

ORDER IN COUNCIL

X
2019

ratifying a Projet de Loi

ENTITLED

Administrative Decisions (Review) (Guernsey) (Amendment) Law, 2018

(Registered on the Records of the Island of Guernsey
on the 3rd June, 2019.)



2019

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 3rd day of June, 2019 before Sir Richard Collas, Bailiff; present:- Barbara Jean Bartie, Stephen Murray Jones, Esquire, O.B.E., David Percy Langley Hodgetts, Esquire, L.V.O., David Allan Grut, Jonathan Grenfell Hooley, Steven John Morris, Alan Stevenson Boyle, Peter Francis Gill, David John Robilliard, Stuart Michael Crisp, Esquires, and Marilyn Jasmine King, Jurats.

The Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 22nd May 2019, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Administrative Decisions (Review) (Guernsey) (Amendment) Law, 2018”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ORDERED that the said Order be registered on the records of this Island.

J. TORODE
Her Majesty’s Greffier.



At the Court at Buckingham Palace

THE 22nd DAY OF MAY 2019

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

“That, in pursuance of their Resolution of 2nd March 2016, the States of Deliberation at a meeting on 28th February 2018 approved a *Projet de Loi* entitled the Administrative Decisions (Review) (Guernsey) (Amendment) Law, 2018 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Administrative Decisions (Review) (Guernsey) (Amendment) Law, 2018 and to order that it shall have force of law in the Islands of Guernsey, Herm and Jethou.

“The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it”.

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Islands of Guernsey, Herm and Jethou and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

Richard Tilbrook

PROJET DE LOI

ENTITLED

The Administrative Decisions (Review) (Guernsey) (Amendment) Law, 2018

THE STATES, in pursuance of their Resolution of the 2nd day of March, 2016^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Amendments to the 1986 Law.

1. The Administrative Decisions (Review) (Guernsey) Law, 1986, is amended as follows -

- (a) in the arrangement of sections -
 - (i) immediately after the entry "1. Application by complainant for review of administrative decisions.", insert entry "1A. The Complaints Panel.", and
 - (ii) in entry 2, for the words "Chief Executive or

^a Article XIII of Billet d'État No. VI of 2016.

Her Majesty's Greffier", substitute "the Complaints Panel",

- (b) in section 1 -
 - (i) for "he may apply to the Chief Executive of the States of Guernsey", substitute "that person may apply to the Complaints Panel", and
 - (ii) delete from ":" to the end of the section,
- (c) immediately after section 1, inserting the following section -

"The Complaints Panel.

1A. (1) The States shall, upon recommendation of the Policy & Resources Committee, appoint a panel to be called the Complaints Panel which shall consist of such number of persons as in the opinion of the States is necessary for the purpose of carrying out the functions of the Complaints Panel established under this Law.

(2) The members of the Complaints Panel shall be persons who, in the opinion of the States, have sufficient experience and knowledge to enable them to decide matters likely to fall for decision by the Complaints Panel.

(3) The States shall from time to time appoint a Panel Chair from amongst the members of the Complaints Panel.

(4) The Panel Chair may appoint a Deputy Panel Chair from amongst the members of the Complaints Panel who may perform the functions of the Panel Chair.

(5) The following may not be members of the Complaints Panel -

- (a) a Member of the States of Deliberation,
- (b) a member of a Committee who is not also a Member of the States of Deliberation,
- (c) a Dean for the time being of a Douzaine of one of the Parishes of the Island of Guernsey,
- (d) any person who holds appointment to any judicial office in the Bailiwick, or

- (e) an employee of the States.

(6) The Panel Chair shall select 3 members of the Complaints Panel to exercise the functions of the Complaints Panel in relation to an application made under section 1 of this Law.

(7) A member of the Complaints Panel may resign as Panel Chair or a member by serving a notice in writing on the Policy & Resources Committee.

(8) Where, on the recommendation of the Policy & Resources Committee, the States resolves to dismiss a member of the Complaints Panel where that member is -

- (a) under a legal disability,
- (b) convicted of an indictable offence, or
- (c) otherwise unable or unfit to continue in office,

that member shall forthwith no longer be a member of the Complaints Panel.

(9) Any complaint or other document to be served on the Complaints Panel shall be served on the Panel Chair, care of the principal officer to the Panel.

(10) The Policy & Resources Committee shall -

(a) appoint a principal officer to the Complaints Panel on such terms and conditions and with such functions, and

(b) provide such other officers and facilities,

as it thinks fit.",

(d) in section 2 -

(i) in the title, for the words "Chief Executive or Her Majesty's Greffier", substitute "the Complaints Panel",

(ii) for the words "the Chief Executive of the States of Guernsey or Her Majesty's Greffier, as the case may be,", substitute "the Complaints

Panel",

- (iii) for the words "his" and "he", substitute "its" and "it",
- (iv) in paragraph (i) of the proviso, for the words "him would in the opinion of the Chief Executive of the States of Guernsey or Her Majesty's Greffier, as the case may be,", substitute "the Chairman would in the opinion of the Complaints Panel", and
- (v) in paragraph (ii) of the proviso -
 - (A) for the words "the Chief Executive of the States of Guernsey or Her Majesty's Greffier, as the case may be," substitute "the Complaints Panel", and
 - (B) for "President", substitute "Presiding Officer",
- (e) in section 3 -
 - (i) renumber the text of section 3 as subsection (1),
 - (ii) in subsection (1) as renumbered -
 - (A) for the words "The Chief Executive of

the States of Guernsey or Her Majesty's
Greffier, as the case may be," substitute
"The Complaints Panel",

