

STATES OF JERSEY



JERSEY'S GOODS AND SERVICES TAX (GST): AN EXPLANATION AND SUMMARY OF THE DRAFT LAW

**Presented to the States on 28th March 2006
by the Minister for Treasury and Resources**

STATES GREFFE

REPORT

JERSEY'S GOODS AND SERVICES TAX (GST) – an explanation and summary of the Draft Law

Background

In 2004 the States agreed two major changes to Jersey's tax structure – a reduction in the general rate of tax on corporate profits, from the current 20% rate to a rate of 0% for most companies, but with a higher (and yet internationally competitive) rate of 10% for financial services providers.

These changes, known as “zero/ten,” are vital to secure a sustainable economic future. They will enable European Union demands for non-discriminatory company taxes to be met, whilst combating competition from other business centres to attract the highly mobile and economically important financial services industry away from the Island.

However, the overall effect of “zero/ten” will be to reduce Jersey's future annual tax revenue by an estimated £80-£100 million. The main impact of this will be felt in 2010 and the full effect by 2012.

In order to fill this anticipated ‘revenue gap’ the States agreed a package of measures that included restrictions on States spending, an economic growth plan, an Income Tax Instalment System, legislation to ensure that shareholders in 0% companies would ultimately pay personal Income Tax on their share of profits (including an element which may not, as yet, have been distributed), and a phasing-out of certain Income Tax allowances for higher income groups.

Nevertheless, even after these provisions, there remains a £40-£45 million revenue shortfall and some form of new tax (or taxes), is therefore inevitable to ensure the continued provision of high quality public services.

On 13th May 2005 the States of Jersey approved (P.44/2005) and agreed, inter alia, that a broad-based Goods and Services Tax (GST) would be introduced in 2008 at a rate of 3%, fixed for at least 3 years. It was also agreed that a separate income support scheme would be introduced to help to mitigate the effect of the tax on lower income groups.

Under the stewardship of the former Finance and Economics Committee work on drafting the proposed GST Law commenced last October. The purpose of this Report is to provide States Members with an explanation and summary of the proposed GST Draft Law together with a copy of the full Draft Primary Law.

Draft Primary Law

It has been made clear that GST will be designed to suit Jersey's needs and it is important that everyone with an interest in the new tax is aware of all the steps which have been taken as the GST implementation process moves forward. In the case of the Draft Primary Law, which is the subject of the attached documents, in addition to States Members, the business community and lawyers will have the greatest interest; however responses are welcomed from any quarter.

To make the Draft Law as easy to understand as possible, the attached booklet has been produced, which summarises its main provisions.

In a few months time a second document will be published which will outline the GST Secondary Law (Regulations). This document will similarly be widely available so that everyone with an interest will be able to make their views known.

A summary of responses to the Draft Law (both Primary and Secondary) will be published in the early autumn. The full GST Law will then be concluded and presented to the Assembly for debate towards the end of the year.

The attached summary of the Draft Primary Law provides some information to remind States Members what has already been agreed about GST, and the rationale behind the proposals for its implementation and operation in Jersey. The underlying objective remains to achieve a tax that will raise £40-£45 million of annual revenue but which will be as simple as possible for all concerned, while maintaining Jersey's economic competitiveness and having the minimum possible impact on the cost of living and on business activities.

It is important that the entire process of GST implementation is open and transparent, with the maximum possible involvement of the Jersey public and business community. The attached documents are intended to achieve that objective.

Comments and responses from States Members are most welcome.

Senator Terry Le Sueur
Minister for Treasury and Resources

28th March 2006

JERSEY'S GOODS AND SERVICES TAX (GST)

An explanation and summary of the Draft Law

Deadline for comments Tuesday 20 June, 2006

28 March 2006

gst

Introductory letter from Senator Terry Le Sueur

Dear Jersey Resident,

In 2008 we will have a new tax on goods and services. The States decided this last year and directed the former Finance and Economics Committee to do the work which is necessary to introduce it. That role has now passed to me as Treasury and Resources Minister. The first step has been to draft the legislation which will establish the framework in which the tax will operate, and we are now ready to publish the draft primary law.

It has always been made clear that this new tax will be designed to suit Jersey's needs and I want everyone with an interest in it to be aware of all the steps which we take as we move towards implementation. In the case of the draft primary law, which is the subject of this document, we believe that the business community and lawyers will have the greatest interest, but we welcome responses from any quarter.

To make the draft law as easy to understand as possible, we have produced this booklet, which summarises its main provisions. For those who would like to look at the draft law in more detail, copies are easily available either from the website (www.gov.je), or – as it runs to many pages – a hard copy is available from the States offices at Cyril Le Marquand House and Morier House, from the library, or from Parish Halls.

In a few months time we will publish a second document, which will conclude our proposals for the implementation of GST. This document will be widely available so that everyone with an interest will be able to make their views known.

This summary of the draft law provides some information to remind you what has already been agreed about GST, and the thinking behind our proposals for its implementation and operation in Jersey. You may feel that much of it is revisiting old ground, and if so, I apologise, but I felt that it was better to show as much of the picture as possible, in order to set the draft law into context.

Our underlying objective remains to achieve a tax that will raise £40-£45 million of annual revenue but which will be as simple as possible for all concerned, while maintaining Jersey's economic competitiveness and having the minimum possible impact on the cost of living and on business activities.

I repeat my previous assurances that the entire process of GST implementation will be open and transparent, with the maximum possible involvement of the Jersey public and business community.

I hope that this document helps to achieve that objective.

Yours sincerely,



Senator Terry Le Sueur
Minister for Treasury and Resources

28 March 2006



Contents

Introduction	1
Background	1
What is GST?	2
How does GST work?	2
Implementing GST in Jersey	3
General	3
What will be taxed?	4
Why a broad based tax is necessary	4
Treatment of imports	5
Registration	6
GST Returns	6
Tax Invoices and Records	6
Reducing the burden on business	7
Treatment of Financial Services Industry	7
Administration - Keeping it simple and cost-effective	8
Penalties	8
Appeals	8
Launch	8
The new GST Law	9
How can I make my views known?	9
Timetable	10
A summary of the main provisions of the Draft GST Law	11

Introduction

To deliver a new tax on goods and services, as the States agreed to do in 2005, Jersey must have a new law which enables a framework in which it will take place.

The legislation will be produced in two parts - a primary GST Law, which is summarized in this document, supported by more detailed technical regulations, affecting mainly the business community, which will be the subject of public consultation in July.

The Draft Law is available for inspection from today at Parish Halls, the States Bookshop, the Customer Service Centre at Cyril Le Marquand House in St Helier and at the public library. This policy paper and the Draft Law can be viewed also on the States website www.jersey.gov.je

A separate consultation document, concerning the treatment of the financial services industry under GST, will also be published shortly and will be available at the above addresses and on the States website.

We invite your comments on this Draft Law. Details of how you can make your views known can be found on page 9 of this document.

Comments should be with us before 20 June 2006, after which a summary of the results will be published and the views and suggestions expressed will play an important role in shaping the final recommendations that will be placed before the States Assembly for debate towards the end of this year.

No decisions on the law, the regulations, or the administrative arrangements, will be made before then and until all consultations have been completed and the views of all concerned have been carefully considered.

Background

In 2004 the States agreed two major changes to Jersey's tax structure - a reduction in the general rate of tax on corporate profits, from the current 20 per cent rate to a rate of zero per cent for most companies, but with a higher (and yet internationally competitive) rate of ten per cent for financial services providers.

These changes, known as "zero/ten," are vital to secure a sustainable economic future. They will enable European Union demands for non-discriminatory company taxes to be met, whilst combating competition from other business centres to attract the highly mobile and economically important financial services industry away from the Island.

However, the overall effect of "zero/ten" will be to reduce Jersey's future annual tax revenue by an estimated £80-£100 million. The main impact of this will be felt in 2010 and the full effect by 2012.

In order to fill this anticipated 'revenue gap' the States agreed a package of measures that included restrictions on States spending, an economic growth plan, an Income Tax Instalment System, legislation to ensure that shareholders in zero per cent companies would ultimately pay personal Income Tax on their share of profits (including an element which may not, as yet, have been distributed), and a phasing out of certain Income Tax allowances for higher income groups.

Nevertheless, even after these provisions, there remains a £40-£45 million revenue shortfall and some form of new tax, (or taxes), is therefore inevitable to ensure the continued provision of high quality public services.

After detailed consideration, the States in 2005 decided to adopt a broad-based GST as the best of the alternative tax-raising measures. It was agreed that a separate income support scheme would be introduced to help to mitigate the effect of the tax on lower income groups.

What is GST?

GST is a tax on consumption of goods and/or services in the Island, paid as a percentage of their value at the point of sale.

It is chargeable at every stage leading up to the final consumer and is collected by GST-registered businesses when they supply their customers with goods and/or services that have been designated in law as taxable ('taxable supplies').

The value of a taxable supply is determined in terms of its value in money, or money's worth, where there is a benefit or 'consideration' other than money, charged to the customer.

GST-registered businesses must account for GST in their sales records and pay to the taxation authority the tax they collect from their customers. However, at the same time, they are able to reclaim or offset the GST they have paid on their business costs.

2

In this way, although the full amount of tax (based on the value of the final product or service), is borne by the consumer or user, there is no 'tax on tax' effect. GST is not paid on GST.

How does GST work?

In addition to the avoidance of a tax cascade for the final customer, a GST has many features that make it an attractive revenue-raising option for Jersey:

- It provides a means of moving away from an over-dependence upon the economic uncertainties and fluctuations of direct taxation which can fluctuate with changing economic circumstances. GST is a more stable revenue source than many other taxes. For example, property taxes fluctuate with the ups and downs of the market and corporate and personal income taxes vary with economic and business cycles
- Substantial amounts of revenue are generated, even at relatively low tax rates, and the revenue accrues steadily throughout the supply chain.
- Because GST is a tax on consumption, at the point of consumption, there would be an immediate cash flow benefit to the Treasury following its introduction in Jersey - unlike a direct tax system where, in some cases, more than a year could pass before any revenue was collected.
- It is fair, in as much as because it is based on consumption it affects the broadest range of taxpayers - ensuring that those who benefit from public services also contribute to their funding. (At present, some 25 per cent of eligible taxpayers do not pay any Income Tax in Jersey).
- The type of GST envisaged for Jersey does not require the services of large numbers of tax authority staff. It is an efficient and relatively inexpensive tax to administer - with operating costs typically in the region of only one per cent of the tax yield.

Implementing GST in Jersey

- The compulsory issue of tax receipts and invoices provides an audit trail that gives an element of self-policing and makes the system less susceptible to fraud and evasion.
- Unlike corporation and personal income taxes, GST does not tax investments and savings. Since GST is payable when it is spent on goods and services, rather than when it is earned, this encourages saving rather than spending and indirectly rewards enterprise.
- Because GST applies only to the domestic consumption of goods and services, the GST incurred in the process of producing exports can be fully identified and refunded, assisting exporters to be competitive in the world market. It does not damage export markets and allows existing businesses to grow. Imports are also covered by GST making it a level playing field for Jersey businesses.
- Visitors to Jersey making domestic purchases would contribute to the Island's revenue.
- Because it covers a broad range of goods and services, GST is also effective in controlling the growth of overall consumption. It is not surprising, therefore, that since the mid-1980s, many advanced countries of Europe and Asia have tried to rebalance their tax systems away from a heavy reliance on direct taxes and towards the taxation of consumption. Those countries that have adopted broad-based GSTs have found them to be stable yet elastic sources of revenues that have little or no detrimental effects on the economy.

General

In designing a GST for Jersey, the underlying objectives have been to achieve a tax that would raise £40-£45 million of annual revenue but which would be as simple as possible for all concerned, while maintaining Jersey's economic competitiveness and having the minimum possible impact on the cost of living and on business activities.

The States has decided that these objectives can be achieved if GST is applied to the majority of goods and services provided on, or imported to, the Island, at a single standard rate of tax of three per cent (capped for at least three years) and with a registration threshold of £300,000.

The proposed three per cent standard rate of tax is one of the lowest in the world and the £300,000 threshold, below which businesses in Jersey would not be required to register for GST, is one of the highest in the world. By comparison, the United Kingdom standard rate of Value Added Tax (VAT) is 17½ per cent and its registration threshold is currently only £60,000.

The effect of the low but broad-based rate of tax for Jersey is estimated to produce a one-off increase in the cost of living of only one to one and a half per cent, while the high threshold would relieve the majority of small businesses from the responsibility of collecting and accounting for GST and maintain their competitiveness. In fact, it is estimated that only about a quarter of Jersey businesses (approximately 1,500) would be required to register for the tax.

For those businesses, it is the aim to reduce their cost of compliance by ensuring that the system will be easy to understand and simple to operate.

As a result of these measures, it is anticipated that the administration of GST by the tax authority would be very cost-effective. In part, this is because registered businesses would act as tax collectors and the system would be largely 'self-policing' but also, because of the proposed simple

form of the tax itself, there would be no need for special schemes and complex guidelines. The numbers of tax authority staff, and the cost to the States, would therefore be kept to a minimum.

For the consumer, the combined effect of a low rate of tax, a high registration threshold, a simple system and low cost of compliance, could increase the possibility that some of the price increases resulting from GST might be absorbed by the business community, thereby reducing the impact on the cost of living.

What will be taxed?

There are provisions in the Draft Law for some goods and/or services to be GST free by means of 'zero rating' or 'exemption' and these will be detailed in the final Law.

4

Zero rated supplies are those goods and services that fall within the scope of GST but, for socio-economic reasons, are taxed at a zero rate. Exempt supplies are not taxed, primarily because they fall into a 'difficult-to-tax' category. The difference between them is that registered businesses that supply zero rated items are able to reclaim any GST they incur in the course of their business (e.g. the GST on raw materials and running costs), while businesses making exempt supplies cannot.

However, in order to achieve a GST rate as low as three per cent, such exclusions to the tax must be as few as possible. The States has decided, therefore, that GST should be charged on imports and the domestic supplies of **all** goods and/or services ('taxable supplies') **unless** they are excluded specifically by legislation.

It is proposed that

- exports
- the international transport of goods and passengers
- international services and

- the provision of residential accommodation (i.e. the construction, sale, lease or rent of residential accommodation)

would be zero rated.

As is the case in many other VAT/GST jurisdictions, the provision of

- financial services
- insurance and
- postal services

would be classified as exempt supplies. (Part Eleven of the Draft Law refers).

In addition to zero rating and exemption, the States could decide to make a statutory provision for some form of relief from all or part of the tax for certain specific groups of consumers (e.g. charities and some non-government organisations).

Why a broad based GST is necessary

There have been calls to exclude from GST such items as

- basic foodstuff
- children's clothes
- medical supplies and services
- books and newspapers

and no doubt other exclusions will be requested.

It has been claimed that taxing them would unfairly discriminate against lower income groups and also because they are excluded in the United Kingdom system.

The reality is that exclusion of these items would result in many Jersey people paying a higher rate of GST on a narrower range of goods.

If the exclusions listed above were to be accepted the effect would be to reduce the tax yield by approximately £6 million. However, this does not take account of the tax authority's extra staff and administration costs that would be greatly increased because the GST system would be considerably more complicated, or the fact that the system itself would be more vulnerable to abuse and tax avoidance, leading to a further loss of revenue.

In Jersey's case, the extra cost of administration and potential tax avoidance cannot be quantified exactly at this stage but could be in the region of £1 - £2 million. This means that, in order to meet the required revenue yield, an additional £7 - £8 million of tax would have to be raised and this would require a GST rate of 4 per cent.

The higher the number of items that are excluded from GST then the higher the rate of tax in order to yield the required £45 million revenue.

Experiences in other GST/VAT administrations, including the United Kingdom, have demonstrated also that complex systems result in misleading descriptions of goods (e.g. small adult's clothes being described as children's clothes) and long running legal cases (e.g. what is the difference between a basic foodstuff and a luxury confectionery?) - all of which add further to the cost of administration.

A 'knock-on' effect would be that the cost to Jersey GST-registered businesses would also increase because of the extra complications and difficulty in accounting for a more complicated tax and this could lead to price increases for consumers.

In recognition of this effect, the designers of most modern GST/VAT systems seek to avoid the complex range of exclusions, exemptions and relatively high rate of tax that are features of longer-established systems such as that in the United Kingdom - Singapore and New Zealand, for example, both tax foodstuff, children's clothes etc., at a standard rate.

It has been argued by some that exclusions would help to alleviate the impact of GST on less well-off households. However, research undertaken by Crown Agents last year indicated that the actual benefit derived from the exclusions listed above is very low. In fact, the lowest income households would only benefit by around £80 per year. In cash terms, the households that would benefit most are those in the higher income bracket.

It was for these reasons that the States decided last year that, in the interest of all Jersey residents, the best option for the new tax was to 'keep it simple' by allowing the minimum number of exclusions from the tax and striving for the lowest possible rate of tax.

At the same time it was agreed that an income support scheme is a far better method of cushioning lower income groups from the effects of GST and a firm commitment was given to adopt such a scheme before the introduction of the new tax. Indeed, work on revising the income support scheme is progressing well under the direction of the Minister for Employment and Social Security.

Treatment of Imports

GST would be charged on the total value of imports (packaging and any customs or excise duties would be deemed to be part of the value) and would be collected in principle by the Customs Department in much the same way that customs duties are currently collected.

It is not intended to interfere with the principles of existing Jersey Customs clearance arrangements for commercial imports. There will be consideration for provision, therefore, for post clearance declarations and payments to ensure the free flow of legitimate imports to the Island.

Although further work is required to establish the viability of a de minimis limit on the value of imports, imported by whatever means, below which GST would not be applied, the challenge is to design a mechanism which imposes the minimum burden, and therefore cost, on

customers, importers and the tax authority, while protecting the GST revenue yield and the interests of local businesses against unfair competition. Details will be included in the Draft Law or in subsidiary regulations.

Registration

Businesses which make 'taxable supplies' (goods and/or services which attract GST at the standard or zero rate of tax), as defined in the Law, would be required to register for GST if they were above the registration threshold. This threshold would be determined in terms of an annual sales turnover of 'taxable supplies' (not just sales), set at £300,000.

Registered businesses, whether providing zero rated or standard rated goods and/or services, would be able to reclaim any GST payments made in the course of their business but GST would be charged to customers only on standard-rated items.

Those businesses below the statutory threshold would not be required to register, although it is proposed that voluntary registration should be allowed for suitable businesses operating below the threshold. This dispensation would be for those businesses whose ability to comply with GST law is not in doubt and which have good grounds for registration, e.g. supplying bigger businesses which choose to deal only with other GST-registered businesses.

Businesses providing only exempt supplies would not be eligible to register for GST, since exempt supplies are not subject to GST. Those providing a mixture of taxable and exempt supplies would be required to distinguish between them and only their taxable supplies would count in meeting the £300,000 threshold.

Non GST-registered businesses (whether as a result of being below the registration threshold or because they supply only exempt goods and/or services), would not be able to obtain relief on any GST incurred in the course of their business and

would be prohibited from charging GST to their customers. They would be classed as 'final consumers' and any GST they paid in the course of their business would 'stick' with them.

All businesses that meet the criteria for registration would be required to be registered by law before the start of GST, or as soon as their taxable turnover was likely to reach the £300,000 threshold.

GST Returns

GST is essentially a self-assessment tax, under which registered businesses are required to submit periodic declarations ('GST Returns') of the value of their sales and purchases, the amount of GST charged or reclaimed and the overall tax due to the tax authority. In GST parlance, sales and their related GST are referred to as 'outputs' and 'output tax' and purchases, expenses and their related GST as 'inputs' and 'input tax'.

It is proposed that Jersey GST returns should also include a declaration of the value of any imports and the related GST; the value of exports; and the value of exempt supplies.

Tax Invoices and Records

'Tax invoices' are required under GST for each taxable supply made by a GST-registered business. The GST Law will prescribe a minimum content for such invoices but the content of a tax invoice will be similar to that shown on a normal commercial invoice. It is proposed to include the invoice number; the name, address and GST registration number of the supplier and purchaser (if registered); a description of the goods/services supplied; the date and value of the supply; and the GST charged. Less detailed documentation is proposed for the retail sales of low-value, high-volume items.

Reducing the burden on business

It is the intention to reduce the GST burden on businesses by keeping the administrative

requirements simple, as far as possible, and by minimising their cost of compliance.

As a first step, the high £300,000 threshold will mean that approximately three quarters of Jersey's businesses will not be involved at all in the administration of the tax. They will not be required to register and will be treated simply as ordinary final consumers. They will pay GST on their business expenditures that are subject to the tax but they will not charge GST to their customers, or be required to account for it.

Those businesses that are required to register should find it a relatively easy matter to adapt their existing accounting records to comply with the GST regulations. To further simplify their obligations, it is proposed to allow registration, tax returns and payments to be completed either electronically or in paper form.

With regard to the filing of GST returns and the payment of any tax owing, the GST law will prescribe a 'due date' for completion. However, it is intended that the frequency of returns and payments should not unduly inconvenience businesses.

As part of this consultation, therefore, the views of potential GST-registered businesses are being sought on the timing of returns. It might be possible, for example, to grant businesses a reasonable option to make declarations and returns to meet their own particular operations and circumstances. A long period between returns and payments would enable some businesses to benefit from the interest on the GST they have collected, thereby helping to offset any cost they have incurred in complying with the law and the regulations, while a shorter period may assist some importers who have had to put money 'up front' and would benefit from a quick recovery of their input tax.

It is also possible that registered businesses could be allowed to account for any tax and make payments to the tax authority only after they have

received payment from their customers, rather than at the point of invoice, as is the case in the United Kingdom and most other GST/VAT systems. This would avoid the compounding of financial problems for businesses caused by bad debts and would reduce the cost of administration for the taxation authority, since it would not be necessary to operate a complicated and expensive bad debt relief scheme.

The views of the business community would be especially beneficial on this point also.

Treatment of the Financial Services Industry

In general terms, countries almost invariably treat supplies by the financial services industry as exempt because the services provided are regarded as too difficult to tax. However, in response to a strong view expressed in previous public consultation, the States has indicated that it is seeking a £5 - £10 million GST contribution from the financial services industry.

It is acknowledged, however, that there are well-known practical and theoretical difficulties in applying GST to financial services and a simplified special scheme, or schemes, will be required. Because of the importance of the industry to the economy, such a scheme, or schemes, must not place the Island at a competitive disadvantage that would result in the loss of financial service businesses to other international business centres.

