

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PROJET DE LOI

Entitled

THE RO-RO SEA-LINKS (GUERNSEY) LAW, 2024

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Ro-Ro Sea-links (Guernsey) Law, 2024", and to authorise the Bailiff to present a most humble petition to His Majesty praying for His Royal Sanction thereto.

EXPLANATORY MEMORANDUM

This Projet provides for the Committee of Economic Development to award an exclusive concession licence for up to 20 years to provide ferry services to and from Guernsey using Ro-Ro vessels. A licence is subject to a concession agreement concluded between the Committee and the licensee. Approved public procurement policies and procedures must be followed before a concession licence is granted.

This Projet also provides for 'light touch' regulation of the licensee, including surrender, transfer, suspension and revocation of a concession licence in specified circumstances and in accordance with specified procedures. It provides for short-term temporary licences to be granted in exceptional circumstances. It provides for transparency and openness in the granting or renewal of licences and regulatory actions taken against a licensee, and for the Committee for Economic Development to report annually to the States.

The Projet empowers the Committee for Economic Development and the Policy & Resources Committee jointly to make Orders to prescribe the routes that are subject to licensing, and to commence this Projet. As the tender for Ro-Ro ferry services is currently being carried out, these Committees are also authorised to jointly make an Order to deem the procedures in the Projet for awarding a concession licence to have been followed in respect of the first concession licence to be awarded.

PROJET DE LOI

ENTITLED

The Ro-Ro Sea-links (Guernsey) Law, 2024

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PROJET DE LOI

ENTITLED

The Ro-Ro Sea-links (Guernsey) Law, 2024

THE STATES, in pursuance of their Resolution of the 31st July, 2015^a, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

PART I

PRELIMINARY

Purpose and principles.

1. (1) The purpose of this Law is to maintain and develop year-round, long-term provision of reliable, safe, robust and reasonably priced Ro-Ro ferry services that are of sufficient quality and frequency to meet the needs of users.

(2) The purpose of this Law is to be achieved while giving effect to the following principles -

(a) the interests of users in the short, medium and long term are to be protected,

(b) efficiency, effectiveness and innovation in the

^a Article XV of Billet d'État No. XIV of 2015.

provision of Ro-Ro ferry services are to be encouraged,

- (c) Ro-Ro ferry services are to be and continue to be sustainable in the long term, and
- (d) Ro-Ro ferry services are to be provided in a manner -
 - (i) consistent with any policy or action plan concerning climate change approved by the States^b from time to time, and
 - (ii) that, to the fullest extent practicable, assists the States to achieve any net zero or carbon neutrality targets set out in the policy or action plan or under any enactment in force in the Bailiwick aimed at mitigating climate change.

(3) In this Law, "**users**" includes individuals, families, businesses and tourists that rely on or use Ro-Ro ferry services.

Prohibition of unlicensed Ro-Ro ferry services.

2. (1) A person must not provide a Ro-Ro ferry service except under the authority of a licence granted under this Law.

(2) A person who contravenes or fails to comply with subsection (1)

^b On 19th August, 2020 the States approved a Climate Change Action Plan, which is to be reviewed and updated at least once every two years.

is guilty of an offence.

(3) A person guilty of an offence under subsection (2) is liable on conviction to imprisonment for a term not exceeding two years, to a fine not exceeding twice level 5 on the uniform scale, or to both.

PART II

LICENSING AND REGULATION

Committee to grant concession licence.

3. (1) The Committee may by Order grant a licence ("**concession licence**") to any person to provide Ro-Ro ferry services -

(a) subject to a concession agreement specified in the Order, and

(b) for a period of time specified in the Order.

(2) The Committee may by Order renew a concession licence for any period of time authorised under the Order granting the licence.

(3) A concession licence (including any renewal of such a licence) must not exceed an aggregate of 20 years in duration from the commencement of the licence; but at the end of the period of the licence (including any renewal), for the avoidance of doubt, the Committee may grant a new concession licence under subsection (1) to the same licensee.

(4) Where a concession licence is in force for the provision of Ro-ro ferry services on a prescribed route, the Committee must not grant any other licence

to provide a Ro-Ro ferry service on the prescribed route.

(5) This section is subject to sections 4 and 5.

(6) In this section, "**prescribed route**" means any route prescribed under section 28(1)(a).

Procedure for granting a concession licence.

4. (1) The Committee must not grant a concession licence except in accordance with this section.

(2) In order to select the person to whom a concession licence is to be granted, the Committee must carry out a competitive tendering procedure -

(a) in consultation with the Policy & Resources Committee, the States' Trading Supervisory Board and the Harbourmaster, and

(b) in accordance with any approved policy.

