

Island of



Guernsey

## Ordinance of the States

**XI**  
**2010**

Made .....24th March, 2010

## **The Companies (Recognition of Auditors) Ordinance, 2010**

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**THE STATES**, in pursuance of their Resolutions of the 29<sup>th</sup> March, 2007<sup>a</sup> and the 1<sup>st</sup> November, 2007<sup>b</sup>, and in exercise of the powers conferred on them by sections 533 and 538 of the Companies (Guernsey) Law, 2008<sup>c</sup> and sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994<sup>d</sup> and all other powers enabling them in that behalf, hereby order:-

### **Amendment of Law - auditors.**

1. After section 274 of the Companies (Guernsey) Law, 2008 ("the Law") insert the following Part -

"PART XVIA  
REGULATION OF AUDITORS  
8<sup>th</sup> COMPANY LAW DIRECTIVE ON AUDIT (2006/43/EC)

### **Purposes of Part XVIA.**

**274A.** The purposes of this Part are -

- (a) to implement, in the Islands of Guernsey, Herm and Jethou, article 45 (and ancillary provisions) of Directive 2006/43/EC of the European Parliament and of the Council of the 17<sup>th</sup> May 2006 on statutory audits

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<sup>a</sup> Article XIV of Billet d'État No. XI of 2007.

<sup>b</sup> Articles XII and XIII of Billet d'État No. XXII of 2007.

<sup>c</sup> Order in Council No. VIII of 2008; Ordinance No. XXV of 2008.

<sup>d</sup> Ordres en Conseil Vol. XXXV(1), p. 65.

of annual accounts and consolidated accounts<sup>e</sup> (the "**Audit Directive**"), amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC,

- (b) to secure that only persons who are properly supervised and appropriately qualified may be, or may be appointed as, recognised auditors and to secure that audit work under this Part by such persons is carried out properly, with integrity and with a proper degree of independence.

**Register of Recognised Auditors.**

**274B.** (1) The Registrar shall establish and maintain a Register of Recognised Auditors in which there shall be entered all persons -

- (a) who under section 274E are auditors eligible to be entered on the Register, and
- (b) who have applied to be included on the Register and have paid the fee determined by regulations of the Department (under section 274D(2)).

Persons entered on the Register of Recognised Auditors are "**recognised auditors**" for the purposes of this Part and accordingly eligible for appointment as auditor of a market traded company.

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<sup>e</sup> OJ L 157, 9.6.2006, p. 87.

(2) The Register of Recognised Auditors shall state, in relation to any person entered on it -

- (a) his name and address,
- (b) in the case of a body -
  - (i) in relation to a body corporate, the name and address of each person who is a director of the body or holds any shares in it,
  - (ii) in relation to a partnership, the name and address of each partner, and
  - (iii) in relation to an unincorporated body other than a partnership, the name and address of each member of the management committee, or other similar governing body or (if there is none) of each officer of the unincorporated body with the functions of such a committee or body,

save that the Registrar may, in his discretion, decide that the Register shall only state the name and address of a person who falls within subparagraphs (i) to (iii) where he is resident in Guernsey,

- (c) the name of the recognised supervisory body the person is a member of, and

- (d) such other information as may be specified by the Registrar including, without limitation, any conditions imposed upon that person in accordance with this section or section 274C.

(3) The Register shall be kept in such form as the Registrar thinks fit and may (without limitation) be kept in electronic form.

(4) The Registrar shall make arrangements for -

- (a) public inspection of the Register, and
- (b) subject to payment of the fee determined by him, the supply of certified or uncertified copies or extracts of entries in the Register.

(5) The Department may by regulation make such provision -

- (a) in relation to the Register and the keeping and inspection thereof, and the matters to be entered in it, and
- (b) imposing such obligations on such persons,

as it thinks fit; and such regulations may amend this section.

(6) The Registrar may direct in writing that any requirements imposed by virtue of this section or any regulations under it are not to apply, in whole or in part, in relation to any particular persons or class or description of persons.

(7) Upon entering a person on the Register (and at any time thereafter) the Registrar may impose, and subsequently vary or rescind, such conditions in respect of the registration as he thinks fit.

**Annual renewal of registration.**

**274C.** (1) Each recognised auditor shall apply to renew his registration at the commencement of each calendar year, in such form as may be specified by the Registrar and by paying the fee determined by regulations of the Department, under section 274D(2).

(2) A recognised auditor who fails to apply to renew his registration in respect of any calendar year by the end of January in that year shall be struck off the Register, provided that the Registrar has given the recognised auditor 2 weeks' notice of the intention to strike the recognised auditor off.

