

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (BAILIWICK OF GUERNSEY)
(AMENDMENT) ORDINANCE, 2023**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 ("the Proceeds of Crime Law"), by inserting a new Schedule, making provision for a statutory minimum standards test for accountants.

Section 1 and the Schedule to the Ordinance insert a new Schedule 7 to the Proceeds of Crime Law. Paragraph references below are to paragraphs of inserted Schedule 7. Section 1 also makes several minor amendments to Schedule 6 to the Proceeds of Crime Law (which is concerned with the Administrator of estate agents) to make the provisions of that Schedule more consistent with the provisions of the new Schedule to be inserted by this Ordinance. Sections 2, 3 and 4 are concerned with the extent, citation and commencement of the Ordinance.

Paragraphs 1 to 3 establish an office to be called the Administrator of Accountants ("the Administrator"), provide that the office shall be held by the Registrar of Companies in Guernsey or such other person as the Policy & Resources Committee ("the Committee") may from time to time appoint by regulations, and set out statutory functions and ancillary powers of the Administrator.

Paragraph 4 introduces a requirement for initial notification to the Administrator, and the provision of information relating to the minimum standards test, before a person becomes involved in accountancy and makes provision regarding notification by persons already involved in accountancy when the Schedule comes into force.

Paragraph 5 provides for an ongoing requirement for a person involved in accountancy to provide information relating to the minimum standards test upon request and to notify the Administrator if they are convicted of any offence or where there is any change in information previously provided.

Paragraphs 6 to 8 confer a power on the Administrator to apply to the Royal Court for an accountant disqualification order (where in the opinion of the Administrator a person is not a fit person to be involved in accountancy), set out the grounds for making a disqualification order, and make provision for the revocation of a disqualification order.

Paragraph 9 makes provision for the imposition of a civil financial penalty not exceeding £20,000 (or such other amount as the Committee may prescribe by regulations) by the Administrator where there has been a failure to comply with notification and information requirements under Schedule 7, a failure to comply with a condition imposed by the Administrator under paragraph 12, where a person involved in accountancy is convicted of any offence, or has engaged in certain business practices.

Paragraph 10 confers upon the Administrator the power to issue private reprimands, having regard to the conduct of a person involved in accountancy.

Paragraph 11 confers upon the Administrator the power to issue public statements where a person has contravened in a material particular a provision of Schedule 7 or any prohibition, restriction, condition, obligation, enforcement requirement, other requirement, duty, direction or arrangement imposed, issued or arising under any such provision.

Paragraph 12 confers upon the Administrator the power to impose conditions on a person involved in accountancy or on an accountancy business in respect of that person or business's conduct of accountancy business.

Paragraph 13 gives a person or business who is the subject of a proposed financial penalty, public statement, or condition, the right to make written representations and makes provision regarding such representations. It also makes provision, for the avoidance of doubt, preventing recovery of a financial penalty during the period in which an application to the Royal Court could be made to set aside the penalty and the period during which such an application is before the Court.

Paragraph 14 provides that a person is not liable to a civil penalty if a prosecution has been commenced and that the Administrator shall repay a penalty if a prosecution commences after a penalty has been paid.

Paragraph 15 provides a general right for a person directly affected by any action, decision or determination of the Administrator to apply to the Royal Court to set aside that action, direction, decision or determination and makes provision regarding such applications.

Paragraphs 16 and 17 create offences of contravening any provision of an accountant disqualification order, and knowingly or recklessly providing false, deceptive or misleading information to the Administrator, both punishable by a fine not exceeding

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

Paragraphs 18 and 19 make provision regarding the disclosure and publication of non-confidential and confidential information by the Administrator.

Paragraph 20 provides a standard form exclusion of civil liability for persons undertaking functions under Schedule 7, in respect of things done or omitted to be done in good faith and in compliance with the Human Rights (Bailiwick of Guernsey) Law, 2000.

Paragraph 21 makes provision regarding service and notice of documents under Schedule 7, and paragraph 22 confers on the Committee power to make regulations making provision in respect of the professional qualification of accountants.

