

The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2023

THE STATES, in pursuance of their Resolutions of the 5th July, 2023^a, and in exercise of the powers conferred on them by sections 53A and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999^b, section 20 of the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016^c and all other powers enabling them in that behalf, hereby order:-

Amendment of section 49AA of the Proceeds of Crime Law.

1. (1) Section 49AA of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 ("**the Proceeds of Crime Law**") is amended as follows.

(2) After subsection (3B) insert –

"(3C) Schedules 8 (Administrator of non-locally qualified legal professionals) and 9 (Functions of His Majesty's Greffier regarding Advocates) have effect."

Amendment of Schedule 6 to the Proceeds of Crime Law (estate agents).

2. (1) Schedule 6 to the Proceeds of Crime Law is amended as follows.

^a Article IX of Billet d'État No X of 2023.

^b Ordres en Conseil Vol. XXXIX, p. 137; this enactment has been amended.

^c Order in Council No. V of 2018; this enactment has been amended.

(2) In paragraph 9 (civil penalties), in subparagraph (1) after "(subject to the provisions of this paragraph and paragraph 13)" insert "-", renumber the remaining text as item A, at the end for "." substitute ",", and after item A insert –

"B. publish the name of the person or business on whom the penalty is to be imposed, the amount of the penalty, and any ancillary, incidental and supplementary information as the Administrator considers appropriate and proportionate (together, "**publicise the penalty**").".

(3) In paragraph 9(2), for the text up to item (a) substitute –

"(2) In deciding whether to impose a penalty under this paragraph and, if so –

(a) the amount thereof, and

(b) whether to publicise the penalty,

the Administrator must take into consideration the following factors –",

and renumber items (a) to (g) as (i) to (vii).

(4) In paragraph 9(4), after item (b) insert –

"(ba) whether the Administrator intends to publicise the penalty (and, if so, what ancillary, incidental and supplementary information, if any, the Administrator intends to publish), and".

(5) Paragraph 9(6) is repealed.

(6) At the end of subparagraph (3) of paragraph 11 (public statements), insert " to be appropriate and proportionate in the circumstances of the case, taking into account the purposes set out at paragraph 1(4)".

(7) After paragraph 11(5), insert –

"(5A) Where the Administrator proposes to make an addition, erasure or other alteration to a statement or content thereof under subparagraph (5), he or she must notify in writing the person in respect of whom the statement was published of –

(a) the text of the proposed addition, erasure or other alteration, and the reasons for the same,

(b) the date on which it is proposed, subject to paragraph 13, to publish the addition, erasure or other alteration which, unless the person concerned otherwise agrees, must not be less than 28 days after the date of the notice, and

(c) that person's right to make written

representations to the Administrator under paragraph 13(1).".

(8) In paragraph 13 (representations prior to civil penalty, etc.), in subparagraph (1) after "11(2)," insert "11(5A)," and for the text from and including "proposed financial penalty" to the end, substitute "proposed financial penalty (including publicising the penalty), public statement, addition, erasure or other alteration or conditions (as the case may be) within 28 days of the date of the notice.".

(9) In paragraph 13(2), in item (b)(i) after "impose the penalty," insert "publicise the penalty," and in item (b)(ii) after "impose a penalty in a lesser amount," insert "not publicise the penalty,".

(10) In paragraph 19 (disclosure and publication of confidential information), for subparagraph (1) substitute –

"(1) Any confidential information held by the Administrator shall not be disclosed or published by the Administrator or by any officer, servant or agent of the Administrator except –

(a) with the consent of every individual who, and every body which, can be identified from that information,

(b) to the persons and bodies set out in subparagraph (2), where the Administrator considers that disclosure necessary and proportionate –

- (i) for the purposes set out in paragraph 1(4), or
 - (ii) for the performance of the functions of the person or body,
- (c) to any authority appearing to the Administrator to exercise, in a place outside the Bailiwick, functions corresponding to the Administrator's, where the Administrator considers that disclosure necessary and proportionate –
 - (i) for the purposes set out in paragraph 1(4), or
 - (ii) for the performance of the functions of the authority,
- (d) (for the avoidance of doubt) in, or in response to, an application to the Court made under paragraph 6 or 8 (as the case may be),
- (e) as provided for under paragraphs 9 to 12, or
- (f) in accordance with any other enactment or any rule of law."

and in subparagraph (2), after item (b) insert –

"(ba) the Head of the Financial Intelligence Unit,".

(11) After paragraph 21 (service of notices and documents) insert –

"Legal professional privilege and protection from self-incrimination unaffected."

21A. For the avoidance of doubt, nothing in this Schedule limits a right to decline to produce or deliver documents or other information to the Administrator on the ground of –

(a) legal professional privilege, or

(b) any rule against self-incrimination."

(12) In the definition of "confidential information" in subparagraph (1) of paragraph 22 (interpretation), at the end of item (a) delete "and", at the end of item (b) insert "and", and after item (b) insert –

"(c) any other information from which an individual or body can be identified which is acquired by the Administrator in the course of carrying out his or her functions,".

Amendment of Schedule 7 to the Proceeds of Crime Law (accountants).

3. (1) Schedule 7 to the Proceeds of Crime Law is amended as follows.

(2) In paragraph 9 (civil penalties), in subparagraph (1) after "(subject to the provisions of this paragraph and paragraph 13)" insert "-", renumber

the remaining text as item A, at the end for "." substitute ",", and after item A insert –

"B. publish the name of the person or business on whom the penalty is to be imposed, the amount of the penalty, and any ancillary, incidental and supplementary information as the Administrator considers appropriate and proportionate (together, **"publicise the penalty"**).".

(3) In paragraph 9(2), for the text up to item (a) substitute –

"(2) In deciding whether to impose a penalty under this paragraph and, if so –

(a) the amount thereof, and

(b) whether to publicise the penalty,

the Administrator must take into consideration the following factors –",

and renumber subparagraphs (a) to (g) as (i) to (vii).

(4) In paragraph 9(4), after item (b) insert –

"(ba) whether the Administrator intends to publicise the penalty (and, if so, what ancillary,

incidental and supplementary information, if any, the Administrator intends to publish), and".

(5) Paragraph 9(6) is repealed.

(6) At the end of subparagraph (3) of paragraph 11 (public statements), insert " to be appropriate and proportionate in the circumstances of the case, taking into account the purposes set out at paragraph 1(4)".

(7) After paragraph 11(5), insert –

"(5A) Where the Administrator proposes to make an addition, erasure or other alteration to a statement or content thereof under subparagraph (5), he or she must notify in writing the person in respect of whom the statement was published of –

- (a) the text of the proposed addition, erasure or other alteration, and the reasons for the same,
- (b) the date on which it is proposed, subject to paragraph 13, to publish the addition, erasure or other alteration which, unless the person concerned otherwise agrees, must not be less than 28 days after the date of the notice, and
- (c) that person's right to make written representations to the Administrator under paragraph 13(1)."

