

Island of



Guernsey

Ordinance of the States

**LI
2008**

Made10th December, 2008

The Insurance Business (Bailiwick of Guernsey) (Amendment) (No.2) Ordinance, 2008

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THE STATES, in pursuance of their Resolution of the 26th November, 2008^a, and in exercise of the powers conferred on them by section 85 of the Insurance Business (Bailiwick of Guernsey) Law, 2002^b and all other powers enabling them, hereby order:-

Amendment of the Insurance Business (Bailiwick of Guernsey) Law, 2002.

1. The Insurance Business (Bailiwick of Guernsey) Law, 2002, as amended, is further amended as follows.

2. In the arrangement of sections, immediately after the entry relating to section 84, insert the following subheading and entries -

"Disqualification orders against actuaries

84A. Disqualification orders against actuaries.

84B. List of disqualification orders.

84C. Right to make representations as to disqualification orders."

3. Immediately after section 84, insert the following subheading and sections -

"Disqualification orders against actuaries

^a Articles XX of Billet d'État No. XV of 2008.

^b No. XXI of 2002; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

Disqualification orders against actuaries.

84A. (1) If it appears to the Commission that a person who is or has been an actuary of a licensed insurer carrying on long term business –

- (a) has failed to comply with any duty imposed on him by or under the regulatory Laws; or
- (b) is for any other reason unfit to be an actuary of a licensed insurer carrying on long term business (whether by reason of lacking the necessary skills or resources to carry out effectively his responsibilities as actuary or otherwise);

or if for any other reason it is in the interests of the public or any class thereof to do so, the Commission may, subject to the following provisions of this section, make an order (a "**disqualification order**") disqualifying him from being the actuary of a licensed insurer carrying on long term business.

(2) The Commission may, on the application of the person named in a disqualification order or of its own motion, vary or revoke a disqualification order.

(3) An individual who performs or agrees to perform any function in breach of a disqualification order is guilty of an offence.

(4) A licensed insurer shall take all reasonable care

to ensure that none of his functions, in relation to carrying out long term business, is performed by a person who has been disqualified from performing that function by a disqualification order.

List of disqualification orders.

84B. (1) The Commission shall maintain a list of all persons to whom a disqualification order applies.

(2) The Commission shall make available to any person, on request and on payment of such charge (if any) as the Commission may reasonably demand to cover the cost of preparation, a copy of the list referred to in subsection (1).

(3) The Commission may publish -

- (a) the list referred to in subsection (1); and
- (b) the fact that a person has been named in a disqualification order or that a disqualification order has been varied or revoked.

(4) Any list or publication under this section may contain such information (if any) in respect of all or any of the persons named therein as the Commission may think desirable or expedient.

Right to make representations as to disqualification orders.

84C. (1) If the Commission proposes to make or vary a disqualification order against any person, it shall serve on him a notice in writing -

- (a) stating that the Commission is proposing to make or vary a disqualification order against him;
- (b) stating the terms of, and the grounds for, the proposed disqualification order or the variation thereof;
- (c) stating that he may, within a period of 28 days beginning on the date of the notice, make written or oral representations to the Commission in respect of the proposed disqualification order or variation thereof in such manner as the Commission may from time to time determine; and
- (d) giving particulars of the right of appeal which would be exercisable under this section if the Commission were to make or vary the disqualification order.

(2) The Commission shall consider any representations made in response to a notice served under subsection (1) before giving further consideration to the proposed disqualification order or variation thereof.

(3) The period of 28 days mentioned in subsection (1)(c) may be reduced in any case in which the Commission considers it necessary to do so in the interests of the public or any class thereof, or any particular persons, or the reputation of the Bailiwick as a finance centre.

(4) Where the Commission decides to make or vary a disqualification order against any person it shall serve on him notice in writing of the decision –

- (a) stating the terms of, and the grounds for, the disqualification order or the variation thereof; and
- (b) giving particulars of the right of appeal conferred by section 63."

4. In section 63(1) -

- (a) for subparagraph (m), substitute -
 - "(m) to refuse to vary or revoke any such order under section 28A(5);",
- (b) for subparagraph (n), substitute -
 - "(n) under section 84A, to make or vary
 - a disqualification order disqualifying a person from being an actuary of any licensed insurer or any particular class of licensed insurer;", and
- (c) insert the following subparagraphs -

"(o) to refuse to vary or revoke any such

order under section 84A(2); or

(p) being a decision of such description as the States may by Ordinance prescribe for the purposes of this section;".

5. In Schedule 5, immediately after the definition of "director", insert –
- ""**disqualification order**" has the meaning given in section 84A;".

Interpretation.

6. The Interpretation (Guernsey) Law, 1948^c shall apply to the interpretation of this Ordinance throughout the Bailiwick.

Citation.

7. This Ordinance may be cited as the Insurance Business (Bailiwick of Guernsey) (Amendment) (No. 2) Ordinance, 2008.

Extent.

8. This Ordinance shall have effect throughout the Bailiwick.

K. H. TOUGH,
Her Majesty's Greffier.

^c Ordres en Conseil Vol. XIII, p.355.

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