Paragraph 23 provides that a person is not a person involved in accountancy for the purposes of the Schedule when s/he is subject to requirements imposed by a jurisdiction outside the Bailiwick which the Committee is satisfied are equivalent to the requirements imposed by the Schedule, and undertakes accountancy primarily from outside the Bailiwick. It also creates a power for the Committee to make regulations specifying jurisdictions which impose such equivalent requirements.

Paragraph 24 defines certain terms used in Schedule 7, and paragraph 25 defines the term "accountant", and provides a power for that definition to be amended by regulations made by the Committee.

The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023

THE STATES, in pursuance of their Resolutions of the 21st day of October, 2022^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, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Proceeds of Crime Law.

1. (1) The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 is amended as follows.

(2) In section 49AA, after subsection (3A) insert –

"(3B) Schedule 7 (Administrator of accountants) has effect."

(3) In paragraph 19(1) of Schedule 6 (Administrator of estate agents), at the end of item (a) delete "or", and after item (a) insert –

"(aa) where the Administrator considers such disclosure or publication to be necessary and proportionate in connection with the exercise of the Administrator's powers under paragraphs 6 to 12, or"

^a Article VIII of Billet d'État No XVIII of 2022.

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

(4) In paragraph 22 of Schedule 6, renumber the existing text as subparagraph (1), for paragraph (b) of the definition of "confidential information" substitute –

"(b) the identity of any person whom the Administrator has been notified is the beneficial owner of an estate agency business,"

and at the end insert –

"(2) The Committee may make regulations amending the definition of "**confidential information**" 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."

(5) After Schedule 6, insert the Schedule 7 set out in the Schedule.

Extent.

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

Citation.

3. This Ordinance may be cited as the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2023.

Commencement.

4. 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 1(5)

"SCHEDULE 7

ADMINISTRATOR OF ACCOUNTANTS

Section 49AA(3B)

The Administrator

Administrator of Accountants.

1. (1) There is established an office to be called the Administrator of Accountants.

(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 Accountants is –

- (a) to prevent unfit persons from being persons involved in accountancy, 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, subject to paragraph 23 a "**person involved in accountancy**" means a person who is either an accountant, or a relevant person, within the meaning of this Schedule (and "**persons involved in accountancy**" 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) persons involved in accountancy,
 - (ii) accountancy businesses,
 - (iii) the beneficial owners and legal owners of accountancy businesses,
 - (iv) the directors of accountancy businesses,

- (v) the partners of accountancy businesses,
 - (vi) the controllers of accountancy businesses, and
 - (vii) the managers of accountancy 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 person involved in accountancy.

(2) Where, on the coming into force of this Schedule, a person ("P") is a person involved in accountancy, 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 person involved in accountancy, 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 accountancy, 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 person involved in accountancy 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, an accountancy 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 person involved in accountancy ("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 – Accountant disqualification orders

Accountant 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 person involved in accountancy, the Administrator may make and subsequently renew, on one or more occasions, an application to the Court for an order (an "**accountant disqualification order**") prohibiting that person from being a person involved in accountancy.

(2) An accountant disqualification order may, in the Court's absolute discretion, be made by consent.

(3) An accountant 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 an accountancy disqualification order is the beneficial owner of an accountancy business, an accountant 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 accountancy business, within such period, as the Court may specify.

Grounds for making an accountant disqualification order.

7. (1) The Court may make an accountant disqualification order where it considers that, by reason of a person's conduct in relation to an accountancy business or otherwise, that person is unfit to be a person involved in accountancy.

(2) Subject to subparagraph (3), in determining whether a person is unfit to be a person involved in accountancy, 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 person involved in accountancy.

Revocation of accountant disqualification orders.

8. (1) A person subject to an accountant 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 person involved in accountancy, 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 person involved in accountancy.

(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 person involved in accountancy is not unfit to be a person involved in accountancy 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 person involved in accountancy, or an accountancy 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) 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.

(2) In deciding whether or not to impose a penalty under this paragraph and, if so, the amount thereof, the Administrator must take into consideration the following factors -

- (a) whether the failure was brought to the attention of the Administrator by the person concerned,
- (b) the seriousness of the failure,
- (c) whether or not the failure was inadvertent,
- (d) what efforts, if any, have been made to rectify the failure and to prevent a recurrence,
- (e) the potential financial consequences to the person or business concerned, and to third parties including customers and creditors of that person, of imposing a penalty,
- (f) the penalties imposed by the Administrator under this

paragraph in other cases, and

(g) 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, and
- (c) 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.

