

# PROJET DE LOI

ENTITLED

## **The Post Office (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. XV of 2001 (Ordres en Conseil Vol. XLI, p. 515); as amended by the Government of Alderney (Amendment) Law, 2000 (No. I of 2000, Ordres en Conseil Vol. XL, p. 15); the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 (No. XXX of 2003, Ordres en Conseil Vol. XLIII(2), p. 894); the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2001 (No. XXXIV of 2001, Recueil d'Ordonnances Tome XXVIII, p. 491); 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 Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2010 (No. XXXIII of 2010); the Guernsey Competition and Regulatory Authority Ordinance, 2012 (No. XIII of 2012); the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012 (No. XIV of 2012); the Sark General Purposes and Finance Committee (Transfer of Functions) (Guernsey) Ordinance, 2015 (No. XX of 2015); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016) the Post Office (Bailiwick of Guernsey) Law, 2001 (Amendment) Ordinance, 2018 (No. \*\* of 2018). See also the Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122); the Police Force (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 (Ordres en Conseil Vol. XXIII, p. 573); the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991 (No. XIII of 1991, Ordres en Conseil Vol. XXXIII, p. 217); 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 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 Post Office (Bailiwick of Guernsey) Law, 2001**

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## **The Post Office (Bailiwick of Guernsey) Law, 2001**

**THE STATES**, in pursuance of their Resolution of the 16<sup>th</sup> March, 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

#### LICENSING

##### **Prohibition of unlicensed postal services.**

1. (1) Subject to the provisions of subsections (2) and (3) [and (3A)], a person shall not provide postal services in the Bailiwick except under the authority of and in accordance with the conditions of a licence granted by the [the Guernsey Competition and Regulatory Authority ("**the Authority**")] under this Part of this Law; and a person who contravenes any provision of this subsection 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, not exceeding £1,000,000 or 10% of the defendant's turnover (whichever is greater), or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5

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<sup>a</sup> Resolution 5 on Article III of Billet d'État No. VIII of 2000.

on the uniform scale, or to both.

- (2) Subsection (1) is not contravened by –
- (a) ...
  - (b) the conveyance and delivery of a postal packet personally by the sender,
  - (c) the conveyance and delivery of a postal packet by means of a private friend of the sender who himself delivers that postal packet to the addressee,
  - (d) the conveyance and delivery of a postal packet by a messenger sent for the purpose by the sender or addressee,
  - (e) the conveyance and delivery of any document issuing out of a court of justice or of any return or answer thereto,
  - (f) the conveyance and delivery to a licence holder of pre-paid postal packets for conveyance and delivery by that licence holder to the addressees, and the collection of such postal packets for that purpose,
  - (g) the conveyance and delivery of banking instruments from one bank to another or from a bank to the States of Guernsey, the States of Alderney or the Chief Pleas of Sark, and the collection of such instruments for that purpose, or

- (h) the conveyance and delivery or collection of postal packets concerning the official business of Bailiwick Members –
  - (i) by or on behalf of one Bailiwick Member to or from or on behalf of another Bailiwick Member, or
  - (ii) within or between the civil service of a Bailiwick Member.

(3) Nothing in paragraphs (b) to (g) of [subsection (2)] shall authorise any person to make a collection of postal packets for the purpose of their being conveyed in any manner authorised by those paragraphs.

[ (3A) The Authority may, having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions, by direction grant an exemption from subsection (1).

(3B) An exemption under subsection (3A) –

- (a) may be granted to a particular person or particular class of persons,
- (b) may be granted subject to such conditions as the Authority may think fit,
- (c) when granted to a particular class of persons, shall be published, and

- (d) unless previously revoked in accordance with any term contained in the exemption, shall continue in force for such period as may be specified in or determined by or under the exemption.]

(4) In this section –

**"Bailiwick Member"** means the States of Guernsey, States of Alderney and Chief Pleas of Sark,

**"bank"** means an institution holding a banking licence under the Banking Supervision (Bailiwick of Guernsey) Law, 1994<sup>b</sup>,

**"banking instrument"** means –

- (a) any cheque,
- (b) any document issued by a customer of a bank which, though not a bill of exchange, is intended to enable a person to obtain payment from that bank of the sum mentioned in the document,
- (c) any draft payable on demand drawn by a bank upon itself, whether payable at the head office or some other office of the bank,
- (d) any document issued by a public officer which is intended to enable a person to obtain payment from the States of Guernsey, the States of Alderney or the Chief

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<sup>b</sup> Order in Council No. XIII of 1994.



Pleas of Sark of the sum mentioned in the document,

- (e) any bill of exchange not falling within paragraphs (a) to (d) or any promissory note,
- (f) any postal order or money order,
- (g) any credit transfer, credit advice or debit advice, or
- (h) any list of items, or any copy of an item, falling within paragraphs (a) to (g),

**"civil service"** means the committees, departments, institutions and individuals which or who undertake the official business of a Bailiwick Member, and

**"pre-paid postal packet"** includes any postal packet which, in pursuance of arrangements made with a licence holder, does not require to be pre-paid.

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## NOTES

*In section 1,*

*first, the word, parentheses, figure and letter in the first pair of square brackets in subsection (1) were inserted, second, paragraph (a) of subsection (2) was repealed, third, the word, parentheses and figure in subsection (3) were substituted and, fourth, subsection (3A) and subsection (3B) were inserted by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012, respectively section 2, section 3, section 4 and section 5, with effect from 1st June, 2012;*

*the words in the second pair of square brackets in subsection (1) were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 2, with effect from 1st June, 2012.*

**Licences for postal services.**

2. (1) Having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions, the [Authority] may –

- (a) grant a licence authorising any person to provide postal services of any class or description specified in the licence, or
- (b) refuse to grant any such licence.

(2) A licence –

- (a) shall be a class licence or an individual licence,
- (b) shall be in writing,
- (c) shall, unless previously revoked, suspended or surrendered, continue in force for any period specified in the licence, and
- (d) shall not be capable of being surrendered without the consent of the [Authority].

(3) A licence [...] may be an exclusive licence.

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**NOTES**

*In section 2,*

*the word "Authority" in square brackets, wherever occurring, was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012;*

*the words omitted in square brackets in subsection (3) were repealed by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012, section 6, with effect from 1st June, 2012.*

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### **Applications for licences.**

3. (1) The [Authority] shall publish –

- (a) details of the procedures to be followed and the criteria to be applied in relation to applications for, and the grant of, a licence (which procedures may, without limitation, include requirements as to the submission of information and documents with an application),
- (b) any changes made by [it] from time to time to such procedures, criteria and requirements.

(2) The [Authority] may, by notice in writing, require an applicant to provide such additional information and documents as [it] may reasonably require for the purpose of determining an application for a licence.

(3) An application for a licence –

- (a) shall be accompanied by the appropriate fee or levy prescribed by the [Authority] under section 6,
- (b) may be withdrawn by notice in writing to the [Authority] at any time before it is determined.

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**NOTE**

*In section 3, the words "Authority" and "it" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012.*

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**Grant or refusal of licences.**

4. (1) The [Authority] may, where [it] considers it appropriate, publish notice of a proposed decision to grant a licence.

(2) Where the [Authority] proposes to refuse to grant an individual licence, [it] shall inform the applicant in writing of the reasons for the proposed refusal and specify a period within which representations may be made.

(3) Where the [Authority] refuses to grant an individual licence, [it] shall inform the applicant of his reasons for the refusal in writing.

(4) A person aggrieved by a refusal of the [Authority] to grant an individual licence may appeal against the refusal to the [Royal Court] under and in accordance with the provisions of section 15 of the Regulation Law.

(5) The grant of a licence shall not relieve the licensee of any obligation to obtain any other licence, consent, permission or waiver required from persons other than the [Authority] for any other purpose.

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**NOTES**

*In section 4,*

*the words "Authority" and "it" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012;*

*the words in the second pair of square brackets in subsection (4) were substituted by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012, section 7, with effect from 1st June, 2012.*

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**Licence conditions and publication thereof.**

5. (1) A licence may, subject to the provisions of any States' Directions, include such conditions as appear to the [Authority] to be appropriate, having regard to the nature of the application for the licence, the objectives set out in section 2 of the Regulation Law and the enforcement of the Regulation Law and this Law; and, without prejudice to the generality of the foregoing, the [Authority] may include in any licence –

- (a) a condition requiring the licensee to comply with any direction given by the [Authority] under any power contained in this Law or in any condition of the licence,
- (b) conditions intended to prevent and control anti-competitive behaviour,
- (c) an obligation to provide, and conditions relating to the provision, scope and funding of, a universal service, and conditions as to the making of financial contributions to the cost of a universal service,
- (d) conditions regulating the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market,
- (e) conditions relating to the quality, service levels, permanence and variety of postal services,

- (f) conditions relating to national security and the investigation of crime,
- (g) conditions relating to the enforcement, revocation and suspension of the licence and to the imposition of financial penalties, and
- (h) conditions relating to the provision of documents, accounts and information.

[ (1A) A licence condition may, without prejudice to the generality of subsection (1) and in particular paragraph (c) thereof, require a licensee to contribute to a fund to be used to finance or to assist in the financing of the provision, by the licensee required to provide such a service, of a universal postal service.

