred upon them by sections 1 and 6 of the Document Duty (Guernsey) Law, 1973, as amended^a, and in pursuance of their Resolution of 28th November 2007, hereby order:-

Amendment to Schedule 1.

1. In Schedule 1 to the Document Duty Ordinance 2003 as amended^b, in item 14, (Annual return of a Guernsey limited liability company) column 2, for "£100.00" substitute "£250.00".

Citation and Commencement.

2. This Ordinance may be cited as the Document Duty (Amendment) Ordinance, 2007 and shall come into force on 1st January, 2008.

^a Ordres en Conseil Vol. XXIV, pp. 74 and 236; Vol. XXV, p.43 (repealed by XXVI of 2002); and Recueil d'Ordonnances Tome XXVI, p.139 (repealed by Ordinance VI of 2003); No. VI of 2003; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003); there are other amendments not relevant to this enactment.

^b No. VI of 2003; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003) modified by G.S.I. 2002 No.6; and by the Incorporated Cell Companies Ordinance, 2006 (No. XVIII of 2006).

The Attendance and Invalid Care Allowances Ordinance, 2007

THE STATES, in pursuance of their Resolution of the 28th day of September, 2007^a, and in exercise of the powers conferred upon them by sections 1(4), 2(3)(b) and 3 of the Attendance and Invalid Care Allowances (Guernsey) Law, 1984, as amended^b, and all other powers enabling them, hereby order:-

Entitlement to attendance allowance.

1. The amount determined for the purposes of section 1(4) of the Law is £75,000.

Entitlement to invalid care allowance.

2. The amount determined for the purposes of section 2(3)(b) of the Law is £75,000.

Rates of allowances.

3. (1) The weekly rate of an attendance allowance determined for the purposes of section 3 of the Law is £81.45.

(2) The weekly rate of an invalid care allowance determined for the purposes of section 3 of the Law is £65.75.

Interpretation.

4. (1) In this Ordinance the expression "**the Law**" means the Attendance and Invalid Care Allowances (Guernsey) Law, 1984, and expressions used in the Law shall, when used in this Ordinance, have the same meaning as they

^a Article XVI of Billet d'État No. XX of 2007.

^b Ordres en Conseil Vol. XXVIII, p. 353; Vol. XXIX, p. 198; Order in Council No. XIV of 1991; No. X of 1993 and No. VI of 1999 and Ordinance No. XIV of 1993 (Tome XXVI, p. 177).

have under the Law.

(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.

(3) The Interpretation (Guernsey) Law, 1948^c shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney, Herm and Jethou.

Repeal.

5. The Attendance and Invalid Care Allowances Ordinance, 2006^d is repealed.

Citation.

6. This Ordinance may be cited as the Attendance and Invalid Care Allowances Ordinance, 2007.

Extent.

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

Commencement.

8. This Ordinance shall come into force on 7th January, 2008.

^c Ordres en Conseil Vol. XIII, p. 355.

^d Ordinance No. XL of 2006.

The Family Allowances Ordinance, 2007

THE STATES, in pursuance of their Resolution of the 28th September, 2007^a, and in exercise of the powers conferred upon them by sections 1 and 3 of, and paragraph 1 of the Schedule to, the Family Allowances (Guernsey) Law, 1950, as amended^b and all other powers enabling them, hereby order:-

Amount of allowance.

1. The amount of allowance referred to in section 1(1) of the Family Allowances (Guernsey) Law, 1950, as amended ("**the Law of 1950**") in respect of each child in the family shall be at the rate of £13.85 a week.

Amount as to contribution to the cost of providing for a child.

2. The amount in respect of the contribution to the cost of providing for a child referred to in -

- (a) section 3(2) of the Law of 1950 shall be at the rate of £13.85 a week or more, and
- (b) the proviso to paragraph 1(1) of the Schedule to the Law of 1950 shall be at the rate of £13.85 a week.

Interpretation.

3. The Interpretation (Guernsey) Law, 1948^c shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney,

^a Article XVI of Billet d'État No. XX of 2007.

