

# **BILLET D'ÉTAT No. III, 2016**

**16<sup>th</sup> FEBRUARY 2016**

	<i>Page</i>
The Milk (Control) (Guernsey) Ordinance, 2016	1
The States Reform Law, 2015 (Commencement) Ordinance, 2016	36
The Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016	37
The Environmental Pollution (Designation of Waste Disposal Authority) Ordinance, 2016	68
The Land Planning and Development (Strategic Land Planning) (Amendment) Ordinance, 2016	71
The Compulsory Acquisition of Land (Guernsey) (Fees and Amendment) Ordinance, 2016	77
The Motor Taxation (First Registration Duty) (Guernsey) Ordinance, 2016	80
The Mental Health (Transfer of Patients) (Guernsey and Alderney) Ordinance, 2016	90
The Income Tax (Guernsey) (Approval of Agreements with British Virgin Islands, Cayman Islands, South Korea and Spain) Ordinance, 2016	94

## *Ordinance laid before the States*

The Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015	96
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## **The Milk (Control) (Guernsey) Ordinance, 2016**

### ARRANGEMENT OF SECTIONS

#### PART I DEFINITION OF MILK

1. Definition of milk.

#### PART II SUPPLY OF MILK TO THE DEPARTMENT

2. Supply of milk to the Department.
3. Exceptions from supply.
4. Notification of failure of industry test etc. to farmers.
5. Prices payable for milk to farmers.

#### PART III CONTROL OF DISTRIBUTION ETC.

6. Control of purchases and sales etc. of milk produced in Guernsey.
7. Control of sales etc. of milk produced in Guernsey to registered distributors.
8. Control of purchases and sales etc. by any person of imported milk.
9. Definition of distributor.

#### PART IV APPEALS

10. Appeals against decisions.

#### PART V ENFORCEMENT PROVISIONS

11. Powers of entry and inspection of premises.
12. Warrant to enter premises.
13. Supplementary functions.
14. Statutory powers to make requirements.

#### PART VI MISCELLANEOUS AND GENERAL PROVISIONS

15. General functions of Department.
16. Register of registered distributors.
17. False, deceptive and misleading statements etc.
18. Penalties for offences.
19. Service of documents.
20. Exemptions.
21. Interpretation.

- 22. Transitional provision.
- 23. Repeals.
- 24. Citation and commencement.

SCHEDULE: Repeals.

## **The Milk (Control) (Guernsey) Ordinance, 2016**

**THE STATES**, in pursuance of their Resolutions of the 25<sup>th</sup> September, 2014<sup>a</sup> and the 2<sup>nd</sup> October, 2015<sup>b</sup>, and in exercise of the powers conferred upon them by sections 2, 8 and 11 of the Milk and Milk Products (Guernsey) Law, 1955<sup>c</sup>, and of all other powers enabling them in that behalf, hereby order: –

### PART I DEFINITION OF MILK

#### **Definition of milk.**

1. (1) For the purposes of this Ordinance, milk has the meaning in the Law except that it does not include milk of a description listed in subsection (2).

(2) The descriptions of milk referred to in subsection (1) are –

- (a) partly dehydrated milk of any description including, without limitation –
  - (i) partly dehydrated milk with an admixture of sucrose, and
  - (ii) partly dehydrated milk which is offered, exposed or kept for sale as condensed or evaporated milk,
- (b) flavoured milk, and
- (c) milk which is both produced, and offered, exposed or

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<sup>a</sup> Article IX of Billet d'État No. XX of 2014.

<sup>b</sup> Article XX of Billet d'État No. XVI of 2015.

<sup>c</sup> Ordres en Conseil Vol. XVI, p. 193 as amended by Ordres en Conseil Vol. XIX, p. 134, Vol. XXXI, p. 19, Ordinance No. XX of 2001 and Ordinance No. XXXIII of 2003.

kept for sale, for consumption by an animal other than man.

(3) In this section –

"**flavoured milk**" means a milk, other than partly dehydrated milk, to which –

- (a) sweetening or colouring, and
- (b) an artificial or natural flavouring,

has been added and which is both produced, and offered, exposed or kept for sale, as a flavoured milk.

## PART II

### SUPPLY OF MILK TO THE DEPARTMENT

#### Supply of milk to the Department.

2. (1) Subject to the following provisions of this Ordinance, an owner of cows ("**a farmer**") must supply all the milk produced from the cows to the Department by –

- (a) making it available for collection from the premises where it was produced or other premises where it is stored, or
- (b) delivering it to –
  - (i) the States Dairy, or
  - (ii) such other place as may from time to time be agreed in writing with the Department.

(2) The Department may enter into an agreement in writing with a farmer as to the terms and conditions of the supply of milk in accordance with this

section provided that such terms and conditions are consistent with any provision under the Law.

(3) The property and risk in milk supplied to the Department in accordance with this section passes to the Department at the time when it is collected or delivered in accordance with this section.

**Exceptions from supply.**

3. (1) Despite section 2, a farmer may retain out of milk produced from the farmer's cows such quantity of milk as may be required for –

- (a) where the farmer is an individual, household consumption in the farmer's household,
- (b) supply by the farmer by way of a gift,
- (c) supply to an employee of the farmer, who is employed in relation to the care and supervision of the farmer's cows, for household consumption in the employee's household,
- (d) feeding calves owned by the farmer, or
- (e) the manufacture of a milk product by the farmer provided that prior written approval is obtained from the Department for –
  - (i) the manufacture of the milk product, and
  - (ii) the quantity of milk that can be retained for such manufacturing purposes.

(2) Milk retained by a farmer for a purpose specified in subsection (1) must be used only for that purpose.

**Notification of failure of industry test etc. to farmers.**

4. (1) This section applies to milk supplied to the Department in accordance with section 2.

(2) Where milk –

- (a) fails a specified test, or
- (b) is subject to investigation under an enactment relating to food, food hygiene or public health,

the Department must notify the farmer by whom, or on whose behalf, the milk was supplied, of the same in accordance with subsection (3).

(3) A notification under subsection (2) must be sent by the Department to the farmer within 48 hours of –

- (a) the receipt by the Department of the test results indicating a failure of the specified test, or
- (b) the Department being first aware of the investigation,

as the case may be, and must include such information as the Department considers is reasonably required, and can reasonably be disclosed to the farmer, in relation to the specified test or investigation.

(4) In this section and section 5 –

**"failure"** in relation to a test means a failure to meet criteria specified by the Department from time to time in writing for the passing of a specified test and related expressions are construed accordingly,

**"investigation"** includes seizure, removal, detention, sampling, examination, inspection, investigation or other regulatory

or enforcement action (however worded) including any notice or order except that it does not include any action which does not prevent or delay milk being processed and used for human consumption, and

"**specified test**" means a test specified by the Department from time to time in writing, having regard to current best practice for the testing of milk, for the purpose of the testing of milk supplied to the Department and such tests may, without limitation, include tests for or in relation to –

- (a) antibiotic levels,
- (b) foreign bodies,
- (c) water content,
- (d) total bacteria count, and
- (e) somatic cell count.

(5) The Department must give all farmers reasonable prior notice of a test or criteria, or of any changes to a test or criteria, specified under this section.

**Prices payable for milk to farmers.**

5. (1) The Department may pay nothing or a reduced price, for milk supplied to it in accordance with this Ordinance which –

- (a) has failed a specified test, or
- (b) is subject to investigation under an enactment relating to food, food hygiene or public health,

(2) For the purposes of subsection (1), the Department must



agree in writing with a farmer the following matters –

- (a) the specific circumstances in which the Department may pay nothing or a reduced price, for milk, and
- (b) where relevant, the level of reduced price which is payable.

### PART III CONTROL OF DISTRIBUTION ETC.

#### **Control of purchases and sales etc. of milk produced in Guernsey.**

6. (1) A person listed in subsection (2) must not buy or otherwise obtain milk produced in Guernsey, in the course of the business referred to in that subsection, from any person other than -

- (a) the Department, or
- (b) a registered distributor,

except under and in accordance with a written exemption of the Department and any conditions attached to it.

(2) The persons referred to in subsection (1) are –

- (a) a person carrying on the business of a shop,
- (b) a caterer or manufacturer, and
- (c) a person carrying on the business of a residential establishment.

(3) A person, other than the Department or a registered distributor, must not sell or supply milk produced in Guernsey to –

- (a) a person carrying on the business of a shop,

- (b) a caterer or manufacturer, or
- (c) a person carrying on the business of a residential establishment,

for use in the course of the relevant business referred to in this subsection, except under and in accordance with a written exemption of the Department and any conditions attached to it.

**Control of sales etc. of milk produced in Guernsey to registered distributors.**

7. A person, other than the Department, must not sell or supply milk produced in Guernsey to a registered distributor, for use in the course of distribution, except under and in accordance with a written exemption of the Department and any conditions attached to it.

**Control of purchases and sales etc. by any person of imported milk.**

8. (1) A person must not buy, or otherwise obtain milk, which has not been produced in Guernsey, from a person other than -

- (a) the Department, or
- (b) a registered distributor,

except under and in accordance with a written exemption of the Department and any conditions attached to it.

(2) For the avoidance of doubt -

- (a) subsection (1) does not apply to the Department which may buy or obtain milk which has not been produced in Guernsey where it considers it necessary or expedient to do so, and
- (b) a written exemption under subsection (1) or (3) may also exempt a person buying, or otherwise obtaining,

milk from a person exempted under that subsection.

(3) A person, other than the Department, must not sell or supply milk, which has not been produced in Guernsey, in the course of a business except under and in accordance with a written exemption of the Department and any conditions attached to it.

**Definition of distributor.**

9. For the purposes of this Ordinance "**distributor**" means a person who sells and delivers milk in the course of a business except for—

- (a) the sale and delivery of milk by, or on behalf of, a farmer to —
  - (i) the Department, or
  - (ii) any person to whom a farmer may supply milk under section 3(1),
- (b) the sale and delivery of milk by the Department,
- (c) the subsequent sale and delivery of milk by a person carrying on the business of a shop, as part of a home delivery service carried on by that person, following the prior sale and delivery of the milk to the shop premises, or
- (d) the sale and delivery of milk to a beneficiary under any scheme, for the time being in force, provided by the States for the supply of milk (whether free of cost or at a reduced price),

and "**distribution**" and other related expressions are construed accordingly.

PART IV  
APPEALS

**Appeals against decisions.**

10. (1) A person aggrieved by a decision of the Department -
- (a) to refuse to give an approval requested by that person under section 3(1)(e),
  - (b) to amend or withdraw an approval issued to that person under section 3(1)(e),
  - (c) to amend or withdraw an exemption issued in respect of that person, or in respect of a class of persons of which they form part, under section 6, 7 or 8,

may appeal to the Royal Court against the decision.

- (2) The grounds of an appeal under this section are that -
- (a) the decision was ultra vires or there was some other error of law,
  - (b) the decision was unreasonable,
  - (c) the decision was made in bad faith,
  - (d) there was a lack of proportionality, or
  - (e) there was a material error as to the facts or as to the procedure.
- (3) An appeal under this section must be instituted -
- (a) within a period of 28 days immediately following the date of the notification of the Department's decision,

and

- (b) by summons served on the Minister of the Department, stating the grounds and material facts on which the appellant relies.

(4) The Department may, where an appeal under this section has been instituted, apply to the Royal Court by summons served on the appellant for an order that the appeal be dismissed for want of prosecution; and on hearing the application the Royal Court may -

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

and the provisions of this subsection are without prejudice to the inherent powers of the Royal Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007<sup>d</sup>.

(5) On an appeal under this section the Royal Court may -

- (a) set the decision of the Department aside and, if the Royal Court considers it appropriate to do so, remit the matter to the Department with such directions as the Royal Court thinks fit, or
- (b) confirm the decision, in whole or in part.

