



GUERNSEY STATUTORY INSTRUMENT

2008 No. 35

**The Companies (Financial Assistance)
Regulations, 2008**

Made

24th July 2008

Coming into operation

1st July, 2008

Laid before the States

, 2008

THE COMMERCE AND EMPLOYMENT DEPARTMENT, in exercise of the powers conferred on it by sections 333(b), 535 and 538 of the Companies (Guernsey) Law, 2008 and all other powers enabling it in that behalf, hereby makes the following regulations:-

Purpose of regulations.

1. The purpose of these regulations is to prescribe the transactions that are not to be treated as the giving of financial assistance for the purposes of section 333 of the Companies (Guernsey) Law, 2008 ("the Law").

Transactions which do not amount to the giving of financial assistance.

2. For the purposes of section 333 of the Law the following transactions, agreements or arrangements are not to be treated as the giving by a company of financial assistance, within the meaning of section 330 of the Law, for the acquisition of its own shares or shares in its holding company -

- (a) assistance given within the ordinary course of a company's business,

- (b) the making of any distribution within the meaning of section 301 of the Law lawfully made,
- (c) the provision by a company in good faith in the interests of the company or an associated company of assistance for the purpose of an employees' share scheme,
- (d) the making by a company of loans to persons (other than directors) employed in good faith by the company with a view to enabling those persons legally and/or beneficially to acquire fully paid shares in the company or an associated company,
- (e) an allotment of bonus shares,
- (f) anything done in pursuance of an order of the Court under Part VIII of the Law ("arrangements and reconstructions"),
- (g) assistance by the company for the purpose of enabling or facilitating transactions in shares in the company or an associated company between, and involving the acquisition of legal and/or beneficial ownership in those shares by -
 - (i) a bona fide employee or former employee of that company or an associated company, or

(ii) the spouse, civil partner, widow, widower, surviving civil partner, children or step-children of any such employee or former employee,

(h) assistance given where -

(i) the company's principal purpose in giving that assistance is not to give it for the purpose of any such acquisition, or

(ii) the giving of the assistance for that purpose is but an incidental part of some larger purpose of the company,

and the assistance is given in good faith in the interests of the company,

(i) assistance given where -

(i) the company's principal purpose in giving that assistance is not to reduce or discharge any liability incurred by a person for the purpose of the acquisition of shares in the company or an associated company, or

(ii) the reduction or discharge of any such liability is but an incidental part of some larger purpose of the company,

and the assistance is given in good faith in the interests of the company,

- (j) the payment of commissions or allowance of a discount on shares,
- (k) the payment of any dividend within the meaning of section 302 of the Law lawfully made.

Conditions as to making distribution or paying dividend.

3. For the avoidance of doubt nothing in these regulations authorises a company to make any distribution or pay any dividend in breach of the requirements of sections 303 or 304 of the Law.

Interpretation.

4. (1) In these regulations the "Law" means the Companies (Guernsey) Law, 2008 and, except where the context excludes, other expressions have the same meaning as in the Law.

(2) References in these regulations to an enactment are references thereto as from time to time amended, repealed and replaced (with or without modification), extended or applied.

(3) The Interpretation (Guernsey) Law, 1948¹ applies to the interpretation of these regulations.

Citation.

¹

Ordres en Conseil Vol. XIII, p. 355.

5. These regulations may be cited as the Companies (Financial Assistance) Regulations, 2008.

Commencement.

6. These regulations shall come into force on the 1st July, 2008.

Dated this 24th day of June, 2008



Deputy C.S. McNulty Bauer

Minister of the States Commerce and Employment Department

For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations prescribe transactions which do not amount to the giving by a company of financial assistance for the acquisition of its own shares or shares in its holding company within the meaning of the Companies (Guernsey Law, 2008).