(8) In paragraph 13 (representations prior to civil penalty, etc.), in subparagraph (1) after "11(2)" insert ", 11(5A)," and for the text from and including "proposed financial penalty" to the end, substitute "proposed financial penalty (including publicising the penalty), public statement, addition, erasure or other alteration or conditions (as the case may be) within 28 days of the date of the notice."

(9) In paragraph 13(2), in item (b)(i) after "impose the penalty," insert "publicise the penalty," and in item (b)(ii) after "impose a penalty in a lesser amount," insert "not publicise the penalty,".

(10) In paragraph 19 (disclosure and publication of confidential information), for subparagraph (1) substitute –

"(1) Any confidential information held by the Administrator shall not be disclosed or published by the Administrator or by any officer, servant or agent of the Administrator except –

(a) with the consent of every individual who, and every body which, can be identified from that information,

(b) to the persons and bodies set out in subparagraph (2), where the Administrator considers that disclosure necessary and proportionate –

(i) for the purposes set out in paragraph 1(4), or

- (ii) for the performance of the functions of the person or body,
- (c) to any authority appearing to the Administrator to exercise, in a place outside the Bailiwick, functions corresponding to the Administrator's, where the Administrator considers that disclosure necessary and proportionate –
 - (i) for the purposes set out in paragraph 1(4), or
 - (ii) for the performance of the functions of the authority,
- (d) (for the avoidance of doubt) in, or in response to, an application to the Court made under paragraph 6 or 8 (as the case may be),
- (e) as provided for under paragraphs 9 to 12, or
- (f) in accordance with any other enactment or any rule of law.",

and in subparagraph (2), after item (b) insert –

"(ba) the Head of the Financial Intelligence Unit,".

(11) After paragraph 23 (equivalent jurisdictions) insert –

"Legal professional privilege and protection from self-incrimination unaffected."

23A. For the avoidance of doubt, nothing in this Schedule limits a right to decline to produce or deliver documents or other information to the Administrator on the ground of –

(a) legal professional privilege, or

(b) any rule against self-incrimination."

(12) In the definition of "**confidential information**" in subparagraph (1) of paragraph 24 (interpretation), at the end of item (a) delete "and", at the end of item (b) insert "and", and after item (b) insert –

"(c) any other information from which an individual or body can be identified which is acquired by the Administrator in the course of carrying out his or her functions,".

Insertion of Schedules 8 and 9 into the Proceeds of Crime Law.

4. After Schedule 7, insert the Schedules 8 and 9 set out in the Schedule.

Amendment of the Bar Law.

5. (1) The Guernsey Bar (Bailiwick of Guernsey) Law, 2007^d is amended as follows.

^d Order in Council No. XI of 2008; this enactment has been amended.

(2) In section 17(2), at the end insert "and a referral by His Majesty's Greffier of an Advocate under the Proceeds of Crime Schedule".

(3) In section 21(2), after "the Proceeds of Crime Regulations" insert "or a referral by His Majesty's Greffier of an Advocate under the Proceeds of Crime Schedule".

(4) In section 25, after subsection (9) insert –

"(9A) The standard of proof when determining if the respondent is not a fit person to be an Advocate on a referral by His Majesty's Greffier of an Advocate under the Proceeds of Crime Schedule is the civil standard of proof (that is, the balance of probabilities).".

(5) In section 27(1), at the end of paragraph (a) delete "or", at the end of paragraph (b) for "." substitute ", or", and after paragraph (b) insert –

"(c) on a referral by His Majesty's Greffier of an Advocate under the Proceeds of Crime Schedule, if it is satisfied that, having regard to the conduct of the respondent it is appropriate to do so, by disposing of it –

(i) in one of the ways set out in paragraph (b)(i) to (v), or

(iii) by referring the referral to the Royal Court for consideration of fining the Advocate in a sum exceeding level 3 on

the uniform scale, suspending the Advocate for a period of three months or more, or disbarring the Advocate.".

(6) In section 27(3), after paragraph (b) insert –

"(ba) in the case of a referral by His Majesty's Greffier of an Advocate under the Proceeds of Crime Schedule, His Majesty's Greffier,".

(7) In section 27(4), after "section (1)(b)(vi)" insert "or (1)(c)".

(8) In section 41(1), after the definition of "Proceeds of Crime Regulations" insert –

""**Proceeds of Crime Schedule**" means Schedule 9 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,".

Extent.

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

Citation.

7. This Ordinance may be cited as the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) (No. 3) Ordinance, 2023.

Commencement.

8. This Ordinance shall come into force on the day appointed for this purpose by regulations made by the Committee; and different dates may be

appointed for different provisions and for different purposes.

SCHEDULE

Section 4

"SCHEDULE 8

Section 49AA(3C)

ADMINISTRATOR OF NON-LOCALLY QUALIFIED LEGAL PROFESSIONALS

The Administrator

Administrator of non-locally qualified legal professionals.

1. (1) There is established an office to be called the Administrator of non-locally qualified legal professionals.

(2) The holder of the office established under subparagraph (1) is referred to in this Schedule as the Administrator.

(3) The Administrator shall be the Registrar of Companies within the meaning of the Companies (Guernsey) Law, 2008, or such other person as the Committee may from time to time appoint by regulations; and a person appointed under regulations made under this subparagraph shall be appointed on such terms and conditions as may from time to time be agreed between the Committee and the person, provided that none of those terms and conditions is inconsistent with any provision of this Schedule.

(4) The purpose of establishing the office of Administrator of non-locally qualified legal professionals is –

- (a) to prevent unfit persons from being specified legal service persons, and
- (b) thereby to protect the interests of the people, and the reputation, of the Bailiwick,

and the Administrator must take account of these purposes when exercising his or her functions under this Schedule.

(5) In this Schedule, a "**specified legal services person**" means a person who is either a non-locally qualified legal professional, or a relevant person, within the meaning of this Schedule (and "**specified legal services persons**" shall be construed accordingly).

Functions of Administrator.

2. (1) In addition to functions conferred under other paragraphs of this Schedule, the functions of the Administrator are -

- (a) to communicate and co-operate with -
 - (i) any authority appearing to the Administrator to exercise, in a place outside the Bailiwick, functions corresponding to the Administrator's, and
 - (ii) such other persons as he or she thinks fit,

for the purposes of assisting such authorities and persons and promoting, and enhancing the

performance of, the Administrator's function, and such communication and co-operation may, without limitation, take the form of sharing any information which the Administrator may lawfully disclose, and

- (b) to exercise such other functions as may be assigned or transferred to him or her by or under this Law or any other enactment.

(2) Subparagraph (1)(a) does not authorise the Administrator to disclose confidential information other than in accordance with paragraph 19.

Ancillary powers of Administrator.