(1B) A licence condition under subsection (1A) may, without limitation, specify or make provision in respect of –

- (a) the timing, frequency and amount, or manner of calculation of the amount, of the contributions,
- (b) the manner in which the amount of the contributions is to be raised by the licensee (whether by means of a levy on services or otherwise),
- (c) the manner in which the contributions are to be made to the fund (whether by means of the payment of money, the maintenance of reserves, the provision of guarantees or other security, or otherwise), and

- (d) the vesting, administration, allocation, distribution and use of the fund.

(1C) A licence condition under subsection (1A) may reserve power to the Authority to specify or make provision in respect of anything referred to in paragraphs (a) to (d) of subsection (1B).]

(2) The [Authority] shall publish notice –

- (a) of a proposed decision as to whether a person has a dominant position in a relevant market and of the conditions, if any, proposed to be included in the licence granted or to be granted to that person in relation to the control of that dominant position,
- (b) of a proposed decision to regulate the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market, and
- (c) of a proposed decision to include quality of service conditions in any licence.

(3) Notice under subsection (2) of a proposed decision shall specify the time (not being less than 7 days from the date of publication of the notice) within which written representations or objections in respect of the proposed decision may be made by interested parties; and the [Authority] shall –

- (a) before making the decision, consider any representations or objections received from any interested party, and

(b) having followed the procedure set out in subsection (2) and in this subsection, make [its] decision and publish notice thereof.

(4) Any condition included in a licence may be time-limited.

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**NOTES**

*In section 5,*

*the words "Authority" and "its" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012;*

*subsection (1A), subsection (1B) and subsection (1C) were inserted by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012, section 8, with effect from 1st June, 2012.*

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**Licence fees.**

6. (1) The [Authority] shall, subject to the provisions of section 4(3) of the Regulation Law, determine, prescribe and publish the fees and levies payable on an application for, and on the grant and renewal of, and 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.

(2) The fees, levies, interest and penalties determined and prescribed by the [Authority] under subsection (1) shall, without prejudice to any other remedy in respect of any default in payment, be recoverable as a civil debt due to the [Authority].

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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 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012.*

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**Licence registers.**

7. (1) The [Authority] shall maintain a public register of licences containing –

- (a) the names and addresses of all licensees to whom an individual licence has been granted, and
- (b) a copy of every licence granted by [it].

(2) The public register referred to in subsection (1) shall be made available by the [Authority] for public inspection at his offices during normal office hours.

(3) The [Authority] may withhold any information from the public register referred to in subsection (1) if [it] considers it to be confidential.

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**NOTE**

*In section 7, the words "Authority" and "it" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012.*

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**Modification of licence conditions.**

8. (1) Having regard to the objectives set out in section 2 of the Regulation Law, and subject to the provisions of any States' Directions and the following provisions of this section, the [Authority] may modify a licence by amending or revoking any condition included in it or by adding any condition to it.

(2) Before making modifications under this section to a licence, the [Authority] shall publish, and (in the case of an individual licence) give to the holder of the licence, notice –

- (a) stating the modifications which [it] proposes to make,
- (b) stating the reasons why [it] proposes to make those modifications, and
- (c) specifying the time (not being less than 7 days from the date of publication of the notice) within which written representations or objections in respect of the proposed modifications may be made by interested parties,

and [it] shall –

- (i) before making the modification, consider any representations or objections received from any interested party, and
- (ii) having followed the procedure set out in this subsection, modify the licence (and publish notice of the modification) or decide not to modify the licence (and publish notice of that decision).

(3) A modification to a licence shall take effect from such time as the [Authority] directs, not being earlier than the expiry of the period specified by the [Authority] in accordance with subsection (2)(c).

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**NOTE**

*In section 8, the words "Authority" and "it" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012.*

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**PART II**  
**SUPPLEMENTARY PROVISIONS FOR UNIVERSAL**  
**POSTAL SERVICE PROVIDERS**

**Director General's power to designate postal services as reserved postal services.**

**9.**     ...

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**NOTES**

*Section 9 was repealed by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012, section 9, with effect from 1st June, 2012, subject to the savings in section 12 of the 2012 Ordinance for Orders made hereunder.*

*The following Order was made under section 9:*

*Post Office (Reserved Postal Services) Order, 2010.*

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**Schemes as to terms and conditions for the provision of a universal postal service.**

**10.**   (1)   A universal postal service provider may make a scheme under this section in relation to –

- (a)   postal services provided by him in connection with the provision of a universal postal service or any of those services, and

- (b) postal services which, although not of a description falling within subsection (1)(a), are approved by the [Authority] for inclusion in the scheme.

(2) A scheme under this section is a scheme for determining any or all of the following –

- (a) the charges which are to be imposed in respect of the services concerned,
- (b) the other terms and conditions which are to be applicable to the services concerned, and
- (c) procedures for dealing with the complaints of persons who use the services concerned.

(3) A scheme under this section may, in particular –

- (a) adopt such system for the determination of the charges and other terms and conditions as the universal postal service provider concerned considers appropriate (including determining them himself subject to any conditions and limitations provided for in the scheme),
- (b) specify the manner in which, time and place at which and person by whom the charges are to be paid.

(4) Subject to section 13(5) and 13(6) no provision may be made in any scheme under this section –

- (a) for limiting the liability of the universal postal service

provider concerned for loss or damage, or

(b) for amending the rules of law relating to evidence.

(5) A scheme, an amendment to a scheme under this section or any modification thereof shall come into force on such day as is specified in the scheme, amendment or modification [...].

(6) A scheme under this section may –

(a) make different provision for different cases or classes of case determined by, or in accordance with, the provisions of the scheme, and

(b) modify any previous scheme made under this section.

(7) Any charge payable by virtue of this section may be recovered by the universal service provider concerned as a civil debt due to him.

(8) A notice, stating where a written copy of the scheme or of any modification to the scheme may be inspected, shall be published in La Gazette Officielle.

(9) The [Authority] may –

(a) require a licensee to justify the provisions of a scheme in order that the [Authority] may establish whether or not those provisions are fair and reasonable, and

(b) in circumstances where the [Authority] does not believe those provisions to be fair and reasonable, direct a

licensee to adjust or withdraw the provisions of a scheme.

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**NOTES**

*In section 10,*

*the words "Authority" and "it" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012;*

*the words omitted in square brackets in subsection (5) were repealed by the Post Office (Bailiwick of Guernsey) Law, 2001 (Amendment) Ordinance, 2018, section 1(2), with effect from 27th March, 2018.*

*The following Scheme has been made under section 10:*

*Guernsey Post Ltd (Inland and Overseas Letter and Parcel Post) Scheme, 2018.*

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**Exclusion of liability.**

**11.** (1) Subject to section 12, no proceedings in tort [or contract] shall lie against a universal postal service provider in respect of loss or damage suffered by any person in connection with the provision of a universal postal service because of –

- (a) anything done or omitted to be done in relation to any postal packet in the course of transmission by post, or
- (b) any omission to carry out arrangements for the collection of anything to be conveyed by post.

(2) No officer, servant, employee, agent or sub-contractor of a universal postal service provider shall be subject, except at the suit or instance of the provider, to any civil liability for –

- (a) any loss or damage in the case of which liability of the provider is excluded by subsection (1), or
- (b) any loss of, or damage to, an inland packet to which section 12 applies.

(3) No person engaged in or about the conveyance of postal packets and no officer, servant, employee, agent or sub-contractor of any such person shall be subject, except at the suit or instance of the universal postal service provider concerned, to any civil liability for –

- (a) any loss or damage in the case of which liability of the provider is excluded by subsection (1), or
- (b) any loss of, or damage to, an inland packet to which section 12 applies.

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**NOTE**

*In section 11, the words in square brackets in subsection (1) were inserted by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2001, section 1, with effect from 1st October, 2001.*

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**Limited liability for loss etc. of inland packets.**

**12.** (1) Proceedings shall lie against a universal postal service provider under this section, but not otherwise, in respect of relevant loss of, or relevant damage to, an inland packet in respect of which the universal service provider accepts liability under this section in pursuance of a scheme made under section 10.

(2) In subsection (1) "**relevant loss**" and "**relevant damage**" mean loss and damage due to or caused by any wrongful act of, or any neglect or default by, an officer, servant, employee, agent or sub-contractor of the universal

postal service provider while performing or purporting to perform in that capacity his functions in relation to the receipt, conveyance, delivery or other dealing with an inland packet of a type described in subsection (1).

(3) No proceedings shall lie under this section in relation to a packet unless they are begun within the period of twelve months starting with the day on which the packet was posted.

(4) A universal postal service provider shall not be liable under this section in respect of a packet of any description unless such conditions (if any) as are required by a scheme under section 10 to be complied with in relation to packets of that description at the time when they are posted have been complied with in the case of the packet.

(5) For the purposes of this section and section 13 a scheme under section 10 may define a description of packet by reference to any circumstances whatever (including, in particular, the amount of any fee paid in respect of the packet in pursuance of the scheme).

(6) In this section and section 11 "**inland packet**" means any postal packet which is posted in the Bailiwick of Guernsey for delivery at a place in the Bailiwick of Guernsey, the United Kingdom, the Bailiwick of Jersey or the Isle of Man to the person to whom it is addressed.

