

BILLET D'ÉTAT No. VII, 2008

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PROJET DE LOI

ENTITLED

Fraud (Bailiwick of Guernsey) Law, 2008

ARRANGEMENT OF SECTIONS

Fraud

1. Fraud.
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4. Fraud by abuse of position.
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PROJET DE LOI

ENTITLED

Fraud (Bailiwick of Guernsey) Law, 2008

THE STATES, in pursuance of their Resolution of the 31st May 2007^a, 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.

Fraud

Fraud.

1. (1) A person is guilty of fraud if he contravenes –
 - (a) section 2 (fraud by false representation),
 - (b) section 3 (fraud by failing to disclose information), or
 - (c) section 4 (fraud by abuse of position).
- (2) A person who is guilty of fraud is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding 2 years, or to a fine not exceeding twice level 5 on the uniform scale, or to both, or

^a Article XIX of Billet D'État No. XIV of 2007.

- (b) on conviction on indictment, to imprisonment for a term not exceeding 12 years, or to a fine, or to both.

Fraud by false representation.

- 2. (1) A person contravenes this section if he –
 - (a) dishonestly makes a false representation, and
 - (b) intends, by making the representation –
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.
- (2) A representation is false if –
 - (a) it is untrue or misleading, and
 - (b) the person making it knows that it is, or might be, untrue or misleading.
- (3) For the purposes of this section, a "**representation**" –
 - (a) means any representation as to fact or law, including a representation as to a state of mind of –
 - (i) the person making the representation, or
 - (ii) any other person,

- (b) may be express or implied, and
- (c) may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).

Fraud by failing to disclose information.

3. A person contravenes this section if he –

- (a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
- (b) intends, by failing to disclose the information –
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Fraud by abuse of position.

4. (1) A person contravenes this section if he –

- (a) occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person,
- (b) dishonestly abuses that position, and

- (c) intends, by means of the abuse of that position –
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

(2) A person may be regarded as having abused his position even though his conduct consisted of an omission rather than an act.

"Gain" and "loss".

5. (1) The references to gain and loss in sections 2 to 4 are to be read in accordance with this section.

(2) The expressions -

(a) "**gain**" and "**loss**" -

- (i) extend only to gain or loss in money or other property, and
- (ii) include any such gain or loss whether temporary or permanent,

(b) "**property**" means any property whether real or personal (including things in action and other intangible property),

- (c) "**gain**" includes a gain by keeping what one has, as well as a gain by getting what one does not have, and
- (d) "**loss**" includes a loss by not getting what one might get, as well as a loss by parting with what one has.

Possession etc. of articles for use in fraud.

6. (1) A person is guilty of an offence if he has in his possession or under his control any article for use in the course of or in connection with any fraud.

- (2) A person guilty of an offence under this section is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 6 years, or to a fine, or to both.

Making or supplying articles for use in fraud.

7. (1) A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article –

- (a) knowing that it is designed or adapted for use in the course of or in connection with fraud, or
- (b) intending it to be used to commit or assist in the commission of fraud.

- (2) A person guilty of an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 2 years, or to a fine not exceeding twice level 5 on the uniform scale, or to both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 years, or to a fine, or to both.

"Article".

8. For the purposes of sections 6 and 7, "**article**" includes any program or data held in electronic form.

Participating in fraudulent business carried on by sole trader etc.

9. (1) A person is guilty of an offence if he is knowingly a party to the carrying on of a business –

- (a) by a person who does not fall within section 432 of the Companies (Guernsey) Law, 2008^b ("**the Companies Law**"), and
- (b) with intent to defraud creditors of any person or for any other fraudulent purpose.

(2) For the purposes of this section, "**fraudulent purpose**" has the same meaning as in section 432 of the Companies Law.

^b Order in Council No. ? of 2008.

- (3) A person guilty of an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or to both.

Obtaining services dishonestly

Obtaining services dishonestly.

10. (1) A person is guilty of an offence under this section if he obtains services for himself or another –

- (a) by a dishonest act, and
- (b) in contravention of subsection (2).

(2) A person obtains services in contravention of this subsection if –

- (a) they are made available on the basis that payment has been, is being or will be made for or in respect of them,
- (b) he obtains them without any payment having been made for or in respect of them or without payment having been made in full, and

- (c) when he obtains them, he knows -
 - (i) that they are being made available, or
 - (ii) that they might be made available,

on the basis described in paragraph (a) but intends that payment will not be made, or will not be made in full.

- (3) A person guilty of an offence under this section is liable -
 - (a) on summary conviction, to imprisonment for a term not exceeding 2 years, or to a fine not exceeding twice level 5 on the uniform scale, or to both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 6 years, or to a fine, or to both.

Supplementary

Aiding and abetting fraud in another jurisdiction.

11. A person ("the secondary party to an offence") who, within the Bailiwick, aids, abets, counsels or procures the commission by another person ("the principal offender") of an offence in another jurisdiction which would be an offence under this Law if committed within the Bailiwick is guilty of that offence under this Law and may be proceeded against and punished accordingly.

Liability of officers and members for offences by bodies corporate.

12. (1) Where under this Law an offence –

- (a) is committed by a body corporate, and
- (b) is proved to have been committed with the consent or connivance of –
 - (i) any director, manager, secretary or other similar officer of the body corporate, or
 - (ii) any person purporting to act in any such capacity,

he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

Customary or common law offence of fraud.

13. Nothing in this Law shall be taken to affect any customary or common law offence of fraud, cheating relating to the public revenue or conspiracy to defraud.

Amendments.

14. The Schedule to this Law shall have effect.

Power to amend by Ordinance.

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

(2) Subsection (1) is without prejudice to any other provision of

this Law conferring power to enact Ordinances (and vice versa).

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

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

(4) An Ordinance under this Law -

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

(5) 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 class of case for different purposes, and/or
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

Interpretation.

16. (1) In this Law, unless the context requires otherwise –

"article" has the meaning given in section 8,

"Bailiwick" means the Bailiwick of Guernsey,

"the Companies Law" means the Companies (Guernsey) Law, 2008^c,

"enactment" includes any Law, Ordinance or subordinate legislation,

"fraudulent purpose" has the meaning given in section 9(2),

^c Order in Council No. ? of 2008.

"gain" has the meaning given in section 5,

"loss" has the meaning given in section 5,

"the principal offender" has the meaning given in section 11,

"representation" has the meaning given in section 2(3),

"the secondary party to the offence" has the meaning given in section 11,

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

"uniform scale" means the uniform scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^d.

(2) The Interpretation (Guernsey) Law, 1948^e applies to the interpretation of this Law throughout the Bailiwick.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Commencement.

^d Ordres en Conseil Vol. XXXI, p. 278.

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

17. (1) This Law shall come into force on such date as the States may by Ordinance appoint.

(2) An Ordinance under subsection (1) may -

(a) appoint different dates for different provisions of this Law and for different purposes, and

(b) contain such saving and transitional provisions as the States think appropriate.

Citation.

18. This Law may be cited as the Fraud (Bailiwick of Guernsey) Law, 2008.

SCHEDULE

Section 14

AMENDMENTS

The following Laws are amended in the manner indicated -

Theft Law 1983^f.