To assist this process, a separate consultation paper dealing specifically with the treatment of financial services is being published and meetings with representatives of the industry and others will be undertaken to determine an equitable scheme. Details of the final scheme will be included in the final legislation.

Administration - keeping it simple and cost-effective

The tax will be administered by the Comptroller of Income Tax, with Jersey Customs acting as his agent for the tax on imports.

The Comptroller will have legal powers to enforce the Law and regulations, including the power of authorised entry to and search of premises, but not the power of arrest. However, it is proposed that Jersey's GST should be managed in a 'business-friendly' and flexible manner and, as described, the proposed legislation and regulations will be designed, as far as possible, to accommodate business practices and to minimise the cost of compliance.

It is the intention also that the legal requirements should be straightforward to understand and that compliance should be as easy as possible.

8

In the form proposed, it is anticipated that the tax would require only ten additional staff in the Income Tax and Customs departments. There would be initial set-up costs and an investment in information technology systems would be required but this would be relatively modest.

It is confidently anticipated that a simple, cost-effective system of GST is possible for Jersey, with administrative costs, including staff salaries, being in the region of only one per cent of the revenue yield.

Penalties

Fraudulent attempts to evade the payment of GST, or to divert tax monies for unlawful personal use, work against the whole of society. It is likely therefore, although not yet decided, that the penalty for cases of fraudulent evasion would be severe. Offences relating to imported goods will be dealt with by the existing provisions of the Customs and Excise (Jersey) Law (1999).

However, it is not the intention to make life difficult for legitimate businesses who make genuine mistakes - rather to encourage and assist their voluntary compliance. To this end, although there will be administrative penalties, or surcharges (the amounts to be decided), for a failure to register, lateness, or inaccuracies in submitting returns, it has been suggested that the Comptroller of Income Tax will not exercise this power during the early stages of the tax, except in persistent cases of non-compliance or deliberate dishonesty.

Appeals

It is proposed that the existing system of appeals for Income Tax matters should be adopted for GST. Under this system the Commissioners for Appeal or the Courts would determine any unresolved complaint or appeal. The existing Customs appeals procedure would deal with matters relating to imports.

Launch

Following any modifications as a result of consultation, a final version of the enabling law should be ready to place before the States Assembly for approval before the end of this year. Royal Assent would then be sought.

Staff recruitment and training and the production of GST manuals and educational material would take place during the first half of 2007. The registration of businesses would be undertaken in the second half of that year.

GST would be then ready for introduction early in 2008.

The new GST Law

In designing any law it is important to ensure that it will properly reflect government policy and will not require constant rewriting and amendment. Taxation legislation in particular is necessarily complicated since it must cover all eventualities in an attempt to secure a balance between stimulating voluntary compliance and the protection of the revenue from abuse.

The Draft Law might be difficult to understand, for those not familiar with legal practice and jargon. To make it more accessible, a summary appears in the following pages.

For those who wish to study the full document, it is available from the States website (www.gov.je) or as a printed document from the States offices at Cyril Le Marquand House and Morier House, from the library, or from Parish Halls.

It is intended to produce a series of easy-to-read public notices and leaflets to provide a lay person's guide to the final version of the Law and the obligations it places upon taxpayers.

In addition, following enactment, tax authority staff will make educational visits to businesses as they register, to ensure that they are fully aware of their obligations and that they are properly prepared to collect and account for the tax when it is introduced.

How can I make my views known?

Please forward your comments, suggestions, or questions, in writing by Tuesday, 20 June 2006 to:

The GST Consultation Team,
Income Tax Office,
1st Floor, Cyril Le Marquand House,
The Parade,
St Helier, JE4 8PF

or e-mail gstconsultation@gov.je

Timetable

2006	
28 March	Draft GST legislation published and discussions with Scrutiny Panel commence. Consultation on GST Implementation Proposals begins.
20 June	Deadline for comments on GST Implementation Proposals.
July	Consultation on draft GST Regulations and update of economic data, in particular the latest Household Expenditure Survey, and GST impact assessment.
31 August	Deadline for comments on draft GST Regulations.
November	States debate on GST legislation.
2007	
January	Legislation enacted.
February-June	Production of trade and public information/educational material.
February-June	Tax authority recruitment and staff training.
June	GST Registration begins.
June-December	Educational visits to all GST-registered businesses.
October-December	Final preparations.
2008	
Early 2008	Tax introduced.

A Summary of the main provisions of the Draft GST Law

Notes on the articles of the Draft Goods and Services (Jersey) Law

These notes on the Articles and supporting Schedules in the Draft Goods and Services (Jersey) Law are intended as a summary of the provisions of the proposed Law and as guidance for those wishing to examine the Draft Law document in more detail.

There are, at this stage, some gaps in the draft. This is because completion of these Articles is dependent upon further work and feedback from the consultation.

The draft Law is divided into 17 Parts and 8 Schedules, as follows:-

Part 1:	Preliminary
Part 2:	Imposition of GST
Part 3:	Registration and Responsibility under Law
Part 4:	Public Sector
Part 5:	What is a Supply?
Part 6:	Place of Supply
Part 7:	Time of Supply
Part 8:	Reverse Charge for Certain Services from Abroad
Part 9:	Value
Part 10:	Payment of GST by Taxable Persons
Part 11:	Reliefs, Exemptions and Repayments
Part 12:	Administration
Part 13:	Failure to Comply
Part 14:	Late Refunds
Part 15:	Appeals
Part 16:	Offences
Part 17:	Miscellaneous
Schedule 1:	Registration
Schedule 2:	Supply
Schedule 3:	Reverse Charge to GST: Services Treated as Supplied Where Received
Schedule 4:	Valuation of Supply: Special Cases
Schedule 5:	Exempt Supplies
Schedule 6:	Powers of Entry and Search
Schedule 7:	Amendments and Repeals
Schedule 8:	Transitional Provisions and Savings

Part 1: Preliminary

This is the introductory Part in the proposed Law. It contains five Articles describing the terms used in the main body of the Law.

Article 1 is simply a dictionary of terms. In particular, it defines ‘taxable supply’ as a supply other than an exempt supply.

Article 2 describes in detail what is meant by ‘business.’ The proper identification of a business activity is fundamental to the operation of a GST regime, since the tax must be charged on any taxable supply of goods and/or services made in Jersey by a taxable person “in the course or furtherance of any business.” For the purpose of this law ‘business’ includes any trade, profession, vocation or employment and the carrying on of a business includes the provision by a club, association, or organisation of facilities or advantages to its members. This Article also makes provisions in relation to the termination or disposal of a business.

Article 3 deals with the relationship between ‘connected persons’ - e.g. husbands and wives, relatives, business partners and companies, where the same person or persons have control. It is important to have this explanatory provision since the Comptroller may direct that an open market value should be applied to goods and/or services supplied between connected persons. This is primarily to combat tax avoidance.

Article 4 deals with ‘belonging.’ This is a concept peculiar to GST and VAT law and is important in establishing whether a supplier of goods and/or services is liable to register as a Jersey GST business - i.e. whether that supplier “belongs” to Jersey as a result of domicile or residence, or whether, as an out-of-Jersey supplier, is not subject to the Jersey GST provisions.

Article 5 defines the usual place of residence for bodies corporate and branches.

Part 2: Imposition of GST

This Part of the proposed Law defines the scope of GST and contains three Articles (Articles 6-8).

Article 6 specifies that GST will be charged on the supply of goods and/or services in Jersey made by taxable persons (i.e. those businesses registered for GST) in the course or furtherance of business, and on the importation of goods from outside Jersey, charged as if it was a customs duty. (Article 6 at present makes no mention of a de minimis level for personal/ non-commercial imports below which GST will not be charged).

Article 7 places the liability for GST upon the supplier or the person importing goods.

Article 8 gives the legal authority to charge GST at a single general rate of three per cent by reference to the value of the goods, supplies, or imports and confers powers to amend the rate, but not before three years. This meets the States’ promise to cap the rate of tax for a period of at least three years.

Part 3: Registration and Responsibility under Law

This Part of the legislation is concerned with registration issues and contains 8 Articles (Articles 9-16). Necessarily the registration provisions will come into force six months prior to the start date of the tax, under the transitional arrangements to be set out in Schedule 8.

Article 9 gives force to Schedule 1. This Schedule, together with subordinate legislation, will cover the issues relating to registration generally. It also requires the Comptroller to maintain a register of GST-registered taxpayers.

Articles 10 and 11 deal with partnership issues and take into account the slight differences in the treatment of partnerships in Jersey and the United Kingdom. Importantly, under this Part of the Law, all the members of a partnership shall be deemed to have supplied goods or services supplied in the name of the partnership, or by one or more of the

partners. Article 11 gives the Comptroller the authority to register a partnership, upon application.

Article 12 gives the Comptroller the authority to register an unincorporated association, upon application. It also enables the States to prescribe, by Regulations, what bodies may be treated as unincorporated associations for the purposes of this Article.

Associations and clubs operating as a business (i.e. providing of facilities, or advantages to their members for a fee, or other consideration) would be liable for GST if their taxable turnovers were above the registration threshold. Charitable organisations and some non-government organisations could be given some form of relief, yet to be decided.

Article 13 deals with the position of agents and stipulates that goods imported by a taxable person importing goods on behalf of a principal, who is not a taxable person, may be treated as goods supplied by the agent.

Articles 14 and 15 deal with the position of representatives. Article 14 gives the Comptroller the power to direct a person to appoint a GST representative where, for example, that person does not have a business establishment or residence in Jersey. It confers liability on the representative for compliance with the GST Law and the payment of the tax, except in cases of the commission of an offence by the principal, of which the representative had no knowledge. Article 15 deals with the temporary provision for a person to be treated registered, without being registered, in cases where that person takes over the running of a business in the event of the death, bankruptcy or inability of the registered person to run the business. This is an important provision to prevent tax avoidance.

Article 16 covers the obligations on both parties when businesses are transferred as going concerns. Again this is an important provision to

prevent tax avoidance. It is designed principally to protect the revenue by preventing a situation where a business charges GST which is claimed as input tax by the new business but is never declared or paid by the old business. However, it also assists businesses by improving their cash flows and avoiding the need to separately value assets - which may be partially zero-rated or exempt, and which have been sold as a whole.

Part 4: Public Sector

This Part contains three Articles (Articles 17-19) and deals with the position of the Government of Jersey and the 12 Parishes.

Article 17 determines that the States are liable to be registered and would be required to charge GST on its taxable supplies. However, the States would have special status under the Law and would be able to reclaim any GST incurred in the course of all their statutory activities, whether or not they were business-related. At present this Article in the draft Law states that supplies to and from States departments should be treated in the same way as supplies between the States and any other person. However, it is an option that the States should be treated as a single entity for the purpose of the Law and this is a matter for consultation.

Articles 18 and 19 give the States the power to make Regulations to determine the position of the States and the 12 Parishes of Jersey as registered businesses. However, this is a complex issue and more work is required to determine the status of the Parishes under the GST Law.

Part 5: What is a Supply?

Part Five is concerned simply with the meaning of the term 'supply' and distinguishes supply of goods from supply of services.

Article 20 is the only Article in this Part. It states that, for the purposes of the Law, a supply is anything that is specified in Schedule 2 of the Law. It also gives the authority to the States to

determine by Regulations what is and what is not a supply of goods and/or services.

Part 6: Place of Supply

Currently there are three Articles (Articles 21-23) in this Part dealing with the place of supply. This is important in determining whether goods and services are liable for GST.

Article 21 simply states that Part 6 will determine, for the purposes of the Law, whether goods and/or services are supplied in Jersey.

Article 22 covers the factors that determine whether goods and/or services are supplied within Jersey and includes provisions on the removal of goods from Jersey for processing and assembly.

Article 23 determines that a supply of services shall be treated as made a) in Jersey, if the supplier 'belongs' in Jersey (See Article 4), or b) in another country, if the supplier belongs in that other country.

Part 7: Time of Supply

In order to prevent tax avoidance, some fairly complex rules are necessary to determine the point at which the supplies of goods or services are provided to customers and thereby become liable to tax. The five Articles (Articles 24-28) in Part 7 define these rules.

Article 24 states simply that Part 7 is the relevant Part for the determination of time of supply.

Articles 25 and 26 determine when goods and/or services are deemed to have been supplied - i.e. when goods have been removed or made available to the customer or, in the case of a supply, when it is fully performed.

Article 27 deals with the issuing of invoices. In particular, this Article states that if an invoice is issued, or payment is received, before the time specified in Articles 25 and 26, the date of the

invoice or payment will be considered to be the time of supply.

In order to protect registered businesses from the effects of bad debts, however, it is proposed that, subject to consultation, provision should be made for the tax to be rendered to the tax authority only after payment has been received from customers and not at the point of supply or invoice, as is the case in most other countries operating a GST or Value Added Tax (VAT) system.

Part 8: Reverse Charge for Certain Services from Abroad

Reverse charging is basically a protectionist measure to prevent local suppliers being disadvantaged by the importation of services from outside Jersey.

Article 29 is the only Article in Part 8. It states that if the taxable supply of a service is provided by a person who belongs in another country (See Article 4) to a taxable person who belongs in Jersey for the purpose of any business of that person, then the person receiving the service, not the supplier, shall be liable for the tax. However, the person receiving the service may reclaim the GST element of the cost, subject to normal rules for recovery.

Part 9: Value

For the purposes of GST, supplies of goods and services are deemed to be made for a 'consideration.' This is usually an amount of money but it can be for the exchange of an equivalent value of goods or services, for example. In this case, a monetary value is placed upon the alternative consideration and the GST element is calculated as a percentage of the monetary value (in Jersey's case currently proposed at three per cent). The two Articles in Part 9 (Articles 30 and 31) and Schedule 4, deal with the detail of the valuation of goods, services and imported goods.

Article 30 distinguishes between supplies made for money and those made for other considerations.

Article 31 covers the valuation of imported goods, which will be treated as though they were subject to customs duty under the existing Customs and Excise (Jersey) Law 1999. The legal value of goods imported into Jersey will therefore include all taxes, duties and other charges levied on the goods, either outside or as a result of import to Jersey, plus all costs by way of commission, packaging, transport and insurance up to the port or place of importation, exclusive of GST.

Part 10: Payment of GST by Taxable Persons

Part 10 is one of the longest Parts in the Draft Law, with 13 Articles (Articles 32 - 44) dealing with the way in which GST will be paid, reclaimed and accounted for by registered businesses.

Article 32 introduces the concept of 'input' and 'output' tax - input tax being the GST incurred by a registered business in the course of carrying out that business that can be reclaimed from the tax authority and output tax being the GST element of the sales of taxable supplies of goods and/or services to customers that must be collected, recorded and paid to the taxation authority by the registered business.

Article 33 enables the States to prescribe by Regulations the timing and manner of accounting for GST. Whether accounting periods should be monthly, quarterly, six-monthly, or other period has not yet been determined. A longer accounting period could be of advantage to some businesses by allowing them to benefit from the accrual of interest on the GST they have collected and this could offset any additional cost incurred by them in complying with the GST Law. However, it is the intention to meet, as far as possible, the convenience of all sections of the business community and, again, this is a matter for consultation.

Article 34 enables the registered business, when making a return to the tax authority, to offset any input tax against the output tax due to the authority. If the credit at the end of the accounting period exceeds the output tax, the registered business will be entitled to a repayment by the tax authority.

Article 35 however, enables the Comptroller to withhold the repayment of input tax if, for example, a registered business has failed to submit a return, or has made no taxable supplies during the period. This is a measure designed to combat possible fraud.

Article 36 specifies the amount of input tax and types of supplies and importations allowable under Article 34.

Article 37 deals with goods imported by a taxable person (registered business) for private purposes and specifies that the GST on these items will not be regarded as input tax to be credited. However, this Article also gives the Comptroller discretion to allow a claim for repayment in certain circumstances.

Articles 38 and 39 are revenue protection Articles that enable the States to make Regulations to require pre-payment in some circumstances of any GST that may become due in a future accounting period. It is also proposed that the Comptroller will also have powers to ask for pre-payment in order to facilitate collection. In addition, the Comptroller would also have the power to require the production of supporting documents or security against future payment.

Article 40 requires taxable persons to keep accounts and other records and to make returns and statements in accordance with regulations.

Article 41 requires taxable persons to give receipts to customers for the supply of goods and services, detailing the particulars of the supply, the names of persons by and to whom the goods or services are supplied and the particulars of the GST charged.

Article 42 enables the States to make further provisions by way of Regulations relating to the issues outlined in Part 10.

Article 43 deals with the question of trivial amounts recorded on returns and specifies that any amount of input or output tax of less than £1 will be treated as nil.

Article 44 states that any GST due from any person shall be recoverable as a debt to the States. It stipulates that, if any invoice shows a supply of goods and/or services, an amount of GST will be due equal to that shown on the invoice as GST or, if GST is not separately shown, the element of GST that should be applied.

Part 11: Reliefs, Exemptions and Repayments

As stated in the discussion document, there is provision in the draft legislation for some exclusions from GST by means of zero-rating or exempting certain items. In addition, the States could decide to make a statutory provision to grant other types of relief for certain specific groups of consumers (e.g. charities and some non-government organisations). Part 11 deals with these issues under 13 Articles (Articles 45-57).

(Zero rated supplies are those goods and/or services that fall within the scope of GST but, for socio-economic reasons, are taxed at a zero rate. Exemptions are sometimes allowed for social or difficult-to-tax reasons. Exempt supplies are excluded from the scope of GST and are not taxed. Other forms of relief could include end-user relief or repayment schemes).

Article 45 gives effect to Schedule 5, which specifies what supplies would be classified as 'exempt.' A very small group of exemptions are envisaged - i.e. financial services, insurance and postal services.

Articles 46-49 deal with zero-rated supplies. These are supplies which are treated as taxable supplies but attract a nil rate of tax and include:

- (a) Exports of goods;
 - International transport of goods and people, including ancillary services provided by the main supplier;
 - Services in connection with handling of commercial ships or aircraft and their stores;
 - International telecommunications services; and
- (b) Supplies related to the provision of domestic/residential accommodation (eg. construction, sale, lease, rental, repair and maintenance).

The States may, by Regulations, add other categories of supplies.

Article 50 provides for refunds of GST to private individuals constructing their own residential dwellings.

Article 51 provides for the relief on the supply of certain second-hand goods. It enables the States to make provision by Regulations to secure a reduction of the GST chargeable on the supply of some goods. However, this article also is subject to consultation and whether a 'margin scheme' (i.e. GST charged on the difference between the selling price and the buying price) should be introduced for some second-hand supplies.

Article 52 deals with the question of partial refunds for goods and services provided for mixed use - i.e. part business, part private use - and sets out the conditions to be satisfied.

Article 53 has the aim of stimulating new Jersey-based businesses. It makes provision for the possible relief of GST on capital goods, where the supply or importation of machinery or plant is for

the purpose of the business and where GST cannot be credited under Article 34.

Article 54 allows businesses to claim bad debt relief on GST payments if they have made supplies to customers but have not been paid. However, an alternative arrangement, which has been highlighted for consultation, is to require businesses to pay GST to the tax authority only after they have received payment from their customers. This would avoid the necessity of complex rules for a bad debt relief scheme and could reduce the cost of collection for the tax authority.

Article 55 enables the States to make Regulations to remit the GST on imported goods in certain circumstances - e.g. where goods are exported after being imported, or where it is considered a necessary expedient with regard to international agreements that affect Jersey. This Article also enables regulations to be made to prohibit or restrict the disposal of goods after their importation.

Article 56 enables Regulations to be made to give relief in other circumstances.

Article 57 allows for the deferment of GST payments in the interest of facilitating the free flow of imports. It enables post import payments on imported goods, thereby allowing the delivery or removal of goods before GST is paid to the taxation authority.

Part 12: Administration

Part 12 is concerned with the responsibilities for the administration of GST and contains three Articles (Articles 58-60).

Articles 58 and 59 make the Comptroller Income Tax responsible for the administration of the GST Law and give the Comptroller the authority to appoint persons to carry out functions under the Law.

Article 60 will allow an amendment to the Customs and Excise (Jersey) Law 1999 to include GST on imports as a customs duty and enables the functions of Customs and postal officers to apply in respect of GST, in much the same way as they would in respect to Customs duties on imports.

Part 13: Failure to Comply

In order to protect the revenue there is a need for penalties that will discourage non-compliance with the law or regulations. However, as mentioned in the Draft Policy Paper, it is intended that the administration of GST should be conducted in the most business friendly manner possible, with minimal disruption for the business community.

Therefore, while Part 13 contains ten Articles (Articles 61-70) that outline the types of non-compliance that would attract penalties, or surcharges, it is suggested that the Comptroller should not exercise these powers during the early months following the introduction of GST, except in cases of persistent non-compliance, or dishonesty. This will allow for genuine mistakes or misunderstandings among the business community as they become more familiar with their obligations under the new tax.

The authority for the Comptroller to relax penalties will be contained in Schedule 8: Transitional Provisions and Savings. The period of grace is a matter for consultation. Where amounts of surcharges are included in Part 13, these are also subject to consultation and final decisions.

The question of penalties for serious cases of fraud or misappropriation are likewise yet to be decided but will almost certainly involve a heavy prison sentence and perhaps unlimited fines, or both.

Failures of compliance relating to imports will be covered by the Customs and Excise (Jersey) Law (1999) and work is under way to ensure compatibility with the GST Law.

Article 61 enables the imposition of a surcharge if dishonest conduct is involved in an attempt to evade GST or to obtain credit or refund of GST. The surcharge is set at an amount equivalent to the amount of GST evaded or refunded or sought to be evaded or refunded.

Article 62 deals with the liability of directors, partners and managers of corporate bodies in relation to surcharges where corporate dishonesty is involved and enables the Comptroller to recover any portion of the surcharge from an individual, as if that person were personally liable.

Article 63 deals with surcharges in cases of failure to give a notice under Schedule 1 (Registration), or failure to comply with Article 40 (keeping accounts and other records and making returns and statements in accordance with Regulations), or the issuing of GST invoices while not being a registered person, a body corporate, or the States. The surcharge is stated at the higher of £200 or ten per cent of the relevant GST.

Article 64 details the surcharges for failure to pay GST on time (ten per cent of the amount) and for failure to make a return on time (£200).

Article 65 relates to surcharges that may be made if returns of paperwork are inadequate. It enables the Comptroller to make an assessment of the amount of GST that is due and to impose a surcharge of £200 on any amount of GST, including a zero amount, in cases where there has been a failure to keep proper records or accounts.

