

Island of



Guernsey

## Ordinance of the States

**XXXVI**  
**2008**

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Made .....26th November, 2008

Coming into Operation .....26th November, 2008

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# **The Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 (Amendment) (No. 2) Ordinance, 2008**



**The Charities and Non Profit Organisations  
(Registration) (Guernsey) Law, 2008  
(Amendment) (No. 2) Ordinance, 2008**

THE STATES, in pursuance of their Resolution of the 26<sup>th</sup> November, 2008<sup>a</sup>, and in exercise of the powers conferred on them by section 11(1) of the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, as amended<sup>b</sup>, and all other relevant enabling powers, hereby order:-

**Amendment of Law of 2008.**

1. The Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008, as amended ("**the Law**"), is further amended as follows.

2. In section 1(5) of the Law for "paragraph 2(1)(a)(i)" substitute "paragraph 2(1)(a)".

3. In section 4(1)(a) of the Law for "any registered organisation" substitute "any registered or manumitted organisation".

4. In section 12(1) of the Law -

(a) in the definition of "Administrator" after "the Assistant Administrator" insert "and any other person or body to whom the Administrator, by instrument in writing, delegates his

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<sup>a</sup> Article I of Billet d'État No. XV of 2008.

<sup>b</sup> The Law was approved by the States on the 12<sup>th</sup> March, 2008 and amended by the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 (Amendment) Ordinance, 2008.

functions under this Law",

- (b) in the definition of "based in" for "or using business services in" substitute "or controlled in",
- (c) after the definition of "the Law of 1975" insert the following definition -

**"manumitted organisation"** means an organisation which is administered, controlled or operated by a person -

- (a) who holds or is deemed to hold a licence granted by the Guernsey Financial Services Commission under the regulatory Laws, and
- (b) who administers, controls or operates the organisation in the course of his regulated activities,"
- (d) in the definition of "non profit organisation" after "means any organisation established" insert "solely or principally",
- (e) after the definition of "registered organisation" insert the following definitions -

**"regulated activities"** means activities which can only lawfully be carried on under the authority of a licence granted by the Guernsey Financial Services Commission under the regulatory Laws,

**"regulatory Laws"** means -

- (a) the Protection of Investors (Bailiwick of Guernsey) Law, 1987,
- (b) the Banking Supervision (Bailiwick of Guernsey) Law, 1994,
- (c) the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000,
- (d) the Insurance Business (Bailiwick of Guernsey) Law, 2002,
- (e) the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002,".

**5.** For paragraph 1(2)(a) of the Schedule to the Law substitute the following -

- "(a) public inspection of that part of the Register on which details of registered organisations -
  - (i) which solicit or accept donations, funds and contributions from the public, or
  - (ii) which elect to be inscribed there,

are inscribed, and".

6. In paragraph 1(2)(b) of the Schedule to the Law for "in the Register" substitute "in that part of the Register".

7. For paragraph 2(1)(a) and (b) of the Schedule to the Law substitute the following -

"(a) the Island of Guernsey, Herm or Jethou with gross assets and funds of, or over, £10,000 or gross annual income of, or over, £5,000 and which is not a manumitted organisation, must,

(b) the Island of Guernsey, Herm or Jethou (other than an organisation referred to in item (a) above) or any other Island of the Bailiwick of Guernsey, may,".

8. In paragraph 8 of the Schedule to the Law -

(a) in the title after "registered" insert "and manumitted",

(b) in subparagraph (1) after "registered" insert "and manumitted",

(c) at the beginning of the text in subparagraph (1)(b) and (c) insert "in the case of a registered organisation,", and

(d) in subparagraph (3) after "registered" insert "or manumitted".

9. In paragraph 9(1) of the Schedule to the Law after "registered" insert

"or manumitted".

10. After paragraph 12 of the Schedule to the Law insert the following paragraphs -

**"Use of information by Administrator.**

13. (1) Subject to the provisions of subparagraph (2), no person -

- (a) who under or for the purposes of this Law receives information relating to the business or other affairs of any person,
- (b) who obtains any such information directly or indirectly from a person who has so received it,

shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was so obtained.

(2) Subparagraph (1) does not preclude -

- (a) the disclosure of -
  - (i) information which at the time of disclosure is or has already been made available to the public from other sources, or
  - (ii) information in the form of a summary

or collection of information so framed as not to enable information relating to any particular person to be ascertained from it,

- (b) the disclosure of information for the purpose of enabling or assisting the Administrator to discharge his functions,
- (c) where, in order to enable or assist him to discharge his functions conferred by or under this Law, the Administrator considers it necessary to seek advice from a qualified person on any matter of law, accountancy or valuation or any other matter requiring the exercise of professional skill, the disclosure by the Administrator to that person of such information as appears to the Administrator to be necessary to ensure that that person is properly informed as to the matters on which his advice is sought,
- (d) the disclosure of information for the purpose of enabling or assisting an authority exercising, in a place outside the Bailiwick, functions equivalent to those of the Administrator under this Law to exercise its functions,
- (e) the disclosure of information for the purposes of the investigation, prevention or detection of

crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings in the Bailiwick or elsewhere,

- (f) the disclosure of information for the purposes of enabling or assisting Her Majesty's Procureur to discharge his functions,
- (g) the disclosure of information in connection with any other proceedings arising out of this Law,
- (h) the disclosure of information to comply with an order of a court.

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

**Legal professional privilege, liens and duties of confidentiality.**

**14.** (1) Nothing in this Law compels the production or divulgence by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(2) Where a person claims a lien on a document, its production under this Law is without prejudice to his lien.

(3) A requirement imposed by or under this Law to provide any information or document has effect notwithstanding any obligation as to confidentiality or other restriction on the disclosure of information imposed by statute, contract or otherwise; and, accordingly, the obligation or restriction is not contravened by the making of a disclosure pursuant to such a requirement. "

**Interpretation.**

11. In this Ordinance "**the Law**" means the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008.

**Citation.**

12. This Ordinance may be cited as the Charities and Non Profit Organisations (Registration) (Guernsey) Law, 2008 (Amendment) (No. 2) Ordinance, 2008.

**Commencement.**

13. This Ordinance shall come into force on the 26<sup>th</sup> November, 2008.

S. M. D. ROSS,  
Her Majesty's Deputy Greffier



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