

ORDER IN COUNCIL

**XIII
2017**

ratifying a Projet de Loi

ENTITLED

The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016

(Registered on the Records of the Island of Guernsey
on the 13th November, 2017.)



2017

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 13th day of November, 2017 before Sir Richard Collas, Bailiff; present:- Barbara Jean Bartie, Stephen Murray Jones, Esquire, Claire Helen Le Pelley, Constance Helyar-Wilkinson, David Percy Langley Hodgetts, Esquire, L.V.O., Niall David McCathie, Terry John Ferbrache, David Allan Grut, Steven John Morris, David James Mortimer, Esquires, Joanne Marie Wyatt and Alan Stevenson Boyle, Esquire, Jurats.

The Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 11th October, 2017, approving and ratifying a Project de Loi of the States of Guernsey entitled “The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ORDERED:

1. That the said Order in Council be registered on the records of this Island;
and
2. That an extract of this present Act, together with a copy of the said Order be sent by Her Majesty’s Greffier to The Greffier of the Court of Alderney and to the SÉNÉSCHAL of Sark for registration on the records of those Islands.

S. SIMMONDS
Her Majesty’s Deputy Greffier.



At the Court at Buckingham Palace

THE 11th DAY OF OCTOBER 2017

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

“That, in pursuance of their Resolution of 26th January 2016, the States of Deliberation at a meeting on 2nd March 2016 approved a *Projet de Loi* entitled the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the States of the Island of Alderney at a meeting held on 24th May 2017 considered the *Projet de Loi* when a Resolution was passed agreeing to the application to Alderney. That the Chief Pleas of the Island of Sark at a meeting held on 6th April 2016 considered the *Projet de Loi* when a Resolution was passed agreeing to the application to Sark. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016, and to order that it shall have force of law in the Bailiwick of Guernsey.

“The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it”.

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Bailiwick of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

Richard Tilbrook

PROJET DE LOI

ENTITLED

The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016

THE STATES, in pursuance of their Resolution of the 27th January, 2016^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Amendment of 1987 Law.

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

2. In section 11D(1)^c for "not exceeding £200,000" substitute "not exceeding the relevant sum calculated in accordance with subsections (1A) and (1B)".

3. After section 11D(1) insert the following subsections -

"(1A) The relevant sum is -

(a) in the case of a licensee or former licensee, but not a personal fiduciary licensee or former such

^a Billet d'État No. V of 2016.

^b Ordres en Conseil Vol. XXX, p. 243; there are amendments not material to this enactment.

^c Section 11D was inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008 (Order in Council No. XIX of 2008).

licensee, £4,000,000, provided that any penalty of more than £300,000 shall not exceed 10% of the turnover of the licensee or former licensee in question, or

- (b) in the case of a personal fiduciary licensee or former such licensee or a relevant officer, £400,000,

and in this section the expression "**personal fiduciary licensee**" means the holder of a personal fiduciary licence within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000.

(1B) The Policy Council may, after consultation with the Commission, the Policy and Finance Committee of the States of Alderney and the Policy and Performance Committee of the Chief Pleas of Sark, by regulation make such provision as it thinks fit for the purpose of carrying this section into effect including, without limitation, provision in respect of -

- (a) the meaning of the expressions "turnover" and "emoluments" for the purposes of this section, including without limitation the determination and basis of calculation thereof, and
- (b) the banding of penalties under this section within the relevant sum calculated in accordance with subsections (1A) and (1B) and the criteria subject to which each band is to be applied, taking into consideration the factors set out in paragraphs (a) to (g) of subsection (2).

(1C) The Commission shall issue and publish, in such manner as it considers best calculated to bring it to the attention of persons likely to be affected by it and the public in general, guidance as to its general approach to enforcement.

(1D) The States may by Ordinance amend this section."

4. After section 11D(2)(f) insert the following paragraph -

"and (g) in the case of a personal fiduciary licensee or former such licensee or a relevant officer, the emoluments arising from or otherwise in respect of the relevant position held by him, at the time when the contravention or non-fulfilment took place and otherwise."

5. After section 11D(5) insert the following subsection -

"(6) Penalties imposed under this section are recoverable by the Commission as a civil debt."

Citation.

6. This Law may be cited as the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016.

Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey

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Printed by Colour Monster Printshop, The Guernsey Press Building, Braye Road, St. Sampsons, GY2 4WX.