(3) An application for renewal -

- (a) shall state that the recognised auditor confirms that the information provided in the original application form is still correct, or
- (b) if the information is not still correct, shall give full particulars of any change to that information,

and the Registrar may require any other information to be provided which, in his opinion, is relevant to determining whether the auditor is still eligible for entry on the Register of Recognised Auditors.

(4) Upon renewing a person's registration (and at any time thereafter) the Registrar may impose, and subsequently vary or rescind, such conditions in respect of the registration as he thinks fit

**Fees.**

**274D.** (1) The Registrar may charge –

- (a) a fee for initial registration, and
- (b) an annual fee for renewal,

which shall be paid at such time as the Registrar may direct.

(2) The level of fees charged under subsection (1) shall be determined by regulations of the Department and, where such fee is increased, the increase shall not take effect until 1 month after the date of the regulations.

**Auditors eligible to be recognised auditors.**

**274E.** An auditor is eligible to be entered on the Register of Recognised Auditors if –

- (a) he is a member of a recognised supervisory body, and
- (b) he has agreed to be bound by the rules of that body.

**Consequences of non-recognition.**

**274F.** (1) A person who is not a recognised auditor must not –

- (a) accept appointment or act as auditor of a market traded company, or

- (b) describe himself or hold himself out in any manner, or use any name, which indicates or may reasonably be understood to indicate (whether in English or any other language) that he is a recognised auditor.

(2) A recognised auditor -

- (a) who is or who at any time becomes ineligible to be entered on the Register of Recognised Auditors under section 274E, or
- (b) whose name is removed from the Register,

must immediately -

- (i) resign any office held by him as auditor of a market traded company (with immediate effect),
- (ii) give written notice to the company that he has resigned by reason of the application of paragraph (a) or (b), as the case may be, of this subsection, and
- (iii) where he has resigned by reason of the application of paragraph (a) of this subsection, give written notice of the fact to the Registrar, who shall remove his name from the Register of Recognised Auditors.

- (3) A person is guilty of an offence if he –
- (a) accepts appointment or acts as auditor of a market traded company in contravention of subsection (1)(a),
  - (b) describes himself or holds himself out in any manner, or uses any name, in contravention of subsection (1)(b),
  - (c) fails to resign any office held by him as auditor of a market traded company in contravention of subsection (2)(i), or
  - (d) fails to give written notice in contravention of subsection (2)(ii) or (iii).

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

- (a) that he did not know and had no reason to believe -
  - (i) in the case of an offence under subsection (3)(a) or (b), that he was not a recognised auditor, or
  - (ii) in the case of an offence under subsection (3)(c) or (d), that subsection (2)(a) or (b), as the case may be, applied to him, or

- (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (5) A person guilty of an offence under this section is liable -
- (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, or
  - (b) on conviction on indictment, to a fine.

**Audit must be signed off by responsible individual.**

**274G.** (1) Where a recognised auditor is a body, any auditor's report relating to the audit by the recognised auditor of a market traded company must be signed and dated by an individual (a "**responsible individual**") who is appointed to conduct audit work under this Part, and authorised to sign the report, for and on behalf of the recognised auditor.

- (2) The responsible individual must -
- (a) be an actual member of a recognised supervisory body,
  - (b) comply with the rules of that body,
  - (c) be certified by the recognised auditor as competent and experienced in the conduct of audit work under this Part, and

- (d) be authorised by the recognised auditor to conduct audit work under this Part for and on its behalf.

(3) The recognised auditor is responsible for the conduct of audit work under this Part undertaken by responsible individuals appointed by them.

**Recognised supervisory bodies.**

**274H.** (1) In this Part a "**recognised supervisory body**" means -

- (a) the Institute of Chartered Accountants in England and Wales,
- (b) the Institute of Chartered Accountants of Scotland,
- (c) the Association of Chartered Certified Accountants,
- (d) the Institute of Chartered Accountants in Ireland, or
- (e) any other body prescribed for the purposes of this Part by regulations of the Department; and the Department may so prescribe a body if it is declared by a recognition order, made or having effect as if made by the Secretary of State under Part 1 of Schedule 10 to the Companies Act 2006 and for the time being in force, to be a recognised supervisory body for the purposes of Part 42 of that Act.

(2) In this Part references to the members of a recognised supervisory body are to the persons who, whether or not members of the body, are subject to its rules in seeking appointment or acting as auditor of a market traded

company or who would be subject to its rules were they to seek such appointment or so to act.

