

# PROJET DE LOI

ENTITLED

## **The Guernsey Finance LBG (Levy) (Guernsey) Law, 2010 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* No. XVI of 2010; as amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

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## **The Guernsey Finance LBG (Levy) (Guernsey) Law, 2010**

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# PROJET DE LOI

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## **The Guernsey Finance LBG (Levy) (Guernsey) Law, 2010**

**THE STATES**, in pursuance of their Resolution of the 25<sup>th</sup> March, 2009<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

### **Imposition of levy.**

1. (1) A levy to be called the Guernsey Finance levy ("**the levy**") is payable in accordance with the provisions of this Law.

(2) The levy is chargeable in respect of each calendar year upon persons –

(a) who are licensed persons at the commencement of that year, or

(b) who become licensed persons in the course of that year.

(3) The levy is also chargeable upon or in relation to such event, circumstance or matter as the States [Committee for Economic Development] ("**the [Committee]**") may prescribe by regulation.

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### **NOTE**

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

*In section 1, the words in the first and second pairs of square brackets in subsection (3) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 1(a) and section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Purpose of levy.**

2. The purpose of the levy is to finance (whether in whole or in part) the carrying out by Guernsey Finance LBG ("**Guernsey Finance**") of its objects.

**Basis of calculation of levy.**

3. (1) The levy is payable in respect of each full time employee of the licensed person in question.

(2) For the purposes of this Law an "**employee**" means an individual who has entered into or who works under (or, where the employment has ceased, who worked under) a contract of service, whether express or implied and whether written or oral.

(3) The [Committee] may by regulation make such provision as it thinks fit in relation to the meaning of the expression "full time employee", including (without limitation) provision permitting the aggregation of hours worked or required to be worked by employees who are not full time employees and by other persons who are not employees so that they may be treated as full time employees for the purposes of the levy.

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**NOTES**

*In section 3, the word in square brackets in subsection (3) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

*The following Regulations have been made under section 3:*

*Guernsey Finance LBG (Levy) (Guernsey) Regulations, 2010;  
Guernsey Finance LBG (Levy) (Guernsey) (Amendment)  
Regulations, 2018.*

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**Rate of levy.**

4. (1) The rate of the levy shall be determined by regulations of the [Committee].

(2) Regulations of the [Committee] may also determine the maximum and minimum amount payable by a licensed person by way of levy.

(3) A different rate of levy, and a different maximum and minimum amount payable by way of levy, may be prescribed in respect of different licensed persons or different classes or descriptions of licensed persons.

(4) Notwithstanding any other provision of this Law, in respect of the year 2010, and in respect of licensed persons who held or were deemed to hold a licence on the 1<sup>st</sup> January, 2010 or the date of commencement of this Law (whichever is later), the levy may be of such amount as is necessary to finance (whether in whole or in part) the carrying out by Guernsey Finance of its objects in both the year 2010 and in the year 2009; and the provisions of this Law shall apply accordingly.

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**NOTES**

*In section 4, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

*The following Regulations have been made under section 4:*

*Guernsey Finance LBG (Levy) (Guernsey) Regulations, 2010;  
Guernsey Finance LBG (Levy) (Guernsey) (Amendment)  
Regulations, 2016;  
Guernsey Finance LBG (Levy) (Guernsey) (Amendment)*

*Regulations, 2018.*

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**Exemption from levy.**

5. The [Committee] may by regulation specify any licensed person or class or description of licensed person which is exempt from payment of the levy or by whom the levy is payable at a reduced rate.

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**NOTE**

*In section 5, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Administration of Law.**

6. (1) The [Committee] is responsible for the administration of the provisions of this Law and for the assessment and collection of the levy and in particular, but without limitation, for determining not only the rate of the levy in accordance with section 4 but also the amount of the levy due from any licensed person.

(2) The [Committee] may by an instrument in writing, either generally or otherwise as specified in the instrument, arrange for any of its functions under this Law to be exercised in its name by any person, body or authority named or described in the instrument, other than this power of delegation; and references in this Law to the [Committee] shall be construed accordingly.

(3) A function exercised by a delegate pursuant to an arrangement made under this section is for all purposes exercised by the [Committee]; and every decision taken or other thing done by a delegate pursuant to such an arrangement has the same effect as if taken or done by the [Committee].

