

Jersey & Guernsey Law Review – June 2013

SUMMARY OF LEGISLATION

BAILIWICK OF JERSEY

1 January–30 April 2013

1. LAWS ADOPTED BY THE STATES

- (a) *Income Tax (Amendment No 42) (Jersey) Law 2013*
(P.133/2012—adopted in 3rd reading, 16.01.13)
This Law revises the rules for taxation of a limited liability partnership.
- (b) *States of Jersey (Amendment No 6) Law 201-*
(P.34/201—adopted in 3rd reading, 17.04.13).
This Law makes provision for the discharge of the functions of the Chief Minister and Deputy Chief Minister when both those Ministers are unavailable.
- (c) *Restriction on Smoking (Amendment No 3) (Jersey) Law 201-*
(P.18/2013—adopted in 3rd reading, 30.04.13).
This Law allows Regulations to be made to ban the sale of tobacco from a vending machine and also alters to maximum penalty that may be imposed for an offence against Regulations made under the principal Law.

2. LAWS, ORDERS IN COUNCIL, ETC REGISTERED IN THE ROYAL COURT

- (a) *Debt Relief (Developing Countries) (Jersey) Law 2013*
(L.1/2013—registered 22.02.13. In force 01.03.13)
- (b) *Health Insurance (Miscellaneous Provisions) (Amendment) (Jersey) Law 2013*
(L.2/2013—registered 22.02.13. In force 01.05.13)
- (c) *Income Tax (Amendment No 41) (Jersey) Law 2013*
(L.3/2013—registered 22.02.13. In force 01.01.13)
- (d) *Finance (2013 Budget) (Jersey) Law 2013*
(L.4/2013—registered 22.02.13. In force 01.01.13)
- (e) *Goods and Services Tax (Amendment No 4) (Jersey) Law 2013*
(L.5/2013—registered 22.02.13. In force 01.01.13)

- (f) *Income Tax (Amendment No 42) (Jersey) Law 2013*
(L.6/2013—registered 22.03.13. In force 16.01.13)

3. APPOINTED DAY ACTS

- (a) *Residential Tenancy (Jersey) Law 2011 (Appointed Day) Act 2013*
(R&O.35/2013—in force 20.03.13)
Whole Law brought into force on 01.05.2013.

4. REGULATIONS MADE BY THE STATES

- (a) *Community Provisions (Goods Infringing Intellectual Property Rights) (Jersey) Regulations 2013*
(R&O.2/2013—in force 23.01.13)
These Regulations supplement Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights.
- (b) *Public Employees (Contributory Retirement Scheme) (States of Jersey Prison Service—Amendments) (Jersey) Regulations 2013*
(R&O.3/2013—in force 01.02.13)
These Regulations increase the normal retiring age for States of Jersey prison officers from 55 to 60 and make miscellaneous associated amendments.
- (c) *Limited Liability Partnerships (Amendment of Law) (Jersey) Regulations 2013*
(R&O.4/2013—in force 17.01.13)
These Regulations replace the requirement for a limited liability partnership to maintain financial provision of at least £5 million, payable if the partnership is wound up, with a requirement for the partnership to make a “specified solvency statement”.
- (d) *Civil Partnership (Consequential Amendments) (No 2) (Jersey) Regulations 2013*
(R&O.16/2013—provisions amending enactments not yet in force will commence on the same day as the enactment amended; remainder in force 30.01.13)
These Regulations make further amendments that are consequential upon the enactment of the Civil Partnership (Jersey) Law 2012.
- (e) *Taxation (Double Taxation) (Amendment) (Jersey) Regulations 2013*
(R&O.17/2013—in force 29.01.13)
These Regulations remove the requirement to reproduce the full text of a double taxation agreement in the principal Regulations and implement a double taxation agreement with Singapore.
- (f) *Motor Traffic (Third-Party Insurance) (Cost Recovery) (Jersey) Regulations 2013*

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(R&O.23/2013—in force 26.02.13)

These Regulations provide for the recovery of the costs of medical treatment of victim of a road traffic accident from the responsible driver's insurer.