3. (1) The Administrator has power to do anything that appears to the Administrator to be necessary or expedient for the purpose of exercising his or her functions including, without limitation, power -

- (a) to require the production of such documents, accounts and information from such persons and within such periods and at such times and intervals as he or she thinks fit, including, but not limited to –
 - (i) specified legal services persons,
 - (ii) non-local legal services businesses,
 - (iii) the beneficial owners and legal owners of non-local legal services businesses,

- (iv) the directors of non-local legal services businesses,
 - (v) the partners of non-local legal services businesses,
 - (vi) the controllers of non-local legal services businesses, and
 - (vii) the managers of non-local legal services businesses,
- (b) subject to any provision to the contrary in this Law or any other enactment, to publish information, guidance, reports and other documents, and
- (c) to request advice from His Majesty's Procureur in relation to the exercise of any of his or her functions.

(2) The Administrator may also exercise the power at subparagraph (1)(a) for the purpose of enabling him or her (of the Administrator's own volition or at the request of the Committee or any other authority within the Bailiwick with functions in respect of financial crime) to obtain information relating to legal persons so that he or she can identify, assess and understand risks to the Bailiwick of money laundering, terrorist financing, the proliferation of weapons of mass destruction and all other forms of financial crime.

(3) For the avoidance of doubt (and without prejudice to any function conferred under any other enactment) the Administrator may –

- (a) seek and receive information from any person, and
- (b) take any such information into account in deciding whether and in what manner to exercise his or her functions.

Notification requirements

Initial notification requirement.

4. (1) Subject to subparagraph (2), a person ("P") or a person or body acting on P's behalf must notify the Administrator before P becomes a specified legal services person.

(2) Where, on the coming into force of this Schedule, a person ("P") is a specified legal services person, P, or a person or body acting on P's behalf, must notify the Administrator within 14 days of this Schedule coming into force.

(3) A person or body notifying the Administrator under subparagraph (1) or (2) must provide such information as the Administrator may specify in guidance that the Administrator causes to be published on the States of Guernsey website from time to time, including, but not limited to, information relating to the minimum standards test.

(4) For the purposes of this Schedule, "**information relating to the minimum standards test**" means information relating to whether P is a fit person to be a specified legal services person, including certification by the notifying person or body as to whether P has at any time –

- (a) been convicted of any offence, other than an offence which –
 - (i) is spent for the purposes of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002, or
 - (ii) falls within a category specified in regulations made for this purpose by the Committee,
- (b) engaged in any business practices which are, or which might reasonably be regarded as appearing to be, deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise reflect discredit on the person's method of conducting business or the person's suitability to provide non-local legal services, or
- (c) engaged in or been associated with any other business practices or otherwise conducted himself or herself in such a way as to cast doubt on his or her soundness of judgement.

(5) Without prejudice to the generality of subparagraph (4), and for the avoidance of doubt, when assessing whether a person is a fit person to be a specified legal services person for the purposes of this Schedule, regard shall be had to the person's probity, integrity, honesty and soundness of judgement.

(6) For the avoidance of doubt, a non-local legal services business employing P or otherwise paying P for professional services, or of which P is a

partner, may be a notifying person or body (as the case may be) for the purposes of this paragraph and paragraph 5, and this Schedule shall be construed accordingly.

Ongoing notification requirement.

5. A specified legal services person ("P"), or any other person or body who has notified the Administrator under paragraph 4(1) or (2) and who continues to act on behalf of P for the purposes of this Schedule, must –

(a) provide the Administrator with information relating to the minimum standards test in respect of P within 21 days (or such other period as the Administrator may reasonably specify in all the circumstances) of being requested to do so, and

(b) notify the Administrator within 21 days after –

(i) P is convicted of any offence, or

(ii) any other change in respect of information previously provided to the Administrator,

and provide the Administrator with such information relating to that offence or change (as the case may be) as the Administrator may require.

Enforcement – specified legal services person disqualification orders

Specified legal services person disqualification orders.

6. (1) Without prejudice to any other powers of the Administrator,

where in the opinion of the Administrator a person is not a fit person to be a specified legal services person, the Administrator may make and subsequently renew, on one or more occasions, an application to the Court for an order (a "**specified legal services person disqualification order**") prohibiting that person from being a specified legal services person.

(2) A specified legal services person disqualification order may, in the Court's absolute discretion, be made by consent.

(3) A specified legal services person disqualification order and any renewal thereof-

(a) shall have effect for such period (not exceeding 15 years), and

(b) may contain such ancillary, incidental and supplementary terms and conditions,

as shall be specified in it.

(4) Without prejudice to the generality of subparagraph (3) and for the avoidance of doubt, where the person who is the subject of a specified legal services person disqualification order is the beneficial owner of a non-local legal services business, a specified legal services person disqualification order may, for the purpose of (and only to the extent necessary for) giving effect to the prohibition referred to in subparagraph (1), contain terms and conditions requiring the person to divest himself or herself of such rights and interests in the non-local legal services business, within such period, as the Court may specify.

Grounds for making a specified legal services person disqualification order.

7. (1) The Court may make a specified legal services person disqualification order where it considers that, by reason of a person's conduct in relation to a non-local legal services business or otherwise, that person is unfit to be a specified legal services person.

(2) Subject to subparagraph (3), in determining whether a person is unfit to be a specified legal services person, regard shall be had to the matters set out in subparagraphs 4(4)(a) – (c) and (5).

(3) For the avoidance of doubt, the Court may have regard to matters other than those set out in the subparagraphs mentioned above in determining whether a person is unfit to be a specified legal services person.

Revocation of specified legal services person disqualification orders.

8. (1) A person subject to a specified legal services person disqualification order may apply to the Court for a revocation of the order on the ground that he or she is not unfit to be a specified legal services person, and the Court may grant the application if satisfied that –

(a) it would not be contrary to the public interest to do so,
and

(b) the applicant is not unfit to be a specified legal services person.

(2) An application under this paragraph for the revocation of a disqualification order shall not be heard unless the Administrator has been served with notice of the application to revoke not less than 28 days (or such other period as

the Court may in its absolute discretion direct) before the date of the hearing; and, without prejudice to the foregoing, the Court may –

(a) direct that notice of the application to revoke shall also be served on such other persons as the Court thinks fit, and

(b) for that purpose adjourn the hearing of the application.

(3) The revocation of a disqualification order may, with the consent of the parties and in the Court's absolute discretion, be granted by consent.

Enforcement – other civil sanctions

Civil penalties.

