

# PROJET DE LOI

ENTITLED

## **The Regulation of Utilities (Bailiwick of Guernsey)**

**Law, 2001 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

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

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\* No. XI of 2001 (Ordres en Conseil Vol. XLI, p. 295); as amended by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007 (No. XXII of 2009); the Sark General Purposes and Advisory Committee (Transfer of Functions) (Guernsey) Ordinance, 2001 (No. XXXVII of 2001, Recueil d'Ordonnances Tome XXVIII, p. 493); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007 (No. III of 2007, Recueil d'Ordonnances Tome XXXII, p. 8); the Guernsey Competition and Regulatory Authority Ordinance, 2012 (No. XIII of 2012); the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015 (No. XXXIX of 2015); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); the Law Reform (Age of Majority) (Sark) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 378); the Post Office (Bailiwick of Guernsey) Law, 2001 (No. XV of 2001, Ordres en Conseil Vol. XLI, p. 515); the Age of Majority (Alderney) Law, 2001 (No. XXV of 2001, Ordres en Conseil Vol. XLI, p. 738); the Telecommunications (Bailiwick of Guernsey) Law, 2001 (No. XIV of 2001, Ordres en Conseil Vol. XLI, p. 452); the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009 (No. XXXIII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 617); the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010); the Sark General Purposes and Advisory and Finance and Commerce Committees (Transfer of Functions) (Guernsey) Ordinance, 2015 (No. XX of 2015).

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## **The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001**

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# PROJET DE LOI

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## **The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001**

**THE STATES**, in pursuance of their Resolution of the 26<sup>th</sup> January, 2000<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### PART I

#### OFFICE OF THE DIRECTOR GENERAL

#### **Establishment of the Office of the Director General.**

1. ...

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#### **NOTES**

*Part I, and section 1 thereof, were repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 2, with effect from 1st June, 2012.<sup>1</sup>*

*The following case has referred to this Law:*

*Cable and Wireless Guernsey Limited v. Office of Utility Regulation (Director General), Guernsey Airtel Limited and Wave Telecom Limited 2007-08 GLR N-7.*

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<sup>a</sup> Article I of Billet d'État No. II of 2000.

PART II

GENERAL DUTIES OF THE STATES AND THE [AUTHORITY]

**General duties.**

2. In exercising their respective functions and powers [under this Law and any Sector Law], the States and [the Guernsey Competition and Regulatory Authority ("**the Authority**")] shall each have a duty to promote (and, where they conflict, to balance) the following objectives –

- (a) to protect the interests of consumers and other users in the Bailiwick in respect of the prices charged for, and the quality, service levels, permanence and variety of, utility services,
- (b) to secure, so far as practicable, the provision of utility services that satisfy all reasonable demands for such services within the Bailiwick, whether those services are supplied from, within or to the Bailiwick,
- (c) to ensure that utility activities are carried out in such a way as best to serve and contribute to the economic and social development and well-being of the Bailiwick,
- (d) to introduce, maintain and promote effective and sustainable competition in the provision of utility services in the Bailiwick, subject to any special or exclusive rights awarded to a licensee by [the Authority] pursuant to States' Directions,
- (e) to improve the quality and coverage of utility services and to facilitate the availability of new utility services

within the Bailiwick, and

- (f) to lessen, where practicable, any adverse impact of utility activities on the environment,

and, in performing the duty imposed by this section, the States and [the Authority] shall have equal regard to the interests of the residents of all islands of the Bailiwick.

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#### NOTES

*In Part II, the words in square brackets in the heading thereto were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 2, with effect from 1st June, 2012.*

*In section 2, the words in the first, second, third and fourth pairs of square brackets were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 3(a), paragraph 3(b), paragraph 3(c) and paragraph 3(d), with effect from 1st June, 2012.*

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#### **States Directions.**

3. (1) The States may, on the recommendation of the [Committee for Economic Development] made after consultation with [the Authority], by Resolution give to [the Authority] directions (referred to in this Law as "**States' Directions**") specifying –

- (a) the identity of the person to whom the first licence containing a universal service obligation is to be awarded under a Sector Law,
- (b) any special or exclusive rights to be awarded to any licensee, and the term of such rights, which in the case of telecommunications networks or telecommunications

services shall not exceed a period of 5 years,

- (c) the scope of any universal service obligation, and
- (d) any requirements to be imposed on licensees in the light of any international obligations to which the Bailiwick may from time to time be subject,

and, in exercising [its] [functions and powers under this Law and any Sector Law], [the Authority] shall comply with States' Directions except where to do so would be in contravention of the duty imposed on [it] by section 2 [or by any other enactment].

[ (1A) The States may, on the recommendation of the [Committee for Economic Development] made after consultation with [the Authority], and without prejudice to the provisions of subsection (1), by Ordinance give [the Authority] directions of a strategic or general nature including, without limitation, directions concerning the priorities to be taken into account by [it] in the exercise of [its] [functions and powers under this Law and any Sector Law] in respect of any utility service.

(1B) References in this Law, however expressed, to States' Directions include references to directions under subsection (1A).]

(2) The [Committee for Economic Development] shall consult the Policy and Finance Committee of the States of Alderney and the [Policy and Performance Committee] of the Chief Pleas of Sark in relation to any recommendation as to States' Directions [...].

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**NOTES**

*In section 3,*

*the words "Committee for Economic Development" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;<sup>2</sup>*

*the words "the Authority" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 4(a), with effect from 1st June, 2012;*

*the words "it" and "its" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 4(b), with effect from 1st June, 2012;*

*the words in, first, the fifth pair of square brackets in subsection (1) and the fifth pair of square brackets in subsection (1A) and, second, the eighth pair of square brackets in subsection (1) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 4(c) and paragraph 4(d), with effect from 1st June, 2012;*

*subsection (1A) and subsection (1B) were inserted, and the words omitted in the third pair of square brackets in subsection (2) were repealed, by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, respectively section 2 and section 3, with effect from 9th November, 2009;*

*the words in the second pair of square brackets in subsection (2) were substituted by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015, section 3, with effect from 25th June, 2015.<sup>3</sup>*

*The functions, rights and liabilities of the Sark General Purposes and Finance Committee and of its Chairman arising under or by virtue of this Law were transferred to and vested in, respectively, the Sark Policy and Performance 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.<sup>4</sup>*