**Supplementary provisions on liability.**

**13.** (1) Subject to subsection (3), no relief or remedy shall be available under section 12 in relation to a packet except upon a claim by the sender or the addressee of the packet.

(2) The sender or addressee concerned shall be entitled –



*Consolidated text*

- (a) to claim any relief or remedy available under this section whether or not he is the person who has suffered the loss or damage, and
- (b) to give a good discharge in respect of all claims under this section in respect of the packet concerned.

(3) Where the Court is satisfied, on an application by a person who is not the sender or addressee of the packet, that the sender and the addressee are unable or unwilling to enforce their reliefs or remedies under this section, the Court may, upon such terms as to security costs, expenses and otherwise as the Court considers appropriate, allow that other person to bring proceedings under this section in the name of the sender or the addressee of the packet.

(4) Where, by virtue of subsection (2) or (3), a person recovers any money or property which, apart from that subsection, would have been recoverable by another person, the money or property so recovered shall be held on trust for that other person.

(5) The amount recoverable in any proceedings under section 12 in relation to a packet of any description shall be the lesser of –

- (a) the market value of the packet at the time when the cause of action arises, or
- (b) the maximum amount payable under a scheme made under section 10 for compensating the person aggrieved in respect of a packet of that description.

(6) For the purposes of subsection (5)(a) the market value of a packet shall not include the market value of –

- (a) any message or information which it bears, or
- (b) any item which, in relation to packets of that description, is excluded from the operation of this section by a scheme under section 10.

(7) For the purposes of any proceedings under section 12, it shall be presumed, unless the contrary is shown, that loss of, or damage to, the packet was due to such conduct as is mentioned in subsection (2) of that section.

(8) In this section –

"**sender**", in relation to a packet, has such meaning as may be given to it by any provision of a scheme made under section 10 and relating to an inland packet to which section 12 applies, and any reference in this section to the sender or addressee of a packet includes a reference to his personal representatives.

**Inviolability of mails.**

**14.** (1) Subsection (2) applies to –

- (a) a postal packet,
- (b) anything contained in a postal packet, and
- (c) a mail-bag containing a postal packet, and which is in the course of transmission by post as part of the provision of a universal postal service.

(2) Anything to which this subsection applies shall have immunity

from –

- (a) examination, or seizure or detention, under a relevant power conferred by or under any enactment,
- (b) seizure under distress or in execution,
- (c) retention by virtue of a lien.

(3) In subsection (2) "**relevant power**" means any power other than –

- (a) a power conferred under the Regulation Law so far as it is exercised for any purpose connected with the investigation of an offence under section 1 or any proceedings for such offence,
- (b) a power conferred by section 19,
- (c) a power conferred by an enactment relating to duties, taxes or impôts in its application, by virtue of section 37 or any regulations made under that section, to goods contained in postal packets,
- (d) a power conferred by section 38, or
- (e) a warrant issued by Her Majesty's Procureur under section 2 of the Interception of Communications (Bailiwick of Guernsey) Law, 1997<sup>c</sup> [or under the

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<sup>c</sup> Order in Council No. XIII of 1997.

authority of an interception warrant issued under section 5 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003].

(4) A universal postal service provider and a person who is engaged in the business of such a provider shall be entitled to immunity from prosecution for conduct in the provision of a universal postal service falling within subsection (5).

(5) The following conduct falls within this subsection –

- (a) possession of anything contained in a postal packet which is in the course of transmission by post where possession of it is prohibited by virtue of any enactment, and
- (b) failure to comply, in relation to anything contained in a postal packet which is in the course of transmission by post, with any condition or restriction imposed by virtue of any enactment in relation to its possession, conveyance or delivery.

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**NOTES**

*In section 14, the words in square brackets were inserted by the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003, section 69(1), Schedule 4, Part I, paragraph 6, with effect from 14th June, 2004.*

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 1(5), with effect from 1st October, 2004, any reference in this enactment to "impôt" shall be construed as a reference to excise duty.*

*The Interception of Communications (Bailiwick of Guernsey) Law, 1997 has since been repealed by the Regulation of Investigatory Powers (Bailiwick of*

*Guernsey) Law, 2003, section 71(2), Schedule 4, Part II, paragraph 1, with effect from 14th June, 2004, subject to the transitional provisions in section 72 of the 2003 Law.*

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**No liability as common carrier etc.**

**15.** A universal postal service provider, when providing a universal postal service shall not be liable –

- (a) as a common carrier, or
- (b) in respect of the breach of any customary obligation placed upon carriers of goods,

to any user of that universal postal service.

PART III  
OFFENCES

*General offences*

**Offences of interfering with the mail: postal operators.**

**16.** (1) A person who, whilst engaged in the business of a postal operator and contrary to his duty, opens, or procures or suffers to be opened, any postal packet in the course of transmission by post, or wilfully detains or delays, or procures or suffers to be detained or delayed, any such postal packet, shall be guilty of an offence:

Provided that nothing in this section shall extend to the opening, detaining or delaying of a postal packet returned for want of a true direction, or returned by reason that the person to whom it is directed has refused it, or has refused or neglected to pay the postage thereof, or that the packet cannot for any other reason be delivered, or to

the opening, detaining or delaying of a postal packet under the authority of this Law or in obedience to a warrant issued by Her Majesty's Procureur under section 2 of the Interception of Communications (Bailiwick of Guernsey) Law, 1997 [or under the authority of an interception warrant issued under section 5 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003].

(2) A person who is guilty of an offence under subsection (1) is 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 six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

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#### NOTES

*In section 16, the words in square brackets were inserted by the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003, section 69(1), Schedule 4, Part I, paragraph 6, with effect from 14th June, 2004.*

*The Interception of Communications (Bailiwick of Guernsey) Law, 1997 has since been repealed Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003, section 71(2), Schedule 4, Part II, paragraph 1, with effect from 14th June, 2004, subject to the transitional provisions in section 72 of the 2003 Law.*

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#### **Offences of interfering with the mail: general.**

17. A person who, without reasonable excuse –

- (a) intentionally delays or opens a postal packet or a mail-bag in the course of its transmission by post, or

- (b) intending to act to a person's detriment, opens a postal packet which he knows or reasonably suspects has been incorrectly delivered to him,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

**Dangerous, indecent or menacing, etc., postal packets.**

**18.** (1) A person shall not send, attempt to send or procure to be sent a postal packet which –

- (a) unless permitted by a postal operator, encloses any dangerous or noxious –
  - (i) article, or
  - (ii) living creature,
- (b) encloses any indecent, menacing or threatening –
  - (i) items, or
  - (ii) written communication, or
- (c) has on the packet or on the cover thereof any words, marks or designs which are menacing, threatening, grossly offensive, or of an indecent nature.

(2) If any person acts in contravention of subsection (1) he shall be guilty of an offence and liable upon summary conviction to imprisonment for a

period not exceeding three months, or to a fine not exceeding level 4 on the uniform scale, or to both.

(3) A person shall not be exempted from proceedings under this section if a postal packet to which this section applies is detained by or under the authority of an authorised person pursuant to section 19 and not delivered in due course of post.

**Postal packets sent in contravention of section 18.**

**19.** (1) An authorised person, who has reasonable cause to suspect that a postal packet has been posted or is being sent in contravention of any provision of section 18, may detain and open that postal packet in a universal postal service post office so as to inspect its contents.

(2) Where, following inspection in accordance with subsection (1), an authorised person believes that a postal packet has been posted or sent in contravention of any provision of section 18, that postal packet and its contents may be –

- (a) retained by an authorised person for use as evidence in any criminal proceedings,
- (b) returned by the postal operator to the sender of the postal packet (subject to the payment of any additional postage charges),
- (c) forwarded by the postal operator to the destination marked on the postal packet (subject to the payment of any additional postage charges), or
- (d) destroyed or otherwise disposed of as the postal



operator may determine.

(3) The powers of an authorised person prescribed in this section are in addition to and not substitution for any other powers given to that authorised person by virtue of any other enactment or law of the Bailiwick of Guernsey.

(4) For the purposes of this section, an "**authorised person**" means a person engaged in the business of a postal operator, a police officer or a States Revenue Officer.

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**NOTE**

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the reference in this section to the "States Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to a person authorised by the Committee for Home Affairs to act as an officer of Customs and Excise.*

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**Prohibition on affixing advertisements on certain letter boxes etc.**

20. A person who, without due authority –

- (a) affixes any advertisement, document, board or thing in or on, or
- (b) paints or in any way disfigures,

any universal postal service post office, universal postal service letter box or other property belonging to, or used by, a universal postal service provider in connection with the provision of a universal postal service shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Prohibition on misleading descriptions.**

**21.** (1) A person who, without the authority of the universal postal service provider concerned, places or maintains in or on any house, wall, door, window, box, post, pillar or other place belonging to him or under his control any words, letters or marks which signify or imply or may reasonably lead the public to believe that any house or place is a universal postal service post office, or that any box or receptacle is a universal postal service letter box, shall be guilty of an offence.

(2) A person who, without the authority of the universal postal service provider concerned –

- (a) places or maintains in or on any ship, vehicle, aircraft or premises belonging to him or under his control, or
- (b) uses in any document in relation to himself or any other person or in relation to any ship, vehicle, aircraft or premises,

any words, letters or marks which signify or imply, or may reasonably lead the public to believe –

- (i) that he or that other person is authorised by the universal postal service provider concerned to collect or convey postal packets in connection with the provision of a universal postal service, or
- (ii) that the ship, vehicle, aircraft or premises are used by the universal postal service provider concerned for the purpose of collecting or conveying postal packets in connection with the provision of a universal postal service,

shall be guilty of an offence.