^b Ordres en Conseil Vol. XIV, p. 332; Vol. XVI, p. 280; Vol. XX, p. 63; Vol. XXI, p. 34; Vol. XXIII, pp. 3 and 238; and Order in Council No. VI of 1999. See also Recueil d'Ordonnances Tome XXI, p. 460 and Tome XXVI, p. 177.

^c Ordres en Conseil Vol. XIII, p. 355.

Herm and Jethou.

Repeal.

4. The Family Allowances Ordinance, 2006^d is repealed.

Citation.

5. This Ordinance may be cited as the Family Allowances Ordinance, 2007.

Extent.

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

Commencement.

7. This Ordinance shall come into force on the 7th January 2008.

^d Ordinance No. XLI of 2006.

The Long-term Care Insurance (Guernsey) (Annual Grant and Rates) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 28th September 2006^a and the 28th September, 2007^b and in exercise of the powers conferred on them by sections 2 and 5 of the Long-term Care Insurance (Guernsey) Law, 2002^c and all other powers enabling them, hereby order:-

Amount of States Long-term Care Insurance Annual Grant.

1. The percentage specified for the purposes of section 2 of the Long-term Care Insurance (Guernsey) Law, 1990 is 0 per centum.

Rates of benefit.

2. (1) The maximum weekly rates of care benefit shall be -

(a) for persons resident in a residential home, £341.25,
and

(b) for persons resident in a nursing home or the
Guernsey Cheshire Home, £637.00.

(2) The maximum weekly rates of respite care benefit shall be -

(a) for persons receiving respite care in a residential
home, £495.25, and

^a Article XVI of Billet d'État No.XVI of 2006.

^b Article XVI of Billet d'État No. XX of 2007.

^c Order in Council No. XXIII of 2002.

- (b) for persons receiving respite care in a nursing home or the Guernsey Cheshire Home, £791.00.

Co-payment by way of contribution

3. The weekly co-payment which a claimant shall make by way of contribution towards or for the cost of his care -

- (a) as a condition of the right to care benefit, and
- (b) which shall be taken into account for the purposes of determining the rate of care benefit,

shall be £154.00.

Interpretation.

4. (1) In this Ordinance unless the context otherwise requires "**nursing home**" and "**residential home**" have the meanings given by section 18(1) of the Nursing Homes and Residential Homes (Guernsey) Law, 1976^d.

(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.

(3) The Interpretation (Guernsey) Law, 1948^e shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney,

^d Ordres en Conseil Vol. XXVI, p. 71.

^e Ordres en Conseil Vol. XIII, p. 355.

Herm and Jethou.

Repeals.

5. The Long-term Care Insurance (Guernsey) (Annual Grant and Rates) Ordinance, 2006^f is repealed.

Citation.

6. This Ordinance may be cited as the Long-term Care Insurance (Guernsey) (Annual Grant and Rates) Ordinance, 2007.

Extent.

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

Commencement.

8. This Ordinance shall come into force on 7th January, 2008.

^f Ordinance No. XLIV of 2006.

The Health Service (Benefit) (Annual Grant and Amendment) Ordinance, 2007

THE STATES, in pursuance of their Resolution of the 28th September 2007^a, and in exercise of the powers conferred upon them by sections 2, 6, 13, 35 and 39 of the Health Service (Benefit) (Guernsey) Law, 1990^b, as amended and all other powers enabling them, hereby order:-

Amount of States Health Service Annual Grant.

1. The percentage specified for the purposes of section 2 of the Health Service (Benefit) (Guernsey) Law, 1990 is 12 per centum.

Amendment of 1990 Ordinance.

2. For Schedule 1 to the Health Service (Benefit) Ordinance, 1990^c, substitute the schedule set out in the schedule to this Ordinance.

Interpretation.

3. (1) 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.

^a Article XVI of Billet d'État No. XX of 2007.