(3) In this Part references to the "**rules**" of a recognised supervisory body are to the rules applicable to members of that supervisory body by virtue of regulations made by the Department under section 274I and include the recognised supervisory body's rules relating to the conduct, admission or expulsion of members.

**Regulations of Department.**

**274I.** (1) The Department may by regulation, after consultation with a recognised supervisory body or professional oversight body, issue or approve rules or guidance for the purposes of the regulation of recognised auditors in the conduct of audit work under this Part and in particular for the purpose of ensuring that a recognised auditor, when auditing a market traded company, is subject, in the Islands of Guernsey, Herm and Jethou, to a system of oversight, quality assurance, investigation and sanctions which is substantially the same as the system that would apply, in the United Kingdom, in relation to a statutory auditor in the conduct of statutory audit work.

(2) Regulations under subsection (1) may without limitation make provision -

(a) to ensure that a person eligible to be entered on the Register of Recognised Auditors is a fit and proper person,

(b) to prevent a person -

(i) who is not a recognised auditor, or

- (ii) where a recognised auditor is a body, who is not a member or employee of the body,  
  
from being able to exert influence over the manner in which audit work under this Part is conducted in circumstances in which that influence would be likely to affect the independence or integrity of that work,
- (c) to ensure that –
  - (i) audit work under this Part is carried out properly and with integrity, and
  - (ii) an auditor is not appointed in circumstances in which he has an interest likely to conflict with the proper conduct of audit work under this Part,
- (d) covering –
  - (i) the technical standards to be applied in audit work under this Part, and
  - (ii) the manner in which those standards are to be applied in practice,
- (e) to ensure that a recognised auditor continues to maintain an appropriate level of competence,

- (f) to ensure that an auditor who carries out audit work under this Part takes any steps required to enable the performance of the work to be monitored,
- (g) to ensure that regulations relating to –
  - (i) the grant and withdrawal of eligibility to be entered on the Register of Recognised Auditors, and
  - (ii) the discipline the body exercises over its members,are fair and reasonable and include adequate provision for appeals,
- (h) to ensure that an auditor must take reasonable steps to be able to meet claims arising out of audit work under this Part,
- (i) to ensure, if a professional oversight body carries out an investigation of the performance of a member of the body and decides, as a result of the investigation, to take disciplinary action against him, that that decision should be taken to be the decision of the body,
- (j) as to any other matter (including, without limitation, matters which in the United Kingdom would be required to be covered by the rules of a supervisory

body by or by virtue of Part 2 of Schedule 10 to the Companies Act 2006).

**Offences by non-recognised bodies.**

**274J.** (1) It is an offence for a person who or body which is not a recognised supervisory body -

- (a) within the meaning of section 274H, or
- (b) for the purposes of Part 42 of the Companies Act 2006,

to describe themselves or hold themselves out in any manner, or use any name, which indicates or may reasonably be understood to indicate (whether in English or any other language) that they are a recognised supervisory body.

(2) A person or body guilty of an offence under subsection (1) is liable -

- (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, or
- (b) on conviction on indictment, to a fine.

(3) In proceedings against a person or body for an offence under this section it is a defence for them to show that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

**Exemption from liability for damages.**

**274K.** (1) No person within subsection (2) is liable in damages for anything done or omitted in the discharge or purported discharge of functions to which this subsection applies.

(2) The persons within this subsection are -

- (a) any recognised supervisory body or professional oversight body,
- (b) any officer or employee of a recognised supervisory body or professional oversight body, and
- (c) any member of the governing body or any committee of a recognised supervisory body or professional oversight body.

(3) Subsection (1) applies to the functions of a recognised supervisory body or professional oversight body so far as relating to, or to matters arising out of, any of the following -

- (a) rules, practices, powers and arrangements of the body to which the requirements of Part 2 of Schedule 10 to the Companies Act 2006 apply,
- (b) the obligations with which paragraph 20 of that Schedule requires the body to comply,
- (c) any regulations made by the Department under this Part,

- (d) the functions conferred on the body by or by virtue of this Part.
- (4) Subsection (1) does not apply -
- (a) if the act or omission is shown to have been in bad faith, or
  - (b) so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful by virtue of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000 (acts of public authorities incompatible with Convention rights).