1. For section 15B(3), substitute -

"(3) "Account" means an account kept with -

- (a) a bank;
- (b) a person carrying on a business which falls within subsection (4) below; or
- (c) an issuer of electronic money (as defined for the purposes of the Transfer of Funds (Guernsey) Ordinance, 2007^g).".

2. For section 15B(5)(b), substitute -

"(b) "money" includes money expressed in a currency other than sterling.".

^f Ordres en Conseil Vol. XXVIII, pg. 5 and Order in Council No. XII of 1999.

^g Ordinance No. XIX of 2007.

3. In section 27(4) (meaning of "stolen goods"), immediately after "section fifteen of this Law" insert ", or, subject to subsection (5), by fraud (within the meaning of the Fraud Law)".

4. Immediately after section 27(4), insert the following –

"(5) Subsection (1) above applies in relation to goods obtained by fraud as if –

(a) the reference to the commencement of this Law were a reference to the commencement of the Fraud Law, and

(b) the reference to an offence under this Law were a reference to an offence under section 1 of that Law."

5. For section 27A(4), substitute –

"(4) A credit to an account is also wrongful to the extent that it derives from –

(a) theft;

(b) an offence under section 15A;

(c) blackmail;

(d) fraud (contrary to section 1 of the Fraud Law);
or

(e) stolen goods."

6. In section 42(2) (interpretation), immediately after the definition of "the Bailiwick", insert –

"**the Fraud Law**" means the Fraud (Bailiwick of Guernsey) Law, 2008^h;"

Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law 2003ⁱ

7. Immediately after section 1(8)(e) (Power of police officer to stop and search persons, vehicles etc.), insert paragraph (f) –

"(f) fraud (contrary to section 1 of the Fraud Law)."

8. In section 91 (interpretation), immediately after the definition of "**fingerprints**", insert –

"**the Fraud Law**" means the Fraud (Bailiwick of Guernsey) Law, 2008^j;"

9. In section 91, immediately after paragraph (a) of the definition of "**trigger offence**", insert the following –

^h Order in Council No. ? of 2008.

ⁱ Order in Council No. XXIII of 2003.

^j Order in Council No. ? of 2008.

"(aa) offences under the following provisions of the Fraud Law –

- (i) section 1 (fraud);
- (ii) section 6 (possession etc. of articles for use in fraud); and
- (iii) section 7 (making or supplying articles for use in fraud);".

Criminal Justice (Compensation) (Bailiwick of Guernsey) Law 1990^k.

10. In section 1(3) and (4) (compensation orders), after "Theft (Bailiwick of Guernsey) Law, 1983" insert "or Fraud (Bailiwick of Guernsey) Law 2008^l".

Criminal Justice (Attempts, Conspiracy and Jurisdiction) (Bailiwick of Guernsey) Law 2006^m.

11. Immediately after section 14(2)(a), insert the following paragraph –

"(aa) an offence under the following provisions of the Fraud (Bailiwick of Guernsey) Law, 2008ⁿ–

- (i) section 1 (fraud),

^k Ordres en Conseil Vol. XXXII, pg. 77.

^l Order in Council No. ? of 2008.

^m Order in Council No. XII of 2006.

ⁿ Order in Council No. ? of 2008.

- (ii) section 6 (possession etc. of articles for use in fraud),
- (iii) section 7 (making or supplying articles for use in fraud),
- (iv) section 9 (participating in fraudulent business carried on by sole trader etc),
or
- (v) section 10 (obtaining services dishonestly),".

12. In section 15(1), immediately after "means" insert "(subject to subsection (1A))".

13. Immediately after section 15(1), insert the following subsection –

"(1A) In relation to an offence under section 1 (fraud) of the Fraud (Bailiwick of Guernsey) Law, 2008, "relevant event" includes –

- (a) if the fraud involved an intention to make a gain and the gain occurred, the occurrence, and
- (b) if the fraud involved an intention to cause a loss or to expose another to a risk of loss and the loss occurred, that occurrence."

PROJET DE LOI

ENTITLED

The Sexual Offences (Incitement, Jurisdiction and Protected Material) (Bailiwick of Guernsey) Law, 2008

ARRANGEMENT OF SECTIONS

PART I SEXUAL OFFENCES OUTSIDE THE BAILIWICK

Incitement

1. Incitement to commit certain sexual acts outside the Bailiwick.
2. Section 1 - supplementary.

Jurisdiction

3. Extension of jurisdiction.

PART II SEXUAL OFFENCES AND PROTECTED MATERIAL

Meaning of protected material, etc

4. Meaning of "protected material".
5. Meaning of other expressions.

Regulation of disclosure to defendant

6. Regulation of disclosure by Her Majesty's Procureur.
7. Disclosure to defendant's Advocate.
8. Disclosure to unrepresented defendant.
9. Further disclosure by Her Majesty's Procureur.

Supplementary

10. Offences.
11. Application of Part II.

PART III
INTERPRETATION, AMENDMENT AND CITATION

Interpretation

12. Interpretation.

Amendment and citation

13. Power to amend Law by Ordinance.
14. Citation.

SCHEDULE: Sexual offences for the purposes of this Law.

PROJET DE LOI

ENTITLED

The Sexual Offences (Incitement, Jurisdiction and Protected Material) (Bailiwick of Guernsey) Law, 2008

THE STATES, in pursuance of their Resolution of the 27th April, 2006^a, 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.

PART I

SEXUAL OFFENCES OUTSIDE THE BAILIWICK

Incitement

Incitement to commit certain sexual acts outside the Bailiwick.

1. (1) This section applies where -
 - (a) any act done by a person in the Bailiwick would amount to the offence of incitement to commit a sexual offence but for the fact that the whole or part of what he had in mind would not take place in the Bailiwick,
 - (b) the whole or part of what he had in mind was intended

^a Article XI of Billet d'État No. VIII of 2006.

to take place in a country or territory outside the Bailiwick, and

- (c) what he had in mind would involve the commission of an offence under the law in force in that country or territory.

(2) Where this section applies -

- (a) what he had in mind is to be treated as the sexual offence referred to in subsection (1)(a) for the purposes of any charge of incitement brought in respect of that act, and
- (b) any such charge is accordingly triable in the Bailiwick.

(3) Any act done by means of a message (however communicated) is to be treated as done in the Bailiwick if the message is sent or received in the Bailiwick.

Section 1 - supplementary.

2. (1) Conduct punishable under the law in force in any country or territory is an offence under that law for the purposes of section 1 however it is described in that law.

(2) Subject to subsection (3), the condition in section 1(1)(c) is to be taken to be met unless, not later than the day determined by the court, the defendant serves on Her Majesty's Procureur a notice -

- (a) stating that, on the facts as alleged with respect to

what he had in mind, the condition is not in his opinion met,

- (b) showing his grounds for that opinion, and
- (c) requiring Her Majesty's Procureur to show that it is met.

(3) The court, if it thinks fit, may permit the defendant to require Her Majesty's Procureur to show that the condition is met without service of a notice under subsection (2).

(4) In the Royal Court the question of whether the condition is met is to be decided by the Bailiff alone.

(5) In any proceedings in respect of any offence triable by virtue of section 1, it is immaterial to guilt whether or not the accused was a British citizen at the time of any act or other event proof of which is required for conviction of the offence.