(3) In selecting the winning tender and the person to whom the concession licence is to be granted, the Committee must take into account the following matters -

(a) the purpose and principles of this Law,

(b) accessibility to users of the Ro-Ro ferry services proposed to be provided,

- (c) affordability to users of those services,
- (d) the quality and safety of the vessels to be used for those services,
- (e) the quality and safety of those services,
- (f) the frequency and intervals of those services, as scheduled to be provided,
- (g) the views of the Policy & Resources Committee, the States' Trading Supervisory Board and the Harbourmaster,
- (h) any approved policy.

(4) The Committee must report the result of the tender to the States at its next available sitting.

(5) In subsection (2)(b), "**approved policy**" means -

- (a) any policy, procedure, rule or directive (however referred to) relating to public procurement approved by the States, or
- (b) in the absence of one approved by the States, any such policy, procedure, rule or directive (however referred to) approved by the Policy & Resources Committee.

Temporary licences.

5. (1) This section applies if -

- (a) no concession licence is currently in force,
- (b) the Committee has suspended or revoked a concession licence under this Law, and the suspension or revocation is in effect,
- (c) a concession licence is in force, but either the Committee or the licensee has suspended or revoked the concession agreement, or
- (d) either the States of Guernsey or the licensee declares *force majeure* under a concession agreement.

(2) Where this section applies, the Committee may by Order grant a temporary licence to any person to provide Ro-Ro ferry services -

- (a) subject to an agreement specified in the Order, and
- (b) for a period of time specified in the Order.

(3) The Committee may by Order renew a temporary licence for any period of time specified in the Order renewing the licence.

(4) A temporary licence (including any renewal of such a licence) must not exceed in aggregate a duration of 24 months, except where approved by

Resolution of the States.

(5) The Committee must not grant or renew a temporary licence except -

(a) in consultation with the Policy & Resources Committee, the States' Trading Supervisory Board and the Harbourmaster, and

(b) where the Committee considers it necessary in order to fulfil the purpose of this Law.

(6) An Order granting or renewing a temporary licence may do either or both of the following -

(a) disapply any provision of this Part from the licence and the licensee specified in the Order,

(b) apply any provision of this Part to the licence and the licensee, subject to modifications specified in the Order.

(7) If the Committee grants or renews a temporary licence, it must as soon as practicable lay before a meeting of the States a copy of the Order granting or renewing the temporary licence together with a report on the reasons for the grant or renewal.

Committee to publish licence details.

6. (1) The Committee must publish the following, in relation to any licence granted or renewed under this Law -

- (a) the name and principal business address of the licensee,
- (b) a copy of the licensing agreement,
- (c) a copy of any direction given to the licensee under section 9(1) or 10(4),
- (d) in any case where the licence was suspended or revoked, a summary of the Committee's reasons for the suspension or revocation and a copy of every report or other document that the Committee relied on to reach the decision to suspend or revoke the licence.

(2) For the avoidance of doubt, subsection (1) is subject to section

20.

Licence conditions.

7. (1) A licence is subject to the following conditions -

- (a) the licensee must perform any agreed services in accordance with the licensing agreement, and must otherwise fulfil all of the licensee's obligations under that agreement,
- (b) the licensee must not breach any material condition of the licensing agreement,

- (c) the licensee must at all times keep in Guernsey, in or on any premises occupied by the licensee other than a dwelling -
 - (i) the records and documents required to be kept under the licensing agreement or this Law, or
 - (ii) an up-to-date copy of those records and documents,
 - (d) the licensee must pay any fee, levy or charge required to be paid to the Committee or the States under the licensing agreement, on or before the date, at the intervals and in the manner specified in the licensing agreement,
 - (e) the licensee must comply with the provisions of this Law.
- (2) Subsection (1)(b) does not limit subsection (1)(a).
- (3) For the avoidance of doubt -
- (a) where any provision of this Law conflicts with a term or condition of a licensing agreement, the provision of this Law prevails, and
 - (b) a licensing agreement may include any provision requiring a licensee to pay any fee, levy or charge to the

Committee or the States of Guernsey.

Surrender or transfer of licences, etc.