**Power of Registrar to require notification of certain matters.**

- 274L.** (1) The Registrar may require a recognised auditor -
- (a) to notify him immediately of the occurrence of such events as he may specify in writing and to give him such information in respect of those events as is so specified,
  - (b) to give him, at or within such times or in respect of such periods as he may specify in writing, such information as is so specified.
- (2) The notices and information required to be given must be such as the Registrar may reasonably require for the exercise of his functions under or for the purposes of this Part.

(3) The Registrar may require information given under this section to be given in such form and verified in such manner as he may specify.

(4) Any notice or information required to be given under this section must be given in writing unless the Registrar agrees otherwise.

(5) The Registrar may, by an instrument in writing, either generally or otherwise as specified in the instrument, arrange for any of his functions under this section, other than this power of delegation, to be exercised in his name by a recognised supervisory body or professional oversight body.

(6) A function exercised by a recognised supervisory body or professional oversight body pursuant to an arrangement made under subsection (5) is for all purposes exercised by the Registrar; and every decision taken or other thing done by the body pursuant to such an arrangement has the same effect as if taken or done by the Registrar.

(7) An arrangement made under subsection (5) for the exercise of a function by a delegate -

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

(b) does not prevent the exercise of the function by the Registrar while the arrangement subsists.

(8) The provisions of subsections (5), (6) and (7) are without prejudice to the provisions of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991<sup>f</sup>.

**Matters that must be notified to Registrar.**

**274M.** (1) A recognised supervisory body or professional oversight body must notify the Registrar of -

- (a) any withdrawal or (to the extent that it has knowledge thereof) loss of a notifiable person's eligibility to be entered on the Register of Recognised Auditors and the reasons for the withdrawal or (to the best of its knowledge) the loss, and
- (b) to the extent that it has knowledge thereof, any contravention by a notifiable person of rules of the body.

(2) A recognised supervisory body or professional oversight body must also notify the Registrar of any reasonable grounds it has for suspecting that a person has contravened the law of Guernsey or of the United Kingdom, or of any other EEA State or part of an EEA State, implementing the Audit Directive (including, without limitation, this Part).

(3) In this section "**notifiable person**" means a member of the recognised supervisory body in question.

(4) This section is in addition to section 274L.

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<sup>f</sup> Ordres en Conseil Vol. XXXIII, p. 478.

**Compliance orders.**

**274N.** (1) If at any time it appears to the Registrar that a recognised supervisory body has failed to comply with an obligation to which it is subject under or by virtue of this Part, he may make an application to the Court under this section.

(2) If on an application under this section the Court decides that the body has failed to comply with the obligation in question, it may, subject to such terms and conditions, and to such penalty, as it thinks just, order it to take such steps as the Court may direct for securing that the obligation is complied with.

(3) The Registrar may, by an instrument in writing, either generally or otherwise as specified in the instrument, arrange for any of his functions under this section, other than this power of delegation, so far as those functions apply in relation to a recognised supervisory body, to be exercised in his name by a professional oversight body.

(4) The provisions of section 274L(6) to (8) apply to an arrangement under subsection (3) as they apply to an arrangement under section 274L(5).

**Restriction on disclosure.**

**274O.** (1) This section applies to information (in whatever form) -

- (a) relating to the private affairs of an individual, or
- (b) relating to any particular business,

which is provided to a person or body to which this section applies in connection with the exercise of their functions under this Part.

(2) This section applies to -

- (a) a recognised supervisory body,
- (b) a professional oversight body,
- (c) the Department, and
- (d) the Registrar.

(3) No such information may, during the lifetime of the individual or so long as the business continues to be carried on, be disclosed without the consent of that individual or (as the case may be) the person for the time being carrying on that business.

(4) Subsection (3) 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 a person or body to which this section applies to discharge their functions conferred by or under this Law,
- (c) where, in order to enable or assist them to discharge their functions conferred by or under this Law, a person or body to which this section applies 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 them to that person of such information as appears to them 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 a person or body to which this section applies under this Law to exercise their 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 Guernsey or elsewhere,
- (f) the disclosure of information in connection with any

other proceedings arising out of this Law,

- (g) the disclosure of information to comply with an order of a court.

(5) Nothing in this section authorises the making of a disclosure in contravention of the Data Protection (Bailiwick of Guernsey) Law, 2001<sup>g</sup>.

(6) A person who discloses information in contravention of this section is guilty of an offence, unless -

- (a) he did not know, and had no reason to suspect, that the information had been provided as mentioned in subsection (1), or
- (b) he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(7) A person guilty of an offence under this section is liable -

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

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<sup>g</sup> Order in Council No. V of 2002.