(6) References to an offence of incitement to commit a sexual offence include an offence triable in the Bailiwick as such an incitement by virtue of section 1 (without prejudice to subsection (2) of that section).

(7) Subsection (6) applies to references in any enactment or document except those in section 1 of this Law and in Part II of the Criminal Justice (Attempts, Conspiracy and Jurisdiction) (Bailiwick of Guernsey) Law, 2006^b.

^b Order in Council No. XII of 2006.

*Jurisdiction***Extension of jurisdiction.**

3. (1) Subject to subsection (2), any act done by a person in a country or territory outside the Bailiwick which -

- (a) constituted an offence under the law in force in that country or territory, and
- (b) would constitute a sexual offence if it had been done in the Bailiwick,

constitutes that sexual offence under the law of the Bailiwick.

(2) Proceedings by virtue of this section may be brought only -

- (a) against a person who is a British citizen or resident in the Bailiwick, and
- (b) in relation to a sexual offence which can be committed against a person irrespective of their age, where the victim of the offence was under 16 at the time of its commission.

(3) An act punishable under the law in force in any country or territory constitutes an offence under that law for the purposes of this section, however it is described in that law.

(4) Subject to subsection (5), the condition in subsection (1)(a) is to be taken to be met unless, not later than the day determined by the court, the

defendant serves on Her Majesty's Procureur a notice -

- (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in his opinion met,
- (b) showing his grounds for that opinion, and
- (c) requiring Her Majesty's Procureur to show that it is met.

(5) The court, if it thinks fit, may permit the defendant to require Her Majesty's Procureur to show that the condition is met without service of a notice under subsection (4).

(6) In the Royal Court the question of whether the condition is met is to be decided by the Bailiff alone.

PART II

SEXUAL OFFENCES AND PROTECTED MATERIAL

Meaning of protected material, etc

Meaning of "protected material".

4. (1) In this Part of this Law "**protected material**", in relation to proceedings for a sexual offence, means a copy (in whatever form) of any of the following material -

- (a) a statement relating to that or any other sexual offence made by any victim of the offence (whether the statement is recorded in writing or in any other form),

- (b) a photograph or pseudo-photograph of any such victim, or
- (c) a report of a medical examination of the physical condition of any such victim,

which is a copy given by Her Majesty's Procureur to any person under this Part of this Law.

(2) For the purposes of subsection (1) a person is, in relation to any proceedings for a sexual offence, a victim of that offence if -

- (a) the charge, summons or indictment by which the proceedings are instituted names that person as a person in relation to whom that offence was committed, or
- (b) that offence can, in Her Majesty's Procureur's opinion, be reasonably regarded as having been committed in relation to that person,

and a person is, in relation to any such proceedings, a victim of any other sexual offence if that offence can, in Her Majesty's Procureur's opinion, be reasonably regarded as having been committed in relation to that person.

(3) In this Part of this Law, where the context so permits, and subject to subsection (4) -

- (a) references to protected material include references to

any part of any such material, and

(b) references to a copy of any such material include references to any part of any such copy.

(4) Nothing in this Part of this Law -

(a) so far as it refers to a defendant making any copy of -

(i) any protected material, or

(ii) a copy of any such material,

applies to a manuscript copy which is not a verbatim copy of the whole of that material or copy, or

(b) so far as it refers to a defendant having in his possession any copy of any protected material, applies to a manuscript copy made by him which is not a verbatim copy of the whole of that material.

Meaning of other expressions.

5. (1) In this Part of this Law, unless the context requires otherwise-

"**proceedings**" means, subject to subsection (2), criminal proceedings, and

"**relevant proceedings**", in relation to any material which has been disclosed by Her Majesty's Procureur under this Part of this Law, means any proceedings for the purposes of which it has been so disclosed or any

further proceedings for the sexual offence in question.

(2) For the purposes of this Part of this Law references to proceedings for a sexual offence include references to -

- (a) any appeal or application for leave to appeal brought or made by or in relation to a defendant in such proceedings, and
- (b) any petition recommending the exercise of Her Majesty's Prerogative of mercy in relation to any such defendant.

(3) In this Part of this Law, in the context of Her Majesty's Procureur giving a copy of any material to any person -

- (a) references to Her Majesty's Procureur include references to a person acting on his behalf, and
- (b) where any such copy falls to be given to the defendant's Advocate, references to the defendant's Advocate include references to a person acting on behalf of the defendant's Advocate.

Regulation of disclosure to defendant

Regulation of disclosure by Her Majesty's Procureur.

6. (1) Where, in connection with any proceedings for a sexual offence, any statement or other material falling within any of paragraphs (a) to (c) of section 4(1) would (apart from this section) fall to be disclosed by Her Majesty's

Procureur to the defendant -

- (a) Her Majesty's Procureur shall not disclose that material to the defendant, and
 - (b) it shall instead be disclosed under this Law in accordance with whichever of subsections (2) and (3) is applicable.
- (2) If -
- (a) the defendant has an Advocate, and
 - (b) the defendant's Advocate gives Her Majesty's Procureur the undertaking required by section 7,

Her Majesty's Procureur shall disclose the material in question by giving a copy of it to the defendant's Advocate.

(3) If subsection (2) is not applicable, Her Majesty's Procureur shall disclose the material in question by giving a copy of it to the appropriate person for the purposes of section 8 in order for that person to show that copy to the defendant under that section.

(4) Where under this Part of this Law a copy of any material falls to be given to any person by Her Majesty's Procureur, any such copy -

- (a) may be in such form as Her Majesty's Procureur thinks fit, and

- (b) where the material consists of information which has been recorded in any form, need not be in the same form as that in which the information has already been recorded.

(5) Once a copy of any material is given to any person under this Part of this Law by Her Majesty's Procureur, the copy shall (in accordance with section 4(1)) be protected material for the purposes of this Law.

Disclosure to defendant's Advocate.

7. (1) For the purposes of this Part of this Law the undertaking which a defendant's Advocate is required to give in relation to any protected material given to him under this Part of this Law is an undertaking by him to discharge the obligations set out in subsections (2) to (7).

- (2) He must take reasonable steps to ensure -
 - (a) that the protected material, or any copy of it, is only shown to the defendant in circumstances where it is possible to exercise adequate supervision to prevent the defendant retaining possession of the material or copy or making a copy of it, and
 - (b) that the protected material is not shown and no copy of it is given, and its contents are not otherwise revealed, to any person other than the defendant, except so far as it appears to him necessary to show the material or give a copy of it to any such person -
 - (i) in connection with any relevant proceedings, or

- (ii) for the purposes of any assessment or treatment of the defendant (whether before or after conviction).

- (3) He must inform the defendant -
 - (a) that the protected material is such material for the purposes of this Law,
 - (b) that the defendant can only inspect that material, or any copy of it, in circumstances such as are described in subsection (2)(a), and
 - (c) that it would be an offence for the defendant -
 - (i) to have that material, or any copy of it, in his possession otherwise than while inspecting it or the copy in such circumstances, or
 - (ii) to give that material or any copy of it, or otherwise reveal its contents, to any other person.