8. (1) A licence is personal to each licensee.
- (2) On application by a licensee, the Committee may by Order authorise -
- (a) the licensee to surrender its licence, if the licensee wishes to terminate the licensing agreement,
 - (b) the licensee to assign the licence to another person ("B"), if the licensee wishes to assign its rights and obligations under the licensing agreement to B and that agreement provides for such an assignment, or
 - (c) any person who is not a licensed controller to become a controller of a licensee that is not a natural person.
- (3) If the Committee refuses an application under subsection (2), the Committee must as soon as practicable -
- (a) give the licensee written notice of the reasons for the refusal, and
 - (b) provide the licensee with a copy of section 13 (appeals to the Royal Court).

(4) A purported surrender or assignment of a licence has no effect unless authorised under subsection (2).

(5) Nothing in this section -

- (a) authorises the licensee to terminate the licensing agreement, assign its rights and obligations under the licensing agreement to another person, or allow any person other than a licensed controller to become a controller of the licensee, except in accordance with the licensing agreement, or
- (b) requires the Committee to make an Order under subsection (2) in respect of any action proposed by the licensee unless that action is expressly permitted under the licensing agreement.

Committee may give directions to concession licensee.

9. (1) In the case of a concession licence, if the Committee considers it necessary or expedient in order to achieve the purpose of this Law or give effect to its principles, the Committee may by written notice given to the licensee direct the licensee to do one or more of the following within the times, or at the intervals, specified in the direction -

- (a) provide information or make returns of information to the Committee, including but not limited to information relating to revenues by fare category and route, operating costs and profitability,

- (b) prepare or review a plan or policy, and submit the plan, policy or revised plan or policy (following the review), including the rationale for it, for the approval of the Committee,
- (c) undertake public consultation in relation to any such plan or policy, or any service or facility that the licensee is providing or intends to provide, in connection with the Ro-Ro ferry services provided by the licensee,
- (d) carry out any plan or implement any policy submitted to and approved by the Committee,
- (e) commission a review or audit by an independent person approved by the Committee,
- (f) publish any information in a manner specified by the Committee.

(2) In giving a direction under subsection (1)(f), the Committee must have regard to -

- (a) the need to preserve commercial confidentiality, and
- (b) any other relevant matter.

(3) Other than in exceptional circumstances, the Committee must not give a direction under subsection (1) that requires the licensee to take any action that -

- (a) the licensee is already required to take under the concession agreement,
- (b) the Committee may require the licensee to take under the concession agreement, or
- (c) is substantially similar to an action that falls within paragraph (a) or (b).

(4) Where a licensee is required by a direction under subsection (1) to submit a plan or policy to the Committee for approval, the Committee may either approve or reject the plan or policy but must not amend it.

(5) If the Committee gives a direction under subsection (1), or rejects a plan or policy under subsection (4), the Committee must as soon as practicable-

- (a) give the licensee written notice of the Committee's reasons for the direction or (as the case may be) rejection, and
- (b) provide the licensee with a copy of section 13 (appeals to the Royal Court).

Complaints process under a concession licence.

10. (1) In the case of a concession licence, the licensee must publish, in a manner approved by the Committee, the approved process the licensee intends to use to deal with customer complaints relating to Ro-Ro ferry services provided by the

licensee.

(2) The approved process must include a process by which the licensee will report to the Committee on the number, nature and disposition of the customer complaints received in the reporting period agreed with the Committee.

(3) The licensee may at any time propose to the Committee amendments to the approved process and may amend the process in any manner approved by the Committee.

(4) The Committee may at any time by written notice to the licensee direct the licensee to amend the approved process and, in that event, the licensee must, within the period specified by the Committee in the direction, provide the required amendments to the Committee to obtain the Committee's approval for the amended process.

(5) If the Committee gives a direction under subsection (4), the Committee must as soon as practicable -

(a) give the licensee written notice of the Committee's reasons for giving the direction, and

(b) provide the licensee with a copy of section 13 (appeals to the Royal Court).

(6) The licensee must receive and process customer complaints in accordance with the approved process.

(7) In this section "**approved process**" -

- (a) means the complaints process approved by the Committee in writing, and
- (b) includes any amendment to the process approved by the Committee in writing.

Suspension or revocation of licence.

11. (1) If the Committee suspends a licensing agreement or is required under a licensing agreement to suspend the licence, it must by Order suspend the licence.

(2) If the Committee terminates a licensing agreement or is required under a licensing agreement to revoke the licence, it must by Order revoke the licence.

(3) If the Committee is authorised or otherwise permitted under a licensing agreement to suspend or revoke the licence, it may by Order suspend or (as the case may be) revoke the licence.