**Refusal of registration or renewal.**

**274P.** (1) If, on receipt of the application for registration or renewal, the Registrar is not satisfied that the auditor is eligible for entry on the Register of Recognised Auditors he may -

- (a) require further information or clarification from the auditor including, without limitation, documentary proof of all the facts stated in the application, or
- (b) refuse the auditor's application for registration or renewal, as the case may be.

(2) If the Registrar exercises his powers under subsection (1)(a), and on receipt of further information he is still not satisfied that the auditor is eligible for entry on the Register of Recognised Auditors, he may refuse the application for registration or renewal, as the case may be.

**Removal of recognised auditors from the Register.**

**274Q.** (1) The Registrar shall remove the name of a recognised auditor from the Register of Recognised Auditors if -

- (a) he is informed by the relevant recognised supervisory body that the recognised auditor is not or is no longer-
  - (i) a member of the body, or
  - (ii) for any other reason, eligible to be entered on the Register of Recognised Auditors or to be appointed or to act as auditor of a market traded company,

- (b) he is otherwise satisfied that the recognised auditor is not or is no longer a member of the body or eligible to be so entered or appointed or so to act.

(2) The Registrar may also remove the name of a recognised auditor from the Register if he contravenes any requirement, condition or obligation imposed on him by or by virtue of this Part (including requirements and obligations imposed by rules of the relevant recognised supervisory body) or Part 42 of the Companies Act 2006.

(3) The Department may by regulation make such provision in relation to the removal of the names of auditors from the Register of Recognised Auditors, including the grounds for such removal and the matters the Registrar may take into account; and such regulations may amend this section.

**Notice of decisions of Registrar under this Part.**

**274R.** (1) If the Registrar -

- (a) refuses to enter a person's name on the Register of Recognised Auditors,
- (b) refuses to a renew a person's entry on the Register,
- (c) imposes or varies a condition in respect of a person's entry on the Register, or
- (d) removes a person's name from the Register,

he shall give that person a written notice of his decision and the reasons for it and of that person's right under section 274S to appeal.

(2) Nothing in subsection (1) requires the Registrar to disclose information the disclosure of which would be prejudicial to -

- (a) a criminal or regulatory investigation, whether in Guernsey or elsewhere,
- (b) co-operation or relations with any investigatory, regulatory or prosecuting authority, or
- (c) a third party,

but, if the Registrar decides pursuant to this subsection to withhold information which he considers relevant to the decision taken, he must so inform the person concerned by written notice and, in the event of an appeal under section 274S, subsection (2) of that section shall apply.

**Appeals against decisions of Registrar under this Part.**

**274S.** (1) A person aggrieved by a decision of the Registrar -

- (a) to refuse to enter, or renew the entry of, his name on the Register of Recognised Auditors,
- (b) to impose or vary a condition in respect of his entry on the Register,
- (c) to remove his name from the Register, or

- (d) to withhold information pursuant to section 274R(2),

may appeal against the decision to the Court by a summons served on the Registrar.

The summons must state the grounds and material facts on which the appellant relies and must be served within 28 days after the date of the Registrar's written notice referred to in section 274R(1).

(2) On an appeal under subsection (1)(d), the Court may examine any information the disclosure of which the Registrar considers would be prejudicial as set out in section 274R(2); but that information shall not be disclosed to the appellant or any person representing him unless the Court determines that the prejudice occasioned to the appellant by its non-disclosure would be disproportionate to any legitimate objective of preventing prejudice as set out in that section.

(3) The grounds of an appeal under this section are that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(4) The Registrar may, where an appeal under this section has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and on hearing the application the Court may -

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

The provisions of this subsection are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007<sup>h</sup>.

(5) On an appeal under this section the Court may -

- (a) set the decision of the Registrar aside and, if the Court considers it appropriate to do so, remit the matter to the Registrar with such directions as the Court thinks fit, or
- (b) confirm the decision, in whole or in part.

(6) On an appeal under this section against a decision of the Registrar the Court may, on the application of the appellant, and on such terms and conditions as the Court thinks just, suspend or modify the operation of the decision pending the determination of the appeal.

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<sup>h</sup> Order of the Royal Court No. IV of 2007.

(7) An appeal from a decision of the Court under this section lies to the Court of Appeal on a question of law.

(8) In this section "**the Court**" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats; and for the purposes of an appeal under this section the Court may appoint one or more assessors to assist it in the determination of any matter before it.

