

PROJET DE LOI

ENTITLED

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 *

* Ordres en Conseil Vol. XXX, p. 243; as amended by the: Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); States Committees (Constitution and Amendment) (Guernsey) Law, 1991 (No. XX of 1991, Ordres en Conseil Vol. XXXII, p. 471); Banking Supervision (Bailiwick of Guernsey) Law, 1994 (No. XIII of 1994, Ordres en Conseil Vol. XXV(1), p. 271); Protection of Investors (Amendment) (Bailiwick of Guernsey) Law, 1997 (No. II of 1997, Ordres en Conseil Vol. XXXVII, p. 24); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002 (No. XVII of 2002, Ordres en Conseil Vol. XLII(2), p. 644); Insurance Business (Bailiwick of Guernsey) Law, 2002 (No. XXI of 2002, Ordres en Conseil Vol. XLII(2), p. 766); Public Trustee (Bailiwick of Guernsey) Law, 2002 (No. III of 2003, Ordres en Conseil Vol. XLIII(1), p. 49); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003 (No. XXII of 2003, Ordres en Conseil Vol. XLIII(2), p. 574); Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008 (No. XIX of 2008); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008 (No. XXIII of 2008); Financial Services Commission (Bailiwick of Guernsey) (Amendment) (No. 2) Law, 2008 (No. XXIV of 2008); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2010 (No. XIX of 2010); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2012 (No. III of 2013); Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 (No. I of 2015); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016 (No. XIII of 2017); Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020 (No. XVII of 2020); Protection of Investors (Bailiwick of Guernsey) Law, 2020 (No. XVIII of 2020); Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005 (No. XXXIV of 2005, Recueil d'Ordonnances Tome XXX, p. 722); Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015 (No. XII of 2015); Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015 (No. XX of 2015); Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015 (No. XXXIX of 2015); Single Euro Payments Area (Guernsey) Ordinance, 2016 (No. II of 2016); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2016 (No. XXII of 2016); Transfer of Funds (Alderney) Ordinance, 2017 (Alderney Ordinance No. III of 2017); Transfer of Funds (Guernsey) Ordinance, 2017 (No. XXVII of 2017); Transfer of Funds (Sark) Ordinance, 2017 (Sark Ordinance No. X of 2017); Disclosure (Financial Services Commission) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017 (No. XIX of 2017); Sark Machinery of

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote above. 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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Government (Transfer of Functions) (Guernsey) Ordinance, 2018 (No. XXVI of 2018); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Regulations, 2009 (G.S.I. No. 29 of 2009); Financial Services Commission (Bailiwick of Guernsey) (Amendment) Regulations, 2017 (G.S.I. No. 49 of 2017); Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2021 (No. ** of 2021). See also the: Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122); Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009 (No. XXXIII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 617); Financial Services Commission (Administrative Financial Penalties) (Bailiwick of Guernsey) Regulations, 2016 (G.S.I. No. 87 of 2016). This Law is prospectively amended by the: Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 (No. VI of 2017).

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The Financial Services Commission (Bailiwick of Guernsey) Law, 1987

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PROJET DE LOI

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The Financial Services Commission (Bailiwick of Guernsey) Law, 1987

THE STATES, in pursuance of their Resolution of the 1st day of May 1986, 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.

Establishment and functions of the Commission

The Guernsey Financial Services Commission.

1. (1) There is established by, and in accordance with the provisions of, this Law a body to be known as the Guernsey Financial Services Commission.

(2) The Commission is a body corporate with perpetual succession and a common seal, and is capable of suing and being sued in its corporate name.

(3) Schedule 1 has effect as respects the constitution and proceedings of the Commission.

NOTE

The following cases have referred to this Law:

Amazing Global Technologies Limited and Kingston Management (Guernsey) Limited (2012) (Unreported, Royal Court, 11th June) (Guernsey Judgment No. 29/2012);

Bordeaux Services (Guernsey) Limited et al v. The Guernsey Financial Services Commission (2016) (Unreported, Royal Court, 11th May) (Guernsey Judgment No 18/2016);

David John Merrien v. Cees Schrauwens (Chairman of the Guernsey Financial Services Commission) (2016) (Unreported, Royal Court, (250915) 9th June) (Guernsey Judgment No 23/2016);

Cees Schrauwens (Chairman of the Guernsey Financial Services Commission) v. David John Merrien (2016) (Unreported, Court of Appeal, 17th March) (Guernsey Judgment No 24/2016);

Y v. Guernsey Financial Services Commission (2018) (Unreported, Royal Court, 29th November) (Guernsey Judgment No. 47/2018);

Guernsey Financial Services Commission v. Y [2019]GCA076 (Unreported, Court of Appeal, 17th June);

Chick v Guernsey Financial Services Commission [2020]GCA078 (Unreported, Court of Appeal, 9th October);

Chick v. The Chairman of the Guernsey Financial Services Commission [2021]GRC006.

Functions of the Commission.

2. (1) The functions of the Commission are referred to in this Law as "**general functions**" and "**statutory functions**".

(2) The general functions of the Commission are –

- (a) to take such steps as the Commission considers necessary or expedient for the [...] effective supervision of finance business in the Bailiwick,
- (b) to provide for the Committee, or the [Policy and Finance Committee] of the States of Alderney [or the [Policy and Finance Committee] of the Chief Pleas of Sark when either of such committees] so requests, reports, advice and assistance on any matter connected with finance business,
- (c) to prepare and submit to the Committee or the [Policy and Finance Committee] of the States of Alderney [or the [Policy and Finance Committee] of the Chief Pleas of Sark], either at the request of one of those

committees or of its own motion, recommendations and schemes for the statutory regulation of finance business and generally for the revision of legislation appertaining to companies and other forms of business undertakings,

[(d) the countering of financial crime and of the financing of terrorism; and in this paragraph "**financial crime**" includes any offence involving –

- (i) fraud or dishonesty,
- (ii) misconduct in, or misuse of information relating to, a financial market, or
- (iii) handling the proceeds of crime,

and "**offence**" includes an act or omission which would be an offence if it had taken place in the Bailiwick,]

[(e)] to take such steps as the Commission considers necessary or expedient for –

- (i) maintaining confidence in the Bailiwick's financial services sector, and
- (ii) the safety, soundness and integrity of that part of the Bailiwick's financial services sector for which it has supervisory responsibility, [...]

[(ea) to enable –

(i) the Office of the Financial Service Ombudsman (established by section 1 of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014), or

(ii) any person to whom it has delegated a function or power,

to carry out its functions or exercise any of its powers, including but not limited to the provision of information which would be confidential for the purposes of section 21, or any other provision, of this Law, or of any other enactment.]

(f) all such other functions as the States may by Resolution assign to the Commission.]

[(2A) [The exercise of the general functions of the Commission may include], without limitation –

(a) the establishment and ongoing support of bodies and organisations the functions of which include or are important or relevant to –

(i) ...

(ii) ...

(iii) the protection of the public, or

- (iv) the protection and enhancement of the reputation of the Bailiwick as a financial centre,
- (b) the approaching, at the request of third parties or otherwise, of persons engaged or otherwise connected with that sector of the Bailiwick economy which carries on finance business for statistical information for analysis and, where appropriate, for onward transmission to third parties,
- (c) the provision to the Committee, the Policy and Finance Committee of the States of Alderney and the [Policy and Finance Committee] of the Chief Pleas of Sark, when any of such committees so requests, and subject to the agreement of the Commission, of statistical information relating to that sector of the Bailiwick economy which carries on finance business.]

[(2AB) Notwithstanding the repeal on the 28th October, 2008 by the Financial Services Commission (Amendment) (Bailiwick of Guernsey) Law, 2008 of subparagraphs (i) and (ii) of subsection (2A)(a), the Commission shall be deemed, between that date and the 23rd November, 2010 (when the States resolved pursuant to section 2(2)(f) that the general functions of the Commission shall include the taking of such steps as the Commission considers necessary or expedient for participating in the ownership and governance of the GTA University Centre, including (without limitation) to act as protector of the charitable trust declared on the 6th June, 1996 by which the Finance Training Agency Trust was constituted, and to fund and support the GTA University Centre) to have had power to perform those functions in all respects as if the said subparagraphs (i) and (ii) had not been repealed.]

[(2B) The Committee may, after consultation with the Commission,

make (and subsequently amend and repeal) regulations requiring the provision by persons described in subsection (2A)(b) of statistical information: and any such regulations may create offences and prescribe penalties for contraventions or failures to comply with the regulations.]

(3) The statutory functions of the Commission are –

- (a) the functions transferred to it by section 3,
- (b) any functions assigned to it by or under any enactment [...],
- (c) to provide for the Committee, when the Committee so requests, reports, advice and assistance in relation to the exercise of the Committee's functions under any enactment relating to finance business.

(4) In the exercise of its [...] functions the Commission may take into account any matter which it considers appropriate, but shall in particular have regard to –

- (a) [the protection of the public interest, including] the protection of the public against financial loss due to dishonesty, incompetence or malpractice by persons carrying on finance business, and
- (b) the protection and enhancement of the reputation of the Bailiwick as a financial centre.