(4) Where the Committee is neither authorised nor required to suspend or revoke a licence under subsections (1) to (3), the Committee may by Order suspend or revoke the licence if any of the following occurs–

- (a) the licensee commits a serious licence breach,
- (b) any person other than a licensed controller becomes a controller of the licensee (in a case where the licensee is not a natural person),

(c) either the States of Guernsey or the licensee declares *force majeure* under the licensing agreement,

(d) the Committee forms the opinion, on reasonable grounds, that the grant of the licence, or any authorisation given under section 8(2) in respect of the licence or the licensee, was obtained or brought about as a result of any conduct or omission on the part of the licensee, and in circumstances, that, if proven beyond reasonable doubt, would constitute an offence under section 16.

(5) If the Committee suspends or revokes a licence, the Committee must as soon as practicable -

(a) give the licensee written notice of the reasons for the suspension or revocation, and

(b) in the case of a suspension or revocation under subsection (4), provide the licensee with a copy of section 13 (appeals to the Royal Court).

Procedure for licensing actions.

12. (1) Before the Committee takes a licensing action in respect of any licence, it must -

(a) consult the Policy & Resources Committee, the States' Trading Supervisory Board and the Harbourmaster, and

(b) give the licensee -

(i) at least 28 days' written notice of the proposed licensing action and the reasons for that action, and

(ii) an opportunity to make written and oral representations to the Committee.

(2) The Committee may take a licensing action without complying with a requirement of subsection (1) where it is of the opinion that the delay involved in complying with the requirement would be likely to -

(a) result in a serious risk to public safety or protection, or

(b) seriously prejudice the purpose or principles of this Law.

(3) If the Committee exercises its power under subsection (2), the Committee must give the licensee a written statement of the reasons why the Committee did not comply with the requirement under subsection (1).

(4) As soon as practicable after a licensing action, the Committee must give the Policy & Resources Committee, the States' Trading Supervisory Board and the Harbourmaster written notice of the licensing action and the Committee's reasons for taking that action.

(5) In this section and section 13, "**licensing action**" means-

- (a) refusing to make an Order under section 8(2),
- (b) giving a direction to a licensee under section 9(1) or 10(4),
- (c) rejecting under section 9(4) any plan or policy required to be submitted to the Committee by a direction under section 9(1), or
- (d) suspending or revoking a licence under section 11(4).

Appeals to the Royal Court.

13. (1) The licensee may appeal any licensing action taken by the Committee).

(2) The grounds of an appeal are that -

- (a) the action was *ultra vires* or there was some other error of law,
- (b) the action was carried out in bad faith,
- (c) there was a lack of proportionality, or
- (d) there was a material error as to the facts or as to the procedure.

(3) An appeal must be made -

- (a) within the period of 28 days immediately following the receipt of the notice given to the licensee under section 11(5), and
- (b) by summons served on the Committee stating the grounds and material facts on which the appellant relies.

(4) Where an appeal has been made, the Committee may apply to the Royal Court by summons served on the appellant, for an order to dismiss the appeal for want of prosecution; and on hearing the application the court may -

- (a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the court may direct), or
- (b) make such other order as the court considers just.

(5) The provisions of subsection (4) are without prejudice to the inherent powers of the Royal Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007^c.

(6) On the application of the appellant, the Royal Court may, on such terms as the court thinks just, suspend or modify the effect of the suspension or revocation pending the determination of the appeal.

^c Order of the Royal Court No. IV of 2007; this enactment has been amended.

(7) Upon determining an appeal, the court may -

- (a) confirm the suspension or revocation, or
- (b) annul the suspension or revocation, direct the respondent to revoke the Order giving effect to the suspension or revocation, and remit the matter for reconsideration by the Committee, with any directions that the court considers appropriate.

(8) In this section, "**the Royal Court**" and "**the court**" mean the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats; and for the purposes of any appeal, or any application for an order, under this Law the court may appoint one or more assessors to assist it in the determination of any matter before it.

PART III ENFORCEMENT

Committee may appoint inspectors.

14. (1) This section applies where the Committee has reasonable grounds to suspect that condition 1, 2 or 3 is satisfied.

(2) Condition 1 is satisfied if -

- (a) a licensee has committed or may be committing a serious licence breach, and

- (b) there may be evidence on or in any premises of that breach.
- (3) Condition 2 is satisfied if -
 - (a) any person other than a licensed controller has become a controller of a licensee (in a case where the licensee is not a natural person), and
 - (b) there may be evidence on or in any premises of the matters in paragraph (a).
- (4) Condition 3 is satisfied if -
 - (a) a licensee -
 - (i) has failed to provide to the Committee any information or return required under the licensing agreement or this Law, or
 - (ii) where required to provide information or returns under this Law, has provided any false, deceptive or misleading information or return knowing, having reasonable cause to believe, or being reckless as to whether, the information or return is false, deceptive or misleading, and
 - (b) there may be evidence on or in any premises of the matters in paragraph (a)(i) or (ii).