(3) A person who, without reasonable excuse, fails to comply with a notice given to him by the universal postal service provider concerned requiring him –

- (a) to remove or efface any words, letters or marks which fall within subsection (1) or (2), or
- (b) to remove or close up any letter box belonging to him or under his control which has ceased to be a universal postal service letter box,

shall be guilty of an offence.

(4) A person who is guilty of an offence under any provision of this section is liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

**Obstruction of the business of a universal postal service provider.**

**22.** (1) A person who, without reasonable excuse –

- (a) obstructs a person engaged in the business of a universal postal service provider in the execution of his duty in connection with the provision of a universal postal service, or
- (b) obstructs, while in any universal postal service post office or related premises, the course of the business of a universal postal service provider,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(2) A person who, without reasonable excuse, fails to leave a universal postal service post office or related premises when required to do so by a person –

- (a) who is engaged in the business of the universal postal service provider, and
- (b) who reasonably suspects him of committing an offence under subsection (1).

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(3) In this section "**related premises**" means any premises belonging to a universal postal service post office or used together with any such post office.

**Prohibition of imitation of stamps, envelopes, forms etc. of a universal postal service provider.**

**23.** A person who, without the consent of a universal postal service provider –

- (a) makes, issues or sends by post or otherwise any envelope, wrapper, card, form or paper in imitation of one issued by or under the authority of the universal postal service provider or any overseas postal administration, or having thereon any words, letters or

marks which signify or imply or may reasonably lead the recipient to believe that a postal packet bearing them is sent on Her Majesty's Service or on behalf of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark or using the postal services of the universal postal service provider,

- (b) makes on any envelope, wrapper, card, form or paper for the purpose of being issued or sent by post or otherwise, or otherwise used, any mark in imitation of or similar to or purporting to be any stamp or mark of any universal postal service provider or overseas postal administration or any words, letters or marks which signify or imply or may reasonably lead, the recipient thereof to believe that a postal packet bearing them is sent on Her Majesty's Service or on behalf of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark or using the postal services of the universal postal service provider, or
- (c) issues or sends by post or otherwise any envelope, wrapper, card, form or paper so marked,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

**Prohibition on fictitious stamps.**

**24.** (1) Except for such purposes and subject to such conditions as may be prescribed by the [Authority], a person who –

- (a) makes, knowingly utters, deals in or sells any fictitious

stamps,

- (b) has in his possession, unless he shows a lawful excuse, any fictitious stamps,
- (c) makes or, unless he shows a lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp, or
- (d) knowingly uses for the purposes of a postal operator any fictitious stamp,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the uniform scale.

(2) Any stamp, die, plate, instrument, or materials found in the possession of any person in contravention of subsection (1) may be seized and shall be forfeited.

(3) The importation into the Bailiwick of Guernsey of –

- (a) any facsimile, imitation or representation, whether on paper or otherwise, of any stamp for denoting any rate of postage, whether within the area of the Bailiwick of Guernsey or outside the Bailiwick of Guernsey, or
- (b) any die, plate, instrument or materials for making such a facsimile, imitation or representation,

is hereby prohibited.

(4) In this section the expression "**fictitious stamp**" means any facsimile, imitation or representation, whether on paper or otherwise, of any stamp for the time being authorised or required to be used for the purposes of a universal postal service provider or any stamp for denoting a current rate of postage of any country outside the Bailiwick of Guernsey.

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**NOTE**

*In section 24, the word "Authority" in square brackets, wherever occurring, was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012.*

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**Contraventions of directions under section 31.**

**25.** A licensee who contravenes any provision of a direction under section 31 shall, without prejudice to any remedy, penalty, right or action referred to in that section, 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 six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

*Offences relating to money orders*

**Issuing money orders with fraudulent intent.**

**26.** If any person engaged by a universal postal service provider grants or issues any money order with a fraudulent intent, he shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding seven years, or to a fine, or to both.

**Forgery and stealing of money orders.**

27. A money order shall be deemed to be a document authorising the payment of money and a valuable security for the purposes of the Theft (Bailiwick of Guernsey) Law, 1983<sup>d</sup>.

*Supplementary matters relating to offences*

**Offences by bodies corporate.**

28. (1) Where an offence under this Law committed by a body corporate 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.

**Aiding and abetting, etc.**

29. A person who aids, abets, counsels or procures the commission by another person of an offence under this Law shall be guilty of the like offence and may be proceeded against and punished accordingly.

**Defence of due diligence.**

30. 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

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<sup>d</sup> Ordres en Conseil Vol. XXVIII, p. 5; Order in Council I of 1991 and Order in Council IX of 1996.



diligence to avoid the commission of such an offence by himself and by any person under his control.

PART IV  
ENFORCEMENT

**Enforcement of licence conditions, directions, etc.**

**31.** (1) Where the [Authority] is satisfied that a licensee is or has been in contravention of –

- (a) any condition of a licence, or
- (b) any provision of, or any provision of a direction under, this Law or the Regulation Law,

[it] may give, and may publish, a direction under this section.

(2) A direction under this section –

- (a) shall require the licensee to whom it is given to do, or not to do, any thing specified in the direction, and
- (b) shall take effect –
  - (i) at such time (which may be immediately) as may be specified in the direction, or
  - (ii) if no time is so specified, at the earliest practicable time.

(3) Before giving a direction under this section to a licensee, the

[Authority] shall give to the licensee, and may publish, notice –

- (a) stating that [it] proposes to give a direction under this section to the licensee,
- (b) detailing the requirements of the proposed direction,
- (c) identifying –
  - (i) the condition of the licence, or
  - (ii) the provision of the direction, of this Law or of the Regulation Law,

in respect of which, in the opinion of the [Authority], the licensee is in contravention.

(4) Notice under subsection (3) stating that the [Authority] proposes to give a direction under this section to a licensee shall specify the time (not being less than 7 days from the date of the giving of the notice, except in cases of exceptional urgency, in which case as much notice as is reasonably practicable shall be given) within which written representations or objections in respect of the proposed direction may be made by the licensee or (where the notice is published) by any interested party; and the [Authority] shall –

- (a) before giving the direction, consider any representations or objections received within the relevant period from the licensee or (where the notice is published) from any interested party, and
- (b) having followed the procedure set out in subsection (3) and in this subsection, give the direction, or not give the

direction, and publish notice of the fact.

(5) Where a licensee contravenes any provision of a direction under this section, the [Authority] may, without prejudice to any criminal proceedings which may be instituted under section 25 in respect of the contravention –

- (a) enforce any remedy available to [it] under the licence held by or applicable to the licensee, including (subject to the provisions of section 32) any remedy of suspension or revocation of the licence or imposition of a financial penalty,
- (b) apply to the Court for an injunction in accordance with the provisions of section 6 of the Regulation Law.

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**NOTE**

*In section 31, the words "Authority" and "it" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012.*

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**Provisions as to revocation and suspension of licences and imposition of financial penalties.**

**32.** (1) Before suspending or revoking a licence or imposing a financial penalty pursuant to section 31(5)(a), the [Authority] shall serve on the licensee, and may publish, notice stating –

- (a) that [it] proposes to –
  - (i) suspend or revoke the licence, or

- (ii) impose a financial penalty of the amount stated in the notice, and
- (b) the reasons for the proposed suspension, revocation or imposition.

(2) Notice under subsection (1) stating that the [Authority] proposes to suspend or revoke a licence or impose a financial penalty shall specify the time (not being less than 7 days from the date of the giving of the notice, except in cases of exceptional urgency, in which case as much notice as is reasonably practicable shall be given) within which written representations or objections in respect of the proposed decision may be made by the licensee or (where the notice is published) by any interested party.

(3) Before making a decision as to whether or not to suspend or revoke a licence or impose a financial penalty, the [Authority] shall consider any representations or objections received within the relevant period under sub-section (2) from the licensee or (where the notice is published) from any interested party; and, having complied with this subsection, the [Authority] shall make [its] decision and shall serve on the licensee, and may publish, notice thereof.

(4) The [Authority] shall not suspend or revoke a licence or impose a financial penalty if satisfied that –

- (a) the licensee is taking or has taken all such steps as may be reasonably necessary to secure compliance with the direction under section 31,
- (b) the suspension or revocation of the licence or the imposition of the financial penalty would be inconsistent with the objectives set out in section 2 of

the Regulation Law or the provisions of any States' Directions, or

- (c) the contravention of the direction under section 31 is not, in [its] opinion, material.

(5) Where the [Authority] decides to suspend or revoke a licence or impose a financial penalty, an appeal against the decision shall lie to the [Royal Court] under and in accordance with the provisions of section 15 of the Regulation Law.

(6) In this Law the expression "**financial penalty**" means a penalty of such amount, not exceeding 10% of the turnover of the licensee upon whom the penalty is imposed, as the [Authority] may determine, having regard to –

- (a) the seriousness of the contravention in respect of which the penalty is imposed,
- (b) the extent to which the contravention was deliberate or reckless,
- (c) the objectives set out in section 2 of the Regulation Law, and
- (d) and the enforcement of the Regulation Law and this Law.

