

PROJET DE LOI

ENTITLED

The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016

THE STATES, in pursuance of their Resolution of the 26th January, 2016^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Amendment of 1987 Law.

1. The Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended^b, is further amended as follows.

2. In section 11D(1)^c for "not exceeding £200,000" substitute "not exceeding the relevant sum calculated in accordance with subsections (1A) and (1B)".

3. After section 11D(1) insert the following subsections -

"(1A) The relevant sum is -

- (a) in the case of a licensee or former licensee, but not a personal fiduciary licensee or former such licensee, £4,000,000, provided that any penalty of more than £300,000 shall not exceed 10% of the turnover of the licensee or former licensee in question, or

^a Billet d'État No. V of 2016.

^b Ordres en Conseil Vol. XXX, p. 243; there are amendments not material to this enactment.

^c Section 11D was inserted by the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008 (Order in Council No. XIX of 2008).

- (b) in the case of a personal fiduciary licensee or former such licensee or a relevant officer, £400,000,

and in this section the expression "**personal fiduciary licensee**" means the holder of a personal fiduciary licence within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000.

(1B) The Policy Council may, after consultation with the Commission, the Policy and Finance Committee of the States of Alderney and the Policy and Performance Committee of the Chief Pleas of Sark, by regulation make such provision as it thinks fit for the purpose of carrying this section into effect including, without limitation, provision in respect of -

- (a) the meaning of the expressions "turnover" and "emoluments" for the purposes of this section, including without limitation the determination and basis of calculation thereof, and
- (b) the banding of penalties under this section within the relevant sum calculated in accordance with subsections (1A) and (1B) and the criteria subject to which each band is to be applied, taking into consideration the factors set out in paragraphs (a) to (g) of subsection (2).

(1C) The Commission shall issue and publish, in such manner as it considers best calculated to bring it to the attention of persons likely to be affected by it and the public in general, guidance as to its general approach to enforcement.

(1D) The States may by Ordinance amend this section."

4. After section 11D(2)(f) insert the following paragraph -

"and (g) in the case of a personal fiduciary licensee or former such licensee or a relevant officer, the emoluments arising from or otherwise in respect of the relevant position held by him, at the time when the contravention or non-fulfilment took place and otherwise."

5. After section 11D(5) insert the following subsection -

"(6) Penalties imposed under this section are recoverable by the Commission as a civil debt."

Citation.

6. This Law may be cited as the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016.