NOTES

In section 2,

the words omitted in square brackets in paragraph (a) of subsection (2) were repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008, section 2, with effect from 28th October, 2008;

the words in the first and second pairs of square brackets in paragraph (b) of subsection (2) were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, respectively section 1(a)(i) and section 1(a)(ii), with effect from 1st November, 2002;

the words "Policy and Finance Committee" in square brackets, wherever occurring, were substituted by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 2, Schedule, with effect from 24th October, 2018;¹

the words in the first pair of square brackets in paragraph (c) of subsection (2) were substituted, and the words in the second pair of square brackets therein were inserted, by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, respectively section 1(b)(i) and section 1(b)(ii), with effect from 1st November, 2002;

paragraph (d) of subsection (2) was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(c), with effect from 1st November, 2002;

paragraph (e) of subsection (2) (which paragraph was originally re-lettered, by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(c), with effect from 1st November, 2002) was substituted, and paragraph (f) of subsection (2) was inserted, by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) (No. 2) Law, 2008, section 2, with effect from 28th October, 2008;

paragraph (ea) of subsection (2) (not, as shown incorrectly in the printed version of the 2014 Law, subsection (1)) was inserted and the word omitted in square brackets in paragraph (e)(ii) of subsection (2) (not, as shown incorrectly in the printed version of the 2014 Law, subsection (1)) was repealed by the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014, section 25(2), respectively paragraph (b) and paragraph (a), with effect from 30th January, 2015;

subsection (2A) and subsection (2B) were inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(d), with effect from 1st November, 2002;

the words in the first pair of square brackets within subsection (2A) were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008, section 3(a), with effect from 28th October, 2008;

sub-paragraph (i) and sub-paragraph (ii) of paragraph (a) of subsection (2A) were repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008, section 3(b), with effect from 28th October, 2008;

subsection (2AB) was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2012, section 2, with effect from 7th January, 2013;

the words omitted in square brackets in, first, paragraph (b) of subsection (3) and, second, subsection (4) were repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, respectively section 1(e) and section 1(f), with effect from 1st November, 2002;

the words in square brackets in paragraph (a) of subsection (4) were inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(g), with effect from 1st November, 2002.

The following cases have referred to section 2:

Amazing Global Technologies Limited and Kingston Management (Guernsey) Limited (2012) (Unreported, Royal Court, 11th June) (Guernsey Judgment No. 29/2012);

Bordeaux Services (Guernsey) Limited et al v. The Guernsey Financial Services Commission (2016) (Unreported, Royal Court, 11th May) (Guernsey Judgment No 18/2016);

David John Merrien v. Cees Schrauwens (Chairman of the Guernsey Financial Services Commission) (2016) (Unreported, Royal Court, (250915) 9th June) (Guernsey Judgment No 23/2016);

Cees Schrauwens (Chairman of the Guernsey Financial Services Commission) v. David John Merrien (2016) (Unreported, Court of Appeal, 17th March) (Guernsey Judgment No 24/2016).

The functions, rights and liabilities of the Sark Policy and Performance Committee and of its Chairman arising under or by virtue of this Law were transferred to and vested in, respectively, the Sark Policy and Finance Committee and its Chairman by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, Schedule, with effect from 24th October, 2018, subject to the savings and transitional provisions in section 3 of the 2018 Ordinance.²

Transfer of statutory functions to the Commission.

3. (1) There are hereby transferred to the Commission the functions which would, apart from the provisions of this section, be exercisable by the Committee in relation to –

- (a) ...
- (b) the granting of permission to use a word or expression in the name, description or title under which a person carries on business, under Part III of the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969,
- (c) the registration of insurers and regulation of insurance business under the Insurance Business (Guernsey) Law, 1986^b,
- (d) the authorisation and regulation of insurance managers under the Insurance Business (Guernsey) Law, 1986,
- (e) the approval of authorised insurers for the purposes of –
 - (i) section 3 of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936^c,
 - (ii) section 1 of the Surf-Riding (Longboards) (Compulsory Third-Party Insurance) (Guernsey) Law, 1969^d,

^b Ordre en Conseil No. XIII of 1986.

^c Ordres en Conseil Vol. X, p. 388; Vol. XV, p. 43; Vol. XVIII, pp. 35 and 257; Vol. XX, p. 247; Vol. XXIII, p. 227; Vol. XXIV, p. 250; No. III of 1979; No. XVII of 1983; No. XIII of 1986.

^d Ordres en Conseil Vol. XXII, pp. 2 and 53; Vol. XXIV, p. 250; No. XIII of 1986.

- (iii) section 1 of the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972^e,
- (f) the authorisation of collective investment schemes under Part II of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^f, the making of rules under section 20 of that Law, and the regulation of authorised collective investment schemes under that Law,
- (g) the licensing of persons to carry on restricted activities in connection with controlled investment business under the Protection of Investors (Bailiwick of Guernsey) Law, 1987, the making of rules under Part III of that Law and the regulation of controlled investment business under that Law,

but nothing in this Law derogates from any power of the Committee, or confers any power on the Commission, to make orders or regulations.

(2) For the purpose of the exercise of the functions transferred to it by this section the Commission is subject to all of the duties previously imposed on the Committee by or under any enactment and has, subject to the provisions of this Law, all of the powers and privileges previously conferred on the Committee by or under any enactment.

^e Ordres en Conseil Vol. XXIII, p. 515; Vol. XXIV, p. 250; Ordinance No. XXIV of 1981; Ordre en Conseil No. XIII of 1986.

^f Ordre en Conseil No. XX of 1987.

(3) The enactments specified in Schedule 2 have effect subject to the amendments mentioned in that Schedule.

NOTES

In section 3, paragraph (a) of subsection (1) was repealed by the Banking Supervision (Bailiwick of Guernsey) Law, 1994, section 57(d), with effect from 1st October, 1994.

The Insurance Business (Guernsey) Law, 1986 has since been repealed by the Insurance Business (Bailiwick of Guernsey) Law, 2002, section 100(1), Schedule 6, Part I, with effect from 5th November, 2002, subject to the savings in, first, section 102 of the 2002 Law and, second, section 78 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002.

The Protection of Investors (Bailiwick of Guernsey) Law, 1987 has since been repealed by 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 Commission and the States

Status of the Commission.

4. (1) The Commission is not a committee of the States, or a servant or agent of the States, and, except to the extent that this Law or any other enactment otherwise provides –

- (a) is not subject to any rule of law relating to committees of the States,
- (b) does not have any right or privilege vested in committees of the States.

(2) The Commission may consult and co-operate with any committee of the States in relation to matters concerning finance business.

Provision of information to the [Policy & Resources Committee].

5. Without prejudice to the generality of section 4(2), but subject to section 21, the Commission shall, when requested in writing by the Committee, furnish the Committee, to the best of the Commission's ability, with such information as the Committee may require in relation to finance business in the Bailiwick.

NOTE

In section 5, the words in square brackets in the marginal note thereto were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.³

Annual report.

6. (1) The Commission shall, as soon as practicable in each year, make a report to the Committee on its activities during the preceding year; and [the President] of the Committee shall, as soon as practicable, submit that report for consideration by the States.

(2) The annual report made pursuant to subsection (1) may refer to any aspect of the Commission's functions and in particular –

- (a) may set out or refer to any guidance given to the Commission under section 7(1)(a) during the preceding year, and
- (b) shall set out any directions given to the Commission under section 7(1)(b) during the preceding year.

NOTE

In section 6, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.⁴

Guidance and directions.

7. (1) The Committee may, after consulting the Commission, give to the Commission –

- (a) written guidance of a general character, and
- (b) written directions of a general character,

[]

concerning the policies to be followed by the Commission in relation to the [...] supervision of finance business in the Bailiwick and the manner in which any function of the Commission is to be carried out.

(2) It is the duty of the Commission, in carrying out any of its functions –

- (a) to take into account any guidance given under paragraph (a) of subsection (1), and
- (b) to act in accordance with any directions given under paragraph (b) of subsection (1).

[(2A) Any guidance or direction given under this section –

- (a) may be given only in the public interest, and not to influence particular cases,
- (b) must not prejudice the operational independence of the

Commission by prescribing the specific manner in which the Commission should carry out its supervisory functions, and

- (c) must be published: provided that the guidance or direction may come into effect as soon as it is given.]

(3) It is hereby declared for the avoidance of doubt that the Commission shall not be deemed to have acted unreasonably or beyond its powers in the exercise of any of its statutory functions by reason only of the fact that it has complied with its duty under subsection (2).

NOTES

In section 7,

the words omitted in square brackets in paragraph (b) of subsection (1) were repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008, section 4, with effect from 28th October, 2008;

subsection (2A) was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) (No. 2) Law, 2008, section 3, with effect from 28th October, 2008.

In the printed version of this section, the carriage return in square brackets after "character" and preceding "concerning" in subsection (1)(b) is shown, incorrectly, as omitted.

Powers of the Commission

General powers of the Commission.

8. (1) The Commission may do anything which appears to it to be conducive to the carrying out of its functions or to be incidental to their proper discharge.

(2) Without prejudice to the generality of subsection (1) the Commission may, in connection with the carrying out of its general functions –

- (a) obtain information relating to the [supervision] of finance business in the Bailiwick and the [...] supervision of similar business carried on outside the Bailiwick,
- (b) consult and seek the advice of such persons or bodies as it considers appropriate,
- (c) publish, in such manner as it considers appropriate, such information relating to its functions as it thinks fit,
- (d) ...

(3) This section relates only to the capacity of the Commission as a body corporate and does not authorise the disregard by the Commission of any enactment or rule of law.

NOTES

In section 8,

the word in the first pair of square brackets in paragraph (a) of subsection (2) was substituted, and the words omitted in the second pair of square brackets therein were repealed, by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008, respectively section 5(a) and section 5(b), with effect from 28th October, 2008;

paragraph (d) of subsection (2) was repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008, section 6, with effect from 28th October, 2008.

The following cases have referred to section 8:

David John Merrien v. Cees Schrauwers (Chairman of the Guernsey

Financial Services Commission) (2016) (Unreported, Royal Court, (250915) 9th June) (Guernsey Judgment No 23/2016);

Y v. Guernsey Financial Services Commission (2018) (Unreported, Royal Court, 29th November) (Guernsey Judgment No. 47/2018).

Contractual powers.

9. (1) The Commission may enter into a contract, or make an arrangement, with any person for the provision of any service or any facility to facilitate the carrying out of the Commission's functions, and may expend money generally for the proper purposes of the Commission.

(2) The power conferred by subsection (1) includes power –

(a) to open, operate and close banking accounts in the name of the Commission,

(b) to enter into, and pay any premium in respect of, contracts of insurance insuring the Commission, any member of the Commission, or any officer or servant of the Commission against –

(i) any risk to the Commission's property, or

(ii) any risk arising in connection with the carrying on of the Commission's functions, including, without prejudice to the generality of the foregoing, the risk of a claim against the Commission in respect of any description of civil liability.

Powers as to property.

10. (1) The Commission has all such powers in relation to the

acquisition, use and disposal of property (whether realty or personalty) as are conducive to the carrying out of its functions.