(7) A financial penalty shall, without prejudice to any other remedy in respect of any default in payment, be recoverable as a civil debt due to the [Authority].

(8) A financial penalty shall be paid into the Public Utilities Regulation Fund established under section 9(1) of the Regulation Law.

(9) Notice under subsection (3) stating that the [Authority] has decided to impose a financial penalty upon a licensee may provide for the penalty to be paid by instalments of such number and amounts and at such times as may be specified in the notice.

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**NOTES**

*In section 32,*

*the words "Authority", "it" and "its" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012;*

*the words in the second pair of square brackets in subsection (5) were substituted by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012, section 10, with effect from 1st June, 2012.*

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**Variation of financial penalties.**

**33.** (1) The [Authority] may, of [its] own motion or on the application of the licensee concerned, vary –

- (a) the amount of a financial penalty imposed upon a licensee, or
- (b) the number, amounts and times of the instalments by which the financial penalty is to be paid.

(2) The [Authority] shall, before –

- (a) making, of [its] own motion, a variation under

subsection (1), or

- (b) determining an application from a licensee for such a variation,

serve on the licensee, and may publish, notice stating the terms of the proposed variation or determination and the reasons therefore; and such a notice shall specify the time (not being less than 7 days from the date of the giving of the notice, except in cases of exceptional urgency, in which case as much notice as is reasonably practicable shall be given) within which written representations or objections in respect of the proposed variation or determination may be made by the licensee or (where the notice is published) by any interested party.

(3) Having served notice under subsection (2), the [Authority] shall consider any representations or objections received within the relevant period under subsection (2) from the licensee or (where the notice was published) from any interested party; and, having complied with this subsection, the [Authority] shall –

- (a) decide whether or not to make, of [its] own motion, the proposed variation under subsection (1), or, as the case may be,
- (b) determine the application from the licensee for such a variation,

and the [Authority] shall serve on the licensee, and may publish, notice of [its] decision or determination.

(4) An appeal shall lie to the [Royal Court] under and in accordance with the provisions of section 15 of the Regulation Law against a decision or determination of the [Authority] described in subsection (3).

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**NOTES**

*In section 33,*

*the words "Authority" and "its" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012;*

*the words in the first pair of square brackets in subsection (4) were substituted by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012, section 10, with effect from 1st June, 2012.*

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**Search warrants.**

**34.** (1) If, in Guernsey, the Bailiff, or in Alderney, the Chairman of the Court of Alderney, or in Sark, the Seneschal of Sark, is satisfied by information on oath –

- (a) that there are reasonable grounds for suspecting that an offence under this Law or the Regulation Law has been or is being committed, and
- (b) that evidence of the commission of the offence is to be found on any premises specified in the information,

he may grant a warrant authorising any person named in the warrant, with or without a police officer, to enter, at any time within one month from the date of the warrant, the premises specified in the information and to search the premises and examine and take copies of any documents or information, and examine and test any equipment or apparatus, found therein.

(2) Where under this section a person has a right to examine any document, information, equipment or apparatus on any premises, it shall be the duty



of any persons on the premises to give him such assistance as he may reasonably require in the examination and copying of the document or information or, as the case may be, in the examination and testing of the equipment or apparatus.

(3) A person who without reasonable excuse –

- (a) obstructs a person in the exercise of any power conferred on him under this section, or
- (b) fails or refuses to give to a person any assistance which he is, under this section, under a duty to give him,

shall be guilty of an offence and liable –

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

(4) Subject to the provisions of subsection (5), a person who discloses any document or information obtained by means of an exercise of powers conferred by this section shall be guilty of an offence and liable –

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

exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both.

(5) Subsection (4) does not prohibit the disclosure of any information or document –

- (a) for the purposes of facilitating the performance by the [Authority] of [its] functions under this Law or the Regulation Law,
- (b) with the consent of the person to whom the information or document relates and (if different) the person from whom it was obtained,
- (c) for the purposes of –
  - (i) the investigation, prevention or detection of crime, or
  - (ii) any criminal proceedings or a report of such proceedings,
- (d) for the purposes of any civil proceedings brought under or arising out of this Law or the Regulation Law or a report of such proceedings,
- (e) in pursuance of any international obligation to which the Bailiwick may from time to time be subject, or
- (f) in pursuance of an order of a court.

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**NOTES**

*In section 34, the words "Authority" and "its" in square brackets, wherever occurring, were substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012.*

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the reference herein to the Bailiff included a reference to the Deputy Bailiff.*

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**PART V**

**MISCELLANEOUS AND SUPPLEMENTARY**

*Conveyance of mail bags by ships*

**Outward bound ships.**

- 35.** (1) Every master of a ship outward bound shall –
- (a) receive on board his ship every mail bag tendered to him by a universal postal service provider, for conveyance, and
  - (b) having received the mail bag, shall deliver it without delay, on arriving at the port or place of his destination, as specified by the universal service provider.

(2) If the master of any ship fails to comply with this section he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the uniform scale.

**Carriage of parcels by ship.**

36. (1) In the case of any mechanically propelled ship which carries on regular communications between a port in the Bailiwick and any other port or place in the Bailiwick, a universal postal service provider may require the person by whom the ship is owned or worked to carry parcels or mail bags, which are to be conveyed or delivered pursuant to a universal postal service requirement, on that ship.

(2) The remuneration for any services rendered by a ship under this section shall be determined by agreement between the universal postal service provider and the person owning or working that ship or, in default of agreement, by the Court and any remuneration so determined shall be paid directly to that person.

*Postal packets in transit*

**Application of taxes, duties and impôts enactments.**

37. (1) Subject to the provisions of this section, the enactments for the time being in force in relation to taxes, duties and impôts shall apply in relation to goods contained in postal packets to which this section applies, which are brought into or sent out of the Bailiwick by post from or to any place outside the Bailiwick as they apply in relation to goods otherwise imported, exported or removed into or out of the Bailiwick from or to any such place.

- (2) The [Committee for Home Affairs] may make regulations for –
- (a) specifying the postal packets to which this section applies,
  - [(aa) specifying the meaning of the expression "goods" for the purposes of this section and section 38, and for the avoidance of doubt the definition may include anything

contained in a postal packet, including (without limitation) cash within the meaning for the time being given by the Cash Controls (Bailiwick of Guernsey) Law, 2007,]

- (b) making modifications or exceptions in the application of the enactments mentioned in subsection (1) to such packets [and such goods],
  - (c) enabling persons engaged in the business of a postal operator to perform for the purposes of those enactments and otherwise all or any of the duties of the importer, exporter or person removing the goods,
  - (d) carrying into effect any arrangement with the government or postal administration of any other country with respect to foreign postal packets,
  - (e) securing the observance[, implementation, administration and enforcement] of the enactments mentioned in subsection (1),
  - (f) without prejudice to any liability of any person under those enactments, [the creation, trial (summarily or on indictment) and punishment of offences].
- (3) Regulations of the [Committee for Home Affairs] under this

Law –

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

- (b) may contain such consequential, incidental, supplemental and transitional provisions as may appear to the [Committee for Home Affairs] to be necessary or expedient, and
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting of the States, the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of the new regulations.

(4) Any powers conferred upon the [Committee for Home Affairs] by this Law to make regulations may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exemptions, or in relation to 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 provisions for different cases or classes of cases, or different provisions for the same case or class of case for different purposes, or

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

(5) Taxes, duties and impôts charged on imported goods or other charges payable in respect of postal packets to which this section applies (whether payable to a postal operator or to any other foreign administration) may be recovered by the postal operator concerned as a civil debt due to him.

(6) In any proceedings for the recovery of any charges payable as mentioned in subsection (5), a certificate of the postal operator concerned of the amount of the charges shall be evidence of that fact.

(7) In this section "**foreign postal packet**" means any postal packet either posted in the Bailiwick and sent to a place outside the Bailiwick, or posted in a place outside the Bailiwick and sent to a place within the Bailiwick, or in transit through the Bailiwick to a place outside the Bailiwick.

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## NOTES

*In section 37,*

*the words "Committee for Home Affairs" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;<sup>1</sup>*

*paragraph (aa) of subsection (2) was inserted by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 2, with effect from 28th July, 2010;*

*the words in square brackets in paragraph (b), paragraph (e) and paragraph (f) of subsection (2) were, respectively, inserted, inserted and substituted by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, section 3, section 4 and section 5, with effect from 28th July, 2010.*

*The following Regulations have been made under section 37:*

*Post Office (Postal Packets) (Amendment) Regulations, 2010.*

*In accordance with the provisions of paragraph 2 of Schedule 1 to this Law, the following Ordinances remain in force and continue to have effect as if they were Regulations made by the Committee for Home Affairs under section 37:*

*Post Office (Postal Packets) Ordinance, 1973;*

*Post Office (Postal Packets) (Amendment) Ordinance, 1975;*

*Post Office (Postal Packets) (Amendment) Ordinance, 1983.*

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 1(5), with effect from 1st October, 2004, any reference in this enactment to "impôt" shall be construed as a reference to excise duty.*

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### **Power to detain.**

- 38.** (1) A postal operator may –
- (a) detain any postal packet if he suspects that it may contain relevant goods, and
  - (b) forward any packet so detained to the Chief Revenue Officer.
- (2) In this section "**relevant goods**" means –
- (a) any goods charged with any tax, duty or impôt which has not been paid or secured, or
  - (b) any goods in the course of importation, exportation or removal into or out of the Bailiwick of Guernsey contrary to any prohibition or restriction for the time being in force by virtue of any enactment.