(6) On an appeal under this section against a decision of the Department the Royal Court may, on the application of the appellant, and on such terms as the Royal Court thinks just, suspend or modify the operation of the

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<sup>d</sup> O.R.C. No. IV of 2007 as amended by O.R.C. No. II of 2008.

decision pending the determination of the appeal.

(7) For the purposes of an appeal under this section, the Royal Court may appoint one or more assessors to assist it in the determination of any matter before it.

(8) An appeal from a decision of the Royal Court under this section lies to the Court of Appeal on a question of law and must be instituted –

- (a) within a period of 14 days immediately following the date of the decision of the Royal Court, and
- (b) by notice served on all parties to the proceedings in the course of which the order was made.

## PART V

### ENFORCEMENT PROVISIONS

#### **Powers of entry and inspection of premises.**

**11.** (1) An Authorised Person may, subject to subsections (4) and (6), at any reasonable time enter and inspect any premises–

- (a) in which milk is produced, kept otherwise than for household consumption or sold, or
- (b) which are otherwise used in connection with the distribution of milk.

(2) An Authorised Person may, subject to subsections (4) and (6) enter any premises at any reasonable time for the purpose of -

- (a) where the Authorised Person has reasonable grounds to suspect that an offence under the Law has been or is being committed, investigating that offence,

- (b) considering an application or request in relation an approval or exemption under this Ordinance,
- (c) deciding whether and in what manner any function of the Department under the Law ought to be exercised, or
- (d) exercising any function conferred on the Department under the Law.

(3) An Authorised Person purporting to enter and inspect or enter premises under this section must, upon request, produce evidence of their authority.

(4) The powers of entry under subsections (1) and (2) are not exercisable (other than in a case of emergency) -

- (a) unless the Authorised Person gives to the owner or occupier of the premises concerned at least 24 hours' notice of the Authorised Person's intention to enter the premises, and
- (b) in the case of any premises, or any part of premises, used as a dwelling except under and in accordance with the authority of a warrant issued by the Bailiff under and in accordance with section 12.

(5) The powers of entry under subsections (1) and (2) include a power –

- (a) for an Authorised Person to be accompanied by such persons, and to bring such equipment and materials as the Authorised Person reasonably considers necessary for the purpose for which the power of entry is being exercised, and
- (b) for any person accompanying an Authorised Person

to exercise any power that may be exercised by the Authorised Person, for the purpose for which the Authorised Person entered, provided that any such person is in the company, and under the supervision, of the Authorised Person exercising the power of entry.

(6) The powers in this section do not authorise an Authorised Person to enter any premises by force.

**Warrant to enter premises.**

12. (1) If the Bailiff is satisfied by information on oath supplied by an Authorised Person, that there are reasonable grounds for entering any premises for any purpose for which an Authorised Person has a right to enter premises under section 11, he may grant a warrant to an Authorised Person.

(2) A warrant granted under subsection (1) authorises an Authorised Person at any time within one month of the date of the grant -

- (a) to enter the premises, and
- (b) to exercise in respect of the premises (and any milk, milk product, equipment, substance or other thing found in or on the premises), all such powers as he may exercise under this Part,

for the purposes indicated in subsection (1).

(3) The Bailiff must not issue a warrant under subsection (1) unless the Bailiff is satisfied that one or more of the following four conditions is met.

(4) The first condition is that the whole of the premises is used as a dwelling and the occupier has been informed of the decision to apply for a warrant.



(5) The second condition is that any part of the premises is not used as a dwelling and that each of the following applies -

- (a) the occupier has been informed of the decision to seek entry to the premises and of the reasons for that decision,
- (b) the occupier has failed to allow entry to the premises on being requested to do so by an Authorised Person, and
- (c) the occupier has been informed of the decision to apply for a warrant.

(6) The third condition is that -

- (a) the premises are unoccupied or the occupier is absent, and
- (b) notice of intention to apply for a warrant has been left in a conspicuous place on the premises.

(7) The fourth condition is that it is inappropriate to inform the occupier of the decision to apply for a warrant because -

- (a) it would defeat the object of entering the premises, or
- (b) entry is required as a matter of urgency.

(8) An Authorised Person executing a warrant issued under this section may use such reasonable force as may be necessary.

(9) Sections 10 (search warrants - safeguards) and 11 (execution

of warrants) of PPACE<sup>e</sup> apply in relation to the issue of a warrant under this section to an Authorised Person as they apply in relation to the issue of a warrant to a police officer.

(10) A person must not, without reasonable excuse, fail to give an Authorised Person exercising a warrant under this section such assistance as the Authorised Person may reasonably require for the execution of the warrant.

**Supplementary functions.**

**13.** (1) This section applies to an Authorised Person exercising a power under section 11 or under a warrant issued under section 12.

(2) An Authorised Person exercising a power to which this section applies may, where it is reasonably necessary for the purpose for which the Authorised Person has exercised the power -

- (a) inspect milk, a milk product, equipment, a substance or any other thing (including a document or record in any form),
- (b) carry out a measurement or test on milk, a milk product, equipment, a substance or any other thing,
- (c) take a sample of milk, a milk product, equipment or a substance or any other thing,
- (d) use a mark or other method to identify milk, a milk product, equipment, substance or any other thing,
- (e) require any person to produce any document or record (in whichever form it is held) in a legible form, give them such information, or afford them

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<sup>e</sup> Order in Council No. XXIII of 2003 as amended by Order in Council No. XVI of 2009 and the Police Powers and Criminal Evidence (Bailiwick of Guernsey) (Amendment) Ordinance, 2011.

such facilities or assistance, as the Authorised Person considers necessary,

- (f) take copies of a document or record (in whichever form it is held),
- (g) take a photograph of anything, or
- (h) subject to subsection (5), seize and take into possession any milk, milk product, equipment, substance or other thing which the Authorised Person reasonably believes to be evidence of the commission of an offence under the Law relevant to the purpose for which the power is exercised.

(3) Section 16(1) and (2) (record of thing seized) of PPACE apply in relation to an Authorised Person who seizes and takes into possession any milk or other thing under subsection (2)(h) as it applies in relation to the exercise of a power of seizure by a police officer.

(4) Any milk or other thing which has been seized or taken into possession or detained in the exercise of a power under subsection (2)(h) may, subject to the following provisions of this Ordinance, be retained so long as is necessary in all the circumstances and in particular -

- (a) for use as evidence at a trial for an offence under the Law, or
- (b) for forensic examination or for investigation in connection with an offence,

except that nothing may be retained for such a purpose where a photograph or a copy would be sufficient.

(5) Subsection (2)(h) does not include power to seize anything which the person exercising the power has reasonable grounds for believing to be an

item subject to legal professional privilege within the meaning of section 24 of PPACE.

**Statutory powers to make requirements.**

**14.** (1) Where an Authorised Person reasonably suspects that an offence under the Law has been, or is being, committed in relation to any milk or milk product, he may require –

- (a) the farmer who owns the cows from which the milk or milk product was produced, or
- (b) a registered distributor or a person to whom an approval has been given or in respect of whom an exemption has been issued (whether as a person or part of a class of persons) under this Ordinance,

to comply with any of the requirements indicated in subsection (2).

(2) The requirements for the purpose of subsection (1) are -

- (a) to make available for inspection by an Authorised Person any -
  - (i) milk or milk product, or
  - (ii) equipment, substance or other thing used in relation to milk or a milk product or distribution or any matter which is required to be approved or which may be exempted under this Ordinance,

in relation to which an Authorised Person suspects that the offence has been committed,

- (b) to furnish an Authorised Person with any documents or records (in whichever form they are held) in a

legible form relating to milk, a milk product or distribution or any matter which is required to be approved or may be exempted under this Ordinance as the Authorised Person may reasonably require, and

- (c) to answer such questions relating to milk, a milk product or distribution or other matter which is required to be approved or may be exempted under this Ordinance as the Authorised Person may reasonably ask.

(3) Any milk, milk product, equipment, substance or other thing provided or made available to an Authorised Person in compliance with a requirement under this section may be seized by an Authorised Person and any documents or records may be copied by an Authorised Person.

(4) Where milk, a milk product, equipment, substance or other thing is seized under subsection (3), the provisions of section 13(3) to (5) apply to such a seizure as they apply to a seizure made under section 13(2)(h).

(5) A statement made by a person in response to a requirement imposed under this Part -

- (a) may be used in evidence against the person in proceedings other than criminal proceedings,
- (b) may not be used in evidence against the person in criminal proceedings except -
  - (i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or
  - (ii) in proceedings for -

- (A) an offence under section 7 of the Law in relation to a contravention of section 4(2) of the Law or section 17 of this Ordinance,
- (B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,
- (C) perjury, or
- (D) perverting the course of justice.

(6) A person must not, without reasonable excuse, fail to comply with a requirement imposed on them under this section.

## PART VI

### MISCELLANEOUS AND GENERAL PROVISIONS

#### **General functions of Department.**

15. The Department must –

- (a) take all reasonable measures necessary to ensure that milk required to be supplied by a farmer under section 2 is so supplied, and
- (b) in accordance with section 3 of the Law, otherwise give effect to the provisions of this Ordinance.

#### **Register of registered distributors.**

16. (1) The Department must prepare and maintain, in such form as the Department may determine, a register containing the names and business addresses of all persons who, for the time being, have entered into an extant

commercial agreement with the Department for the distribution of milk.

(2) The Department must make the appropriate entries and deletions to be made in the register as soon as reasonably practicable after the execution and termination of the relevant commercial agreements with the Department.

(3) A registered distributor must notify any change of their business address to the Department within a period of fourteen days beginning with the date on which the change takes effect.

**False, deceptive and misleading statements etc.**

17. In addition to the requirements set out in section 4 of the Law, a person must not do any of the following in circumstances in which they intend, or could reasonably be expected to know, that a statement, information or document provided by them would or might be relied upon or otherwise used by any person for the purpose of exercising that person's functions conferred under the Law –

- (a) make a statement which they know or have reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (b) recklessly make a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (c) produce or furnish, or cause or permit to be produced or furnished, any information or document which they know or have reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (d) recklessly produce or furnish or recklessly cause or permit to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular.

**Penalties for offences.**

**18.** (1) A person who commits an offence by virtue of section 7 of the Law in relation to a contravention of section 2(1), 6, 7 or 8 of this Ordinance is liable –

- (a) on summary conviction, to imprisonment for a term not exceeding 6 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 2 years, or to a fine, or both.

(2) A person who commits an offence by virtue of section 7 of the Law in relation to a contravention of –

- (a) section 4, 5 or 6 of the Law, or
- (b) any provision of this Ordinance not mentioned in subsection (1),

is liable on conviction to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

**Service of documents.**

**19.** (1) In addition to the provisions relating to service of notices under section 10 of the Law, any document to be given or served under, or for the purposes, of this Ordinance may be given or served –

- (a) on an individual, by being transmitted to, his usual or last known place of abode,
- (b) on a company, by being transmitted to, its registered office,



- (c) on an overseas company, by being transmitted to, its principal or last known principal place of business in Guernsey or, if there is no such place, its registered or principal office or last known registered or principal office elsewhere,
- (d) on an unincorporated body, by being transmitted to, the body's principal or last known principal place of business in Guernsey or, if there is no such place, its principal or last known principal place of business elsewhere, or
- (e) on the Department, by being left at, or sent by post or transmitted to, the principal offices of the Department in Guernsey.

(2) If a person notifies the Department of an address for service within Guernsey for the purposes of this Ordinance, any document to be given to or served on that person may be given or served by being left at, or sent by post or transmitted to, that address.

(3) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section or section 10 of the Law, the document may be served –

- (a) by being published by the Department in such manner and for such period as it thinks fit, or
- (b) by being published in La Gazette Officielle on two occasions falling in successive weeks,

and a document served under this subsection is sufficient if addressed to the person for whom it is intended.