**False, deceptive or misleading statements.**

**274T.** (1) A person is guilty of an offence if -

- (a) for the purposes of or in connection with any application under this Part, or
- (b) in purported compliance with any requirement imposed on him by or by virtue of this Part,

he does any of the following -

- (i) he makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (ii) he recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,

- (iii) he produces or furnishes or causes or permits to be produced or furnished any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
  - (iv) he recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular.
- (2) A person guilty of an offence under this section is liable -
- (a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, imprisonment for a term not exceeding 3 months, or both,
  - (b) on conviction on indictment, to a fine, imprisonment for a term not exceeding 2 years, or both.

**Expenses of administering this Part.**

**274U.** The fees received by the Registrar under this Part may be paid over to any recognised supervisory body or professional oversight body to meet any costs, fees and expenditure incurred by them in the performance of their respective functions under this Part (including, without limitation, their functions arising in connection with the administration and enforcement of any regulations, rules or guidance issued or approved under section 274I).

**Power to make regulations.**

**274V.** (1) The Department may by regulation make such provision as it thinks fit for the purposes of carrying this Part into effect.

(2) Regulations under subsection (1) may, without limitation, confer functions, obligations and liabilities on recognised supervisory bodies, professional oversight bodies, recognised auditors and the Registrar; and regulations under this subsection may amend this Part.

(3) The provisions of this section are without prejudice to any other provision of this Law conferring power to enact regulations.

**Part XVIA not in derogation from other audit provisions.**

**274W.** The provisions of this Part are in addition to and not in derogation from the provisions of Part XVI.

**Interpretation of sections Part XVIA.**

**274X.** (1) In this Part -

"**Audit Directive**" : see section 274A,

"**audit work under this Part**" means the audit of a market traded company,

"**body**" includes a body corporate and an unincorporated body (including a partnership),

"**Companies Act 2006**" means the Companies Act 2006 (c. 46) of the United Kingdom,

**"market traded company"** means a company the transferable securities of which are admitted to trading on a regulated market, but does not include a company that is an issuer exclusively of debt securities admitted to trading on a regulated market the denomination per unit of which is at least €50,000 or, in case of debt securities denominated in another currency, equivalent at the date of issue to at least €50,000,

**"members of a recognised supervisory body"** : see section 274H(2),

**"partnership"** includes a limited partnership and a limited liability partnership,

**"professional oversight body"** means a body prescribed for the purposes of this Part by regulations of the Department, being a body designated by a delegation order under section 1252 of the Companies Act 2006 to which functions of the Secretary of State under Part 42 of that Act have been delegated<sup>i</sup>,

**"recognised auditors"** : see section 274B(1),

**"recognised supervisory body"** : see section 274H(1),

**"Register of Recognised Auditors"** : see section 274B(1),

**"regulated market"** has the same meaning as in Directive 2004/39/EC of the European Parliament and of the Council of the 21<sup>st</sup> April

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<sup>i</sup> See the Statutory Auditors (Delegation of Functions, etc) Order 2008 (United Kingdom S. I. 2008/496).

2004 on markets in financial instruments<sup>j</sup> amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, and includes any other market or exchange prescribed for the purposes of this Law by regulations of the Department,

**"responsible individual"** : see section 274G,

**"rules"** of a recognised supervisory body : see section 274H(3),

**"specified"** means specified by the Registrar and published on his website,

**"statutory audit work"** is statutory audit work within the meaning of Part 42 of the Companies Act 2006,

**"statutory auditor"** is a statutory auditor within the meaning of Part 42 of the Companies Act 2006,

**"transferable securities"** has the same meaning as in Directive 2004/39/EC of the European Parliament and of the Council of the 21<sup>st</sup> April 2004 on markets in financial instruments<sup>k</sup> amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC.

(2) Any reference in this Part to an enactment, Act of Parliament or Directive is a reference thereto as from time to time amended, re-enacted (with

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<sup>j</sup> OJ L 145, 30.4.2004, p. 1; see article 4.1(14).

<sup>k</sup> OJ L 145, 30.4.2004, p. 1; see article 4.1(18).

or without modification), extended or applied.".

**Amendment of Law - acquisition of own shares.**

2. In section 316(3) of the Law after "the Protection of Investors (Bailiwick of Guernsey) Law, 1987" insert "and includes any other investment exchange within the meaning of the said section 44(1) prescribed by regulations made by the Department".

**Citation.**

3. This Ordinance may be cited as the Companies (Recognition of Auditors) Ordinance, 2010.

**Commencement.**

4. This Ordinance shall come into force on the day appointed by regulations made by the Department; and different days may be appointed for different provisions.

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