Article 66 similarly relates to surcharges in cases of failure to account for goods. It gives the Comptroller the power to direct a taxable person to account for any goods that have been supplied or imported in the course of business and, if the person fails to respond, allows him to make an assessment of the amount of GST that would have been chargeable and to impose a surcharge of £200.

Article 67 enables the Comptroller to reclaim any repayments in cases where the repayment should

not have been due, whether or not there was a failure on the part of the taxable person or the Comptroller.

Article 68 places time limits on certain assessments under Articles 65 and 66.

Article 69 details the factors that may be taken into account when determining the amount of a surcharge.

Article 70 contains general provisions in relation to surcharges. It includes a condition that the cessation of any conduct giving rise to a surcharge shall not affect the liability to the surcharge but offers a defence of “a reasonable excuse” against surcharging.

Article 71 requires the Comptroller to serve a notice on a person of any assessment made in respect of that person under Part 13.

Part 14: Late Refunds

There are two Articles under Part 14 (Articles 72 and 73) concerning the mechanism for the refunding of overpaid GST and compensation for late refunds.

Article 72 states that if a person is entitled to a GST credit or a refund under Part 11 or Article 52, the credit or refund shall be increased by of five per cent or £50, whichever is the greater, if the Comptroller has failed to make a refund within 30 days after receiving the claim.

Article 73 states that the Comptroller must repay a legitimate claim for overpayment of GST made within six years after the original payment. In cases where the overpayment was because of a mistake, the six years shall run from the date when the mistake was discovered, or by reasonable diligence could have been discovered, whichever is the earlier.

Part 15: Appeals

There are four Articles (Articles 74–77) under Part 15, dealing with appeals procedures.

Article 74 establishes that an appeal shall lie with the Commissioners for Appeal under Part 6 of the Income Tax (Jersey) Law 1961 against a decision of the Comptroller on matters including registration, payments and claims, surcharges and assessments. In cases relating to imports (Article 74(d)) it is proposed that the existing Customs and Excise appeals procedures will be adopted.

Article 75 outlines how Part 6 of the Income Tax law shall be applied.

Article 76 states the grounds on which the Commissioners may refuse to hear an appeal - e.g. where the appellant has not made all the returns required, or paid any amounts due, or furnished information demanded by the Commissioners, or deposited any amount that is the subject of a decision. Article 76 gives the power to the Commissioners, if they find in favour of an appellant, to direct the Comptroller to pay the sum due plus any interest, and vice versa.

Article 77 enables the Comptroller and the appellant to make a settlement agreement following the lodging of an appeal but before the matter has been determined by the Commissioners.

Part 16: Offences

In addition to offences of fraud under customary law Part 16 contains five Articles (Articles 78-82) that outline offences and penalties that are specific to GST. Offences relating to imports will be covered by the Customs and Excise (Jersey) Law (1999) and work is under way to ensure compatibility with the GST Law.

Article 78 makes it an offence under the Law to provide the Comptroller, or entitled persons, with false or misleading information, knowingly or recklessly. The proposed penalty for a person guilty of an offence under this article is a term of imprisonment of five years and an unlimited fine. This Article, subject to consultation, may be broadened to include, inter alia, "any person who

is knowingly concerned in the fraudulent evasion of GST."

Article 79 makes it an offence fail to comply with a direction of the Comptroller, without reasonable excuse, and sets a penalty (to be decided).

Article 80 states that a person shall be guilty of an offence if, without reasonable excuse, the person obstructs an authorised officer in the execution of his or her functions under the Law or fails to provide the officer with reasonable assistance when the officer is carrying out functions under the Law on the person's premises. Anyone guilty of such an offence shall be liable to a penalty (to be decided).

Article 81 prescribes a penalty (to be decided) for any person dealing in goods or accepting services, having reason to believe that GST has been evaded on the supply of goods or services, or the importation of goods.

Article 82 is the standard provision dealing with offences by bodies corporate, aiders and abettors.

Part 17 - Miscellaneous

There are 12 Articles (Articles 83-94) under the Miscellaneous Part of the draft Law, dealing mainly with procedural requirements.

Article 83 applies to persons concerned, in whatever capacity, in the supply of goods or services, or importation of goods, in the course or furtherance of business and requires them to furnish the Comptroller with information regarding those goods and services, within the time and manner reasonably required by the Comptroller.

Article 84 gives the power to authorised persons to require any person making supplies referred to in Paragraph 16(2) of Schedule 4 to open any gaming machine and to do anything else necessary to ascertain the value of supplies referred to in that Paragraph.

Article 85 gives effect to Schedule 6 concerning the powers of entry and search by authorised

officers. It is proposed that officers appointed by the Comptroller shall have the powers of entry and search but not powers of arrest.

Article 86 enables a certificate of the Comptroller to be sufficient as evidence, until proved to the contrary, that a) a person was or was not registered; b) a required return had or had not been made; c) a statement of notification required to be submitted to the Comptroller had or had not been made; and d) that any GST shown as due in any return or assessment had or had not been paid.

Article 87 applies to criminal proceedings against a person for a GST offence, whether under this law or otherwise, and proceedings for the recovery of GST, and deals with the admissibility of documents produced by that person.

Article 88 enables the Comptroller to approve procedural requirements - i.e. applications, claims, demands, notices, notifications or other instruments for the purpose of this Law. The Comptroller may also refuse to carry out a function that relates to these instruments, if it is not in accordance with the requirements, or if it is not accompanied by any prescribed fee.

Article 89 states that the Comptroller may exercise his powers in relation to directions and notices differently in relation to different cases and classes, and that directions and notices can be amended or revoked.

Article 90 requires public notices to be given in accordance with Regulations, or by any means likely to bring matters to the notice of those persons concerned.

Article 91 enables the States to make Regulations to bring this Law into effect. Such Regulations may cover a) the inclusion or correction of information; b) amendments to schedules; c) the prescription of formal or procedural requirements for applications, claims, demands, notices and notifications and other instruments; and d) the modification of the Law regarding any expression

of time, amount of money, percentage or proportion, or any other numerical quantity, but not any fine or other penalty.

The States may also make Regulations under Article 91 regarding transitional or supplementary matters that may be expedient. Regulations may create an offence punishable by a fine of level four on the standard scale.

Article 92 gives effect to Schedule 7, concerning amendments and repeals.

Article 93 gives effect to Schedule 8, concerning transitional provisions and savings.

Article 94 cites this law as the Goods and Services Tax (Jersey) Law 200- and gives a date of commencement on such day or days as the States may appoint by Law.

SCHEDULE 1 (Registration) relates to Article 9 and covers 1) the liability to be registered; 2) notification; 3) registration; 4) changes to be notified; 5) single taxable persons; 6) single taxable persons: supplementary direction; 7) single taxable persons: additional; 8) voluntary registration; 9) cessation of liability to be registered; 10) notification no longer liable to be registered; 11) cancellation of registration; 12) exemption from registration; and 13) general.

SCHEDULE 2 (Supply) relates to Article 20 and covers 1) the transfer of property; 2) the issue of face-value vouchers; 3) transfer of right; 4) transfer of possession; 5) treating or processing; 6) the supply of energy (including water and gases); 7) transfer of major interest in land; 8) transfer of assets of business and samples; 9) sale of business assets to recover debt; 10) business assets of person ceasing to be taxable; and 11) the land part of assets of business.

SCHEDULE 3 (Reverse Charge to GST: Services Treated as Supplied Where Received) relates to Article 29 and covers 1) the transfer and assignment of copyright, patent, licence etc; 2) advertising services; 3) services of consultants

and other experts; 4) data processing and other information; 5) acceptance of obligation concerning copyright, patent, licence etc; 6) banking financial and insurance services; 7) the supply of staff; 8) the letting and hire of goods (other than transport); 9) telecommunications; 10) services rendered in the procurement of other services; and 11) any service when supplied to a registered person.

SCHEDULE 4 (Valuation of Supply - Special Cases) relates to Article 30 and covers 1) interpretation; 2) supply below value between connected persons; 3) supply for resale where the recipient is not taxable; 4) value including excise; 5) discount for prompt payment; 6) credit vouchers; 7) retail vouchers; 8) postage stamps; 9) other vouchers; 10) free vouchers; 11) prescribed supplies of goods; 12) prescribed supplies of services; 13) reverse charge situations; 14) supply of accommodation; 15) accommodation and catering for employees; 16) foreign currency considerations; 17) gaming machines; and 18) certain aircraft.

SCHEDULE 5 (Exempt Supplies) relates to Article 45 and covers 1) finance; 2) insurance; and 3) postal services.

SCHEDULE 6 (Powers of Entry and Search) relates to Article 85. Paragraphs under this Schedule are to be decided later. However, it is proposed that officers appointed by the Comptroller should have powers of entry and search in order to protect the GST revenue but not the power of arrest.

SCHEDULE 7 (Amendments and Appeals) relates to Article 92. Paragraphs under this Schedule are to be decided later.

SCHEDULE 8 (Transitional Provisions and Savings) relates to Article 93 and covers the Regulations that may be made by the States to make provision for savings or transitional arrangements consequent on the enactment of this Law and any changes to it.



Jersey

GOODS AND SERVICES TAX (JERSEY) LAW 200-

Arrangement

Article

PART 1

PRELIMINARY

- 1 Interpretation
- 2 Business
- 3 Connected persons
- 4 Services: where supplier or recipient belongs
- 5 Residence of body corporate, and branches

PART 2

IMPOSITION OF GST

- 6 Charge to GST
- 7 Liability for GST
- 8 The general rate of GST

PART 3

REGISTRATION AND RESPONSIBILITY UNDER LAW

- 9 Requirement to register and registration procedure
- 10 Partnerships, whether registered or not
- 11 Registration in name of partnership
- 12 Registration in name of association
- 13 Agents
- 14 GST representatives
- 15 Business temporarily run by representative
- 16 Transfer of a going concern

PART 4

PUBLIC SECTOR

- 17 Application to the States of Jersey
- 18 Application to the Parishes of Jersey
- 19 Regulations about treatment of public sector

PART 5

WHAT IS A SUPPLY?

20 Meaning of supply

PART 6

PLACE OF SUPPLY

21 Effect of Part 6

22 Where goods supplied

23 Where service supplied

PART 7

TIME OF SUPPLY

24 Effect of Part

25 When goods supplied

26 When service supplied

27 When GST invoice issued

28 Exceptions

PART 8

APPLICATION OF LAW TO SERVICES SUPPLIED OUTSIDE JERSEY

29 Application of Law to services supplied outside Jersey

PART 9

VALUE

30 Value of supply of goods or services

31 Value of imported goods

PART 10

PAYMENT OF GST BY TAXABLE PERSONS

32 Input and output tax

33 Prescribed accounting periods

34 Credits for input tax against output tax

35 Postponements and conditions

36 Input tax for purposes of Article 34

37 Goods imported for private purposes

38 Payments on account of GST

39 Security for payment and evidence for input tax

40 GST accounts, returns and statements

41 GST invoices

42 Special provision by Regulations

43 Trivial amounts

44 Recovery of GST and security amounts

PART 11

RELIEFS, EXEMPTIONS AND REPAYMENTS

45 Exempt supplies

46 Zero-rating

<u>47</u>	<u>Zero-rated supplies of buildings and building work</u>
<u>48</u>	<u>Exported goods zero-rated</u>
<u>49</u>	<u>Supply of international services zero-rated</u>
<u>50</u>	<u>Refund of GST: DIY</u>
<u>51</u>	<u>Relief on supply of certain second-hand goods</u>
<u>52</u>	<u>Refunds of GST in certain cases</u>
<u>53</u>	<u>Capital goods</u>
<u>54</u>	<u>Bad debts</u>
<u>55</u>	<u>Relief from GST on importation of goods</u>
<u>56</u>	<u>Other refunds or relief</u>
<u>57</u>	<u>Deferment</u>

PART 12

ADMINISTRATION

<u>58</u>	<u>Responsibility for administration of GST</u>
<u>59</u>	<u>Authorized persons</u>
<u>60</u>	<u>Application of Customs and Excise (Jersey) Law 1999</u>

PART 13

FAILURE TO COMPLY

<u>61</u>	<u>Surcharge where conduct involving dishonesty</u>
<u>62</u>	<u>Liability of directors for surcharge where corporate dishonesty</u>
<u>63</u>	<u>Surcharge if failure to notify or unauthorized issue of invoices</u>
<u>64</u>	<u>Surcharge if GST not paid or return not made</u>
<u>65</u>	<u>Assessment and surcharge if returns or paperwork inadequate</u>
<u>66</u>	<u>Assessment if failure to account for goods</u>
<u>67</u>	<u>Assessment if overpayment by Comptroller</u>
<u>68</u>	<u>Time limits on assessments</u>
<u>69</u>	<u>Factors in determining surcharge</u>
<u>70</u>	<u>General</u>
<u>71</u>	<u>Notice of assessment</u>

PART 14

LATE REFUNDS

<u>72</u>	<u>Loading on late payments and refunds</u>
<u>73</u>	<u>Refund of overpaid GST</u>

PART 15

APPEALS

<u>74</u>	<u>Grounds</u>
<u>75</u>	<u>Application of Part 6 of Income Tax (Jersey) Law 1961</u>
<u>76</u>	<u>Further provisions relating to appeals</u>
<u>77</u>	<u>Settling appeals by agreement</u>

PART 16

OFFENCES

<u>78</u>	<u>False information</u>
<u>79</u>	<u>Failure to comply with direction</u>
<u>80</u>	<u>Obstructing authorized officer</u>
<u>81</u>	<u>Dealing in goods or using services where GST evaded</u>
<u>82</u>	<u>General provisions as to offences</u>

PART 17

MISCELLANEOUS

<u>83</u>	<u>Furnishing of information to Comptroller</u>
<u>84</u>	<u>Power to require opening of gaming machines</u>
<u>85</u>	<u>Entry and search of premises and persons</u>
<u>86</u>	<u>Evidence by certificate, etc</u>
<u>87</u>	<u>Statement admissible despite certain inducements by Comptroller</u>
<u>88</u>	<u>Comptroller may impose procedural requirements</u>
<u>89</u>	<u>Directions and notices</u>
<u>90</u>	<u>Public notice</u>
<u>91</u>	<u>Regulations</u>
<u>92</u>	<u>Amendments and repeals</u>
<u>93</u>	<u>Transitional provisions and savings</u>
<u>94</u>	<u>Citation and commencement</u>

SCHEDULE 1

REGISTRATION

<u>1</u>	<u>Liability to be registered</u>
<u>2</u>	<u>Notification</u>
<u>3</u>	<u>Registration</u>
<u>4</u>	<u>Changes to be notified</u>
<u>5</u>	<u>Single taxable persons</u>
<u>6</u>	<u>Single taxable persons: supplementary direction</u>
<u>7</u>	<u>Single taxable persons: additional</u>
<u>8</u>	<u>Voluntary registration</u>
<u>9</u>	<u>Cessation of liability to be registered</u>
<u>10</u>	<u>Notification no longer liable to be registered</u>
<u>11</u>	<u>Cancellation of registration</u>
<u>12</u>	<u>Exemption from registration</u>
<u>13</u>	<u>Evaluating supplies</u>

SCHEDULE 2

SUPPLY

<u>1</u>	<u>Transfer of property</u>
<u>2</u>	<u>Issue of face-value voucher</u>
<u>3</u>	<u>Transfer of right</u>
<u>4</u>	<u>Transfer of possession</u>
<u>5</u>	<u>Treating or processing</u>
<u>6</u>	<u>Supply of energy</u>
<u>7</u>	<u>Transfer of major interest in land</u>
<u>8</u>	<u>Transfer of assets of business, and samples</u>
<u>9</u>	<u>Sale of business assets to recover debt</u>

- 10 Business assets of person ceasing to be taxable
- 11 Land part of assets of business

SCHEDULE 3

MODIFICATIONS OF THE LAW RELATING TO SERVICES SUPPLIED OUTSIDE JERSEY TO CERTAIN RECIPIENTS WHO BELONG IN JERSEY

SCHEDULE 4

VALUATION OF SUPPLY: SPECIAL CASES

- 1 Interpretation
- 2 Supply below value between connected persons
- 3 Supply for resale where recipient not taxable
- 4 Value includes excise
- 5 Discount for prompt payment
- 6 Credit voucher
- 7 Retailer voucher
- 8 Postage stamp
- 9 Other vouchers
- 10 Free vouchers
- 11 Prescribed supplies of goods
- 12 Prescribed supplies of services
- 13 Services supplied by a supplier who belongs outside Jersey
- 14 Accommodation and catering for employees
- 15 Foreign currency consideration
- 16 Gaming machines
- 17 Certain aircraft

SCHEDULE 5

EXEMPT SUPPLIES

- 1 Group 1 – Finance
- 2 Group 2 – Insurance
- 3 Group 3 – Postal services

SCHEDULE 6

POWERS OF ENTRY AND SEARCH

[To be decided later]

SCHEDULE 7

AMENDMENTS AND REPEALS

[To be decided later]

SCHEDULE 8

TRANSITIONAL PROVISIONS AND SAVINGS

[To be decided later]

- 1 Regulations



Jersey

GOODS AND SERVICES TAX (JERSEY) LAW 200-

A LAW for an indirect tax on goods and services.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

PRELIMINARY

1 Interpretation

In this Law, unless the context otherwise requires –

“approved” means approved by the Comptroller;

“authorized person” means any person authorized under Article 59;

“belong” has, in relation to a person’s relationship with a country, the meaning set out in Article 4;

“business” has the meaning set out in Article 2;

“Comptroller” means the Comptroller of Income Tax appointed under the Income Tax (Jersey) Law 1961;

“connected” shall be construed, in relation to a person, in accordance with Article 3;

“document” includes account, deed, writing and information recorded in any form, whether or not legible to the naked eye;

“establishment” means business establishment or fixed establishment;

“exempt supply” means a supply referred to in Article 45;

“gaming machine” has the same meaning as in the Gambling (Gaming and Lotteries) (Jersey) Regulations 1965;

“GST” means goods and services tax under this Law;

“GST credit” means an amount payable by the Comptroller as a GST credit under Article 34(3) or (4);

“GST invoice” means an invoice issued in accordance with Article 41;

“GST representative” means a person appointed under Article 14;

“input tax” has the meaning set out in Article 32;

“land” means any corporeal hereditament, including a building, and land covered with water, and also includes any interest in land or water and servitudes or rights in, on or over land or water;

“money” includes sterling and other currencies and money’s worth in sterling and other currencies;

“open market value” means, in relation to a supply of goods or services, or to goods, the amount (including GST chargeable on the supply or the importation of the goods) that would be payable for the supply or the goods if the supply or importation were for such consideration in money as would be payable by a not unduly anxious person for the supply or the importation, not being a person who stands in such relationship with any person as would affect that consideration;

“output tax” has the meaning set out in Article 32;

“prescribed” means prescribed by the Regulations;

“prescribed accounting period” means an accounting period prescribed under Article 33, and, except in Article 42, includes a reference to a period that applies because of Article 42;

“quarter” means a period of 3 months ending at the end of March, June, September or December;

“recipient” means, in relation to a supply, the person to whom the supply is made;

“register”, whether as verb or noun, means register under Part 3;

“registered person” means a person registered under Part 3;

“the Regulations” means Regulations made under this Law;

“relative” means brother, sister, ancestor or lineal descendant;

“service” does not include a service rendered to an employer under a contract of employment;

“supplier” means, in relation to a supply, the person who makes the supply, and includes a recipient who is deemed to have made a supply of a service by virtue of Article 29(1)(a);

“supply” has the meaning set out in Article 20;

“taxable person” means a person who is registered or liable to be registered;

“taxable supply” means a supply other than an exempt supply;

“trade” includes a trade, manufacture, adventure or concern in the nature of trade;

“zero-rated” means, in relation to a supply or to goods, prescribed as zero-rated by or under Part 11.

2 Business

- (1) For the purposes of this Law “business” includes any trade, profession, vocation or employment.
- (2) For the purposes of this Law, the carrying on of a business includes the following activities –
 - (a) the provision by a club, association or organization (for a subscription or other consideration) of facilities or advantages available to its members;
 - (b) the admission, for consideration, of persons to any premises.
- (3) If a club, association or organization or other body has objects that are in the public domain and are of a political, religious, philanthropic, philosophical or patriotic nature, it shall not be taken for the purposes of this Law to be carrying on a business only because its members subscribe to it, if a subscription obtains no facility or advantage for the subscriber other than the right to participate in its management or receive reports on its activities.
- (4) If, in the course of or furtherance of a business, a person accepts any office, then the services supplied by the person for the performance of the functions of that office shall be taken for the purposes of

this Law to be supplied in the course of or furtherance of the business.

- (5) Anything done in connection with the termination or intended termination of a business shall be taken for the purposes of this Law to be done in the course of or furtherance of the business.
- (6) The disposition (whether or not in connection with its reorganization or winding up) of a business as a going concern, or of its assets or liabilities, shall be taken for the purposes of this Law to be a supply in the course of or furtherance of the business.

3 Connected persons

- (1) For the purposes of this Law the question whether a person is connected with another shall be determined in accordance with this Article.
- (2) A person is connected with an individual if that person is the individual's wife or husband, or is a relative, or the wife or husband of a relative, of the individual or of the individual's wife or husband.
- (3) A person is connected with a person with whom the person is in partnership, and with the wife or husband or relative of any individual with whom the person is in partnership.
- (4) A company is connected with another company –
 - (a) if the same person has control of both companies, or a person has control of one company and persons connected with the person, or the person and persons connected with the person, have control of the other company; or
 - (b) if a group of 2 or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom the member is connected.
- (5) A company is connected with another person if that person has control of it or if that person and persons connected with that person together have control of it.

4 Services: where supplier or recipient belongs

- (1) For the purposes of this Law, a person who supplies services shall be treated as belonging in a country if –
 - (a) the person has an establishment there and no fixed establishment elsewhere in the world;
 - (b) the person has no establishment anywhere in the world but the person's usual place of residence is in the country; or
 - (c) the person has establishments both in that country and elsewhere in the world and the establishment that is most directly concerned with the supply of the services is in the country.
- (2) If a supply of services is made to an individual and received by the individual otherwise than for the purposes of any business carried on by the individual, the individual shall be treated for the purposes of this Law as belonging in the country in which the individual has his or her usual place of residence.
- (3) If a supply of services is made to a person who is not an individual, or the supply is received for the purposes of a business carried on by the person, the person shall be treated for the purposes of this Law as belonging in a country if –
 - (a) the person has an establishment there and no fixed establishment elsewhere in the world;
 - (b) the person has no establishment anywhere in the world but the person's usual place of residence is in the country; or
 - (c) the person has establishments both in that country and elsewhere in the world and the establishment at which, or for the purposes of which, the services supplied to the person are most directly used or to be used is in that country.