^b Ordres en Conseil Vol. XXXII, p. 192; amended by Ordinance No. XIV of 1993 (Tome XXVI, p. 177); Nos. XXXIV and XXXV of 1995 (Tome XXVI, pp. 177 and 483); No. XXII of 2002; and No. IX of 2003 and modified by Ord. Nos. XXXVI and XL of 1995; No. XI of 1997; and No. I of 1998.

^c Recueil d'Ordonnances Tome XXV, p. 191; Ordinance No. XXIII of 1996; No. XXX of 1998; No. LIII of 2001; No. XXII of 2002; Nos. X and XXI of 2003; Nos. II and XLV of 2004 and Nos. VII and XXIII of 2005.

(2) The Interpretation (Guernsey) Law, 1948^d shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney, Herm and Jethou.

Repeal.

4. The Health Service (Benefit) (Annual Grant and Amendment) Ordinance, 2006^e is repealed.

Citation.

5. This Ordinance may be cited as the Health Service (Benefit) (Annual Grant and Amendment) Ordinance, 2007.

Extent.

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

Commencement.

7. This Ordinance shall come into force on the 1st January, 2008.

^d Ordres en Conseil Vol. XIII, p. 355.

^e Ordinance No. XLII of 2006.

Section 2

SCHEDULE

“SCHEDULE 1

PRESCRIPTION CHARGES

WITH EFFECT FROM:	PER ITEM OF PHARMACEUTICAL BENEFIT SUPPLIED IN GUERNSEY:	PER ITEM OF PHARMACEUTICAL BENEFIT SUPPLIED IN ALDERNEY:
1 st January 2007	£2.60	£2.60
1 st January 2008	£2.70	£2.70”

The Social Insurance
(Rates of Contributions and Benefits, etc.) (Amendment)
Ordinance, 2007

THE STATES, in pursuance of their Resolution of the 28th September, 2007^a and in exercise of the powers conferred upon them by sections 5, 5(1A), 6, 8, 17(2), 19, 48(2), 49(4), 50(1), 57, 60, 61, 62, 101, 101A and 115A of the Social Insurance (Guernsey) Law, 1978, as amended^b and all other powers enabling them, hereby order:-

Amendment of the Law.

1. (1) In section 6(1) of the Law, immediately after "upper weekly earnings limit", insert "for primary Class 1 contributions".

(2) In section 8(1) of the Law, immediately after "upper weekly earnings limit", insert "for primary Class 1 contributions".

(3) In the Sixth Schedule of the Law, in the meaning of the expressions "Upper weekly earnings limit" and "Upper monthly earnings limit", immediately after "See subsection (1)" insert "and 1(A)".

Percentage rates of primary and secondary Class 1 contributions.

2. For the purposes of the Law -

^a Article XVI of Billet d'État No. XX of 2007.

^b 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; Orders in Council No. XII of 1993; No. V of 1994; No.'s VI and XIII of 1995; No. VI of 1999; No. X of 2000; No. IX of 2001; No. XI of 2004 and the Social Insurance (Guernsey) Amendment Law, 2006 and Ordinance No. XIV of 1993 (Tome XXVI, p. 177).

- (a) the percentage rate of a primary Class 1 contribution shall be 6.0%, and
- (b) the percentage rate of a secondary Class 1 contribution shall be 6.5%.

Upper weekly and upper monthly earnings limits for the purpose of primary and secondary Class 1 contributions.

3. For the purposes of the Law –

- (a) the upper weekly earnings limit shall be £1,248 and the upper monthly earnings limit shall be £5,408 for the purpose of primary Class 1 contributions.
- (b) the upper weekly earnings limit shall be £2,079 and the upper monthly earnings limit shall be £9,009 for the purpose of secondary Class 1 contributions.

Lower annual income limit.

4. For the purposes of the Law, the lower annual income limit shall be £13,650.

Percentage rates of Class 2 contributions.