(3) Subsection (1) is without prejudice to section 37.

(4) The Chief Revenue Officer may open and examine any postal packet forwarded to him under this section –

(a) in the presence of the person to whom the packet is addressed, or

(b) where the address on the packet is outside the Bailiwick of Guernsey, or where subsection (5) applies, in the absence of that person.

(5) This subsection applies where –

(a) the Chief Revenue Officer has –

(i) left at the address on the packet a notice requiring the attendance of the person concerned, or

(ii) forwarded such notice by post to that address, and

(b) the addressee fails to attend.

(6) If the Chief Revenue Officer finds any relevant goods on opening and examining a postal packet under this section, he may detain the packet and its contents for the purpose of taking any legal proceedings in relation to them.

(7) If the Chief Revenue Officer does not find any relevant goods on opening and examining a postal packet under this section, he shall –

- (a) deliver the packet to the addressee upon his paying any postage and other sums chargeable on it, or
- (b) if he is absent, forward the packet to him by post.

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**NOTES**

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 1(5), with effect from 1st October, 2004, any reference in this enactment to "impôt" shall be construed as a reference to excise duty.*

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the references in this section to the "Chief Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to the Chief Officer of Customs and Excise for the time being appointed by the Policy & Resources Committee and shall include any person acting by or under his authority.*

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*Postal orders*

**Money orders.**

**39.** (1) A universal postal service provider may, as part of a scheme made under section 10, make provision for the remission of small sums of money through its post offices by means of money orders and may demand and receive in respect of those money orders such rates of poundage as it may prescribe in such scheme.

- (2) Subject to the terms of a scheme made under section 10 –
  - (a) a universal postal service provider may repay the amount of any money order to the person to whom the order is issued, or his legal personal representatives,

whether the order remains in the possession of that person or not, and upon that repayment all liability on the part of the provider in respect of the money order shall, as against the payee of the money order and the holder thereof and every other person whomsoever, cease,

- (b) no interest shall be payable in respect of any money order, and
- (c) no action or other legal proceedings shall be instituted against a universal postal services provider or against any person engaged by a provider or any person whomsoever in respect of any compliance with an order under this section, or otherwise in relation thereto, or in respect of the payment of any money orders being refused or delayed by or on account of any accidental neglect, omission or mistake by or on the part of any person engaged by a provider, or for any other cause whatsoever, without fraud or wilful behaviour on the part of any person engaged by the provider.

**Special provisions as to postal orders.**

**40.** Any person acting as a banker in the Bailiwick who, in collecting in that capacity for any principal, has received payment or been allowed by a universal postal service provider an account in respect of any postal order or of any document purporting to be a postal order, shall not incur liability to anyone except that principal by reason of having received the payment or allowance or having held or presented the order or document for payment; but this subsection shall not relieve any principal for whom any such order or document has been so held or presented of any liability in respect of his possession of the order or document or of the proceeds thereof.

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**NOTES**

*In accordance with the provisions of paragraph 2 of Schedule 1 to this Law, the following Ordinances remain in force and continue to have effect:*

*Post Office (Postal Order) Ordinance, 1969;*  
*Post Office (Postal Order) (Amendment) Ordinance, 1983.*

*The following Order has effect as if made under section 40:*

*Post Office (Postal Order) (Amendment) Order, 1997.*

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**Arrangements with other countries as to money orders.**

41. Where an arrangement is made with a government of any other country or an overseas postal administration for the transmission of small sums through a universal postal services provider post office and the postal administration of the other country by means of money orders, sections 26, 27 and 29 shall, so far as is consistent with the tenor thereof, and subject to any modifications prescribed in any scheme made under section 10, apply in like manner as if an order issued in pursuance of the arrangement, whether by a person engaged by a universal postal service provider or by an officer of the other postal administration, were a money order within the meaning of those sections:

Provided that –

- (a) any order relating to any money orders issued in pursuance of any such arrangements as aforesaid may differ from the provisions of any scheme made under section 10 and relating to any other money orders, and
- (b) any orders issued in pursuance of any such arrangements as aforesaid may be of such amounts and in such form and subject to such conditions respecting

*Consolidated text*

poundage, commission, the periods during which they are payable, and other matters, as may be prescribed in a scheme made under section 10.

*Evidential provisions*

**Evidence of amount of postage etc.**

42. (1) The official mark of –
- (a) a universal postal service provider in connection with the provision of a universal postal service, or
  - (b) an overseas postal administration,

of any sum on any postal packet as due in respect of that packet shall in any court in the Bailiwick be sufficient proof of the liability of the packet to the sum so marked unless the contrary is shown.

(2) Subsections (3) to (5) apply in relation to any legal proceedings for the recovery of postage or other sums due in respect of postal packets (referred to in those subsections as "**recovery proceedings**").

(3) In recovery proceedings, the production of the packet concerned with a stamp or other endorsement on it of a universal postal service provider (and made in connection with the provision of a universal postal service) or of an overseas postal administration indicating that the packet –

- (a) has been refused or rejected,
- (b) cannot for any other reason be delivered,

shall, unless the contrary is shown, be sufficient proof of the fact indicated.

(4) In recovery proceedings, a certificate of a universal postal service provider that any mark, stamp or endorsement is such a mark, stamp or endorsement as is mentioned in subsection (1) or (3) shall, unless the contrary is shown, be sufficient proof of that fact.

(5) In recovery proceedings, the person from whom the packet concerned purports to have come shall, unless the contrary is shown, be taken to be the sender of the packet.

**Evidence of an article being a postal packet.**

43. On the prosecution of an offence under this Law (whether summarily or on indictment), evidence that any article is in the course of transmission, or has been accepted by a postal operator for transmission, shall be sufficient evidence that the article is a postal packet.

**Certificate in relation to universal postal service letter box.**

44. A certificate given by or on behalf of a universal postal service provider to the effect that any box or receptacle is or was provided by the provider concerned for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission in connection with the provision of a universal postal service, shall, unless the contrary is shown, be sufficient proof in any legal proceedings of the facts stated.

**Interpretation.**

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

[ "**Authority**" means the Guernsey Competition and Regulatory Authority established by section 1 of the Guernsey Competition and Regulatory Authority Ordinance, 2012,]

**"Bailiwick"** means the Bailiwick of Guernsey,

**"banker"** includes a body of persons, whether incorporated or not, who carry on the business of banking,

**"bill of exchange"** has the same meaning as in the Bills of Exchange (Guernsey) Law, 1958<sup>e</sup>,

**"[Committee for Home Affairs]"** means the [Committee for Home Affairs] as constituted by Resolution of the States,

**"[Committee for Economic Development]"** means the [Committee for Economic Development] as constituted by Resolution of the States,

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

**"cheque"** has the same meaning as in the Bills of Exchange (Guernsey) Law, 1958, as amended,

**"class licence"** means a licence granted by the [Authority] under Part I of this Law authorising –

- (a) all persons, or
- (b) all persons who are of a particular class defined by the [Authority] for the purposes of the licence,

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<sup>e</sup> Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84 and XI of 1993.

to provide postal services of such a class or description, or both; and for the purposes of such a licence the definition of a class of persons may be framed by reference to any circumstances or criteria whatsoever,

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

**"Court"** means the Royal Court sitting as an Ordinary Court,

[ **"customs and excise Laws"** means those provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 and any other enactment for the time being in force relating to customs or, as the case may be, excise,]

[ ...]

**"document"** includes information recorded in any form (including, without limitation, in an electronic communication) 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"** has the meaning given by section 22(1) of the Regulation Law,

[ **"enactments in relation to taxes, duties and impôts"** includes, for the avoidance of doubt, the customs and excise Laws, and related expressions shall be construed accordingly,]

**"financial penalty"** has the meaning given by section 32(6),



**"individual licence"** means a licence granted by the [Authority] under Part I of this Law authorising the person to whom the licence was granted to provide postal services of such a class or description specified in the licence, or both,

**"letter"** means any communication in written form on any kind of physical medium to be conveyed and delivered to the address indicated by the sender on the item or on its wrapping (excluding any book, catalogue, newspaper or periodical),

**"licence"** means an individual licence or a class licence,

**"licensee"** means a person –

- (a) to whom an individual licence has been granted, or
- (b) who is authorised by a class licence to provide postal services of such a class or description specified in the licence, or both,

and cognate expressions shall be construed accordingly,

**"mail-bag"** includes any form of container or covering in which postal packets in the course of transmission by post are enclosed by a postal operator in the Bailiwick of Guernsey, or an overseas postal administration for the purpose of conveyance by post, whether or not it contains any such packets,

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

**"overseas postal administration"** means the postal administration of

a country or territory other than the Bailiwick,

**"police officer"** means a member of the salaried police force of the Island of Guernsey and –

- (a) in relation to Guernsey, Herm and Jethou, and within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,
- (b) in relation to Alderney, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed [or deemed to be appointed pursuant to the provisions of an Ordinance made under section 46A] of the Government of Alderney Law, 1987<sup>f</sup>, and
- (c) in relation to Sark, the Constable and the Vingtenier,

**"post office"** includes any house, building, room, vehicle or place used for the purposes of a postal operator,

**"post office letter box"** includes any pillar box, wall box, or other box or receptacle provided by a postal operator for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission by post,

**"postal operator"** means a person who provides postal services,

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<sup>f</sup> Ordres en Conseil Vol. XXX, p. 37; section 15 has been repealed and replaced (from a date to be appointed) by No. I of 2000.