5 Residence of body corporate, and branches

For the purposes of this Law –

- (a) the usual place of residence of a body corporate is the place where it is legally constituted;
- (b) a person carrying on a business through a branch or agency in a country shall be treated as having an establishment there.

PART 2

IMPOSITION OF GST

6 Charge to GST

- (1) GST shall be charged –
 - (a) on the supply of goods or services in Jersey, if the supply is a taxable supply made by a taxable person in the course or furtherance of any business carried on by the person;
 - (b) on the importation into Jersey of goods from outside Jersey; and
 - (c) on the supply of services outside Jersey if -
 - (i) the supply is a taxable supply,
 - (ii) the recipient belongs in Jersey, and
 - (iii) the services are performed in connection with a person, place or thing in Jersey, or are taken to be so performed.
- (2) GST on the importation of goods shall be charged and payable as if it were customs duty on the goods under the Customs and Excise (Jersey) Law 1999.
- (3) The States may by Regulations specify, for the purposes of paragraph (1)(c)(iii), circumstances in which services are to be taken to be performed in connection with a person, place or thing in Jersey.

7 Liability for GST

- (1) GST on a supply of goods or services shall be a liability of the supplier and becomes due at the time of the supply.
- (2) GST on an importation of goods shall be a liability of the person who imports them.
- (3) Paragraph (1) shall not affect the operation of Part 8.

8 The general rate of GST

- (1) GST shall be charged at the rate of 3%.
- (2) GST shall be charged –
 - (a) on the supply of goods or services, by reference to the value of the supply;
 - (b) on the importation of goods, by reference to the value of the goods.
- (3) The States may amend paragraph (1) by Regulations.
- (4) The power in paragraph (3) shall not be exercised before the third anniversary of the day on which paragraph (1) comes into force.

PART 3

REGISTRATION AND RESPONSIBILITY UNDER LAW

9 Requirement to register and registration procedure

- (1) Schedule 1 shall have effect.
- (2) The Comptroller shall maintain a register of registrations under this Part.

10 Partnerships, whether registered or not

- (1) For the purposes of this Law, all the members of a partnership shall be taken to have supplied any goods or services supplied in the name of the partnership or by one or more partners in the partnership.
- (2) If a person ceases to be a member of a partnership during a prescribed accounting period a notice under this Law, whether of assessment or otherwise, that is served on the partnership and relates to, or to any matter arising in, that period or any earlier period during the whole or part of which the person was a member of the partnership shall be taken to have been served on the member as well as other members of the partnership.
- (3) However, if a person is a partner in a partnership during part only of a prescribed accounting period, the person's liability for GST on the supply, in the name of the partnership or by one or more partners in the partnership, of goods and services during the prescribed accounting period shall, for the purposes of this Law, be such proportion of the total liability as may be just and equitable.
- (4) In this Article, "partnership" includes a limited partnership, but not a limited liability partnership.

11 Registration in name of partnership

- (1) The Comptroller may, on application, register a partnership
- (2) The registration shall take effect from the beginning of a prescribed accounting period specified in the notice.
- (3) A notice, whether of assessment or otherwise, addressed to a partnership by the name in which it is registered under paragraph (1) and served in accordance with this Law, shall be treated for the purposes of this Law as served on the partnership and on the members of the partnership.
- (4) A person who is a member of a partnership at any time while the partnership is registered shall for the purposes of this Law be regarded as continuing to be a member of the partnership until notice that the person has ceased to be a member is served on the Comptroller.
- (5) In this Article, "partnership" includes a limited partnership, but not a limited liability partnership.

12 Registration in name of association

- (1) The Comptroller may, on application, register an unincorporated association.
- (2) The registration shall take effect from the beginning of a prescribed accounting period specified in the notice.
- (3) A notice, whether of assessment or otherwise, addressed to an unincorporated association by the name in which it is registered under paragraph (1) and served in accordance with this Law, shall be treated for the purposes of this Law as served on the officers responsible for the management of the association.

- (4) The States may by Regulations –
 - (a) prescribe what bodies are to be treated as unincorporated associations for the purposes of this Article;
 - (b) prescribe the consequences under this Law of the registration of an unincorporated association for the association or its officers or members;
 - (c) generally make provision for the treatment under this Law of unincorporated associations and their officers and members.

13 Agents

For the purposes of this Law, if goods are imported by a taxable person who supplies them as agent for a principal who is not a taxable person, the goods may be treated for the purposes of this Law as imported and supplied by the agent as principal.

14 GST representatives

- (1) The Comptroller may direct a person to appoint another person as a GST representative to act on his or her behalf in relation to GST if the first person –
 - (a) being a body corporate, is a taxable person or makes taxable supplies, and does not have a business establishment or other fixed establishment in Jersey; or
 - (c) being an individual, is a taxable person or makes taxable supplies, does not have a business establishment or other fixed establishment in Jersey, and does not have his or her usual place of residence in Jersey.
- (2) With the agreement of the Comptroller, a person whom the Comptroller may direct to appoint another person as a GST representative may, if not so directed, nevertheless appoint a GST representative.
- (3) A GST representative, subject to any conditions that the Comptroller imposes in the direction under paragraph (1) or the agreement under paragraph (2)–
 - (a) may act on the principal's behalf for any of the purposes of this Law or of the Regulations;
 - (b) shall secure the principal's compliance with any obligation, and discharge of any duty or liability, under this Law or the Regulations, including, where appropriate, by acting on the principal's behalf;
 - (c) shall be personally liable in respect of anything that he or she does for the purposes referred to in sub-paragraph (a); and
 - (d) shall be personally liable in respect of his or her failure to secure the compliance or discharge referred to in sub-paragraph (b) as if the obligation, duty and liability imposed on the principal were imposed jointly and severally on the GST representative and the principal.
- (4) The States may by Regulations make provision as to the manner and circumstances in which a person may be appointed as, or cease to be, another's GST representative.
- (5) The States may by Regulations make provision with respect to the notice to be given by GST representatives to the Comptroller and with respect to the inclusion of their names in the register or the removal of their names from the register.
- (6) A GST representative shall not because of paragraph (3) be guilty of an offence except in so far as–
 - (a) the GST representative has consented to, or connived in, the commission of the offence by his or her principal;
 - (b) the commission of the offence by the principal is attributable to any neglect on the part of the GST representative; or
 - (c) the offence consists in a contravention by the GST representative of an obligation that, because

of that paragraph, is imposed both on the GST representative and the principal.

- (7) If a person fails to appoint a GST representative in accordance with a direction of the Comptroller under paragraph (1), the Comptroller may direct the person to provide such security, or further security, as the Comptroller thinks appropriate for the payment of any GST that is or may become due from the person.
- (8) For the purposes of this Law a person shall not be treated as having been directed to appoint a GST representative, or as having been directed to provide security under paragraph (7), unless the Comptroller has –
 - (a) served notice of the direction on the person; or
 - (b) taken other reasonable steps to bring the direction to the person’s attention.
- (9) In this Article, “principal” in relation to a GST representative means the person directed under paragraph (1) to appoint the GST representative, or the person who appoints the GST representative under paragraph (2), as the case requires.

15 Business temporarily run by representative

- (1) The States may by Regulations make temporary provision for a person to be treated as registered in a case where the person carries on a business, without being registered, for or on behalf of a second person who –
 - (a) in the case of an individual, has died, is bankrupt or is incapable of managing his or her own affairs;
 - (b) in the case of a body corporate, is bankrupt or is in receivership or under administration.
- (2) Those Regulations may modify the provisions of this Law in their application to the first or second person so as to make temporary provision for securing continuity in the application of this Law to the business.

16 Transfer of a going concern

- (1) If a business carried on by a taxable person is transferred to another person as a going concern, then for the purpose of determining whether the transferee is a taxable person, the transferee shall be taken to have carried on the business before (as well as after) the transfer.
- (2) If a business carried on by a taxable person is transferred to another person as a going concern, the transferee shall keep any accounts and records relating to the business that were required to be kept under Article 40 immediately before the transfer, and from the transfer the transferor shall no longer be required to keep those accounts and records.
- (3) Paragraph (2) shall not apply if the Comptroller, on application by the transferor, otherwise directs.
- (4) If paragraph (2) does not apply, the requirement under Article 40 that the taxable person (whos business is transferred) keep the accounts and records shall be unaffected by the transfer.
- (5) The States may by Regulations make provision for securing continuity in the application of this Law in cases where a business carried on by a taxable person is transferred to another person as a going concern.
- (6) Those Regulations may, in particular, provide –
 - (a) for any obligations, duties and liabilities under this Law (other than any liability for a surcharge and any criminal liability) of the transferor to become, to the extent provided by the Regulations, obligations, duties and liabilities of the transferee; and
 - (b) for any right of either of them to repayment or credit in respect of GST to be satisfied by repayment or credit to the other..

PART 4
PUBLIC SECTOR

17 Application to the States of Jersey

- (1) This Law shall not apply to the supply of a service by the States, being a supply for which no charge or fee is payable by the person to whom the service is supplied.
- (2) For the purposes of this Law –
 - (a) any supply of a service by the States to which paragraph (1) does not apply shall be a taxable supply;
 - (b) a supply of goods or services to or by the States by or to the States shall be treated in the same way as a supply to or by the States by or to any other person;
 - (c) the States are liable to be registered and the Comptroller shall register them;
 - (d) the States however shall not be a taxable person, except to the extent that the States prescribe by Regulations;
 - (e) an administration of the States shall be the same person as the States.
- (3) A supply of goods or services to the States shall in any case be chargeable to GST in the same way as the supply of the same goods or services to any other person.
- (4) The States shall keep the same accounts and records and provide to the Comptroller the same information as a taxable person.
- (5) The Comptroller shall, to the extent that the States by Regulations so require, refund to the States any GST paid by the States on a supply to them.

18 Application to the Parishes of Jersey

The States may by Regulations make provision for the application of any provision of this Law to one or more of the 12 parishes of Jersey.

19 Regulations about treatment of public sector

The States may by Regulations do any of the following –

- (a) prescribe any person who is to be treated as the States, or as a parish, under this Law, whether or not that person has any connection with the States or the parish;
- (b) prescribe cases where a parish is or is not to be treated as a taxable person for the purposes of this Law;
- (c) prescribe any supply as a supply to or by the States, or a parish, for the purposes of this Law;
- (d) prescribe whether any supply to or by the States, or a parish, is to be exempt, zero-rated or otherwise treated for the purposes of this Law;
- (e) make provision in relation to importations by the States, or a parish;
- (f) modify the operation of this Law in relation to the States or a parish;
- (g) generally make provision for or with respect to the treatment, for the purposes of this Law, of the States or a parish, whether by modifying the operation of any provision of this Law (including any provision of this Part) in relation to the States or the parish or by making additional provision for or in respect of the States or the parish.

PART 5

WHAT IS A SUPPLY?

20 Meaning of supply

- (1) For the purposes of this Law, a supply is anything that is –
 - (a) specified as a supply in Schedule 2; and
 - (b) except as provided in that Schedule, is done for consideration.
- (2) Anything that is a supply for the purposes of this Law but is not a supply of goods is a supply of services for the purposes of this Law.
- (3) The States may by Regulations provide that any transaction (despite paragraphs (1) and (2)) shall be treated for the purposes of this Law –
 - (a) as a supply of goods and not as a supply of services;
 - (b) as a supply of services and not as a supply of goods; or
 - (c) as not a supply.
- (4) The States may by Regulations provide that the supply of specified services shall be treated for the purposes of this Law as a supply by a person in the course or furtherance of a business carried on by the person, despite the lack of consideration for that supply.
- (5) In particular, the States may by Regulations make provision to the effect that something done not for consideration shall be treated for the purposes of this Law as both a supply of services to a person for the purpose of a business carried on by the person and a supply by the same person in the course or furtherance of the business if the thing –
 - (a) is done by the person in the course or furtherance of the business and for the purpose of that business; and
 - (b) would be a supply of services if the thing were done for consideration.
- (6) The States may by Regulations provide that goods shall be treated for the purposes of this Law as being both supplied to a person for the purpose of a business carried on by the person and supplied by the same person in the course or furtherance of the business if –
 - (a) the person takes possession of the goods or produces them in the course or furtherance of the business;
 - (b) the goods are not supplied to another person and not incorporated in other goods produced in the course or furtherance of that business; and
 - (c) the goods are used by the person for the purposes of that business.
- (7) For the purposes of paragraph (6), if goods are manufactured or produced from any other goods those other goods shall be treated as incorporated in the first-mentioned goods.

PART 6

PLACE OF SUPPLY

21 Effect of Part 6

This Part shall determine, for the purposes of this Law, whether goods or services are supplied in Jersey.

22 Where goods supplied

- (1) If a supply of goods involves their removal, but does not involve their removal from or to Jersey they shall be treated –
 - (a) as supplied in Jersey if they are in Jersey at the time of the removal.
 - (b) as supplied outside Jersey if they are outside Jersey at the time of the removal.
- (2) If a supply of goods involves their removal from Jersey, they shall be treated as supplied in Jersey.
- (3) If the supply of goods involves their removal to Jersey, the goods shall be treated as supplied outside Jersey.
- (4) If a supply of goods involves their removal and their installation or assembly they shall be treated –
 - (a) as supplied in Jersey if the installation or assembly is at a place in Jersey to which they are so removed; or
 - (b) as supplied outside Jersey if the installation or assembly is at a place outside Jersey to which they are so removed.
- (5) For the purposes of paragraphs (1)– (4), if goods, in the course of their removal from a place in Jersey to another place in Jersey, leave and re-enter Jersey the removal shall not be treated as a removal from or to Jersey.
- (6) Goods whose place of supply is not determined under any of the preceding provisions of this Article shall be treated as supplied in Jersey if –
 - (a) their supply involves their being imported into Jersey; and
 - (b) the person who supplies them is the person by whom, or under whose direction, they are so imported.
- (7) The States may by Regulations amend this Article.

23 Where service supplied

- (1) A supply of services shall be treated as made –
 - (a) in Jersey if the supplier belongs in Jersey; or
 - (b) in another country if the supplier belongs in that other country.
- (2) For the purposes of paragraph (1), Jersey, Guernsey and Alderney and the Commonwealth dependent territories are countries.
- (3) The States may by Regulations amend this Article.

PART 7

TIME OF SUPPLY

24 Effect of Part

This Part shall determine, for the purposes of this Law, the time when a supply takes place.

25 When goods supplied

- (1) A supply of goods takes place –
 - (a) if the supply involves removal of the goods, at the time when the goods are removed;

- (b) if the supply does not involve removal of the goods, at the time when the goods are made available to the person to whom they are supplied.
- (2) However, if goods are sent or taken on approval, on sale or return, or on similar terms and are removed before it is known whether a supply will take place, the supply of the goods takes place when it becomes certain that the supply has taken place or, if sooner, 12 months after the removal.

26 When service supplied

A supply of a service takes place at the time when the service is fully performed.

27 When GST invoice issued

- (1) If, before the time specified in Article 25 or 26 in respect of a supply, the supplier issues a GST invoice in respect of the supply, the supply shall, to the extent that the supply is covered by the invoice, be treated as taking place at the time when the invoice is issued, and not at the time specified in Article 25 or 26.
- (2) If, before the time specified in Article 25(1)(a) or (b) in respect of a supply, the supplier receives a payment in respect of the supply, the supply shall, to the extent covered by the payment, be treated as taking place at the time when the payment is received, and not at the time specified in Article 25 or 26.
- (3) However, if paragraphs (1) and (2) both apply to a supply, the supply shall be treated as taking place at the earlier of the times specified by those paragraphs.
- (4) If, within 14 days after the time specified in Article 25 or 26 in respect of a supply, the supplier issues a GST invoice in respect of the supply, the supply shall (to the extent that neither paragraph (1) nor paragraph (2) applies to the supply) be treated as taking place at the time when the invoice is issued and not at the time specified in Article 25 or 26.
- (5) Paragraph (4) however shall not apply to a supply if the supplier has notified the Comptroller in writing before the time specified in Article 25 or 26 that the supplier does not want paragraph (4) to apply to the supply.
- (6) The Comptroller may, on written application by the supplier, direct that paragraph (4) shall apply in relation to a supply made by the person (being a supply to which neither paragraph (1) nor paragraph (2) applies) as if for the period of 14 days there were substituted such longer period as may be specified in the direction.
- (7) If a supply of goods involves their removal from Jersey, paragraphs (1)– (6), (9) and (10) and Articles 25 and 28(1) and (2) shall not apply to the supply and the supply shall be treated as taking place on whichever is the earlier of the following days –
 - (a) the 15th day of the month following the month in which the removal takes place;
 - (b) the day of the issue of a GST invoice in respect of the supply.
- (8) If a supplier provides a document to himself or herself, being a document that –
 - (a) purports to be a GST invoice in respect of a supply of goods or services to the supplier by another supplier; and
 - (b) is in accordance with this Law to be treated as the GST invoice to be provided by the latter supplier,paragraphs (4)– (6) shall have effect in relation to the supply as if –
 - (i) the provision of the document were the issue by the latter supplier of a GST invoice in respect of the supply; and
 - (ii) any notification under paragraph (5), or application under paragraph (6), by the first mentioned supplier had been given or made by the latter supplier.

- (9) The Comptroller may, on written application by a supplier, direct that despite this Article a supply be treated as taking place at a specified time earlier than would otherwise apply, the time being specified by reference to the occurrence of some event or by reference to the time when some event would occur in the ordinary course of events.
- (10) The Comptroller may, on written application by a supplier, direct that despite paragraphs (4)– (6) a supply be treated as taking place, to the extent that neither paragraph (1) nor (2) applies to the supply, at (according to the direction) the beginning, or the end, of the relevant working period (as defined in respect of the supplier in the direction).

28 Exceptions

- (1) Despite Articles 25– 27, if goods are to be treated as supplied as referred to in Regulations made under Article 20(6), the supply takes place when the goods are appropriated to the use mentioned in that Article.
- (2) Despite Articles 25– 27, if goods are supplied within the meaning of paragraph 8 of Schedule 2, the supply takes place when the goods are transferred as referred to in that paragraph.
- (3) Despite Articles 25– 27, if services are supplied within the meaning of paragraph 8 of Schedule 2 the supply takes place when the relevant goods are appropriated to the use referred to in that paragraph.
- (4) The States may by Regulations make provision with respect to the time at which (despite this Part) a supply is to be treated as taking place in cases where it is –
 - (a) a supply for consideration the whole or part of which is determined or payable periodically, or from time to time, or at the start or end of any period;
 - (b) a supply of goods for consideration the whole or part of which is determined or payable at the time when the goods are appropriated for any use;
 - (c) a supply of services by virtue of paragraph 8 of Schedule 2; or
 - (d) a supply of services by virtue of Regulations made under Article 20.
- (5) Regulations under paragraph (4) may provide for goods or services to be treated as separately and successively supplied at prescribed times or prescribed intervals.

PART 8

APPLICATION OF LAW TO SERVICES SUPPLIED OUTSIDE JERSEY

29 Application of Law to services supplied outside Jersey

- (1) Where the supply of a service is charged to GST by virtue of Article 6(1)(c) –
 - (a) if the recipient is a taxable person who receives the service for the purposes of any business carried on by the recipient, this Law shall apply to the supply as if it had been made by the recipient in the course or furtherance of any business carried on by the recipient;
 - (b) in any other case, Schedule 3 shall have effect to modify this Law in its application to the supply and the recipient.
- (2) In determining any allowance of input tax in the recipient’s case under Article 36, a supply deemed pursuant to paragraph (1)(a) to have been made by the recipient shall not be taken into account as a supply made by the recipient.
- (3) For the purposes of this Law, a supply deemed pursuant to paragraph (1)(a) to have been made by the recipient shall be treated as taking place at such time as the States may prescribe by Regulations, or if no such time has been prescribed, at the time when the service supplied is fully performed.

- (4) The States may by Regulations amend paragraph (1).
- (5) The States may by Regulations amend Schedule 3.
- (6) The States may by Regulations amend this Article to make provision –
 - (a) for the treatment of mixed supplies of goods and services; or
 - (b) for supplies to be treated, in accordance with the provision, as supplies partly of goods and partly of services or entirely of goods or entirely of services.

PART 9

VALUE

30 Value of supply of goods or services

- (1) For the purposes of this Law, the value of a supply of goods or services shall, except as otherwise provided by or under this Law, be determined in accordance with this Article and with Schedule 4.
- (2) If the supply is for consideration in money, its value shall be such amount as, with the addition of GST chargeable, is equal to the consideration.
- (3) If the supply is for consideration not consisting or not wholly consisting of an amount in money, its value shall be such amount in money as, with the addition of GST chargeable, is equivalent to the consideration.
- (4) If a supply of any goods or services is not the only matter to which consideration in money relates, the supply shall be taken to be for such part of the consideration as is properly attributable to it.
- (5) The States may by Regulations make provision for the evaluation of supplies of goods and services (including supplies referred to in Article 20(4) or (5)) for the purposes of this Law, including by amending this Article or Schedule 4.

31 Value of imported goods

- (1) For the purposes of this Law, the value of imported goods shall be the sum of the following –
 - (a) the value of the goods determined under the Customs and Excise (Jersey) Law 1999 as if they were goods subject to a duty under that Law, whether or not the goods in question are in fact so subject;
 - (b) so far as not already included under sub-paragraph (a), all taxes, duties and other charges levied on the goods either outside or, by reason of importation, within Jersey (except GST);
 - (c) all costs by way of commission, packing, transport and insurance up to the port or place of importation.
- (2) For the avoidance of doubt, it is hereby declared that such taxes include any value-added tax, or goods-and-services tax, levied outside Jersey.
- (3) If goods are imported for consideration that is or includes a price in money and –
 - (a) the terms on which those goods are imported allow a discount for prompt payment of that price;
 - (b) those terms do not include provision for payment of that price by instalments;
 - (c) payment of that price is made in accordance with those terms; and
 - (d) the discount is in fact allowed,the value of the goods shall, for the purposes of this Law, be reduced by the amount of the discount.
- (4) The States may by Regulations make provision for the evaluation of imported goods for the purposes

of this Law, including by amending this Article.

