

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Reform (Guernsey) (Amendment) Law, 2003

(Registered on the Records of the Island of Guernsey
on the 14th July, 2003.)



2003

**XIII
2003**

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 14th day of July, 2003 before Sir de Vic Carey, Bailiff; present:—
David Charles Lowe, Laurence Lenfestey Guille, Derek Martin Le
Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson,
Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane,
and Michael John Tanguy, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 12th day of June, 2003, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Reform (Guernsey) (Amendment) Law, 2003”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED:—

1. That the said Order in Council be registered on the records of this Island.

At the Court at Buckingham Palace

The 12th day of June, 2003

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 the 22nd day of February 1952 the Committee have considered a petition of the States of Guernsey:”

“That, in pursuance of their Resolution of 27th November, 2002, the 28th November, 2002, and the 29th January, 2003, the States of Deliberation at a meeting on 26th March, 2003, approved a Projet de Loi entitled “The Reform (Guernsey) (Amendment) Law, 2003” 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 Reform (Guernsey) (Amendment) Law, 2003” 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 of and ratify the said 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.

A. K. Galloway

PROJET DE LOI

ENTITLED

The Reform (Guernsey) (Amendment) Law, 2003

THE STATES, in pursuance of their Resolutions of the 27th November, 2002^a, the 28th November, 2002^b and the 29th January, 2003^c, 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:-

Amendment of Law of 1948.

1. (1) The Reform (Guernsey) Law, 1948, as amended^d ("**the Law of 1948**"), is further amended in accordance with the following provisions of this section.

(2) Article 1(1)(d) of the Law of 1948^e is repealed.

(3) In articles 1(2), 1(4), 1(5)(a), 1(5)(b), 3(1), 3(2), 3(3),

^a Articles XXI and XXIII of Billet d'État No. XXII of 2002.

^b Article XXI of Billet d'État No. XXIII of 2002.

^c Article XIII of Billet d'État No. I of 2003.

^d 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, p.84; Vol. XIX, p.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; No. V of 1993; No. II of 1996; No. III of 1998; and No. X of 1998.

^e Article 1(1)(d) was inserted by No. X of 1998.

3(4) (in the proviso)^f, 3(5) (in the proviso)^g, 4(3), 4(4), 4(5)(a), 6(1)^h, 6(2), 9(1)ⁱ, 17(1)(a), 22(2), 29(2)^j, 32(1)^k, 32(4)^l, 33, 38^m and 41ⁿ of the Law of 1948, for the words "President" and "Presidents", wherever appearing, substitute respectively "Presiding Officer" and "Presiding Officers".

(4) In article 1(5)(a) of the Law of 1948, for the words following "no original vote" substitute "and no casting vote, and in the event of an equality of votes he shall (except in the case of an election) declare the proposition lost".

(5) For article 2 of the Law of 1948^o substitute the following-

"Jurat may not be People's Deputy or Douzenier."

2. A Jurat shall vacate his office on being elected as People's Deputy or Douzenier and a People's Deputy or Douzenier shall vacate his office on being elected as Jurat."

(6) Article 8(a) of the Law of 1948 is repealed.

^f Article 3(4) and the proviso thereto were inserted by Vol. XXX, p. 16.

^g Article 3(5) and the proviso thereto were inserted by Vol. XXX, p. 16.

^h Article 6(1) was substituted by Vol. XXVI, p. 255; and amended by No. V of 1993.

ⁱ Article 9(1) was amended by Vol. XVIII, p. 275 and No. V of 1993.

^j Article 29(2) was inserted by Vol. XV, p. 279 and amended by No. V of 1993 and No. X of 1998.

^k Article 32(1) was amended by Vol. XVIII, p. 275 and No. V of 1993.

^l Article 32(4) was inserted by No. II of 1996.

^m Article 38 was amended by No. V of 1993.

ⁿ Article 41 was amended by No. II of 1996.

^o Article 2 was amended by No. X of 1998.