**"postal order"** has the meaning given by section 13 of the Post Office (Postal Orders) Order, 1993<sup>g</sup> and includes a money order prescribed in a section 10 scheme,

**"postal packet"** means a letter, parcel, packet or other article capable of transmission by post,

**"postal services"** means the service of conveying postal packets from one place to another, the incidental services of receiving, collecting and delivering such packets and any other service which relates to such services,

**"public holiday"** has the same meaning as in the Bills of Exchange (Guernsey) Law, 1958,

**"publish"**, in relation to a document, means –

- (a) publication in La Gazette Officielle, or
- (b) where the [Authority] thinks fit, publication of a notice in La Gazette Officielle of the availability of the document –
  - (i) on the official website of the [Authority],
  - (ii) otherwise from the offices of the [Authority],

and cognate expressions shall be construed accordingly,

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<sup>g</sup> GSI 1993 No. 7.

**"registered post service"** means a service which provides for the registration of postal packets and for the payment of compensation for any loss or damage,

**"Regulation Law"** means the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001,

**"relevant market"** means any discrete market for postal services which is defined by the [Authority] from time to time by reference to factors that may include products, services, territorial extent, universal service or such other economic factors as may appear to the [Authority] to be appropriate,

[ ...]

**"Royal Court"** means the Royal Court of Guernsey,

**"Schedule 1"** means Schedule 1 to this Law,

**"Schedule 2"** means Schedule 2 to this Law,

**"sender"**, in relation to any letter or other communication, means the person whose communication it is,

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

**"States' Directions"** means directions given to the [Authority] by Resolution of the States under section 3(1)[, or by Ordinance of the States under section 3(1A),] of the Regulation Law,

**"States Post Office Board"** means the States Post Office Board as

constituted by the Post Office (Guernsey) Law, 1969<sup>h</sup>,

**"States Revenue Officer"** has the same meaning as in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>i</sup>,

**"turnover"**, in relation to a licensee or other person, has the meaning for the time being given by regulations of the States [Policy & Resources Committee]; and for the purposes hereof the provisions of section 23 of the Regulation Law shall apply to such regulations as those provisions apply to rules under that Law,

**"universal postal service"** means postal services the scope of which are specified by States' Directions under section 3(1)(c) of the Regulation Law and which are 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 postal service provider"** means a licensee providing a universal postal service,

**"universal postal service letter box"** means any box, receptacle or other facility provided for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission in connection with the provision of a universal postal service,

**"universal postal service post office"** includes any house, building, room, vehicle or place used for the purposes of a universal service provider,

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<sup>h</sup> Ordres en Conseil Vol. XXII, p. 128; Vol. XXIII, p. 511; Vol. XXXI, p. 78; Vol. XXXII, p. 46 and Vol. XXXII, p. 151.

<sup>i</sup> Ordres en Conseil Vol. XXIII, p. 573 and XIII of 1991.

"users", in relation to postal services, includes users as addressees and potential users,

[ ...]

[ ...].

- (2) For the purposes of this Law –
- (a) a postal packet shall be taken to be in the course of transmission by post from the time of its being delivered to any post office or post office letter box to the time of its being delivered to the addressee,
  - (b) the delivery of a postal packet of any description to a letter carrier or other person authorised to receive postal packets of that description for the post or to a person engaged in the business of a postal operator to be dealt with in the course of that business shall be a delivery to a post office, and
  - (c) the delivery of a postal packet –
    - (i) at the premises to which it is addressed or redirected, unless they are a post office from which it is to be collected,
    - (ii) to any box or receptacle to which the occupier of those premises has agreed that postal packets addressed to persons at those premises may be

delivered, or

- (iii) to the addressee's agent or to any person considered to be authorised to receive the packet,

shall be delivery to the addressee.

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

(4) In this Law, except where the context otherwise requires –

- (a) a reference to a numbered section, or to a numbered or lettered subdivision thereof, is to a section or subdivision thereof so identified in this Law,
- (b) a reference in a section to a numbered or lettered subdivision is to the subdivision so identified in that section, and
- (c) any reference in this Law to an enactment (including an 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.

(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.

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

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**NOTES**

*In section 45,*

*the definition of the expression "Authority" in subsection (1) was inserted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 3(a), with effect from 1st June, 2012;*

*the words in the first and second pairs of square brackets in the definition of the expression "Committee for Home Affairs" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;<sup>2</sup>*

*the words in square brackets in the definition of the expression "Committee for Economic Development" 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>3</sup>*

*the definitions of the expressions "customs and excise Laws" and "enactments in relation to taxes, duties and impôts" in subsection (1) were inserted by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2010, respectively section 6(a) and section 6(b), with effect from 28th July, 2010;*

*the words omitted in square brackets immediately before the definition of the expression "document" in subsection (1) were repealed by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 3(b), with effect from 1st June, 2012;*

*the word "Authority" in square brackets, wherever occurring, was substituted by the Guernsey Competition and Regulatory Authority Ordinance, 2012, section 24, Schedule 5, Part III, paragraph 4, with effect from 1st June, 2012;*

*the words in square brackets in paragraph (b) of the definition of the expression "police officer" in subsection (1) were substituted by the Government of Alderney (Amendment) Law, 2000, section 2, with effect from 19th June, 2002;*

*first, the words omitted in square brackets immediately after the definition of the expression "relevant market" were repealed, second, the punctuation, words, figures, parentheses and letter in the second pair of square brackets in the definition of the expression "States' Directions" and, third, the words omitted in the two pairs of square brackets immediately after the definition of the expression "users" in subsection (1) were, respectively,*



*repealed, inserted and repealed by the Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012, section 11(a), section 11(b) and section 11(c), with effect from 1st June, 2012;*

*the words in square brackets in the definition of the expression "turnover" 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.<sup>4</sup>*

*The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.<sup>5</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>6</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 functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of section 5 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.<sup>7</sup>*

*The following Regulations have been made under section 45:*

*Post Office (Determination of Turnover for Penalties) Regulations, 2004.*

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, section 1(5), with effect from 1st October, 2004, any reference in this enactment to "impôt" shall be construed as a reference to excise duty.*

*In accordance with the provisions of the Police Force (Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.*

*In accordance with the provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) (Amendment) Law, 1991, section 12, with effect from 30th September, 1991, the reference in this section to the "States Revenue Officer" shall, save where the context otherwise requires, be deemed to be a reference to a person authorised by the Committee for Home Affairs to act as an officer of Customs and Excise.*

*The Government of Alderney Law, 1987 has since been repealed by the Government of Alderney Law, 2004, section 63(1), Schedule 3, with effect from 1st May, 2005, subject to the savings and transitional provisions in section 63(2) and section 64 of the 2004 Law.*

*The Post Office (Postal Orders) Order, 1993 has since been revoked by the Guernsey Post Ltd (Inland and Overseas Letter and Parcel Post) Scheme, 2018, section 17(b)(iv), with effect from 3rd April, 2018.*

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#### **Transitional provisions.**

46. The transitional provisions contained in Schedule 1 shall have effect.

#### **Repeals, amendments and savings.**

47. Subject to section 46, the enactments contained in Schedule 2 are repealed or amended as set out in that Schedule.

#### **Power to amend by Ordinance.**

48. (1) The States may by Ordinance amend any of the provisions of this Law.

(2) Every committee of the States shall, before recommending the States to agree to amend this Law by Ordinance made under subsection (1), 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 amendment; but a failure to comply with this subsection shall not invalidate

any Ordinance so made.

(3) The provisions of section 23 of the Regulation Law shall apply to an Ordinance under subsection (1) as they apply to an Ordinance under that Law.

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**NOTES**

*In section 48, the words in 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>8</sup>*

*The following Ordinances have been made under section 48:*

*Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2001;  
Post Office (Bailiwick of Guernsey) (Amendment) Ordinance, 2012;  
Guernsey Competition and Regulatory Authority Ordinance, 2012;  
Post Office (Bailiwick of Guernsey) Law, 2001 (Amendment)  
Ordinance, 2018.*

*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>9</sup>*

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**Citation and commencement.**

**49.** (1) This Law may be cited as the Post Office (Bailiwick of Guernsey) Law, 2001.

(2) This Law 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**

*Consolidated text*

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

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SCHEDULE 1

Section 46

TRANSITIONAL PROVISIONS

**Transitional provisions as to licences.**

1. (1) Subject to the following provisions of this paragraph, an authority –

- (a) granted by the States Post Office Board under section 4 of the Post Office (Guernsey) Law, 1969, and
- (b) in force on the date of the commencement of this Law,

shall be deemed, for the period specified in sub-paragraph (2), to be –

- (i) an individual licence granted by the Director General under Part I of this Law (in cases where the licence under the said section 4 was granted to a particular person), or
- (ii) a class licence so granted (in any other case),

and the provisions of this Law shall apply in respect of any such licence accordingly.