5. For the purposes of the Law, the percentage rates of a Class 2 contribution shall be –

- (a) in respect of any person other than a person to whom the following paragraph of this section applies, 10.5%,

- (b) in respect of an overseas voluntary contributor, being a person who is not resident in Guernsey and who, satisfying prescribed conditions, is desirous of paying Class 2 contributions under the Law, 6.3%.

Percentage rates of Class 3 contributions.

6. (1) For the purposes of the Law, the percentage rates of a Class 3 contribution shall be -

- (a) in respect of a voluntary contributor, being a person who is not liable to pay a Class 3 contribution, but, satisfying prescribed conditions, is desirous of paying contributions in accordance with section 8(2) or (4) of the Law, 5.7%,
- (b) in respect of a person who has attained pensionable age, 2.6%,
- (c) in respect of a person who, having attained the age of 60 years, has elected not to be liable to pay a social insurance contribution, 4.2%, and
- (d) in respect of all other persons, 9.9%.

(2) The percentage of a minimum Class 3 contribution payable in accordance with section 8(5) of the Law by a person who is normally in employed contributor's employment shall be 100%.

Rates and amounts of benefits.

7. (1) For the purposes of the Law, the weekly rate of each

description of benefit set out in column 1 of Part I of the first schedule to this Ordinance shall be the rate specified in relation thereto in column 2, and the amounts by which that rate may be increased in respect of a child or children or an adult dependant, as the case may be, shall be the appropriate amounts specified in columns 3 and 4.

(2) For the purposes of the Law, where the extent of the disablement is assessed for the period to be taken into account as amounting to 20% or more, industrial disablement benefit shall be payable for that period at the appropriate weekly rate specified in Part II of the first schedule to this Ordinance.

(3) For the purposes of the Law, the amounts of death grant, maternity grant and bereavement payment shall be the appropriate amounts specified in relation thereto in Part III of the first schedule to this Ordinance.

Guernsey Health Service Fund Allocation and Long-term Care Insurance Fund Allocation.

8. The percentages determined in respect of the contribution year for the purposes of sections 101 (the Guernsey Health Service Fund Allocation) and 101A (the Long-term Care Insurance Fund Allocation) of the Law are those specified in columns 2 and 3 of the second schedule to this Ordinance of the aggregate amount paid in respect of each of the classes of contribution specified in column 1 of that schedule.

Variation of the Law as to the States' grant.

9. In section 17(1) of the Law, for "thirty six per centum" substitute "fifteen per centum".

Interpretation.

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

requires, “**the Law**” means the Social Insurance (Guernsey) Law, 1978 as amended.

(2) The Interpretation (Guernsey) Law, 1948^c, shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney, Herm and Jethou.

(3) 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.

Repeals.

11. (1) The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2006^d is repealed.

Citation.

12. This Ordinance may be cited as the Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007.

Extent.

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

Commencement.

14. This Ordinance shall come into force on 7th January, 2008.

^c Ordres en Conseil Vol. XIII, p. 355.

^d Ordinance No. XLVI of 2006.

FIRST SCHEDULE

RATES AND AMOUNTS OF BENEFITS

PART I

**Benefit, other than industrial disablement benefit, death grant,
maternity grant and bereavement payment**

Description of Benefit	Weekly rate	Increase for child (where payable)	Increase for adult dependant (where payable)
(1)	(2)	(3)	(4)
1. Industrial injury benefit	£118.30	Nil	Nil
2. Invalidity benefit	£144.06	Nil	Nil
3. Maternity allowance	£118.30	-	-
4. Old age pension:			
(a) payable to a woman by virtue of her husband's insurance while he is alive	£80.50	-	-

(b) in any other case	£160.75	Nil	£80.50
5. Sickness benefit	£118.30	Nil	Nil
6. Unemployment benefit	£118.30	Nil	Nil
7. Widowed parent's allowance	£169.00	Nil	-
8. Widow's pension	£145.25	-	-

PART II

Industrial disablement benefit

Degree of disablement	Weekly rate
100 %	£129.50
90 %	£116.55
80 %	£103.60
70 %	£90.65
60 %	£77.70
50 %	£64.75
40 %	£51.80
30 %	£38.85
20 %	£25.90