(4) Subsections (1) to (3) are without prejudice to section 20(5) and to any other lawful method of service.

(5) Despite the provisions of subsections (1) to (4) and (6) of this section and any other enactment or rule of law in relation to the service of documents, no document to be given to or served on the Department under or for the purposes of this Ordinance is deemed to have been given or served until it is received.

(6) A document sent by post is, unless the contrary is shown, deemed for the purposes of this Ordinance to have been received –

- (a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,
- (b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any day which is not a working day.

(7) Service of a document sent by post is proved by showing the date of posting, the address thereon and the fact of prepayment.

(8) In this section –

- (a) "**document**" does not include a summons,
- (b) the expression "**by post**" means by Special Delivery post, recorded delivery service or ordinary letter post, and
- (b) the expression "**transmitted**" means transmitted by electronic communication, facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication; in which event the document is regarded as served when it is received.

**Exemptions.**

20. (1) This section applies to an exemption issued under this Ordinance by the Department.

(2) An exemption may be –

- (a) issued to a person or a class of persons,
- (b) issued unconditionally or subject to conditions (including, without limitation, conditions limiting the period the exemption is effective), and
- (c) amended or withdrawn by the Department in writing.

(3) Before the Department amends or withdraws an exemption, other than at the request of the person or class of persons to whom it was issued, it must –

- (a) by notice give the person, or class of persons, in question the opportunity to make written representations to the Department on the amendment or withdrawal, and
- (b) take into account any such written representations received.

(4) Where the Department amends or withdraws an exemption other than at the request of the person, or class of persons, in respect of whom the exemption was issued it must notify the person, or class of persons, in question of the decision, the reasons for the same and of the right of appeal under section 10.

(5) An exemption, notice or notification under this section in relation to a class of persons may be issued or effected by the Department publishing the exemption, notice or notification in such manner as the Department

considers appropriate to bring it to the attention of the persons likely to be affected by it.

**Interpretation.**

21. (1) In this Ordinance, unless the context requires otherwise –

"**Authorised Person**" means a person authorised in writing by the Department to perform the functions, or any of the functions, of an authorised person under this Ordinance,

"**Bailiff**" means the Bailiff, Deputy Bailiff, Judge of the Royal Court, Lieutenant-Bailiff or Juge Délégué,

"**business**" includes –

- (a) any economic activity, trade or profession, whether or not carried on for profit, and
- (b) where not already falling within paragraph (a), the carrying on of the activity of running a club or residential establishment or of providing a canteen,

"**buy**" includes offer or agree to buy,

"**canteen**" includes the canteen of an office, a school, college of further education, prison or hospital or similar establishment,

"**caterer**" means a person carrying on business as -

- (a) a restaurateur, publican, refreshment contractor, proprietor of a café, canteen, kiosk or of any other place of refreshment (including a vehicle or a fixed or mobile stall) open to the public, or
- (b) a proprietor of a club or of premises (not being self-

catering tourist accommodation) in respect of which a current boarding permit is in effect granted under section 3 of the Tourist Law, 1948<sup>f</sup>,

where, food is prepared, in the course of that business, to be ready for consumption by the final consumer without further preparation, and related expressions are construed accordingly,

**"contravene"** includes a failure to comply and related expressions are construed accordingly,

**"Court of Appeal"** means the court established by the Court of Appeal (Guernsey) Law, 1961<sup>g</sup>,

**"the Department"** means the States Commerce and Employment Department,

**"distributor"** and related expressions: see section 9,

**"employee"** means an individual who has entered into or who works under a contract of employment,

**"enactment"** includes a Law, an Ordinance or any subordinate legislation and any Community instrument within the meaning of section 1(1) of the European Communities (Bailiwick of Guernsey) Law, 1973<sup>h</sup> and includes any provision or portion of a Law, an Ordinance, any subordinate legislation or such Community instrument,

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<sup>f</sup> Ordres en Conseil Vol. XIII, p. 329 as amended by Ordres en Conseil Vol. XXI, p. 104, Vol. XXVIII, p. 275, Vol. XXXI p. 278, Vol. XXXVIII, p. 307 and Recueil d'Ordonnances Tome XVIII, p. 20 and Tome XXIX, p. 406.

<sup>g</sup> Ordres en Conseil Vol. XVIII, p. 315 as amended by Order in Council No. III of 2012 and Ordinance No. XXXIII of 2003.

<sup>h</sup> Ordres en Conseil Vol. XXIV, p. 87 as amended by Ordres en Conseil Vol. XXVII p. 242, Vol. XXIX pp. 127 and 419, Vol. XXXI p. 278, Order in Council No. XXV of 2002, Recueil d'Ordonnances Tome XXVI, p. 316, Tome XXVIII, p. 79, Ordinance No. XVIII of 2003, No. II of 2007 and No. XIX of 2014.

**"farmer"**: see section 2(1),

**"final consumer"** means a person who buys otherwise than for –

- (a) the purpose of resale,
- (b) use in the course of catering,
- (c) use in the course of manufacturing, or
- (d) use for the purposes of a residential establishment,

**"household consumption"** means consumption by a person as a member of, or guest in, a household,

**"the Law"** means the Milk and Milk Products (Guernsey) Law, 1955,

**"manufacturer"** means a person, other than a caterer or a person carrying on the business of a residential establishment, who in the course of their business, uses milk in the composition, manufacture or preparation of any other article,

**"milk"** : see section 1(1),

**"nursing home"** has the meaning in section 18(1) of the Nursing and Residential Homes (Guernsey) Law, 1976<sup>i</sup> except that it includes any such home managed by, or on behalf of, the States,

**"notice"** means notice in writing,

**"notify"** means notify in writing and related expressions are construed accordingly,

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<sup>i</sup> Ordres en Conseil Vol. XXVI, p. 71 to which there are amendments not relevant to this Ordinance.

"**obtain**" includes offer or agree to obtain,

"**person**" includes –

- (a) an individual,
- (b) a body corporate,
- (c) any other legal person, and
- (d) an unincorporated body of persons,

"**police officer**" means a member of the salaried police force of the Island of Guernsey and in relation to Guernsey, Herm and Jethou, and within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

"**PPACE**" means the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003<sup>j</sup>,

"**premises**" includes –

- (a) any land or vehicle, and
- (b) any other place whether enclosed or not,

"**proprietor**" means the owner or person otherwise in control,

"**publican**" means a person who owns or manages a public house or an inn,

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<sup>j</sup> Order in Council No. XXIII of 2003 as amended by Order in Council No. XVI of 2009, No. XV of 2011 and Ordinance No. XXXIII of 2003, XXXIII of 2009 and Ordinance No. XXIX of 2011.

**"registered distributor"** means a person who has entered into an extant commercial agreement with the Department for the distribution of milk,

**"residential establishment"** means a hospital, nursing home, premises owned or operated by the States Health and Social Services Department for the accommodation of children, residential home or other similar establishment,

**"residential home"** has the meaning in section 18(1) of the Nursing and Residential Homes (Guernsey) Law, 1976 except that it includes any such home managed by, or on behalf of, the States,

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

**"sell"** includes offer or agree to sell or expose for sale and related expressions are construed accordingly,

**"shop"** means a business including the retail or wholesale sale, or other disposal, of milk for consumption by the final consumer,

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

**"the States Dairy"** means the dairy operated by the Department on behalf of the States,

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

**"supply"** includes offer or agree to supply,

**"under the Law"** for the avoidance of doubt, includes under this



Ordinance and under any document issued under this Ordinance,

**"under this Ordinance"** for the avoidance of doubt, includes under any document issued under this Ordinance,

**"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<sup>k</sup>,

**"working day"** is any day other than a Saturday, a Sunday and a non-business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958<sup>l</sup>,

and other expressions used in this Ordinance and defined in the Law have the same meaning as in the Law.

(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.

### **Transitional provision.**

**22.** A written approval given by the Department under section 3(1)(e) of the Milk (Control) (Guernsey) Ordinance, 1958<sup>m</sup> which is in force immediately before the commencement date is deemed to be a written approval given under section 3(1)(e) of this Ordinance.

### **Repeals.**

**23.** The Ordinances set out in Schedule 2 are repealed.

<sup>k</sup> Ordres en Conseil Vol. XXXI, p. 278; for the current scale of fines see Recueil d'Ordonnances Tome XXXI, p. 542.

<sup>l</sup> Ordres en Conseil Vol. XVII, p. 384; as amended by Vol. XXIV, p. 84; and Vol. XXXIV, p. 504.

<sup>m</sup> Recueil d'Ordonnances Tome XII, p. 23 as amended by Ordres en Conseil Vol. XXXI, pp. 19 and 278 and Recueil d'Ordonnances Tome XIII, pp. 84, 251 and 259, Tome XIV, pp. 28 and 277, Tome XVII, p. 1, Tome XXI p. 427, Tome XXII pp. 453 and 473, Tome XXIV p. 17, Tome XXVII, p. 51, Tome XXVIII p. 433, Tome XXIX, p. 406 and Ordinance No. III of 2010.

**Citation and commencement.**

**24.** (1) This Ordinance may be cited as the Milk (Control) (Guernsey) Ordinance, 2016 and shall come into force on the 1<sup>st</sup> March, 2016.

## SCHEDULE

## Section 23

## REPEALS

The Milk (Control) (Guernsey) Ordinance, 1958.

The Milk (Control) (Amendment) (Guernsey) Ordinance, 1962<sup>n</sup>.

The Milk (Control) (Amendment) (Guernsey) Ordinance, 1964<sup>o</sup>.

The Milk (Contributions from Milk Producers) (Repeal) Ordinance, 1966<sup>p</sup>.

The Milk (Control) (Amendment) (Guernsey) Ordinance, 1966<sup>q</sup>.

The Milk (Control) (Guernsey) Ordinance, 1967<sup>r</sup>.

The Milk (Control) (Amendment) (Guernsey) Ordinance, 1971<sup>s</sup>.

The Milk (Control) (Amendment) (Guernsey) Ordinance, 1980<sup>t</sup>.

The Milk (Control) (Increase in Fines) (Guernsey) Ordinance, 1983<sup>u</sup>.

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<sup>n</sup> Recueil d'Ordonnances Tome XIII, p. 84 to which there are amendments not relevant to this Ordinance.

<sup>o</sup> Recueil d'Ordonnances Tome XIV, p. 28 to which there are amendments not relevant to this Ordinance.

<sup>p</sup> Recueil d'Ordonnances Tome XIV, p. 277.

<sup>q</sup> Recueil d'Ordonnances Tome XIV, p. 277.

<sup>r</sup> Recueil d'Ordonnances Tome XV p. 200.

<sup>s</sup> Recueil d'Ordonnances Tome XVII, p. 1.

<sup>t</sup> Recueil d'Ordonnances Tome XXI, p. 427.

<sup>u</sup> Recueil d'Ordonnances Tome XXII, p. 453 to which there are amendments not relevant to this Ordinance.

The Milk (Control) (Amendment) (Guernsey) Ordinance, 1983<sup>v</sup>.

The Milk (Control) (Amendment) (Guernsey) Ordinance, 1996<sup>w</sup>.

The Milk (Control) (Guernsey) (Amendment) Ordinance, 2010<sup>x</sup>.

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<sup>v</sup> Recueil d'Ordonnances Tome XXII, p. 473 to which there are amendments not relevant to this Ordinance.

<sup>w</sup> Recueil d'Ordonnances Tome XXVII, p. 51.

<sup>x</sup> Ordinance No. III of 2010.