- (4) He must, where the protected material or a copy of it has been shown or given in accordance with subsection (2)(b)(i) or (ii) to a person other than the defendant, inform that person -
 - (a) that that person must not give any copy of the material, or otherwise reveal its contents -

- (i) to any person other than the defendant, or
- (ii) to the defendant otherwise than in circumstances such as are described in subsection (2)(a), and

(b) that it would be an offence for that person to do so.

(5) He must, where he ceases to act as the defendant's Advocate at a time when any relevant proceedings are current or in contemplation -

- (a) inform Her Majesty's Procureur of that fact, and
- (b) if he is informed by Her Majesty's Procureur that the defendant has a new Advocate who has given Her Majesty's Procureur the undertaking required by this section, give the protected material, and any copies of it in his possession, to the defendant's new Advocate.

(6) He must, at the time of giving the protected material to the new Advocate under subsection (5), inform him -

- (a) that the material is protected material for the purposes of this Law, and
- (b) of the extent to which -
 - (i) that material has been shown by him, and

(ii) any copies of it have been given by him,

to any other person (including the defendant).

(7) He must keep a record of every occasion on which the protected material was shown, or a copy of it was given, as mentioned in subsection (6)(b).

Disclosure to unrepresented defendant.

8. (1) This section applies where, in accordance with section 6(3), a copy of any material falls to be given by Her Majesty's Procurer to the appropriate person for the purposes of this section in order for that person to show that copy to the defendant under this section.

(2) Subject to subsection (3), the appropriate person in such a case is -

(a) if the defendant is detained in the States Prison, the governor or any person nominated by the governor for the purposes of this section, and

(b) otherwise a police officer of at least the rank of sergeant.

(3) The Home Department may by regulations provide that, in such circumstances as are specified in the regulations, the appropriate person for the purposes of this section shall be a person of any class or description so specified.

(4) The appropriate person shall take reasonable steps to ensure -

- (a) that the protected material, or any copy of it, is only shown to the defendant in circumstances where it is possible to exercise adequate supervision to prevent the defendant retaining possession of the material or copy or making a copy of it,
- (b) that, subject to paragraph (a), the defendant is given such access to that material, or a copy of it, as he reasonably requires in connection with any relevant proceedings, and
- (c) that that material is not shown and no copy of it is given, and its contents are not otherwise revealed, to any person other than the defendant.

(5) Her Majesty's Procureur shall, at the time of giving the protected material to the appropriate person, inform him -

- (a) that the material is protected material for the purposes of this Law, and
- (b) that he is required to discharge the obligation set out in subsection (4) in relation to that material.

(6) Her Majesty's Procureur shall at that time also inform the defendant -

- (a) that the material is protected material for the purposes of this Law,

- (b) that the defendant can only inspect that material, or any copy of it, in circumstances such as are described in subsection (4)(a), and
- (c) that it would be an offence for the defendant -
 - (i) to have that material, or any copy of it, in his possession otherwise than while inspecting it or the copy in such circumstances, or
 - (ii) to give that material or any copy of it, or otherwise reveal its contents, to any other person,

as well as informing him of the effect of subsection (7).

(7) If -

- (a) the defendant requests Her Majesty's Procureur in writing to give a further copy of the material mentioned in subsection (1) to some other person, and
- (b) it appears to Her Majesty's Procureur to be necessary to do so -
 - (i) in connection with any relevant proceedings, or
 - (ii) for the purposes of any assessment or treatment of the defendant (whether before or after conviction),

Her Majesty's Procureur shall give such a copy to that other person.

(8) Her Majesty's Procureur may give such a copy to some other person where no request has been made under subsection (7) but it appears to him that in the interests of the defendant it is necessary to do so as mentioned in paragraph (b) of that subsection.

(9) Her Majesty's Procureur shall, at the time of giving such a copy to a person under subsection (7) or (8), inform that person -

(a) that the copy is protected material for the purposes of this Law,

(b) that he must not give any copy of the protected material or otherwise reveal its contents -

(i) to any person other than the defendant, or

(ii) to the defendant otherwise than in circumstances such as are described in subsection (4)(a), and

(c) that it would be an offence for him to do so.

(10) If Her Majesty's Procureur -

(a) receives a request from the defendant under subsection (7) to give a further copy of the material in question to another person, but

- (b) does not consider it to be necessary to do so as mentioned in paragraph (b) of that subsection and accordingly refuses the request,

he shall inform the defendant of his refusal.

Further disclosure by Her Majesty's Procureur.

9. (1) Where -

- (a) any material has been disclosed in accordance with section 6(2) to the defendant's Advocate, and
- (b) at a time when any relevant proceedings are current or in contemplation the Advocate -
 - (i) ceases to act as the defendant's Advocate in circumstances where section 7(5)(b) does not apply, or
 - (ii) dies or becomes incapacitated,

that material shall be further disclosed under this Law in accordance with whichever of section 6(2) or (3) is for the time being applicable.

(2) Where -

- (a) any material has been disclosed in accordance with section 6(3), and

- (b) at a time when any relevant proceedings are current or in contemplation the defendant acquires an Advocate who gives Her Majesty's Procureur the undertaking required by section 7,

that material shall be further disclosed under this Law, in accordance with section 6(2), to the defendant's Advocate.

Supplementary

Offences.

10. (1) Where any material is disclosed under this Part of this Law in connection with any proceedings for a sexual offence, it is an offence for the defendant -

- (a) to have the protected material, or any copy of it, in his possession otherwise than while inspecting it or the copy in circumstances such as are described in section 7(2)(a) or 8(4)(a), or
- (b) to give that material or any copy of it, or otherwise reveal its contents, to any other person.

(2) Where any protected material, or any copy of any such material, has been shown or given to any person in accordance with section 7(2)(b)(i) or (ii) or section 8(7) or (8), it is an offence for that person to give any copy of that material or otherwise reveal its contents -

- (a) to any person other than the defendant, or

(b) to the defendant otherwise than in circumstances such as are described in section 7(2)(a) or 8(4)(a).

(3) Subsections (1) and (2) apply whether or not any relevant proceedings are current or in contemplation (and references to the defendant shall be construed accordingly).

(4) A person guilty of an offence under this section is liable -

(a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both,

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(5) Where a person is charged with an offence under this section relating to any protected material or copy of any such material, it is a defence to prove that, at the time of the alleged offence, he was not aware, and neither suspected nor had reason to suspect, that the material or copy in question was protected material or (as the case may be) a copy of any such material.

(6) The court before which a person is tried for an offence under this section may (whether or not he is convicted of that offence) make an order requiring him to return any protected material, or any copy of any such material, in his possession to Her Majesty's Procurer.

(7) Nothing in subsection (1) or (2) shall be taken to apply to -

(a) any disclosure made in the course of any proceedings

before a court or in any report of any such proceedings, or

- (b) any disclosure made or copy given by a person when returning any protected material, or a copy of any such material, to Her Majesty's Procureur or the defendant's Advocate,

and accordingly nothing in section 7 or 8 shall be read as precluding the making of any disclosure or the giving of any copy in circumstances falling within paragraph (a) or (as the case may be) paragraph (b) of this subsection.

Application of Part II.

11. Nothing in this Part of this Law applies to any proceedings for a sexual offence where the defendant was charged with the offence before the date of commencement of this Part of this Law.

PART III

INTERPRETATION, AMENDMENT AND CITATION

Interpretation

Interpretation.