(2) Without prejudice to the generality of subsection (1), the Commission may –

- (a) acquire any land or building, or an interest in any land or building, by purchase, lease, sublease, easement or otherwise,
- (b) deal generally with, and dispose of, by sale, lease, sublease, easement or otherwise, any land or building or an interest in any land or building,
- (c) acquire any furniture, equipment or other personalty, by purchase, hire, bailment or otherwise,
- (d) deal generally with, and dispose of, by sale, hire, bailment or otherwise, any furniture, equipment or other personalty.

Appointment, remuneration etc. of staff.

11. (1) The Commission may appoint such officers and servants as it considers necessary for carrying out its functions[; and the most senior officer of the Commission shall have the title Director-General].

[(1A) The Director-General shall, subject to provisions of subsection (1B) and to the terms and conditions of his appointment as to resignation, hold office for a minimum term which shall be determined by the Commission.

(1B) The Director-General may be dismissed from office by the

Commission, but only on the following grounds –

- (a) that he has been absent from three consecutive meetings of the Commission without the Commission's consent,
- (b) that he has been declared insolvent,
- (c) that he is incapacitated by physical or mental illness, or
- (d) that he is otherwise unable or unfit to discharge the functions of Director-General,

and if he is dismissed from office then public notice shall be given of the reasons for the dismissal.

(1C) The power conferred by subsection (1A) to determine a minimum term of office may not be delegated to any of the Commission's members or officers under section 19(1).]

(2) An appointment under subsection (1) may be made on such terms as to remuneration, expenses, pensions and other conditions of service as the Commission thinks fit.

(3) The Commission may establish and maintain such schemes, or make such other arrangements, as it thinks fit for the payment of pensions and other benefits in respect of its officers and servants.

[(4) Without prejudice to the provisions of sections 22 and 23 (and of any Ordinance thereunder), the Commission shall take such steps as it considers necessary and reasonable to protect and indemnify its current and former members,

officers and servants against any costs, claims, liabilities and proceedings arising from or in consequence of anything done or omitted to be done in the discharge or purported discharge by them of their functions as members, officers or, as the case may be, servants of the Commission.]

NOTES

In section 11,

the words in square brackets in subsection (1) were inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(h), with effect from 1st November, 2002;

subsection (1A), subsection (1B) and subsection (1C) were inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(2), with effect from 14th August, 2003;

subsection (4) was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(3), with effect from 14th August, 2003.

[Publication of regulations, etc.]

11A. ...]

NOTE

Section 11A (which was originally inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(4), with effect from 14th August, 2003) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.

[General enforcement powers of the Commission

Disqualification orders against auditors.

11B. ...]

NOTE

Section 11B (which was originally inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(4), with effect from 14th August, 2003, repealed by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 2 and re-inserted by section 3 of the same Law, with effect from 30th July, 2008) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.

Public statements.

11C. ...]

NOTE

Section 11C (which was originally inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 3, with effect from 30th July, 2008) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.⁵

Discretionary financial penalties.

11D. ...]

NOTE

Section 11D (which was originally inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008,

section 3, with effect from 30th July, 2008) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.⁶

[Notice of intended decision.]

11E. ...]

NOTE

Section 11E (which was originally inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 3, with effect from 30th July, 2008) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.

[Notice of decision.]

11F. ...]

NOTE

Section 11F (which was originally inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 3, with effect from 30th July, 2008) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.

[Disclosure of reasons for decisions.]

11G. (1) ...]

NOTE

Section 11G (which was originally inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 3, with effect from 30th July, 2008) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.

[Appeals against decisions.]

11H. ...]

NOTE

Section 11H (which was originally inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 3, with effect from 30th July, 2008) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.⁷

[Administrative financial penalties.]

11I. ...]

NOTE

Section 11I (which was originally inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 3, with effect from 30th July, 2008) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.⁸

[Powers under prescribed Laws not affected.]

11J. ...]

NOTE

Section 11J (which was originally inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 3, with effect from 30th July, 2008) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.

Financial provisions

The Commission's funds.

12. The funds and resources of the Commission are –
- (a) the fees and charges paid to the Commission in accordance with section 13,
 - (b) any grant paid to the Commission under section 14,
 - (c) any money borrowed by the Commission in accordance with section 15,
 - (d) any other money or property, and any income and profits derived from such money or property, as is lawfully vested in the Commission through the exercise of its powers under this Law.

Fees and charges.

13. There shall be payable to the Commission –
- (a) in connection with the exercise of any statutory

function of the Commission, fees of such amounts, by such persons and in such manner, as may be specified by or under the enactment under which that statutory function is exercised,

- (b) in connection with the exercise of any general function of the Commission, fees and charges of such amounts, by such persons and in such manner, as may be specified by any order [made under this paragraph by [the States of Guernsey [Policy & Resources Committee]] after consultation with the Committee, the Policy and Finance Committee of the States of Alderney and the [Policy and Finance Committee] of the Chief Pleas of Sark],
- (c) by any person for whom the Commission provides such assistance or service as is referred to in section 8(2)(d), such charges as, subject to any order made under paragraph (b) of this section, may be agreed between that person and the Commission.

NOTES

In section 13,

the words in square brackets in paragraph (b) were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(5), with effect from 14th August, 2003;

the words in the first pair of square brackets within the square brackets in paragraph (b) were substituted by the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015, section 2(a), with effect from 1st May, 2015;

the words "Policy & Resources Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs

(Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016;

the words "Policy and Finance Committee" in square brackets, wherever occurring, were substituted by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 2, Schedule, with effect from 24th October, 2018.⁹

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister under paragraph (b) of this section relating to the enactment of regulations or orders which prescribe or specify fees or charges payable to the Guernsey Financial Services Commission and ancillary matters were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹⁰

The functions, rights and liabilities of the Sark Policy and Performance Committee and of its Chairman arising under or by virtue of this Law were transferred to and vested in, respectively, the Sark Policy and Finance Committee and its Chairman by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, Schedule, with effect from 24th October, 2018, subject to the savings and transitional provisions in section 3 of the 2018 Ordinance.¹¹

The following Regulations have been made under section 13:

Financial Services Commission (Fees) (Amendment) Regulations, 2018;

Financial Services Commission (Fees) Regulations, 2021;

Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2021.

Grants to the Commission.

14. (1) In respect of each year the Committee may make a grant to the Commission from the States General Revenue Account towards the expenses of the Commission in carrying out its functions.

(2) The amount of any grant under subsection (1) shall be determined by the Committee after consultation with the Commission; and in determining that amount the Committee shall have regard to the extent, if any, to

which the Commission's estimated expenditure in any year is likely to exceed its estimated income from other sources in that year.

Borrowing by the Commission.

15. (1) For the purpose of assisting the Commission to carry out its functions, the Committee may make advances to the Commission from the States General Revenue Account.

(2) The aggregate amount outstanding by way of principal in respect of sums advanced to the Commission [by the Committee] under this section shall not at any time exceed such sum as the States may from time to time by Resolution determine.

(3) No advance shall be made under this section except on such terms (as to repayment, payment of interest or otherwise) as the States may from time to time by Resolution determine.

[(4) The Commission may borrow monies otherwise than as mentioned in the preceding provisions of this section for the purpose of carrying out its functions:

Provided that the Commission may not borrow monies under this subsection at any time to the extent that the aggregate amount outstanding by way of principal in respect of monies so borrowed would exceed one third of the Commission's fee income for the preceding calendar year.]

NOTE

In section 15, the word in square brackets in subsection (2) was inserted, and subsection (4) was substituted, by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, respectively section 1(i) and section 1(j), with effect from 1st November, 2002.

Investment of surplus funds.

16. The Commission may invest [or lend] any of its funds which are not immediately required in any investment [or, as the case may be, by way of any loan][:

Provided that the Commission may not lend any of its funds under this subsection at any time to the extent that the aggregate amount lent under this subsection would exceed one third of the Commission's fee income for the preceding calendar year.]

NOTE

In section 16, the words in the first and second pairs of square brackets were inserted, and the words in the third pair of square brackets were substituted, by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, respectively section 1(k)(i), section 1(k)(ii) and section 1(k)(iii), with effect from 1st November, 2002.

Exemption from income tax.

17. The income of the Commission is not subject to income tax under the Income Tax (Guernsey) Law, 1975^g.

[Accounts, audit, internal controls and corporate governance.]

18. (1) The Commission shall –
- (a) keep proper accounts and proper records in relation to those accounts, and
 - (b) prepare in respect of each year a statement of accounts giving a true and fair view of the state of affairs of the

^g Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146 and 200; Nos. IV and VII of 1979; No. II of 1980; No. II of 1981; No. XI of 1982; No. XV of 1983; No. IX of 1984; No. XIII of 1986.

Commission.

(2) The accounts of the Commission shall be –

- (a) audited by auditors appointed by the States, and
- (b) laid before the States, in the same manner as the accounts of a committee of the States.

[(3) The Commission shall review in each year, by the appointment of appropriately qualified and independent professional persons or otherwise –

- (a) the adequacy and application of the Commission's systems of internal control,
- (b) the selection and application of the Commission's accounting policies and accounting procedures,
- (c) the effective, efficient and economical management of the Commission's assets and resources, and
- (d) the Commission's compliance with such generally accepted principles of good corporate governance as it is reasonable to regard as being applicable to the Commission,

and the members of the Commission shall satisfy themselves in connection with the conclusions of any such review.

(4) The Commission shall provide the Committee with an annual report on the matters set out in paragraphs (a) to (d) of subsection (3); and for the

removal of doubt the report required to be made pursuant to this subsection is in addition to the report required to be made pursuant to section 6.

(5) The Committee may at any time appoint an appropriately qualified and independent professional person to review, and report to the Committee on, the matters set out in paragraphs (a) to (d) of subsection (3); and the Commission shall grant all reasonable assistance to that person in the conduct of his review and the preparation of his report.]

NOTE

In section 18, the marginal note thereto was substituted, and subsection (3), subsection (4) and subsection (5) were inserted, by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(l), with effect from 1st November, 2002.

Administrative provisions

Delegation to members and officers.