*The following Ordinance has been made under section 3:*

*Regulation of Utilities (States' Directions) (Bailiwick of Guernsey) Ordinance, 2012.*

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### PART III



FUNCTIONS AND POWERS OF THE [AUTHORITY]

**Functions of the [Authority].**

**4.** (1) [ For the purposes of this Law and any Sector Law the functions of the Authority] shall be –

- (a) to advise the States generally in relation to utility activities through the office of the [Committee for Economic Development],
- (b) to grant and renew, or to refuse to grant and renew, licences in a manner consistent with States' Directions and the provisions of this Law and any relevant Sector Law,
- (c) to monitor, enforce, modify, suspend, revoke or consent to the surrender of licences in a manner consistent with States' Directions and the provisions of this Law and any relevant Sector Law,
- (d) subject to subsection (3), to determine and to prescribe the fees and levies payable on an application for, or the grant or renewal of, or over the term of, a licence and the interest and penalties payable in the event of default in the due payment of fees or levies,
- (e) to receive and to conduct inquiries and investigations (which may include inspections of any part of a utility network) and to hear complaints by any person regarding utility activities, and

- (f) to exercise such other functions as may be assigned or transferred to [it] by or under [this Law or] any Sector Law [...].

[ (2) The Authority shall exercise its functions and powers under this Law and any Sector Law –

- (a) in accordance with the principles for economic regulation for the time being specified in the Regulation of Utilities (States' Directions) (Bailiwick of Guernsey) Ordinance, 2012, and

- (b) in a manner which is –

- (i) subject to the exception set out in section 3(1), consistent with States' Directions and the provisions of this Law and any relevant Sector Law, and

- (ii) proportionate to the Bailiwick's circumstances.]

(3) The fees, levies, interest and penalties which may be determined and prescribed by [the Authority] under subsection (1)(d) shall be of such an amount as may be necessary to defray the costs and expenditure incurred or anticipated by [the Authority], over the term of the licence in question, in connection with the exercise of [its] functions and powers [under this Law and any Sector Law].

(4) The States may, on the recommendation of the [Committee for Economic Development] made after consultation with [the Authority], by Resolution assign or transfer to [the Authority] such other functions and powers as the States may decide are necessary or expedient in relation to the regulation of utility activities.

(5) [The Authority] may refrain, in whole or in part, and conditionally or unconditionally, from the exercise of [its] functions and powers [under this Law and any Sector Law] where to do so would in [its] opinion be consistent with the duty imposed on him by section 2.

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**NOTES**

*In Part III, the word in square brackets in the heading thereto was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 5, with effect from 1st June, 2012.*

*In section 4,*

*the word in square brackets in the marginal note thereto was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 6(a), with effect from 1st June, 2012;*

*the words in the first pair of square brackets in subsection (1) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 6(b), with effect from 1st June, 2012;*

*the words "Committee for Economic Development" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;<sup>5</sup>*

*the words in the first and second pairs of square brackets in paragraph (f) of subsection (1), and the words omitted in the third pair of square brackets therein, were, respectively, substituted, inserted and repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 6(c)(i), paragraph 6(c)(ii) and paragraph 6(c)(iii), with effect from 1st June, 2012;*

*subsection (2) (which was previously substituted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 4, with effect from 9th November, 2009) was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 6(d), with effect from 1st June, 2012;*

*the words "T/the Authority" and "its" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory*

*Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 6(e) and paragraph 6(f)(i), with effect from 1st June, 2012;*

*the words in, first, the fourth pair of square brackets in subsection (3) and, second, the third pair of square brackets in subsection (5) were inserted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 6(f)(ii), with effect from 1st June, 2012.*

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**Powers of the [Authority].**

5. (1) The [Authority] may, having regard to the provisions of sections 2, 3 and 4, do anything that appears to [it] to be necessary or expedient for the purpose of exercising [its] functions and powers [under this Law or any Sector Law] and, without prejudice to the generality of the foregoing, [it] shall have power –

- (a) to determine the conditions to be included in a licence,
- (b) to require the production of such documents, accounts or information from applicants for licences, licensees and other interested persons in relation to utility activities within such time periods or at such intervals as the [Authority] may require,
- (c) subject to any provision to the contrary in this Law or any Sector Law, to publish information, reports and other documents,
- (d) subject to the provisions of States' Directions, to determine which universal service obligations may be imposed on a licensee and on what conditions, and how and by whom such obligations should be funded,
- (e) to give directions to a licensee concerning utility

activities in cases where [it] is authorised to do so by or under this Law, any Sector Law or any condition of a licence,

- (f) where provided for in any Sector Law, to determine when and in respect of which utility activities a person may be made exempt from an obligation to obtain a licence,
- (g) to impose any direction, requirement or other sanction under this Law or any Sector Law,
- (h) to appoint any person or body to advise [it] in relation to the exercise of any of [its] functions and powers [under this Law or any Sector Law], and
- (i) to institute proceedings for injunctions under section 6.

(2) The [Authority] may, having regard to the provisions of sections 2, 3 and 4, for the purposes of exercising [its] functions and powers [under this Law or any Sector Law] –

- (a) acquire, lease, encumber, dispose of, exchange, invest or otherwise allocate any movable or immovable property and any interest in it and raise capital from banks and other financial institutions whether in the Bailiwick or elsewhere by way of mortgage, overdraft or otherwise, with or without security, and
- (b) enter into any contract, including any contract of insurance, or make any arrangement with any person.

(3) ...

