

# ORDER IN COUNCIL

**XVII  
2015**

ratifying a Projet de Loi

ENTITLED

## **The States (Reform) (Guernsey) Law, 2015**

(Registered on the Records of the Island of Guernsey  
on the 30th November, 2015.)



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2015

## ORDER IN COUNCIL



### IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 30th day of November, 2015 before Sir Richard Collas, Bailiff; present:- Susan Mowbray, Barbara Jean Bartie, John Ferguson, Stephen Murray Jones, Esquires, Claire Helen Le Pelley, Constance Helyar-Wilkinson, Terry George Snell, Esquire, David Percy Langley Hodgetts, Esquire, LVO, Margaret Ann Spaargaren, Terry John Ferbrache, David Grut, Jonathan Grenfell Hooley, Steven Morris, David Mortimer, Esquires, Jurats.

The Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 11th November 2015 approving and ratifying a Projet de Loi of the States of Guernsey entitled “The States (Reform) (Guernsey) Law, 2015”, 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 11th DAY OF NOVEMBER 2015

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 Resolutions of 25th June 2015 and 9th July 2015 the States of Deliberation at a meeting on 29th September 2015 approved a Projet de Loi entitled the States (Reform) (Guernsey) Law, 2015 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 States (Reform) (Guernsey) Law, 2015, 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 States (Reform) (Guernsey) Law, 2015**

**THE STATES**, in pursuance of their Resolutions of the 25<sup>th</sup> June, 2015<sup>a</sup> and the 9<sup>th</sup> July, 2015<sup>b</sup>, 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.

### **General Election: 2016.**

1. A person elected to the office of People's Deputy -
  - (a) at the General Election of People's Deputies due to take place on 27<sup>th</sup> April 2016, or
  - (b) at any election under Article 29(1) of the Reform (Guernsey) Law, 1948<sup>c</sup> to fill any vacancy not filled at that General Election,

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<sup>a</sup> Billet d'État No. XI of 2015.

<sup>b</sup> Billet d'État No. XII of 2015.

<sup>c</sup> Ordres en Conseil Vol. XIII, p. 288; Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, pp. 84 and 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, p. 164; Vol. XXXII, p. 41; Vol. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, pp. 150 and 295; Order in Council No. XIII of 2003; No. III of 2004; Nos. II and XX of 2007; Nos. XIII and XXII of 2008; No. VII of 2010; No. II of 2012; also amended by Ordinance No. XXXIII of 2003; No. XXVI of 2008; No. XXXII of 2011.

shall retire from office on 30<sup>th</sup> June 2020, despite Article 29(1) of the Reform (Guernsey) Law, 1948.

**Performance of functions by members of Committees.**

2. (1) Subject to subsection (4), a Committee may arrange for any of its functions to be performed in its name by any one or more members of that Committee.

(2) A function performed by a member of a Committee pursuant to an arrangement made under this section is for all purposes performed by the Committee concerned; and every decision taken or other thing done by a member of a Committee pursuant to such an arrangement has the same effect as if taken or done at a quorate meeting of the Committee concerned.

(3) An arrangement under this section for the performance of a function by a member of a Committee -

(a) may be varied or terminated at any time by the Committee concerned, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement, and

(b) does not prevent the performance of the function by the Committee concerned whilst the arrangement subsists.

(4) This section does not empower a Committee to arrange for any legislative function to be performed by a member of that Committee.

(5) This section -

- (a) is not to be construed as impliedly invalidating anything done in conformity with any other enactment or rule of law, either before or after this section comes into force, and
- (b) does not permit the making of an arrangement which would clearly be inconsistent with the intention of the function concerned.

(6) The power created by this section is exercisable by a Committee in addition to any other power of the Committee to arrange for any of its functions to be performed in its name by any other person, including any power exercisable under the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991<sup>d</sup>.

**Performance of functions by other Committees.**

3. (1) Subject to subsection (5) a Committee ("**Committee A**") may, by regulations made jointly with another committee ("**Committee B**"), arrange for any of its functions to be performed by Committee B in the name of Committee B.

(2) Unless regulations under subsection (1) provide otherwise -

- (a) a function performed, and
- (b) every decision taken, or other thing done,

by Committee B pursuant to an arrangement made under this section have the same effect as if performed, taken or done at a quorate meeting of Committee A.

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<sup>d</sup> Ordres en Conseil Vol. XXXIII, p. 478.

(3) For the avoidance of doubt, unless regulations under subsection (1) provide otherwise, Committee B may arrange for any functions under those regulations to be performed -

- (a) by an officer responsible to Committee B under section 4 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991, or
- (b) by any one or more members of Committee B under section 1.

(4) An arrangement under this section -

- (a) may be varied or terminated at any time by further regulations made jointly by Committee A and Committee B, but without prejudice to anything done pursuant to the arrangement or to the making of a new arrangement, and
- (b) unless regulations under subsection (1) provide otherwise, does not prevent the performance of the function by Committee A whilst the arrangement subsists.

(5) This section does not empower Committee A to arrange for any legislative function to be performed by Committee B.

(6) This section -

- (a) is not to be construed as impliedly invalidating anything done in conformity with any other enactment

or rule of law, either before or after this section comes into force, and

- (b) does not permit the making of an arrangement which would clearly be inconsistent with the intention of the function concerned.

### **Regulations.**

#### **4. (1) Regulations under this Law -**

- (a) may be amended or repealed by subsequent regulations hereunder, and
- (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient including, without limitation, provision making consequential amendments to this Law and any other enactment.