12. (1) In this Law -

"**Bailiwick**" means the Bailiwick of Guernsey,

"**defendant**", in Part II, and in relation to any proceedings for a sexual offence, means any person charged with that offence, whether or not he has been convicted,

"**enactment**" means any Law, Ordinance or subordinate legislation,

"**Her Majesty's Procureur**" includes Her Majesty's Comptroller and any person acting as prosecutor (and see section 5(3)),

"**inform**" means inform in writing,

"**photograph**" and "**pseudo-photograph**" shall be construed in accordance with section 9 of the Protection of Children (Bailiwick of Guernsey) Law, 1985^c,

"**proceedings**" and "**relevant proceedings**" : see section 5,

"**protected material**" : see section 4,

"**sexual offence**" means an offence listed in the Schedule,

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

"**uniform scale**" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^d.

^c Ordres en Conseil Vol. XXIX, p. 103; amended by No. I of 2003.

^d Ordres en Conseil Vol. XXXI, p. 278.

(2) The Interpretation (Guernsey) Law, 1948^e applies to the interpretation of this Law throughout the Bailiwick.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Amendment and citation

Power to amend Law by Ordinance.

13. (1) The States may by Ordinance amend this Law.
- (2) An Ordinance under this Law -
- (a) may, for the avoidance of doubt -
- (i) create new offences, and
- (ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,
- (b) may be amended or repealed by a subsequent Ordinance hereunder, and
- (c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient including,

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

without limitation, provision amending any enactment.

(3) 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.

Citation

14. This Law may be cited as the Sexual Offences (Incitement, Jurisdiction and Protected Material) (Bailiwick of Guernsey) Law, 2008.

SCHEDULE

Section 11(1)

SEXUAL OFFENCES FOR THE PURPOSES
OF THIS LAW

The offences that are "sexual offences" for the purposes of this Law are -

- (a) rape,
- (b) indecent assault,
- (c) an offence under the Law entitled "Loi pour la Puniton d'Inceste, 1909"^f,
- (d) an offence under the Law entitled "Loi relative à la Protection des Femmes et des Filles Mineures, 1914"^g,
- (e) an offence under Articles 11 and 12 of the Law entitled "Loi ayant rapport à la Protection des Enfants et des Jeunes Personnes, 1917"^h,
- (f) an offence under the Law entitled "Loi relative à la Sodomie, 1929"ⁱ,
- (g) an offence under the Protection of Children (Bailiwick of Guernsey)

^f Ordres en Conseil Vol. IV, p. 288.

^g Ordres en Conseil Vol. V, p. 74.

^h Ordres en Conseil Vol. V, p 342.

ⁱ Ordres en Conseil Vol. VIII, p. 273.

Law, 1985^j,

- (h) an offence of conspiracy to commit any of the offences in paragraphs (a) to (g),
- (i) an offence of attempting to commit any of those offences,
- (j) an offence of inciting another to commit any of those offences, and
- (k) an offence of aiding, abetting, counselling or procuring any of those offences.

^j Ordres en Conseil Vol. XXIX, p. 103.

PROJET DE LOI

ENTITLED

The Parochial Taxation (Guernsey) (Amendment) Law, 2008

THE STATES, in pursuance of their Resolution of the 27th February, 2008^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the island of Guernsey.

Amendment of Law of 1923.

1. The Law entitled "Loi relative à la Taxation Paroissiale" registered on the 27th October, 1923^b is further amended as follows.

2. In the Article entitled "Definitions"^c for the words "L'Expression "Valeur contribuable" signifie la valeur dite "rateable value" énoncée de temps à autre dans le Cadastre Général de l'Île." substitute the following -

"L'expression "**valeur contribuable**" signifie le nombre des unités dites "assessable units" attribuées de temps à autre suivant les dispositions de l'Ordonnance intitulée "the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007", "

^a Article VII of Billet d'État No. II of 2008.

^b Ordres en Conseil Vol. VII, p. 146.

^c That Article was amended by Ordres en Conseil Vol. XIII, p. 351.

3. In Article II^d for all the text following the words "laquelle taxe sera levée" substitute -

"sur le propriétaire, et dans le cas d'une maison louée par le propriétaire, soit meublée soit en appartements, le propriétaire, ayant payé la dite taxe, aura le droit d'en recouvrer le montant de l'occupant.

La dite taxe peut être levée aux taux différents selon les catégories dites "property reference" des maisons, édifices, bâtiments et terres énoncées de temps à autre suivant les dispositions de l'Ordonnance intitulée "the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007".

4. In Article III^e the words "sur les Occupants", wherever appearing, are repealed.

Citation.

5. This Law may be cited as the Parochial Taxation (Guernsey) (Amendment) Law, 2008.

Commencement.

6. This Law shall come into force on the day of its registration on the Records of the Island of Guernsey but shall have effect only for the purposes of parochial tax levied in the Parishes' respective financial years beginning in 2009 and thereafter.

^d Article II was amended by Ordres en Conseil Vol. XIII, p. 351 and by Order in Council No. IX of 2001.

^e Article III was amended by Ordres en Conseil Vol. VII, p. 392.

PROJET DE LOI

ENTITLED

The Charities and Non Profit Organisations (Enabling Provisions) (Bailiwick of Guernsey) Law, 2008

THE STATES, in pursuance of their Resolution of the 27th September, 2007^a, 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.

Power to enact Ordinances in relation to non profit organisations and non profit organisational activities.

1. The States may, by Ordinance, make such provision as they think fit in relation to non profit organisations, their activities, and their directors, employees, officers and trustees, and in relation to non profit organisational activities.

Specific matters for which Ordinances may make provision.

2. An Ordinance under section 1 may, without limitation, make provision in relation to the following matters -

- (a) the prohibition, restriction or regulation of matters set out in section 1,
- (b) exceptions, exemptions and derogations from any such

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

prohibition, restriction or regulation including, without limitation, exceptions, exemptions and derogations -

- (i) in the public interest,
 - (ii) as a matter of public policy, or
 - (iii) on social, community, economic, ethical and other grounds,
- (c) the establishment of an office of Charity and Non Profit Organisations Commissioner ("**the Commissioner**"), whether as an office of a department of the States or as a separate legal entity, with responsibility for the administration and enforcement of this Law and any Ordinance under it, and with such rights, liabilities, functions and capacity as may be specified by Ordinance,
- (d) the appointment, term of office and termination of office of the Commissioner,
- (e) the vesting of any right, liability, power and property in the Commissioner,
- (f) the investigation by the Commissioner of matters set out in section 1 and the making and publication by him of reports on those matters, whether at the direction of the Policy Council or the States,

- (g) the Commissioner's powers of entry, inspection, search and inquiry for the purposes of -
 - (i) the administration and enforcement of any Ordinance under this Law,
 - (ii) carrying out investigations and making reports, and
 - (iii) generally for the carrying out of his functions,
- (h) the production, seizure, retention, use and disclosure of documents and information,
- (i) the obtaining and exchanging of information,
- (j) the service of documents,
- (k) the establishment by the Commissioner of his office, the appointment of his staff and the delegation of his functions,
- (l) the issue by the Commissioner of codes of practice, guidance and recommendations, and their status in law,
- (m) the imposition by the Commissioner of directions, orders, penalties, fines, interim measures and other sanctions,