PART 10

PAYMENT OF GST BY TAXABLE PERSONS

32 Input and output tax

- (1) In this Part, a taxable person's "input tax", or "input tax" in relation to a taxable person, means –
 - (a) GST on the supply to the taxable person of goods, or services, used or to be used for the purpose of any business carried on by the taxable person; or
 - (b) GST paid or payable by the taxable person on the importation of goods used or to be used for the purpose of any business carried on by the taxable person.
- (2) In this Part, a taxable person's "output tax", or "output tax" in relation to a taxable person, means GST on supplies that the taxable person makes.
- (3) However, if goods or services are supplied to a body corporate, or goods are imported by a body corporate, and the goods or services are used or are to be used in connection with the provision of accommodation, they shall not be treated for the purposes of this Part as used or to be used for the purposes of any business carried on by the body corporate in the proportion that the accommodation is used or to be used for domestic purposes by a director of the body corporate, or a person connected with a director of the body corporate.
- (4) If goods or services supplied to a taxable person, or goods imported by a taxable person, are used or are to be used partly for the purposes of a business carried on or to be carried on by the person and partly for other purposes, the GST on supplies and importations shall be apportioned for the purposes of this Part so that only so much as is referable to the business purposes is counted as the person's input tax.
- (5) The States may by Regulations make provision for the evidence to be provided to substantiate a charge to GST for the purposes of this Part.
- (6) For the purposes of this Part, GST on the supply of goods or services to a taxable person or GST paid or payable by a taxable person on the importation of goods shall be treated as the person's input tax only to the extent that the relevant charge to GST is substantiated as specified in those Regulations, or if no such Regulations have been made, as approved by the Comptroller.
- (7) The States may by Regulations provide –
 - (a) for a taxable person to count, as the person's input tax, GST on the supply to the person, or paid by the person on the importation of goods, even though the person was not a taxable person at the time of the supply or payment;
 - (b) for a taxable person that is a body corporate to count, as its input tax, GST –
 - (i) on the supply or importation of goods before the body's incorporation, being supply or importation for appropriation to the body or its business, or
 - (ii) on the supply of services before the body's incorporation, being supply for the body's benefit or in connection with its incorporation; or
 - (c) in the case of a person who has been, but is no longer, a taxable person, for the person to be paid by the Comptroller the amount of any GST on a supply of services made to the person for the purpose of any business carried on by the person when the person was a taxable person.
- (8) In this Article, "director" means –
 - (a) in relation to a body corporate whose affairs are managed by a board of directors or similar body, a member of that board or similar body;
 - (b) in relation to a body corporate whose affairs are managed by a single director or similar person,

that director or person; or

- (c) in relation to a body corporate whose affairs are managed by its members themselves, a member of the body corporate.

33 Prescribed accounting periods

In respect of supplies made by a taxable person, the person shall account for and pay GST by reference to such accounting periods, at such time and in such manner as the States may prescribe by Regulations.

34 Credits for input tax against output tax

- (1) A taxable person is entitled at the end of each prescribed accounting period to credit for so much of the person's input tax as is allowable under Article 36.
- (2) The person may, by making a claim to the Comptroller in accordance with the Regulations, deduct the credit from any output tax that is due at the end of the prescribed accounting period from the person.
- (3) If no output tax is due at the end of the prescribed accounting period, the Comptroller shall, if a claim is made to the Comptroller in accordance with the Regulations, pay the credit as a GST credit to the taxable person.
- (4) If the credit at the end of the prescribed accounting period exceeds the output tax at the end of the period the Comptroller shall, if a claim is made to the Comptroller in accordance with the Regulations, pay the excess as a GST credit to the taxable person.

35 Postponements and conditions

- (1) Notwithstanding Article 34(3) and (4), if the States by Regulations so provide, the whole or any part of a GST credit may, in accordance with those Regulations, be held over to be credited in and for a subsequent prescribed accounting period.
- (2) Those Regulations may provide that that may be done on application to the Comptroller by the taxable person or in accordance with notice by the Comptroller to the person or to the public.
- (3) If a taxable person has failed to submit a return for a prescribed accounting period as required by or under this Law, the Comptroller may withhold payment of a GST credit due at the end of a subsequent prescribed accounting period until the person has submitted the returns.
- (4) If a taxable person has made no taxable supplies in the prescribed accounting period in relation to which the Comptroller pays a GST credit, or in any previous prescribed accounting period, the Comptroller may impose on the payment of a GST credit such conditions as the Comptroller thinks fit, including conditions requiring repayment of the GST credit in specified circumstances.
- (5) The States may by Regulations provide that any GST charged on any supply or importation is to be excluded from a credit referred to in Article 34.
- (6) Those Regulations may –
 - (a) be expressed to apply in respect of any description of goods or services supplied or of goods imported, in respect of the person by whom they are supplied or imported or to whom they are supplied, in respect of the purposes for which they are supplied or imported, or in respect of any other circumstances or factors; and
 - (b) make provision for consequential relief from output tax.

36 Input tax for purposes of Article 34

- (1) The amount of input tax allowable for the purposes of Article 34 at the end of any prescribed

accounting period shall be so much of the input tax on supplies and importations in the period as the States prescribe as allowable by Regulations and is attributable to –

- (a) taxable supplies;
 - (b) supplies of services outside Jersey that would be taxable supplies if made in Jersey;
 - (c) supplies of services, being supplies to a person outside Jersey, or directly linked to the export of goods from Jersey, and being exempt supplies (or supplies that would be exempt supplies if made in Jersey but are prescribed by the Regulations for the purposes of this paragraph); or
 - (d) supplies of intermediary services in relation to a supply that would come within subparagraph (c), being exempt supplies (or supplies that would be exempt supplies if made in Jersey but are prescribed by the Regulations for the purposes of this paragraph).
- (2) The States may by Regulations make provision for securing a fair and reasonable attribution of input tax to supplies falling within paragraph (1), including provision for–
- (a) proportions by reference to which input tax for any prescribed accounting period is to be provisionally attributed to those supplies;
 - (b) adjusting the provisional attribution of input tax among multiple prescribed accounting periods or in cases where events prove provisional attributions to be wrong;
 - (c) disallowing the attribution of input tax to a supply that, in accordance with any provision of or under this Law, a person makes to himself or herself.

37 Goods imported for private purposes

- (1) If goods are imported by a taxable person and –
- (a) at the time of importation they belong wholly or partly to another person; and
 - (b) the purposes for which they are to be used include purposes of the taxable person that are not those of a business carried on by the taxable person or purposes of the other person that are not those of a business carried on by the other person,

the GST paid or payable by the taxable person on the importation of the goods shall not be regarded as input tax to be deducted or credited under Article 34.

- (2) The taxable person may however may make a separate claim to the Comptroller for the repayment of the GST paid or payable.
- (3) The Comptroller shall allow the claim if the Comptroller is satisfied that it is necessary to avoid a double charge to GST, and then only to the extent that it is so necessary.
- (4) In considering the claim, the Comptroller may take into account the circumstances of the importation and the things done with, or occurring in relation to, the goods at any subsequent time.
- (5) The Comptroller shall pay to the taxable person the amount allowed by the Comptroller on the claim.

38 Payments on account of GST

The States may by Regulations require a taxable person to pay, in accordance with the requirements of –

- (a) the Regulations and any notice served on the person by the Comptroller; or
- (b) the Regulations and any public notice by the Comptroller,

amounts on account of any GST that the person may become liable to pay in respect of a prescribed accounting period.

39 Security for payment and evidence for input tax

- (1) The Comptroller may, as a condition of allowing or repaying any input tax to any person, require the

production of such documents relating to GST as may have been supplied to the person.

- (2) The Comptroller may, if the Comptroller thinks it necessary for the protection of GST revenue, require, as a condition of allowing or paying any GST credit, the giving of such security for the amount of the GST credit as appears appropriate to the Comptroller.
- (3) The Comptroller may, if the Comptroller thinks it necessary for the protection of GST revenue, require a taxable person, as a condition of the person's supplying goods or services under a taxable supply, to give security, or further security, of such amount and in such manner as the Comptroller determines, for the payment of any GST that is or may become due from the person.

40 GST accounts, returns and statements

- (1) A taxable person shall keep accounts, and other records, in accordance with the Regulations.
- (2) A taxable person shall make returns and statements in accordance with the Regulations.

41 GST invoices

- (1) A taxable person who supplies goods or services shall, in accordance with the Regulations, issue to the recipient an invoice that –
 - (a) states the prescribed particulars of the supply;
 - (b) names the persons by and to whom the goods or services are supplied;
 - (c) indicates whether GST is chargeable on the supply; and
 - (d) sets out the prescribed particulars of the GST.
- (2) The States may by Regulations make provision concerning matters of time in respect of GST invoices, including the time when a GST invoice is to be taken to be issued.

42 Special provision by Regulations

- (1) The States may by Regulations make special provision for taxable supplies by retailers of goods or services, including in relation to –
 - (a) the determination of the value of their supplies in any period whether or not that period corresponds to a prescribed accounting period;
 - (b) the proportion of the value of their supplies that is to be attributed to any description of supplies; and
 - (c) adjustments in that value or that proportion.
- (2) The States may by Regulations provide –
 - (a) for GST in respect of a supply to be accounted for and paid by reference to the time when consideration for the supply is received or by reference to matters of time concerning the relevant GST invoice;
 - (b) for treating GST chargeable in one prescribed accounting period as chargeable in another such period;
 - (c) with respect to the making of entries in accounts for the purpose of making adjustments, whether for the correction of errors or otherwise; and
 - (d) for the making of financial adjustments in connection with the making of entries in accounts for that purpose.
- (3) The States may, to the extent necessary for the purposes of those Regulations, by Regulations modify any provision of this Law relating to the time when GST is to be accounted for or paid, to the time when consideration for a supply is received, to matters of time concerning GST invoices, or to any other matter referred to in paragraph (2).

- (4) The States may by Regulations in cases where goods are treated as supplied by a taxable person by virtue of paragraph 7 of Schedule 2 require GST chargeable on the supply to be accounted for and paid, and particulars of the GST to be provided, by such other person and in such manner as may be specified by the Regulations.

43 Trivial amounts

- (1) If, at the end of a prescribed accounting period, the amount of GST due from any person or the amount of any GST credit would be less than £1, that amount shall be treated as nil for the purposes of this Law.
- (2) The States may by Regulations replace the amount in paragraph (1) with one or more amounts for all one or several purposes of this Law.

44 Recovery of GST and security amounts

- (1) GST due from any person shall be recoverable as a debt due to the States.
- (2) If an invoice shows a supply of goods or services as taking place with GST chargeable on it, there shall be due from the person who issued the invoice an amount equal to that which is shown on the invoice as GST or, if GST is not separately shown, to so much of the total amount shown as payable as would represent GST on the supply.
- (3) Paragraph (2) applies whether or not –
 - (a) the invoice is a GST invoice;
 - (b) the invoice meets the requirements under this Law for GST invoices;
 - (c) the supply shown on the invoice actually takes place;
 - (d) the amount shown as GST, or any amount of GST, is chargeable on the supply; or
 - (e) the person issuing the invoice is a taxable person.
- (4) An amount due from a person under paragraph (2) shall be recoverable as a debt due to the States even if it is not GST.
- (5) An amount required by or under this Law to be provided by a person as security to the Comptroller shall be recoverable from the person as a debt due to the States.

PART 11

RELIEFS, EXEMPTIONS AND REPAYMENTS

45 Exempt supplies

Schedule 5 shall have effect.

46 Zero-rating

- (1) If a taxable person supplies goods or services and the supply is zero-rated, then, whether or not the supply would, but for this Article, have been chargeable to GST –
 - (a) the supply shall be treated as a taxable supply; and
 - (b) the rate at which GST shall be charged on the supply shall be nil.
- (2) If goods of a description specified as zero-rated are imported, no GST shall be charged on their importation.

- (3) A supply of goods or services, or goods that are imported, shall be zero-rated for the purposes this Article if the supply is, or the goods are, specified in Articles 47 to 49 or in Regulations made under paragraph (4) as zero-rated.
- (4) The States may by Regulations specify supplies of goods or services and importations of goods that shall be zero-rated.
- (5) Regulations under paragraph (4) may make the zero-rating of any supply or importation conditional upon the fulfilment of –
 - (a) any conditions prescribed in the Regulations; and
 - (b) any conditions imposed by the Controller by public notice or by notice service on the supplier or importer, as the case requires.

47 Zero-rated supplies of buildings and building work

- (1) A grant of a major interest in, or in any part of, land shall be zero-rated if the grant is by a person constructing on the land a building –
 - (a) designed solely as a dwelling or number of dwellings; or
 - (b) intended for use solely for a relevant residential purpose or a relevant charitable purpose.
- (2) A supply of services (other than services of an architect, surveyor or any person acting as consultant or in a supervisory capacity) shall be zero-rated if the supply is in the course of the construction of a building –
 - (a) designed solely as a dwelling or number of dwellings; or
 - (b) intended for use solely for a relevant residential purpose or a relevant charitable purpose.
- (3) A supply shall be zero-rated if the supply is to a person of –
 - (a) materials; or
 - (b) articles, being builder's hardware, sanitary ware or other articles of a kind ordinarily installed by builders as fixtures,

by a supplier, who also makes to that person a supply of services described in paragraph (2) that include the use of those materials or the installation of those articles.
- (4) The references in paragraphs (1) and (2) to the construction of a building, or in paragraph (2) to work include a reference to –
 - (a) the alteration, conversion, enlargement, improvement, reconstruction or repair of an existing building or work; or
 - (b) an extension of, or annexation to, an existing building, being an extension, or annexation, that provides for internal access to the existing building or of which the separate use, letting or disposal is prevented by the terms of a covenant, or of permission under the Island Planning (Jersey) Law 1964.
- (5) Paragraph (1) shall not apply to –
 - (a) the grant of a lease which is not made for consideration in the form of a premium in respect of the lease or of a first payment of rent due under the lease;
 - (b) the grant of an interest in, or in any part of, a building designed as a dwelling or number of dwellings, or the site of such a building, does not fall within paragraph (1) if the interest granted is such that –
 - (i) the grantee is not entitled to reside in the building, or part, throughout the year; or
 - (ii) residence there throughout the year, or the use of the building or part as the grantee's principal private residence, is prevented by the terms of a restrictive agreement or covenant, or of permission under the Island Planning (Jersey) Law 1964.

- (6) Paragraph (3) shall not apply to the supply of –
- (a) finished or prefabricated furniture, other than furniture designed to be fitted in kitchens;
 - (b) materials for the construction of fitted furniture, other than of kitchen furniture;
 - (c) domestic electrical or gas appliances, other than those designed to provide space heating or water heating or both; or
 - (d) carpets or carpeting material.
- (7) If all or part of a building is intended for use solely for a relevant residential purpose or a relevant charitable purpose –
- (a) a supply relating to the building (or any part of it) shall not be taken, for the purposes of paragraph (2) or (3), to relate to a building intended for such use unless the supply is made to a person who intends to use the building (or part) for such a purpose; and
 - (b) a grant or other supply relating to the building (or any part of it) shall not be taken to relate to a building intended for such use unless, before it is made the person to whom it is made has given to the person making it a certificate in the approved form, specifying that the grant or other supply (or a specified part of it) so relates.
- (8) If only part of a building is designed solely as a dwelling or number of dwellings or is intended for use solely for a relevant residential purpose or a relevant charitable purpose –
- (a) a grant or other supply relating only to the part so designed or intended (or relating only to the site of that part) shall be treated as relating to a building designed solely as a dwelling or number of dwellings or intended for use solely for a relevant residential purpose or a relevant charitable purpose;
 - (b) a grant or other supply relating only to the other part of the building (or to the site of the other part) shall not be so treated;
 - (c) a grant or other supply relating to both those parts (or to the sites of both those parts) shall be the subject of an apportionment, so that only the portion of the grant or other supply that corresponds to the part of the building that is designed solely as a dwelling or number of dwellings or is intended for use solely for a relevant residential purpose or a relevant charitable purpose (or corresponds to the site of that part) shall be treated as relating to a building designed solely as a dwelling or number of dwellings or intended for use solely for a relevant residential purpose or a relevant charitable purpose.
- (9) For the purposes of this Article, a dwelling includes a garage constructed for occupation from the same time as, and by the same occupier as, the part of the dwelling for human habitation.
- (10) In this Article –
- “grant” includes assignment, transfer and surrender;
- “major interest”, in relation to land, means an interest that confers an exclusive right on the owner of the interest to enjoyment of the land (whether or not that right is conditional, deferred or present), but does not include a lease of land for a term of 9 years or less;
- “use for a relevant residential purpose” means use as –
- (a) a children’s home or other institution providing residential accommodation for children;
 - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disability, past or present dependence on alcohol or drugs, or past or present mental disorder;
 - (c) a hospice;
 - (d) residential accommodation for students or school pupils;
 - (e) residential accommodation for members of any of the armed forces;
 - (f) a monastery, nunnery or similar establishment; or
 - (g) an institution that is the sole or main residence of at least 90% of its residents,

except use as a hospital, prison or similar institution or as an hotel, inn or similar establishment;

“use for a relevant charitable purpose” means use by a charity –

- (a) otherwise than in the course or furtherance of a business; or
- (b) as a village hall or similarly in providing social or recreational facilities for a local community.

48 Exported goods zero-rated

- (1) A supply of goods shall be zero-rated if the supply –
 - (a) would involve their export from Jersey; or
 - (b) would involve their being shipped for use as stores on a voyage by sea or air to a destination outside Jersey, or as merchandise for sale by retail on the relevant ship or aeroplane to persons carried on the same voyage,and any conditions prescribed by Regulations, and any conditions imposed by the Comptroller by public notice, or by notice served on the supplier, are fulfilled.
- (2) If a supply of goods has been zero-rated by virtue of paragraph (1) and–
 - (a) the goods are in Jersey after the date on which they were to have been exported; or
 - (b) any condition referred to in paragraph (1) has not been complied with,the recipient and any person in whose possession the goods are found in Jersey shall be jointly and severally liable to pay the GST that would have been chargeable on the supply but for the operation of Article 46.
- (3) The Comptroller may, by notice served on the supplier, direct that the presence of goods in Jersey after the date on which they were to have been exported or a failure to satisfy a condition referred to in paragraph (1) shall not affect the zero-rating of the supply and direct that paragraph (2) shall not apply to the recipient and other person referred to in paragraph (2).
- (4) The Comptroller may waive payment of the whole or part of the GST referred to in paragraph (2) if it appears to the Comptroller that to do so would be fair and equitable in all the circumstances.

49 Supply of international services zero-rated

- (1) A supply of services shall be zero-rated if it is a supply of international services.
- (2) A supply of services shall be treated as a supply of international services where the services or the supply are for the time being of any of the following descriptions –
 - (a) services (not being ancillary transport activities such as loading, unloading and handling) comprising the transport of passengers or goods –
 - (i) from a place outside Jersey to another place outside Jersey,
 - (ii) from a place in Jersey to a place outside Jersey, or
 - (iii) from a place outside Jersey to a place in Jersey;
 - (b) services (including ancillary transport activities such as loading, unloading and handling) comprising the transport of goods from a place in Jersey to another place in Jersey to the extent that those services are supplied by the same supplier as part of the supply of services to which sub-paragraph (a) applies in the circumstances described in clause (ii) or (iii) of the sub-paragraph;
 - (c) services (other than the letting on hire of any means of transport) comprising the insurance, or the arranging of the insurance, or the arranging of, the transport of passengers or goods to which either sub-paragraph (a) or (b) applies;
 - (d) the letting on hire of any means of transport for use, throughout the period of the hiring, in a place outside Jersey which is –

- (i) exported by the lessor to such a place, or
- (ii) in such a place at the time of the supply;
- (e) services supplied directly in connection with land situated outside Jersey or any improvement to such land;
- (f) services supplied directly in connection with goods situated, at the time of performance of the services, outside Jersey;
- (g) services supplied directly in connection with goods for export from Jersey and supplied to a person who, at the time the services are performed, belongs in a country other than Jersey;
- (h) prescribed financial services supplied directly in connection with goods for export from Jersey;
- (i) services supplied –
 - (i) under a contract with a person who belongs in a country outside Jersey, and
 - (ii) which directly benefit a person who, at the time the services are performed, belongs in a country outside Jersey, not being services which are supplied directly in connection with –
 - (A) land situated in Jersey or any improvements to such land; or
 - (B) goods situated in Jersey at the time the services are performed, other than goods referred to in sub-paragraph (g):
- (j) pilotage, salvage or towage services performed in relation to ships or aircraft;
- (k) services comprising the surveying of any ship or aircraft or the classification of any ship or aircraft for the purposes of any register;
- (l) the supply (including the letting on hire) of any ship or aircraft ;
- (m) the repair, maintenance, broking or management of any ship or aircraft, being services which are provided to the owner, operator or agent of the ship or aircraft;
- (n) prescribed services comprising the provision of any means of telecommunication transmitted –
 - (i) from a place outside Jersey to another place outside Jersey,
 - (ii) from a place in Jersey to a place outside Jersey, or
 - (iii) from a place outside Jersey to a place in Jersey;
- (o) services supplied in relation to a trust, where the services and the person supplying services satisfy such conditions as may be prescribed; or
- (p) services supplied –
 - (i) under a contract with a person who belongs in a country outside Jersey, and
 - (ii) which directly benefit a person who belongs in a country other than Jersey,
 relating to the co-location in Jersey of computer server equipment belonging to the person referred to in clause (i) or (ii).

(3) For the purpose of paragraph (2)–

“aircraft” means an aircraft –

- (a) that has an authorized weight exceeding 3 metric tonnes; or
- (b) that has an authorized weight of 3 metric tonnes or less, and that is being operated for valuable consideration;

“authorized weight”, in relation to an aircraft, shall have the meaning given to it by or under the Airport Dues (Jersey) Law 1956;

“co-location”, in relation to computer server equipment, means the provision of a physical environment for the operation of the computer server equipment;

“ship” means a ship which is not designed or adapted for use for recreation or pleasure and excludes a passenger boat licensed under Part 5 of the Boats and Surf-Riding (Control) (Jersey) Regulations

1969 and a speed boat registered under Part 6 of those Regulations;

“valuable consideration”, in relation to the operation of an aircraft, shall have the meaning given to it by or under the Airport Dues (Jersey) Law 1956.