- (g) *Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 2013*

(R&O.29/2013—will commence on the same day as the principal Law)

These Regulations set out the conditions for residential and employment status under the Control of Housing and Work (Jersey) Law 2012.

- (h) *Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 2013*

(R&O.30/2013—will commence on the same day as the principal Law)

These Regulations contain transitional provision for or provisions that are consequential upon, the Control of Housing and Work (Jersey) Law 2012.

- (i) *Financial Regulation (Disclosure of Information) (Amendments) (Jersey) Regulations 2013*

(R&O.31/2013—in force 13.03.13)

These Regulations widen the persons to whom, and the circumstances in which, the Jersey Financial Services Commission may disclose information obtained by it in the discharge of its statutory functions.

- (j) *Employment (Minimum Wage) (Amendment No 9) (Jersey) Regulations 2013*

(R&O.33/2012—in force 01.04.13)

These Regulations revise the way in which an employee's wage is calculated, for the purposes of the minimum wage.

- (k) *Social Security (Amendment No 5) (Jersey) Regulations 2013*

(R&O.34/2013—in force 26.03.13)

These Regulations revise the rules for up-rating pensions and provide for a one-off pension payment in 2013.

- (l) *Companies (Amendment No 7) (Jersey) Regulations 2013*

(R&O.37/2013—in force 27.03.13)

These Regulations make provision for the application of the Companies (Jersey) Law 1991 to corporate directors.

- (m) *Taxation (Exchange of Information with Third Countries) (Amendment No 6) (Jersey) Regulations 2013*

(R&O.38/2013—in force 20.03.13)

These Regulations give effect to tax information exchange agreements entered into with Brazil and Latvia.

- (n) *Register of Names and Addresses (Register Entries) (Jersey) Regulations 2013*

(R&O.50/2013—will commence on the same day as the principal Law)

These Regulations requires a person who has a registration card under the Control of Housing and Work (Jersey) Law 2012 or who is resident for 3 months or more to be entered in the Register of Names and Addresses.

- (o) *Restriction on Smoking (Advertising, Promotion and Display) (Jersey) Regulations 2013*

(R&O.61/2013—in force 30.10.14)

These Regulations prohibits the advertising, promotion and display of tobacco products and imposes requirements for the display of prices of tobacco products.

5. OTHER SUBORDINATE LEGISLATION OF NOTE

- (a) *Employment (Minimum Wage) (Amendment No 6) (Jersey) Order 2013*

(R&O.39/2013—in force 01.04.13)

This Order increases the basic minimum wage and introduces a second tier minimum wage for trainees.

BAILIWICK OF GUERNSEY

1 January–30 April 2013

A. GUERNSEY

1. LAWS APPROVED BY THE STATES OF DELIBERATION

- (a) *Land Planning and Development (Local Planning Briefs) (Guernsey) Law 2013*
(*Billet d'État* No IV of 2013. Approved 27.02.13—in force 22.04.13)
This Law gives effect for a period of 3 years, beginning on the day that the Law comes into force, to the deemed Local Planning Briefs for Le Bouet Mixed Use Redevelopment Area and Glategny Esplanade Mixed Use Redevelopment Area.