- (n) the appointment by the Commissioner of any person or body to advise him in relation to the exercise of his functions,
- (o) the production and publication by the Commissioner of reports and accounts and the auditing of accounts,
- (p) the making of grants and loans to the Commissioner,
- (q) the establishment by the Commissioner of a fund and the status of that fund for income tax purposes,
- (r) the objectives to be promoted and the other matters to be taken into account by the Commissioner, the Policy Council and the States in carrying out their respective functions under this Law and any Ordinance under it,
- (s) the giving to the Commissioner of directions and recommendations by the Policy Council, the States or any other body,
- (t) co-operation and the provision of mutual assistance by the Commissioner, in relation to matters set out in section 1, with or to authorities -
 - (i) carrying out functions corresponding to his own, or
 - (ii) which are of any prescribed class or description,

- (u) privilege and duties of confidentiality and exceptions, exemptions and derogations therefrom,
- (v) the implementation of -
 - (i) any international instrument relating to matters set out in section 1 or any aspect thereof,
 - (ii) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under any such international instrument,subject to such exceptions, adaptations and modifications as may be specified in the Ordinance,
- (w) the administration and enforcement of any Ordinance under this Law including, without limitation, provision as to -
 - (i) appeals in relation to decisions in respect of such administration and enforcement,
 - (ii) modes of civil enforcement (including, without limitation, proceedings for injunctions),
 - (iii) modes of criminal enforcement,
 - (iv) remedies in respect of contraventions of any

prohibition, restriction or regulation imposed by an Ordinance under this Law, and

- (v) the establishment of a tribunal and a panel of persons from whom the members of the tribunal are to be drawn,

and otherwise as to the administration of justice in relation to matters set out in section 1,

- (x) the jurisdiction and powers of the courts, and the constitution and procedure of those courts, in relation to matters set out in section 1,
- (y) provision as to evidence including, without limitation, rules as to the admission of evidence and evidential presumptions,
- (z) the authorisation of, and conferring of functions on, any person, body or office including, without limitation, the Commissioner, the Policy Council and the States (and their respective officers) for the purposes of the administration and enforcement of any Ordinance under this Law,
- (aa) the granting (conditionally or otherwise), refusal, variation, revocation and suspension of licences or other descriptions of authorisation or approval for the doing of anything restricted, regulated or controlled by an Ordinance under this Law,

- (bb) the making of applications for such licences, authorisations or approvals,
- (cc) the levying of fees,
- (dd) the recovery of costs associated with the administration and enforcement of any Ordinance under this Law, and
- (ee) the exclusion of liability of any specified person or body in respect of anything done or omitted to be done in the discharge or purported discharge of any of their functions under the Ordinance unless the thing is done or omitted to be done in bad faith.

General provisions as to subordinate legislation.

- 3. (1) Any Ordinance under this Law -
 - (a) may be amended or repealed by a subsequent Ordinance hereunder,
 - (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, and
 - (c) may, without limitation, contain provision -
 - (i) as to the creation of new liabilities, obligations, remedies, sanctions and penalties,

- (ii) making consequential amendments to this Law and any other enactment, and
- (iii) authorising the Policy Council, any other department of the States or any other body (including, without limitation, any court) to make or issue regulations, rules, orders, codes or guidance, whether as to any matter in relation to which the Ordinance can make provision or otherwise.

(2) Any power conferred by this Law to make any 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.

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

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

(4) Without prejudice to the generality of the foregoing provisions of this Law, an Ordinance under this Law -

- (a) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (b) may make provision for the purpose of dealing with matters arising out of or related to matters set out in section 1, and
- (c) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by *Projet de Loi*, but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.

(5) An Ordinance under this Law does not have effect in Alderney or Sark unless approved by the States of Alderney or (as the case may be) by the Chief Pleas of Sark.

(6) For the purposes of subsection (5), an Ordinance shall be deemed to have been approved by the States of Alderney or the Chief Pleas of Sark at the expiration of a period of four months immediately following the day of its approval by the States of Deliberation unless, within that period -

- (a) the States of Alderney resolve to disapprove its application to Alderney or, as the case may be,
- (b) the Chief Pleas of Sark resolve to disapprove its application to Sark.

Interpretation.

4. (1) In this Law, unless the context otherwise requires -

"**charity**" means any organisation established for charitable purposes only,

"**Commissioner**" has the meaning assigned by section 2(c),

"**department of the States**" means any department, council or committee (howsoever called or titled) of the States,

"**enactment**" means any Law, Ordinance or subordinate legislation,

"**implementation**", in relation to -

- (a) any international instrument, and
- (b) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under any such international instrument,

includes the enforcement or enactment thereof, and the securing of the administration, execution, recognition, exercise or enjoyment thereof, in or under domestic law,

"international instrument" means -

- (a) any convention, treaty, protocol or other international instrument, or any provision thereof, and
- (b) any Community provision within the meaning of section 3(1) of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^b,

whether or not binding on Guernsey,

"non profit organisation" means any organisation established either for the non-financial benefit of its members or for the benefit of society or any class or part of society and, without limitation, includes any organisation established solely or principally for social, fraternal, educational, cultural or

^b Order in Council No. III of 1994.

religious purposes, or for the carrying out of any other types of good works, and includes a charity,

"non profit organisational activities" means any activities of a non profit organisation whether or not such activities are connected to its objects or purpose,

"organisation" includes a body of persons (corporate or unincorporate), a trust, any other legal entity and any equivalent or similar structure or arrangement,

"Policy Council" means the States Policy Council,

"States" means the States of Guernsey, and

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

(2) The definitions in subsection (1) may be amended by Ordinance of the States.

(3) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of this Law throughout the Bailiwick of Guernsey.

(4) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

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

Citation.

5. This Law may be cited as the Charities and Non Profit Organisations (Enabling Provisions) (Bailiwick of Guernsey) Law, 2008.

PROJET DE LOI

ENTITLED

The Education (Guernsey) (Amendment) Law, 2008

THE STATES, in pursuance of their Resolutions of the 25th April 2001^a and the 2nd November, 2007^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 Island of Guernsey.

Amendment of Law of 1970.

1. The Education (Guernsey) Law, 1970^c ("**the Law**") is further amended as follows.

2. In section 1(1) of the Law (interpretation) -

(a) after the definition of "**committee of management**",
insert -

"**company**" means a body corporate, of whatever description, incorporated with or without limited liability in any part of the world, ",

^a Billet d'État No. VII of 2001.

^b Article XI of Billet d'État No. XXII of 2007.

^c Ordres en Conseil Vol XXII, p.318; Vol. XXVI, p. 107, Vol. XXVII, p. 347; Vol. XXVIII, p. 181; Vol. XXX, p. 179; Vol. XXXI, p. 168 and Vol. XXXII, p. 144 and the Education (Compulsory School Age) (Guernsey) Ordinance, 2008, approved by resolution of the States on 28th May, 2008.

(b) after the definition of "**the Council**" insert -

"**enactment**" means any Law, Ordinance or subordinate legislation," , and

(c) after the definition of "**special educational needs**" and "**special educational provision**" insert -

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

3. In section 16 of the Law (compulsory school age) -

(a) for subsections (3) and (4) substitute -

"(3) Any person who -

(a) attains an age which is the upper limit of the compulsory school age at any time from the beginning of a school year up to and including the last Friday in June in that school year, shall be deemed not to have attained that age until the end of that last Friday in June, or

(b) is to attain an age which is the upper limit of the compulsory school age at any time after the last Friday in June in a school year but before the beginning of the school year next

following, shall be deemed to have attained that age at the end of that last Friday in June.