## **The States (Reform) Law, 2015 (Commencement) Ordinance, 2016**

**THE STATES**, in pursuance of their Resolutions of the 25<sup>th</sup> June, 2015<sup>a</sup> and the 9<sup>th</sup> July, 2015<sup>b</sup> and in exercise of the powers conferred on them by section 9 of the States (Reform) Law, 2015<sup>c</sup> and all other powers enabling them in that behalf, hereby order:-

### **Commencement of the Law.**

1. (1) Sections 1 to 4, 5(1)(c) to (f), (h) and (i) and 7 to 9 of the Law shall come into force on the 16<sup>th</sup> February, 2016.

(2) The remaining provisions of the Law shall come into force on the 1<sup>st</sup> May, 2016.

### **Interpretation.**

2. In this Ordinance, "**the Law**" means States (Reform) Law, 2015.

### **Citation.**

3. This Ordinance may be cited as the States Reform Law, 2015 (Commencement) Ordinance, 2016.

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<sup>a</sup> Article X of Billet d'État No. XI of 2015.

<sup>b</sup> Billet d'État No. XII of 2015.

<sup>c</sup> Order in Council No. XVII of 2015.

## **The Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016**

**THE STATES**, in pursuance of their Resolutions of the 9<sup>th</sup> July, 2015<sup>a</sup> and 27<sup>th</sup> November, 2015<sup>b</sup>, and in exercise of the powers conferred upon them by sections 1, 2 and 3 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991<sup>c</sup>, sections 1(2) and 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007<sup>d</sup>, sections 12 and 12A of the Compulsory Acquisition of Land (Guernsey) Law, 1949<sup>e</sup> and all other powers enabling them in that behalf, hereby order:-

### **Transfer of functions of departments under relevant enactments.**

1. (1) The functions, rights and liabilities of any department named in column 2 of Schedule 1 and of its Minister or Deputy Minister arising under or by virtue of any relevant enactment are transferred to and vested in, respectively, the committee named in relation to that department in column 3 of Schedule 1 and its President or Vice-President.

(2) For the purposes of subsection (1), the provisions of Schedule 2 have effect in relation to the relevant enactments specified therein.

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<sup>a</sup> Billet d'État No. XII of 2015.

<sup>b</sup> Billet d'État No. XXI of 2015.

<sup>c</sup> Ordres en Conseil Vol. XXXIII, p. 478.

<sup>d</sup> Order in Council No. VII of 2008 and No. VIII of 2010; Ordinance No. VII of 2008; No. IV of 2011; No. XLIII of 2013 and No. XLII of 2014.

<sup>e</sup> Ordres en Conseil Vol. XIV, p. 25; Ordres en Conseil Vol. XXII, p.560, No VII of 2012; Recueil d'Ordonnances Tome XXIX, p.406.

**Amendment of statutory references to departments.**

2. (1) For any reference in any relevant enactment to any department named in column 2 of Schedule 1 or its Minister or Deputy Minister, however expressed, there is substituted a reference to the committee named in relation to that department in column 3 of Schedule 1 or (as the case may be) its President or Vice-President.

(2) For the purposes of subsection (1), the provisions of Schedule 2 have effect in relation to the relevant enactments specified therein.

**Savings and transitional provisions.**

3. Anything done before the date of the commencement of this Ordinance or in the process of being done on that date by or in relation to any department named in column 2 of Schedule 1 or its Minister or Deputy Minister under or by virtue of any relevant enactment shall have effect as if done or (as the case may be) may be continued by or in relation to the committee named in relation to that department in column 3 of Schedule 1 or its President or Vice-President (as the case may be).

**Subordinate legislation.**

4. The provisions of sections 1, 2 and 3 also apply in relation to any subordinate legislation made or having effect as if made under a relevant enactment as they apply to a relevant enactment; and the provisions of the relevant enactment under which the subordinate legislation was made are varied insofar as is necessary to give effect to this section.

**Amendment of interpretation provisions.**

5. (1) Subject to subsection (2), where further to an amendment

made by section 2 or 4, an interpretation provision of a relevant enactment or subordinate legislation describes or defines a committee named in column 2 of Schedule 3, the term indicated in relation to that committee in column 3 of Schedule 3 is substituted throughout the relevant enactment or subordinate legislation, as the case may be, for the associated defined term (including any abbreviated form of that term).

(2) Where the effect of subsection (1) would result in two or more identical defined terms appearing in the relevant enactment or subordinate legislation concerned, subsection (3) has effect in place of subsection (1).

(3) Where, further to an amendment made by section 2 or 4, an interpretation provision of a relevant enactment or subordinate legislation describes or defines a committee named in column 2 of Schedule 3, the term indicated in relation to that committee in column 4 of Schedule 3 is substituted throughout the relevant enactment or subordinate legislation, as the case may be, for the associated defined term (including any abbreviated form of that term).

### **Interpretation.**

6. (1) In this Ordinance -

"**department**" includes the States Policy Council and any other Committee,

"**Deputy Minister**" means -

- (a) in relation to the Policy Council, the Deputy Chief Minister, and
- (b) in relation to a Committee, its Vice-Chairman,



**"Minister"** means -

- (a) in relation to the Policy Council, the Chief Minister,  
and
- (b) in relation to a Committee, its Chairman,

**"relevant enactment"** means -

- (a) any Law,
- (b) any Act of Parliament extended to the Bailiwick, and
- (c) any Ordinance of the States,

including any provision or portion of any such Law, Act of Parliament or Ordinance of the States,

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

**"subordinate legislation"** means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument (including any provision or portion of any such regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument) made under any relevant enactment and having legislative effect, and

other words and expressions used in this Ordinance shall have the same meanings as in the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991.

(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.

**Functions of States Agricultural and Milk Marketing Board.**

7. (1) The functions, rights and liabilities of the States Agricultural and Milk Marketing Board and of its President and Vice-President arising under or by virtue of -

- (a) the enactments set out in subsection (3), and
- (b) any other enactment not included in Schedule 1 to the States Agricultural and Milk Marketing Board (Transfer of Functions) Ordinance, 2001<sup>f</sup>,

are transferred to and vested in the Committee for the Environment & Infrastructure or (as the case may be) its President and Vice-President.

(2) For any reference in any enactment referred to in subsection (1) to the States Agricultural and Milk Marketing Board or its President or Vice-President, however expressed, there is substituted a reference to the Committee for the Environment & Infrastructure or (as the case may be) its President or Vice-President.

(3) The enactments are -

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<sup>f</sup> Ordinance No. XX of 2001.

- (a) the Rabies (Bailiwick of Guernsey) Law, 1975<sup>g</sup>,
- (b) the Animal Experiments (Bailiwick of Guernsey) Law, 1992<sup>h</sup>,
- (c) the Veterinary Surgery and Animal Welfare Ordinance, 1987<sup>i</sup>, and
- (d) the Animal Carcases (Control of Burial) Ordinance, 1998<sup>j</sup>.

(3) In this section a reference to an enactment includes subordinate legislation made under the enactment.

#### **Amendments.**

8. The enactments set out in Schedule 4 are amended as therein mentioned.

#### **Citation.**

9. This Ordinance may be cited as the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016.

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<sup>g</sup> Ordres en Conseil Vol. XXV, p. 368; Recueil d'Ordonnances Tome XXIV, p. 20.

<sup>h</sup> Ordres en Conseil Vol. XXXIV, p. 236; Ordinance No. III of 2012.

<sup>i</sup> Recueil d'Ordonnances Tome XXIV, p. 51.

<sup>j</sup> Recueil d'Ordonnances Tome XXVIII, p. 153.

**Commencement.**

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

## SCHEDULE 1

Section 1

TRANSFER OF FUNCTIONS  
UNDER RELEVANT ENACTMENTS

(1)	(2) DEPARTMENT FROM WHICH FUNCTIONS ARE TRANSFERRED	(3) COMMITTEE TO WHICH FUNCTIONS ARE TRANSFERRED
1.	Commerce and Employment Department	<p>(a) Committee for Economic Development (in relation to any function not specified in Part 1 of Schedule 2).</p> <p>(b) Committee for Employment &amp; Social Security (in relation to any function specified in paragraph 1 of Part 1 of Schedule 2).</p> <p>(c) Committee for the Environment &amp; Infrastructure (in relation to any function specified in paragraph 2 of Part 1 of Schedule 2).</p>

		<p>(d) Committee for Home Affairs (in relation to any function specified in paragraph 3 of Part 1 of Schedule 2).</p> <p>(e) States' Trading Supervisory Board (in relation to any function specified in paragraph 4 of Part 1 of Schedule 2).</p> <p>(f) Transport Licensing Authority (in relation to any function specified in paragraph 5 of Part 1 of Schedule 2).</p>
2.	Culture and Leisure Department	<p>(a) Committee for Education, Sport &amp; Culture (in relation to any function not specified in Part 2 of Schedule 2).</p> <p>(b) Committee for the Environment &amp; Infrastructure (in relation to any function specified in paragraph 1 of Part 2 of Schedule 2).</p> <p>(c) States' Trading Supervisory Board (in relation to any function specified in paragraph 2 of Part 2 of Schedule 2).</p>

		Schedule 2).
3.	Education Department	Committee for Education, Sport & Culture
4.	Environment Department	<p>(a) Committee for the Environment &amp; Infrastructure (in relation to any function not specified in Part 3 of Schedule 2).</p> <p>(b) Development &amp; Planning Authority (in relation to any function specified in Part 3 of Schedule 2).</p>
5.	Health and Social Services Department	Committee for Health & Social Care
6.	Home Department	<p>(a) Committee for Home Affairs (in relation to any function not specified in Part 4 of Schedule 2).</p> <p>(b) Committee for Economic Development (in relation to any function specified in Part 4 of Schedule 2).</p>

7.	Housing Department	<p>(a) Committee for Employment &amp; Social Security (in relation to any function not specified in Part 5 of Schedule 2).</p> <p>(b) Committee for Home Affairs (in relation to any function specified in Part 5 of Schedule 2).</p>
8.	Legislation Select Committee	<p>(a) Scrutiny Management Committee (in relation to those functions specified in paragraph 1 of Part 6 of Schedule 2).</p> <p>(b) Policy &amp; Resources Committee (in relation to those functions specified in paragraph 2 of Part 6 of Schedule 2).</p>
9.	Overseas Aid Commission	Overseas Aid and Development Commission
10.	Policy Council	(a) Policy & Resources Committee (in relation to any

		<p>function not specified in Part 7 of Schedule 2).</p> <p>(b) Committee for Employment &amp; Social Security (in relation to any function specified in paragraph 1 of Part 7 of Schedule 2).</p> <p>(c) Committee for the Environment &amp; Infrastructure (in relation to any function specified in paragraph 2 of Part 7 of Schedule 2).</p>
11.	Public Accounts Committee	Scrutiny Management Committee
12.	Public Services Department	<p>(a) Committee for the Environment &amp; Infrastructure (in relation to any function not specified in Part 8 of Schedule 2).</p> <p>(b) States' Trading Supervisory Board (in relation to those functions specified in Part 8 of Schedule 2).</p>
13.	Social Security Department	Committee for Employment & Social Security.