2. ORDINANCES APPROVED BY THE STATES OF DELIBERATION

- (a) *Income Tax (Guernsey) (Approval of Agreement with Malta) Ordinance 2013*
(*Billet d'État* No I of 2013. Approved 30.01.13—in force 30.01.13)
This Ordinance specifies the agreement providing for the obtaining and exchanging of information in relation to tax, made between the States of Guernsey and the Government of Malta signed on 12 March 2012 for the purposes of the Income Tax (Guernsey) Law, 1975.
- (b) *Civil Contingencies Law 2012 (Commencement) (Bailiwick of Guernsey) Ordinance 2013*
(*Billet d'État* No I of 2013. Approved 30.01.13—in force 04.02.13)
This Ordinance commences the Civil Contingencies (Bailiwick of Guernsey) Law 2012, on 4 February 2013.
- (c) *Civil Contingencies Authority (Form of Oath and Affirmation) (Bailiwick of Guernsey) Ordinance 2013*
(*Billet d'État* No I of 2013. Approved 30.01.13—in force 04.02.13)
This Ordinance prescribes the form of oath or affirmation required to be taken by a permanent or temporary member of the Civil Contingencies Authority under the Civil Contingencies (Bailiwick of Guernsey) Law 2012.
- (d) *Merchant Shipping (Bailiwick of Guernsey) Law 2002 (Commencement) Ordinance 2013*
(*Billet d'État* No I of 2013. Approved 30.01.13—in force 04.02.13)
This Ordinance commences certain provisions of the Merchant Shipping (Bailiwick of Guernsey) Law 2002 (principally Part III (Masters and Seamen)) and repeals other Merchant Shipping

legislation (set out in Part I of Schedule 10 to Law of 2002), the repeal of which is a necessary consequence of the commencement of those provisions and contains appropriate saving provisions. The Ordinance also repeals the Passenger Vessels (Bailiwick of Guernsey) Ordinance 1970.

- (e) *Smoking (Prohibition in Public Places and Workplaces) (Exemptions and Notices) (Amendment) (Guernsey) Ordinance 2013* (*Billet d'État* No III of 2013. Approved 27.02.13—in force 01.03.13)

This Ordinance repeals s 1(2)(a) of the Smoking (Prohibition in Public Places and Workplaces) (Exemptions and Notices) (Guernsey) Ordinance 2006, thereby removing the prison cells at the States Prison from the list of premises exempt from the Smoking (Prohibition in Public Places and Workplaces) (Guernsey) Law 2005.

- (f) *Income Tax (Guernsey) (Approval of Agreement with Chile) Ordinance 2013* (*Billet d'État* No III of 2013. Approved 27.02.13—in force on 27.02.13)

This Ordinance specifies the agreement providing for the obtaining and exchanging of information in relation to tax, made between the States of Guernsey and the Republic of Chile, signed on 4 April 2012 and 24 September 2012 by the States of Guernsey and the Republic of Chile respectively, for the purposes of the Income Tax (Guernsey) Law 1975.

- (g) *Control of Borrowing (Repeal) (Bailiwick of Guernsey) Ordinance 2013* (*Billet d'État* No III of 2013. Approved 27.02.13—in force 27.02.13)

This Ordinance repeals the Control of Borrowing (Bailiwick of Guernsey) Ordinance 1959 and other related amending Ordinances made under the Borrowing (Control) (Bailiwick of Guernsey) Law 1946 and makes consequential amendment to the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance 2003.

- (h) *Mental Health (Bailiwick of Guernsey) Law 2010 (Commencement) Ordinance 2013* (*Billet d'État* No V of 2013. Approved 26.03.13—in force on 08.04.13)

This Ordinance commences the Mental Health (Bailiwick of Guernsey) Law 2010, on 8 April 2013.

- (i) *Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) (Amendment) Ordinance 2013* (*Billet d'État* No VII of 2013. Approved 24.04.13—in force 24.04.13)

This Ordinance amends the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2006 so as to add a Judge

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of the Royal Court to the list of persons concerned in the administration of justice, the intimidation of whom, or of whose family, constitutes an offence under s 13 of that Law.