#### **(2) Any power to make regulations under this Law may be exercised -**

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -
  - (i) the full provision to which the power extends,



or any lesser provision (whether by way of exception or otherwise),

- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes, or
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Regulations under this Law shall be laid before a meeting of the States as soon as possible after being made; and, if at that or the next meeting the States resolve that the regulations be annulled, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

**Amendment of Reform (Guernsey) Law, 1948.**

5. (1) In the Reform (Guernsey) Law, 1948 -

- (a) in Article 1(1)(c), for "Forty-five" substitute "Thirty-eight",
- (b) in Article 4(2)(f), for "forty-five" substitute "thirty-eight",
- (c) Article 8(b) is repealed,
- (d) in Article 17 -
  - (i) in paragraph (2)(a), the words "or has,

subsequently to such election, ceased to possess either of the first two qualifications required by that Article," are repealed, and

(ii) in paragraph (3) -

(A) the words "is under a legal disability or" are repealed, and

(B) for the words "in either of which cases" substitute "in which case",

(e) in Article 27 –

(i) paragraph (1)(b) is repealed, and

(ii) in paragraph (4) the words "or is subject to any legal disability" are repealed,

(f) immediately after Article 27A, insert the following Article –

**"Abolition of mental incapacity to vote.**

**27B.** Any rule of law which provides that a person is subject to a legal incapacity to vote by reason of his or her mental state is abolished.",

(g) in Article 29

(i) in paragraph (1) -

(A) for "2000", substitute "2020",

(B) for "April" wherever appearing, substitute "June", and

(C) for "May" substitute "July",

(ii) in paragraph (2), immediately after the words "the four year term then current", insert "or, in the case of the General Election held on the 27<sup>th</sup> day of April, 2016, until the 30<sup>th</sup> day of June, 2020",

(h) Article 42 is repealed,

(i) in Article 49, the definition of "Legal disability" is repealed,

(j) in Article 66 -

(i) in paragraph (2), for "and, subject to the provisions of the next succeeding paragraph, to transmit the same to the States for the consideration and decision of the States." substitute -

"and to transmit the same -

(a) to the States for consideration and decision of the States, or

(b) where the Policy and Resources Committee is

of opinion that the immediate or early enactment thereof is necessary or expedient in the public interest under Article 66A, to the Policy and Resources Committee for consideration and order of that Committee.",

(ii) paragraphs (3) and (4) are repealed, and

(k) immediately after Article 66 insert the following Article -

**"Power of Policy and Resources Committee to enact Ordinances.**

**66A.** (1) Where, in the case of any draft Ordinance transmitted under paragraph (2)(b) of Article 66, the Policy and Resources Committee is of opinion that the immediate or early enactment thereof is necessary or expedient in the public interest, the Policy and Resources Committee shall have power to order that the same shall be operative either immediately or upon such then future date as it shall prescribe and thereupon the Ordinance shall have effect accordingly:

PROVIDED that every Ordinance coming into effect by virtue of this paragraph shall be laid before the States as soon as may be after the making thereof in such manner as the States may, by general resolution, from time to time direct and if, at the Meeting of the States in the course of which any Ordinance made by the Policy and Resources Committee is laid before them or at the next subsequent Meeting, the States resolve that the Ordinance be annulled, the Ordinance shall cease to have effect but without prejudice to anything previously done thereunder or to the making by the Policy and Resources Committee of any new Ordinance.

(2) For the purpose of removing doubts, it is hereby

declared that on an Ordinance ceasing to have effect by virtue of a Resolution of the States under the proviso to paragraph (1) of this Article, any other Ordinance which was modified or extended or repealed in whole or in part by the first-mentioned Ordinance shall thenceforth have effect, notwithstanding such modification, extension or repeal as though such modification, extension or repeal had not been effected.

(3) In paragraph (2)(b) of Article 66 and in this Article, **"the Policy and Resources Committee"** means the States Policy and Resources Committee."

(2) An Ordinance made under paragraph (3) of Article 66 of the Reform (Guernsey) Law, 1948, which is in force immediately before subsection (1) comes into force, shall remain in force as if made under paragraph (1) of Article 66A of that Law.

**Amendment of States Committees (Constitution and Amendment) (Guernsey) Law, 1991.**

6. Immediately after section 1(4) of the States Committees (Constitution and Amendment) (Guernsey) Law, 1991<sup>e</sup>, insert the following subsection -

"(5) For the avoidance of any doubt and subject to subsection (2), a Resolution under subsection (1) or under any relevant enactment may include provision that a committee's membership shall consist of members, the majority or a minority of whom are not elected members of the States; provided that no person shall be elected or appointed to the office of President of a committee, unless the person is an elected member of the States."

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<sup>e</sup> Ordres en Conseil Vol. XXXIII, p. 471.

**Interpretation.**

7. (1) In this Law, unless the context requires otherwise -

**"Committee"** means any department, authority, board, committee, council or other like body (however denominated) of the States constituted by a Resolution or Law approved by the States,

**"enactment"** means any Law, Ordinance or subordinate legislation,

**"function"** includes every power and duty which is or may be given to or imposed on a Committee, whether by an enactment, resolution of the States, rule of law, custom or otherwise,

**"legislative function"** means a power to make any Ordinance, regulations, rules, order, scheme or other instrument of a legislative character,

**"a member of a Committee"** includes every member of a Committee, whether or not elected, and

**"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.

- (2) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Citation.**

8. This Law may be cited as the States (Reform) (Guernsey) Law, 2015.

**Commencement.**

9. This Law shall come into force on the day appointed by Ordinance of the States; and different dates may be appointed for different provisions and for different purposes.

Copies may be purchased from  
Her Majesty's Greffier, Royal Court House, Guernsey

PRICE £5.00

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