(4) An arrangement made under this section for the exercise of a function by a delegate –

(a) may be varied or terminated at any time by the [Committee], but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement,

(b) does not prevent the exercise of the function by the [Committee] while the arrangement subsists.

(5) Without limitation, the persons to whom functions may be delegated under this section include the Registrar of Companies<sup>b</sup>.

(6) The provisions of subsections (2) to (5) are for the avoidance of doubt and without prejudice to any powers arising otherwise than under this Law (for example, under the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991<sup>c</sup>).

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**NOTE**

*In section 6, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Payment of levy.**

7. (1) Subject to the provisions of this Law, liability to the levy arises

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<sup>b</sup> The office of Registrar was established under section 495 of the Companies (Guernsey) Law, 2008 (no. VIII of 2008).

<sup>c</sup> No. XXI of 1991.

upon service by the [Committee] of an account specifying the amount of the levy due.

(2) Accounts shall be served –

(a) on or at any time after –

(i) the 1<sup>st</sup> January in the year in respect of which the levy is due, and

(ii) any other event, circumstance or matter prescribed by regulations of the [Committee] upon or in relation to which the levy is chargeable,

(b) on the licensed person by whom the levy is payable, and

(c) in such form and manner as the [Committee] may determine.

(3) The levy is payable in such manner and at such times and intervals as the [Committee] may require; and the requirements of the [Committee] may make different provision in respect of –

(a) different licensed persons or classes or descriptions of licensed persons, and

(b) different methods of payment.

(4) Without prejudice to the generality of subsection (3), requirements under that subsection may make provision for the levy –



(a) to be discounted by such amount, and

(b) to be paid by such instalments,

as the [Committee] thinks fit.

(5) In any proceedings for the recovery of the levy or any penalty in respect thereof a copy of an account produced by the [Committee] (whether from data stored electronically or by other means) is evidence of the contents of the account.

(6) Where different rates of levy and different maximum and minimum amounts payable by way of levy are prescribed under section 4(3), a licensed person who during the course of a year becomes the holder of a new or amended licence of a prescribed class or description different to that of the licence previously held by him is liable to pay any additional amount due by way of levy in respect of the new or amended licence.

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**NOTE**

*In section 7, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Penalties for late payment.**

8. Where the levy is not paid in accordance with the provisions of this Law, the [Committee] may charge a flat rate penalty of £250 (or such other amount as the [Committee] may prescribe by regulation) for each month or part of a month in which the levy is unpaid, and the penalty is recoverable in the manner in which, and from the person from whom, the levy is recoverable.

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**NOTE**

*In section 8, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Levy recoverable as civil debt.**

**9.** (1) The levy, together with any penalty recoverable in respect thereof, is recoverable from licensed persons as a civil debt due to the States of Guernsey.

(2) If two or more persons are liable for any payment of the levy, their liability for the levy, and any penalty recoverable in respect thereof, is joint and several.

**Reduction, and non-refundability, of levy.**

**10.** (1) The amount of the levy payable by a person who becomes a licensed person in the course of a year shall be reduced by one twelfth for each complete calendar month to have expired in that year on the date when he became a licensed person.

(2) Where different rates of levy and different maximum and minimum amounts payable by way of levy are prescribed under section 4(3), the amount of additional levy payable pursuant to sections 7(6) and 11(3) by a licensed person who during the course of a year becomes the holder of a new or amended licence of a prescribed class or description different to that of the licence previously held by him shall be reduced by one twelfth for each complete calendar month to have expired in that year on the date when he became the holder of the new or amended licence.

(3) When a person ceases to be a licensed person in the course of a year, neither the levy nor any part thereof is refundable.

(4) Where different rates of levy and different maximum and minimum amounts payable by way of levy are prescribed under section 4(3), and a licensed person during the course of a year becomes the holder of a new or amended licence of a prescribed class or description different to that of the licence previously held by him, neither the levy nor any part thereof is refundable by reason of the fact that a lesser amount is due by way of levy in respect of the new or amended licence.