9. (1) Where the Administrator is satisfied that –

(a) a specified legal services person is not unfit to be a specified legal services person but –

(i) has, without reasonable excuse, failed to comply with a requirement under paragraph 4 or 5, or

(ii) falls within paragraph 4(4)(a) – (c),

(b) a specified legal services person, or a non-local legal services business, has failed to comply with a condition imposed under paragraph 12, or

- (c) any other person or body has, without reasonable excuse, failed to comply with –
 - (i) a requirement under paragraph 4 or 5, or
 - (ii) a request made by the Administrator to provide information (whether to the Administrator or another person) relevant to the exercise of the Administrator's functions,

the Administrator may (subject to the provisions of this paragraph and paragraph 13) –

- A. impose on that person or business a financial penalty in respect of the failure to comply that gave rise to the liability of such amount as the Administrator considers appropriate and proportionate, but not exceeding £20,000 or such other amount as the Committee may prescribe by regulations,
- B. publish the name of the person or business on whom the penalty is to be imposed, the amount of the penalty, and any ancillary, incidental and supplementary information as the

Administrator considers appropriate and proportionate (together, "**publicise the penalty**").

(2) In deciding whether to impose a penalty under this paragraph and, if so –

- (a) the amount thereof, and
- (b) whether to publicise the penalty,

the Administrator must take into consideration the following factors -

- (i) whether the failure was brought to the attention of the Administrator by the person concerned,
- (ii) the seriousness of the failure,
- (iii) whether or not the failure was inadvertent,
- (iv) what efforts, if any, have been made to rectify the failure and to prevent a recurrence,
- (v) the potential financial consequences to the person or business concerned, and to third parties including clients, customers and creditors of that person, of imposing a penalty and publicising the penalty,

- (vi) the penalties imposed by the Administrator under this paragraph in other cases, and
- (vii) any other matter the Administrator considers relevant.

(3) Any financial penalty imposed under this paragraph is payable to the States and is recoverable as a civil debt.

(4) Where the Administrator proposes to impose a financial penalty, he or she must notify in writing the person or business on whom the penalty is to be imposed of –

- (a) the proposed penalty, and the reasons for the same,
- (b) the date on which it is proposed, subject to paragraph 13, to impose the penalty, which must not be less than 42 days after the date of the notice,
- (c) whether the Administrator intends to publicise the penalty (and, if so, what ancillary, incidental and supplementary information, if any, the Administrator intends to publish), and
- (d) the right of that person or business to make written representations to the Administrator under paragraph 13(1).

(5) Where the Administrator imposes a financial penalty he or she

must -

- (a) issue to the person or business on whom the penalty is being imposed notice of the penalty, and
- (b) include in the notice a statement of the right to apply to the Court under paragraph 15.

Private reprimands.

10. (1) Without prejudice to any other powers of the Administrator, where the Administrator considers that, having regard to the conduct of a specified legal services person, it is appropriate to do so, the Administrator may issue to the person a private reprimand.

(2) The Administrator may not publish a private reprimand without the consent of the person in question.

(3) A private reprimand issued under subparagraph (1) may be taken into account by the Administrator in considering any matter under this Schedule concerning the person in question.

Public statements.

11. (1) Without prejudice to any other powers of the Administrator, where in the opinion of the Administrator a specified legal services person ("P") has contravened in a material particular -

- (a) a provision of this Schedule, or
- (b) any prohibition, restriction, condition, obligation,

enforcement requirement, other requirement, duty, direction or arrangement imposed, issued or arising under any such provision,

it may publish, in such manner and for such period as the Administrator may determine, a statement to that effect.

(2) Where the Administrator proposes to publish a statement under this paragraph, he or she must notify in writing the person in respect of whom the statement is to be published of –

- (a) the text of the proposed statement, and the reasons for the same,
- (b) the date on which it is proposed, subject to paragraph 13, to publish the statement, which must not be less than 42 days after the date of the notice, and
- (c) that person's right to make written representations to the Administrator under paragraph 13(1).

(3) A statement published under subparagraph (1) may contain such information in respect of any person named therein, and such ancillary, incidental and supplementary information (including information as to any conditions imposed on the person under paragraph 12) as the Administrator may determine to be appropriate and proportionate in the circumstances of the case, taking into account the purposes set out at paragraph 1(4).

(4) In deciding whether or not to publish a statement under this

paragraph and, if so, the terms thereof, the Administrator must take into consideration the following factors -

- (a) whether the contravention was brought to the attention of the Administrator by P,
- (b) the seriousness of the contravention,
- (c) whether or not the contravention was inadvertent,
- (d) what efforts, if any, have been made to rectify the contravention and to prevent a recurrence,
- (e) the potential financial consequences to P, and to third parties including clients, customers and creditors of P, of publishing a statement,
- (f) the action taken by the Administrator under this paragraph in other cases, and
- (g) any other matter the Administrator considers relevant.

(5) If at any time it appears to the Administrator that a statement published under this paragraph or any information contained in it is or has become misleading, inaccurate or incomplete, or that it is necessary or desirable in the interests of the public or the reputation of the Bailiwick to do so, the Administrator shall make such addition, erasure or other alteration to the statement or content thereof as the Administrator considers necessary.

(6) Where the Administrator proposes to make an addition, erasure or other alteration to a statement or content thereof under subparagraph (5), he or she must notify in writing the person in respect of whom the statement was published of –

- (a) the text of the proposed addition, erasure or other alteration, and the reasons for the same,
- (b) the date on which it is proposed, subject to paragraph 13, to publish the addition, erasure or other alteration which, unless the person concerned otherwise agrees, must not be less than 28 days after the date of the notice, and
- (c) that person's right to make written representations to the Administrator under paragraph 13(1).

(7) A statement published under subparagraph (1) may be taken into account by the Administrator in considering any matter under this Schedule concerning the person in question.

Imposition of conditions.

12. (1) Without prejudice to any other powers of the Administrator, where the Administrator considers that, having regard to the conduct of a specified legal services person or a non-local legal services business, it is appropriate to do so, the Administrator may impose conditions on that person or business in respect of the person or business's conduct in the provision of non-local legal services.

(2) Where the Administrator proposes to impose conditions

under this paragraph, he or she must notify in writing the person or business in respect of whom or which the conditions are to be imposed of –

- (a) the conditions, and the reasons for the same,
- (b) the date on which it is proposed, subject to paragraph 13, to impose the conditions, which must not be less than 42 days after the date of the notice,
- (c) the duration of the conditions, and
- (d) that right of that person or business to make written representations to the Administrator under paragraph 13(1).

Representations prior to civil penalty, etc.

13. (1) The person or business notified under paragraph 9(4), 11(2), 11(6) or 12(2) may make written representations to the Administrator concerning the proposed financial penalty (including publicising the penalty), public statement, addition, erasure or other alteration or conditions (as the case may be) within 28 days of the date of the notice.

(2) If the person or business in question exercises their right under subparagraph (1) the Administrator -

- (a) must consider their representations, and
- (b) may decide to –

- (i) impose the penalty, publicise the penalty, publish the statement or impose the conditions,
- (ii) in the case of a proposed financial penalty, impose a penalty in a lesser amount, not publicise the penalty, issue a private reprimand, publish a statement or impose conditions,
- (iii) withdraw the penalty, not publish the statement or not impose the conditions, or
- (iv) postpone the date for imposing the penalty, publishing the statement or imposing the conditions,

as the case may be, but in any event must inform that person or business of his or her decision in writing, and the reasons for the same, before the date on which the financial penalty is imposed or would otherwise have been imposed, the statement is published or would otherwise have been published, or the conditions are imposed or would otherwise have been imposed, as the case may be.

