

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2021

THE STATES POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred on the States by section 25 of, and paragraph 14 of Schedule 1 to, the Financial Services Commission (Bailiwick of Guernsey) Law, 1987^a, and all other powers enabling them in that behalf, and in exercise of the powers conferred on the Committee by Article 66A(1) of the Reform (Guernsey) Law, 1948^b, hereby orders:-

Amendment of Schedule 1 to the Law.

1. (1) In Schedule 1 to the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, after paragraph 12 (minutes) insert –

"Remote hearings, etc.

12A. (1) This paragraph applies when an officer or member is undertaking work in connection with deciding whether sanctions, proposed against an individual or other person, should be imposed, including, but not

^a Ordres en Conseil Vol. XXX, p. 243; amended by Ordres en Conseil Vol. XXXI, p. 278; Vol. XXXII, p. 471; Vol. XXV(1), p. 271; Vol. XXXVII, p. 24; Order in Council No. XVII of 2002; Nos. III of XXII of 2003; Nos. XIX, XXIII and XXIV of 2008; No. XIX of 2010; No. III of 2013; No. I of 2015; No. XIII of 2017; Ordinance No. XXXIII of 2003; Nos. XII, XX, XXXIV and XXIX of 2015; Nos. IX and XXII of 2016; Nos. III, XIX and XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 29 of 2009; and G.S.I. No. 49 of 2017.

^b Ordres en Conseil Vol. XIII, p. 288; Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, p. 84; Vol. XIX, p. 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, p. 164; Vol. XXXII, p. 41; Vol. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, pp 150 and 295; Order in Council No. XIII of 2003; No. III of 2004; Nos. II and XX of 2007; Nos. XIII and XXII of 2008; No. VII of 2010; No. II of 2012; Ordinance No. XXXIII of 2003, No. XXVI of 2008 and No. IX of 2016; the Reform (Guernsey) (Amendment) (No. 2 Law), 2019; and the Reform (Guernsey) (Amendment) Law, 2020.

limited to -

- (a) the publication of a public statement under section 11C of this Law,
- (b) the imposition of a discretionary financial penalty under section 11D of this Law, and
- (c) the imposition of a prohibition order under -
 - (i) section 34E of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^c,
 - (ii) section 17A of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000^d ("**the Fiduciaries Law**"),

^c Ordres en Conseil Vol. XXX, p. 281; amended by Ordres en Conseil Vol. XXX, p. 243; Vol. XXXII, p. 324; Vol. XXXV(1), p. 271; Vol. XXXVII, p. 264; Vol. XXXVII, p. 24; Order in Council No. XVII of 2002; Nos. XV and XXXII of 2003; Nos. XVIII and XX of 2008; No. XIII of 2010; Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Tome XXVIII, p. 51; Tome XXVIII, p. 87; Ordinance No. XXXIII of 2003; No. XXXI of 2008; No. VII of 2009; Nos. XII, XX and XXXIX of 2015; Nos. IX and XXIX of 2016; Nos. III and XXVII of 2017; Sark Ordinance No. X of 2017; Nos. XXVI and XXVII of 2018; G.S.I. No. 83 of 2010; and G.S.I. No. 50 of 2017.

^d Order in Council No. I of 2001; amended by Order in Council No. I of 2000; No. XIV of 2003; No. XVI of 2007; Nos. VIII and XXV of 2008; Nos. XIII and XIX of 2010; No. I of 2013; Ordinance No. XXXVII of 2001; No. XXXIII of 2003; No. VII of 2009; Nos. XII and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; Nos. XXVI and XXVII of 2018; G.S.I. No. 3 of 2018; G.S.I. No. 83 of 2010; G.S.I. No. 4 of 2013; G.S.I. No. 50 of 2017; G.S.I. No. 56 of 2017; and G.S.I. No. 72 of 2017.

- (iii) section 28A of the Insurance Business (Bailiwick of Guernsey) Law, 2002^e,
 - (iv) section 18A of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^f, and
 - (v) section 17A of the Banking Supervision (Bailiwick of Guernsey) Law, 1994^g, and
- (d) the service of a notice under paragraph (g) of section 3(1) of the Fiduciaries Law disapplying the exemption contained in that paragraph.

^e Order in Council No. XXI of 2002; amended by Order in Council No. I of 2000; No. XIII of 2010; Ordinance No. XXXIII of 2003; No. XII of 2008; Nos. VIII and XXXI of 2010; No. XXXVI of 2011; No. LV of 2014; Nos. XII and XXXIX of 2015; No. IX of 2016; No. III and XXVII of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 33 of 2004; G.S.I. No. 4 of 2008; G.S.I. No. 15 of 2010; G.S.I. No. 83 of 2010; G.S.I. No. 68 of 2014; G.S.I. No. 121 of 2015; and G.S.I. No. 50 of 2017.

^f Order in Council No. XXII of 2002; amended by Order in Council No. I of 2000; No. XIII of 2010; Ordinance No. XXXIII of 2003; No. XIII of 2008; No. IX of 2010; Nos. XII and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 2 of 2008; G.S.I. No. 16 of 2010; G.S.I. No. 83 of 2010; and G.S.I. No. 50 of 2017.

^g Ordres en Conseil Vol. XXXV(1), p. 271 of 2001; amended by Order in Council Nos. XVII and XXI of 2002; No. XVI of 2003; No. XVI of 2008; No. IV of 2009; Nos. XIII and XXI of 2010; Ordinance No. XXXIII of 2003; Nos. XII, XX and XXXIX of 2015; Nos. II and IX of 2016; No. XXVII of 2017; Alderney Ordinance No. III of 2017; Sark Ordinance No. X of 2017; No. XXVI of 2018; G.S.I. No. 3 of 2000; G.S.I. No. 1 of 2008; G.S.I. No. 35 of 2010; and G.S.I. No. 50 of 2017.

(2) An officer or member undertaking work described in subparagraph (1) may undertake some or all of that work outside the Bailiwick, including, but not limited to –

- (a) participation in committee meetings,
- (b) the consideration of representations,
- (c) the preparation of reports, Minutes to Notices, final decisions,
- (d) the acceptance of written representations, and
- (e) the holding of oral hearings.

(3) An oral hearing may be held by an officer or member who is outside the Bailiwick by telephone, live television link or any other means of telecommunications or electronic communications, and for the purposes of such a hearing, an officer or member, party or other person who is in communication with other persons at the hearing so that each person at the hearing can hear or read what is being said or communicated by each of the others, is deemed, subject to subparagraph (4), to be present at the oral hearing for all purposes.

(4) In the event that a means of communication referred to in subparagraph (3) fails or is corrupted, or the officer or member considers that confidentiality is compromised, the officer or member shall have the discretion at any time during the hearing to determine that a person who is affected by

that failure, corruption or compromise of confidentiality is no longer deemed to be present at the hearing.

(5) For the avoidance of doubt, a determination under paragraph (4) does not affect the validity of the proceedings of the hearing for any purpose prior to the making of that determination.

(6) For the purposes of subparagraph (2)(a), a "**committee**" includes a committee to which a function has been delegated under section 19(5) of this Law, and an advisory committee appointed under paragraph 10."

Extent.

2. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

3. This Ordinance may be cited as the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2021.

Commencement.

4. This Ordinance shall come into force on the date appointed by regulations made by the States of Guernsey Policy & Resources Committee.