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**NOTES**

*In section 5,*

*the word in square brackets in the marginal note thereto was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 7(a), with effect from 1st June, 2012;*

*first, the word "Authority" and, second, the words "it" and "its" in square brackets, wherever occurring in subsection (1), were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 7(b)(i) and paragraph 7(b)(iii), with effect from 1st June, 2012;*

*the words "under this Law or any Sector Law" wherever occurring in, first, subsection (1) and, second, subsection (2) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 7(b)(ii) and paragraph 7(c)(ii), with effect from 1st June, 2012;*

*first, the word "Authority" and, second, the word "its" in square brackets, wherever occurring in subsection (2), were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 7(c)(i) and paragraph 7(c)(iii), with effect from 1st June, 2012;*

*subsection (3) was repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 7(d), with effect from 1st June, 2012.*

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**Power to obtain injunctions.**

6. (1) If on the application of the [Authority] the Court is satisfied that –

(a) there is a reasonable likelihood that a person will contravene –

- (i) a provision of a Sector Law which prohibits, except under the authority of a licence, any utility activity,
  - (ii) a condition of a licence, or
  - (iii) a direction or requirement of the [Authority] under a Sector Law, or
- (b) a person may have been guilty of such a contravention and there is a reasonable likelihood that the contravention will continue or be repeated,

the Court may grant an injunction restraining the contravention.

(2) An injunction under subsection (1) may be granted on such terms and conditions, and may contain such incidental, ancillary, consequential or supplementary provision, as the Court thinks fit.

(3) An application by the [Authority] for an injunction under this section may, with the approval of the Court, and on such terms as the Court may direct, be made ex parte.

(4) In this section "**the Court**" means –

- (a) where the person against whom the injunction under this section is sought is within the jurisdiction of the Court of Alderney or the Court of the Seneschal of Sark, the Court of Alderney or, as the case may be, the Court of the Seneschal of Sark,

(b) in any other case, the Royal Court.

(5) The powers conferred upon the Royal Court by this section are in addition to and not in derogation from the powers conferred by the Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1987<sup>b</sup>; and the provisions of Parts I and V of that Law (apart from section 1(1) and (7)) shall apply in relation to injunctions of the Royal Court under this section.

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**NOTE**

*In section 6, the word "Authority" in square brackets, wherever occurring, was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 8, with effect from 1st June, 2012.*

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**Confidentiality.**

7. (1) Any document or information from which an individual or body may be identified and which is acquired by the [Authority] in the exercise of [its] functions and powers [under this Law or any Sector Law] shall be regarded as confidential by the [Authority] and by [its] [members, officers and servants].

(2) No document or information of a description referred to in subsection (1) may be disclosed without the consent of every individual who, and every body which, can be identified from that document or information, except to the extent that its disclosure is expressly authorised or required by or under this Law or any Sector Law or appears to the [Authority] to be necessary –

(a) to enable the [Authority] to exercise [its] functions and powers [under this Law, any Sector Law or any other enactment],

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<sup>b</sup> Ordres en Conseil Vol. XXX, p. 145.



- (b) in the interests of the investigation, detection, prevention or prosecution of crime,
- (c) in connection with the discharge of any international obligation to which the Bailiwick may from time to time be subject,
- (d) to assist, in the public interest, any authority that appears to the [Authority] to exercise, in a place outside the Bailiwick, functions or powers corresponding to [its], or
- (e) to comply with an order of a court.

(3) Without prejudice to subsections (1) and (2), any document or information communicated to the [Authority] by a committee of the States shall, if that committee so requests, be regarded as confidential by the [Authority] and by [its] [members, officers and servants]; and no such document or information shall be disclosed except –

- (a) in compliance with an order of a court, or
- (b) with the leave of that committee, for any reason set out in paragraphs (a) to (d) of subsection (2).

(4) A person who discloses any document or information or who causes or permits the disclosure of any document or information in contravention of this section shall be 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, or

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

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## NOTES

*In section 7,*

*first, the word "Authority" and, second, the word "its" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 9(a)(i) and paragraph 9(a)(ii), with effect from 1st June, 2012;*

*the words "members, officers and servants", wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 9(b), with effect from 1st June, 2012;*

*the words in, first, the third pair of square brackets in subsection (1) and, second, the third pair of square brackets in paragraph (a) of subsection (2) were inserted and, third, paragraph (b) of subsection (4) was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 9(c), paragraph 9(d) and paragraph 9(c), with effect from 1st June, 2012.*

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### **Annual reports.**

8. (1) The [Authority] shall, as soon as practicable in each calendar year, submit to the [Committee for Economic Development] –

- (a) a report on –
- (i) the exercise of [its] functions and powers [under this Law and any Sector Law], and
  - (ii) the steps taken by [it] to uphold the duty

imposed on [it] by section 2,

in the preceding year, and

(b) ...

(2) The [Authority's] report made under subsection (1)(a) shall set out any States' Directions which were in force during the period of the report.

(3) The [Committee for Economic Development] –

(a) shall submit the [Authority's] report made under subsection (1)(a) to the States, and

(b) may at the same time submit their own report to the States covering –

(i) the period of the [Authority's] report, and

(ii) the matters described in paragraphs (i) and (ii) of subsection (1)(a).

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**NOTES**

*In section 8,*

*the words in, first, the first, second, the third, fifth and sixth and third, the fourth pairs of square brackets in subsection (1) were, respectively, substituted, substituted and inserted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 10(a)(i), paragraph 10(a)(iii) and paragraph 10(a)(ii), with effect from 1st June, 2012;*

*the words "Committee for Economic Development" in square brackets, wherever occurring, were substituted by the Organisation of States'*

*Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;*<sup>6</sup>

*paragraph (b) of subsection (1) was repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 10(a)(iv), with effect from 1st June, 2012;*

*the word "Authority's" in square brackets, wherever occurring, was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 10(b), with effect from 1st June, 2012.*

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## PART IV

### FINANCIAL PROVISIONS

#### **The Public Utilities Regulation Fund.**

9. (1) The [Authority] shall establish a fund to be known as the Public Utilities Regulation Fund (referred to in this Law as the "**Fund**") which shall vest in the [Authority] and which may be applied for the purposes of –

[(a) paying remuneration to the members, officers and servants of the Authority in respect of the exercise of their functions and powers under, or in respect of their employment for the purposes of, this Law and any Sector Law, and]

(b) meeting all other costs and expenditure properly incurred in exercising [the Authority's] functions and powers [under this Law and any Sector Law].

(2) The [Authority] may open, operate and close bank accounts for the Fund.

(3) There shall be paid into the Fund –

- (a) all fees and other payments received from licensees and applicants for licences,
- (b) any grants and loans obtained from the States under section 10,
- (c) any money borrowed by the [Authority] under the powers conferred on [it] by section 5, and
- (d) any other money, and any income, profit or proceeds derived from or representing any money or property, which is lawfully vested in the [Authority] from time to time [and attributable to its functions and powers under this Law and any Sector Law].