(5) Where this section applies, the Committee may authorise a suitably-qualified person ("**an inspector**") to exercise the powers in section 15 in relation to those premises.

(6) In this section and section 15, "**premises**" includes any place and any vehicle, vessel, aircraft, offshore installation, tent or moveable structure.

Powers of inspectors.

15. (1) An inspector may do all or any of the following -

- (a) enter and inspect the premises mentioned in section 14(2), (3) or (4) at any reasonable time,
- (b) search those premises and examine, test or inspect anything on or in those premises,
- (c) photograph, film or otherwise record anything on or in those premises,
- (d) measure or cause to be measured anything in or on those premises (including taking readings of values recorded by measuring instruments),
- (e) require the occupier or any person in charge of those premises, or any licensee (or employee or agent of a licensee) present on those premises -
 - (i) to produce to the inspector any equipment or

facilities, any document or any other thing on or in relation to the vessel,

(ii) to provide the inspector with any information requested by the inspector, which may include (without limiting the generality of this paragraph) any information regarding those premises, and

(iii) to afford the inspector any other facilities or assistance that the inspector considers necessary or expedient, including in relation to any information, document or other thing produced or provided to the inspector, and

(f) seize and remove any document or other thing at the premises that the inspector considers to be evidence of any serious licence breach.

(2) An inspector must not enter and inspect any premises under subsection (1) unless -

(a) the Committee or the inspector has given the occupier or any person in charge of those premises at least 24 hours' notice of the proposed entry and inspection, or

(b) the Committee or the inspector believes on reasonable grounds that it is necessary to enter and inspect those premises without giving the notice required by

paragraph (a) -

- (i) in the interests of public safety or protection, or
- (ii) to prevent any evidence mentioned in section 14(2)(b), (3)(b) or (4)(b), being removed or tampered with.

(3) An inspector must not enter a dwelling under subsection (1) except with the consent of the occupier or person in charge of the dwelling.

(4) An inspector entering any premises under subsection (1) may bring onto the premises any person, equipment, material or other thing to assist the inspector in the exercise of the inspector's powers under this Law.

(5) Any person brought onto any premises under subsection (4) may exercise any of the powers of an inspector under this section under the direction and supervision of an inspector.

(6) An inspector may make copies of, take extracts from or otherwise record any document or other thing provided to, or seized or removed by, an inspector under this section and must return them to the occupier or person in charge of those premises within a reasonable time.

(7) A copy, extract or record certified by an inspector as being a true copy, extract or (as the case may be) record of any document or other thing made or taken under this section is to be regarded as a true copy, extract or (as the case may be) record of that document or other thing, in the absence of proof to the contrary.

Obstruction, etc. or provision of false, deceptive or misleading information.

16. (1) A person is guilty of an offence who -
- (a) intentionally obstructs an authorised person acting in the exercise of any functions under this Law, or
 - (b) without reasonable excuse, fails to comply with any requirement made or direction given by an authorised person acting in the exercise of any functions under this Law.
- (2) A person is guilty of an offence if -
- (a) for the purposes of or in connection with an application made under this Law,
 - (b) in purported compliance with -
 - (i) any requirement made or direction given under this Law,
 - (ii) any licence condition, or
 - (iii) any provision of this Law, or
 - (c) otherwise than as mentioned in paragraph (a) or (b) but in circumstances in which the person intends, or could reasonably be expected to know, that the information would or might be used by an authorised person for

the purpose of exercising any function under this Law,

the person does any of the following -

- (A) makes a statement which that 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 which that 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 which is false, deceptive or misleading in a material particular.

- (3) A person guilty of an offence under subsection (1) or (2) is liable

on conviction to imprisonment for a term not exceeding six months, to a fine not exceeding level 5 on the uniform scale, or both.

Criminal liability of directors and other officers.

17. (1) Where an offence under this Law is committed by a body corporate, limited partnership with legal personality or foundation and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a body corporate, any director, controller, manager, secretary or other similar officer,
- (b) in the case of a limited partnership with legal personality, any general partner,
- (c) in the case of a foundation, any foundation official, or
- (d) any person purporting to act in a capacity described in paragraph (a), (b) or (c),

that person as well as the body corporate, limited partnership or foundation is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with the member's functions of management as if the member were a director.