(3) For the avoidance of doubt, where the Administrator has imposed a financial penalty under paragraph 9 he or she may not seek to recover payment of that penalty until –

- (a) 28 days immediately following the date of the notice of the penalty issued under paragraph 9(5)(a), or

- (b) if an application to the Court is instituted within that period under paragraph 15, the final determination, or withdrawal, of that application,

and for the purposes of this subparagraph, an appeal shall be deemed not to have been finally determined until the expiration of the time allowed for the institution of an appeal to the Court of Appeal under the Court of Appeal (Guernsey) Law, 1961 or until the determination of any such appeal instituted within that time.

Relationship of civil penalties with prosecutions.

14. (1) A person is not liable to a civil penalty if a prosecution in respect of the matter has been commenced.

(2) If the prosecution commences after a civil penalty has been paid, the Administrator shall repay the civil penalty.

General right to apply to Court to set aside action of Administrator.

15. (1) Without prejudice to any specific right of appeal in any enactment, a person who is directly affected by any action, direction, decision or determination of the Administrator (including an order imposing a financial penalty) may apply to the Court to set aside that action, direction, decision or determination.

(2) An application under subparagraph (1) shall be made in such manner (if any) as may be prescribed by order of the Court.

(3) On such an application the Court may make such order on such terms and conditions as it thinks fit.

- (4) Subject to any direction given by the Court –
- (a) the applicant shall give at least seven days' notice of the application to the Administrator,
 - (b) where the application is made in respect of a legal person and the applicant is not the legal person in respect of which the application is made, the applicant shall give at least seven days' notice of the application to the legal person, and
 - (c) the application shall be made within 21 days after the day of the action, direction, decision or determination of the Administrator.

(5) An appeal from an order of the Court under this paragraph lies, with leave of the Court or the Court of Appeal, to the Court of Appeal on a question of law.

(6) Section 21 of the Court of Appeal (Guernsey) Law, 1961 (powers of a single judge) applies to the powers of the Court of Appeal to give leave to appeal under this paragraph as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

Enforcement: offences

Offences: general.

16. (1) A person who contravenes any provision of a specified legal services person disqualification order is guilty of an offence.

(2) A person guilty of an offence under this paragraph is liable on conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding three months, or to both.

False or misleading information.

17. (1) If a person to whom subparagraph (2) applies –
- (a) makes a statement which the person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
 - (b) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
 - (c) produces or furnishes or causes or permits to be produced or furnished any information or document which the person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
 - (d) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

he or she is guilty of an offence.

- (2) This subparagraph applies to a person ("D") who –
- (a) makes any statement or provides any information or document to the Administrator, or to any officer, servant or agent of the Administrator, when the Administrator or that person is acting in the exercise of his or her functions, or
 - (b) otherwise than as mentioned in paragraph (a) makes any statement or provides any information or document to the Administrator in circumstances in which D knows or could reasonably be expected to know that the statement, information or document would or might be used by the Administrator for the purpose of exercising his or her functions.

(3) A person guilty of an offence under this paragraph is liable on conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding three months, or to both.

Miscellaneous and Final

Disclosure and publication of non-confidential information.

18. Any information held by the Administrator, other than confidential information, may be disclosed or published by him or her–

- (a) in accordance with the provisions of this Schedule, any other enactment or any rule of law, or

- (b) if no such provision is made, in such manner, subject to such conditions and for such purposes as he or she thinks fit.

Disclosure and publication of confidential information.

19. (1) Any confidential information held by the Administrator shall not be disclosed or published by the Administrator or by any officer, servant or agent of the Administrator except –

- (a) with the consent of every individual who, and every body which, can be identified from that information,
- (b) to the persons and bodies set out in subparagraph (2), where the Administrator considers that disclosure necessary and proportionate –
 - (i) for the purposes set out in paragraph 1(4), or
 - (ii) for the performance of the functions of the person or body,
- (c) to any authority appearing to the Administrator to exercise, in a place outside the Bailiwick, functions corresponding to the Administrator's, where the Administrator considers that disclosure necessary and proportionate –
 - (i) for the purposes set out in paragraph 1(4), or

- (ii) for the performance of the functions of the authority,
 - (d) (for the avoidance of doubt) in, or in response to, an application to the Court made under paragraph 6 or 8 (as the case may be),
 - (e) as provided for under paragraphs 9 to 12, or
 - (f) in accordance with any other enactment or any rule of law.
- (2) The persons and bodies referred to in subparagraph (1) are –
- (a) the Commission,
 - (b) the Director of the Economic and Financial Crime Bureau,
 - (c) the Head of the Financial Intelligence Unit,
 - (d) the Registrar of Companies (including in his or her capacity as the Registrar of Foundations),
 - (e) the Registrar of Limited Liability Partnerships,
 - (f) the Registrar within the meaning of the Companies (Alderney) Law, 1994,

- (g) the Registrar of Beneficial Ownership,
- (h) His Majesty's Greffier,
- (i) any body or person with the function of implementing or enforcing international sanctions measures within the Bailiwick,
- (j) His Majesty's Greffier within the meaning of the Government of Alderney Law, 2004,
- (k) the Alderney Gambling Control Commission,
- (l) the Director of the Revenue Service,
- (m) the Registrar of Charities and other Non Profit Organisations under the Charities etc. (Guernsey and Alderney) Ordinance, 2021, and
- (n) the Registrar of Non Profit Organisations appointed under the Charities and Non-Profit Organisations (Registration) (Sark) Law, 2010.

Exclusion of liability.

20. (1) No person undertaking a function under this Schedule is to be liable in damages or personally liable in any civil proceedings in respect of anything done, or omitted to be done, after the coming into force of this Law in respect of that function, unless the thing was done or omitted to be done in bad faith.

(2) Subparagraph (1) does not prevent an award of damages in respect of an act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000.

Service of notices and documents.