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**NOTES**

*In section 9,*

*the words in, first, the first and second, second, the third, third, the fourth and, fourth, the fifth pairs of square brackets in subsection (1) were, respectively, substituted, substituted, substituted and inserted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 11(a), paragraph 11(b), paragraph 11(c)(i) and paragraph 11(c)(ii), with effect from 1st June, 2012;*

*the words in, first, square brackets in subsection (2), second, the first pair of square brackets in paragraph (c) of subsection (3), third, the second pair of square brackets in paragraph (c) of subsection (3), fourth, the first pair of square brackets in paragraph (d) of subsection (3) and, fifth, the second pair of square brackets in paragraph (d) of subsection (3) were, respectively, substituted, substituted, substituted, substituted and inserted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 11(d), paragraph 11(e)(i), paragraph 11(e)(ii), paragraph 11(f)(i) and paragraph 11(f)(ii), with effect from 1st June, 2012.*

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**Grants and loans to the [Authority].**

**10.** (1) The States may, on the recommendation of the [Committee for Economic Development] made after consultation with the [Authority], and on such terms and conditions (whether as to repayment, payment of interest or otherwise) as they think fit, make grants or loans from the States General Revenue Account towards the costs and expenditure of the [Authority] incurred in exercising [its] functions and powers [under this Law and any Sector Law].

(2) The States shall, before making any grant or loan under subsection (1), satisfy themselves that the costs and expenditure or estimated costs and expenditure [of the Authority in any year in respect of the exercise of its functions and powers under this Law and any Sector Law have exceeded or are likely to exceed the income or estimated income of the Authority attributable to those functions and powers in that year].

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**NOTES**

*In section 10,*

*the words in, first, square brackets in the marginal note thereto, second, the second and third pairs of square brackets in subsection (1), third, the fourth pair of square brackets in subsection (1), fourth, the fifth pair of square brackets in subsection (1) and, fifth, square brackets in subsection (2) were, respectively, substituted, substituted, substituted, inserted and substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 12(a), paragraph 12(b)(i), paragraph 12(b)(ii), paragraph 12(b)(iii) and paragraph 12(c), with effect from 1st June, 2012;*

*the words in the first pair of square brackets in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016.<sup>7</sup>*

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**Investment of surplus funds.**

11. The [Authority] may invest any monies of the Fund which are not immediately required by [it] in any investment [...].

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**NOTE**

*In section 11, the words in, first, the first and, second, the second pairs of square brackets were substituted and, third, the words omitted in the third pair of square brackets were repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 13(a), paragraph 13(b) and paragraph 13(c), with effect from 1st June, 2012.<sup>8</sup>*

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**Exemption from income tax.**

12. The Fund and the income thereof is not subject to income tax under the Income Tax (Guernsey) Law, 1975<sup>c</sup>.

**Accounts and audit.**

13. (1) The [Authority] shall –
- (a) keep proper accounts and proper records in relation to those accounts, and
  - (b) prepare in respect of each year a statement of account giving a true and fair view of the state of affairs of the [Authority].
- (2) The accounts of the [Authority], including the accounts relating to the Fund –

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<sup>c</sup> Ordres en Conseil Vol. XXV, p. 124; there are amendments which are not material to this Law.

- [(a) shall be audited annually by auditors appointed by the States on the recommendation of the [Scrutiny Management Committee], and]
- (b) shall be submitted to the [Committee for Economic Development] which shall in turn submit them, together with the auditors' report thereon, to the States with the [Authority's] report made under section 8(1)(a).

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**NOTES**

*In section 13,*

*the words in, first, the first and, second, the second pairs of square brackets in subsection (1) and, third, the first pair of square brackets in subsection (2) and, fourth, the second pair of square brackets in paragraph (b) of subsection (2) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 14(a), paragraph 14(b), paragraph 14(b) and paragraph 14(c), with effect from 1st June, 2012;*

*paragraph (a) of subsection (2) was substituted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 5, with effect from 9th November, 2009;*

*the words in square brackets in paragraph (a) of subsection (2) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 11, with effect from 1st May, 2016;*

*the words in the first pair of square brackets in paragraph (b) of subsection (2) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016.<sup>9</sup>*

*The functions, rights and liabilities of the Public Accounts Committee and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Scrutiny Management Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 11, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

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**[Audit and Remuneration Committee.**

**13A.** ...]

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**NOTE**

*Section 13A (which was originally inserted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 6, with effect from 9th November, 2009) was repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 15, with effect from 1st June, 2012.*

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**[Access to records, etc, of [Authority].**

**13B.** (1) The [Authority] shall, if given reasonable notice, and at all reasonable times during ordinary business hours, give any permitted person access to

–

- (a) the premises,
- (b) the records, accounts and other documents, and
- (c) the officers and servants,

of the [Authority].

(2) Permitted persons are members, officers, servants and other representatives of the [Scrutiny Management Committee] or the States Internal Audit service.

- (3) Access under subsection (1) –

*Consolidated text*

- (a) is subject to such reasonable restrictions as the [Authority] may impose, and
  - (b) is to be given only to the extent necessary to enable the [Scrutiny Management Committee] or (as the case may be) the States Internal Audit service to exercise their respective functions, powers and mandates –
    - (i) under or in relation to this Law or any Sector Law, or
    - (ii) in relation to the [Authority in respect of its functions and powers under this Law or any Sector Law].
- (4) The duty to give access under subsection (1) includes –
- (a) in the case of premises, a duty to permit entry and inspection,
  - (b) in the case of documents, a duty –
    - (i) to produce them and to permit their inspection, copying and removal, and
    - (ii) to give an explanation of them or, if documents are missing, of their whereabouts,
  - (c) in the case of officers and servants, a duty –

- (i) to allow a permitted person to ask them questions,
- (ii) to require them to answer such questions, and
- (iii) to require them to accord a permitted person all reasonable assistance and facilities for the purposes of his visit.]