14.	Scrutiny Committee	Scrutiny Management Committee
15.	Treasury and Resources Department	<p>(a) Policy &amp; Resources Committee (in relation to any function not specified in Part 9 of Schedule 2).</p> <p>(b) States' Trading Supervisory Board (in relation to those functions specified in Part 9 of Schedule 2).</p>

## SCHEDULE 2

**PART 1**

Paragraph 1 of Schedule 1

**COMMERCE AND EMPLOYMENT DEPARTMENT**

TRANSFER OF FUNCTIONS  
UNDER SPECIFIC RELEVANT ENACTMENTS  
& SUBORDINATE LEGISLATION

1. Functions of Commerce and Employment Department transferred to Committee for Employment & Social Security

*Laws*

- Loi relative aux Huiles ou Essences Minérales ou autres substances de la même nature, 1924
- Health, Safety and Welfare of Employees Law, 1950
- Employment of Immigrants (Control) (Guernsey) Law, 1974
- Health and Safety at Work etc. (Guernsey) Law, 1979
- Conditions of Employment (Guernsey) Law, 1985
- Fire Services (Guernsey) Law, 1989
- Employers Liability (Compulsory Insurance) (Guernsey) Law, 1993
- Health and Safety (Fees) (Guernsey) Law, 1993
- Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993
- Poisonous Substances (Guernsey) Law, 1994
- Employment Protection (Guernsey) Law, 1998

- Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001
- Prevention of Discrimination (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004
- Minimum Wage (Guernsey) Law, 2009
- Employment Agencies (Enabling Provisions) (Bailiwick of Guernsey) Law, 2012

#### *Ordinances*

- Steam Boilers (Insurance) Ordinance, 1952

#### *Regulations*

- Regulations 3(2) and (3) of the Waste Control and Disposal (Specially Controlled Waste) Regulations, 2010

## 2. Functions of Commerce and Employment Department transferred to Committee for the Environment & Infrastructure

#### *Laws*

- Noxious Weeds (Guernsey) Law, 1952
- Agricultural Holdings (Improvement) (Guernsey) law, 1965
- Rabies (Bailiwick of Guernsey) Law, 1975
- Animal Experiments (Bailiwick of Guernsey) Law, 1992
- Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008
- Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008
- Control of Trade in Endangered Species (Enabling Provisions) (Bailiwick of Guernsey) Law, 2010
- Renewable Energy (Guernsey) Law, 2010

### *Ordinances*

- Ordinance intituled "Ordonnance prohibitant l'Importation et l'Elevage de Rats Musqués"
- Export of Cattle Ordinances, 1950 and 1952
- Hay, Straw and Litter Ordinances, 1950 to 1988
- Live Poultry Importation Ordinance, 1950
- Animals and Animal Products (Import and Export) Ordinance, 1952
- Bovine Semen, Artificial Insemination and Embryo Transplantation Ordinances, 1957 to 2001
- Poultry and Hatching Eggs (Importation and Exportation) Ordinances, 1962 and 1981
- Bees (Importation and Prevention of Disease) Ordinances, 1973 and 1980
- Poultry Carcass Importation Ordinance, 1981
- Control of Birds Ordinance, 1985
- Veterinary Surgery and Animal Welfare Ordinance, 1987
- Animal Health Ordinance, 1996
- Agricultural Census Ordinance, 1997
- Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006

### *Regulations*

- Paragraph 2(1)(b)(ii) of the Schedule to the Waste Control and Disposal (Exemptions) Regulations, 2010

### 3. Functions of Commerce and Employment Department transferred to Committee for Home Affairs

*Laws*

- Sunday Trading (Guernsey) Law, 1973
- Hawkers and Non-Resident Traders (Guernsey) Law, 1980
- Weights and Measures (Guernsey and Alderney) Law, 1991
- Trading Standards (Enabling Provisions) (Guernsey) Law, 2009

4. Functions of Commerce and Employment Department transferred to States' Trading Supervisory Board

*Laws*

- Milk and Milk Products (Guernsey) Law, 1955

5. Functions of Commerce and Employment Department transferred to Transport Licensing Authority

*Laws*

- Air Transport Licensing (Bailiwick of Guernsey) Law, 1995 (other than functions under section 2, the function of preparing the policy statement under section 22(1) and functions under section 23 of the Law).

**PART 2**

Paragraph 2 of Schedule 1

**CULTURE AND LEISURE DEPARTMENT****TRANSFER OF FUNCTIONS  
UNDER SPECIFIC RELEVANT ENACTMENTS  
& SUBORDINATE LEGISLATION**

1. Functions of Culture and Leisure Department transferred to Committee for the Environment & Infrastructure

*Ordinances*

- Places of Recreation Ordinance, 1975 (other than functions under the provisions of the Ordinance relating to Beau Sejour, St. Peter Port)

2. Functions of Culture and Leisure Department transferred to the States' Trading Supervisory Board

*Ordinances*

- Gambling (Channel Islands Lottery) (Bailiwick of Guernsey) Ordinance, 1975

**PART 3**

Paragraph 4 of Schedule 1

**ENVIRONMENT DEPARTMENT**

TRANSFER OF FUNCTIONS  
 UNDER SPECIFIC RELEVANT ENACTMENTS  
 & SUBORDINATE LEGISLATION

Functions of Environment Department transferred to Development &  
 Planning Authority

*Laws*

- Clearance of Ruins (Guernsey) Law, 1957
- Sewerage (Guernsey) Law, 1974
- Fire Services (Guernsey) Law, 1989
- Land Planning and Development (Guernsey) Law, 2005 (other than the functions of making regulations under -

(a) section 12(3) of that Law (provision for planning inquiry procedure etc.), and

(b) section 19 (procedure of appellate body) of the Land Planning and Development (Appeals) Ordinance, 2007,

but, for the avoidance of doubt, functions under regulations made under those sections are transferred to and vested in the Development & Planning Authority)

### *Ordinances*

- Ordinance intituled "Ordonnance ayant rapport à la construction de Maisons, Salles Publiques et Bâtiments et au Tracements de Routes de Chemins" of 25<sup>th</sup> April 1931
- Ordinance intituled "Ordonnance supplémentaire à l'Ordonnance relative à la Construction de Maisons, Salles Publiques et Bâtiments, et au Tracement de Routes et Chemins du 25<sup>th</sup> Avril, 1931" of 3<sup>rd</sup> December, 1938
- Ordinance intituled "Ordonnance relative à l'Inspection des Appareils à Incendie dans les Salles Publiques" of 9<sup>th</sup> February, 1936

## **PART 4**

Paragraph 6 of Schedule 1

## **HOME DEPARTMENT**

### TRANSFER OF FUNCTIONS

### UNDER SPECIFIC RELEVANT ENACTMENTS

### & SUBORDINATE LEGISLATION

Functions of Home Department transferred to Committee for Economic Development

### *Acts*

- Broadcasting Act 1996
- Communications Act 2003
- Wireless Telegraphy Act 2006



## **PART 5**

Paragraph 7 of Schedule 1

### **HOUSING DEPARTMENT**

#### **TRANSFER OF FUNCTIONS UNDER SPECIFIC RELEVANT ENACTMENTS & SUBORDINATE LEGISLATION**

Functions of Housing Department transferred to Committee for Home Affairs

##### *Laws*

- Housing Control of Occupation (Bailiwick of Guernsey) Law, 1994
- Right to Work (Limitation and Proof) (Guernsey) Law, 1990.

## **PART 6**

Paragraph 8 of Schedule 1

### **LEGISLATION SELECT COMMITTEE**

#### **TRANSFER OF FUNCTIONS UNDER SPECIFIC RELEVANT ENACTMENTS & SUBORDINATE LEGISLATION**

1. Functions of Legislation Select Committee transferred to Scrutiny Management Committee

*Laws*

- Reform (Guernsey) Law, 1948, other than functions under those Articles of the Law mentioned in paragraph 2.

2. Functions of Legislation Select Committee transferred to Policy & Resources Committee

- Articles 63, 66(3), 68, 69 and 71 of the Reform (Guernsey) Law, 1948.

**PART 7**

Paragraph 10 of Schedule 1

**POLICY COUNCIL**

TRANSFER OF FUNCTIONS  
UNDER SPECIFIC RELEVANT ENACTMENTS  
& SUBORDINATE LEGISLATION

1. Functions of Policy Council transferred to Committee for Employment & Social Security

*Laws*

- Legal Aid (Bailiwick of Guernsey) Law, 2004

2. Functions of Policy Council transferred to Committee for the Environment & Infrastructure

*Laws*

- Land Planning and Development (Guernsey) Law, 2005 (other than functions under section 5 (preparation of strategic land use plan) of the Law)

**PART 8**

Paragraph 12 of Schedule 1

**PUBLIC SERVICES DEPARTMENT**

## TRANSFER OF FUNCTIONS

## UNDER SPECIFIC RELEVANT ENACTMENTS

## &amp; SUBORDINATE LEGISLATION

Functions of Public Services Department transferred to the States' Trading Supervisory Board

*Laws*

- Law intituled "Loi ayant rapport à la Fourniture d'Eau par les Etats de cette Ile aux Habitants de la dite Ile" and registered on the Records of the Island on 7th May 1927
- Law intituled "Loi relative aux Douits" and registered on the Records of the Island on 14th November, 1936
- Harbour Dues (Saint Peter Port and Saint Sampson) Law, 1957
- Airport Service Charge (Guernsey) Law, 1958
- Pilotage (Guernsey) Law, 1966
- Beaucette Quarry (Yacht Marina) (Control of Development and Use)

Law, 1968

- Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972
- Sewerage (Guernsey) Law, 1974
- Drought (Guernsey) Law, 1978
- Hired Boats and Passenger Boats (Guernsey) Law, 1989
- Fire Services (Guernsey) Law, 1989
- Prevention of Pollution (Guernsey) Law, 1989
- States Water Supply (Amendment) (Guernsey) Law, 1991
- Detention of Aircraft (Guernsey and Alderney) Law, 1994
- Salvage Convention (Bailiwick of Guernsey) Law, 1997
- Merchant Shipping (Bailiwick of Guernsey) Law, 2002
- Court of Chief Pleas (Guernsey) Law, 2004
- Aviation (Bailiwick of Guernsey) Law, 2008 (other than functions under section 21 (warning of presence of obstructions near licensed aerodromes) of the Law)
- Wastewater Charges (Guernsey) Law, 2009

#### *Ordinances*

- Airport Ordinance, 1950
- Refuse Disposal Ordinance, 1959
- Boats and Vessels (Registration, Speed Limits and Abatement of Noise) Ordinance, 1970
- Airport Fees Ordinance, 1987
- Harbours Ordinance, 1988

#### *Regulations*

- Paragraph 24(1)(c) of the Schedule to the Waste Control and Disposal (Exemptions) Regulations, 2010

## **PART 9**

Paragraph 15 of Schedule 1

### **TREASURY AND RESOURCES DEPARTMENT**

#### **TRANSFER OF FUNCTIONS UNDER SPECIFIC RELEVANT ENACTMENTS & SUBORDINATE LEGISLATION**

Functions of Treasury and Resources Department transferred to the States'  
Trading Supervisory Board

#### *Ordinances*

- States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001

## SCHEDULE 3

## Section 5

## REFERENCES TO COMMITTEES IN INTERPRETATION PROVISIONS

(1)	(2) COMMITTEE	(3) DEFINED TERM Section 5(1)	(4) DEFINED TERM Section 5(3)
1.	Policy & Resources Committee	"the Committee"	"the Policy & Resources Committee"
2.	Committee for Economic Development	"the Committee"	"the Committee for Economic Development"
3.	Committee for Education, Sport & Culture	"the Committee"	"the Committee for Education, Sport & Culture"
4.	Committee for Employment & Social Security	"the Committee"	"the Committee for Employment & Social Security"
5.	Committee for the Environment & Infrastructure	"the Committee"	"the Committee for the Environment & Infrastructure"
6.	Committee for Health & Social Care	"the Committee"	"the Committee for Health & Social Care"
7.	Committee for Home Affairs	"the Committee"	"the Committee for Home Affairs"
8.	Development & Planning Authority	"the Authority"	"the Development & Planning Authority"

9.	Overseas Aid & Development Commission	"the Commission"	"the Overseas Aid & Development Commission"
10.	Scrutiny Management Committee	"the Committee"	"the Scrutiny Management Committee"
11.	States' Assembly & Constitution Committee	"the Committee"	"the States' Assembly & Constitution Committee"
12.	States' Trading Supervisory Board	"the Board"	"the States' Trading Supervisory Board"
13.	Transport Licensing Authority	"the Authority"	"the Transport Licensing Authority"

## SCHEDULE 4

## Section 8

## AMENDMENTS

**Fees, Charges and Penalties (Guernsey) Law, 2007.**

1. The Fees, Charges and Penalties (Guernsey) Law, 2007 is amended as follows -

(a) in sections 1, 2(1) and 5(2), for "Department" substitute "committee",

(b) in section 6(1) for the definition of "**Department**" substitute the following definition -

"**committee**" of the States means any authority, board, committee or council thereof, however named,"

(c) in Part A of the Schedule ("Laws") -

(i) in the third column of the entry relating to the Law intituled "Loi ayant rapport aux Licences pour les Salles Publiques"<sup>k</sup>, for "Environment Department" substitute "Development & Planning Authority",

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<sup>k</sup> Ordres en Conseil Vol. V, p. 56.