**Number of employees to be taken as at 31<sup>st</sup> December.**

11. (1) For the purposes of calculating the amount of the levy due in any year in respect of any licensed person the number of full time employees shall, subject to subsections (2) and (3), be taken to be the number thereof as at the 31<sup>st</sup> December in the preceding year.

(2) In the case of a person who becomes a licensed person during the course of a year, the number of full time employees shall be taken to be the number thereof as at the date of the grant of the licence.

(3) Where different rates of levy and different maximum and minimum amounts payable by way of levy are prescribed under section 4(3) then, in the case of a licensed person who during the course of a year becomes the holder of a new or amended licence of a prescribed class or description different to that of the licence previously held by him, the number of full time employees shall be taken, subject to subsection (2), to be the number thereof as at the date when he became the holder of the new or amended licence, and he is liable to pay any additional amount due by way of levy in respect of that number of employees.

**Duty to notify change of licence.**

12. (1) A licensed person shall inform the [Committee] of any change

in –

- (a) the class or description of licence held by him, or
- (b) the conditions of the licence held by him,

which affects or may affect the amount of levy payable by him as soon as it is reasonably practicable to do so and in any case within a period of 28 days immediately following the date of the change.

(2) The information shall be provided in such form and manner (if any) as the [Committee] may require.

(3) The information shall be accompanied by such other information and documents as the [Committee] may reasonably require for the purpose of performing its functions under the provisions of this Law.

(4) A person who without reasonable excuse fails to comply with this section or any requirement under it is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

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**NOTE**

*In section 12, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Duty to notify obtaining of licence.**

**13.** (1) If a person becomes a licensed person he shall inform the [Committee] of that fact as soon as it is reasonably practicable to do so and in any case within a period of 28 days immediately following the date of the grant of his

licence.

(2) The information shall be provided in such form and manner (if any) as the [Committee] may require.

(3) The information shall include the name and address of the licensed person and particulars of his licence and shall be accompanied by such other information and documents as the [Committee] may reasonably require for the purpose of performing its functions under the provisions of this Law (including, without limitation, information and documents relating to his employees).

(4) A person who without reasonable excuse fails to comply with this section or any requirement under it is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

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**NOTE**

*In section 13, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Provision of information as to employees, etc.**

**14.** (1) Without prejudice to sections 12 and 13, the [Committee] may by notice in writing require a licensed person or former licensed person to provide such information and documents relating to his full time employees as the [Committee] may reasonably require for the purpose of performing its functions under the provisions of this Law.

(2) The information and documents shall be provided in such form and manner (if any) as the [Committee] may require.

(3) If there is any change to any information provided to the [Committee] under this section or under section 12 or 13 by or on behalf of any person (whether by virtue of the information becoming out of date, or being found to be incomplete or inaccurate, or otherwise), that person shall inform the [Committee] of the change as soon as is reasonably practicable and in any case within a period of 28 days after the date of the change.

(4) Where a person is required by or under this section or section 12 or 13 to produce any documents, the [Committee] may, if the documents are produced, take and retain copies of them or extracts from them so far as necessary for the purpose of performing its functions under the provisions of this Law.

(5) A person who without reasonable excuse fails to comply with this section or any requirement under it is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale.

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**NOTE**

*In section 14, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Power to estimate liability to levy in cases of failure to co-operate.**

**15.** (1) Where the [Committee], having made all such efforts as are reasonable in the circumstances, is unable to obtain such information as may be reasonably necessary for the purposes of determining the amount of levy payable by a licensed person, it may estimate the amount payable on the basis of any relevant information available to it.

(2) Where subsection (1) applies, the levy is payable by the licensed person in question on the basis of the [Committee]'s estimate; and the

provisions of this Law apply accordingly.

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**NOTE**

*In section 15, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Reports and accounts.**

**16.** (1) Guernsey Finance shall, whenever required to do so by the [Committee], and without prejudice to its powers to prepare and publish reports of its own motion, submit to the [Committee] a report in respect of the carrying out of its objects at such times and intervals, and in such form and manner, as the [Committee] may require.

(2) The [Committee] may appoint an independent person to conduct a review of and to report upon the economy, efficiency and effectiveness in which Guernsey Finance uses its resources and carries out its objects; and Guernsey Finance and its members, officers and employees shall take all reasonable steps to co-operate with and assist any person so appointed.

