

PROJET DE LOI

ENTITLED

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

[CONSOLIDATED TEXT]

NOTE

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* No. XVII of 2015; as amended by the Reform (Guernsey) (Amendment) Law, 2020 (No. XIV of 2020).

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The States (Reform) (Guernsey) Law, 2015

THE STATES, in pursuance of their Resolutions of the 25th June, 2015^a and the 9th July, 2015^b 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. ...

NOTE

Section 1 was repealed by the Reform (Guernsey) (Amendment) Law, 2020, section 2, with effect from 29th June, 2020.¹

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

^a Billet d'État No. XI of 2015.

^b Billet d'État No. XII of 2015.

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^d.

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.

(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 –

^d Ordres en Conseil Vol. XXXIII, p. 478.

- (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.

NOTES

The following Regulations have been made under section 3:

States (Reform) (Transfer of Functions) Regulations, 2016;
Social Insurance (Collection of Contributions) (Transfer of Functions) Regulations, 2018;

States Reform (Performance of Functions) (Public Transport) Regulations, 2019;

States Reform (Performance of Functions) (Guernsey Health Service Fund) Regulations, 2021.

In accordance with the provisions of the States Reform (Performance of Functions) (Guernsey Health Service Fund) Regulations, 2021, regulation 2, with effect from 2nd September, 2021 and for the purposes of subsection (4)(b) of this section, the Committee for Employment & Social Security may not continue to exercise the functions referred to in regulation 1 of those Regulations while those Regulations remain in force.²

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 27th day of April, 2016, until the 30th 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^e, 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

^e Ordres en Conseil Vol. XXXIII, p. 471.

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."

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.

NOTE

The Law was brought into force on 16th February, 2016 by the States Reform Law, 2015 (Commencement) Ordinance, 2016, section 1(1), save for section 5(1)(a)-(b), 5(1)(g), 5(1)(j)-(k) and section 6, brought into force on 1st May, 2016 by section 1(2) of the 2016 Ordinance.

¹ Prior to its repeal, section 1 was disapplied by the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) Regulations, 2020, regulation 36A, with effect from 16th April, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 2) Regulations, 2020, regulation 37, with effect from 15th May, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 3) Regulations, 2020, regulation 34, with effect from 13th June, 2020.

² In accordance with the provisions of the States Reform (Performance of Functions) (Guernsey Health Service Fund) Regulations, 2021, regulation 1, with effect from 2nd September, 2021 and pursuant to an arrangement under section 3 of this Law, the functions of the States Committee for Employment & Social Security under section 1(7) and (8) of the Health Service (Benefit) (Guernsey) Law, 1990 shall be performed by the States Policy & Resources Committee.