- (7) Article 14 of the Law of 1948^P is repealed.
- (8) In article 15(1) of the Law of 1948^q -
- (a) for the words beginning with "the ten Douzaine Representatives" and ending with "additional" substitute "thirty four";
 - (b) in subparagraphs (a), (b), (d), (e) and (i), for "eight"^r, "four", "four", "nil" and "three" substitute respectively "nine", "five", "five", "two Douzeniers" and "four";
 - (c) in subparagraphs (f), (g), (h) and (j), for "nil" substitute "one Douzenier";
 - (d) in the proviso -
 - (i) the word "additional", wherever appearing, is repealed; and
 - (ii) for "twenty four" substitute "thirty four".
- (9) For article 16 of the Law of 1948, substitute the

^P Article 14 was amended by Vol. XV, p. 279; and No. III of 1998.

^q Article 15(1) was substituted by Vol. XXXI, p. 164.

^r The number "eight" was inserted by Resolution of the States of the 12th December, 1996.

following-

"Duty of a Douzaine Representative in the States of Election.

16. A Douzaine Representative shall not be bound in the States of Election to vote in accordance with any direction or instruction given him by the Douzaine which he represents, and he shall be free on all occasions to cast his vote in accordance with his conscience."

(10) In article 17(1) of the Law of 1948, and in the heading to that article, the words "or Douzaine Representative" are repealed.

(11) After article 25(2) of the Law of 1948^s, add the following paragraph -

"(3) The Electoral Roll shall remain valid until such date as the States may determine by Ordinance; and when, pursuant to an Ordinance under this paragraph, the Electoral Roll ceases to be valid, it shall be replaced by a new Electoral Roll which shall be compiled by the Registrar-General in accordance with the provisions of this Law and to which the provisions of this paragraph shall apply in all respects."

(12) For article 27(1) of the Law of 1948^t, substitute the following article -

"Persons entitled to vote.

27. (1) A person shall be entitled to be inscribed on the

^s Article 25 was substituted by Vol. XV, p. 279; and amended by Vol. XXV, p. 326.

^t Paragraph (1) of Article 27 was substituted by No. II of 1996.

Electoral Roll if he -

- (a) is of the age of 18 years or over; and
- (b) is not subject to any legal disability; and
- (c) is ordinarily resident in this Island on the date of his application to be inscribed; and
- (d) has been ordinarily resident in this Island on the date referred to in subparagraph (c) either -
 - (i) for a period of at least two years immediately preceding that date, or
 - (ii) at any time before that date for a period or periods of at least five years in total; and
- (e) has delivered to the Registrar-General, in respect of himself, in such form as the Registrar-General shall prescribe, an application for inclusion in the Electoral Roll."

(13) Article 27(1B) of the Law of 1948^u is repealed.

^u Paragraph (1B) of Article 27 was inserted by Vol. XXIX, p. 56.

(14) In article 27A of the Law of 1948^v -

- (a) paragraph (1) is repealed;
- (b) in paragraph (2) for the words "otherwise than" substitute "whether or not"; and
- (c) in paragraph (2)(a), after "1972" insert "or any Ordinance thereunder".

(15) In article 28(2) of the Law of 1948, for the words after "shall be guilty of an offence" substitute "and liable on conviction to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding three months, or to both".

(16) In article 34 of the Law of 1948^w -

- (a) in paragraph (1) the expression ", during the period commencing on the first day of September in each year and ending on the thirty-first day of October in the same year," is repealed;
- (b) in paragraph (1) for the words "on or before the seventh day of September in any year specified in that behalf by an Ordinance of the States under this paragraph" substitute "on or before the seventh day

^v Article 27A was inserted by No. II of 1996.

^w Article 34 was substituted by Vol. XXIII, p. 476; and amended by Vol. XXIX, p. 56; No. V of 1993; and No. II of 1996.

of September (or on or before such other day, or during such other period, as may be specified by Ordinance of the States made under this paragraph) in any year so specified";

- (c) in paragraph (2) the expressions "for any electoral year", "for the next succeeding electoral year" and ", during the period commencing on the first day of September in any year and ending on the twentieth day of January in the year next following," are repealed;
- (d) in paragraph (3) the expressions ", on or before the thirty-first day of December in each year," and "for the next succeeding electoral year" are repealed;
- (e) in paragraphs (5) and (6) for the words after "shall be published for inspection" substitute "in such manner, at such time and place and for such period as the States Procedures and Constitution Committee may prescribe by rules made under this paragraph";
- (f) in paragraph (8) the expression ", not later than the third week day after the close of the period during which the Electoral Roll is available for inspection," is repealed;
- (g) in paragraph (9) the expressions "for any electoral

year" and "during that electoral year", wherever appearing, are repealed;