- (B) for "his", substitute "its",
- (C) in paragraph (b), immediately before the
words "the matter complained of", insert
"unless subsection (2) applies",
- (D) in paragraph (d), immediately after
"vexatious", insert ", unreasonable",
- (E) immediately after paragraph (e), insert
the following paragraph -

"(ea) the complainant has not
exhausted the internal
complaints procedures of the
relevant Committee in respect of
the matter complained of," ,

- (F) in paragraph (f) -
 - (aa) for the words "the Chief
Executive of the States of
Guernsey or Her Majesty's
Greffier, as the case may be,"
substitute "the Complaints

Panel", and

(ab) for ".", substitute ", or", and

(G) immediately after paragraph (f), insert the following paragraph -

"(g) the complaint would require the Board to make a finding of medical negligence or malpractice in order to form an opinion for the purposes of section 7.", and

(iii) immediately after subsection (1), insert the following subsection -

"(2) Where -

(a) the matter complained of relates to a decision, act or omission of which the complainant has had knowledge for more than twelve months, but

(b) the Complaints Panel is of the opinion that -

(i) there are exceptional

circumstances which
justify the making of a
complaint after twelve
months have elapsed
since the complaint had
knowledge of the
decision, act or omission,
or

- (ii) it is otherwise in the
interests of justice that
the complaint should be
referred to the Chairman,

the Complaints Panel may refer the complaint
to the Chairman. ",

- (f) in section 4 -

- (i) in subsection (1)(a), delete "and",

- (ii) in subsection (1)(b), for ".", substitute ", and",

- (iii) immediately after subsection (1)(b), insert the
following paragraph -

"(c) persons who are not -

- (i) Members of the States of

Deliberation, and

- (ii) the Dean of the Douzaine of any Parish of the Island of Guernsey,

appointed by the Chairman (hereinafter referred to as "**the independent Members**").",

- (iv) in subsection (2), for the words "every year", substitute "within 6 weeks of a General Election",

- (v) for subsection (3), substitute the following subsection -

"(3) Subject to -

- (a) subsection (4), the Chairman and Deputy Chairman, and

- (b) subsection (5), the independent Members,

shall, unless that Member of the Panel resigns by serving a notice in writing on the Policy & Resources Committee, hold office until the date of the following General Election.",

- (vi) for subsection (4), substitute the following subsection -

"(4) Where any Member of the Panel ceases to be qualified for membership of the Panel in accordance with the provisions of subsection (1)(a) or (b), that Member shall forthwith be deemed to have ceased to be a Member of the Panel, and, in that event, where a Member of the Panel holds also the office of Chairman or Deputy Chairman, that Member shall equally forthwith be deemed to have ceased to be Chairman or Deputy Chairman, as the case may be.", and

- (vii) immediately after subsection (4), insert the following subsections -

"(5) Where the Chairman decides to dismiss one of the independent Members where that Member is -

- (a) under a legal disability,
- (b) convicted of an indictable offence, or
- (c) otherwise unable or unfit to continue,

that Member shall forthwith no longer be a member of the Panel.

(6) Where -

(a) the Chairman or Deputy Chairman resigns or ceases to be a Member of the Panel, the States shall appoint a replacement Chairman or Deputy Chairman (as the case may be), and

(b) an independent Member of the Panel resigns or is dismissed, the Chairman may appoint a replacement Member.",

(g) in section 5(1) -

(i) for the word "three", substitute "four", and

(ii) in paragraph (c), for "President", substitute "Presiding Officer",

(h) in section 6 -

- (i) for the words ", the Chief Executive of the States of Guernsey and Her Majesty's Greffier, as the case may be,", substitute "and the Complaints Panel", and
- (ii) in paragraph (b) -
 - (A) for the words ", the Chief Executive of the States of Guernsey or Her Majesty's Greffier", substitute "or the Complaints Panel", and
 - (B) for the words immediately after the words "as if" until the end of the paragraph, substitute "that person was a witness before the Royal Court, in the same manner as set out in article 20E of the Reform (Guernsey) Law, 1948^b",
- (i) in section 10(1) -
 - (i) immediately after the entry **""complainant""**, insert the following entry -

""the Complaints Panel" has the meaning

^b Ordres en Conseil Vol. XIII, p. 288; there are amendments not relevant to this enactment.

assigned to it in section 1A of this Law,"

- (ii) immediately after the entry **""enactment""**,
insert the following entries -

""General Election" means a General Election for the office of People's Deputy in accordance with the Reform (Guernsey) Law, 1948,

"the independent Members" has the meaning assigned to it by section 4 of this Law,"

- (iii) delete the entry **""Her Majesty's Greffier""**,
- (iv) immediately after the entry **""the Members""**,
insert the following entries -

""a Member of the States of Deliberation" has the meaning set out in article 1(1) of the Reform (Guernsey) Law, 1948,

"Panel Chair" includes any person designated by the Panel Chair to carry out the functions of Panel Chair due to illness or unavailability, and

"the Policy & Resources Committee" means the States of Guernsey Policy & Resources Committee.", and

- (v) delete the entry ""**Chief Executive of the States of Guernsey**"".

Interpretation.

- 2. In this Law, unless the context requires otherwise -

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

and references in this Law to any enactment are references thereto as amended, varied, re-enacted (with or without modification), extended or applied.

Citation.

- 3. This Law may be cited as the Administrative Decisions (Review) (Guernsey) (Amendment) Law, 2018.

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