19. (1) The Commission may, by an instrument in writing [...], delegate to any of its members or officers named or described in that instrument, either generally or otherwise as provided by that instrument, any of its functions except –

- (a) this power of delegation,
- (b) its duty to make an annual report to the Committee,
- (c) so much of any of its statutory functions as (however framed or worded) –
 - (i) ...

[(ii) ...]

(iii) empowers the Commission to petition for the winding up of a body corporate.

(2) A function delegated under this section may be carried out by the delegate in accordance with the instrument of delegation and, when so carried out, shall, for the purposes of this Law, be deemed to have been carried out by the Commission.

(3) A delegation under this section is revocable by the Commission at will and does not prevent the carrying out of a function by the Commission.

[(4) For the avoidance of doubt, a function may be delegated under this section to a committee of members and/or officers.

(5) Notwithstanding the provisions of subsection (1)(c), any of the statutory functions mentioned in [subparagraph (iii)] of that subsection may be delegated to a committee of not less than 3 members.]

NOTES

In section 19,

the words omitted in the first pair of square brackets in subsection (1) were repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(m), with effect from 1st November, 2002;

first, paragraph (c)(i) of subsection (1) and paragraph (c)(ii) of that subsection (which latter was previously substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(n), with effect from 1st November, 2002) were repealed and, second, the words,

*parentheses and letters in square brackets within subsection (5) were substituted by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, respectively Part I, paragraph 1(b) and Part II, paragraph 1, with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law;*¹²

subsection (4) and subsection (5) were inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 4, with effect from 30th July, 2008.

The following case has referred to section 19:

Chick v Guernsey Financial Services Commission [2020]GCA078 (Unreported, Court of Appeal, 9th October).

Execution of documents.

20. Subject to section 13 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, any deed, instrument, contract or other document shall be deemed to have been duly executed by or on behalf of the Commission, and shall be effective in law to bind the Commission, if it is [signed by a member or officer of the Commission authorised in that behalf under section 19.]

NOTES

In section 20, the words in square brackets were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(o), with effect from 1st November, 2002.

The Protection of Investors (Bailiwick of Guernsey) Law, 1987 has since been repealed by 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.

Confidentiality.

21. (1) Any information from which an individual or body can be identified which is acquired by the Commission in the course of carrying out its functions shall be regarded as confidential by the Commission and by its members, officers and servants.

(2) No such information as is referred to in subsection (1) shall be disclosed, without the consent of every individual who, and every body which, can be identified from that information except to the extent that its disclosure [is expressly authorised or required by or under any enactment relating to the Commission's statutory functions, or] appears to the Commission to be necessary –

- (a) to enable the Commission to carry out any of its [...] functions, or
- [(b) 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,] or
- (c) in connection with the discharge of any international obligation to which the Bailiwick is subject, or
- (d) to assist, in the interests of the public [or otherwise], any authority which appears to the Commission to exercise in a place outside the Bailiwick functions corresponding to [any of the functions] of the Commission, or
- [(e) to enable –
 - (i) the Public Trustee (the office of which was established by section 1 of the Public Trustee (Bailiwick of Guernsey) Law, 2002), and
 - (ii) any authority which appears to the Commission

to exercise, in a place outside the Bailiwick,
functions corresponding to any of those of the
Public Trustee,

to carry out their functions or to investigate matters of
relevance to their functions, or]

[(f)] to comply with the directions of any division of the
Royal Court, or

[(g)] to enable any body established to control or supervise
gambling or gaming in the Bailiwick or any part thereof
to carry out its functions or to investigate matters of
relevance to its functions,][or

(h) to enable –

(i) the Registrar of Beneficial Ownership of Legal
Persons within the meaning of the Beneficial
Ownership of Legal Persons (Guernsey) Law,
2017,

(ii) the Registrar of Companies within the meaning
of the Companies (Guernsey) Law, 2008,

(iii) the Registrar of Limited Liability Partnerships
within the meaning of the Limited Liability
Partnerships (Guernsey) Law, 2013,

(iv) the Registrar of Foundations within the meaning
of the Foundations (Guernsey) Law, 2012,

- (v) Her Majesty's Greffier,
- (vi) the Registrar within the meaning of the Companies (Alderney) Law, 1994, and
- (vii) the Registrar within the meaning of the Beneficial Ownership of Legal Persons (Alderney) Law, 2017,

to carry out their functions relating to the beneficial ownership of legal persons or to investigate matters of relevance to such functions.]

- [(3) Without prejudice to subsections (1) and (2), any information –
- (a) communicated to the Commission or to any of its members, officers or servants by any committee of the States, of the States of Alderney or of the Chief Pleas of Sark, or
 - (b) held by the Commission or by any of its members, officers or servants on behalf of any such committee,

shall be regarded as confidential, if that committee so requests, by the Commission and by its members, officers and servants; and no such information shall be disclosed

—

- (i) except in compliance with the directions of any division of the Royal Court, or

- (ii) except, with the leave of that committee (which may be granted generally or for the purposes of any particular case), for any reason set out in paragraphs (a) to (e) of subsection (2).]

(4) A person who [without reasonable excuse] discloses information, or who [without reasonable excuse] causes or permits the disclosure of information, in contravention of this section is guilty of an offence and liable –

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

[(5) In proceedings against a person for an offence under subsection (4) it shall be 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 information in question was to be regarded as confidential.]

[(6) The Commission shall, when disclosing any information to any person (whether pursuant to the provisions of this section or otherwise) –

- (a) impose such conditions in relation to the use, disclosure, safekeeping and return of that information

by that person or by any other person who may obtain the information from him,

- (b) require any such person to enter into such undertakings in relation to such use, disclosure, safekeeping and return, and
- (c) take such other steps to ensure that the confidentiality of the information is protected,

as the Commission thinks fit.

(7) Notwithstanding the provisions of subsection (2), no such information as is referred to in subsection (1) which is supplied to the Commission for the purposes of its functions by an authority described in subsection (2)(d) shall be disclosed, except –

- (a) with the consent of the persons whose consent is referred to in subsection (2),
- (b) to the extent that its disclosure is expressly authorised or required by or under any enactment relating to the Commission's statutory functions,
- (c) for the purposes or in the circumstances described in subsection (2)(a) or (b), or
- (d) with the consent of the authority by which the information was supplied, for the purposes or in the circumstances described in any other paragraph of subsection (2).]

[(8) The provisions of this section are subject to the provisions of the regulatory Laws relating to the disclosure of information.]

NOTES

In section 21,

the words in the first pair of square brackets in subsection (2) were inserted by the Protection of Investors (Amendment) (Bailiwick of Guernsey) Law, 1997, section 2, with effect from 4th March, 1997;

the word omitted in square brackets in paragraph (a) of subsection (2) was repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(p)(i), with effect from 1st November, 2002;

paragraph (b) of subsection (2) was substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(p)(ii), with effect from 1st November, 2002;

the words in the first and second pairs of square brackets in paragraph (d) of subsection (2) were, respectively, inserted and substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(p)(iii), with effect from 1st November, 2002;

paragraph (e) of subsection (2) was inserted, and paragraph (f) thereof re-lettered, by the Public Trustee (Bailiwick of Guernsey) Law, 2002, respectively section 25(2)(a) and section 25(2)(b), with effect from 1st June, 2004;

paragraph (g) of subsection (2), and the word immediately after paragraph (f) thereof, were inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(6), with effect from 14th August, 2003;

paragraph (h) and the word in square brackets at the end of paragraph (g) of subsection (2) were inserted by the Disclosure (Financial Services Commission) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017, section 1, with effect from 15th August, 2017;

subsection (3) was substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(q), with effect from 1st November, 2002;

the words in the first and second pairs of square brackets in subsection (4) were inserted by the Financial Services Commission

(Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(r)(i), with effect from 1st November, 2002;

paragraph (b) of subsection (4) was substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(r)(ii), with effect from 1st November, 2002;

subsection (5) was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(s), with effect from 1st November, 2002;

subsection (6) and subsection (7) were inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(7), with effect from 14th August, 2003;

subsection (8) was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2010, section 3, with effect from 8th November, 2010.

[Co-operation with foreign authorities.]

21A. The Commission shall take such steps as it considers appropriate to co-operate with any person or body –

- (a) who or which appears to the Commission to exercise in a place outside the Bailiwick functions corresponding to any of the functions of the Commission, or
- (b) 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,

and co-operation under this section may, without limitation, take the form of sharing any information which the Commission may lawfully disclose.]

NOTE

Section 21A was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(t), with effect from 1st November, 2002.

[Investigations in support of foreign authorities.]

21B. ...]

NOTE

Section 21B (which was originally inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(8), with effect from 14th August, 2003) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.

[Site visits.]

21C. (1) The States may by Ordinance make such provision as they think fit in relation to the making by the Commission of site visits in respect of licensees and any other class or description of person prescribed by the Ordinance.

(2) An Ordinance under this section may, without limitation, make provision as to –

- (a) the powers that may be exercised in the course of or in consequence of, or otherwise for the purposes of, site visits,
- (b) the persons who may exercise those powers,
- (c) the purposes for which, and the grounds upon which, site visits may be made or any of those powers may be exercised,

- (d) the premises at which site visits may be made, and
- (e) the penalties, sanctions and other consequences (criminal or otherwise) in respect of –
 - (i) any failure to co-operate with the Commission or any other person exercising or attempting to exercise functions under the Ordinance,
 - (ii) any other contravention of or failure to comply with the provisions of the Ordinance.

(3) In this section "**licensee**" means, subject to the provisions of any Ordinance hereunder, a person who holds or is deemed to hold, or who has applied for, a licence, consent, registration, permission or authorisation from the Commission under any of the regulatory Laws.

(4) The provisions of this section and of any Ordinance hereunder are in addition and not in derogation from the Commission's statutory functions arising otherwise than by virtue of such provisions.]

NOTES

Section 21C was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(8), with effect from 14th August, 2003.

The following Ordinances have been made under section 21C:

Financial Services Commission (Site Visits) (Bailiwick of Guernsey) Ordinance, 2008;

Financial Services Commission (Site Visits) (Bailiwick of Guernsey) (Amendment) Ordinance, 2010.