- (4) The services in paragraph (2)(e) include—
 - (a) services in the course of the construction, alteration, repair, maintenance or demolition of any building or civil engineering work; and
 - (b) services such as are supplied by estate agents and auctioneers, architects surveyors, engineers and others involved in matters relating to land;
- (5) In paragraph (2)(i) and (p), the person with whom the contract is made and the person who directly benefits from the services may be the same person or different persons.
- (6) The reference in paragraph (2)(l) to the supply of a ship or an aircraft includes a reference to the supply of services under a charter of that ship or aircraft except where the services supplied under such a charter are performed substantially in Jersey and consist of any of the following –
 - (a) transport of passengers;
 - (b) accommodation;
 - (c) entertainment;
 - (d) catering of food or beverage;
 - (e) education.
- (7) Where a description referred to in paragraph (2) is a transaction which would not otherwise be a supply of services, the transaction shall, for the purposes of this Law, be treated as a supply of services in Jersey.

50 Refund of GST: DIY

The Comptroller shall refund GST to a person if the following conditions are satisfied –

- (a) the person is constructing, or has constructed, a dwelling lawfully and otherwise than in the course of or furtherance of any business;
- (b) the GST is chargeable on the supply of goods to the person or on the importation of goods by the person;
- (c) the goods are builder’s hardware, sanitary ware or other articles of a kind ordinarily installed by builders as fixtures, or are builder’s materials;
- (d) the goods are incorporated in the dwelling or its site;
- (e) the person has made a claim to the Comptroller for the refund;
- (f) the claim is made within the time approved by the Comptroller;
- (g) the claim is in the approved form, and accompanied by such information or documents as the Comptroller may require;
- (h) the GST has actually been paid;
- (i) such other conditions as the States may prescribe by Regulations are satisfied.

51 Relief on supply of certain second-hand goods

- (1) The States may by Regulations make provision for securing a reduction of the GST chargeable on a supply of goods if the previous supply of the same goods was not chargeable to GST.
- (2) The reduction shall not exceed the amount of GST that would have been chargeable on the previous supply had GST been chargeable on it at the same rate as that applying to the current supply.

- (3) Regulations under this Article may include provision treating the importation of goods in the same way as the supply of goods.
- (4) Any Regulation under this Article may extend to cases where the previous supply or importation took place when no GST was chargeable on the supply or importation, whether because at the time when the supply or importation was made this Law was not in force or because at that time the supply or importation was zero-rated or exempt from GST.

52 Refunds of GST in certain cases

- (1) The Comptroller shall refund GST to a person to whom this Article applies if the following conditions are satisfied –
 - (a) GST is chargeable on the supply of goods or services to the person or on the importation of any goods by the person;
 - (b) the supply or importation is not for the purpose of any business carried on by the person;
 - (c) the person has made a claim to the Comptroller for the refund;
 - (d) the claim is made within the time approved by the Comptroller;
 - (e) the claim is in the approved form, and accompanied or followed by such information or documents as the Comptroller may require;
 - (f) the GST has actually been paid.
- (2) If goods or services so supplied to or imported by the person cannot be conveniently distinguished from goods or services supplied to or imported by the person for the purpose of a business carried on by the person, the amount to be refunded under this Article shall be such amount as remains after deducting from the whole of the GST chargeable on the supply or importation such proportion of the GST as appears to the Comptroller to be attributable to the supply or importation for the purpose of the business.
- (3) However, if –
 - (a) the GST attributable to the supply or importation for the purpose of the business is or includes GST attributable to exempt supplies prescribed under Article 36(1)(c) or (d); and
 - (b) the GST attributable to the exempt supplies is in the opinion of the Comptroller an insignificant proportion of the GST chargeable on the supply or importation,the Comptroller may include the GST attributable to the exempt supplies in the GST refunded under this Article.
- (4) The persons to whom this Article applies are the following –
 - (a) the 12 parishes of Jersey;
 - (b) the States;
 - (c) any person that the States may prescribe by Regulations.
- (5) References in this Article to GST chargeable do not include any GST that, by virtue of Regulations under Article 35(5), is excluded from credit under Article 34.

53 Capital goods

- (1) The States may by Regulations make provision for the giving of relief from GST paid on the supply or importation for the purpose of a business carried on by any person of machinery or plant in cases where that GST or part of that GST cannot be credited under Article 34(1).
- (2) Without prejudice to the generality of paragraph (1), those Regulations may provide for relief to be given by the deduction of or refund of GST and for aggregating or excluding the aggregation of value if goods of the same description are supplied or imported together.

54 Bad debts

- (1) The Comptroller shall refund GST to a person if the following conditions are satisfied at the time when a claim for the refund is made to the Comptroller –
 - (a) a person has supplied goods or services for consideration in money and has accounted for and paid GST on the supply;
 - (b) all or part of the consideration for the supply has been written off in the person's accounts as a bad debt;
 - (c) a period of at least 6 months has elapsed since the supply;
 - (d) the value of the supply did not exceed its open market value;
 - (e) in the case of a supply of goods, the property in the goods has passed to the recipient, whether or not the recipient still has property in the goods;
 - (f) the claim is by the person who made the supply;
 - (g) the claim is made within the time approved by the Comptroller;
 - (h) the claim is in the approved form, and accompanied or followed by such information or documents as the Comptroller may require.
- (2) The States may by Regulations –
 - (a) require a claimant under this Article to keep, for such period and in such form and manner as may be specified, a record of information relating to the claim and to eventual payments by way of consideration;
 - (b) require the repayment of a refund made under this Article if the claimant fails to comply with a requirement referred to in sub-paragraph (a);
 - (c) require the repayment of the whole or part of a refund made under this Article if the claimant subsequently receives a payment by way of the consideration written off.
- (3) Those Regulations may prescribe the principles and evidence to be taken into account in deciding for the purposes of this Article whether any payment is to be counted against consideration and whether consideration has been written off.
- (4) The condition in paragraph (1)(b) shall be taken not to be satisfied if any principle prescribed by the Regulations under paragraph (3) about whether consideration has been written off is not complied with and any evidence so prescribed is missing.

55 Relief from GST on importation of goods

- (1) The States may by Regulations make provision for remitting or repaying the whole or part of the GST chargeable on the importation of any goods that have previously been exported from Jersey.
- (2) The States may by Regulations make provision for remitting or repaying the whole or part of the GST chargeable on the importation of any goods that have, after the importation, been exported or otherwise removed from Jersey.
- (3) The States may by Regulations make provision for securing relief from the whole or part of the GST chargeable on the importation of goods to the extent that the relief appears to the States to be necessary or expedient, having regard to any international agreement, or international arrangement, that concerns Jersey directly or indirectly.
- (4) The States may by Regulations impose conditions prohibiting or restricting the disposal of, or dealing with, those goods after their importation.
- (5) If those conditions are not complied with, any GST on the importation, being GST that has been the subject of relief under Regulations under paragraph (3), shall, to the extent that the Regulations so prescribe, become due from the person who had the benefit of the relief.

- (6) If –
- (a) it is proposed that goods imported by any person with the benefit of relief under Regulations made under this Article be transferred to another person; and
 - (b) on an application made by the second person, the Comptroller so directs by notice in writing to the second person,

this Law shall have effect as if, on the date of the transfer of the goods (and in place of the transfer), the goods were exported by the first person and imported by the second person, so that relief under Regulations made under this Article shall apply in relation to the GST chargeable on the importation of the goods by the second person.

56 Other refunds or relief

The States may by Regulations make provision for enabling or requiring the refund of GST, or the giving of relief from GST, in such circumstances as the Regulations prescribe.

57 Deferment

Despite any other provision of this Law, a taxable person may, without payment of the GST chargeable on the importation, deliver or remove goods that the person has imported into Jersey in the course of or furtherance of any business carried on by the person if –

- (a) the States by Regulations so provide;
- (b) the person accounts for the GST chargeable on the importation together with the GST chargeable on a supply of the goods or services by the person; and
- (c) the person complies with any conditions prescribed in those Regulations.

PART 12

ADMINISTRATION

58 Responsibility for administration of GST

- (1) The Comptroller shall be responsible for the administration of this Law.
- (2) Nothing in paragraph (1) affects the operation of Article 60.

59 Authorized persons

The Comptroller may by appointment in writing authorize persons to carry out functions under this Part.

60 Application of Customs and Excise (Jersey) Law 1999

- (1) A reference in the Customs and Excise (Jersey) Law 1999, in respect of the importation of goods or of imported goods, to customs duty shall include GST on the importation of the goods.
- (2) The functions of officers and postal officers under that Law shall apply in respect of GST on an importation of goods in the same way as they would in respect of customs duty on the importation of the goods or on the goods imported or postal packets, whether or not customs duty is in fact payable on the importation, on those goods or on the goods that are postal packets or are contained in postal packets.
- (3) A reference in any Article of that Law that confers a function on an officer or postal officer in respect

of customs duty shall include a reference to GST on importation.

- (4) The States may by Regulations make further provision for or in respect of the application or modification of that Law to or in respect of GST on the importation of goods.

PART 13

FAILURE TO COMPLY

61 Surcharge where conduct involving dishonesty

- (1) If for the purpose of evading GST, a person does anything or fails to do anything and that conduct involves dishonesty (whether or not it is such as to give rise to criminal liability), the person shall be liable to a surcharge equal to the amount of GST evaded or sought to be evaded by the conduct.
- (2) If for the purpose of obtaining a credit in respect of, or refund of, GST under Part 11 in circumstances where he or she is not entitled to that credit or refund, a person does anything or fails to do anything and that conduct involves dishonesty (whether or not it is such as to give rise to criminal liability), the person shall be liable to a surcharge equal to the amount of the credit or refund obtained or sought to be obtained by the conduct.
- (3) However, if a person is convicted of an offence (whether under this Law or otherwise) because of any conduct, the conduct shall not also give rise to a liability to a surcharge under paragraph (1) or (2).
- (4) The Comptroller may assess the amount of GST lost because of conduct giving rise to a liability to a surcharge under paragraph (1) or (2).
- (5) On an appeal against an assessment of a surcharge, being a surcharge under paragraph (1) or (2), the burden of proof as to the matters specified in that paragraph shall lie on the Comptroller.
- (6) For the purposes of this Article, in determining the amount of GST that has been the subject of evasion, the Comptroller may take into account the following –
 - (a) an amount falsely claimed by way of credit for input tax;
 - (b) an amount by which output tax has been falsely understated;
 - (c) an amount falsely claimed by way of refund;
 - (d) an amount falsely claimed by way of repayment;
 - (e) any amount prescribed in the Regulations;
 - (f) any amount that the Comptroller thinks relevant.

62 Liability of directors for surcharge where corporate dishonesty

- (1) If the Comptroller has reasonable cause to believe –
 - (a) that a limited liability partnership or a body corporate is liable to a surcharge under Article 61 and
 - (b) that the conduct giving rise to that surcharge was, in whole or in part, attributable to the dishonesty of –
 - (i) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate, or
 - (ii) any person purporting to act in any such capacity,

the Comptroller may recover any portion (including the whole) of the surcharge from the person as if the person were personally liable to the surcharge.
- (2) If the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the

member were a director of the body corporate.

- (3) The Comptroller shall not recover an amount from a person under this Article without first serving notice on the person and on the limited liability partnership or body corporate –
 - (a) stating the amount of the surcharge and of the portion;
 - (b) stating that the Comptroller proposes to recover that portion from the person.
- (4) Once notice is served under this Article, the partnership or body corporate shall be treated as discharged from liability for so much of the surcharge as is so assessed in respect of the person and notified to the person.

63 Surcharge if failure to notify or unauthorized issue of invoices

- (1) If a person –
 - (a) fails to comply with a requirement to give a notice under Schedule 1;
 - (b) fails to comply with Article 40; or
 - (c) not being a competent person, issues one or more invoices showing an amount as being GST or as including an amount attributable to GST,the person shall be liable to a surcharge of the higher of the following amounts –
 - (i) £200;
 - (ii) 10% of the relevant GST (if any).
- (2) In this Article –

“competent person” means –

 - (a) a registered person;
 - (b) a body corporate treated as a member of a group for the purposes of this Law; or
 - (c) the States;

“relevant GST” means –

 - (a) in relation to a person’s failure to give notice under paragraph 2 of Schedule 1 of the person’s liability to be registered, the GST for which the person is liable for the period from when the person became liable to be registered to the date on which the Comptroller received notice of that liability or the date on which the Comptroller in fact registered the person (whichever is the earlier date);
 - (b) in relation to a person’s failure to give notice under paragraph 12(3) or (4) of Schedule 1 of change, the GST for which the person, if not exempted under that paragraph, would have been liable for the period starting with the change and ending on the date on which the Comptroller received notice of the change or the date on which the Comptroller in fact knew about the change (whichever is the earlier date); or
 - (c) in relation to the issue of one or more invoices referred to in paragraph (1)(c), the sum of the amounts shown on the invoices as GST, or taken as representing GST.
- (3) If a person is convicted of an offence (whether under this Law or otherwise) because of any conduct or is assessed to a surcharge referred to in Article 61 because of any conduct, the conduct shall not also give rise to liability to a surcharge under this Article.

64 Surcharge if GST not paid or return not made

- (1) If a person fails to pay an amount of GST on time the person shall be liable to pay a surcharge of 10% of the amount.
- (2) If a person fails to furnish on time a return that is required by or under this Law in respect of a prescribed accounting period that applies to the person, the person shall be liable to pay a surcharge

of £200 on the amount of GST that the person is required to pay in respect of that period.

- (3) If a person is convicted of an offence (whether under this Law or otherwise) or is assessed to a surcharge referred to in Article 61 or 63 because of any failure, the failure shall not also give rise to liability to a surcharge under this Article.

65 Assessment and surcharge if returns or paperwork inadequate

- (1) To the extent that a taxable person has failed to meet the requirements of or under this Law in respect of the keeping of accounts and other records, the making of returns, or the provision of information, the Comptroller may –
 - (a) assess the amount of GST due from the person to the best of the Comptroller's judgment; and
 - (b) determine the relationship between any supply, or any credit or other amount, with one or more prescribed accounting periods to the best of the Comptroller's judgment.
- (2) If the Comptroller exercises the power under paragraph (1) in respect of a person for a prescribed accounting period that falls immediately after a prescribed accounting period for which the Comptroller has already exercised on an earlier occasion the same power in respect of the same person, the Comptroller may assess an amount of £200 by way of surcharge on the amount of GST assessed for the later period.
- (3) For the purpose of paragraph (2) it makes no difference if the amount of GST assessed is zero.

66 Assessment if failure to account for goods

- (1) If a taxable person has, in the course or furtherance of a business carried on by the person, been supplied with, or imported, any goods or otherwise obtained possession or control of any goods, the Comptroller may by notice served on the person direct the person to account for the goods.
- (2) If the person fails within the time specified in the notice to show that the goods –
 - (a) have been or are available to be supplied by the person;
 - (b) have been exported or otherwise removed from Jersey without being exported or so removed by way of supply; or
 - (c) have been lost or destroyed,the Comptroller may assess to the best of the Comptroller's judgment the amount of GST that would have been chargeable in respect of the supply of the goods if they had been supplied by the person.
- (3) The assessment shall relate the supply to one or more prescribed accounting periods.

67 Assessment if overpayment by Comptroller

- (1) If the Comptroller has repaid an amount of GST to a person, or credited an amount of GST to a person, for a prescribed accounting period, and the Comptroller should not have done so, the Comptroller may assess that amount as being GST due from the person for that period.
- (2) The amount shall be payable within the prescribed accounting period during which the assessment is actually made, or such later prescribed accounting period as the Comptroller determines.
- (3) This Article applies –
 - (a) whether the fact that the Comptroller should not have repaid or credited the amount would have been plain to the Comptroller on the facts at or before the time of doing so or came to be known to the Comptroller only later; and
 - (b) whether or not there was a failure or error on the part of the person or of the Comptroller.
- (4) This Article also applies if an amount becomes due for repayment by a person to the Comptroller only because the person's registration is cancelled after the Comptroller repays or credits an amount

to the person.

68 Time limits on assessments

- (1) An assessment under Article 65 or 66 of an amount of GST shall not be made after the latest of the following days –
 - (a) the day falling 2 years after the end of the prescribed accounting period to which the assessment relates;
 - (b) the day falling one year after the day when the Comptroller has evidence of facts sufficient, in the opinion of the Comptroller, to justify the making of the assessment;
 - (c) the day falling one year after the day when the Comptroller has further evidence (if any) of a person's conduct sufficient, in the opinion of the Comptroller, to justify the making of a further assessment after the making of a previous assessment under Article 65 or 66 in respect of the person's same conduct (whether or not the previous assessment was made under the same Article as the further assessment).
- (2) An assessment under Article 67 of an amount of GST shall not be made more than 2 years after the day when the Comptroller has evidence of facts sufficient, in the opinion of the Comptroller, to enable the making of the assessment.
- (3) An assessment under this Part (except under Article 61(4), 65, 66 or 67) of an amount of GST shall not be made –
 - (a) in the case of an assessment in respect of an importation of goods, more than 5 years after the importation concerned; or
 - (b) in the case of any other assessment, more than 5 years after the end of the last prescribed accounting period to which the assessment relates.
- (4) An assessment under this Part (except under Article 61) of a surcharge shall not be made more than 5 years after the last day on which the conduct giving rise to liability to the surcharge occurred.
- (5) An assessment of an amount of GST under Article 61(4), or of a surcharge to which a person is liable under Article 61, may be made at any time.
- (6) Despite this Article, the Comptroller shall not assess an amount of GST, or a surcharge, under this Part in respect of an individual more than 3 years after the individual has died.

69 Factors in determining surcharge

- (1) A surcharge specified in any provision of this Part is a maximum, and the surcharge imposed in any case may be less than that amount or zero.
- (2) The States may by Regulations prescribe matters that may or shall be taken into account in determining a surcharge, and the Comptroller respectively may or shall take those matters into account in determining the surcharge.
- (3) To the extent that it would not be inconsistent with this Law or the Regulations to do so, the Comptroller may take into account such matters as he or she thinks fit in determining a surcharge.

70 General

- (1) The cessation of any conduct giving rise to a surcharge under this Part shall not affect the liability to the surcharge.
- (2) The Comptroller may waive a person's liability to a surcharge under this Part if the person satisfies the Comptroller that there is a reasonable excuse for the failure that gave rise to the liability and that the failure did not involve dishonesty.

- (3) The Comptroller may make more than one assessment under this Part, or under more than one provision of this Part, in respect of the same person, the same prescribed accounting period or the same set of facts.
- (4) Liability to a surcharge under this Part in any case is not affected by an eventual absence in that case of a charge to GST under any other Part.

71 Notice of assessment

- (1) If a person is liable to a surcharge under this Part, the Comptroller may assess the surcharge.
- (2) The Comptroller shall serve notice on a person of an assessment (whether of an amount of GST or of a surcharge) made in respect of the person under this Part and of the amount of GST or surcharge assessed in the assessment.
- (3) The notice shall specify the date to which any amount of GST, and any surcharge, has been assessed in the assessment.
- (4) An amount of GST, or a surcharge, assessed and notified to a person under this Part shall be recoverable as GST due from the person.

PART 14

LATE REFUNDS

72 Loading on late payments and refunds

- (1) If a person is entitled to a GST credit and the conditions set out in paragraph (3) are satisfied, any payment or refund to the person of the credit or refund shall be increased by 5% or £50, whichever is the greater amount.
- (2) If a person is entitled to a refund under Part 4 or Article 52, and the conditions set out in paragraph (3) are satisfied, the refund shall be increased by 5% or £50, whichever is the greater amount.
- (3) The conditions are –
 - (a) that a return or claim has been made under this Law and the return or claim shows that an amount is due by way of payment or refund;
 - (b) that the amount does not exceed the payment or refund in fact due by more than 5% or £250, whichever is the greater;
 - (c) that, in the case of a return, the return has been made in accordance with this Law; and
 - (d) that the Comptroller has failed to make the payment or refund within 30 days after the Comptroller received the return or claim, or if the States prescribe another period by Regulations, that other period instead.
- (4) An amount to which a person is entitled under paragraph (1) shall be treated as an amount due by way of credit under Article 34.
- (5) An amount to which a person or body is entitled under paragraph (2) shall be treated as an amount due by way of refund under Part 4 or Article 52, as the case requires.

73 Refund of overpaid GST

- (1) If a person has paid an amount to the Comptroller by way of GST that was not due to the Comptroller, the Comptroller shall, on a claim by the person made within 6 years after the payment, be liable to repay the amount to the person.

- (2) If the payment was made because of a mistake, the 6 years shall run from the day on which the person discovered the mistake or could with reasonable diligence have discovered it, whichever is the earlier day.
- (3) Despite any other law, the Comptroller shall not be liable to repay the amount except as required under this Article.
- (4) The Comptroller shall not in any case be liable to repay the amount to the extent that the repayment would unjustly enrich the claimant.

PART 15

APPEALS

74 Grounds

An appeal shall lie to the Commissioners under Part 6 of the Income Tax (Jersey) Law 1961 against a decision of the Comptroller in relation to any one or more of the following matters –

- (a) the registration or cancellation of registration of a person;
- (b) an application under Part 3;
- (c) a requirement to give security under Article 14(7) or 39;
- (d) the GST chargeable on the supply of goods or services or on the importation of goods;
- (e) the amount of any input tax credited to a person;
- (f) the attribution of input tax under Article 36;
- (g) a claim by a taxable person under Article 37;
- (h) a notice concerning payment on account under Article 38;
- (i) a claim for a refund under Article 50;
- (j) a claim for a refund under Article 52;
- (k) a claim for a refund under Article 54;
- (l) a surcharge under Part 13;
- (m) that conduct is, for the purposes of Article 62, in whole or in part, attributable to the dishonesty of a person;
- (n) the portion recoverable under Article 62 from the person;
- (o) an assessment or determination under Article 65;
- (p) a call to account or assessment under Article 66;
- (q) an assessment under Article 67;
- (r) a claim under Article 73;
- (s) a direction under paragraph 5 or 7 of Schedule 1, a supplementary direction under paragraph 6 of Schedule 1 or a cancellation under paragraph 11 of Schedule 1;
- (t) a decision that a person is not entitled to be exempted under paragraph 12 of Schedule 1;
- (u) a direction under paragraph 2 of Schedule 4;
- (v) any other matter relating to this Law or the Regulations that the States prescribe by Regulations for the purposes of this Article.