(3) The [Committee] –

- (a) may submit any report prepared under subsection (1) or (2) to the States, and
- (b) may at the same time or at any other time submit their own report to the States on the carrying out by Guernsey Finance of its objects.

**NOTE**

*In section 16, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Prohibition against disclosure of information.**

**17.** (1) No document or information acquired by any person in connection with the operation of the provisions of this Law shall be disclosed, except

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- (a) to the extent necessary to enable the [Committee] to perform its functions under this Law,
- (b) for the purposes of civil proceedings in connection with the operation of this Law,
- (c) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings,
- (d) with the consent of the person to whom it relates and (if different) the person from whom it was acquired,
- (e) to comply with an order of a court,
- (f) where, in order to enable or assist it to perform its functions under this Law, the [Committee] considers it necessary to seek advice from a qualified person on any matter of law, accountancy or any other matter requiring the exercise of professional skill, to the extent



necessary to ensure that that person is properly informed as to the matters on which his advice is sought,

- (g) to the extent that its disclosure is expressly authorised or required by or under any enactment, or
- (h) in accordance with section 22.

(2) A person who discloses or causes or permits the disclosure of any document or information in contravention of subsection (1) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months, or to both.

(3) In proceedings against a person for an offence under this section it is a defence for him to show –

- (a) that he took all reasonable steps and exercised all due diligence to avoid committing the offence, or
- (b) that he did not know and had no reason to suspect that the document or information in question was to be regarded as confidential.

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**NOTE**

*In section 17, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Penalties for false information.**

**18.** (1) If a person –

- (a) in purported compliance with a requirement imposed by or under, or otherwise for the purposes of, the provisions of this Law, or
- (b) otherwise than as mentioned in paragraph (a) but in circumstances in which he intends, or could reasonably be expected to know, that the statement, information or document provided by him would or might be used by the [Committee] for the purpose of performing its functions under the provisions of this Law,

does any of the following –

- (i) he makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (ii) he recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (iii) he produces or furnishes or causes or permits to be produced or furnished any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (iv) he recklessly produces or furnishes or recklessly causes or permits to be produced or furnished,

dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

then he is guilty of an offence.

- (2) A person guilty of an offence under subsection (1) is liable –
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
  - (b) on summary conviction, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

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**NOTE**

*In section 18, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Criminal liability of directors, etc.**

**19.** (1) Where an offence under this Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body or any person purporting to act in any such capacity, he as well as the body is guilty of the offence and may be proceeded against and punished accordingly.

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

**Proceedings against unincorporated bodies.**

20. (1) Where an offence under this Law is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of the body and not in the name of any of its members.

(2) A fine imposed on an unincorporated body on its conviction of an offence under this Law shall be paid from the funds of the body.

(3) Where an offence under this Law is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of the body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

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

**Power to apply Law to successor bodies.**

21. The States may by Ordinance direct that the provisions of this Law shall apply (subject to such adaptations, exceptions and modifications as may be set out in the Ordinance) to any body specified in the Ordinance which succeeds to the

objects, undertaking and functions of Guernsey Finance.

**Power of Commission and [Committee] to exchange information.**

**22.** (1) The Guernsey Financial Services Commission ("**the Commission**") may, notwithstanding the provisions of any other enactment, and for the purpose of enabling the [Committee] to exercise its functions under the provisions of this Law, disclose to the [Committee] or any member, officer or servant thereof –

- (a) notice of any person becoming, or ceasing to be, a licensed person,
- (b) notice of any change in the class or description of licence held by any licensed person which affects or may affect the amount of levy payable by him,
- (c) the business address in Guernsey of any licensed person, and
- (d) such other information relating to licensed persons as the [Committee] may reasonably require.

(2) The [Committee] may, notwithstanding the provisions of any other enactment, and for the purpose of enabling the Commission to exercise its functions or to investigate matters of relevance to its functions, disclose to the Commission or any member, officer or servant thereof any document or information acquired by it in connection with the operation of the provisions of this Law.