[Information from third parties.]

21D. (1) The Commission and any member, officer and servant of the Commission may, in exercising their respective functions –

- (a) seek and receive information from any person, and
- (b) take any such information into account in deciding whether and in what manner to exercise their respective functions.

(2) The provisions of subsection (1) are for the avoidance of doubt and are without prejudice to any function conferred by or under any other enactment.]

NOTE

Section 21D was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(8), with effect from 14th August, 2003.

[Duties of confidentiality not broken by disclosure to regulators.]

21E. ...]

NOTE

Section 21E (which was originally inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(8), with effect from 14th August, 2003) was repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(a), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law.

Miscellaneous and general

Liability of members, officers and servants.

22. No member, officer or servant of the Commission is personally liable in any civil proceedings in respect of anything done or omitted to be done in the discharge or purported discharge of any function of the Commission under this Law, unless the thing is done or omitted to be done in bad faith.

Power of the States to exclude liability.

23. The States may by Ordinance provide that no liability shall be incurred by the States or the Commission, in respect of anything done or omitted to be done after the commencement of such Ordinance in the discharge or purported discharge of any of the functions of the States or the Commission under this Law, unless the thing is done or omitted to be done in bad faith.

NOTE

The following Ordinance has been made under section 23:

Financial Services Commission (Limitation of Liability) Ordinance, 1990.

Interpretation.

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

"annual report" means a report made by the Commission pursuant to section 6(1),

"Bailiwick" means the Bailiwick of Guernsey,

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

"casual vacancy" means a vacancy arising otherwise than by effluxion of time,

"Chairman" means the Chairman of the Commission in accordance with [paragraph 2] of Schedule 1,

"the Commission" means the Guernsey Financial Services Commission established by this Law,

"the Committee" means the States [Policy & Resources Committee] or such other committee or body as the States may specify by Ordinance,

"committee of the States" means any Committee, Board, Authority or Council of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark,

["contravention" includes failure to comply, and vice versa; and related expressions shall be construed accordingly,]

[...]

[...]

"finance business" includes the carrying on of, and the provision of services in relation to, the business of banking, insurance, investment, and asset management or administration,

"general functions" has the meaning assigned by section 2(2),

[...]

"ordinary member" has the meaning assigned by paragraph [1(3)] of Schedule 1,

["prescribed Laws" means –

- (a) the regulatory Laws,
- (b) the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^{ga},
- (c) the Drug Trafficking (Bailiwick of Guernsey) Law, 2000^{gb},
- (d) the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^{gc},
- (e) the Disclosure (Bailiwick of Guernsey) Law, 2007^{gd},
- (f) the [Transfer of Funds (Guernsey) Ordinance, 2017],
- (g) the [Transfer of Funds (Alderney) Ordinance, 2017],
- (h) the [Transfer of Funds (Sark) Ordinance, 2017],

^{ga} Order in Council No. VIII of 1999; Order in Council No. II of 2005; Ordinance XXVIII of 1999, Ordinance XII of 2002, G.S.I. No. 27 of 2002.

^{gb} Order in Council No. VII of 2000; No. II of 2005; and Ordinance No. XXXIII of 2003.

^{gc} Order in Council No. VI of 2002.

^{gd} Approved by Resolution of the States of Guernsey of 30th May, 2007.

- [(ha) the Single Euro Payments Area (Guernsey) Ordinance, 2016,]
- [(hb) the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017,]
- [(hc) the Beneficial Ownership of Legal Persons (Alderney) Law, 2017,]
- (i) any other enactment or statutory instrument prescribed for the purposes of this section by regulations of the Commission made after consultation with the Committee, the Policy and Finance Committee of the States of Alderney and the [Policy and Finance Committee] of the Chief Pleas of Sark,]

"the public" includes any section of the public, however selected, including, in relation to a body, a section selected as members, debenture holders, policyholders, depositors or investors of, in or with that body,

["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 or statutory instrument prescribed for the purposes of this section by regulations of the Commission,
- [(g) the Registration of Non Regulated Financial Services Businesses Law, 2008,]]

[...]

"the States" means the States of Guernsey,

"statutory functions" has the meaning assigned by section 2(3),

"Vice-Chairman" means the Vice-Chairman of the Commission elected in accordance with paragraph 5(1) of Schedule 1,

"year" means a calendar year.

(2) Unless the context otherwise requires –

- (a) a reference in this Law to a numbered or lettered section, subsection, paragraph or Schedule is a reference to the section, subsection or paragraph of, or to the Schedule to, this Law which is so numbered or

lettered,

- (b) a reference in a provision of this Law to a numbered or lettered subsection or paragraph is a reference to the subsection or paragraph of that provision which is so numbered or lettered,
- (c) a reference in this Law to any enactment includes a reference to that enactment as [from time to time] amended, repealed and replaced, extended or applied by or under any other enactment, including this Law.

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

NOTES

In section 24,

the word and figure in square brackets in the definition of the expression "Chairman" in subsection (1) were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(u)(i), with effect from 1st February, 2003;

the words in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016;¹³

the definitions of the expressions "contravention" and "prescribed Laws" in subsection (1) were inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 5, with effect from 30th July, 2008;

the words omitted in the square brackets, first, immediately after the definition of the expression "contravention", second, immediately prior to the definition of the expression "finance business", third, immediately after the

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

definition of the expression "general functions" and, fourth, immediately prior to the definition of the expression "the States" (all of which words were originally inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 5, with effect from 30th July, 2008) were repealed by the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, section 139(1), Schedule 2, Part I, paragraph 1(c), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 140 of the 2021 Law;

the figures in square brackets in the definition of the expression "ordinary member" in subsection (1) were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(u)(ii), with effect from 1st February, 2003;

the words in square brackets in, first, paragraph (f), second, paragraph (g) and, third, paragraph (h) of the definition of the expression "prescribed Laws" in subsection (1) were substituted by, respectively, the Transfer of Funds (Guernsey) Ordinance, 2017, section 14(1), Schedule 2, paragraph 1, the Transfer of Funds (Alderney) Ordinance, 2017, section 14(1), Schedule 2, paragraph 1, and the Transfer of Funds (Sark) Ordinance, 2017, section 14(1), Schedule 2, paragraph 1, with effect from 26th June, 2017;

paragraph (ha) of the definition of the expression "prescribed Laws" in subsection (1) was inserted by the Single Euro Payments Area (Guernsey) Ordinance, 2016, section 63(1), with effect from 27th January, 2016;

paragraph (hb) and paragraph (hc) of the definition of the expression "prescribed Laws" in subsection (1) were inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Regulations, 2017, regulation 1(1), with effect from 15th August, 2017;

the words "Policy and Finance Committee" in square brackets, wherever occurring, were substituted by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 2, Schedule, with effect from 24th October, 2018;¹⁴

the definition of the expression "regulatory Laws" in subsection (1) was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(9), with effect from 14th August, 2003;

paragraph (g) of the definition of the expression "regulatory Laws" in subsection (1) was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Regulations, 2009, regulation 1, with effect from 8th June, 2009;

the words in square brackets in paragraph (c) of subsection (2) were inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008, section 6, with effect from 30th July, 2008.

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹⁵

The functions, rights and liabilities of the Sark Policy and Performance Committee and of its Chairman arising under or by virtue of this Law were transferred to and vested in, respectively, the Sark Policy and Finance Committee and its Chairman by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, Schedule, with effect from 24th October, 2018, subject to the savings and transitional provisions in section 3 of the 2018 Ordinance.¹⁶

The following Regulations have been made under section 24:

Financial Services Commission (Bailiwick of Guernsey) (Amendment) Regulations, 2017.

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.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

[General provisions as to subordinate legislation.]

25. (1) Any Ordinance, regulation or order under this Law –
- (a) may be amended or repealed by a subsequent Ordinance, regulation or order, as the case may be,

hereunder,

- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, including (without limitation), in the case of an Ordinance –
 - (i) provision as to the creation and punishment of offences,
 - (ii) provision empowering the Commission or the Committee to prescribe by regulation or order anything which may be prescribed under this Law by Ordinance.

(2) Any power conferred by this Law to make any Ordinance, regulation or order may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different

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

- (iii) any such provision either unconditionally or
subject to any prescribed conditions.

(3) Any regulation or order made under this Law shall be laid before a meeting of the States as soon as possible after being made; and if at that meeting or the next meeting the States resolve that the regulation or order be annulled, it shall cease to have effect but without prejudice to anything done under it or to the making of a new regulation or order.]

NOTE

Section 25 was substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(10), with effect from 14th August, 2003.

Transitional provisions and savings.

26. The provisions set out in Schedule 3 have effect in relation to the transition to this Law from that previously in force.

Citation.

27. This Law may be cited as the Financial Services Commission (Bailiwick of Guernsey) Law, 1987.

Commencement.

28. (1) This Law shall come into force on such day as the States may by Ordinance appoint, and different days may be so appointed for different provisions of this Law or for different purposes.

(2) An Ordinance made under this section may include such savings, and such further transitional provisions, as the States consider necessary or expedient for effecting the transition to this Law from that previously in force.

NOTE

The Law was brought into force on 1st February, 1988 by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (Commencement) Ordinance, 1988, section 1(a), save for sections 6, 18(1)(b) and 18(2)(b), brought into force on 1st January, 1989 by section 1(b) of the same Ordinance.

SCHEDULE 1 Section 1(3)
THE GUERNSEY FINANCIAL SERVICES COMMISSION

[Members of the Commission.]

1. [(1) The Commission shall consist of a minimum of five members.]

(2) The members of the Commission (who shall be known as Commissioners) shall be persons elected by the States from persons nominated by the Committee and appearing to the Committee to be persons having knowledge, qualifications or experience appropriate to the [...] supervision of finance business in the Bailiwick.

(3) The members of the Commission other than the Chairman elected under paragraph 2 are referred to in this Schedule as "**ordinary members**".]

[Chairman of the Commission.]

2. (1) The States shall elect one of the members of the Commission, nominated in that behalf by the Policy and Resources Committee, as Chairman.

