

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE CHARITIES ETC. (GUERNSEY AND ALDERNEY) (AMENDMENT) ORDINANCE, 2023

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Charities etc. (Guernsey and Alderney) (Amendment) Ordinance, 2023 ", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Charities etc. (Guernsey and Alderney) Ordinance, 2021. It expands the functions of the Registrar of Charities and other Non Profit Organisations, makes provision in respect of the Registrar co-operating with foreign authorities, and makes several minor amendments to the existing provision in respect of the powers of the Registrar to disclose information.

The Ordinance comes into force on 29th July.

The Charities etc. (Guernsey and Alderney) (Amendment) Ordinance, 2023

THE STATES, in pursuance of their Resolution of the ** July, 2023^a, and in exercise of the powers conferred on them by sections 1, 2 and 3 of the Charities and Non Profit Organisations (Enabling Provisions) (Guernsey and Alderney) Law, 2009^b and all other powers enabling them in that behalf, hereby order:-

Amendment of Charities Ordinance.

1. (1) The Charities etc. (Guernsey and Alderney) Ordinance, 2021 is amended as follows.

(2) In section 3(1), after paragraph (c) insert –

"(ca) to communicate and otherwise co-operate with –

(i) any Bailiwick authority or authority appearing to the Registrar to exercise, in a place outside Guernsey and Alderney, functions corresponding to the Registrar's, and

(ii) such other persons as the Registrar thinks

^a Article * of Billet d'État No. * of 2023.

^b Order in Council No. V of 2010; this enactment has been amended.

fit,

for the purposes of –

- (A) assisting any Bailiwick authority in its functions (or, in the case of any authority appearing to the Registrar to exercise, in a place outside the Bailiwick, functions corresponding to the Registrar's, assisting that authority with those corresponding functions),
- (B) assisting the Registrar in the exercise of his or her functions,
- (C) assisting them or the Registrar in the prevention, detection, investigation or prosecution of money laundering, bribery and corruption, the financing of terrorism, the financing of the proliferation of weapons of mass destruction, and any other form of financial or non-financial crime,
- (D) promoting or enhancing the Register, or

- (E) promoting or enhancing this Ordinance (including any subordinate legislation made under it),

and, for the avoidance of doubt, such communication and co-operation may include obtaining and disclosing information where such disclosure is for any of the purposes set out in paragraph 2(1) and 2(2) of Schedule 2,".

(3) In section 3(1), in paragraph (e) before "administration" insert "registration, regulation, governance," and before "practices and procedures" insert "law," and after paragraph (e) insert –

"(ea) to make to the Committee such recommendations as the Registrar thinks fit for improving –

- (i) the Registrar's effectiveness,
- (ii) the adequacy and effectiveness of the functions conferred on the Registrar by this Ordinance or any other enactment, and
- (iii) the adequacy and effectiveness of the provisions of this Ordinance or any other enactment relating to the Registrar, and".

(4) After section 4 (ancillary powers of the Registrar etc.), insert –

""Co-operation with foreign authorities.

4A. (1) The Registrar shall take such steps as he or she considers appropriate to co-operate with any person or body -

- (a) who or which appears to the Registrar to exercise in a place outside the Bailiwick functions corresponding to any of the functions of the Registrar, for the purpose of the exercise of such functions, or
- (b) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings,

and co-operation under this section may, without limitation, take the form of sharing or gathering any information which the Registrar may lawfully disclose or obtain.

(2) For the avoidance of doubt, the duty to co-operate imposed under subsection (1) is without prejudice to any other duties, and any powers, of the Registrar, including (but not limited to) powers to disclose or obtain information."

(5) In subparagraph (2) of paragraph 2 (disclosure of information by Registrar) of Schedule 2 –

(a) after subparagraph (f) insert –

"(fa) assisting or enabling the Director of the Economic and Financial Crime Bureau to carry

out his or her functions,"

(b) at the end of subparagraph (g), insert "His Majesty's Sheriff, His Majesty's Sergeant and the Greffier within the meaning of the Government of Alderney Law, 2004",

(c) after subparagraph (q) delete "and",

(d) at the end of subparagraph (r), for "." substitute ", and",
and

(e) after subparagraph (r), insert –

"(s) promoting the public interest or the reputation of the Bailiwick as a finance centre".

(6) At the end of paragraph 1 of Schedule 3 (information etc. powers), insert –

"(6) A requirement imposed under this paragraph, paragraph 2 or paragraph 6, or under a warrant granted under paragraph 7, has effect notwithstanding any obligation as to confidentiality or other restriction upon the disclosure of information imposed by statute, contract or otherwise; and, accordingly, the obligation or restriction is not contravened by the making of a disclosure, or by any other act or omission, pursuant to such a requirement.".

(7) In paragraph 9 of Schedule 3, before "request" insert "requirement or".

Citation.

2. This Ordinance may be cited as the Charities etc. (Guernsey and Alderney) (Amendment) Ordinance, 2023.

Commencement.

3. This Ordinance shall come into force on the 29th July, 2023.