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**NOTES**

*Section 13B was inserted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 6, with effect from 9th November, 2009.*

*In section 13B,*

*the words in, first, the marginal note thereto, second, square brackets in subsection (1), third, square brackets in paragraph (a) of subsection (3) and, fourth, square brackets in subsection (3)(b)(ii) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 16(a), paragraph 16(b), paragraph 16(c) and paragraph 16(d), with effect from 1st June, 2012;*

*the words "Scrutiny Management Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 11, with effect from 1st May, 2016.*

*The functions, rights and liabilities of the Public Accounts Committee and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Scrutiny Management Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 11, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

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**PART V**

**APPEALS**

**Establishment of the Utility Appeals Panel and Tribunal.**

14. (1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) ...

(7) ...

(8) ...

(9) The States may by Ordinance amend the provisions of this section.

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**NOTES**

*In section 14, subsections (1) to (8) were repealed by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 2, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance.*

*The following Ordinance has been made under section 15:*

*Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007.*

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**Right of appeal.**

**15.** (1) A person aggrieved by a decision of the [Authority] made in the exercise of [its] functions and powers, being a decision of a description set out in subsection (2), may (subject to the provisions of any Sector Law) appeal against the decision to [the Royal Court] on any of the grounds set out in subsection (3).

(2) The decisions of the [Authority] against which an appeal shall lie under this section are, subject to the provisions of any Sector Law, decisions of the following descriptions –

- (a) to refuse to grant a licence,
- (b) to impose a licence condition,
- (c) that a licensee has a dominant position in a relevant market,
- (d) to amend or modify a licence,
- (e) to revoke a licence, or
- (f) to impose a direction, requirement or other sanction under this Law or any Sector Law.

(3) The grounds of an appeal under this section shall be –

- (a) that an error of law has been made,
- (b) that a material error as to the facts has been made,
- (c) that there was a material procedural error, or

- (d) that there was some other material irregularity, including unreasonableness or lack of proportionality.
- (4) An appeal under this section shall be instituted –
- (a) within a period of [56 days (or such further time as the Royal Court may in its absolute discretion, on an application made before the expiration of that period, allow, where it is satisfied that it is not reasonably practicable for the appeal to be instituted within that period or that it is otherwise in the interests of justice to do so)] immediately following the date of the [Authority's] decision,
  - (b) by summons served on the [Authority] stating the grounds and material facts on which the appellant relies.
- (5) On an appeal under this section, [the Royal Court] may –
- (a) dismiss the appeal, or
  - (b) quash the decision of the [Authority],

and, where [the Royal Court] quashes the decision of the [Authority], it may remit the matter to [the Authority] with a direction to reconsider it and reach a decision in accordance with the findings of [the Royal Court].

(6) The effect of a decision to which an appeal under this section relates shall not, except where [the Royal Court] orders otherwise, be suspended in consequence of the bringing of the appeal.

(7) The [Authority] may, where an appeal under this section is not determined by [the Royal Court] within a period of three months immediately following the date of the summons by which the appeal was instituted, apply to [the Royal Court], by summons served on the appellant, for an order that the appeal be dismissed for want of prosecution; and upon hearing such an application [the Royal Court] may –

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

[(7A) For the purposes of determining an appeal under this section, the Royal Court –

- (a) may appoint one or more assessors to assist it, and
- (b) is properly constituted by the Bailiff sitting unaccompanied by the Jurats.]

(8) The States may by Ordinance amend the provisions of this section.

[ (9) The Royal Court may by Order make rules dealing with all procedural matters arising under this section (and any such rules may amend, modify or disapply any provision of this section).

(10) Rules under subsection (9) may without limitation make

provision as to the practice and procedure to be followed by, and the powers to be available to, the Royal Court in hearing and determining an appeal under this section and as to other ancillary matters relating to proceedings under this section.]

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**NOTES**

*In section 15,*

*the words in the first and second pair of square brackets in subsection (1) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 17(a)(i) and paragraph 17(a)(ii), with effect from 1st June, 2012;*

*the words in the third pair of square brackets in subsection (1) were substituted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 3, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance;*

*the word "Authority" in square brackets, wherever occurring in subsection (2), subsection (4), subsection (5) and subsection (7) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 17(b), paragraph 17(d), paragraph 17(e)(i) and paragraph 17(f), with effect from 1st June, 2012;*

*the figures and words in the first pair of square brackets in paragraph (a) of subsection (4) and the word in the second pair of square brackets therein were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 17(c)(i) and paragraph 17(c)(ii), with effect from 1st June, 2012;<sup>10</sup>*

*the words "the Royal Court" in square brackets, wherever occurring in subsection (5), subsection (6) and subsection (7) were substituted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 5, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance;*

*the words "the Authority" in square brackets in subsection (5) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 17(e)(ii), with effect from 1st June, 2012;*

*subsection (7A) was inserted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 6, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance;*



*subsection (9) and subsection (10) were inserted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 17(g), with effect from 1st June, 2012.*

*The following Ordinances have been made under section 15:*

*Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007;  
Guernsey Competition and Regulatory Authority Ordinance, 2012.*

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**[Appeals from Royal Court to Court of Appeal.]**

**16.** (1) A person aggrieved by a decision of the Royal Court on an appeal under section 15 may, with leave of the Royal Court or Court of Appeal, appeal to the Court of Appeal on a question of law.

(2) Section 21 of the Court of Appeal (Guernsey) Law, 1961<sup>da</sup> ("powers of a single judge") applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.]

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**NOTE**

*Section 16 was substituted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 7, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance.*

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**Reference of points of law to Royal Court.**

**17.** ...

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**NOTE**

*Section 17 was repealed by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 8, with effect from 28th*

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**da** Ordres en Conseil Vol. XVIII, p. 315.

*March, 2007, subject to the savings in section 17 of the 2007 Ordinance.*

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PART VI  
OFFENCES

**False or misleading information.**

18. (1) A person who –
- [(a) in making any statement or providing any information or document to the [Scrutiny Management Committee], [...] or the States Internal Audit service, or any member, officer, servant or other representative of theirs, when acting in the exercise of their respective functions and powers –
    - (i) under or in relation to this Law or any Sector Law, or
    - (ii) in relation to the [Authority in respect of its functions and powers under this Law or any Sector Law],]
  - [(b) in making any statement or providing any information or document to the Authority or any member, officer or servant of its when acting in the exercise of their respective functions and powers under this Law or any Sector Law, or]
  - (c) otherwise than as mentioned in paragraphs (a) and (b) but in circumstances in which the person making the statement or providing the information or document

knows or could reasonably be expected to know that the statement, information or document would or might be used by the [Authority] [or by any person or body mentioned in paragraph (a) for the purpose of exercising their respective functions and powers] [mentioned in paragraphs (a) and (b)] –

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

shall be guilty of an offence.