PART III

Death grant, maternity grant and bereavement payment

Description of grant	Amount
1. Death grant	£460
2. Maternity grant	£297
3. Bereavement payment	£1,458

SECOND SCHEDULE

GUERNSEY HEALTH SERVICE FUND ALLOCATION AND LONG-TERM
CARE INSURANCE FUND ALLOCATION

Class and sub-class of contribution (1)	Health Service Fund Allocation (2)	Long-term Care Insurance Fund Allocation (3)
Class 1 primary and secondary contributions paid in respect of employed persons of pensionable age	24.62%	Nil
Class 1 primary and secondary contributions other than those referred to above	24.00%	11.20%
Class 2 contributions paid in respect of overseas voluntary contributors (6.3%)	Nil	Nil
Class 2 contributions other than those referred to above (10.5%)	26.67%	13.33%
Class 3 contributions paid in respect of voluntary contributors (5.7%)	Nil	Nil
Class 3 contributions paid by persons over the age of 65 years (2.6%)	46.15%	53.85%
Class 3 contributions paid by a person over the age of 60 years who has elected not to pay social insurance contributions (4.2%)	66.67%	33.33%
Class 3 contributions other than those referred to above (9.9%)	28.28%	14.14%

The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 28th September, 2006^a and 28th September 2007^b, and in exercise of the powers conferred on them by sections 3(2) and 15 of the Supplementary Benefit (Guernsey) Law, 1971^c, and all other powers enabling them, hereby order:-

Amendment of Supplementary Benefit (Implementation) Ordinance 1971.

1. (1) The Supplementary Benefit (Implementation) Ordinance, 1971^d is amended in accordance with the following subsections.

(2) For section 6(1) substitute -

"(1) The Administrator may, by notice in writing served on an applicant, require him to provide, or produce to, the Administrator -

(a) at such times or intervals, at such place and in

^a Article XVI of Billet d'État No. XVI of 2006.

^b Article XVI of Billet d'État No. XX of 2007.

^c Ordres en Conseil Vol. XXIII, p. 26; amended by Vol. XXVI, p. 292; Vol. XXXI, p. 278 and Order in Council No. VI of 1999; has effect in Alderney by Recueil d'Ordonnances Tome XVII, p. 168; Tome XXIV, p. 468 and Tome XXVI, pp. 177 and 317 and as varied by Ordinance No. IX of 2005.

^d Recueil d'Ordonnances Tome XVII, pp. 139 and 179; Tome XVIII, pp. 119 and 126; Tome XIX, pp. 23, 106, 216 and 280; Tome XX, pp. 81, 158, 359 and 392; Tome XXI, pp. 44, 72, 156, 283 and 452; Tome XXII, pp. 60, 185 and 537; Tome XXIII, pp. 48, 277, 314 and 453; Tome XXIV, pp. 88, 471 and 495; Tome XXV, pp. 49, 168 and 338; Tome XXVI, pp. 75, 194, 319, and 458; Ordinances No. XXVI of 1996; No. XXX of 1997; No. XXXII of 1998; Nos. XIII and XXII of 1999; Nos. IV and XVII of 2000; Nos. XVII and XLVI of 2001; No. XXIV of 2002; Nos. VIII and XXIV of 2003, No. XXXV of 2004, Nos. VIII and XXV of 2005 and No. XLVII of 2006.

respect of such periods as may be specified in the notice, with such information as the Administrator may reasonably require for the performance of his functions, and

- (b) within such time and at such place as may be specified in the notice, such documents or documents of such description as may be so specified, being documents reasonably required by the Administrator for the performance of his functions,

and the applicant shall comply with the requirements of any such notice."

- (3) For the full stop at the end of paragraph 3(2)(c)(ii) of the First Schedule substitute a semi-colon and immediately thereafter insert -

"(d) of a person whose requirements are in accordance with paragraph 7A shall be the amount specified in the fifth column of Table 1."