21. (1) Any document other than a summons to be given or served under the provisions of or for the purposes of this Schedule may be given to or served upon –

- (a) an individual ("A"), by being delivered to A, or by being left at, or sent by post to, A's usual or last known place of abode, or by being transmitted to A's relevant electronic address,
- (b) a company or other legal person with a registered office in the Bailiwick, by being left at, or sent by post to, that office, or by being transmitted to its relevant electronic address,
- (c) a company or other legal person without a registered office in the Bailiwick, by being left at, or sent by post to-
 - (i) its principal or last known principal place of business in the Bailiwick, or
 - (ii) if there is no such place, its registered office or principal or last known principal place of business elsewhere,

or by being transmitted to its relevant electronic address,

- (d) an unincorporated body -
 - (i) by being given to or served on any partner (not being a limited partner in a limited partnership), member of the committee or other similar governing body, director or other similar officer thereof in accordance with subparagraph (a), or
 - (ii) by being left at, or sent by post to -
 - (A) the body's principal or last known principal place of business in the Bailiwick, or
 - (B) if there is no such place, its principal or last known principal place of business elsewhere,

or by being transmitted to its relevant electronic address,

- (e) the Administrator, by being left at, or sent by post to, his or her principal office in the Bailiwick, or by being transmitted to his or her electronic address,

and in this paragraph –

- (i) **"by post"** means by special delivery, recorded or signed for delivery or ordinary letter post,
- (ii) **"electronic address"** includes, without limitation, an e-mail address and telecommunications address,
- (iii) **"relevant electronic address"** means an electronic address -
 - (A) with which, in the opinion of the Administrator, the person concerned has a personal, business or other connection, and
 - (B) a document transmitted to which is likely to come to the attention of the person concerned,
- (iv) **"transmitted"** means transmitted by electronic communication (that is to say, in electronic form and by electronic means), facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication, and

(v) "**summons**" includes any document compelling a person's attendance before the court.

(2) Subparagraph (1) is without prejudice to any other lawful method of service.

(3) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Schedule to have been received –

(a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,

(b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any day which is not a business day.

(4) Service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(5) A document shall be deemed for the purposes of this Schedule to have been -

(a) addressed to the person concerned, and

(b) delivered to any person, or left at or transmitted to a place or address,

if the person effecting service certifies that it was addressed, and delivered, left or transmitted (as the case may be), in accordance with the provisions of this paragraph, and the document shall, unless the contrary is shown, be deemed for those purposes to have been received when it was delivered, left or transmitted (as the case may be).

The Bar Law, etc.

22. The provisions of this Schedule are without prejudice to the provisions of the Guernsey Bar (Bailiwick of Guernsey) Law, 2007 and subordinate legislation made thereunder, the Bar Ordinance, 1949 and the customary law of the Bailiwick, including (but not limited to) statutory provisions and customary law relating to the functions of His Majesty's Greffier, la Chambre de Discipline, the Royal Court and His Majesty's Procureur.

Legal professional privilege and protection from self-incrimination unaffected.

23. For the avoidance of doubt, nothing in this Schedule limits a right to decline to produce or deliver documents or other information to the Administrator on the ground of –

- (a) legal professional privilege, or
- (b) any rule against self-incrimination.

Power of Committee to make regulations in respect of qualification requirements.

24. (1) The Committee may make regulations making provision in respect of the professional qualification of persons providing non-local legal services.

(2) Regulations made under this paragraph shall be made after consultation with the policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark; but a failure to comply with this subparagraph shall not invalidate any regulations made under this paragraph.

Specified jurisdictions.

25. (1) A person is not a specified legal services person for the purposes of this Schedule in circumstances where the person –

- (a) is subject to requirements as to fitness and propriety imposed by a jurisdiction outside the Bailiwick which the Committee is satisfied are appropriate minimum standards, and
- (b) undertakes non-local legal services primarily from or within a jurisdiction outside the Bailiwick,

and the Committee may make regulations specifying jurisdictions which it is satisfied impose appropriate requirements for the purpose of item (a).

(2) Regulations made under this paragraph shall be made after consultation with the Policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark; but a failure to comply with this subparagraph shall not invalidate any regulations made under this paragraph.

Interpretation.

26. (1) In this Schedule –

"**beneficial owner**" has the meaning given in paragraph 22 of Schedule 3, subject to the following modification: wherever "25%" appears, there is substituted "15%",

"**confidential information**" means –

- (a) an individual's usual residential address,
- (b) the identity of any person whom the Administrator has been notified is the beneficial owner of a non-local legal services business, and
- (c) any other information from which an individual or body can be identified which is acquired by the Administrator in the course of carrying out his or her functions,

"**the Court**" means the Royal Court sitting as an Ordinary Court,

"**information relating to the minimum standards test**": see paragraph 4(4),

"**non-local legal services**" means the business of being a non-locally qualified –

- (a) lawyer,

(b) notary, or

(c) other independent legal professional,

(where "**non-locally qualified**" means not being admitted as an Advocate) within the meaning given in and falling within paragraph 5 of Schedule 2, but does not include such a business in circumstances where that business is not required to register with the Commission pursuant to Schedule 5 of the Criminal Justice (Proceeds of Crime) Law, 1999,

"non-local legal services business" means a business engaged in legal services that –

(a) carries on, or holds itself out as carrying on, business in, or from within, the Bailiwick (and, for the avoidance of doubt, does not include a business which is not required to register with the Commission pursuant to Schedule 5 of the Criminal Justice (Proceeds of Crime) Law, 1999, and

(b) employs, or is beneficially owned by (in whole or in part), one or more persons who provide non-local legal services,

"non-locally qualified legal professional" means –

- (a) a partner, director (or equivalent to these roles) of a non-local legal services business who provides non-local legal services in, or from within, the Bailiwick,
- (b) any other person who provides non-local legal services in, or from within, the Bailiwick, where that person also participates in, or is in any way concerned (directly or indirectly) in the management of a non-local legal services business, or
- (c) a Money Laundering Reporting Officer or a Money Laundering Compliance Officer of a non-local legal services business,

"publicise the penalty": see paragraph 9(1)B (and **"publicising the penalty"** shall be construed accordingly),

"relevant person" means the beneficial owner of a non-local legal services business,

"specified legal services person": see paragraph 1(5), and

"specified legal services person disqualification order": see paragraph 6(1).

(2) The Committee may make regulations amending the definitions of **"beneficial owner"**, **"confidential information"**, **"non-local legal**

services", "non-local legal services business" and "non-locally qualified legal professional" in subparagraph (1).

(3) Regulations made under subparagraph (2) shall be made after consultation with the Policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark, but a failure to comply with this subparagraph shall not invalidate any regulations made under this paragraph.

SCHEDULE 9

Section 49AA(3C)

FUNCTIONS OF HIS MAJESTY'S GREFFIER REGARDING ADVOCATES

Functions of His Majesty's Greffier under this Schedule

Functions of Greffier.

1. (1) In addition to functions conferred under other paragraphs of this Schedule, the functions of His Majesty's Greffier under this Schedule are to communicate and co-operate with -

- (a) any authority appearing to His Majesty's Greffier to exercise, in a place outside the Bailiwick, functions corresponding to His Majesty's Greffier's under this Schedule and under Part II of the Guernsey Bar (Bailiwick of Guernsey) Law, 2007, and
- (b) such other persons as he or she thinks fit,

for the purposes of assisting such authorities and persons and promoting, and enhancing the performance of, His Majesty's Greffier's functions under this Schedule, and such communication and co-operation may, without limitation, take the form of sharing any information which His Majesty's Greffier may lawfully disclose.