- (ii) in the third column of the entry relating to the Law intituled "Loi ayant rapport à la fourniture d'eau par les États de cette île aux habitants de la dite île, 1927"<sup>l</sup>, for "Public Services Department" substitute "States' Trading & Supervisory Board",
- (iii) in the third column of the entry relating to the Harbour Dues (Saint Peter Port and Saint Sampson) Law, 1957<sup>m</sup>, for "Public Services Department" substitute "States' Trading & Supervisory Board",
- (iv) in the third column of the entry relating to the the Pilotage (Guernsey) Law, 1966<sup>n</sup>, for "Public Services Department" substitute "States' Trading & Supervisory Board",
- (v) in the third column of the entry relating to the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and removal of Boats) (Guernsey) Law, 1972<sup>o</sup>, for "Public Services Department" substitute "States' Trading & Supervisory Board",

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<sup>l</sup> Ordres en Conseil Vol. VIII, p. 112.

<sup>m</sup> Ordres en Conseil Vol. XVII, p. 264.

<sup>n</sup> Ordres en Conseil Vol. XX, p. 206.

<sup>o</sup> Ordres en Conseil Vol. XXIII, p. 515.

- (vi) in the third column of the entry relating to the Animal Experiments (Bailiwick of Guernsey) Law, 1992<sup>P</sup>, for "Commerce and Employment Department" substitute "Committee for the Environment & Infrastructure",
  - (vii) in the third column of the entry relating to the Air Transport Licensing (Guernsey) Law, 1995, for "Commerce and Employment Department" substitute "Transport Licensing Authority", and
  - (viii) in the third column of the entry relating to the Wastewater Charges (Guernsey) Law, 2009<sup>Q</sup>, for "Public Services Department" substitute "States' Trading & Supervisory Board", and
- (d) in Part B of the Schedule ("Ordinances") -
- (i) in the third column of the entry relating to the Airport Fees Ordinance, 1987<sup>R</sup>, for "Public Services Department" substitute "States' Trading & Supervisory Board", and

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<sup>P</sup> Ordres en Conseil Vol. XXXIV, p. 236,

<sup>Q</sup> Order in Council No. VIII of 2010.

<sup>R</sup> Recueil d'Ordonnances Tome XXIV, p. 9.

- (ii) in the third column of the entry relating to the Harbours Ordinance, 1988<sup>8</sup>, for "Public Services Department" substitute "States' Trading & Supervisory Board".

**Compulsory Acquisition of Land (Guernsey) Law, 1949.**

2. The Compulsory Acquisition of Land (Guernsey) Law, 1949 ("the Law") is amended as follows -

- (a) for "Department", wherever appearing in the Law, substitute "Committee",
- (b) for "Minister", wherever appearing in the Law, substitute "President", and
- (c) in section 10 of the Law -

- (i) for the definition of "**Department**" substitute the following definition -

"the expression "**Committee**" means the States Policy & Resources Committee,"

- (ii) for the definition of "**Minister**" substitute the following definition -

"the expression "**President**" means the President of the

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<sup>8</sup> Recueil d'Ordonnances Tome XXIV, p. 418.

Committee," , and

- (iii) in the definition of "**prescribed**" for "States Treasury and Resources Department" substitute "Committee".

**Foreshore (Riding and Driving) Ordinance, 1951.**

3. In section 3 of the Foreshore (Riding and Driving) Ordinance, 1951<sup>t</sup> for "Chief Officer of Police", substitute "the Committee for the Environment & Infrastructure".

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<sup>t</sup> Recueil d'Ordonnances Tome X, p. 157; Tome XXIII, p. 422; Tome XXV, p. 130.

## **The Environmental Pollution (Designation of Waste Disposal Authority) Ordinance, 2016**

**THE STATES**, in pursuance of their Resolutions of the 9<sup>th</sup> July, 2015<sup>a</sup> and the 27<sup>th</sup> November, 2015<sup>b</sup>, and in exercise of the powers conferred on them by sections 29 and 72 of the Environmental Pollution (Guernsey) Law, 2004<sup>c</sup> and of all other powers enabling them in that behalf, hereby order:-

### **Designation of Waste Disposal Authority.**

1. The States of Guernsey States' Trading Supervisory Board is designated as the Waste Disposal Authority under and for the purposes of the Environmental Pollution (Guernsey) Law, 2004 ("**the 2004 Law**").

### **Consequential amendment.**

2. Section 2 (designation of Waste Disposal Authority) of the Environmental Pollution (Guernsey) Law, 2004 (Commencement and Designation of Waste Disposal Authority) Ordinance, 2006<sup>d</sup> is repealed.

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<sup>a</sup> Billet d'État No. XII of 2015.

<sup>b</sup> Billet d'État No. XXI of 2015.

<sup>c</sup> Order in Council No. XIII of 2004 as amended by Ordres en Conseil Vol. XLIV (1), p. 274 as amended by Order in Council No. XIII of 2010 and the Environmental Pollution (Guernsey) (Amendment) Law, 2015 (approved by the States on the 30<sup>th</sup> September, 2015), Recueil d'Ordonnances Tome XXIX, p. 406, Tome XXXI, p. 618, Tome XXXI, p. 660, Tome XXXII, p. 113, Ordinance No. XVIII of 2010, No. V of 2011 and the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016. See also Ordres en Conseil Vol. XXII, p. 122 and Recueil d'Ordonnances Tome XXXI, p. 540.

<sup>d</sup> Ordinance No. XXVII of 2006.

**Savings and transitional provision.**

3. Anything done before the 1<sup>st</sup> May, 2016, or in the process of being done on that date, by or in relation to the States of Guernsey Public Services Department in its capacity as Waste Disposal Authority<sup>e</sup>, under or by virtue of the 2004 Law or any other enactment shall have effect as if done or (as the case may be) may be continued by or in relation to the States of Guernsey States' Trading Supervisory Board in its capacity as Waste Disposal Authority as designated under this Ordinance.

**Interpretation.**

4. (1) In this Ordinance -

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

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

"**the 2004 Law**" : see section 1.

(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.

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<sup>e</sup> The States of Guernsey Public Services Department was designated as the Waste Disposal Authority under section 2 of the Environmental Pollution (Guernsey) Law, 2004 (Commencement and Designation of Waste Disposal Authority) Ordinance, 2006 which came into force on the 26<sup>th</sup> July, 2006.

**Citation.**

5. This Ordinance may be cited as the Environmental Pollution (Designation of Waste Disposal Authority) Ordinance, 2016.

**Commencement.**

6. This Ordinance shall come into force on the 1<sup>st</sup> May, 2016.

## **The Land Planning and Development (Strategic Land Planning) (Amendment) Ordinance, 2016**

**THE STATES**, in pursuance of their Resolutions of the 9<sup>th</sup> July, 2015<sup>a</sup> and the 27<sup>th</sup> November, 2015<sup>b</sup> and in exercise of the powers conferred on them by sections 12(1) and (2), 81, 86(10) and 89 of the Land Planning and Development (Guernsey) Law, 2005<sup>c</sup> and all other powers enabling them in that behalf, hereby order:-

### **Amendment of the 2005 Law.**

1. (1) The Land Planning and Development (Guernsey) Law, 2005 is amended as follows.

(2) Section 3 (appointment of strategic land planning group) is repealed.

(3) In section 5 (preparation of strategic land use plan) –

(a) for each reference to "the Strategic Land Planning Group" and for the reference to "the Group" substitute "the States Committee for the Environment & Infrastructure",

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<sup>a</sup> Billet d'État No. XII of 2015.

<sup>b</sup> Billet d'État No. XXI of 2015.

<sup>c</sup> Order in Council No. XVI of 2005 as amended by Order in Council No. XIII of 2010, Ordinance No. XXI of 2007, No. XXII of 2007, No. XXV of 2007, No. XXVII of 2007, No. XXVIII of 2007 and Ordinance No. XVIII of 2011 and the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016.



(b) in subsection (2), omit the words "for the consideration of the States",

(c) for subsection (3), substitute the following subsections –

"(3) The States Policy & Resources Committee must –

(a) consider the draft so submitted,

(b) determine whether in its opinion it is consistent with other parts of the States Policy and Resource Plan, and

(c) send a statement of its opinion as to that consistency to the States Committee for the Environment & Infrastructure.

(3A) Following receipt of the statement of opinion of the States Policy & Resources Committee, the States Committee for the Environment & Infrastructure must lay the draft Plan or amendments before the States for their consideration, together with the statement of opinion.", and

(d) at the end, add the following subsection –

"(6) In this section, "**States Policy and Resource Plan**"

means -

- (a) the States Strategic Plan 2013 to 2017, or
- (b) any policy or plan, other than the States Strategic Plan, (however named) adopted by the States and currently in force which replaced the States Strategic Plan,

in each case as from time to time amended or replaced.".

(4) In section 12(2)(a) (procedure for examination, adoption and revision of development plans, subject plans and local planning briefs), for "the Strategic Land Planning Group" substitute "the States Committee for the Environment & Infrastructure".

(5) In Schedule 2 (interpretation), the definition of "**Strategic Land Planning Group**" is omitted.

#### **Amendment of the Plans Ordinance.**

**2.** (1) The Land Planning and Development (Plans) Ordinance, 2007<sup>d</sup> is amended as follows.

(2) For each reference to "the Strategic Land Planning Group" substitute "the States Committee for Environment & Infrastructure".

(3) In section 7(3)(c) (persons who may not be appointed as inspector), omit the words "the Strategic Land Planning Group or".

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<sup>d</sup> Ordinance No. XXII of 2007 as amended by Ordinance No. XLI of 2008 and the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016.

(4) In section 17(1) (interpretation), the definition of "**Strategic Land Planning Group**" is omitted.

**Amendment of the Appeals Ordinance.**

3. (1) The Land Planning and Development (Appeals) Ordinance, 2007<sup>e</sup> is amended as follows.

(2) In section 4 (appointment of the Planning Panel), paragraph (c) is omitted.

(3) In section 21 (interpretation), the definition of "**Strategic Land Planning Group**" is omitted.

**Amendment of the Plans Inquiry Regulations.**

4. (1) The Land Planning and Development (Plans Inquiry) Regulations, 2008<sup>f</sup> are amended as follows.

(2) In regulation 2(2)(e) (persons who may not be appointed as member of inquiry administration), omit the words "the Strategic Land Planning Group or".

(3) In regulation 17(1) (interpretation), the definition of "**Strategic Land Planning Group**" is omitted.

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<sup>e</sup> Ordinance No. XXVII of 2007 as amended by Ordinance No. XLI of 2008 and No. XVIII of 2011 and the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016.

<sup>f</sup> G.S.I. No. 7 of 2008 as amended by G.S.I. No.66 of 2014 and the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016.