- (4) Paragraph 3(3)(b) of the First Schedule is repealed.

- (5) For paragraph 5(2) of the First Schedule, substitute -

"(2) The requirements of persons to whom a supplementary benefit has been payable for a continuous period of 6 months or more shall be, in respect of the description of persons set out in the first column of Table 3 -

- (a) the amount specified in the second column of Table 3, or
- (b) where those persons qualify for supplementary benefit by virtue of section 2(1)(j) of the Law -
 - (i) the amount specified in the second column of Table 2, or
 - (ii) where the Administrator considers it just in the circumstances of the particular case, the amount specified in the second column of Table 3."

(6) Immediately after paragraph 7 of the First Schedule, insert -

"Persons in a hospital or care home in the UK.

7A. The requirements of a person who, following referral by the States of Guernsey Health and Social Services Department, is residing in a hospital, care home or other institution in the United Kingdom, shall be a personal allowance of the amount specified in the fifth column of Table 1."

(7) Delete the comma at the end of paragraph 12(b) of the First Schedule and immediately thereafter insert -

"; or

- (c) any sum payable under a whole life insurance policy upon the death of the policy holder where, in the Administrator's opinion, the value of the policy is commensurate with the cost of a funeral,".

(8) In paragraph 15(1) of the First Schedule, the words "and any amount by which those weekly earnings exceed a multiple of five pence shall be disregarded" are repealed.

(9) For the numbered Tables set out in the appendix to the First Schedule, substitute the numbered Tables set out in the schedule to this Ordinance.

Interpretation.

2. (1) 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.

(2) The Interpretation (Guernsey) Law, 1948^e shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney, Herm and Jethou.

Repeal.

3. The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2006^f is repealed.

Citation.

4. This Ordinance may be cited as the Supplementary Benefit (Implementation) (Amendment) Ordinance, 2007.

Extent.

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

^e Ordres en Conseil Vol. XIII, p.355.

^f Ordinance No. XLVII of 2006.

Commencement.

6. This Ordinance shall come into force on 11th January, 2008.

SCHEDULE

"Table 1

(Paragraph 3)

Limitation of weekly benefit payable as from the week commencing
11 January 2008

<i>Community</i>	<i>Residential Home</i>	<i>Nursing Home, etc</i>	<i>Personal Allowance</i>	<i>UK Personal Allowance</i>
£367.00	£430.00	£617.00	£25.00	£42.30

Table 2

(Paragraph 5(1))

Short-term Weekly Requirements as from week commencing 11 January
2008

<i>Description</i>	<i>Amount</i>
Husband and wife or other persons falling within paragraph 2(1) (" Couple ")	£164.10
Person not falling within paragraph 2(1) who is directly responsible for household necessities and rent (if any) (" Single householder ")	£114.00
Person who is not a householder (" Non-householder ") -	
Aged 18 years or over;	£86.80

Aged 16 years but less than 18;	£73.70
Aged 15 years	£45.60
Member of a household -	
Aged 18 years or over;	£86.80
Aged 16 years but less than 18;	£73.70
Aged 12 years but less than 16;	£45.60
Aged 5 years but less than 12;	£33.10
Aged less than 5 years	£24.40

Table 3

(Paragraph 5(2))

Long-term Weekly Requirements as from week commencing 11 January
2008

<i>Description</i>	<i>Amount</i>
Husband and wife or other persons falling within paragraph 2(1) (" Couple ")	£202.50
Person not falling within paragraph 2(1) who is directly responsible for household necessities and rent (if any) (" Single householder ")	£140.15
Person who is not a householder (" Non-householder ") -	
Aged 18 years or over;	£108.75
Aged 16 years but less than 18;	£92.15
Aged 15 years	£57.00

Member of a household -	
Aged 18 years or over;	£108.75
Aged 16 years but less than 18;	£92.15
Aged 12 years but less than 16;	£57.00
Aged 5 years but less than 12;	£41.30
Aged less than 5 years	£30.50"