(2) A licensee who fails to provide the [Authority] with any information in his possession knowing or having reasonable cause to believe that –

- (a) the information is relevant to the exercise by the [Authority] of [its] functions and powers [under this Law, any Sector Law or any other enactment], and
- (b) the withholding of the information is likely to result in the [Authority] being misled as to any matter which is relevant and of material significance to the exercise of [those functions] and powers in relation to the licensee,

shall be guilty of an offence.

(3) A person guilty of an offence under subsection (1) or (2) is liable –

- (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 3 months, or to both,
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both.

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## NOTES

*In section 18,*

*paragraph (a) of subsection (1) (which was originally repealed by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 9, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance) was inserted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 7, with effect from 9th November, 2009;*

*the words in the first pair of square brackets within paragraph (a) of*

*subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 11, with effect from 1st May, 2016;*

*the words omitted in the second pair of square brackets and the words in the third pair of square brackets within paragraph (a) of subsection (1) were, respectively, repealed and substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 18(a) and paragraph 18(b), with effect from 1st June, 2012;*

*paragraph (b) of subsection (1) was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 18(c), with effect from 1st June, 2012;*

*the words in the first and third pairs of square brackets in paragraph (c) of subsection (1) were, respectively, substituted and inserted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 18(d)(i) and paragraph 18(d)(ii), with effect from 1st June, 2012;*

*the words in the second pair of square brackets in paragraph (c) of subsection (1) were substituted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 8, with effect from 9th November, 2009;*

*the word "Authority" in square brackets, wherever occurring in subsection (2), was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 18(e)(i), with effect from 1st June, 2012;*

*the words in, first, the third, second, the fourth and, third, the sixth pair of square brackets in subsection (2) were, respectively, substituted, inserted and substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 18(e)(ii), paragraph 18(e)(iii) and paragraph 18(e)(iv), with effect from 1st June, 2012.*

*The functions, rights and liabilities of the Public Accounts Committee and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Scrutiny Management Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 11, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*

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## **Criminal liabilities of directors, etc.**

**19.** (1) Where an offence under this Law is committed by a body

corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and may be proceeded against and punished accordingly.

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

**Defence of due diligence.**

20. In any proceedings for an offence under this Law it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself and by any person under his control.

PART VII  
MISCELLANEOUS

**Power of States to exclude liability.**

21. ...

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**NOTE**

*Section 21 was repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 19, with effect from 1st June, 2012.*

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**Interpretation.**

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

[ ... ]

[ "**Authority**" means the Guernsey Competition and Regulatory Authority established by the Guernsey Competition and Regulatory Authority Ordinance, 2012,]

[ "**Bailiff**" means the Bailiff, Deputy-Bailiff, Lieutenant-Bailiff or Juge Délégué,]

"**Bailiwick**" means the Bailiwick of Guernsey, except in relation to the provision and regulation of electricity services when it means the Island of Guernsey only,

"[**Committee for Economic Development**]" means States of Guernsey [Committee for Economic Development],

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

"**consult**" and "**consultation**" shall, in sections 3(2) [...] and 23(3), be construed in accordance with subsection (6),

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly,

[ ...]

"**documents**" means information recorded in any form (including, without limitation, in an electronic form) and, in relation to information recorded otherwise in legible form, references to its production, howsoever expressed, include references to the production of a copy of the information in legible form,

**"dominant position"**, in relation to a relevant market, shall be construed as it would be in the United Kingdom under the Competition Act 1998<sup>e</sup>, but with the substitution, where appropriate, of references to the Bailiwick for references to the United Kingdom,

[ ...]

**"Fund"** means the Public Utilities Regulation Fund established under section 9(1),

**"licence"** means a licence granted to a person to provide utility services, or to establish, operate or maintain a utility network, under any Sector Law,

**"licensee"** means a person who holds a licence,

[ ...]

**"Royal Court"** means the Royal Court sitting as an Ordinary Court[, constituted (for the purposes of an appeal under section 15) in accordance with section 15(7A)],

**"Sector Law"** means any Law which provides for the regulation by the [Authority] of utility activities within the Bailiwick or any part thereof,

**"servant"** includes a person employed under a contract of service or apprenticeship (whether written or oral, express or implied) and a person engaged on a consultancy or secondment basis,

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<sup>e</sup> An Act of Parliament (1998 c. 41).



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

[ **"States' Directions"** means –

- (a) directions given to the [Authority] by Resolution of the States under section 3(1), and
- (b) directions given to the [Authority] by Ordinance of the States under section 3(1A),]

**"universal service"** means any utility service the scope of which is specified by States' Directions under section 3(1)(c) and which is required by States' Directions to be provided by a licensee to persons or to a class of persons throughout the Bailiwick at an affordable price,

**"universal service obligation"** means the obligation of a licensee to provide a universal service,

**"utility activity"** means the establishment, operation and maintenance of a utility network, or the provision of utility services, in the Bailiwick,

[ ...]

[ ...]

**"utility network"** means a network (as defined in any Sector Law) used in the provision of utility services, and

**"utility services"** means postal services, telecommunications services and electricity services, and such other services as the States may by

Ordinance direct.

(2) The Interpretation (Guernsey) Law, 1948<sup>f</sup> applies to the interpretation of this Law throughout the Bailiwick.

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

(4) References in this Law to the Policy and Finance Committee of the States of Alderney and to the [Policy and Performance Committee] of the Chief Pleas of Sark are references to the committees of those islands for the time being exercising the functions respectively conferred by this Law on the said Policy and Finance Committee or (as the case may be) on the said [Policy and Performance Committee].

(5) In this Law any words importing the neuter gender shall include the masculine and the feminine, and any words importing the masculine gender shall include the feminine and the neuter.