(3) Information disclosed to any person under subsection (1) or (2)

—

- (a) may be used for the purposes mentioned in those

subsections, but

- (b) shall not be further disclosed except as mentioned in paragraphs (a) to (g) of section 17(1) (and those paragraphs have effect as if references to the [Committee] and this Law included references to the Commission and any enactment administered by it).

Sections 17(2) and 17(3) apply to a disclosure in contravention of this subsection as they apply to a disclosure in contravention of section 17(1).

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**NOTE**

*In section 22, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Service of documents.**

**23.** (1) Any document to be served for the purposes of this Law is validly served, in the case of a licensed person, by being left at, or sent by post or transmitted to, their business address in Guernsey for the time being notified to the Commission or, if there is no such address –

- (a) in the case of an individual, by being delivered to him or by being left at, or sent by post or transmitted to, his usual or last known place of abode,
- (b) in the case of a body corporate with a registered office in Guernsey, by being left at, or sent by post or transmitted to, that office,

- (c) in the case of a body corporate without a registered office in Guernsey, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in Guernsey or, if there is no such place, its registered office or principal or last known principal place of business elsewhere,
- (d) in the case of an unincorporated body –
  - (i) by being served on any partner, member, manager, director or other similar officer thereof in accordance with paragraph (a), or
  - (ii) by being left at, or sent by post or 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,
- (e) in the case of the [Committee], by being left at, or sent by post or transmitted to, its principal office in Guernsey,

and in this section –

**"by post"** means by registered post, recorded delivery service or ordinary letter post, and

**"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 shall be regarded as served when it is received.

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

(3) Subsections (1) and (2) are without prejudice to any other lawful method of service.

(4) No document to be served on the [Committee] for the purposes of this Law shall be deemed to have been served until it is received.

(5) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Law 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, and

(b) in the case of a document sent elsewhere by airmail, on the seventh day after the day of posting,

excluding in each case any non-business day.

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

(7) In this section –

**"document"** means any notice, account or other document other than



a summons, and

"served" includes given.

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**NOTE**

*In section 23, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**Documents to be submitted, etc, in electronic form.**

**24.** (1) Where under the provisions of this Law anything is authorised or required to be done in such form or manner as the [Committee] may require or determine, the [Committee] may, without limitation, and whether generally or in any particular case or class of cases, require or determine that it shall be done in such electronic form and by such electronic means as the [Committee] thinks fit.

(2) This section is without prejudice to the Electronic Transactions (Guernsey) Law, 2000<sup>d</sup>.

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**NOTE**

*In section 24, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

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**General provisions as to subordinate legislation.**

**25.** (1) The States may by Ordinance –

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<sup>d</sup> Order in Council No. VIII of 2000.

- (a) amend sections 3, 11, 14 and 22 and (so as to amend the meaning of any expression defined therein or to define any other expression) section 26 where it appears to the States to be necessary or expedient to do so for the purpose of –
  - (i) enabling Guernsey Finance or the [Committee] more effectively to carry out, respectively, its objects or its functions under the provisions of this Law,
  - (ii) amending the basis on which the levy is calculated and payable or improving or enhancing the administration and collection of the levy,
  - (iii) enhancing, promoting or protecting the reputation or economic interests of Guernsey,
  - (iv) assisting or co-operating with, in the interests of the public or otherwise, any person or body which appears to the States to carry out in a place outside Guernsey objects and functions corresponding to the objects of Guernsey Finance,
- (b) make such other provision as they think fit for the purposes of carrying this Law into effect.

The provisions of this subsection are without prejudice to any other provision of this Law conferring power to enact Ordinances or regulations (and vice

versa).

(2) Any Ordinance or regulation under this Law –

(a) may be amended or repealed by a subsequent Ordinance or regulation, as the case may be, hereunder, and

(b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient (including, without limitation, in the case of an Ordinance, provision making consequential amendments to this Law and any other enactment).

(3) Any power to make an Ordinance or regulation under this Law may be exercised –

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised –

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different

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

- (iii) any such provision either unconditionally or  
subject to any prescribed conditions,
- (iv) different provision for different classes or  
descriptions of licensed persons.

(4) Regulations of the [Committee] under this Law shall be laid  
before a meeting of the States as soon as possible after being made; and, if at that or  
the next meeting the States resolve to annul the regulations, then they shall cease to  
have effect, but without prejudice to anything done under them or to the making of  
new regulations.