(4) In subsection (3) "**school year**" means the period beginning on 1st September in any year and ending at the end of the 31st August next following.", and

(b) in the proviso at the end of the section, for the words "paragraph (c)" substitute " paragraph (b)".

4. In section 23 of the Law (general duties of the Council with respect to further education), in paragraph (a) for the words "vocational and industrial training" substitute ", without limitation, vocational, social, physical, recreational and industrial training".

5. For section 49 of the Law (power of the Council to give financial assistance in respect of children attending schools and students attending institutions of further education) substitute -

"Power of the Council to give financial assistance in respect of children attending schools and students attending institutions of further education.

49. (1) The Council may, in accordance with such conditions as the Council may from time to time determine and subject to such conditions as the States may from time to time by Resolution prescribe, for the purpose of enabling pupils to take advantage of any educational facilities available to them -

(a) defray such expenses of children attending any school maintained by the States as may be

necessary to enable them to take part in any school activities, or

- (b) pay the whole or any part of the fees and expenses payable in respect of pupils attending schools at which fees are payable.

(2) The Council may for the purpose of enabling persons to take advantage of any educational facilities available to them and subject to subsection (4) -

- (a) make loans, grants or allowances, pursuant to any arrangements made under paragraph (b) or otherwise, in respect of persons pursuing -

- (i) a course of education at a university, university college, or other similar institution,

- (ii) a course of training as a teacher,

- (iii) a course at any other place of further education, or

- (iv) a distance learning course in a subject of further education,

- (b) make and establish such arrangements as it thinks fit for the making of loans, grants or allowances to the persons specified in

paragraph (a) including, without limitation -

- (i) establishing, incorporating, dealing with, dissolving and winding up companies through which loans, grants or allowances made under paragraph (a) may be made or administered,
- (ii) entering into arrangements of any kind with any third party in relation to any such arrangements, and
- (iii) taking such steps as the Council considers necessary or expedient to allow a company through which the loans, grants or allowances are made or administered to effectively carry on such business including, without limitation, such steps as are necessary or expedient to enable such a company to manage or administer any loans or the portfolio of its business.

(3) Such provision as the Council considers necessary or expedient may be prescribed in relation to the making of loans, grants or allowances under subsection (2) including -

- (a) the matters in respect of which a loan, grant or allowance is available,

- (b) the amount of loan, grant or allowance available and the conditions subject to which they are made,
- (c) the courses in respect of which a loan, grant or allowance is available, and
- (d) the persons eligible for such loans, grants or allowances.

(4) The Council must exercise its powers under subsection

(2) -

- (a) in accordance with such conditions as the Council may from time to time determine,
- (b) in accordance with such provisions as may be prescribed under subsection (3), and
- (c) subject to such conditions as the States may from time to time by Resolution prescribe.

(5) The States may by Ordinance make such provision as they consider appropriate for appeals to be brought against decisions of the Council under subsection (2) in relation to the making of loans, grants or allowances including provision as to -

- (a) the decisions that may be appealed,
- (b) the persons who may bring such appeals,

- (c) the person to whom such an appeal is to be made,
- (d) the grounds of appeal, and
- (e) the procedure to be adopted for such appeals."

6. For section 57(2) of the Law (variation or revocation of orders or directions) substitute -

"(2) Any regulations or orders made, or directions given, under this Law -

- (a) may be amended or revoked by subsequent regulations, orders or directions, as the case may be, made or given, hereunder, and
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to be necessary or expedient.

(3) Any power conferred by this Law to make regulations or orders, or give directions, 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 conditions specified in the regulations, order or direction, as the case may be."

7. After section 57 of the Law (provisions as to regulations, orders and directions under this law), insert -

"Power of States to amend Law by Ordinance and general provisions as to Ordinances.

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

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

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

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

(4) An Ordinance under this Law -

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

(5) 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 case,
- (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 classes of cases, or different provisions for the same case or class of case for different purposes, and
- (iii) any such provision either unconditionally or subject to any prescribed conditions."

Interpretation.

8. Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modifications), extended or applied.

Citation.

9. This Law may be cited as the Education (Guernsey) (Amendment) Law, 2008.

Commencement.

10. This Law shall come into force on the day appointed by order of the States of Guernsey Education Department and different dates may be appointed for different provisions of this Law and for different purposes.

The Education (Compulsory School Age) (Guernsey) Ordinance, 2008

THE STATES, in pursuance of their Resolution of the 25th April 2001^a and in exercise of the power conferred on them by section 16(2) of the Education (Guernsey) Law, 1970^b, hereby order:-

Effect of section 16(1) of Law of 1970.

1. The States of Guernsey hereby direct that section 16(1) of the Education (Guernsey) Law, 1970 (compulsory school age) shall have effect as if for each reference to "fifteen years" there were substituted "sixteen years".

Interpretation.

2. Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

3. This Ordinance may be cited as the Education (Compulsory School Age) (Guernsey) Ordinance, 2008.

Commencement.

4. This Ordinance shall come into force on the 1st September, 2008.

^a Billet d'État No. VII of 2001.

^b Ordres en Conseil Vol. XXII, p.318; Vol. XXVI, p. 107, Vol. XXVII, p. 347; Vol. XXVIII, p. 181; Vol. XXX, p. 179; Vol. XXXI, p. 168 and Vol. XXXII, p. 144.

The Alderney (Application of Legislation) (Education) Ordinance, 2008

THE STATES, in pursuance of their Resolution of the 25th April 2001^a and in exercise of the powers conferred on them by section 1 of the Alderney (Application of Legislation) Law, 1948^b, hereby order:-

Ordinance of 2008 to have effect in Alderney.

1. The Education (Compulsory School Age) (Guernsey) Ordinance, 2008^c shall have effect in the Island of Alderney as it has effect in the Island of Guernsey.

Citation.

2. This Ordinance may be cited as the Alderney (Application of Legislation) (Education) Ordinance, 2008.

Commencement.

3. This Ordinance shall come into force on the 1st September, 2008.

^a Billet d'État No. VII of 2001.

^b Ordres en Conseil Vol. XIII, p. 448; Vol. XVI, p. 124 and 126; Vol. XXIV, p. 210, Vol. XXIX, p. 299; Vol. XXX, p. 224 and Order in Council No. XVI of 1997 and Ordinance No. XXXIII of 2007.

^c Approved by resolution of the States on 28th May, 2008.

The Housing (Control of Occupation) (Guernsey) (Amendment) Ordinance, 2008

THE STATES, in pursuance of their Resolutions of the 27th July, 2005^a and the 28th June, 2007^b, and in exercise of the powers conferred on them by sections 1, 2 and 4 of the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005^c and all other powers enabling them in that behalf, hereby order:-

Amendment of 1994 Law.

1. The Housing (Control of Occupation) (Guernsey) Law, 1994^d is further amended as follows.

2. In section 3(3)(c) of that Law after "rateable value" insert ", assessable units, plan area".

3. In section 6(4) of that Law for "size or rateable value" substitute "size, rateable value, assessable units or plan area".