3. ORDINANCES, SUBORDINATE LEGISLATION *ETC* LAID BEFORE THE STATES OF DELIBERATION

- (a) *Sea Fish Licensing (Licence Fees) (Guernsey) Regulations 2012*
(*Billet d'État* No I of 2013. Made by the Commerce and Employment Department—in force 16.10.12 and laid on 30.01.13)
- (b) *Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) (No 4) Regulations 2012*
(*Billet d'État* No I of 2013. Made by the Social Security Department—in force 13.11.12 and laid on 30.01.13)
- (c) *Health Service (Payment of Authorised Suppliers) (Amendment No 2) Regulations 2012*
(*Billet d'État* No I of 2013. Made by the Social Security Department—in force 27.11.12 and laid on 30.01.13)
- (d) *Milk (Retail Prices) (Guernsey) Order 2012*
(*Billet d'État* No I of 2013. Made by the Commerce and Employment Department—in force 07.10.12 and laid on 30.01.13)
- (e) *Ash Trees (Control of Importation) Order 2012*
(*Billet d'État* No I of 2013. Made by the Commerce and Employment Department—in force 30.10.12 and laid on 30.01.13)
- (f) *Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance 2012*
(*Billet d'État* No III of 2013. Made by the Legislation Select Committee—in force 01.01.13 and laid on 27.02.13)
- (g) *Guernsey Finance LBG (Levy) (Guernsey) (Amendment) Regulations 2012*
(*Billet d'État* No III of 2013. Made by the Commerce and Employment Department—in force on 01.01.13 and laid on 27.02.13)
- (h) *Income Tax (Deemed Distributions) (Exemptions) (Amendment) Regulations 2012*
(*Billet d'État* No III of 2013. Made by the Treasury and Resources Department—in force on 01.01.13 and laid on 27.02.13)
- (i) *Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) Regulations 2012.*
(*Billet d'État* No III of 2013. Made by the Policy Council—in force on 01.01.13 and laid on 27.02.13)
- (j) *Financial Services Commission (Fees) Regulations 2012*

- (*Billet d'État* No III of 2013. Made by the Guernsey Financial Services Commission—in force on 01.01.13 and laid on 27.02.13)
- (k) *Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2012*
(*Billet d'État* No III of 2013. Made by the Guernsey Financial Services Commission—in force on 01.01.13 and laid on 27.02.13)
 - (l) *Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) (Fees) Regulations 2012*
(*Billet d'État* No III of 2013. Made by the Guernsey Financial Services Commission—in force on 01.01.13 and laid on 27.02.13)
 - (m) *Amalgamation and Migration of Companies (Fees payable to the Guernsey Financial Services Commission) Regulations 2012*
(*Billet d'État* No III of 2013. Made by the Guernsey Financial Services Commission—in force on 01.01.13 and laid on 27.02.13)
 - (n) *Boarding Permits Fees Order 2012*
(*Billet d'État* No III of 2013. Made by the Commerce and Employment Department—in force on 01.04.13 and laid on 27.02.13)
 - (o) *Weights and Measures (Fees) Regulations 2012*
(*Billet d'État* No III of 2013. Made by the Commerce and Employment Department—in force on 01.01.13 and laid on 27.02.13)
 - (p) *Waste Disposal Charges Regulations 2012*
(*Billet d'État* No III of 2013. Made by the Public Services Department—in force on 01.01.13 and laid on 27.02.13)
 - (q) *Image Rights (Bailiwick of Guernsey) Regulations 2012*
(*Billet d'État* No V of 2013. Made by the Commerce and Employment Department—in force on 03.12.12 and laid on 26.03.13)
 - (r) *Housing (Control of Occupation) (Fees) (Guernsey) Regulations 2012*
(*Billet d'État* No V of 2013. Made by the Housing Department—in force on 01.01.13 and laid on 26.03.13)
 - (s) *Rehabilitation of Offenders (Bailiwick of Guernsey) (Amendment) Ordinance 2013*
(*Billet d'État* No VII of 2013. Made by the Legislation Select Committee—in force on 19.02.13 and laid on 24.04.13)
 - (t) *Egypt (Freezing of Funds) (Guernsey) (Amendment) Ordinance 2013*
(*Billet d'État* No VII of 2013. Made by the Legislation Select Committee—in force on 18.02.13 and laid on 24.04.13)