(5) The [Committee] shall, before making any regulations under  
this Law, consult –

- (a) Guernsey Finance,
- (b) such other persons or bodies as it thinks fit,

in relation to the terms of the proposed regulations; but a failure to comply with this  
subsection does not invalidate the regulations.

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**NOTE**

*In section 25, the word "Committee" in square brackets, wherever occurring,  
was substituted by the Organisation of States' Affairs (Transfer of Functions)  
Ordinance, 2016, section 5(1), Schedule 3, paragraph 2, with effect from 1st  
May, 2016.*

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**Interpretation.**

**26.** (1) In this Law –

**"body"** includes a body incorporated under the law of any country or territory and any unincorporated body,

**"Commission"** means the Guernsey Financial Services Commission,

**"[Committee]"** means the States [Committee for Economic Development], and see section 6(2),

**"document"** includes information recorded in any form (including without limitation, in electronic form) and, in relation to information recorded otherwise than in legible form, references to its production, however expressed, include references to the production of a copy of the information in legible form,

**"employee"**: see section 3(2),

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

**"full time employee"**: see section 3(3) and any regulations of the [Committee] for the time being in force thereunder,

**"functions"** includes powers and duties,

**"Guernsey"** includes Herm and Jethou,

**"Guernsey Finance"** means the company limited by guarantee

incorporated in Guernsey in 2004 under the name GuernseyFinance LBG<sup>e</sup>, and includes any successor body specified by Ordinance under section 21,

**"information"** includes data, however recorded,

**"the levy"**: see section 1(1),

**"licence"** means a licence, consent, registration, permission or authorisation held or deemed to be held from the Guernsey Financial Services Commission under the regulatory Laws,

**"licensed person"** means a person who holds or is deemed to hold a licence,

**"non-business day"** means –

- (a) a Saturday, a Sunday, Christmas Day and Good Friday, and
- (b) any day appointed as a public holiday by Ordinance of the States of Guernsey under section 1(1) of the Bills of Exchange (Guernsey) Law, 1958<sup>f</sup>,

**"the objects"** of Guernsey Finance include its functions under its memorandum and articles of incorporation,

**"the provisions of this Law"** includes the provisions of any

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<sup>e</sup> Registration number 38776.

<sup>f</sup> Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; No. XI of 1993; and No. XIV of 1994.

Ordinance or regulations under it,

**"regulatory Laws"** means –

- (a) the Protection of Investors (Bailiwick of Guernsey) Law, 1987,
- (b) the Banking Supervision (Bailiwick of Guernsey) Law, 1994,
- (c) the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000,
- (d) the Insurance Business (Bailiwick of Guernsey) Law, 2002,
- (e) the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002,
- (f) any other enactment prescribed for the purposes of this Law by regulations of the [Committee],

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

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

1989<sup>g</sup>,

"year" means a calendar year.

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

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## NOTES

*In section 26, the words in, first, the first and, second, the second pairs of square brackets in the definition of the expression "Committee" in subsection (1) and, third, the word "Committee" in square brackets wherever else occurring were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 2, section 2, Schedule 1, paragraph 1(a) and section 5(1), Schedule 3, paragraph 2, with effect from 1st May, 2016.*

*The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

*The Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994 and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 have all since been repealed by, respectively, the Protection of Investors (Bailiwick of Guernsey) Law, 2020, section 80(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law; the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law; and the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, section 62(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 60 of the 2020 Law.*

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<sup>g</sup> Ordres en Conseil Vol. XXXI, p. 278.



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**Citation.**

27. This Law may be cited as the Guernsey Finance LBG (Levy) (Guernsey) Law, 2010.

**Commencement.**

28. This Law shall come into force on the day specified by regulations of the Department; and different days may be appointed for different provisions and different purposes.

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**NOTES**

*The Law was brought into force on 10th November, 2010 by the Guernsey Finance LBG (Levy) (Guernsey) Regulations, 2010, regulation 1.*

*The following Regulations have been made under section 28:*

*Guernsey Finance LBG (Levy) (Guernsey) (Amendment) Regulations, 2018.*

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