Criminal proceedings against unincorporated bodies.

18. (1) Where an offence under this Law is committed by an

unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership (not being a limited partnership with legal personality, or a limited liability partnership incorporated under the Limited Liability Partnerships (Guernsey) Law, 2013^d), any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty of which the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in a capacity described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where an offence under this Law is alleged to have been committed by an unincorporated body, proceedings for the offence must, without prejudice to subsection (1), be brought in the name of the body and not in the name of any of its members.

(3) A fine imposed on an unincorporated body on its conviction for

^d Order in Council No. VI of 2014; this enactment has been amended.

an offence under this Law must be paid from the funds of the body.

Ordinances may prescribe civil penalties.

19. (1) The States may by Ordinance provide for the Committee to impose civil penalties in instances where the Committee considers that a breach of any licence condition under a concession licence does not justify the suspension or revocation of the licence.

(2) Without limiting the generality of subsection (1), the States may by Ordinance provide for the imposition by the Committee of a financial penalty payable by the licensee to the States in respect of any breach of a licence condition under a concession licence, not exceeding £20,000 for each such breach.

(3) An Ordinance under this section may provide for appeals against any decision made under the Ordinance.

PART IV
GENERAL

Committee may withhold, redact or summarise information, etc. for publication.

20. (1) Where a provision of this Law requires the Committee to report or publish any information or document, the Committee may exercise the power in subsection (2) where -

- (a) the Committee considers it necessary to preserve commercial confidentiality, or
- (b) the Committee considers it necessary to comply with

the Data Protection (Bailiwick of Guernsey) Law, 2017^e
or any other enactment.

- (2) The power mentioned in subsection (2) is the power to -
 - (a) withhold the information or document,
 - (b) report or publish the information or document in a redacted form, or
 - (c) report or publish only a summary of the information or document.

Duty of confidentiality.

21. (1) This section applies where, in the exercise or performance of a function under this Law, an authorised person acquires any information relating to a licensee in which the licensee is identified or reasonably identifiable.

(2) The authorised person must not disclose the information to any other person except as permitted under subsection (3).

(3) An authorised person may disclose the information to another person where -

- (a) the licensee has expressly given consent to the disclosure,

^e Order in Council No. VI of 2018; this enactment has been amended.

- (b) it appears to the authorised person that the disclosure is necessary for the purpose of -
 - (i) exercising or performing any function under this Law,
 - (ii) assisting any other person to exercise or perform any function under this Law, or
 - (iii) seeking advice from a qualified person on any matter requiring the exercise of professional skills, for a purpose mentioned in subparagraph (i) or (ii),
- (c) at the time of disclosure, the information is or has already been made public as the result of steps deliberately taken by the licensee,
- (d) the information is disclosed in the form of a summary or collection so framed as not to enable information relating to the licensee to be ascertained from it,
- (e) it appears to the authorised person that the disclosure is necessary for the purposes of any legal proceedings, including any proceedings in connection with this Law, or

(f) it appears to the authorised person that the disclosure is necessary for the purposes of complying with any enactment or order of a court or tribunal.

(4) The duty in subsection (2) survives the expiry or termination of the office or employment of the authorised person.

(5) A person who contravenes subsection (2) is guilty of an offence and liable on conviction to imprisonment for a term not exceeding six months, to a fine not exceeding level 5 on the uniform scale, or both.

(6) In this section, "**licensee**" includes any person that was, at any point in time, a licensee under this Law.

Exclusion of liability.

22. (1) Subject to subsection (2), an authorised person is neither liable in damages nor personally liable in any civil proceedings in respect of anything done or omitted to be done in the discharge or purported discharge of the person's functions under this Law, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the 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^f.

Committee to make annual reports.

23. (1) As soon as practicable after the end of each calendar year, the

^f Order in Council No. XIV of 2000; this enactment has been amended.

Committee must submit a written report to the States in respect of the exercise of the Committee's functions under this Law during the calendar year.

(2) The report must include -

- (a) a summary of any request made by the licensee for variations to the agreed services in relation to a licensing agreement and the Committee's decision on each request,
- (b) a copy of any direction given by the Committee under section 9(1) or 10(4),
- (c) a statement as to whether, in the Committee's opinion, the licensee has performed its obligations under the licensing agreement and under this Law, and
- (d) any other prescribed information.

(3) Despite subsection (1), if the Committee is required to make any other annual report under any enactment or Resolution of the States ("**the other report**"), the Committee may submit the annual report under subsection (1) together with the other report, as long as that annual report is submitted to the States no later than the end of the calendar year next following the calendar year in relation to which the annual report is made.