4. In section 71(1) of that Law insert the following definitions in the appropriate places -

^a Article VII of Billet d'État No. XI of 2005.

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

^c Order in Council No. X of 2006.

^d Order in Council No. IV of 1994; amended by No. VI of 1998; No. III of 2002; and No. VIII of 2007; also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

"**assessable units**", in relation to a dwelling, means the number of assessable units of the dwelling within the meaning of, and calculated in accordance with, the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007,

"**plan area**", in relation to a dwelling, means the plan area of the dwelling within the meaning of, and measured in accordance with, the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007,".

Citation.

5. This Ordinance may be cited as the Housing (Control of Occupation) (Guernsey) (Amendment) Ordinance, 2008.

Commencement.

6. This Ordinance shall come into force on the 1st June, 2008.

The Parochial Taxation (Amendment) Ordinance, 2008

THE STATES, in pursuance of their Resolution of the 27th February, 2008^a, and in exercise of the powers conferred on them by article X of the Law entitled "Loi relative à la Taxation Paroissiale" registered on the 27th October, 1923^b, sections 1, 2 and 4 of the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005^c and all other powers enabling them in that behalf, hereby order:-

Amendment of Parochial Taxation Ordinance.

1. In article 6 of the Ordonnance relative aux Taxes Paroissiales, 1931^d for the text following "du montant dû," substitute -

"les Connétables pourront, à leur discrétion absolue, percevoir le plus grand des sommes qui s'ensuivent -

- (a) une pénalité fixe de £25 par chaque mois ou partie d'un mois dans lequel le montant dû est non payé, ou
- (b) intérêt au montant dû à 10% par an calculé depuis la date à laquelle paiement est dû jusqu'à la date à laquelle paiement est effectué,

^a Article VII of Billet d'État No. II of 2008.

^b Ordres en Conseil Vol. VII, p. 146.

^c Order in Council No. X of 2006.

^d Recueil d'Ordonnances Tome V, p. 387; article 6 was substituted by Tome XXIII, p. 254.

et la pénalité ou intérêt est recouvrable à la façon dont, et de la personne de laquelle, la taxe est recouvrable." .

Citation.

2. This Ordinance may be cited as the Parochial Taxation (Amendment) Ordinance, 2008.

Commencement.

3. This Ordinance shall come into force on the 1st June, 2008, but shall have effect only for the purposes of parochial tax levied in the Parishes' respective financial years beginning in 2009 and thereafter.

The Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008

THE STATES, in pursuance of their Resolution of the 27th February, 2008^a, and in exercise of the powers conferred on them by section 9 of the Parochial Collection of Refuse (Guernsey) Law, 2001^b, sections 1, 2 and 4 of the Taxation of Real Property (Enabling Provisions) (Guernsey and Alderney) Law, 2005^c and all other powers enabling them in that behalf, hereby order:-

Amendment of Law of 2001.

1. The Parochial Collection of Refuse (Guernsey) Law, 2001^d is further amended as follows.
2. In sections 2(1)(a) and 2(3)(a) for "occupier" substitute "owner".
3. In section 2(3) the words "the occupier or, as the case may be," are repealed.
4. In section 2(4)(a) and (b) for "rateable value" substitute "assessable value".
5. In section 2(5) after the words "levied in respect of a" insert "dwelling house or".

^a Article VII of Billet d'État No. II of 2008.

^b Order in Council No. IX of 2001; amended by No. XIII of 2004; and by Ordinance IX of 2002.

^c Order in Council No. X of 2006.

^d Order in Council No. IX of 2002; amended by No. XIII of 2004 and by Ordinance No. IX of 2002.

6. In section 2(6), the following words are repealed -
- (a) "occupier or",
 - (b) "occupy or (as the case may be)", and
 - (c) "occupier or (as the case may be)".
7. In section 3(2) for "rateable value" substitute "assessable value".
8. In section 3(4) for "occupier" substitute "owner".
9. In section 6(1) before the definition of "**dwelling house**" insert the following definition -

"**assessable value**" means the number of assessable units of the property in question (on the 31st December in the calendar year preceding that in which the refuse rate becomes due) within the meaning of, and calculated in accordance with, the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007, ".

10. In section 6(1) the definition of "occupier" is repealed.
11. In section 6(1) the definition of "rateable value" is repealed.
12. For section 6(2) substitute the following subsection -

"(2) In this Law the expressions "**dwelling house**" and "**tenement house**" include anything classified therewith in property

references B1.1, B1.2, B2.1, B2.2, B3.1, B3.2 and B4.2 (as the case may be) for the determination of property tax in accordance with the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007."

13. Paragraphs 1 and 2 of Schedule 2 are repealed.

Citation.

14. This Ordinance may be cited as the Parochial Collection of Refuse (Guernsey) (Amendment) Ordinance, 2008.

Commencement.

15. This Ordinance shall come into force on the 1st June, 2008, but shall have effect only for the purposes of the refuse rate levied in the Parishes' respective financial years beginning in 2009 and thereafter.

**The Criminal Justice (Aiding and Abetting etc.) (Bailiwick
of Guernsey) Law, 2007
(Commencement) Ordinance, 2008**

THE STATES, in exercise of the powers conferred on them by section 6(2) of the Criminal Justice (Aiding and Abetting etc.) (Bailiwick of Guernsey) Law, 2007^a, hereby order:-

Commencement of Law.

1. The Criminal Justice (Aiding and Abetting etc.) (Bailiwick of Guernsey) Law, 2007 shall come into force on the 1st June, 2008.

Citation.

2. This Ordinance may be cited as the Criminal Justice (Aiding and Abetting etc.) (Bailiwick of Guernsey) Law, 2007 (Commencement) Ordinance, 2008.

^a Order in Council No. I of 2008.

PROJET DE LOI

ENTITLED

The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008

THE STATES, in pursuance of their Resolution of the 28th May, 2008^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Amendment of 1987 Law.

1. The Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended^b ("**the 1987 Law**") is further amended as follows.

2. In section 2(2)(a) of the 1987 Law the words "development and" are repealed.

3. In section 2(2A) of the 1987 Law^c -

(a) for the words "For the purposes of subsection (2)(a)

^a Article ** of Billet d'État No. ** of 2008.

^b Ordres en Conseil Vol. XXX, p. 243; amended by No. XX of 1991; No. XIII of 1994; No. II of 1997; No. II of 1998; No's. XVII and XXI of 2002; No's. III and XXII of 2003; the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII); and the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005 (No. XXXIV).

^c Subsection (2A) was inserted by Order in Council No. XVII of 2002.

"development" includes" substitute "The exercise of the general functions of the Commission may include", and

(b) in paragraph (a) subparagraphs (i) and (ii) are repealed.

4. In section 7(1)(b) of the 1987 Law the words "development and" are repealed.

5. In section 8(2)(a) of the 1987 Law -

(a) for the word "development" where first appearing substitute "supervision", and

(b) the words "development and" are repealed.

6. Section 8(2)(d) of the 1987 Law is repealed

7. In paragraph 1(2) of Schedule 1 to the 1987 Law the words "development and" are repealed.

Citation.

8. This Law may be cited as the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008.