

Island of



Guernsey

Ordinance of the States

XXXI
2008

Made.....29th July, 2008

Laid before the States24th September, 2008

The Protection of Investors (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2008

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THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the power conferred on the States by section 42A(1) of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^a and in exercise of the powers conferred on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b and in pursuance of the States Resolutions of the 27th July, 2006^c and the 25th July 2007^d, hereby orders:-

Amendment of section 27 of Law of 1987.

1. (1) In section 27(7)(a) of the Law of 1987 for "38 or 38A" substitute "38(2)(c) or 38(6)".

(2) Immediately after section 27(7) of the Law of 1987, insert -

"(7A) A statement may not be used by virtue of subsection (7)(b) against a person unless -

(a) evidence relating to it is adduced, or

(b) a question relating to it is asked,

^a Ordres en Conseil Vol. XXX, p. 281; amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; Order in Council No. XIII of 1994; No. XII of 1995; No. II of 1997; No. XVII of 2002; No's XV and XXXII of 2003 and by No. ** of 2008. Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Ordinances X and XX of 1998; and the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^b Ordres en Conseil Vol. XIII, p. 288

^c Article XXII of Billet d'État No. XIII of 2006.

^d Articles IV and V of Billet d'État No. XIX of 2007.

by or on behalf of that person in the proceedings arising out of the prosecution."

Amendment of section 27E of Law of 1987.

2. (1) In section 27E(7)(a) of the Law of 1987 for "38 or 38A" substitute "38(2)(d)".

(2) Immediately after section 27E(7) of the Law of 1987, insert -

"(7A) A statement may not be used by virtue of subsection (7)(b) against a person unless -

(a) evidence relating to it is adduced, or

(b) a question relating to it is asked,

by or on behalf of that person in the proceedings arising out of the prosecution."

Amendment of section 38 of Law of 1987.

3. (1) Immediately after section 38(2)(c) of the Law of 1987, insert -

"or

(d) in purported compliance with a requirement under section 27E,".

Amendment of section 42A of Law of 1987.

4. (1) Section 42A of the Law of 1987 is amended as follows.

(2) For section 42A(1) substitute -

"(1) The States may by Ordinance -

- (a) amend Part I or II or section 35, 36, 38 or 39, where it appears to the States to be necessary or expedient to do so for the purpose of -
 - (i) enabling the Commission more effectively to carry out any of its functions,
 - (ii) enhancing or protecting the reputation or economic interests of the Bailiwick,
 - (iii) improving or enhancing the investigation, prevention or detection of crime,
 - (iv) facilitating the instigation of, or otherwise for the purposes of, any criminal proceedings,
 - (v) facilitating the detection, seizure and forfeiture of the proceeds of crime or assets intended for use in crime,
 - (vi) discharging any international obligation to which the Bailiwick is subject, or
 - (vii) assisting, in the interests of the public or otherwise, any authority which appears to the States to exercise in a place

outside the Bailiwick functions corresponding to any of the functions of the Commission, and

- (b) make such additional provision as they think fit for the purposes of carrying this Law into effect."

(3) Immediately before the words "create offences" in section 42A(3)(a), insert "subject to subsection (3A),".

(4) Immediately after section 42A(3) insert -

"(3A) The power conferred by subsection (3)(a) to create offences does not include power -

- (a) to provide for offences to be triable only on indictment,
- (b) to authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008, or
- (c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years."

Interpretation.

5. (1) In this Ordinance, "**the Law of 1987**" means the Protection of

Investors (Bailiwick of Guernsey) Law, 1987.

(2) The Interpretation (Guernsey) Law, 1948^e applies to the interpretation of this Ordinance throughout the Bailiwick.

Citation.

6. This Ordinance may be cited as the Protection of Investors (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2008.

Commencement.

7. This Ordinance shall come into force on the same day as section 42A of the Law of 1987 comes into force.

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

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

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