Certified documents as evidence.

24. (1) A copy of an Order or any other document in the custody of the Committee, purporting to be certified on behalf of the Committee to be a true copy, is

evidence of the document in the absence of proof to the contrary.

(2) A certificate purporting to be signed on behalf of the Committee stating that no Order or other document on a specified matter has been made or issued by the Committee is evidence of the fact stated in the absence of proof to the contrary.

Other rights, powers, duties and obligations not limited.

25. (1) Nothing in this Law limits -

- (a) the exercise of any right or power of the Committee under a licensing agreement or any other enactment, or
- (b) any duty or obligation imposed on a licensee under the licensing agreement or any other enactment.

(2) Without limiting subsection (1), no exercise of power, or failure or delay in exercising any power, on the part of the Committee under this Law releases or waives any right of action, or the exercise of any power, by the Committee under a licensing agreement or any enactment.

Orders as statutory instruments.

26. For the avoidance of doubt, Orders made under this Law are to be regarded as statutory instruments under the Guernsey Statutory Instruments (Registration) Ordinance, 1949⁸.

⁸ Recueil d'Ordonnances Tome X, p. 16.

Ordinances may amend provisions of this Law.

27. The States may at any time by Ordinance amend all or any of the following provisions of this Law -

- (a) any provision of Part II (licensing and regulation),
- (b) any provision of this Law specifying a period of time or time limit for the giving of notices, making of applications, submissions or appeals, or the doing of any other thing.

Meaning of "Ro-Ro ferry service".

28. (1) Subject to subsection (2), in this Law, "**Ro-Ro ferry service**" means a ferry service provided for profit or reward using a Ro-Ro vessel on a route prescribed under subsection (2)(a).

(2) The Committee and the Policy & Resources Committee may jointly make an Order to -

- (a) prescribe a route for the purposes of subsection (1), and
- (b) declare any ferry service to be, or not to be, a Ro-Ro ferry service for the purposes of this Law.

(3) In subsection (1), "**Ro-Ro vessel**" means a vessel with facilities to enable road vehicles (including trailers that are not self-propelled) to roll on and roll off the vessel.

Interpretation.

29. (1) In this Law, unless the context requires otherwise -

"**agreed services**", in relation to a licensing agreement, means services required by the agreement to be performed by the person who is the licensee,

"**approved process**": see section 10(7),

"**authorised person**" means -

- (a) an inspector or any person who exercises any power of an inspector under section 15(5),
- (b) the Committee or any member of it,
- (c) any officer of the States of Guernsey exercising or performing functions of the Committee under this Law on the Committee's behalf,

"**the Committee**" means the Committee for Economic Development,

"**concession agreement**", in relation to a licence or licensee -

- (a) means the operating agreement concluded between the Committee and the licensee subject to which the licence is granted, and
- (b) includes any amendment to that agreement duly made in accordance with the provisions of that agreement,

"concession licence" means a licence granted under section 3,

"controller" in relation to a licensee that is not a natural person, means a shareholder controller or indirect controller of the licensee,

"foundation" means -

- (a) a foundation created under the Foundations (Guernsey) Law, 2012^h, or
- (b) an equivalent or similar body (however named) created or established under the law of any other jurisdiction,

"Harbourmaster" means the States Harbourmaster or any States Deputy Harbourmaster,

"indirect controller", in relation to a licensee that is not a natural person -

- (a) means a person in accordance with whose directions or instructions a shareholder controller of the licensee is accustomed to act, and
- (b) includes a person who has a holding in that licensee

^h Order in Council No. I of 2013; this enactment has been amended.

(or, where that body is a company, in any other company of which that licensee is a subsidiary) which makes it possible to directly or indirectly exercise significant influence over the management of the licensee,

"inspector" means a person authorised under section 14(5) to exercise the powers in section 15 in respect of any premises,

"this Law" includes any Ordinance or Order made under it,

"licence" means -

- (a) a concession licence, or
- (b) a temporary licence;

in relation to any licensee, **"licence"** means the licence held by the licensee; and, in relation to a licensing agreement, **"licence"** means the licence granted subject to the licensing agreement,

"licence condition", in relation to any licence or licensee, means any condition to which the licence is subject under section 7,

"licensed controller", in relation to any licensee that is not a natural person, means a person -

- (a) that was duly notified to the Committee as a controller of the licensee before the licence was granted, or

- (b) who became a controller of the licensee with the authorisation of the Committee under section 8(2),

"licensee" -

- (a) means a person that holds a licence, and
- (b) in relation to a particular licence, means the person that holds the licence or to whom the licence was granted,

"licensing action": see section 12(5),

"licensing agreement", in relation to any licence, means the concession agreement or other agreement subject to which the licence was granted,

"limited partnership" means -

- (a) an arrangement which is registered as a limited partnership, and in respect of which there is a valid certificate of registration, under the Limited Partnerships (Guernsey) Law, 1995ⁱ, or
- (b) an arrangement entered into under the laws of a jurisdiction outside Guernsey between two or more persons, under which -

ⁱ Ordres en Conseil Vol. XXXVI, p. 264; this enactment has been amended.