75 Application of Part 6 of Income Tax (Jersey) Law 1961

- (1) Articles 27, 29(1)– (3) and (6) and (7), 29A and 31 – 36 of the Income Tax (Jersey) Law 1961 shall apply to an appeal under this Part as if it were an appeal against an assessment within the meaning of those provisions of the Income Tax (Jersey) Law 1961.
- (2) In the application of those provisions of the Income Tax (Jersey) Law 1961 to an appeal under this Law –
 - (a) a reference to an assessment shall be taken to be a reference to the relevant decision of the Comptroller against which an appeal is made under this Law;
 - (b) a reference in Article 27(1) of the Income Tax (Jersey) Law 1961 to 40 days of the notice of the assessment shall be taken to be a reference to 40 days following the service of notice of the decision under this Law against which the appeal is being made;
 - (c) Article 31(1) of the Income Tax (Jersey) Law 1961 shall read as if there were substituted for it the following paragraph –

“(1) If the Commissioners have received notice of appeal against a decision made by the Comptroller, they may issue a precept to the appellant ordering the appellant to deliver to them, within the time limited by the precept, a schedule containing such particulars, for their information, as they may demand respecting any transactions that concern the appellant, or any matter relating to GST that concerns the appellant, and the Commissioners are empowered to demand those particulars at their discretion whenever it appears to them necessary to do so for the purposes of the Goods and Services Tax (Jersey) Law 200.”;
 - (d) Article 34(1) of the Income Tax (Jersey) Law 1961 shall read as if there were substituted for it the following paragraph –

“(1) Whenever the Commissioners require further information relating to a schedule, they may, at any time and from time to time, by precept, put any questions in writing concerning the schedule, or any matter that is contained or ought to be contained in the schedule, or concerning any matter relating to GST that concerns the appellant, and may require true and particular answers, signed by the appellant, to be given within 7 days after the service of the precept.”.

76 Further provisions relating to appeals

- (1) The Commissioners may at any time refuse to hear an appeal unless the appellant –
 - (a) has made all the returns that the appellant is required to make under this Law;
 - (b) has paid the amounts that the appellant is required to pay under this Law, except any amount that is the subject of a decision that the appeal is against;
 - (c) has deposited with the Comptroller any amount that is the subject of a decision that the appeal is against;
 - (d) complies with any precept of the Commissioners under Article 31 of the Income Tax (Jersey) Law 1961 as applied for the purposes of this Part; and
 - (e) furnishes such information as the Commissioners may demand under Article 34 of the Income Tax (Jersey) Law 1961 as applied for the purposes of this Part.
- (2) If –
 - (a) an appeal is brought against a decision of the Comptroller with respect to, or to so much of any assessment as concerns, the amount of input tax that may be credited to any person or the proportion of input tax allowable under Article 36;
 - (b) that appeal relates, in whole or in part, to any determination by the Comptroller as to the

purposes for which any goods or services were or were to be used by any person, or as to whether or to what extent the matters to which any input tax was attributable were or included matters other than the making of supplies referred to in Article 36(1)(b); and

- (c) GST for which, in pursuance of that determination, there is no entitlement to a credit is GST on the supply or importation of something in the nature of a luxury, amusement or entertainment,

the Commissioners shall not allow the appeal or, as the case may be, so much of it as relates to that determination unless they consider that the determination was unreasonable or would have been unreasonable if information brought to the attention of the Commissioners had been available to be taken into account by the Comptroller when the determination was made.

- (3) If, on an appeal against a decision about an assessment, the Commissioners find that the amount specified in the assessment is less than it ought to have been, and they give a direction specifying the correct amount, the direction shall have effect for the purposes of Part 13 as an assessment of that amount notified under that Part.
- (4) If the Commissioners find on an appeal that a sum is due to the appellant corresponding –
- (a) to the whole or part of an amount deposited as referred to in paragraph (1)(c); or
- (b) to the whole or part of any GST credit,
- they may order the Comptroller to pay the sum to the appellant with interest at such rate as they determine.
- (5) If the Commissioners find on an appeal that a sum is due from the appellant as GST they may, to the extent that the sum has not been deposited as referred to in paragraph (1)(c), order the appellant to pay the sum to the Comptroller with interest at such rate as they determine.

77 Settling appeals by agreement

- (1) If, before an appeal is determined by the Commissioners, the Comptroller and the appellant agree in writing that the decision appealed against is to be treated as upheld, varied in a way so agreed, or revoked, the agreement shall be treated as if, at the time when it was made, the Commissioners had determined the appeal exactly as so agreed.
- (2) If, before an appeal is determined by the Commissioners, the Comptroller and the appellant agree orally that the decision appealed against is to be treated as upheld, varied in a way so agreed, or revoked, and the agreement is later set down in writing served by the Comptroller on the appellant or by the appellant on the Comptroller, the agreement shall be treated as if, at the time when the writing was so served, the Commissioners had determined the appeal exactly as so agreed.
- (3) The agreement may include such terms, including terms as to costs, as the Commissioners could have set out in any determination of the appeal.
- (4) Paragraph (1) shall not apply if, within 30 days after the date when the agreement was made, the appellant gives notice in writing to the Comptroller that the appellant revokes the agreement.
- (5) Paragraph (2) shall not apply if, within 30 days after the date when the writing was served, the appellant gives notice in writing to the Comptroller that the appellant revokes the agreement.
- (6) If a person who has given a notice of appeal serves further notice on the Comptroller that the person does not want to proceed with the appeal, this Article shall have effect as if, at the time of the service, the appellant and the Comptroller had made a written agreement that the decision under appeal should be upheld without variation, being an agreement that shall be treated as if, at the time of the service, the Commissioners had determined the appeal exactly as so agreed.

PART 16

OFFENCES

78 False information

- (1) Any person who knowingly or recklessly provides the Comptroller, or any other person entitled to information under this Law, with information that is false or misleading in a material particular shall be guilty of an offence if the information is provided –
 - (a) in purported compliance with a requirement imposed by or under this Law; or
 - (b) otherwise than as mentioned in sub-paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the Comptroller, or the other person entitled to the information, for the purpose of carrying out his or her functions under this Law.
- (2) Any person who knowingly or recklessly provides the Comptroller, or any other person entitled to information under this Law, with information that is false or misleading in a material particular shall be guilty of an offence if the information is provided in connection with an application under this Law.
- (3) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term of 5 years and to a fine.

79 Failure to comply with direction

A person who, without reasonable excuse, fails to comply with a direction of the Comptroller shall be guilty of an offence and liable....

80 Obstructing authorized officer

- (1) A person shall be guilty of an offence if, without reasonable excuse, the person –
 - (a) obstructs an authorized officer in the execution of the authorized officer's functions under this Law; or
 - (b) fails to provide such reasonable assistance as an authorized officer may require when that officer is carrying out his or her functions under this Law on premises occupied by the person.
- (2) A person who is guilty of an offence against paragraph (1) shall be liable...

81 Dealing in goods or using services where GST evaded

If a person deals with any goods or accepts the supply of any services, having reason to believe that GST on the supply of the goods or services, or on the importation of the goods has been or will be evaded, the person shall be liable.....

82 General provisions as to offences

- (1) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) If the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to

acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

- (3) A person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

PART 17

MISCELLANEOUS

83 Furnishing of information to Comptroller

- (1) This Article applies to a person –
 - (a) who is concerned (in whatever capacity) in the supply of goods or services in the course or furtherance of a business;
 - (b) to whom a supply of goods or services in the course or furtherance of a business is made; or
 - (c) who is concerned (in whatever capacity) in the importation of goods in the course or furtherance of a business.
- (2) A person referred to in paragraph (1)(a) or (b) shall furnish to the Comptroller such information relating to the goods or services or to the supply, within such time and in such form and manner, as the Comptroller may reasonably require by notice in writing served on the person.
- (3) A person referred to in paragraph (1)(c) shall furnish to the Comptroller such information relating to the goods or to the importation, within such time and in such form and manner, as the Comptroller may reasonably require by notice in writing served on the person.

84 Power to require opening of gaming machines

An authorized person may at any reasonable time require a person who makes supplies of services, being supplies referred to in paragraph 16(2) of Schedule 4 –

- (a) to open any gaming machine in the possession of the latter person; or
- (b) to do anything else necessary to enable the authorized person to ascertain the amount that, in accordance with paragraph 16(3) of that Schedule, is to be taken as the value of supplies.

85 Entry and search of premises and persons

Schedule 6 shall have effect.

86 Evidence by certificate, etc

- (1) A certificate of the Comptroller shall be sufficient evidence of any of the following matters set out in the certificate until the contrary is proved –
 - (a) that a person was or was not, at any date, registered under this Law;
 - (b) that a return required by or under this Law to be made had or had not been made at any date;
 - (c) that a statement or notification required by or under this Law to be submitted or given to the Comptroller had been or had not been submitted or given at any date;
 - (d) that any GST shown as due in any return or assessment under this Law had or had not been paid at any date.
- (2) A copy of a document submitted, given, served or otherwise furnished to the Comptroller for the

purposes of this Law and certified by the Comptroller to be such a copy shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

- (3) Something that purports to be a certificate of the Comptroller and appears to correspond to a certificate referred to in paragraph (1) or (2) shall be taken to be a certificate of the Comptroller given under that sub-paragraph until the contrary is proved.

87 Statement admissible despite certain inducements by Comptroller

- (1) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any proceedings to which this Article applies by reason only that one or more of the matters set out in paragraph (2) have been drawn to the person's attention and the person was or may have been induced by that to make the statements or produce the documents.
- (2) The matters are the following, however expressed when they were drawn to the person's attention –
 - (a) that the Comptroller may assess an amount of GST by way of a surcharge instead of instituting criminal proceedings;
 - (b) that the Comptroller may take into account the fact that a person has made a full confession of any dishonest conduct to which the person has been a party or has facilitated the Comptroller's investigation of the conduct;
 - (c) that the Comptroller or, on appeal, the Commissioners have power to reduce a surcharge.
- (3) This Article applies to –
 - (a) criminal proceedings against the person in respect of an offence (whether under this Law or otherwise) in connection with or in relation to GST; and
 - (b) proceedings against the person for the recovery of any sum due from the person in connection with or in relation to GST.

88 Comptroller may impose procedural requirements

- (1) The Comptroller may approve the form of instruments, being applications, claims, demands, notices or notifications or other instruments, served on or given to the Comptroller for the purposes of this Law.
- (2) For the purposes of this Article, the form of an instrument extends to the documents or information that are to be served or given to the Comptroller along with or following the instrument, whether or not on separate demand by the Comptroller.
- (3) The Comptroller shall not approve anything under paragraph (1) that is in conflict with a requirement of this Law or of the Regulations.
- (4) An approval under paragraph (1) shall be of no effect unless the Comptroller has taken reasonable steps to bring the terms of the approval to the attention of the public.
- (5) The States may by Regulations prescribe the fees that shall accompany the service or giving of instruments, documents, or information, referred to in this Article.
- (6) An instrument, document, or information, referred to in this Article is not duly served or given if it is not, or it is not served or given, in accordance with any requirements relating to it of this Law, of the Regulations, or of an approval, or if it is not accompanied by such fee as is prescribed in respect of it by the Regulations.
- (7) The Comptroller may refuse to carry out any function under this Law that relates to an instrument, document, or information, referred to in this Article if it is not duly served or given.

89 Directions and notices

- (1) A direction, notice, approval, consent, condition, determination under this Law by, or imposed by, the Comptroller may apply to all cases, to specified classes of cases, or to specified cases.
- (2) A power under this Law for the Comptroller to make a direction, determination or assessment, to give a notice, approval or consent, or to impose a condition includes a power to amend or revoke the direction, determination, assessment, notice, approval, consent or condition.
- (3) However, any requirement imposed by or under this Law to give notice of the making, giving or imposition shall apply equally to the amendment or revocation.

90 Public notice

A public notice required or permitted by or under this Law shall be given in accordance with the Regulations or, if no Regulations make provision for that, by any means that are reasonably likely to bring the matter of the notice to the attention of members of the public affected or concerned by the matter.

91 Regulations

- (1) The States may by Regulations make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Law by Regulations.
- (2) The States may in particular by Regulations –
 - (a) make provision for or in respect of the inclusion and correction of information in the register;
 - (b) amend Schedules 2, 3, 4 and 5;
 - (c) prescribe formal or procedural requirements in relation to applications, claims, demands, notices, notifications and other instruments and other matters under this Law;
 - (d) amend in this Law any expression of time, amount of money, percentage or proportion, or any other numerical quantity.
- (3) A reference in paragraph (2)(d) to a numerical quantity includes a surcharge, but does not include any fine or other penalty.
- (4) Regulations may contain such transitional, consequential, incidental or supplementary provisions as appear to the States to be necessary or expedient for the purposes of the Regulations.
- (5) Regulations, other than Regulations amending a provision of this Law, may allow matters specified in the Regulations to be determined by the Comptroller for the purposes of those Regulations or may make matters specified in the Regulations the subject of an approval or decision of the Comptroller or agreement with the Comptroller or subject to a condition imposed by the Comptroller or a direction given by the Comptroller.
- (6) Regulations may create an offence punishable by a fine of level 4 on the standard scale.

92 Amendments and repeals

Schedule 7 shall have effect.

93 Transitional provisions and savings

Schedule 8 shall have effect.

94 Citation and commencement

This Law may be cited as the Goods and Services Tax (Jersey) Law 200 and shall come into force on such

day or days as the States may by Act appoint.

SCHEDULE 1

(Article 9(1))

REGISTRATION

1 Liability to be registered

- (1) A person who makes taxable supplies becomes liable to be registered –
 - (a) at the end of any month, if the value of the taxable supplies made by the person in the period of one year then ending has exceeded £300,000; or
 - (b) at any time, if there are reasonable grounds for believing that the value of the taxable supplies made by the person in the period of one year from that time will exceed £300,000.
- (2) If a business carried on by a taxable person is transferred to another taxable person as a going concern, the transferee becomes liable to be registered if –
 - (a) the value of the taxable supplies made by the transferor in the period of one year ending when the business is transferred has exceeded £300,000; or
 - (b) there are reasonable grounds for believing that the value of the taxable supplies made by the transferee in the period of one year beginning when the business is transferred will exceed £300,000.
- (3) In determining the value of the taxable supplies made by a person for the purposes of this paragraph, supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied shall be disregarded.
- (4) However, sub-paragraph (3) does not apply to the supply of an interest in, right over or licence to occupy any land if it is a taxable supply that is not zero-rated.

2 Notification

- (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(a) shall notify the Comptroller of the liability within 30 days after the end of the month referred to in that clause.
- (2) A person who becomes liable to be registered by virtue of paragraph 1(1)(b) shall notify the Comptroller of the liability within 30 days after it arises.
- (3) A person who becomes liable to be registered by virtue of paragraph 1(2) shall notify the Comptroller of the liability within 30 days after the time when the business is transferred.
- (4) The Comptroller shall register a person after receiving a notification under this paragraph from the person.
- (5) The registration of the person shall take effect –
 - (a) in the case of liability under paragraph 1(1)(a), from the end of the month following the month referred to in that clause in relation to the person or from such earlier date as may be agreed between the Comptroller and the person;
 - (b) in the case of liability under paragraph 1(1)(b), on the date on which the liability arose in relation to the person; or
 - (c) in the case of liability under paragraph 1(2), on the date on which the business was transferred to the person.
- (6) If a person becomes liable to be registered by virtue of paragraph 1(1)(a) and by virtue of paragraph 1(1)(b) at the same time, sub-paragraph (5)(b), and not sub-paragraph (5)(a), shall apply to the registration of the person.
- (7) If a person becomes liable to be registered by virtue of paragraph 1(1) and by virtue of paragraph 1(2),

at the same time, sub-paragraph (5)(c), and not sub-paragraph (5)(a), shall apply to the registration of the person.

3 Registration

The Comptroller shall serve on a person that the Comptroller registers notice in writing that specifies that the person is registered and the date when the registration has effect.

4 Changes to be notified

- (1) A registered person shall notify the Comptroller of any change in the circumstances of the person that means that a detail is no longer up to date in respect of the person if the detail –
 - (a) appears in a notification or in information given to the Comptroller under this Schedule; and
 - (b) is of a class prescribed in the Regulations.
- (2) The person shall do within 30 days of the occurrence of the change.

5 Single taxable persons

- (1) The Comptroller may give a direction under this paragraph if satisfied immediately before giving the direction that –
 - (a) each person named in the direction is making or has made taxable supplies;
 - (b) the activities in the course of which the person is making or has made those taxable supplies form only part of certain activities that should properly be regarded as those of a business described in the direction, the other activities being carried on concurrently or previously (or both) by one or more other persons;
 - (c) if all the taxable supplies of the business were taken into account, a single person carrying on that business would, immediately before the direction is given, be liable to be registered because of paragraph 1; and
 - (d) the main reason or one of the main reasons for the person's carrying on the activities referred to in clause (b) in the way in which the person does is the avoidance of a liability to be registered (whether that liability would fall on that person, another person or 2 or more persons (whether or not they include the first person) jointly).
- (2) A direction under this paragraph shall be given by written notice served on each of the persons named in the direction.
- (3) The effect of the direction is that the persons named in the direction shall be treated as members of a single taxable person carrying on the activities of a business described in the direction and that that single taxable person shall be liable to be registered with effect from the date when the direction is given or, if the direction so provides, from a later date specified in the direction.

6 Single taxable persons: supplementary direction

- (1) If, after a direction has been given under paragraph 5, it appears to the Comptroller that a person who was not named in that direction is making taxable supplies in the course of activities that should be properly regarded as part of the activities of the business described in the direction, the Comptroller may give a supplementary direction to the person.
- (2) The supplementary direction shall refer to the earlier direction and the description of business specified in it and add the person's name to those of the members named in the earlier direction with effect from –
 - (a) the date on which the person began to make those taxable supplies; or

- (b) if later, the date when the single taxable person referred to in the earlier direction became liable to be registered because of the earlier direction.

7 Single taxable persons: additional

- (1) If, immediately before a direction is given under paragraph 5 or 6, a person to be named in the direction is registered in respect of the taxable supplies made by the person and referred to in paragraph 5(1) or 6(1), the person shall cease to be liable to be registered under that paragraph with effect from whichever is the later of the following dates –
 - (a) the date with effect from which the relevant single taxable person became liable to be registered because of the earlier direction;
 - (b) the date when the direction is given.
- (2) If a direction is given under paragraph 5 or 6 to members of a single taxable person, then for the purposes of this Law –
 - (a) the relevant single taxable person shall be liable to be registered in such name as the members may jointly nominate by notice in writing given to the Comptroller not later than 14 days after the date when each direction is given or, in default of such a nomination, in such name as may be specified in a later direction that the Comptroller may give to the members;
 - (b) any supply of goods or services by or to one of the members in the course of the activities of the single taxable person shall be treated as a supply by or to the single taxable person;
 - (c) each of the members shall be jointly and severally liable for any GST due from the single taxable person;
 - (d) a failure by the single taxable person to comply with any requirement imposed by or under this Law shall be treated as a failure by each of the members severally; and
 - (e) without affecting clauses (a) – (d), the members shall be treated for the purposes of this Law as a partnership carrying on the business of the taxable person, and any question as to the scope of the activities of that business at any time shall be determined accordingly.
- (3) If a member of a single taxable person makes application to the Comptroller to the effect that the member should no longer be regarded as a member for the purposes of sub-paragraph (2)(b)– (e) and the Comptroller is satisfied that the member should no longer be so regarded, the Comptroller shall, by notice in writing served on all the members, give a direction that the member should no longer be so regarded with effect from such date as the Comptroller may specify in the notice.
- (4) The applicant shall not be regarded as a member after that date and shall not have any liability because of sub-paragraph (2)(b)– (e) for anything done after that date.

8 Voluntary registration

- (1) If a person who is not liable to be registered satisfies the Comptroller that the person –
 - (a) makes taxable supplies; or
 - (b) is carrying on a business and intends to make taxable supplies in the course of or furtherance of that business,the Comptroller may, on application by the person, register the person.
- (2) The person's registration shall have effect from the day on which the application is made or, if an earlier date is agreed on by the Comptroller and the person, the earlier date.
- (3) The registration shall remain in force until the earliest of the following –
 - (a) the expiry of 2 years after the registration;
 - (b) the expiry of such shorter period as is specified in the notice of the registration served under this paragraph;

(c) the registration of the person because of a liability under paragraph 1.

- (4) The Comptroller shall serve on the person notice in writing of registration, being notice that specifies that the person is registered, the date when the registration has effect and how long the registration is to have effect.

9 Cessation of liability to be registered

A person who is liable to be registered shall cease to be so liable at any time if the person –

- (a) has at that time ceased to make taxable supplies; or
- (b) is not at that time a person in relation to whom any of the conditions specified in paragraph 1(1)(a) and (b) and (2)(a) and (b) is satisfied.

10 Notification no longer liable to be registered

A person who ceases to be liable to be registered shall notify the Comptroller of the cessation within 30 days after the cessation.

11 Cancellation of registration

- (1) If a registered person, by application to the Comptroller, satisfies the Comptroller that the person is not liable to be registered, the Comptroller shall cancel the person's registration with effect from the day on which the application is made or from such earlier day as may be agreed between them.
- (2) If the Comptroller is satisfied that a registered person is neither liable to be registered nor entitled to be registered, the Comptroller may cancel the person's registration with effect from the day of the cessation or from such later day as may be agreed between them.
- (3) If the Comptroller is satisfied that on the day on which a registered person was registered the person was neither liable to be registered nor entitled to be registered, the Comptroller may cancel the registration with effect from that day.
- (4) The Comptroller shall not under sub-paragraph (1) cancel a person's registration with effect from any day unless satisfied that from that day the person has not be liable to be registered, whether under the provision by virtue of which the person is currently registered or another provision.
- (5) The Comptroller shall not under sub-paragraph (2) or (3) cancel a person's registration with effect from any day unless satisfied that from that day the person has neither been liable to be registered nor been entitled to be registered, whether under the provision by virtue of which the person is currently registered or another provision.
- (6) The Comptroller shall not under sub-paragraph (2) or (3) cancel a person's registration without first giving the person an opportunity to be heard on the question whether the person is liable to be registered or entitled to be registered.
- (7) The person may appeal to the Royal Court against the Comptroller's decision that the person is neither liable to be registered nor entitled to be registered.