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- (u) *Iran (Restrictive Measures) (Guernsey) (Amendment) Ordinance 2013*
(*Billet d'État* No VII of 2013. Made by the Legislation Select Committee—in force on 18.02.13 and laid on 24.04.13)
- (v) *Tunisia (Freezing of Funds) (Guernsey) (Amendment) Ordinance 2013*
(*Billet d'État* No VII of 2013. Made by the Legislation Select Committee—in force on 18.02.13 and laid on 24.04.13)
- (w) *Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations 2013*
(*Billet d'État* No VII of 2013. Made by the Social Security Department—in force on 22.01.13 and laid on 24.04.13)
- (x) *Health Service (Payment of Authorised Suppliers) (Amendment) Regulations 2013*
(*Billet d'État* No VII of 2013. Made by the Social Security Department—in force on 01.01.13 and laid on 24.04.13)
- (y) *Health Service (Payment of Authorised Appliance Suppliers) (Amendment) Regulations 2013*
(*Billet d'État* No VII of 2013. Made by the Social Security Department—in force on 01.01.13 and laid on 24.04.13)
- (z) *Social Insurance (Benefits) (Amendment) Regulations 2013*
(*Billet d'État* No VII of 2013. Made by the Social Security Department—in force on 08.01.13 and laid on 24.04.13)

4. LAWS, ORDERS IN COUNCIL, ETC REGISTERED IN THE ROYAL COURT OF GUERNSEY

- (a) *Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law 2012*
(*Billet d'État* No XI of 2012—registered 07.01.13. In force 07.01.13)
- (b) *Foundations (Guernsey) Law 2012*
(*Billet d'État* No XVII of 2012—registered 07.01.13. In force 08.01.13)
- (c) *Sewerage (Guernsey) (Amendment) Law 2012*
(*Billet d'État* No XX of 2012—registered 07.01.13. In force 07.01.13)
- (d) *Housing (Control of Occupation) (Sark) Law 2011*
(Chief Pleas 06.07.11—registered 07.01.13. In force on day to be appointed by Ordinance)
- (e) *Regulation of Production of Alcoholic Products (Sark) Law 2012*
(Chief Pleas 03.10.12—registered 18.03.13. In force on day to be appointed by Ordinance)

- (f) *Road Traffic (Compulsory Third-Party Insurance) (Amendment) (Guernsey) Law 2012*
(*Billet d'État* No XXI of 2012—registered 18.03.13. In force on date appointed by regulations made jointly by the Health and Social Services Department and the Environment Department of the States of Guernsey)
- (g) *Land Planning and Development (Local Planning Briefs) (Guernsey) Law 2013*
(*Billet d'État* IV of 2013—registered 22.04.13. In force 22.04.13)
- (h) *Employment Agencies (Enabling Provisions) (Bailiwick of Guernsey) Law 2012*
(*Billet d'État* XXIII of 2012—registered 22.04.13. In force on day to be appointed by Ordinance)

5. SARK ORDINANCES CONSIDERED BY THE ROYAL COURT UNDER S 39(1) OF THE REFORM (SARK) LAW 2008

None considered during the period under review.

6. RULES OF COURT

None made during the period under review.

B. ALDERNEY

1. LAWS APPROVED BY THE STATES OF ALDERNEY

- (a) *Employment Agencies (Enabling Provisions) (Bailiwick of Guernsey) Law 2012*
(Billet d'État 09.01.13 Approved 09.01.13)
This Law was approved by the States of Deliberation of Guernsey on 28.11.12 (see Chapter A1.(c) of the entries relating to Guernsey for the period 1 September–December, at p 99 of vol. 17(1) of the *Law Review*).
- (b) *Air Navigation (Bailiwick of Guernsey) Law 2012*
(Billet d'État 09.01.13 Approved 09.01.13)
This Law was approved by the States of Deliberation of Guernsey on 13.12.12 (see Chapter A1.(d) of the entries relating to Guernsey for the period 1 September–31 December, at p 99 of vol. 17(1) of the *Law Review*)
- (c) *Aviation (Amendment) (Bailiwick of Guernsey) Law 2012*
(Billet d'État 09.01.13 Approved 09.01.13)
This Law was approved by the States of Deliberation of Guernsey on 13.12.12 (see Chapter A1.(e) of the entries relating to Guernsey for the period 1 September–31 December, at p 99 of vol. 17(1) of the *Law Review*)