(2) A Chairman so elected shall, subject to subparagraph (3), hold that office until the expiry of his term of office as, or until he otherwise ceases to be, a member of the Commission, whichever is the earlier.

(3) The Chairman may at any time resign his office as such by giving notice in writing, delivered to the Vice-Chairman.

(4) The resignation of a person under subparagraph (3) shall not, in itself, affect his continuance in office as an ordinary member.

(5) Where an ordinary member is elected to fill a casual vacancy in the office of Chairman the States may at the same time as electing him as Chairman

re-elect him as a member of the Commission for a new term of office in accordance with the provisions of this Schedule.

Tenure of office.

3. (1) Each member of the Commission shall, subject to the provisions of paragraph 4, hold office for a period of time to be determined by the States at the time of his election as a member of the Commission, provided that the period of time must not exceed three years from the date of election.

(2) A member of the Commission whose term of office comes to an end by effluxion of time is eligible, if otherwise qualified, for re-election as a member.

(3) A member of the Commission shall in any event retire from office on reaching the age of 75 years.]

Resignation, removal and casual vacancies.

4. (1) A member of the Commission may at any time resign his office by giving notice in writing delivered to –

- (a) the Chairman (in the case of an ordinary member), or
- (b) the Vice-Chairman (in the case of the Chairman).

(2) If it appears to the Chairman that an ordinary member of the Commission –

- (a) has been absent from three consecutive meetings of the Commission without the Commission's consent,
- (b) has been declared insolvent,

- (c) is incapacitated by physical or mental illness, or
- (d) is otherwise unable or unfit to discharge the functions of a member of the Commission,

the Chairman may declare his office as an ordinary member of the Commission to be vacant, and shall notify that fact as the Chairman thinks fit; and thereupon the office shall become vacant.

(3) If it appears to the States on the recommendation of the Committee that any member of the Commission (including the Chairman) –

- (a) has been absent from three consecutive meetings of the Commission without the Commission's consent,
- (b) has been declared insolvent,
- (c) is incapacitated by physical or mental illness, or
- (d) is otherwise unable or unfit to discharge the functions of a member of the Commission,

the States may, on the recommendation of the Committee, declare his office as Chairman or, as the case may be, as a member of the Commission to be vacant; and thereupon the office shall become vacant.

[(4) If the Chairman is dismissed from office pursuant to subparagraph (3), public notice shall be given of the reasons for the dismissal.]

[(5) A person elected to fill a casual vacancy in the office of an

ordinary member shall, subject to subparagraphs (1), (2) and (3), hold office for the unexpired portion of the term of office of the person in whose place he was elected.

(6) The validity of any proceedings of the Commission is unaffected by a vacancy in its members, by any defect in the election of a member and by any lack of qualification of a person to act as a member.]]

Vice-Chairman of the Commission.

5. (1) The Commission shall elect annually a Vice-Chairman from the ordinary members; and a Vice-Chairman so elected shall, subject to subparagraphs (2) and (3) of this paragraph, hold that office for one year from the date of his election to that office or until he ceases to be an ordinary member of the Commission, whichever is the earlier.

(2) The Vice-Chairman may at any time resign his office as such by giving [...] notice in writing, delivered to the Chairman; and the resignation of a person under this sub-paragraph shall not, in itself, affect his continuance in office as an ordinary member.

(3) An ordinary member elected to fill a casual vacancy in the office of Vice-Chairman shall hold office, subject to sub-paragraph (2) of this paragraph, for the unexpired portion of the term of office as Vice-Chairman of the person in whose place he is elected, or until he ceases to be an ordinary member of the Commission, whichever is the earlier.

Oath of office.

6. (1) Every member of the Commission shall, before discharging any function under this Law, take an oath or make an affirmation before the Royal Court sitting as an Ordinary Court in such form as the Royal Court may from time to time by order prescribe.

(2) A member of the Commission who violates an oath or affirmation which he is required to take or make under this paragraph is guilty of an offence and liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both,
- (b) on summary conviction, to a fine not exceeding [[level 5] on the uniform scale].

Remuneration etc. of members.

7. The Commission shall –

- (a) pay to its members such expenses as it may from time to time determine, and
- (b) pay to its [...] members such remuneration, if any, as the Committee may from time to time by resolution determine.

Procedure at meetings.

8. At a meeting of the Commission –

- [(a) a quorum is the nearest whole number above one half of the number of commissioners (including, for the avoidance of doubt, the Chairman) for the time being in office,
- (b) the person presiding shall be –
 - (i) the Chairman, if he is present,

- (ii) if the Chairman is not present, the Vice-Chairman, if he is present,
- (iii) if the Chairman and Vice-Chairman are not present, the person elected to chair the meeting by, and from among, the ordinary members present,]
- (c) each member other than the person presiding has one vote,
- (d) the person presiding has no original vote, but in the event of an equality in the votes of the other members present he shall exercise a casting vote,
- (e) ...

Disclosure of interest.

9. (1) A member of the Commission who has any direct or indirect personal interest in the outcome of the deliberations of the Commission in relation to any matter shall disclose the nature of his interest at a meeting of the Commission and the disclosure shall be recorded in the minutes of the Commission.

(2) For the purposes of this paragraph a general notice given by a member of the Commission to the effect that he is a member, or director, of a specified company or firm and is to be regarded as interested in any matter concerning that company or firm is a sufficient disclosure in relation to any such matter.

(3) A member of the Commission need not attend in person at a

meeting of the Commission in order to make any disclosure required under this paragraph if he makes disclosure by a notice in writing delivered to the Chairman and that notice is brought to the attention of every meeting of the Commission at which such deliberations as are referred to in sub-paragraph (1) of this paragraph are to take place and before those deliberations commence.

Advisory committees.

10. (1) The Commission may from time to time appoint a committee to advise the Commission as to such matters concerning the exercise of the Commission's [...] functions[, and any other matter of relevance to the Commission,] as the Commission thinks fit.

(2) The Commission may from time to time –

- (a) appoint any person (whether or not he is a member of the Commission) to serve on a committee appointed under this paragraph,
- (b) remove any person so appointed from such a committee,
- (c) discharge or reconstitute such a committee,
- (d) redefine, or add to, the terms of reference of such a committee.

(3) Subject to any directions given by the Commission, a committee appointed under this paragraph may regulate its own procedure.

Transaction of business without meeting.

11. The Commission may, if it thinks fit, transact any business by the

circulation of papers to all of the members of the Commission, and a resolution in writing approved in writing by a majority of the members of the Commission shall be as valid and effectual as if passed at a meeting of the Commission by the votes of the members so approving the resolution.

Minutes.

12. The Commission shall keep proper minutes of its proceedings. including minutes of any business transacted as permitted by paragraph 11 of this Schedule.

[Remote hearings, etc.]

12A. (1) This paragraph applies when an officer or member is undertaking work in connection with deciding whether sanctions, proposed against an individual or other person, should be imposed, including, but not limited to –

- (a) the publication of a public statement under section 11C of this Law,
- (b) the imposition of a discretionary financial penalty under section 11D of this Law, and
- (c) the imposition of a prohibition order under –
 - (i) section 34E of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^{ha},

^{ha} Ordres en Conseil Vol. XXX, p. 281; amended by Ordres en Conseil Vol. XXX, p. 243; Vol. XXXII, p. 324; Vol. XXXV(1), p. 271; Vol. XXXVII, p. 264; Vol. XXXVII, p. 24; Order in Council No. XVII of 2002; Nos. XV and XXXII of 2003; Nos. XVIII and XX of 2008; No. XIII of 2010; Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Tome XXVIII, p. 51; Tome XXVIII, p. 87; Ordinance No. XXXIII of 2003; No. XXXI of 2008; No. VII of 2009; Nos. XII, XX and XXXIX of 2015; Nos. IX and XXIX of 2016; Nos. III and XXVII of 2017; Sark Ordinance

- (ii) section 17A of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000^{hb} ("**the Fiduciaries Law**"),
- (iii) section 28A of the Insurance Business (Bailiwick of Guernsey) Law, 2002^{hc},
- (iv) section 18A of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^{hd}, and

No. X of 2017; Nos. XXVI and XXVII of 2018; G.S.I. No. 83 of 2010; and G.S.I. No. 50 of 2017.

hb Order in Council No. I of 2001; amended by Order in Council No. I of 2000; No. XIV of 2003; No. XVI of 2007; Nos. VIII and XXV of 2008; Nos. XIII and XIX of 2010; No. I of 2013; Ordinance No. XXXVII of 2001; No. XXXIII of 2003; No. VII of 2009; Nos. XII and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; Nos. XXVI and XXVII of 2018; G.S.I. No. 3 of 2018; G.S.I. No. 83 of 2010; G.S.I. No. 4 of 2013; G.S.I. No. 50 of 2017; G.S.I. No. 56 of 2017; and G.S.I. No. 72 of 2017.

hc Order in Council No. XXI of 2002; amended by Order in Council No. I of 2000; No. XIII of 2010; Ordinance No. XXXIII of 2003; No. XII of 2008; Nos. VIII and XXXI of 2010; No. XXXVI of 2011; No. LV of 2014; Nos. XII and XXXIX of 2015; No. IX of 2016; No. III and XXVII of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 33 of 2004; G.S.I. No. 4 of 2008; G.S.I. No. 15 of 2010; G.S.I. No. 83 of 2010; G.S.I. No. 68 of 2014; G.S.I. No. 121 of 2015; and G.S.I. No. 50 of 2017.

hd Order in Council No. XXII of 2002; amended by Order in Council No. I of 2000; No. XIII of 2010; Ordinance No. XXXIII of 2003; No. XIII of 2008; No. IX of 2010; Nos. XII and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 2 of 2008; G.S.I. No. 16 of 2010; G.S.I. No. 83 of 2010; and G.S.I. No. 50 of 2017.

(v) section 17A of the Banking Supervision (Bailiwick of Guernsey) Law, 1994^{he}, and

(d) the service of a notice under paragraph (g) of section 3(1) of the Fiduciaries Law disapplying the exemption contained in that paragraph.