(6) Where a penalty is imposed on a person or business under this paragraph, the Administrator may publish, in such manner and for such period as the Administrator may determine, the name of the person or business and the amount of the penalty, and the publication may contain such information in respect of any person named therein, and such ancillary, incidental and supplementary information, as the Administrator may determine.

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 person involved in accountancy, 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 person involved in accountancy ("P") has contravened in a material particular -

(i) a provision of this Schedule, or

(ii) 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.

(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 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) 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 person involved in accountancy or an accountancy 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 of accountancy.

(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) or

12(2) may make written representations to the Administrator concerning the proposed financial penalty, public statement 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, publish the statement or impose the conditions,
 - (ii) in the case of a proposed financial penalty, impose a penalty in a lesser amount, 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 an accountant 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.

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 him or her except –

- (a) to the persons and bodies set out in subparagraph (2) where the Administrator considers that disclosure necessary and proportionate for the purposes set out in paragraph 1(4),
- (b) where the Administrator considers such disclosure or publication to be necessary and proportionate in connection with the exercise of the Administrator's powers under paragraphs 6 to 12, or
- (c) 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 Registrar of Companies (including in his or her capacity as the Registrar of Foundations),
 - (d) the Registrar of Limited Liability Partnerships,
 - (e) the Registrar within the meaning of the Companies (Alderney) Law, 1994,
 - (f) the Registrar of Beneficial Ownership,
 - (g) the Greffier,
 - (h) any body or person with the function of implementing or enforcing international sanctions measures within the Bailiwick,
 - (i) the Greffier within the meaning of the Government of Alderney Law, 2004,
 - (j) the Alderney Gambling Control Commission,

- (k) the Director of the Revenue Service,
- (l) the Registrar of Charities and other Non Profit Organisations under the Charities etc. (Guernsey and Alderney) Ordinance, 2021, and
- (m) 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).

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

22. (1) The Committee may make regulations making provision in respect of the professional qualification of accountants.

(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.

Equivalent jurisdictions.

23. (1) A person is not a person involved in accountancy for the purposes of this Schedule in circumstances where the person –

(a) is subject to requirements imposed by a jurisdiction outside the Bailiwick which the Committee is satisfied are equivalent to the requirements imposed by this Schedule, and

(b) undertakes accountancy primarily from or within a jurisdiction outside the Bailiwick,

and the Committee may make regulations specifying jurisdictions which it is satisfied impose equivalent 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.

24. (1) In this Schedule –

"**accountancy**" means the business of being an auditor, external accountant, insolvency practitioner or tax adviser within the meaning given in paragraph 5 of Schedule 2, but does not include such a business in circumstances where that business is a small business within the meaning of the Prescribed Businesses (Bailiwick of Guernsey) Law, 2008,

"**accountancy business**" means a business engaged in accountancy that carries on, or holds itself out as carrying on, business in, or from within, the Bailiwick (and, for the avoidance of doubt, consequently does not include a small business within the meaning of the Prescribed Businesses (Bailiwick of Guernsey) Law, 2008),

"**accountant**": see paragraph 25,

"**accountant disqualification order**": see paragraph 6(1),

"**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, and
- (b) the identity of any person whom the Administrator has been notified is the beneficial owner of an accountancy business,

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

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

"**person involved in accountancy**": see paragraph 1(5), and

"**relevant person**" means the beneficial owner of an accountancy business.

(2) The Committee may make regulations amending the definition of "**confidential information**" 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.

Meaning of accountant.

25. (1) In this Schedule an "**accountant**" means an individual who is -
- (a) a partner, chief executive or director (or equivalent to any of these roles) of an accountancy business or any other person participating in, or being in any way concerned (directly or indirectly) in the management of an accountancy business, where that person also has

the authority to bind that accountancy business in the Bailiwick, or

- (b) a Money Laundering Reporting Officer, a Money Laundering Compliance Officer or a nominated officer of an accountancy business,

and in this paragraph "**Money Laundering Reporting Officer**", "**Money Laundering Compliance Officer**" and "**nominated officer**" have the meanings given in Schedule 3.

(2) The Committee may make regulations amending the definition of "**accountant**" 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."