(6) Any requirement, howsoever expressed, imposed by sections 3(2) [...] and 23(3) on the States [Committee for Economic Development] (and any other committee of the States) to consult the [Policy and Performance Committee] of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney shall include a requirement to inform the States of the views of those committees when making any recommendation to the States as to the matter consulted upon.

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

## NOTES

*In section 22,*

*the words omitted in, first, the first pair of square brackets in subsection (1) (which words were originally inserted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 9(a), with effect from 9th November, 2009), second, the square brackets immediately after the definition of the expression "contravention" in subsection (1), third, the square brackets immediately after the definition of the expression "dominant position" in subsection (1) and, fourth, the square brackets immediately after the definition of the expression "licensee" in subsection (1) were repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 20(a), paragraph 20(c), paragraph 20(d) and paragraph 20(e), with effect from 1st June, 2012;*

*first, the definition of the expression "Authority" in subsection (1) was inserted, second, the word in square brackets in the definition of the expression "Sector Law" in subsection (1) was substituted and, third the words in square brackets in the definition of the expression "States' Directions" in subsection (1) were substituted, by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 20(b), paragraph 20(f) and paragraph 20(g), with effect from 1st June, 2012;*

*the definition of the expression "Bailiff" in subsection (1) was inserted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 10(a), with effect from 28th March, 2007;*

*the words in square brackets in the definition of the expression "Committee for Economic Development" in subsection (1), and the words "Committee for Economic Development" in square brackets wherever else occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;<sup>11</sup>*

*the punctuation, figures and parentheses omitted in square brackets in the definition of the expression "consult" in subsection (1) were repealed by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 10(b), with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance;*

*the words in square brackets in the definition of the expression "Royal Court" in subsection (1) were inserted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 10(c), with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance;*

*the definition of the expression "States' Directions" in subsection (1)*

was substituted by the *Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 9(b), with effect from 9th November, 2009;*

*the words omitted in square brackets, first, immediately after the definition of the expression "utility activity" in subsection (1) and, second, immediately before the definition therein of the expression "utility network" were repealed by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 10(d), with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance;*

*the words "Policy and Performance Committee" in square brackets, wherever occurring, were substituted by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015, section 3, with effect from 25th June, 2015;<sup>12</sup>*

*the punctuation, figures and parentheses omitted in square brackets in the first pair of square brackets in subsection (6) were repealed by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 11, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance.*

*The functions, rights and liabilities of the Sark General Purposes and Finance Committee and of its Chairman arising under or by virtue of this Law were transferred to and vested in, respectively, the Sark Policy and Performance 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.<sup>13</sup>*

*The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.<sup>14</sup>*

*The functions, rights and liabilities of the Director General of Utility Regulation and the Office thereof arising under or by virtue of this Law were transferred to and vested in the Guernsey Competition and Regulatory Authority by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 5(1), with effect from 1st June, 2012, subject to the provisions of section 5(3) of, and section 6, Schedule 2 to, the 2012 Ordinance.*

*The following Ordinance has been made under section 22:*

*Guernsey Competition and Regulatory Authority Ordinance, 2012.*

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**[Power to amend Law by Ordinance.**

**22A.** (1) The States may by Ordinance amend this Law.

(2) The provisions of subsection (1) are without prejudice to any other provision of this Law conferring power to enact Ordinances (and vice versa).

(3) An Ordinance under subsection (1) may, for the avoidance of doubt, repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.]

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**NOTES**

*Section 22A was inserted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 10, with effect from 9th November, 2009.*

*The following Ordinance has been made under section 22A:*

*Guernsey Competition and Regulatory Authority Ordinance, 2012.*

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**General provisions as to subordinate legislation.**

**23.** (1) Any Ordinance or rule under this Law –

- (a) may be amended or repealed by a subsequent Ordinance or rule, as the case may be, hereunder,
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, and
- (c) may, in the case of an Ordinance, and without limitation, contain provision –

*Consolidated text*

- (i) as to the creation, trial and punishment of offences,
- (ii) amending any provision of this Law,
- (iii) ...

(2) Any power conferred by this Law to make any Ordinance or rule 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) The [Committee for Economic Development] (and any other

committee of the States) shall, before recommending the States to agree to make an Ordinance under section 14(9) or 15(8) [or 22A], consult the [Policy and Performance Committee] of the Chief Pleas of Sark and the Policy and Finance Committee of the States of Alderney in relation to the terms of the proposed Ordinance; but a failure to comply with this subsection shall not invalidate any Ordinance made under those sections.

[ (4) In this section the expression "**rule**" includes an order.]

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## NOTES

*In section 23,*

*sub-paragraph (iii) of paragraph (c) of subsection (1) was repealed by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 12, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance;*

*the words in the first pair of square brackets in subsection (3) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;<sup>15</sup>*

*the word, figures and letter in the second pair of square brackets in subsection (3) were inserted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 11, with effect from 9th November, 2009;*

*the words in the third pair of square brackets in subsection (3) were substituted by the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015, section 3, with effect from 25th June, 2015;<sup>16</sup>*

*subsection (4) was inserted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 21, with effect from 1st June, 2012.*

*The functions, rights and liabilities of the Sark General Purposes and Finance Committee and of its Chairman arising under or by virtue of this Law were transferred to and vested in, respectively, the Sark Policy and Performance 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.<sup>17</sup>*

*In accordance with the provisions of:*

- (i) *the Post Office (Bailiwick of Guernsey) Law, 2001, section 48(3), and*
- (ii) *the Telecommunications (Bailiwick of Guernsey) Law, 2001, section 34(3),*

*the provisions of this section shall apply to Ordinances under, respectively, section 48(1) and section 34(1) of those Law as they apply to an Ordinance under this Law.*

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**Service of documents.**

**24.** (1) Any document other than a summons to be given or served under or for the purposes of this Law or any Sector Law may be given or served –

- (a) on an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, his usual or last known place of abode,
- (b) on a body corporate with a registered office in the Bailiwick, by being left at, or sent by post or transmitted to, that office,
- (c) on a body corporate without a registered office in the Bailiwick, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in the Bailiwick or, if there is no such place, its registered or principal office outside the Bailiwick,
- (d) on an unincorporated body, by being given to or served on any partner, member, manager or officer thereof in accordance with paragraph (a), or by being left at, or



sent by post or transmitted to, the body's principal or last known principal place of business in the Bailiwick or, if there is no such place, its principal or last known principal place of business elsewhere,

- (e) on the [Authority], by being left at, or sent by post or transmitted to, the principal offices of the [Authority] in Guernsey,
- (f) ...

and in this section –

- (i) the expression "**by post**" means by registered post, recorded delivery service or ordinary letter post, and
- (ii) the expression "**transmitted**" means transmitted by electronic communication, facsimile transmission or other similar means which produce [or enable the production of] a document containing the text of the communication: in which event the document shall be regarded as served when it is received.

