

ORDINANCE

OF THE STATES OF DELIBERATION

ENTITLED

The Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* No. XII of 2015; as amended by the: Protection of Investors (Bailiwick of Guernsey) Law, 2020 (No. XVIII of 2020); Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 (No. XIX of 2021); Banking Supervision (Bailiwick of Guernsey) Law, 2020 (No. XX of 2021); Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 (No. ** of 2022). See also the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Ordinance has been repealed by the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2023 (No. ** 2023).

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ARRANGEMENT OF SECTIONS

1. Transfer of functions relating to fees regulations, etc.
2. Amendment of statutory references.
3. Savings and transitional provisions.
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(Made on 29th April, 2015.)

The Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015

THE STATES, in pursuance of their Resolution of the 24th September, 2014^a, and in exercise of the powers conferred on them by sections 1 and 3 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^b and all other powers enabling them in that behalf, hereby order: –

Transfer of functions relating to fees regulations, etc.

1. The functions of the Guernsey Financial Services Commission referred to in sections 4 and 5 relating to the enactment of regulations or orders which prescribe or specify fees or charges payable to the Commission and ancillary matters are transferred to and vested in –

- (a) the States of Guernsey Policy Council (in the case of the functions and enactments referred to in section 4),
and
- (b) the States of Guernsey Commerce and Employment Department (in the case of the functions and enactments referred to in section 5).

NOTES

In accordance with the provisions of the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, the States of Guernsey Policy Council

a Article VI of Billet d'État No. XX of 2014 (Vol. 1).

b Ordres en Conseil Vol. XXXIII, p. 478.

has since been replaced by the Policy & Resources Committee; and the functions, rights and liabilities of the Policy Council and of its Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

In accordance with the provisions of the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, the States of Guernsey Commerce and Employment Department has since been replaced by the Committee for Economic Development; and the functions, rights and liabilities of the Commerce and Employment Department and of its Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Amendment of statutory references.

2. For any reference in an enactment referred to in section 4 or 5 to the Guernsey Financial Services Commission, however expressed, there is substituted a reference to –

- (a) the States of Guernsey Policy Council (in the case of the functions referred to in section 4), and
- (b) the States of Guernsey Commerce and Employment Department (in the case of the functions referred to in section 5).

Savings and transitional provisions.

3. Anything done before the date of commencement of this Ordinance, or in the process of being done on that date, by or in relation to the Guernsey Financial Services Commission, shall have effect as if done or (as the case may be) may be continued by or in relation to –

- (a) the States of Guernsey Policy Council (in the case of the functions referred to in section 4), and
- (b) the States of Guernsey Commerce and Employment Department (in the case of the functions referred to in section 5).

NOTE

The following Regulations have been made having regard to, and in accordance with, section 3:

Amalgamation and Migration of Companies (Fees payable to the Guernsey Financial Services Commission) (Amendment) Regulations, 2015;
Financial Services Commission (Fees) Regulations, 2015;
Financial Services Commission (Limited Liability Partnerships) (Fees) Regulations, 2015;
Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) (Fees) Regulations, 2015.

Functions transferred to Policy Council.

4. The functions of the Guernsey Financial Services Commission which are transferred to the States of Guernsey Policy Council are those conferred by the following enactments –

- (a) section 13(b) of the Financial Services Commission

(Bailiwick of Guernsey) Law, 1987^c,

(b) ...

(c) ...

(d) ...

(e) section 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002^g,

(f) section 71 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^h,

(g) ...

NOTES

In section 4,

paragraph (b) was repealed by the Protection of Investors (Bailiwick of Guernsey) Law, 2020, section 80(p), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 81 of the 2020 Law;

paragraph (c) was repealed by the Banking Supervision (Bailiwick of Guernsey) Law, 2020, section 67(i), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 68 of the 2020 Law;

paragraph (d) was repealed by the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of

^c Ordres en Conseil Vol. XXX, p. 243.

^g Ordres en Conseil Vol. XLII (Vol. 2), p. 766.

^h Ordres en Conseil Vol. XLII (Vol. 2), p. 1022.

Guernsey) Law, 2020, section 62(i), with effect from 1st November, 2021, subject to the savings and transitional provisions in section 60 of the 2020 Law;

paragraph (g) was repealed by the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022, section 91, Schedule 2, paragraph 7, with effect from 1st July, 2023, subject to the savings and transitional provisions in section 93 of the 2022 Law.

Functions transferred to Commerce and Employment Department.

5. The functions of the Guernsey Financial Services Commission which are transferred to the States of Guernsey Commerce and Employment Department are those conferred by the following enactments -

- (a) sections 66(2)(i), 94(2)(e), 438(3)(b) and 469(3)(b) of the Companies (Guernsey) Law, 2008^j, and
- (b) sections 36(2)(c) and 45(2)(d) of the Limited Liability Partnerships (Guernsey) Law, 2013^k.

Agreement of Commission required.

6. (1) The States of Guernsey Policy Council (in the case of the functions referred to in section 4) and the States of Guernsey Commerce and Employment Department (in the case of the functions referred to in section 5) may not make regulations under the enactments specified respectively in those sections without the agreement of the Guernsey Financial Services Commission.

(2) Subsection 1 is without prejudice to any other formalities and procedural requirements which must be observed in respect of the making of the regulations in question.

^j Order in Council No. VIII of 2008.

^k Order in Council No. VI of 2014.

NOTE

The following Regulations have been made having regard to, and in accordance with, section 6:

*Amalgamation and Migration of Companies (Fees payable to the Guernsey Financial Services Commission) (Amendment) Regulations, 2015;
Financial Services Commission (Fees) Regulations, 2015;
Financial Services Commission (Limited Liability Partnerships) (Fees) Regulations, 2015;
Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) (Fees) Regulations, 2015.*

Interpretation.

7. (1) In this Ordinance –

"enactment" means any Law, Ordinance or subordinate legislation, and

"subordinate legislation" means any statutory instrument, regulation, rule, order, byelaw, scheme, code and other subordinate instrument of a legislative nature.

(2) The Interpretation (Guernsey) Law, 1948¹ applies to the interpretation of this Ordinance as it applies to the interpretation of an enactment in force in the Island of Guernsey.

(3) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, repealed and replaced, extended or applied.

¹ Ordres en Conseil Vol. XIII, p. 355.

NOTE

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Extent.

8. (1) This Ordinance, apart from section 5, has effect throughout the Bailiwick of Guernsey.

(2) Section 5 has effect in the Islands of Guernsey, Herm and Jethou.

Citation.

9. This Ordinance may be cited as the Guernsey Financial Services Commission (Transfer of Functions) (Fees) (Bailiwick of Guernsey) Ordinance, 2015.

Commencement.

10. This Ordinance shall come into force on the 1st May, 2015.