- (i) one or more of them is, or are jointly and severally, liable without limitation for all debts and obligations to third parties incurred pursuant to the arrangement, and
- (ii) the others have, by whatever means, contributed or agreed to contribute specified amounts pursuant to the arrangement and are not liable for those debts and obligations (unless they participate in controlling the business or are otherwise subjected to a greater liability by those laws in specified circumstances) beyond the amount contributed or agreed to be contributed,

whether with or without legal personality,

"material condition", in relation to a licensing agreement, means any term or condition of the agreement, which, if breached, would entitle the Committee to suspend or terminate that agreement,

"premises": see section 14(6),

"prescribed", in any provision of this Law, means prescribed by Ordinance of the States,

"prescribed route": see section 3(6),

"principles of this Law" means the principles specified in section 1(2),

"protected cell company" means a company incorporated as, or converted into, a protected cell company in accordance with the provisions of the Companies (Guernsey) Law, 2008^j,

"provide", in relation to a Ro-Ro ferry service, includes the following -

- (a) offering the Ro-Ro ferry service to any member of the public,
- (b) operating the Ro-Ro ferry service,

"publish", in relation to any information or document, means to publish in *La Gazette Officielle* or otherwise make publicly available (in any manner considered appropriate by the person making the publication) a notice containing the information or document or stating where the public may read or obtain access to the information or document,

"Ro-Ro ferry service" has the meaning given by section 28,

"Ro-Ro vessel": see section 28(3),

"Royal Court" or **"the court"**: see section 13(8),

"serious licence breach", in relation to a licence or a licensee, means -

^j Order in Council No. VIII of 2008; this enactment has been amended.

- (a) any breach of a material term of the licensing agreement,
- (b) any material breach of the licensing agreement,
- (c) any serious, persistent or ongoing breach of any other licence condition which, in the opinion of the Committee, cannot be adequately remedied by any action -
 - (i) that the Committee is entitled to take under the licensing agreement, or
 - (ii) that the Committee is authorised to take under this Law, other than suspending or revoking the licence, or
- (d) any other prescribed breach of the licensing agreement or a licence condition,

"shareholder controller" -

- (a) in relation to a body, and subject to the provisions of paragraph (b), means a person who, alone or with associates, is entitled to exercise, or control the exercise of, 15% or more of the voting power (whether in general meeting or otherwise) of that body or (where that body is a company) of any other company of which that body

is a subsidiary,

- (b) in relation to a protected cell company, means a person who, alone or with associates, beneficially owns 15% or more of the cell shares issued in respect of any cell of that company,

"temporary licence" means a licence granted under section 5, and

"users" has the meaning given in section 1(3).

- (2) In this Law, for the avoidance of doubt -

- (a) a reference to information, documents, returns or records in relation to a licensee includes information, documents, returns or (as the case may be) records relating to revenues, expenditures and other financial information relating to the licensee or the Ro-Ro ferry services provided by the licensee, and
- (b) a reference to seizing, providing, copying, extracting, recording, reporting or publishing information, documents or other things excludes items subject to legal professional privilege within the meaning given by section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^k.

^k Order in Council No. XXIII of 2003; this enactment has been amended.

Law binds the Crown.

30. This Law binds the Crown.

Extent.

31. For the avoidance of doubt, this Law extends to the territorial waters of Guernsey.

Citation.

32. This Law may be cited as the Ro-Ro Sea-Links (Guernsey) Law, 2024.

Commencement.

33. (1) This Law shall come into force on the day appointed by Order made jointly by the Committee and the Policy & Resources Committee; and different dates may be appointed for different provisions and for different purposes.

(2) An Order under subsection (1) may declare that the Committee for Economic Development has complied with the provisions of sections 3 and 4 in respect of the first concession licence granted by the Committee under this Law; and in this case, the Committee is deemed to have duly complied with sections 3 and 4 in respect of the granting of that concession licence.