(h) in paragraph (10) for the words after "liable, on conviction," substitute "to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding three months, or to both";

(i) after paragraph (10) add the following paragraphs -

"(11) Notwithstanding the preceding provisions of this article, the Electoral Roll shall be closed -

(a) in respect of an election for the office of People's Deputy, on the date appointed by Ordinance of the States;

(b) in respect of an election for the office of Constable or Douzenier, on the date appointed by order of the States Procedures and Constitution Committee;

and, during the period beginning on the date of closure and ending on the date of the election, no entry in the Electoral Roll shall be made or amended.

(12) References in paragraph (11) to the

Electoral Roll are references to the section of the Electoral Roll relating to the District in which the election is to be held."

(17) In article 35 of the Law of 1948^x -

- (a) number the existing text as paragraph (1);
- (b) after paragraph (1) (as so numbered) insert the following paragraph -

"(2) The States Procedures and Constitution Committee may by rules made under this paragraph make such provision as they think fit in relation to -

- (a) the persons or classes of persons to whom copies of the Electoral Roll shall be made available;
- (b) the manner in which, the means by which and the times and places at which copies of the Electoral Roll shall be made available; and
- (c) the charges and conditions subject to which copies of the Electoral Roll shall be made available."

(18) Article 36 of the Law of 1948^y is repealed.

(19) For article 37 of the Law of 1948, substitute the following article -

"Returning Officers.

37. At every election the Royal Court, on the application of one of the Law Officers of the Crown, shall appoint -

- (a) a Returning Officer for each District concerned, who shall appoint such Scrutineers to assist him in the counting of votes and otherwise as he may deem necessary;
- (b) a deputy Returning Officer for each Parish within the District concerned, where that District comprises more than one Parish;

and every Returning Officer and deputy Returning Officer shall on his appointment be sworn as such before the Royal Court."

(20) In article 38 of the Law of 1948^z -

- (a) number the existing text as paragraph (1);

^y Article 36 was substituted by Vol. XXVI, p. 255 and amended by No. V of 1993 and No. II of 1996.

^z Article 38 was amended by No. V of 1993.

- (b) in paragraph (1) (as so numbered) for the words "and shall hand" substitute "and shall, subject to the provisions of paragraph (2), hand"; and
- (c) after paragraph (1) (as so numbered) insert the following paragraphs -

"(2) Where, pursuant to article 37, a deputy Returning Officer for each Parish within the District has been appointed, the Constables and Douzaines shall, after sealing the ballot boxes, hand them to the deputy Returning Officer for the Parish, who shall thereupon deliver them to the Returning Officer to enable him to perform his functions under paragraph (1).

(3) Where a District comprises more than one Parish, the Returning Officer shall, in performing his functions under paragraph (1), communicate and exhibit the result of the count only in respect of the District as a whole and not in respect of each Parish within the District."

(21) In article 38A(4) of the Law of 1948^{aa}, for the words "Constitution of the States Review Committee" substitute "States Procedures and Constitution Committee".

^{aa}

Article 38A was inserted by No. III of 1998.

(22) After article 38B of the Law of 1948^{bb}, insert the following articles -

"Rules as to conduct of elections, etc.

38C. The States Procedures and Constitution Committee may make such rules as it thinks fit in respect of -

- (a) the conduct of, and procedures concerning, elections; and
- (b) the conduct and functions, during elections, of candidates, returning officers and other persons or classes of persons prescribed by the rules.

Complaints as to conduct of elections.

38D. (1) The States may by Ordinance make such provision as they think fit in relation to the making and determination of complaints concerning -

- (a) the conduct of elections;
- (b) breaches of procedures concerning elections;
- (c) the conduct, during elections, of candidates, returning officers and other persons or classes of persons prescribed by rules under

^{bb}

Article 38B was inserted by No. III of 1998.

article 38C; and

- (d) breaches by such persons of their functions during elections.