**Savings and transitional provision.**

5. Anything done before the 1<sup>st</sup> May, 2016, or in the process of being done on that date, by or in relation to the Strategic Land Planning Group or its chairman or the chairman's alternate, under or by virtue of the Land Planning and Development (Guernsey) Law, 2005 or any other enactment shall have effect as if done or (as the case may be) may be continued by or in relation to the States Committee for Environment & Infrastructure or its President or Vice-President (as the case may be).

**Interpretation.**

6. (1) In this Ordinance, unless the context requires otherwise -

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**Strategic Land Planning Group**" means the Group which is that appointed under section 3(1) of the Land Planning and Development (Guernsey) Law, 2005 immediately before the commencement of this Ordinance, and

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

(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.**

7. This Ordinance may be cited as the Land Planning and Development (Strategic Land Planning) (Amendment) Ordinance, 2016.

**Commencement.**

8. This Ordinance shall come into force on the 1<sup>st</sup> May, 2016.

## **The Compulsory Acquisition of Land (Guernsey) (Fees and Amendment) Ordinance, 2016**

**THE STATES**, in pursuance of their Resolutions of the 24<sup>th</sup> June, 2009<sup>a</sup> and 25<sup>th</sup> November, 2015<sup>b</sup>, and in exercise of the powers conferred on them by sections 12 and 12A of, and paragraph 11(5) of Schedule 1 to, the Compulsory Acquisition of Land (Guernsey) Law, 1949<sup>c</sup>, hereby order:-

### **Fees charged in respect of proceedings before arbitrators or the umpire.**

**1.** (1) Where any question of disputed compensation is required to be settled in accordance with Schedule 1 to the 1949 Law, the fees (including any expenses) to be charged in respect of proceedings before the arbitrators or the umpire, as the case may be, shall include only such reasonable fees and expenses as are appropriate in the circumstances.

(2) If there is any question as to what reasonable fees and expenses are appropriate in the circumstances, the Royal Court may on the application of any party (upon notice to the other parties) –

- (a) determine the matter, or
- (b) order that it be determined by such means and upon such terms as the court may specify.

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<sup>a</sup> Article IX of Billet d'État No. XVI of 2009.

<sup>b</sup> Article XXIII of Billet d'État No. XX of 2015.

<sup>c</sup> Ordres en Conseil Vol. XIV, p. 25; as amended by Ordres en Conseil Vol. XXII, p. 560; the Compulsory Acquisition of Land (Guernsey) (Amendment) Law, 2010 (No. VII of 2012); and Recueil d'Ordonnances Tome XXIX, p. 406.

**Amendment to the 1949 Law.**

2. The 1949 Law is further amended as follows.

3. In the arrangement of sections of the 1949 Law, for "Transfer of rights from land to compensation", substitute "Land not subject to any "droit hypothécaire".

4. In section 2 of the 1949 Law –

- (a) substitute "Land not subject to any "droit hypothécaire"" for the section heading,
- (b) in subsection (1) omit "but the compensation payable by way of "rente" in respect of the acquisition of that land in accordance with the provisions of this Law shall thenceforth be alone subject thereto in substitution for that land", and
- (c) repeal subsections (2) and (3).

5. In section 9 of the 1949 Law -

- (a) omit ""rente" created as compensation under this Law until the redemption therefore, and on any", and
- (b) after "awarded as compensation" insert "under this Law".

6. In section 10 of the 1949 Law, at the end of the expression "qualifying person" insert "any person with a "rente, rente hypothèque" or other

"droit hypothécaire" or a "recours en garantie".

7. In paragraph 9 of Schedule 1 to the 1949 Law, subparagraph (8) is repealed.

8. In paragraph 4 of Schedule 2 to the 1949 Law, in subparagraph (3)(a)(ii) for "Department" substitute "acquiring department".

**Interpretation.**

9. In this Ordinance the "**1949 Law**" means the Compulsory Acquisition of Land (Guernsey) Law, 1949, as amended.

**Extent.**

10. This Ordinance has effect in the islands of Guernsey, Herm and Jethou.

**Citation.**

11. This Ordinance may be cited as the Compulsory Acquisition of Land (Guernsey) (Fees and Amendment) Ordinance, 2016.

**Commencement.**

12. This Ordinance shall come into force on the 18<sup>th</sup> February, 2016.



## **The Motor Taxation (First Registration Duty) (Guernsey) Ordinance, 2016**

**THE STATES**, in pursuance of their Resolution of the 30<sup>th</sup> July, 2015<sup>a</sup> and in exercise of the powers conferred on them by sections 2 and 28A of the Motor Taxation and Licensing (Guernsey) Law, 1987<sup>b</sup>, hereby order:-

### **Taxation upon first registration of a motor vehicle.**

1. Motor tax based on a motor vehicle's carbon dioxide emissions shall be charged and paid upon the first registration of a motor vehicle ("**first registration duty**") at the rates, and in accordance with the calculation, set out in the Schedule.

### **Transitional provision.**

2. Where, in relation to a motor vehicle -

- (a) a contract to purchase is entered into on a date that precedes the commencement of this Ordinance, and
  - (i) a deposit of at least 10% of the purchase price is paid on a date that precedes the commencement of this Ordinance, or
  - (ii) the contract to purchase includes a part

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<sup>a</sup> Article XIII of Billet d'État No. XIV of 2015

<sup>b</sup> Ordres en Conseil Vol. XXX, p. 341; amended by Vol. XXXI, p. 278; Vol. XXXIII, p. 127, Vol. XXXVI, p. 256; Vol. XL, p. 298; Order in Council No. XIX of 2007; Recueil d'Ordonnances Tome XXVI, p. 90; and Tome XXIX, p.406.

exchange agreement, and

- (b) the importation of the vehicle to Guernsey takes place, and the application for first registration of the vehicle is made, within one year of the date of the contract to purchase,

the motor vehicle shall be exempt from first registration duty.

**Amendment to the 1987 Law.**

- 3. (1) The principal Law is amended as follows.

- (2) In section 2(10) of the principal Law, delete "and the rates of taxes chargeable thereunder".

- (3) In section 2A of the principal Law –

- (a) in paragraph (l) delete "and",
- (b) in paragraph (m) for the full-stop at the end of the paragraph substitute ",and", and
- (c) after paragraph (m) insert –
  - "(n) the rates (including the bands) of any motor tax chargeable under this Law.".

**Interpretation.**

- 4. (1) In this Ordinance -

**"carbon dioxide emissions"** means, in relation to a motor vehicle, the grams per kilometre of carbon dioxide emitted by the vehicle,

**"carbon dioxide emissions duty"** has the meaning given in paragraph 2 of the Schedule,

**"contract to purchase"** means a contract to purchase a motor vehicle which includes the vehicle's full specification (including, without limitation, the vehicle's make, model, colour, engine size and factory fitted options), delivery date and price,

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

**"engine size"** means, in relation to a motor vehicle, the cylinder capacity in cubic centimetres of the vehicle's engine,

**"established carbon dioxide emissions figure"** means the carbon dioxide emissions figure attributed to a motor vehicle in an official document,

and for the purposes of this definition, where an official document attributes more than one carbon dioxide emissions figure to a motor vehicle, the established carbon dioxide emissions figure in respect of that vehicle shall be –

- (a) the figure specified as the combined figure, or if there is more than one combined figure, the lower or lowest of them, or

- (b) where there is no combined figure, the lower or lowest figure specified,

"**established engine size figure**" means the engine size figure attributed to a motor vehicle in an official document,

"**first registration**" means -

- (a) the first registration in Guernsey of a motor vehicle that has not been registered outside of Guernsey,
- (b) the re-registration in Guernsey of a motor vehicle that has previously been registered outside of Guernsey provided that the vehicle has not been previously registered in Guernsey,

and for the purposes of this definition -

- (i) the expression "**first registered**" shall be construed accordingly, and
- (ii) the expression "**registered outside of Guernsey**" includes registered in Alderney,

and for the avoidance of doubt, a motor vehicle registered in Alderney includes a motor vehicle registered in the Alderney part of the register of motor vehicles,

"**first registration duty**" has the meaning given in section 1,

"**motorcycle**" includes a moped and motorcycle as described in Schedule 4 of the Driving Licences (Guernsey) Ordinance, 1995,

"**official document**" means -

- (a) a motor vehicle registration certificate or motor vehicle log book issued by the government authority responsible for managing the central register of motor vehicles -
  - (i) in Jersey, the Isle of Man, or
  - (ii) of a member state of the European Union,
- (b) the official form for registration of a new motor vehicle or new imported vehicle issued by the United Kingdom's government authority responsible for managing the central register of motor vehicles (including, without limitation, the V55 Form),
- (c) a European Community Whole Vehicle Type Approval Certificate (ECWVTA) or a Type Approval Certificate issued by a government authority responsible for managing the central register of motor vehicles of a member state of the European Union,
- (d) a Certificate of Conformity or declaration issued by a motor vehicle's manufacturer,
- (e) any other document prescribed by regulations made by

the Committee,

**"part exchange agreement"** means an agreement to sell a motor vehicle as part payment for the purchase of a motor vehicle,

**"principal Law"** means the Motor Taxation and Licensing (Guernsey) Law, 1987,

**"register of motor vehicles"** means the register of motor vehicles required under the principal Law, and maintained under the Ordonnance supplémentaire à l'Ordonnance ayant rapport au Trafic Véhiculaire en cette île<sup>c</sup>,

**"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 other expressions have the same meanings as in the principal Law.

(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.**

5. This Ordinance may be cited as the Motor Taxation (First Registration Duty) (Guernsey) Ordinance, 2016.

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<sup>c</sup> Recueil d'Ordonnances Tome VI, p. 89; as amended by Recueil d'Ordonnances Tome XXIX, p. 406; and Tome XXXII, p. 93 (there are other amendments not relevant to this Ordinance).

**Commencement.**

6. This Ordinance shall come into force on the 1<sup>st</sup> May, 2016.

## SCHEDULE

Sections 1 and 4

## FIRST REGISTRATION DUTY RATES AND CALCULATION

**First registration duty calculation.**

1. First registration duty, in respect of a motor vehicle, shall be equal to the vehicle's carbon dioxide emissions duty.

**Carbon dioxide emissions duty.**

2. (1) In this Ordinance, "**carbon dioxide emissions duty**" means –

(a) in respect of a motor vehicle (other than a motorcycle) with -

(i) an established carbon dioxide emissions figure specified in column 1 (for a diesel class vehicle) or column 2 (for a vehicle other than a diesel class vehicle) of Table 1, or

(ii) an established engine size figure specified in column 3 (for a diesel class vehicle) or column 4 (for a vehicle other than a diesel class vehicle) of Table 1, where item (i) does not apply because the motor vehicle does not have an established carbon dioxide emissions figure,



the corresponding amount set out in column 5 of Table 1 in relation to the established carbon dioxide emissions figure, or the established engine size figure, as the case may be, and

- (b) in respect of a motorcycle with an established engine size figure specified in column 1 of Table 2, the corresponding amount set out in column 2 of Table 2 in relation to the established engine size figure.

(2) In this Schedule –

**"diesel"** means heavy oil,

**"diesel class vehicle"** means a vehicle constructed or modified so as to be, propelled by, or capable of being propelled by, diesel, and

**"heavy oil"** has the meaning given in the Fourth Schedule to the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>d</sup>.

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<sup>d</sup> Ordres en Conseil Vol. XXIII, p. 573; as amended by Ordres en Conseil Vol. XXIV, p. 87; Vol. XXXI, p. 278; Vol. XXXIII, p. 217; Vol. X of 2004; No. II of 2010; No. XIV of 2007; No. XV of 2012; No. XXXIII of 2003; Recueil d'Ordonnances Tome XXIX, p. 406; Tome XXIX, p. 543; Tome XXXII, p. 668; Tome XXXII, p. 607; Tome XXXIII, p. 38; Tome XXXIII, p. 329; Tome XXXIII, p. 671; No. LII of 2010; No. XLVII of 2011; No. L of 2012; No. XXVI of 2013; No. XLIII of 2013; No. XL of 2014; G.S.I. No. 56 of 2008; G.S.I. No. 76 of 2009; G.S.I. No. 97 of 2010; G.S.I. No. 42 of 2011; G.S.I. No. 54 of 2012; G.S.I. No. 53 of 2013; G.S.I. No. 61 of 2014; and G.S.I. No. 70 of 2015.