(2) Subject to the provisions of sub-paragraph (3), the period referred to in subparagraph (1) shall be –

- (a) subject to the provisions of article (b), a period of six months from the date of the commencement of this Law,
- (b) in cases where the licence under the said section 4

provides that it will expire at a time which falls before the end of that 6 month period, the period ending at that time.

(3) Within a period of two months from the date of the commencement of this Law, any person claiming to be the holder of an authority granted under section 4 of the Post Office (Guernsey) Law, 1969, being an authority granted to a particular person, shall –

- (a) give the Director General notice that he holds such a licence, and
- (b) make an application to the Director General for an individual licence in accordance with the provisions of this Law,

in default of which his licence shall expire at the end of the said period of two months.

**Transitional provisions as to Ordinances.**

2. (1) Notwithstanding the repeal or amendment by section 47 of the enactments set out in Schedule 2, the following Ordinances remain in force and continue to have effect, subject to any amendments indicated, as if they were regulations made by the [Committee for Home Affairs] under section 37 and may be amended or revoked by the [Committee for Home Affairs] accordingly –

- (a) the Post Office (Postal Packets) Ordinance, 1973<sup>k</sup>,  
subject to the following amendments in section 15(1) –

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<sup>k</sup> Recueil d'Ordonnances Tome XIX, p. 62; XX, p. 217 and XXII, p. 427.

- (i) in the definition of "the Board" for "States Post Office Board" substitute "States Board of Industry", and
- (ii) immediately after the definition of "letter packet" insert the following definition –

" **"an officer of the States Post Office Board"** includes a person engaged by a universal postal service provider,".

- (b) the Post Office (Postal Packets) (Amendment) Ordinance, 1975<sup>k</sup>,
- (c) the Post Office (Postal Packets) (Amendment) Ordinance, 1983<sup>l</sup>.

(2) Notwithstanding the repeal or amendment by section 47 of the enactments set out in Schedule 2, the following Ordinances remain in force and continue to have effect, subject to any amendments indicated and may be amended or repealed by the States, as if the repealed enactment under which they were made were still in force –

- (a) the Post Office (Postal Order) Ordinance, 1969<sup>m</sup>, subject to the following amendments –
  - (i) in paragraph (1) of that part of the Schedule

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<sup>k</sup> Recueil d'Ordonnances Tome XX, p. 217.

<sup>l</sup> Recueil d'Ordonnances Tome XXII, p. 427.

<sup>m</sup> Recueil d'Ordonnances Tome XVI, p. 126 and XXII, p. 426.

headed "Adapted provisions" dealing with adaptations to section 4 of the Stamp Duties Management Act, 1891<sup>n</sup> (in subparagraph (b) referred to as "**the Act**") – "Penalty for unauthorised dealing in stamps etc.", after "officer of the States Post Office" insert "or a person engaged by a universal postal services provider" and

- (ii) in that part of the Schedule headed "Adapted provisions" dealing with adaptations to section 27 of the Act – "Definitions", after "States Post Office Board" insert "or a universal postal services provider",

- (b) the Post Office (Postal Order) (Amendment) Ordinance, 1983<sup>o</sup>.

**Transitional provisions as to Orders.**

3. (1) Notwithstanding the repeal or amendment by section 47 of the enactments set out in Schedule 2, the following Orders remain in force and continue to have effect, subject to any amendments indicated, as if they were provisions of a scheme made under section 10 and –

- (a) may be revoked or amended by a universal postal services provider accordingly, and
- (b) any charges fixed under those Orders shall have effect

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<sup>n</sup> An Act of Parliament (54 & 55 Vict c. 38).

<sup>o</sup> Recueil d'Ordonnances Tome XXII, p. 426.



as if fixed under schemes so made –

- (i) the Post Office (Inland Post) Order, 1993<sup>P</sup>,  
subject to the following amendment –

for "Board" wherever appearing in that Order  
substitute "universal postal services provider",

- (ii) the Post Office (Overseas Letter Post) Order,  
1993<sup>Q</sup>, subject to the following amendment –

for "Board" wherever appearing in that Order  
substitute "universal postal services provider",

- (iii) the Post Office (Overseas Parcel Post) Order,  
1993<sup>R</sup>, subject to the following amendment –

for "Board" wherever appearing in that Order  
substitute "universal postal services provider",

- (iv) the Post Office (Postal Orders) Order, 1993,  
subject to the following amendments –

for "Board" wherever appearing in that Order  
substitute "universal postal services provider",  
and

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**P** GSI 1993 No. 4.

**Q** GSI 1993 No. 5.

**R** GSI 1993 No. 6.

in section 13(1) in the definition of "proper officer of the States Post Office" after "post office" insert "or any person engaged by a universal postal service provider".

(2) Any statutory instrument made under an enactment repealed by this Law shall, notwithstanding the repeal, remain in force and continue to have effect and may be amended or revoked as if that repealed enactment were still in force, save that any power conferred on the States Post Office Board by the repealed enactment to amend or revoke a statutory instrument may be exercised after the date of the repeal by the [Committee for Economic Development].

(3) In this paragraph, "**statutory instrument**" means any Order or matter made, prescribed or authorised by the States Post Office Board pursuant to sections 4, 13, 14, 15, 16, 18, 20, 22, 28, 29, 30, 33, 50, 51, 52, 53 and 68 of the Post Office (Guernsey) Law, 1969, which does not remain in force and continue to have effect under paragraph 1 or sub-paragraph (1).

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## NOTES

*In Schedule 1,*

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

*the words in square brackets in paragraph 3(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>11</sup>*

*In accordance with the provisions of paragraph 3 of this Schedule, the following Order remains in force and continues to have effect:*

*Post Office (Money Order) (Repeals) Order, 1978.*

*The Post Office (Inland Post) Order, 1993 has since been revoked by the Guernsey Post Ltd (Inland and Overseas Letter and Parcel Post) Scheme, 2018, section 17(b)(i), with effect from 3rd April, 2018.*

*Consolidated text*

*The Post Office (Overseas Letter Post) Order, 1993 has since been revoked by the Guernsey Post Ltd (Inland and Overseas Letter and Parcel Post) Scheme, 2018, section 17(b)(ii), with effect from 3rd April, 2018.*

*The Post Office (Overseas Parcel Post) Order, 1993 has since been revoked by the Guernsey Post Ltd (Inland and Overseas Letter and Parcel Post) Scheme, 2018, section 17(b)(iii), with effect from 3rd April, 2018.*

*The Post Office (Postal Orders) Order, 1993 has since been revoked by the Guernsey Post Ltd (Inland and Overseas Letter and Parcel Post) Scheme, 2018, section 17(b)(iv), with effect from 3rd April, 2018.*

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SCHEDULE 2

Section 47

REPEAL AND AMENDMENT OF ENACTMENTS

PART I

REPEALS

1. The Post Office (Guernsey) Law, 1969.
2. The Post Office (Guernsey) Law, 1969 (Commencement) Ordinance, 1969<sup>s</sup>.
3. The Post Office (Amendment) (Guernsey) Law, 1972<sup>t</sup>.
4. The Post Office (Amendment) (Guernsey) Law, 1972 (Commencement) Ordinance, 1973<sup>u</sup>.
5. The Post Office (Amendment) (Bailiwick of Guernsey) Law, 1988<sup>v</sup>.
6. The Post Office (Amendment) (Bailiwick of Guernsey) Law, 1990<sup>w</sup>.
7. The Post Office (Amendment) (No. 2) (Bailiwick of Guernsey) Law, 1990<sup>x</sup>.

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<sup>s</sup> Recueil d'Ordonnances Tome XVI, p. 29.

<sup>t</sup> Ordres en Conseil Vol. XXIII, p. 511.

<sup>u</sup> Recueil d'Ordonnances Tome XIX, p. 60.

<sup>v</sup> Ordres en Conseil Vol. XXXI, p. 78.

<sup>w</sup> Ordres en Conseil Vol. XXXII, p.46.

<sup>x</sup> Ordres en Conseil Vol. XXXII, p. 151.

8. The Post Office Board (Chief Executive) Ordinance, 1995<sup>y</sup>.

PART II  
AMENDMENTS

9. In the Schedule to the Theft (Bailiwick of Guernsey) Law, 1983<sup>aa</sup>, the entry relating to the Post Office (Guernsey) Law, 1969 is repealed.

10. ...

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**NOTE**

*In Schedule 2, paragraph 10 amended the Interception of Communications (Bailiwick of Guernsey) Law, 1997, which Law has since been repealed by the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003, section 71(2), Schedule 4, Part II, paragraph 1, with effect from 14th June, 2004, subject to the transitional provisions in section 72 of the 2003 Law.*

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

<sup>2</sup> These words were previously substituted by the Machinery of Government

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<sup>y</sup> Ordinance No. III of 1995.

<sup>aa</sup> Ordres en Conseil Vol. XXVIII, p. 5.

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(Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(a), Schedule 2, paragraph 2(a), with effect from 6th May, 2004.

<sup>3</sup> 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.

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

<sup>5</sup> The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Administration and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(a), Schedule 2, paragraph 2(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

<sup>6</sup> The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Law 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.

<sup>7</sup> 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), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

<sup>8</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>9</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 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.

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

**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.