12 Exemption from registration

- (1) If a person who makes or intends to make taxable supplies, by application to the Comptroller, satisfies the Comptroller that some or all of those supplies are zero-rated or would be zero-rated if the person were a taxable person, the Comptroller may exempt the person from registration.
- (2) Exemption shall be by notice in writing served on the person.
- (3) If there is a material change in the nature of the supplies made by a person exempted under this

paragraph, the person shall notify the Comptroller of the change –

- (a) within 30 days after the date on which it occurred; or
 - (b) if no particular day is identifiable as the day on which it occurred, within 30 days after the end of the quarter in which it occurred.
- (4) If in any quarter there is a material change in the proportion of zero-rated taxable supplies made by a person exempted under this paragraph, the person shall notify the Comptroller of the change within 30 days after the end of the quarter.
 - (5) The Comptroller may, by notice in writing served on a person exempted under this paragraph, cancel the exemption if the grounds for it no longer apply.
 - (6) The Comptroller shall not cancel a person's exemption under this paragraph without first giving the person an opportunity to be heard on the question whether the person is entitled to the exemption.
 - (7) The person may appeal to the Royal Court against the Comptroller's decision that the person is not entitled to be exempted under this paragraph.

13 Evaluating supplies

- (1) The value of a supply of goods or services shall be determined for the purposes of this Schedule on the basis that no GST is chargeable on the supply.
- (2) References in this Schedule to supplies are references to supplies made in the course of or furtherance of business.

SCHEDULE 2

(Article 20(1))

SUPPLY

1 Transfer of property

- (1) A transfer of the whole property in goods is a supply of the goods.
- (2) However, the transfer of an undivided share of the property in goods, or of the possession of goods, is a supply of services.

2 Issue of face-value voucher

The issue of a face-value voucher, or any subsequent supply of it, is a supply of services.

3 Transfer of right

A grant, assignment or surrender of a right is a supply of services.

4 Transfer of possession

If the possession of goods is transferred –

- (a) under an agreement for the sale of the goods; or
- (b) under an agreement that expressly contemplates that the property in the goods will also pass at some time in the future, being a time determined by, or ascertainable from, the agreement but in any case not later than when the goods are fully paid for,

the transfer is a supply of the goods.

5 Treating or processing

If a person produces goods by applying a treatment or process to goods owned by another person, the first person shall be taken to supply the goods so produced to the other person.

6 Supply of energy

The supply of any form of power, heat, refrigeration or ventilation is a supply of goods.

7 Transfer of major interest in land

- (1) The grant, assignment, transfer or surrender of a major interest in land is a supply of goods.
- (2) In this paragraph, “major interest in land” means an interest that confers an exclusive right on the owner of the interest to enjoyment of the land (whether or not that right is conditional, deferred or present), but does not include a lease of land for a term of 9 years or less.

8 Transfer of assets of business, and samples

- (1) If goods forming part of the assets of a business are transferred, whether or not for consideration, by or under the direction of the person carrying on the business and as a result no longer form part of

those assets, that is a supply of the goods by the person.

- (2) However, the following is not such a supply –
 - (a) a gift of goods made in the course of business carried on by a person if the cost to the person is not more than £10;
 - (b) a gift of a sample of any goods, being a gift made in the course of business carried on by a person.
- (3) However, sub-paragraph (2)(a) does not apply if the gift is one of a series or succession of gifts made to the same person on one occasion or on several occasions.
- (4) Despite sub-paragraph (2)(b), if–
 - (a) a person is given a number of gifts of samples by the same person (whether on one occasion or on several occasions) of any goods, and that is done in the course of business carried on by the second person; and
 - (b) those samples are identical or do not differ in any material respect from each other,sub-paragraph (2)(b) shall apply only to the first of those samples.
- (5) If by or under the directions of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for consideration, that is a supply of services.
- (6) The States may by Regulations provide that sub-paragraph (5) shall not apply in relation to goods of any description being goods used or made available for use in prescribed circumstances.
- (7) Neither sub-paragraph (1) nor sub-paragraphs (3) and (4) shall require anything that a person carrying on a business does otherwise than for a consideration in relation to any goods to be treated as a supply except in a case where that person is entitled to credit for the whole or any part of the GST on the supply or importation of those goods or of anything comprised in them.
- (8) Anything that is a supply of goods by virtue of sub-paragraph (1), or of services by virtue of sub-paragraph (5), shall be treated as made in the course or furtherance of the business, whether or not under the other provisions of this Law it would be so treated.
- (9) In the case of a business carried on by an individual –
 - (a) sub-paragraph (1) extends to any transfer of goods in favour of himself or herself personally;
 - (b) sub-paragraphs (2), (3) and (4) extend to goods used, or made available for use, by himself or herself personally.

9 Sale of business assets to recover debt

If in the case of a business carried on by a taxable person goods forming part of the assets of the business are, under any power exercisable by another person, sold by the other in or towards any satisfaction of a debt owed by the taxable person, they shall be taken to be supplied by the taxable person in the course or furtherance of the taxable person's business.

10 Business assets of person ceasing to be taxable

- (1) If at any time a taxable person ceases to be a taxable person, any goods forming immediately before that time part of the assets of a business carried on by the person immediately before that time shall be taken to be supplied at that time by the person in the course or furtherance of the business, unless –
 - (a) the business is transferred at that time as a going concern to another taxable person;
 - (b) the business is from that time carried on by the other taxable person; or
 - (c) the GST on that supply would not be more than £250 if it were a supply.

- (2) This paragraph does not apply to any goods if the person who carried on a business and ceases to be a taxable person can show to the satisfaction of the Comptroller that –
 - (a) no credit for input tax was allowed to the person in respect of the supply to the person of the goods or their importation; and
 - (b) the goods did not become part of the assets of the business as a result of the transfer of the business to the person as a going concern by another taxable person.

11 Land part of assets of business

- (1) Paragraphs 8 – 10 have effect in relation to land forming part of the assets of a business as if it were goods forming part of the assets of a business.
- (2) For the purposes of this paragraph, references in paragraphs 8 – 10 to any transfer shall have effect as if they were references to the grant or assignment of a interest in, right over or licence to occupy the land concerned, but not to any disposition to which paragraph 7 applies nor to any disposition otherwise than for consideration.
- (3) For the purposes of this paragraph, the reference in paragraph 8(1) to a supply of goods shall be taken to be a reference instead to a supply of services.

SCHEDULE 3

(Article 29(1)(b))

**MODIFICATIONS OF THE LAW RELATING TO SERVICES SUPPLIED OUTSIDE JERSEY TO
CERTAIN RECIPIENTS WHO BELONG IN JERSEY**

[to be completed later]

SCHEDULE 4

(Articles 30)

VALUATION OF SUPPLY: SPECIAL CASES

1 Interpretation

(1) In this Schedule –

“credit voucher” means a face-value voucher issued on the basis that –

- (a) the voucher allows goods or services to be obtained by the use of the voucher only from a person other than the person who issued the voucher; and
- (b) the person who issued the voucher will give complete or partial reimbursement for goods or services obtained by the use of the voucher to the person from whom the goods or services are obtained;

“face-value voucher” means a token, stamp or voucher (whether in physical or electronic form) that represents a right to receive goods or services to the value of an amount stated on it or recorded in it;

“retailer voucher” means a face-value voucher issued on the basis that –

- (a) the voucher allows goods or services to be obtained from the person who issued the voucher; and
- (b) if the terms of the voucher allow goods or services to be obtained from another person by the use of the voucher, the person who issued the voucher will give complete or partial reimbursement to the second person for any goods or services obtained by the use of the voucher.

(2) References in this Schedule to the face value of a voucher are to the amount stated on it or recorded in it.

2 Supply below value between connected persons

(1) The Comptroller may direct that the value of a supply made by a taxable person for consideration in money be taken to be its open market value if –

- (a) the value of the supply would (but for the direction) be less than its open market value;
- (b) the supplier and the recipient are connected; and
- (c) if the supply is a taxable supply, the recipient is not entitled under Articles 34– 36 to credit for all of the GST on the supply.

(2) A direction given under this paragraph shall be given by notice in writing to the supplier.

(3) A direction shall not be given under this paragraph more than 3 years after the time of the supply.

(4) A direction given to a person under this paragraph in respect of a supply made by the person may include a further direction that the value of any supply –

- (a) made by the person after the direction is given, or after such later date as may be specified in the direction; and
- (b) as to which the conditions in clauses (a) to (c) of subparagraph (1) are satisfied, shall be taken to be its open market value.

(5) The value of a supply referred to in this paragraph shall be the value determined in accordance with the direction under this paragraph that applies to the supply.

(6) This paragraph does not apply to a supply to which paragraph 10 applies.

3 Supply for resale where recipient not taxable

- (1) If –
 - (a) the whole or part of a business carried on by a taxable person consists of making to a number of recipients supplies of goods to be sold by retail, whether by the recipients or other persons; and
 - (b) the recipients are not taxable persons,

the Comptroller may by notice in writing to the taxable person direct that the value of any such supply by the person after the giving of the direction, or after such later date as may be specified in the direction, shall be taken to be its open market value on a sale by retail.
- (2) The value of a supply referred to in this paragraph shall be the value determined in accordance with the direction under this paragraph that applies to the supply.

4 Value includes excise

If any goods whose supply involves their importation are charged to duty under the Customs and Excise (Jersey) Law 1999 in connection with their importation, the value of the supply shall include the duty.

5 Discount for prompt payment

- (1) If goods or services are supplied for consideration in money and on terms allowing a discount for prompt payment, the value of the supply shall be taken to be reduced by the discount, whether or not payment is made in accordance with those terms.
- (2) However, this paragraph does not apply if the terms include any provision for payment by instalments.

6 Credit voucher

- (1) In determining the value of the supply of a credit voucher, the consideration for the issue of the voucher shall be disregarded except to the extent that it exceeds the face value of the voucher.
- (2) Sub-paragraph (1) shall not apply if any of the persons from whom goods or services are obtained by the use of the voucher fails to account for any of the GST due on the supply of those goods or services, being supply to the person using the voucher to obtain them.

7 Retailer voucher

- (1) In determining the value of the supply of a retailer voucher, the consideration for the issue of the voucher shall be disregarded except to the extent that it exceeds the face value of the voucher.
- (2) Sub-paragraph (1) shall not apply if–
 - (a) the voucher is used to obtain goods or services from one or more persons and at least one of those persons is not the person who issued the voucher; and
 - (b) any of the persons who are not the person who issued the voucher fails to account for any of the GST due on the supply of any of those goods or services.
- (3) In determining the value of any supply of a retailer voucher subsequent to its issue, the value of the supply shall be determined in accordance with Article 30(2).

8 Postage stamp

In determining the value of the supply of a face-value voucher that is a postage stamp, the consideration for the supply of the voucher shall be disregarded for the purposes of this Law except to the extent that it exceeds the face value of the stamp.

9 Other vouchers

The value of a supply of a face-value voucher that is not a credit voucher, a retailer voucher or a postage stamp shall be determined in accordance with Article 30(2).

10 Free vouchers

If –

- (a) there is a supply of a face-value voucher (other than a postage stamp) together with another supply to the same person in a composite transaction; and
- (b) the total consideration for the supplies is no different, or not significantly different, from what it would be if the voucher were not supplied, the supply of the voucher shall be treated as being made for no consideration.

11 Prescribed supplies of goods

- (1) The value of a supply shall be determined in accordance with this paragraph if it is –
 - (a) a supply of goods by virtue of Regulations under Article 20(6);
 - (b) a supply of goods by virtue of paragraph 8 of Schedule 2, not being a supply for consideration or
 - (c) a supply of goods by virtue of paragraph 10 of Schedule 2,but not if it is a supply to which paragraph 14 of this Schedule applies.
- (2) The value of the supply shall be taken to be –
 - (a) such consideration in money as would be payable by the person making the supply if the person were, at the time of the supply, to purchase goods identical in every respect (including age and condition) to the goods supplied;
 - (b) if such a purchase were impracticable, such consideration in money as would be payable by the person making the supply if the person were, at the time of the supply, to purchase, on the same market and under the same market conditions, goods similar to, and of the same age and condition as, the goods concerned; or
 - (c) if a purchase within the terms of neither clause (a) nor clause (b) were practicable, the cost of producing the goods concerned if they were produced at the time of the supply and for the same market and under the same market conditions.
- (3) For the purposes of sub-paragraph (2), it shall be assumed that the purchase (in the case of a value determined under sub-paragraph (2)(a) or (b)) or the production (in the case of a value determined under sub-paragraph (2)(c)) would be in relation to the same market and under the same market conditions as the supply referred to in sub-paragraph (1).
- (4) For the purposes of sub-paragraph (2), the amount of value in money that would be payable by any person if the person were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of GST on the supply of the goods to the person.

12 Prescribed supplies of services

- (1) The value of a supply shall be determined in accordance with this paragraph if it is –

- (a) a supply of services by virtue of Regulations under Article 20(5); or
 - (b) a supply of services by virtue of paragraph 8 of Schedule 2, not being a supply that is for consideration,
but not if it is supply to which paragraph 14 of this Schedule applies.
- (2) The value of the supply shall be the full cost to the taxable person of providing the services.

13 Services supplied by a supplier who belongs outside Jersey

If a supply of services is charged to GST by virtue of Article 6(1)(c), the value of the supply shall be taken –

- (a) in a case where the consideration for which the services were in fact supplied to the person was consideration in money, to be such amount as is equal to that consideration; and
- (b) in a case where the consideration for which the services were in fact supplied to the person did not consist or not wholly consist of money, to be such amount in money as is equivalent to that consideration.

14 Accommodation and catering for employees

- (1) This paragraph applies to a supply of goods or services, whether or not for consideration, that is made by an employer and consists of one or both of the following –
- (a) the provision, in the course of catering, of food and beverages to the employer's employee;
 - (b) the provision of accommodation for the employer's employee in a hotel, inn, boarding house or similar establishment.
- (2) The value of the supply shall be nil unless the supply is for consideration consisting wholly or partly of money and that consideration moves from the employee to the employer.
- (3) If the supply is indeed for such consideration the value of the supply shall be determined without regard to any part of the consideration that is not money.

15 Foreign currency consideration

- (1) If –
- (a) there is a supply of goods or services on any day; and
 - (b) any sum relevant for determining the value of the supply is expressed in a currency other than sterling,
- then for the purposes of valuing the supply, the sum is to be converted –
- (i) if the supplier has an option in force under this paragraph, into an amount calculated in accordance with the rates or methods applying to the option; or
 - (ii) in any other case, into the amount that the recipient would pay in sterling if the recipient bought the sum at the average telegraphic transfer rate appropriate to the sum in Jersey on the day without paying any fee.
- (2) The Comptroller may publish a notice that specifies for the purposes of this paragraph –
- (a) rates of exchange; or
 - (b) methods for determining rates of exchange,
- and specifies how an option to use such rates or methods is to be exercised.
- (3) Such an option –
- (a) shall apply to all such supplies by the supplier as are of a description, or are made after a date,

specified by the supplier in the instrument by which the supplier exercised the option; and

(b) shall not be withdrawn or varied except with the consent of the Comptroller and in such manner as the Comptroller may require.

- (4) In specifying a method of determining a rate of exchange, a notice published by the Comptroller under sub-paragraph (2) may make provision for the use, by agreement between the supplier and the Comptroller and for the purpose of valuing some or all of the supplies made by the person, of a rate of exchange that is different from any which would otherwise apply.

16 Gaming machines

- (1) If a person plays a game of chance by means of a gaming machine, for the purposes of GST the amount paid by the person to play the game shall be treated as the consideration for a supply of services to the person.
- (2) In that case, giving a person access to a gaming machine (including by the provision to the person of tokens if these are necessary in order to play) so that the person can play a game of chance by means of the gaming machine is a supply of services to the person.
- (3) The value of all supplies referred to in sub-paragraph (2), whether to that person alone or to that and other persons, in any period shall be determined as if the consideration for the supplies were reduced by an amount equal to the wins in the period.
- (4) The insertion of a token into a gaming machine shall be treated for the purposes of sub-paragraph (1) as payment of an amount equal to that for which a player can obtain the token.
- (5) The receipt of a token as a win shall be treated for the purposes of sub-paragraph (3)–
- (a) if the token is of a kind used to play the machine, as the receipt of an amount equal to that for which a player could obtain the token otherwise than as a win; or
- (b) if the token is not of such a kind but can be exchanged for money, as the receipt of an amount equal to that for which it can be exchanged by the winner.
- (6) In this Article –
- “game of chance” has the same meaning as in the Gambling (Jersey) Law 1964;
- “gaming machine” has the same meaning as in the Gambling (Gaming and Lotteries) (Jersey) Regulations 1965;
- “player” means a person playing a game of chance by means of a gaming machine;
- “win” means the amount (if any) received by a winner;
- “winner” means a person (other than the person making the supply) playing successfully.

17 Certain aircraft

- (1) If a person makes a taxable supply by applying any treatment or process to goods, and the goods –
- (a) are not, before the treatment or process is applied, goods to which sub-paragraph (3) applies and
- (b) become as a result of the treatment or process goods to which sub-paragraph (3) applies,
- the value of the supply shall be determined as if the supply had been a sale for full consideration on the open market of the goods resulting from the treatment or process, being a sale at the date of completion of the treatment or process.
- (2) Sub-paragraph (1) shall not apply if the recipient–
- (a) is registered; and
- (b) gives to the person making the supply a certificate, in the approved form, to the effect that the

supply is for the purpose of a business carried on or to be carried on by the recipient.

- (3) This paragraph applies only to aircraft of a weight of 8,000 kilograms or more that are adapted by the treatment or process for use for recreation or pleasure, but in their state before that treatment or process was applied, were not designed for use for recreation or pleasure.
- (4) The States may by Regulations –
 - (a) amend sub-paragraph (3) by adding to or deleting from it any description of goods; or
 - (b) reduce the value prescribed by this paragraph, or the GST chargeable under this Law, in cases where GST was chargeable on a supply or importation of goods at any time before the application to them of the treatment or process referred to in sub-paragraph (1).

SCHEDULE 5

(Article 45)

EXEMPT SUPPLIES

1 Group 1 – Finance

For the purposes of this Law the following supplies shall be exempt supplies –

- (a) the issue, transfer or receipt of, or any dealing with, money, security for money or any note or order for the payment of money;
- (b) the making of any advance or the granting of any credit;
- (c) the provision, in connection with the supply of goods by hire-purchase, conditional sale or credit sale, of credit in instalments, for which provision a separate charge is made and disclosed to the recipient of the supply of goods;
- (d) the provision of administrative arrangements and documentation and the transfer of title to the goods in connection with the supply described in sub-paragraph (c), if the total consideration for the provision is specified in the agreement and does not exceed £10;
- (e) the making of arrangements for any supply referred to in sub-paragraph (a), (b), (c) or (d);
- (f) the issue, transfer or receipt of, or any dealing with, any security or secondary security being –
 - (i) stock or debenture stock, or a share, bond, note (other than a promissory note) or debenture, or a share in an oil royalty,
 - (ii) a document relating to money, in any currency, deposited with the issuer or some other person, being a document that recognizes an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable,
 - (iii) a bill, note or other obligation of the States or of a government in any part of the world, being a document by the delivery of which, with or without endorsement, title is transferable, and not being an obligation that is or has been legal tender in any part of the world,
 - (iv) a letter of allotment or rights, a warrant conferring an option to acquire a security referred to in this sub-paragraph, a renounceable or scrip certificate, rights coupon, coupon representing dividends or interest on such a security, bond mandate or other document conferring or containing evidence of title or rights in respect of such a security, or
 - (v) a unit or other document conferring rights under any trust established for the purpose, or having the effect, of providing facilities for the participation by persons having funds available for investment, as beneficiaries under the trust, in any profits or income arising from the acquisition, holding, management or disposal of any property;
- (g) the underwriting of an issue referred to in sub-paragraph (a) or (f);
- (h) the making of arrangements for, or the underwriting of, a transaction referred to in sub-paragraph (f);
- (i) the operation of a current, deposit or savings account;
- (j) the management of an authorized unit trust scheme or of a trust-based scheme.

2 Group 2 – Insurance

For the purposes of this Law the following supplies shall be exempt supplies –

- (a) the provision of –
 - (i) insurance or reinsurance by a person authorized by a permit under the Insurance Business

(Jersey) Law 1996 to carry on insurance business, or

- (ii) insurance or reinsurance by a person who belongs outside Jersey, being insurance or reinsurance that, if the person belonged in Jersey, would be such that the person would be required to be authorized by a permit under the Insurance Business (Jersey) Law 1996 in order to provide the service;
- (b) the making of arrangements for the provision of insurance or reinsurance under sub-paragraph (a);
- (c) the handling of an insurance claim by an insurance broker, an insurance agent, or person referred to in sub-paragraph (a), but not the supply, in the assessment of an insurance claim, of a legal service or of a service typically provided by a loss adjuster, average adjuster, assessor or surveyor.

3 Group 3 – Postal services

For the purposes of this Law the following supplies shall be exempt supplies –

- (a) the conveyance of a postal packet (within the meaning of the Postal Services (Jersey) Law 2004) by a postal operator (within the meaning of that Law);
- (b) the supply, by such a postal operator, of a service in connection with the conveyance of such a postal packet, but not the letting on hire of goods.

SCHEDULE 6

(Articles 85)

POWERS OF ENTRY AND SEARCH

[To be decided later]

SCHEDULE 7

(Articles 92)

AMENDMENTS AND REPEALS

[To be decided later]

SCHEDULE 8

(Articles 93)

TRANSITIONAL PROVISIONS AND SAVINGS

[To be decided later]

1 Regulations

- (1) The States may, by Regulations, make provision of a saving or transitional nature consequent on the following –
 - (a) the enactment of this Law;
 - (b) any change in the rate of GST that applies to a supply or importation;
 - (c) any change in the zero rating, or exemption, of a supply or importation;
 - (d) any change in the conditions that apply to a supply or importation.
- (2) A provision of Regulations made under this paragraph may, if the Regulations so provide, come into force on the day on which this paragraph comes into force or on a day later than that day (and the later day may be a day before the provision is made).
- (3) To the extent to which any such provision comes into force on a day that is earlier than the day when it is made, the provision does not operate so as –
 - (a) to affect, in a manner prejudicial to any person (other than the States or an administration of the States), the rights of that person existing before the day when it is made; or
 - (b) to impose liabilities on any person (other than the States or an administration of the States) in respect of anything done or omitted to be done before the day when the provision is made.