(2) An officer or member undertaking work described in subparagraph (1) may undertake some or all of that work outside the Bailiwick, including, but not limited to –

- (a) participation in committee meetings,
- (b) the consideration of representations,
- (c) the preparation of reports, Minutes to Notices, final decisions,
- (d) the acceptance of written representations, and
- (e) the holding of oral hearings.

(3) An oral hearing may be held by an officer or member who is outside the Bailiwick by telephone, live television link or any other means of telecommunications or electronic communications, and for the purposes of such a hearing, an officer or member, party or other person who is in communication with

^{he} Ordres en Conseil Vol. XXXV(1), p. 271 of 2001; amended by Order in Council Nos. XVII and XXI of 2002; No. XVI of 2003; No. XVI of 2008; No. IV of 2009; Nos. XIII and XXI of 2010; Ordinance No. XXXIII of 2003; Nos. XII, XX and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 3 of 2000; G.S.I. No. 1 of 2008; G.S.I. No. 35 of 2010; and G.S.I. No. 50 of 2017.

other persons at the hearing so that each person at the hearing can hear or read what is being said or communicated by each of the others, is deemed, subject to subparagraph (4), to be present at the oral hearing for all purposes.

(4) In the event that a means of communication referred to in subparagraph (3) fails or is corrupted, or the officer or member considers that confidentiality is compromised, the officer or member shall have the discretion at any time during the hearing to determine that a person who is affected by that failure, corruption or compromise of confidentiality is no longer deemed to be present at the hearing.

(5) For the avoidance of doubt, a determination under paragraph (4) does not affect the validity of the proceedings of the hearing for any purpose prior to the making of that determination.

(6) For the purposes of subparagraph (2)(a), a "**committee**" includes a committee to which a function has been delegated under section 19(5) of this Law, and an advisory committee appointed under paragraph 10.]

Residual power to regulate procedure.

13. Subject to the provisions of this Law the Commission may regulate its own procedure.

[Amendment by Ordinance of Schedule.

14. (1) The States may by Ordinance amend the provisions of this Schedule.

(2) An Ordinance under this paragraph –

(a) may be amended or repealed by a subsequent Ordinance hereunder,

- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the States to be necessary or expedient.]

NOTES

In Schedule 1,

paragraph 1 and paragraph 4 were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(v), with effect from 1st February, 2003;

paragraph 1(1) was substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2016, section 2, with effect from 1st July, 2016;¹⁷

the words omitted in square brackets in paragraph 1(2) were repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008, section 7, with effect from 28th October, 2008;

paragraph 2 and paragraph 3 were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2016, respectively section 3 and section 4, with effect from 1st July, 2016;¹⁸

paragraph 4(4) was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2003, section 1(11), with effect from 14th August, 2003;

paragraph 4(5) and paragraph 4(6) were inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005, section 4, with effect from 1st January, 2006;

the words omitted in square brackets in paragraph 5(2) were repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(w), with effect from 1st November, 2002;

the words in square brackets in paragraph 6(2)(b) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;

the word and figure in square brackets within the square brackets in paragraph 6(2)(b) were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(x), with effect from 1st November, 2002;

the word omitted in square brackets in paragraph 7(b) was repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(y), with effect from 1st February, 2003;

paragraph 8(a) and paragraph 8(b) were substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005, section 5, with effect from 1st January, 2006;¹⁹

paragraph 8(e) was repealed by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(aa), with effect from 1st February, 2003;

the word omitted in the first pair of square brackets in paragraph 10(1) was repealed, and the words in the second pair of square brackets therein were inserted, by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, respectively section 1(bb)(i) and section 1(bb)(ii), with effect from 1st November, 2002;

paragraph 12A was inserted by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2021, section 1(1), with effect from 22nd March, 2021;

paragraph 14 was inserted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(cc), with effect from 1st November, 2002.

The following Ordinances have been made under Schedule 1:

Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005;

Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2016;

Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2021.

The following Order has been made by the Royal Court under Schedule 1:

Financial Services Commission (Form of Oath) Order, 1988.

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.

SCHEDULE 2

Section 3(3)

AMENDMENTS TO OTHER ENACTMENTS

The Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936

1. In section 3(3)(a) of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936, for "the States Advisory and Finance Committee (hereinafter referred to as "the Committee")"ⁱ substitute "the Guernsey Financial Services Commission (hereinafter referred to as "the Commission")".

2. In section 3(3)(b) and section 3(4) of that Law, for "the Committee", wherever appearing, substitute "the Commission".

3. Immediately after section 3(3)(b)(iv) of that Law insert –

"(v) such assurance company has paid to the Commission such fee as the States Advisory and Finance Committee may from time to time prescribe by regulations made under this section."²⁰

4. Immediately after section 3(3A) of that Law^j insert the following additional subsection –

"(3B) Regulations made under this section shall be laid before a meeting of the States as soon as may be after the regulations are made; and if, at that meeting or at the next meeting, the States resolve that the regulations

ⁱ These words, and the references to the Committee in sections 3(3)(b) and 3(4) were substituted by the States Board of Administration (Transfer of Functions) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 250).

^j Section 3(3A) was inserted by the Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law, 1983 (Ordre en Conseil No. XVII of 1953).

be annulled, they shall cease to have effect but without prejudice to anything done under the regulations or to the making of new regulations."

The Road Traffic (Compulsory Third-Party Insurance) (Alderney) Law, 1950

5. In section (2)(e) of the Road Traffic (Compulsory Third-Party Insurance) (Alderney) Law, 1950^k, for the reference to the States of Guernsey Advisory and Finance Committee substitute a reference to the Guernsey Financial Services Commission.

The Surf-Riding (Longboards) (Compulsory Third-Party Insurance) (Guernsey) Law, 1969

6. In section 1(2) of the Surf-Riding (Longboards) (Compulsory Third-Party Insurance) (Guernsey) Law, 1969^l, for "by the States Advisory and Finance Committee" substitute "by the Guernsey Financial Services Commission in accordance with any regulations, including regulations prescribing a fee to be paid to that Commission, which may from time to time be made by the States Advisory and Finance Committee under this subsection".

7. Immediately after section 1(2) of that Law insert –

" (2A) Regulations made under subsection (2) of this section shall be laid before a meeting of the States as soon as may be after the regulations are made; and if, at that meeting or at the next meeting, the States resolve that the regulations be annulled, they shall cease to have effect but without prejudice to anything done under the regulations or to the making of new regulations."

^k Ordres en Conseil Vol. XIV, p. 209; Vol. XVIII, p. 81; Vol. XXIII, p. 364; No. XIII of 1986.

^l These words were substituted by the States Board of Administration (Transfer of Functions) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 250).

Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969

8. ...

9. In sections 1(1)(f), 1(1)(h), 1(4), 9, 11 and 12 of that Law, for "the Committee", wherever appearing, substitute "the Commission".

10. ...

11. ...

12. Immediately after the words in section 11(1) of that Law insert –

", and by such fee as the States Advisory and Finance Committee may from time to time prescribe by regulations made under this section".²¹

13. Immediately after section 15 of that Law insert the following additional section –

"Regulations.

15A. Regulations made under any power conferred by or under this Law shall be laid before a meeting of the States as soon as may be after the regulations are made; and if, at that meeting or at the next meeting, the States resolve that the regulations be annulled, they shall cease to have effect but without prejudice to anything done under them or to the making of new regulations."

The Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972

14. In section 1(5) of the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972, for

"the States Advisory and Finance Committee"ⁿ substitute "the Guernsey Financial Services Commission, in accordance with any regulations, including regulations prescribing a fee to be paid to that Commission, which may from time to time be made by the States Advisory and Finance Committee under this subsection".²²

15. Immediately after section 1(5) of that Law insert –

"(5A) Regulations made under subsection (5) of this section shall be laid before a meeting of the States as soon as may be after the regulations are made; and if, at that meeting or at the next meeting, the States resolve that the regulations be annulled, they shall cease to have effect but without prejudice to anything done under the regulations or to the making of new regulations."

The States Board of Administration (Transfer of Functions) Law, 1974

16. ...

The Protection of Depositors, Companies and Prevention of Fraud (Amendment) (Bailiwick of Guernsey) Law, 1977

17. In the Protection of Depositors, Companies and Prevention of Fraud (Amendment) (Bailiwick of Guernsey) Law, 1977^P, section 1(a) is repealed.

The Insurance Business (Guernsey) Law, 1986

18. ...

19. ...

20. ...

ⁿ These words were substituted by the States Board of Administration (Transfer of Functions) Law, 1974 (Ordres en Conseil Vol. XXIV, p. 250).

^P Ordres en Conseil Vol. XXVI, p. 225.

21. ...

22. ...

23. ...

24. ...

The Protection of Investors (Bailiwick of Guernsey) Law, 1987

25. ...

26. ...

27. ...

28. ...

29. ...

30. ...

31. ...

NOTES

In Schedule 2,

paragraph 8, paragraph 10 and paragraph 11 were repealed by the Banking Supervision (Bailiwick of Guernsey) Law, 1994, section 57(d), with effect from 1st October, 1994;

paragraph 16 was repealed by the States Committees (Constitution and Amendment) (Guernsey) Law, 1991, section 4, Schedule, paragraph 5,

with effect from 20th January, 1992;

paragraphs 18 to 24 were repealed by the Insurance Business (Bailiwick of Guernsey) Law, 2002, section 100(1), Schedule 6, Part I, with effect from 5th November, 2002;

paragraphs 25 to 31 were repealed by the Protection of Investors (Bailiwick of Guernsey) Law, 2020, section 80(b), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law.

SCHEDULE 3

Section 26

TRANSITIONAL PROVISIONS AND SAVINGS

Application and interpretation

1. (1) This Schedule shall have effect upon the commencement of section 3 of this Law in relation to anything done or commenced before the commencement of that section.

(2) In this Schedule "**transferred functions**" means a statutory function transferred to the Commission by section 3 of this Law.

(3) Paragraphs 5, 6, 7, 8 and 12 of this Schedule shall apply as if section 3 of this Law had been in force on the date in question in each of those paragraphs.

Rights, liabilities and agreements

2. All rights, liabilities and obligations of the Committee arising out of the exercise by the Committee of a transferred function shall become the rights, liabilities and obligations of the Commission.