(2) Subparagraph (1) does not authorise His Majesty's Greffier to disclose confidential information other than in accordance with paragraph 8.

(3) The purpose of conferring functions on His Majesty's Greffier under this Schedule is –

- (a) to prevent unfit persons from being Advocates, and
- (b) thereby to protect the interests of the people, and the reputation, of the Bailiwick,

and His Majesty's Greffier must take account of these purposes when exercising his or her functions under this Schedule.

Ancillary powers of Greffier.

2. (1) His Majesty's Greffier has power to do anything that appears to His Majesty's Greffier to be necessary or expedient for the purpose of exercising his or her functions under this Schedule including, without limitation, power -

- (a) to require the production of such documents, accounts and information from such persons and within such periods and at such times and intervals as he or she thinks fit, including, but not limited to –
 - (i) Advocates,
 - (ii) local legal services businesses,
 - (iii) the beneficial owners and legal owners of local legal services businesses,

- (iv) the directors of local legal services businesses,
 - (v) the partners of local legal services businesses,
 - (vi) the controllers of local legal services businesses,
and
 - (vii) the managers of local legal services businesses,
- (b) subject to any provision to the contrary in this Law or any other enactment, to publish information, guidance, reports and other documents, and
- (c) to request advice from His Majesty's Procureur in relation to the exercise of any of his or her functions.

(2) His Majesty's Greffier may also exercise the power at subparagraph (1)(a) for the purpose of enabling him or her (of His Majesty's Greffier's own volition or at the request of the Committee or any other authority within the Bailiwick with functions in respect of financial crime) to obtain information relating to legal persons so that he or she can identify, assess and understand risks to the Bailiwick of money laundering, terrorist financing, the proliferation of weapons of mass destruction and all other forms of financial crime.

(3) For the avoidance of doubt (and without prejudice to any function conferred under any other enactment) His Majesty's Greffier may –

- (a) seek and receive information from any person, and

- (b) take any such information into account in deciding whether and in what manner to exercise his or her functions.

Notification requirements

Initial notification requirement.

3. (1) Subject to subparagraph (2), a person ("P") or a person or body acting on P's behalf must notify His Majesty's Greffier before P becomes a managing Advocate.

(2) Where, on the coming into force of this Schedule, a person ("P") is a managing Advocate, P, or a person or body acting on P's behalf, must notify His Majesty's Greffier within 14 days of this Schedule coming into force.

(3) A person or body notifying His Majesty's Greffier under subparagraph (1) or (2) must provide such information as His Majesty's Greffier may specify in guidance that His Majesty's Greffier causes to be published on the States of Guernsey website from time to time, including, but not limited to, information relating to the minimum standards test.

(4) For the purposes of this Schedule, "**information relating to the minimum standards test**" means information relating to whether P is a fit person to be an Advocate, including certification by the notifying person or body as to whether P has at any time –

- (a) been convicted of any offence, other than an offence which –

- (i) is spent for the purposes of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002, or
 - (ii) falls within a category specified in regulations made for this purpose by the Committee,
- (b) engaged in any business practices which are, or which might reasonably be regarded as appearing to be, deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise reflect discredit on the person's method of conducting business or the person's suitability to carry on legal services, or
- (c) engaged in or been associated with any other business practices or otherwise conducted himself or herself in such a way as to cast doubt on his or her soundness of judgement.

(5) Without prejudice to the generality of subparagraph (4), and for the avoidance of doubt, when assessing whether a person is a fit person to be an Advocate for the purposes of this Schedule, regard shall be had to the person's probity, integrity, honesty and soundness of judgement.

(6) For the avoidance of doubt, a local legal services business employing P or otherwise paying P for professional services, or of which P is a partner, may be a notifying person or body (as the case may be) for the purposes of this paragraph and paragraph 4, and this Schedule shall be construed accordingly.

Ongoing notification requirement.

4. A managing Advocate ("P"), or any other person or body who has notified His Majesty's Greffier under paragraph 3(1) or (2) and who continues to act on behalf of P for the purposes of this Schedule, must –

- (a) provide His Majesty's Greffier with information relating to the minimum standards test in respect of P within 21 days (or such other period as His Majesty's Greffier may reasonably specify in all the circumstances) of being requested to do so, and
- (b) notify His Majesty's Greffier within 21 days after –
 - (i) P is convicted of any offence, or
 - (ii) any other change in respect of information previously provided to His Majesty's Greffier,and provide His Majesty's Greffier with such information relating to that offence or change (as the case may be) as His Majesty's Greffier may require.

Enforcement – referral of Advocates to the Chambre

Referral of Advocates to the Chambre.

5. (1) Where information provided to His Majesty's Greffier relating to the minimum standards test in respect of a managing Advocate is such that, in the opinion of His Majesty's Greffier, the managing Advocate is not a fit person to be an Advocate, His Majesty's Greffier shall refer the managing Advocate to the Bâtonnier

of the Guernsey Bar under Part II (discipline of Advocates) of the Guernsey Bar (Bailiwick of Guernsey) Law, 2007.

(2) When referring a managing Advocate under subparagraph (1), the Greffier shall disclose the information relating to the minimum standards test referred to in that subparagraph.

Offence

False or misleading information.

6. (1) If a person to whom subparagraph (2) applies –
- (a) makes a statement which the person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
 - (b) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
 - (c) produces or furnishes or causes or permits to be produced or furnished any information or document which the person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
 - (d) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false,

deceptive or misleading in a material particular,

he or she is guilty of an offence.

- (2) This subparagraph applies to a person ("D") who –
- (a) makes any statement or provides any information or document to His Majesty's Greffier, or to any officer, servant or agent of His Majesty's Greffier, when His Majesty's Greffier or that person is acting in the exercise of his or her functions, or
 - (b) otherwise than as mentioned in paragraph (a) makes any statement or provides any information or document to His Majesty's Greffier in circumstances in which D knows or could reasonably be expected to know that the statement, information or document would or might be used by His Majesty's Greffier for the purpose of exercising his or her functions.

(3) A person guilty of an offence under this paragraph is liable on conviction to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding three months, or to both.

Miscellaneous and Final

Disclosure and publication of non-confidential information.

7. Any information held by His Majesty's Greffier, other than confidential information, may be disclosed or published by him or her–

- (a) in accordance with the provisions of this Schedule, any other enactment or any rule of law, or
- (b) if no such provision is made, in such manner, subject to such conditions and for such purposes as he or she thinks fit.

Disclosure and publication of confidential information.