2. ORDINANCES APPROVED BY THE STATES OF ALDERNEY

- (a) *Renewable Energy (Alderney) (Amendment) Law 2011*
(Commencement) Ordinance 2013
(Billet d'État 20.03.13. Approved 20.03.13—in force 20.03.13)
- (b) *Renewable Energy (Alderney) (Amendment) Ordinance 2013*
(Billet d'État 20.03.13. Approved 20.03.13—in force 20.03.13)
- (c) *Census (Alderney) Ordinance 2013*
(Billet d'État 17.04.13. Approved 17.04.13—in force 17.04.13)

C. SARK

1. LAWS APPROVED BY THE CHIEF PLEAS OF SARK

- (a) *Aviation (Amendment) (Bailiwick of Guernsey) Law 2012*
(Approved 16.01.13)
This Law was approved by the States of Deliberation of Guernsey on 13.12.12 (see Chapter A1(e) of the entries relating to Guernsey for the period 1 September–31 December, at p 99 of vol. 17(1) of the *Law Review*) and by the States of Alderney on 09.01.13 (see Chapter B1.(c) above).
- (b) *Employment Agencies (Enabling Provisions) (Bailiwick of Guernsey) Law 2012*
(Approved 16.01.13)
This Law was approved by the States of Deliberation of Guernsey on 28.11.12 (see Chapter A1.(c) of the entries relating to Guernsey for the period 1 September–31 December, at p 99 of vol. 17(1) of the *Law Review*) and by the States of Alderney on 09.01.13 (see Chapter B1.(a) above).
- (c) *Air Navigation (Bailiwick of Guernsey) Law 2012*
(Approved 10.04.13)
This Law was approved by the States of Deliberation of Guernsey on 13.12.12 (see Chapter A1.(d) of the entries relating to Guernsey for the period 1 September–31 December, at p 99 of vol. 17(1) of the *Law Review*) and by the States of Alderney on 09.01.13 (see Chapter B1.(b) above).
- (d) *Motor Vehicles (Sark) Law 2013*
(Approved 10.04.13—in force on day to be appointed by Ordinance)
This Law repeals a number of Laws and Ordinances relating to road traffic and motor vehicles and replaces that legislation with fresh provision restricting and regulating the use of motor vehicles on Sark.
- (e) *Road Traffic Offences (Motor Vehicles and Bicycles) (Sark) Law 2013*
(Approved 10.04.13—in force on day to be appointed by Ordinance)
This Law creates a number of road traffic offences including causing death by dangerous or careless driving, driving under the influence of drink and drugs and careless and inconsiderate cycling. It also regulates the use of motor vehicles on public roads by, amongst other things, creating a speed limit of ten miles per hour and restricting the times between which a motor vehicle may be used lawfully on a public road.

2. ORDINANCES APPROVED BY THE CHIEF PLEAS OF SARK

- (a) *Mental Health (Bailiwick of Guernsey) Law 2010 (Commencement) (Sark) Ordinance 2013*
(Approved 10.04.13—in force 10.04.13)
- (b) *Mental Health (Miscellaneous Provisions) (Sark) Ordinance 2013*
(Approved 10.04.13—in force 10.04.13)
- (c) *Traps (Sark) Ordinance 2013*
(Approved 10.04.13—10.04.13)

3. ORDINANCES LAID BEFORE THE CHIEF PLEAS OF SARK

- (a) *Harbours (Sark) Regulations 2013*
(Made by the Harbours and Pilotage Committee in exercise of its powers under ss 10A and 11A of the Harbours (Sark) Ordinance 2011. In force on 01.04.13. Laid before the Chief Pleas of Sark on 10.04.13)