TABLE 1  
MOTOR VEHICLES OTHER THAN MOTORCYCLES

(1) DIESEL CLASS VEHICLE'S ESTABLISHED CARBON DIOXIDE EMISSIONS FIGURE (g/km)	(2) NON-DIESEL CLASS VEHICLE'S ESTABLISHED CARBON DIOXIDE EMISSIONS FIGURE (g/km)	(3) DIESEL CLASS VEHICLE'S ESTABLISHED ENGINE SIZE FIGURE (cc)	(4) NON-DIESEL CLASS VEHICLE'S ESTABLISHED ENGINE SIZE FIGURE (cc)	(5) CARBON DIOXIDE EMISSIONS DUTY (£)
0 to 100	0 to 110	0 to 1000	0 to 1000	0
101 to 110	111 to 130	1001 to 1150	1001 to 1350	150
111 to 120	131 to 140	1151 to 1300	1351 to 1500	285
121 to 130	141 to 150	1301 to 1450	1501 to 1650	420
131 to 140	151 to 165	1451 to 1600	1651 to 1800	555
141 and over	166 and over	1601 and over	1801 and over	690

TABLE 2  
MOTORCYCLES

VEHICLE'S ESTABLISHED ENGINE SIZE FIGURE (cc)	CARBON DIOXIDE EMISSIONS DUTY (£)
0 to 500	0
501 and over	100

## **The Mental Health (Transfer of Patients) (Guernsey and Alderney) Ordinance, 2016**

**THE STATES**, in pursuance of their Resolution of the 27<sup>th</sup> November, 2002<sup>a</sup>, and in the exercise of the powers conferred on them by sections 100(1) and 101 of the Mental Health (Bailiwick of Guernsey) Law, 2010<sup>b</sup>, hereby orders:-

### **Status of applications, etc. on transfer of patient.**

**1.** (1) Subject to subsection (2), where a patient liable to be detained by virtue of an order under the Law (other than section 64, 65 or 68) is removed to a country or territory outside the Bailiwick in pursuance of arrangements under section 82 of the Law, the order shall cease to have effect -

- (a) when the patient is duly received into a hospital or other institution, or
- (b) where the patient is not received into a hospital but his detention in hospital is authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003<sup>c</sup> or the Criminal Procedure (Scotland) Act 1995<sup>d</sup>,

in pursuance of those arrangements.

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<sup>a</sup> Article XVIII of Billet d'État No. XXIII of 2002.

<sup>b</sup> Order in Council No. XV of 2011.

<sup>c</sup> An Act of the Scottish Parliament, asp 13.

<sup>d</sup> An Act of the Westminster Parliament, c. 46.

(2) Where a Law Officer makes an overseas transfer order under section 82 in respect of a patient -

- (a) who is detained pursuant to a hospital order,
- (b) in respect of whom a restriction order is in force, and
- (c) who is removed to a country or territory outside the British Islands,

those orders shall continue in force so as to apply to the patient if he returns to the Bailiwick.

(3) Where a patient subject to a community treatment order under the Law is removed to a country or territory outside the Bailiwick in pursuance of arrangements under section 82 of the Law, that order shall cease to have effect when he is so removed in pursuance of those arrangements.

(4) Reference in this section to a patient's detention in hospital being authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 shall be read as including references to a patient in respect of whom a certificate under one of the provisions listed in section 290(7)(a) of the Mental Health (Care and Treatment) (Scotland) Act 2003 is in operation.

**Amendment of Miscellaneous Provisions Ordinance.**

2. In section 12(1) of the Mental Health (Miscellaneous Provisions) (Guernsey and Alderney) Ordinance, 2013<sup>e</sup>, immediately after paragraph (d), insert-

"(da) an order made under section 63, 64, 65 or 68 (an interim hospital order),".

**Interpretation.**

3. (1) In this Ordinance, "**the Law**" means the Mental Health (Bailiwick of Guernsey) Law, 2010, and any other word or phrase shall have the same meaning as found in the Law.

(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.

(3) The Interpretation (Guernsey) Law, 1948<sup>f</sup> applies to the interpretation of this Ordinance throughout Guernsey and Alderney.

**Extent.**

4. This Ordinance has effect in the islands of Guernsey and Alderney.

**Citation and commencement.**

5. This Ordinance -

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<sup>e</sup> Ordinance No. XVI of 2013.

<sup>f</sup> Ordres en Conseil Vol. XIII, p. 355.

- (a) may be cited as the Mental Health (Transfer of Patients) (Guernsey and Alderney) Ordinance, 2016, and
- (b) shall come into force on the 17<sup>th</sup> February, 2016.

## **The Income Tax (Guernsey) (Approval of Agreements with British Virgin Islands, Cayman Islands, South Korea and Spain) Ordinance, 2016**

**THE STATES**, in exercise of the powers conferred on them by section 75C of the Income Tax (Guernsey) Law, 1975 as amended<sup>a</sup> and all other powers enabling them in that behalf, hereby order:-

### **Approval of Agreements.**

**1.** Pursuant to section 75C of the Income Tax (Guernsey) Law, 1975, as amended, the following agreements providing for the obtaining, furnishing and exchanging of information in relation to tax are specified for the purposes of that Law –

- (a) the agreement made between the States of Guernsey and the Government of the Cayman Islands contained in a Protocol signed on the 10<sup>th</sup> September, 2015 and the 8<sup>th</sup> October, 2015 on behalf of Guernsey and the Cayman Islands respectively (which amends the agreement between the States of Guernsey and the Government of the Cayman Islands providing for the exchange of information relating to tax matters signed on the 29<sup>th</sup> July, 2011<sup>b</sup>),
- (b) the agreement, and the Protocol, made between the States of

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<sup>a</sup> Ordres en Conseil Vol. XXV, p. 124; section 75C was inserted by section 5 of Order in Council No. XVII of 2005, and section 75C has subsequently been amended by Ordinance No. XVI of 2012; No. I of 2014; and No. XXXI of 2014.

<sup>b</sup> Ordinance No. XXXVII of 2014.

Guernsey and the Government of the Republic of Korea signed on the 23<sup>rd</sup> September, 2015,

- (c) the agreement made between the States of Guernsey and the Government of the British Virgin Islands contained in a Protocol signed on the 8<sup>th</sup> October, 2015 and the 5<sup>th</sup> November, 2015 respectively (which amends the agreement between the States of Guernsey and the Government of the British Virgin Islands providing for exchange of information relating to tax matters signed on the 12<sup>th</sup> April, 2013 and the 17<sup>th</sup> April, 2013<sup>c</sup>, as amended by a Protocol signed on the 25<sup>th</sup> November, 2014 and the 11<sup>th</sup> December, 2014<sup>d</sup>), and
- (d) the agreement made between the States of Guernsey and the Government of the Kingdom of Spain signed on the 10<sup>th</sup> November, 2015.

**Citation.**

2. This Ordinance may be cited as the Income Tax (Guernsey) (Approval of Agreements with British Virgin Islands, Cayman Islands, South Korea and Spain) Ordinance, 2016.

**Commencement.**

3. This Ordinance shall come into force on the 24<sup>th</sup> February, 2016.

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<sup>c</sup> Ordinance No. XXIII of 2013.

<sup>d</sup> Ordinance No. XIII of 2015.



**The Income Tax (Zero 10)  
(Company Intermediate Rate)  
(Amendment) (Guernsey) (No. 2) Ordinance, 2015**

THE STATES LEGISLATION SELECT COMMITTEE, in pursuance of the Resolution of the States of the 29<sup>th</sup> October, 2015<sup>a</sup>, and in exercise of the powers conferred on the States by sections 203A and 208C of the Income Tax (Guernsey) Law, 1975<sup>b</sup>, and all other powers enabling the States in that behalf, and on the Committee by article 66(3) of the Reform (Guernsey) Law, 1948<sup>c</sup>, hereby orders:-

**Amendment of 1975 Law.**

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

2. After section 2(2)(ae)<sup>d</sup> insert the following paragraph -

"(af) income from the provision of custody services  
(as defined in the Fourth Schedule),".

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<sup>a</sup> Proposition 1 of Billet d'État No. XIX of 2015.

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

<sup>c</sup> Ordres en Conseil Vol. XIII, p. 288; section 203A was inserted by Order in Council No. XVII of 2005 and section 208C was inserted by Order in Council No. V of 2011.

<sup>d</sup> Section 2 was substituted by the Income Tax (Zero 10) (Guernsey) Law, 2007 (Order in Council No. V of 2011); paragraph (ae) was added by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015.

3. In section 7C<sup>e</sup>, in the heading, and in the text of the section, for the words "and the administration of controlled investments" substitute ", the administration of controlled investments and the provision of custody services".

4. After section 47G(ae)<sup>f</sup> insert the following paragraph -

"(af) the provision of custody services carried on in Guernsey,".

5. After section 139(5)<sup>g</sup> insert the following subsection -

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

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

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

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<sup>e</sup> Section 7C was inserted by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2012 (Ordinance No. VIII of 2012) and amended by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015.

<sup>f</sup> Section 47G was inserted by the Income Tax (Zero 10) (Guernsey) (No. 2) Law, 2007 (Order in Council No. VI of 2011); paragraph (ae) was added by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015.

<sup>g</sup> Section 139(5) was added by the Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015.

- (c) the company's income falls within class 2(2)(af).".

6. In section 209(1) insert the following definition at the appropriate place -

"**custody services**" has the meaning assigned by the Fourth Schedule,".

7. In the Fourth Schedule after paragraph 2E<sup>h</sup> insert the following paragraph -

#### **"CUSTODY SERVICES**

**2F.** (1) For the purposes of this Law "**custody services**" means services which constitute custody (within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 1987), that is to say -

- (a) holding as trustee or custodian the assets underlying a collective investment scheme, within the meaning of category 1 in Schedule 1 to that Law, or the evidence of title to those assets, and
- (b) safeguarding assets belonging to others which

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<sup>h</sup> The Fourth Schedule was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007 (Order in Council No. V of 2011); paragraph 2E was added by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015.

comprise general securities and derivatives within the meaning of category 2 in Schedule 1 to that Law, or the evidence of title to such assets,

where the services are provided to an unconnected third party; and for the purposes of this paragraph services are provided to an unconnected third party only where the person who provides the services, and the person to whom the services are provided, are not connected to each other within the meaning of section 66A(8)(a).

(2) **"Income from the provision of custody services"**

shall be any income arising from the provision of custody services when carried on by an institution or business described in paragraph 1 of this Schedule."

8. In the Fifth Schedule in the table therein insert the following entry immediately below the entry relating to "Income from the administration of controlled investments"<sup>i</sup> -

"2(2)(af)	Income from the provision of custody services	company intermediate rate	10%".
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**Year of computation: special provision.**

9. Section 6(3A) of the Law applies to any company where the

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<sup>i</sup> The Fifth Schedule was inserted by the Income Tax (Zero 10) (Guernsey) Law, 2007 (Order in Council No. V of 2011); the reference to income from the administration of controlled investments was added by the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2015.

applicable rate of taxation of that company's income is altered by the provisions of this Ordinance *mutatis mutandis*.

**Citation.**

10. This Ordinance may be cited as the Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) (No. 2) Ordinance, 2015.

**Commencement.**

11. This Ordinance shall come into force on the 1<sup>st</sup> January, 2016.