8. (1) Any confidential information held by His Majesty's Greffier shall not be disclosed or published by His Majesty's Greffier or by his or her servants or agents except –

- (a) with the consent of every individual who, and every body which, can be identified from that information,
- (b) to the persons and bodies set out in subparagraph (2) where His Majesty's Greffier considers that disclosure necessary and proportionate –
 - (i) for the purposes set out in paragraph 1(4), or
 - (ii) for the performance of the functions of the person or body,
- (c) to any authority appearing to His Majesty's Greffier to exercise, in a place outside the Bailiwick, functions corresponding to His Majesty's Greffier under this Schedule, where His Majesty's Greffier considers that disclosure necessary and proportionate –

- (i) for the purposes set out in paragraph 1(3), or
 - (ii) for the performance of the functions of the authority, or
 - (d) in accordance with any other enactment or any rule of law.
- (2) The persons and bodies referred to in subparagraph (1) are –
- (a) the Commission,
 - (b) the Director of the Economic and Financial Crime Bureau,
 - (c) the Head of the Financial intelligence Unit,
 - (d) the Registrar of Companies (including in his or her capacity as the Registrar of Foundations),
 - (e) the Registrar of Limited Liability Partnerships,
 - (f) the Registrar within the meaning of the Companies (Alderney) Law, 1994,
 - (g) the Registrar of Beneficial Ownership,

- (h) any body or person with the function of implementing or enforcing international sanctions measures within the Bailiwick,
- (i) His Majesty's Greffier within the meaning of the Government of Alderney Law, 2004,
- (j) His Majesty's Greffier acting in exercise of the functions conferred under the Limited Partnerships (Guernsey) Law, 1995,
- (k) the Alderney Gambling Control Commission,
- (l) the Director of the Revenue Service,
- (m) the Registrar of Charities and other Non Profit Organisations under the Charities etc. (Guernsey and Alderney) Ordinance, 2021,
- (n) the Registrar of Non Profit Organisations appointed under the Charities and Non-Profit Organisations (Registration) (Sark) Law, 2010, and
- (o) the Administrator of non-locally qualified legal professionals.

Exclusion of liability.

9. (1) No person undertaking a function under this Schedule is to be liable in damages or personally liable in any civil proceedings in respect of anything

done, or omitted to be done, after the coming into force of this Law in respect of that function, unless the thing was done or omitted to be done in bad faith.

(2) Subparagraph (1) does not prevent an award of damages in respect of an act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000.

Service of notices and documents.

10. (1) Any document other than a summons to be given or served under the provisions of or for the purposes of this Schedule may be given to or served upon –

- (a) an individual ("A"), by being delivered to A, or by being left at, or sent by post to, A's usual or last known place of abode, or by being transmitted to A's relevant electronic address,
- (b) a company or other legal person with a registered office in the Bailiwick, by being left at, or sent by post to, that office, or by being transmitted to its relevant electronic address,
- (c) a company or other legal person without a registered office in the Bailiwick, by being left at, or sent by post to-
 - (i) its principal or last known principal place of business in the Bailiwick, or

(ii) if there is no such place, its registered office or principal or last known principal place of business elsewhere,

or by being transmitted to its relevant electronic address,

(d) an unincorporated body -

(i) by being given to or served on any partner (not being a limited partner in a limited partnership), member of the committee or other similar governing body, director or other similar officer thereof in accordance with subparagraph (a), or

(ii) by being left at, or sent by post to -

(A) the body's principal or last known principal place of business in the Bailiwick, or

(B) if there is no such place, its principal or last known principal place of business elsewhere,

or by being transmitted to its relevant electronic address,

- (e) His Majesty's Greffier, by being left at, or sent by post to, his or her principal office in the Bailiwick, or by being transmitted to his or her electronic address,

and in this paragraph –

- (i) **"by post"** means by special delivery, recorded or signed for delivery or ordinary letter post,
- (ii) **"electronic address"** includes, without limitation, an e-mail address and telecommunications address,
- (iii) **"relevant electronic address"** means an electronic address -
 - (A) with which, in the opinion of His Majesty's Greffier, the person concerned has a personal, business or other connection, and
 - (B) a document transmitted to which is likely to come to the attention of the person concerned,
- (iv) **"transmitted"** means transmitted by electronic communication (that is to say, in electronic form and by electronic means), facsimile transmission or other similar means which

produce or enable the production of a document containing the text of the communication, and

- (v) "**summons**" includes any document compelling a person's attendance before the court.

(2) Subparagraph (1) is without prejudice to any other lawful method of service.

(3) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Schedule to have been received –

- (a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,
- (b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any day which is not a business day.

(4) Service of any document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(5) A document shall be deemed for the purposes of this Schedule to have been -

- (a) addressed to the person concerned, and

- (b) delivered to any person, or left at or transmitted to a place or address,

if the person effecting service certifies that it was addressed, and delivered, left or transmitted (as the case may be), in accordance with the provisions of this paragraph, and the document shall, unless the contrary is shown, be deemed for those purposes to have been received when it was delivered, left or transmitted (as the case may be).

The Bar Law, etc.

11. The provisions of this Schedule are without prejudice to the provisions of the Guernsey Bar (Bailiwick of Guernsey) Law, 2007 and subordinate legislation made thereunder, the Bar Ordinance, 1949 and the customary law of the Bailiwick, including (but not limited to) statutory provisions and customary law relating to the functions of la Chambre de Discipline, the Royal Court and His Majesty's Procureur.

Legal professional privilege and protection from self-incrimination unaffected.

12. For the avoidance of doubt, nothing in this Schedule limits a right to decline to produce or deliver documents or other information to His Majesty's Greffier on the ground of –

- (a) legal professional privilege, or
- (b) any rule against self-incrimination.

Interpretation.

13. (1) In this Schedule –

"**beneficial owner**" has the meaning given in paragraph 22 of Schedule 3, subject to the following modification: wherever "25%" appears, there is substituted "15%",

"**confidential information**" means –

- (a) an individual's usual residential address,
- (b) the identity of any person whom His Majesty's Greffier has been notified is the beneficial owner of a local legal services business, and
- (c) any other information from which an individual or body can be identified which is acquired by the Administrator in the course of carrying out his or her functions,

"**the Court**" means the Royal Court sitting as an Ordinary Court,

"**information relating to the minimum standards test**": see paragraph 3(4),

"**local legal services**" means the business of being an Advocate, but does not include such a business in circumstances where that business is not required to register with the Commission pursuant to Schedule 5 of the Criminal Justice (Proceeds of Crime) Law, 1999,

"local legal services business" means a business engaged in local legal services that carries on, or holds itself out as carrying on, business in, or from within, the Bailiwick (and, for the avoidance of doubt, does not include a business which is not required to register with the Commission pursuant to Schedule 5 of the Criminal Justice (Proceeds of Crime) Law, 1999), and

"managing Advocate" means an Advocate participating in, or being in any way concerned (directly or indirectly) in the management of a local legal services business.

(2) The Committee may make regulations amending the definitions of **"beneficial owner"**, **"confidential information"**, **"local legal services"**, **"local legal services business"** and **"managing Advocate"** in subparagraph (1).

(3) Regulations made under subparagraph (2) shall be made after consultation with the Policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark, but a failure to comply with this subparagraph shall not invalidate any regulations made under this paragraph."