

Island of



Guernsey

## Ordinance of the States

**XV**  
**2012**

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Made .....30th May, 2012

Coming into Operation .....30th May, 2012

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### **The Regulation of Utilities (States' Directions) (Bailiwick of Guernsey) Ordinance, 2012**

## **The Regulation of Utilities (States' Directions) (Bailiwick of Guernsey) Ordinance, 2012**

**THE STATES**, in pursuance of their Resolution of the 30<sup>th</sup> September, 2011<sup>a</sup>, and in exercise of the powers conferred on them by sections 3(1A) and 23 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, as amended<sup>b</sup> and all other powers enabling them in that behalf, hereby order:-

### **States' Directions to Director General.**

1. The States, on the recommendation of the Commerce and Employment Department made after consultation with the Director General, by this Ordinance gives the Director General the directions set out in sections 2 and 3.

### **Principles for economic regulation.**

2. (1) The Director General shall follow the six principles for economic regulation set out in paragraph 5.11 of the report of the States Commerce and Employment Department entitled "Review of Utility Regulation" and dated the 8<sup>th</sup> July, 2011<sup>c</sup> ("**the report**") and take them into account in the performance of his functions and powers.

(2) The six principles for economic regulation are for ease of reference reproduced in the Schedule.

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<sup>a</sup> Article XIV of Billet d'État No. XV of 2011 (Volume 1).

<sup>b</sup> Order in Council No. XI of 2001; amended by Ordinance No. XXXIII of 2003; Ordinance No. III of 2007; Order in Council No. XXII of 2009; and the Guernsey Competition and Regulatory Authority Ordinance, 2012; section 3(1A) was inserted by Order in Council No. XXII of 2009.

<sup>c</sup> Article XIV of Billet d'État No. XV of 2011 (Volume 1).

**Memoranda of understanding with States' owned utilities.**

3. The Director General shall prepare, with Guernsey Post Limited and Guernsey Electricity Limited respectively, a Memorandum of Understanding setting out formally the approach, process, practice and procedure, objectives, deliverables and measurements of success for the future regulation of each company as described in paragraphs 5.14 and 5.15 of the report.

**Regard to be had to contents of Billet.**

4. The Director General shall, in complying with the directions set out in sections 2 and 3, and without limitation, have regard to paragraph 5 of the report ("principles for economic regulation – the role of the regulator").

**Interpretation.**

5. (1) In this Ordinance -

"**Director General**" means the holder of the Office of the Director General of Utility Regulation,

"**report**" : see section 2(1),

"**OUR**" means the Office of the Director General of Utility Regulation,

and other expressions shall be construed in accordance with the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, as amended.

(2) The Interpretation (Guernsey) Law, 1948<sup>d</sup> applies to the interpretation of this Law throughout the Bailiwick.

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<sup>d</sup> Ordres en Conseil Vol. XIII, p. 355.

**Extent.**

6. This Ordinance has effect throughout the Bailiwick.

**Citation.**

7. This Ordinance may be cited as the Regulation of Utilities (States' Directions) (Bailiwick of Guernsey) Ordinance, 2012.

**Commencement.**

8. This Ordinance shall come into force on the 30<sup>th</sup> May, 2012.

D.J. ROBILLIARD,  
Her Majesty's Deputy Greffier.

## SCHEDULE

Section 2(1)

## THE SIX PRINCIPLES FOR ECONOMIC REGULATION

(a) **Accountability.**

Independent regulation needs to take place within a framework of duties and polices set by the democratically accountable States of Deliberation.

Roles and responsibilities between the States of Guernsey and the OUR should be allocated in such a way as to ensure that regulatory decisions are taken by the body that has the legitimacy, expertise and capability to arbitrate between the required trade-offs.

Decision-making powers of the OUR should be, within the constraints imposed by the need to preserve commercial confidentiality, exercised transparently and subject to appropriate scrutiny and challenge.

(b) **Focus.**

The role of the OUR should be concentrated on protecting the interests of end users of infrastructure services by ensuring the operation of well-functioning and contestable markets where appropriate or by designing a system of incentives and penalties that replicate as far as possible the outcomes of competitive markets.

The OUR should have clearly defined, articulated and prioritised responsibilities focussed on outcomes rather than specified inputs or tools.

The OUR should have adequate discretion to choose the tools that best achieve these outcomes.

(c) **Predictability.**

The framework of economic regulation should provide a stable and objective environment enabling all those affected to anticipate the context for future decisions and to make long term investment decisions with confidence.

The framework of economic regulation should not unreasonably unravel past decisions, and should allow efficient and necessary investments to receive a reasonable return, subject to the normal risks inherent in markets.

(d) **Coherence.**

Regulatory frameworks should form a logical part of the States of Guernsey's broader policy context, consistent with established priorities.

Regulatory frameworks should enable cross-sector delivery of policy goals where appropriate.

(e) **Adaptability.**

The framework of economic regulation needs capacity to evolve to respond to changing circumstances and continue to be relevant and effective over time.

(f) **Efficiency.**

Policy interventions must be proportionate and cost-effective while decision making should be timely, and robust.

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Printed by Image Group, Caslon Court, Pitronnerie Road, St Peter Port, Guernsey GY1 3NE