3. Any agreement entered into by the Committee in connection with a transferred function shall have effect as if the Commission were a party to it in lieu of the Committee and as if any reference therein to the Committee were, in relation to anything to be done after the commencement of section 3 of this Law, a reference to the Commission.

Uncompleted matters etc.

4. Nothing done by the Committee under or in consequence of a transferred function shall be invalidated by the commencement of section 3 of this Law; and anything commenced by the Committee under or in consequence of a transferred function may be carried on and completed by the Commission.

Licences, conditions etc.

5. Any licence, authorisation, certificate, registration, consent, waiver or permission granted, issued, made or given by the Committee under a transferred function shall be deemed to have been granted, issued, made or given by the Commission on the date when it was in fact granted, issued, made or given.

6. Any condition, restriction or requirement imposed by the Committee under a transferred function shall be deemed to have been imposed by the Commission on the date on which it was in fact imposed.

Pending and refused applications

7. Any application made to the Committee under an enactment conferring a transferred function, which has not been finally determined or withdrawn, shall be deemed to have been made to the Commission on the date when it was in fact made.

8. Any application which has been refused by the Committee, or which has been granted by the Committee subject to conditions, under a transferred function shall be deemed (for the purposes of the right of any person to make representations or to institute or prosecute an appeal, as well as for all other purposes) to have been refused, or to have been granted subject to those conditions, as the case may be, by the Commission on the date on which it was in fact refused or granted subject to

those conditions.

Legal proceedings

9. Any legal proceedings in relation to a transferred function to which the Committee is a party may be continued as if the Commission were a party thereto in lieu of the Committee.

10. Any criminal investigation or prosecution may be instituted or continued, and any punishment may be imposed, as if this Law had not been passed.

Requirements and information

11. Any requirement made by the Committee for the purposes of a transferred function shall be deemed to be a requirement made by the Commission.

12. Any information given or statement made to the Committee and every document deposited with the Committee, shall be deemed to have been given or made to, or deposited with, the Commission on the date when it was in fact given, made or deposited.

Lists etc.

13. Any list or register required to be established and maintained, and any other record required to be kept, by the Committee under a transferred function shall immediately be delivered to the Commission and shall thereafter be deemed to have been established and maintained, or kept, by the Commission.

¹ These words were previously substituted by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015, section 3, with effect from 25th June, 2015. See also the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009; the Sark General

Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015.

² The functions, rights and liabilities of the Sark Policy and Performance Committee and its Chairman arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Sark General Purposes and Finance Committee and its Chairman by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015, section 1, with effect from 25th June, 2015, subject to the savings and transitional provisions in section 2 of the 2015 Ordinance. Previous transfers of functions were made by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009; and the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015.

³ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 1(a), Schedule 2, paragraph 1(a), with effect from 6th May, 2004.

⁴ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 1(a), Schedule 2, paragraph 1(a), with effect from 6th May, 2004.

⁵ Previously and prior to its repeal, in accordance with the provisions of the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) Regulations, 2021, regulation 39, with effect from 5th March, 2021, where the persons referred to therein were undertaking the work referred to in that regulation under this section, then regulation 39 of the 2021 Regulations applied; and similar provision was made by the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 6) Regulations, 2020, regulation 19, with effect from 4th September, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 7) Regulations, 2020, regulation 18, with effect from 3rd October, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 8) Regulations, 2020, regulation 17, with effect from 30th October, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 9) Regulations, 2020, regulation 18, with effect from 27th November, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 10) Regulations, 2020, regulation 18, with effect from 15th December, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) Regulations, 2021, regulation 19, with effect from 13th January, 2021; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 2) Regulations, 2021, regulation 32, with effect from 5th February, 2021; section 11C was referred to in *Bordeaux Services (Guernsey) Limited et al v. The Guernsey Financial Services Commission* (2016) (Unreported, Royal Court, 11th May) (Guernsey Judgment No 18/2016); *Y v. Guernsey Financial Services Commission* (2018) (Unreported, Royal Court, 29th November) (Guernsey Judgment No. 47/2018); *Guernsey Financial Services Commission v. Y* [2019]GCA076 (Unreported, Court of Appeal, 17th June).

⁶ Prior to its repeal, section 11D was amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016; the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016, respectively section 2, section 3, section 4 and section 5, with effect from 13th November, 2017; the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 2, Schedule, with effect from 24th October, 2018; and transfers of functions were made under the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015, section 1(a), with effect from 1st May, 2015, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 6 of the 2015 Ordinance; the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance; the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, Schedule, with effect from 24th October, 2018, subject to the savings and transitional provisions in section 3 of the 2018 Ordinance. Previously, in accordance with the provisions of the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) Regulations, 2021, regulation 39, with effect from 5th March, 2021, where the persons referred to therein were undertaking the work referred to in that regulation under this section, then regulation 39 of the 2021 Regulations applied; and similar provision was made by the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 6) Regulations, 2020, regulation 19, with effect from 4th September, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 7) Regulations, 2020, regulation 18, with effect from 3rd October, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 8) Regulations, 2020, regulation 17, with effect from 30th October, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 9) Regulations, 2020, regulation 18, with effect from 27th November, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 10) Regulations, 2020, regulation 18, with effect from 15th December, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) Regulations, 2021, regulation 19, with effect from 13th January, 2021; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 2) Regulations, 2021, regulation 32, with effect from 5th February, 2021; section 11C was referred to in *Bordeaux Services (Guernsey) Limited et al v. The Guernsey Financial Services Commission* (2016) (Unreported, Royal Court, 11th May) (Guernsey Judgment No 18/2016); *David John Merrien v. Cees Schrauwens (Chairman of the Guernsey Financial Services Commission)* (2016) (Unreported, Royal Court, (250915) 9th June) (Guernsey Judgment No 23/2016); *Cees Schrauwens (Chairman of the Guernsey Financial Services Commission) v. David John Merrien* (2016) (Unreported, Court of Appeal, 17th March) (Guernsey Judgment No 24/2016); *Y v. Guernsey Financial Services Commission* (2018) (Unreported, Royal Court, 29th November) (Guernsey Judgment No. 47/2018); *Guernsey Financial Services Commission v. Y* [2019]GCA076 (Unreported, Court of Appeal, 17th June).

⁷ Prior to its repeal, section 11H was referred to in *Bordeaux Services (Guernsey) Limited et al v. The Guernsey Financial Services Commission* (2016) (Unreported, Royal Court, 11th May) (Guernsey Judgment No 18/2016); *David John Merrien v. Cees Schrauwens (Chairman of the Guernsey Financial Services Commission)* (2016) (Unreported, Royal Court, (250915) 9th June) (Guernsey Judgment No 23/2016); *Y v. Guernsey Financial Services Commission* (2018) (Unreported, Royal Court, 29th November) (Guernsey Judgment No. 47/2018); *Guernsey Financial Services Commission v. Y* [2019]GCA076 (Unreported, Court of Appeal, 17th June); *Chick v. The Chairman of the Guernsey Financial Services Commission* [2021]GRC006; and it was applied in accordance with the provisions of the Financial Services Commission (Administrative Financial Penalties) (Bailiwick of Guernsey) Regulations, 2016, regulation 5, with effect from 1st January, 2017.

⁸ Prior to its repeal, section 11I was amended by the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015, section 2, Schedule, with effect from 26th February, 2015; the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 2, Schedule, with effect from 24th October, 2018; and transfers of functions were made under the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015, section 1, Schedule, with effect from 26th February, 2015, subject to the savings and transitional provisions in section 3 of the 2015 Ordinance; the Sark Policy and Finance Committee and its Chairman by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2018, section 1, Schedule, with effect from 24th October, 2018, subject to the savings and transitional provisions in section 3 of the 2018 Ordinance.

⁹ These words were previously substituted by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015, section 3, with effect from 25th June, 2015. See also the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009; the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015.

¹⁰ The functions of the Policy Council under paragraph (b) of this section relating to the enactment of regulations or orders which prescribe or specify fees or charges payable to the Guernsey Financial Services Commission and ancillary matters were previously transferred to and vested in them from the Guernsey Financial Services Commission by the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015, section 1(a), with effect from 1st May, 2015, subject to, first, the savings and transitional provisions in section 3 and, second, the provisions of section 6 of the 2015 Ordinance.

¹¹ The functions, rights and liabilities of the Sark Policy and Performance Committee and its Chairman arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Sark General Purposes and

Finance Committee and its Chairman by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015, section 1, with effect from 25th June, 2015, subject to the savings and transitional provisions in section 2 of the 2015 Ordinance. Previous transfers of functions were made by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009; and the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015.

12 Prior to this repeal, paragraph (c)(i) of subsection (1) was amended by the the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2010, section 2(a), with effect from 8th November, 2010; paragraph (c)(ii) of subsection (1) was amended by Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2010, section 2(b), with effect from 8th November, 2010.

13 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 1(a), Schedule 2, paragraph 1(a), with effect from 6th May, 2004.

14 These words were previously substituted by the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015, section 2, Schedule, with effect from 26th February, 2015.

15 The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Advisory and Finance Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 1(a), Schedule 2, paragraph 1(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

16 The functions, rights and liabilities of the Sark Policy and Performance Committee and its Chairman arising under or by virtue of this Law were previously transferred to and vested in them from, respectively, the Sark General Purposes and Advisory Committee and its Chairman by the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015, section 1, Schedule, with effect from 26th February, 2015, subject to the savings and transitional provisions in section 3 of the 2015 Ordinance.

17 Paragraph 1(1) was previously substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005, section 2, with effect from 1st January, 2006.

18 Paragraph 2 and 3 were previously substituted by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(v), with effect from 1st February, 2003; and paragraph 2 was previously amended by the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005, section 3, with effect from 1st January, 2006.

19 Prior to its substitution, paragraph 8(a) was amended by the Financial

Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002, section 1(z), with effect from 1st February, 2003.

20 For subsequent amendments, see the consolidated text of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936.

21 For subsequent amendments, see the consolidated text of the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969.

22 For subsequent amendments, see the consolidated text of the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972.