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

(3) If service of a document cannot, after reasonable enquiry, be

effected in accordance with this section, the document may be served by being published in La Gazette Officielle on two occasions falling in successive weeks, and a document served under this subsection is sufficient if addressed to the person for whom it is intended.

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

(5) Notwithstanding the provisions of subsections (1) to (4) and of any other rule of law in relation to the service of documents, no document to be given to or served on the [Authority] [...] under or for the purposes of this Law or any Sector Law shall be deemed to have been given or served until it is received.

(6) If a person upon whom a document is to be served under this Law is a minor or person under legal disability, the document shall be served on his guardian; and if there is no guardian, the party wishing to effect service may apply to the Royal Court (or the Court of Alderney or the Court of the Seneschal of Sark, if appropriate) for the appointment of a person to act as guardian for the purposes of this Law or any Sector Law.

(7) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Law and any Sector Law to have been received –

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

excluding in each case any non-business day within the meaning of section 1(1) of the

Bills of Exchange (Guernsey) Law, 1958, as amended<sup>g</sup>.

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

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**NOTES**

*In section 24,*

*the words in, first, the first and second and, second, the third pairs of square brackets in subsection (1) were, respectively, substituted and inserted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 22(a) and paragraph 22(b), with effect from 1st June, 2012;*

*paragraph (f) of subsection (1) and the words omitted in the second pair of square brackets in subsection (5) were repealed by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, respectively section 13 and section 14, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance;*

*the words in, first, the first and, second, the second pairs of square brackets in subsection (2) and, third, the first pair of square brackets in subsection (5) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, respectively paragraph 22(c)(i), paragraph 22(c)(ii) and paragraph 22(d), with effect from 1st June, 2012.*

*In accordance with the provisions of, first, the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, second, the Law Reform (Age of Majority) (Sark) Law, 1986, section 1(1) and section 1(2), with effect from 3rd February, 1987 and subject to the savings in section 1(3) of, and the Schedule to, the 1986 Law and, third, the Age of Majority (Alderney) Law, 2001, section 1(1) and section 1(3), with effect from 14th December, 2001 and subject to the transitional and savings provisions in section 1(5) of, and the Schedule to, the 2001 Law, the reference in this section to a "minor" shall be construed as a reference to a person under the age of 18 years.*

*In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (in Guernsey*

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

*and Alderney but not in Sark), section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in subsection (1) or subsection (2) of that section are satisfied.*

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**Citation and commencement.**

**25.** This Law may be cited as the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 and shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions or different purposes.

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**NOTE**

*The Law was brought into force on 1st October, 2001 by the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 (Commencement) Ordinance, 2001, section 1.*

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SCHEDULE

OFFICE OF THE DIRECTOR GENERAL OF UTILITY REGULATION

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**NOTE**

*The Schedule was repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 22, Schedule 3, paragraph 23, with effect from 1st June, 2012.<sup>18</sup>*

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<sup>1</sup> Prior to its repeal, Part I and section 1 thereof were amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

<sup>2</sup> The words in subsection (1) and subsection (2) were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

<sup>3</sup> These words were previously substituted by the Sark General Purposes and Advisory Committee (Transfer of Functions) (Guernsey) Ordinance, 2001, section 3, with effect from 31st October, 2001. 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.

<sup>4</sup> The functions, rights and liabilities of the Sark General Purposes and Finance Committee and its President arising under this Law were previously transferred to them from the Sark General Purposes and Advisory Committee and its President by

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the Sark General Purposes and Advisory Committee (Transfer of Functions) (Guernsey) Ordinance, 2001, section 1, with effect from that same date, subject to the savings and transitional provisions in section 2 of the 2001 Ordinance. Previous transfers of functions were also 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.

**5** These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

**6** These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

**7** These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

**8** Prior to their repeal, the words omitted in the third pair of square brackets were amended, in part, by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

**9** These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

**10** The figures and words in the first pair of square brackets were previously substituted by the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 4, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance.

**11** These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

**12** These words were previously substituted by the Sark General Purposes and Advisory Committee (Transfer of Functions) (Guernsey) Ordinance, 2001, section 3, with effect from 31st October, 2001. 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.

**13** The functions, rights and liabilities of the Sark General Purposes and Finance Committee and its President arising under this Law were previously transferred to them from the Sark General Purposes and Advisory Committee and its President by the Sark General Purposes and Advisory Committee (Transfer of Functions) (Guernsey) Ordinance, 2001, section 1, with effect from that same date, subject to the savings and transitional provisions in section 2 of the 2001 Ordinance. Previous

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transfers of functions were also 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.

**14** The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Law (save for those functions, etc., arising under or by virtue of section 3(1A)) were previously transferred to and vested in them, respectively, from the Board of Industry and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 5, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

**15** These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

**16** These words were previously substituted by the Sark General Purposes and Advisory Committee (Transfer of Functions) (Guernsey) Ordinance, 2001, section 3, with effect from 31st October, 2001; the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2009, section 3(b), with effect from 1st November, 2009.

**17** The functions, rights and liabilities of the Sark General Purposes and Finance Committee and its President arising under this Law were previously transferred to them from the Sark General Purposes and Advisory Committee and its President by the Sark General Purposes and Advisory Committee (Transfer of Functions) (Guernsey) Ordinance, 2001, section 1, with effect from that same date, subject to the savings and transitional provisions in section 2 of the 2001 Ordinance. Previous transfers of functions were also 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.

**18** Prior to its repeal, the Schedule was amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004; the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007, section 12, with effect from 9th November, 2009; and the Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, section 15, with effect from 28th March, 2007, subject to the savings in section 17 of the 2007 Ordinance.