(2) An Ordinance under this article -

- (a) may, without limitation, prescribe -
 - (i) the person, body, court or tribunal to which complaints are to be made;
 - (ii) the proceedings and powers of, and the practice and procedure to be followed before, that person, body or tribunal;
 - (iii) the persons or bodies who may make complaints;
 - (iv) the matters in respect of which complaints may be made; and
 - (v) the manner of making complaints;
- (b) may contain incidental, consequential, supplementary and transitional provisions;
- (c) may create offences and prescribe civil and criminal sanctions and penalties;

(d) may empower the States Procedures and Constitution Committee to make rules as to any matter in relation to which an Ordinance may make provision under this article; and

(e) may be amended or repealed by a subsequent Ordinance hereunder."

(23) In article 44 of the Law of 1948 -

(a) in paragraph (2), the words following "shall be liable on conviction" (but not the proviso) are repealed and replaced by "to a fine not exceeding level 5 on the uniform scale and in addition to such fine shall, if a successful candidate, and if the Royal Court so orders on the application of Her Majesty's Procureur, forfeit his seat:";

(b) in the proviso to paragraph (2) -

(i) after the words "Provided always that" insert ", whether on a prosecution under this paragraph or on an application under this paragraph for the forfeiture of a seat,";

(ii) the word "Royal" is repealed.

(24) In article 45A(2) of the Law of 1948^{cc}, for the words following "liable, on conviction," substitute "to a fine not exceeding level 5 on the uniform scale".

(25) In article 54 of the Law of 1948 -

(a) in paragraph (1)^{dd} the words "date and" are repealed;

(b) after paragraph (3) insert the following paragraphs-

"(4) The election shall be held -

(a) on the first Wednesday of November; or

(b) if the first Wednesday of November falls on the 5th November, then on the first Tuesday of November;

and, if a secret ballot is demanded pursuant to the provisions of article 59, it shall be held on the third Wednesday of November.

(5) The States may by Ordinance amend the provisions of paragraph (4).".

^{cc} Article 45A was substituted by Vol. XXV, p. 326.

^{dd} Paragraph (1) of Article 54 was substituted by No. III of 1998.

- (26) In article 59(3) of the Law of 1948^{ee} -
- (a) for the words "fix a date" substitute "make arrangements in accordance with the provisions of this paragraph";
 - (b) the expression ", not being less than eight days nor more than fifteen days after the date of the meeting," is repealed;
 - (c) after the words "for the holding of an election" insert "on the third Wednesday of November (or on such other date as the States, by Ordinance under article 54(5), may prescribe)"; and
 - (d) for the words "such date" substitute "such time and date".
- (27) In article 64 of the Law of 1948 -
- (a) in the heading the words "Saving of Court's power to make" are repealed;
 - (b) immediately before the words "continue as hitherto" insert "in the case of powers and functions referred to in subparagraph (a) vest in and be exercisable by the States Emergency Council and shall in the case of powers and

^{ee}

Article 59(3) was amended by Vol. XXVI, p. 255.

functions referred to in subparagraph (b)";

- (c) after paragraph (2) add the following paragraph -

"(3) Regulations of the States Emergency Council made by virtue of paragraph (1) shall be laid before a meeting of the States as soon as possible, and if the States resolve at that meeting or their next meeting that the regulations be annulled they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.".

- (28) Article 73 of the Law of 1948 is repealed.

- (29) After article 77 of the Law of 1948, insert the following article -

"General provisions as to rules.

78. Rules made by the States Procedures and Constitution Committee under any provision of this Law -

- (a) shall be laid as soon as possible before a meeting of the States and shall, if at that or their next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new rules under that provision;

- (b) may contain incidental, consequential, supplementary and transitional provisions; and
- (c) may be amended or repealed by subsequent rules under that provision."

Amendment of Secret Ballot Law.

2. (1) In article 5 of the Loi relative au Scrutin Secret of 1899^{ff} -

- (a) for the words "au Président" substitute "à l'Officier Présidant (anglicé "Presiding Officer")";
- (b) for the words "le Président" wherever appearing substitute "l'Officier Présidant (anglicé "Presiding Officer")".

(2) In article 6 of the Loi relative au Scrutin Secret of 1899, for the words "ou une coche"^{gg} substitute "(ou autre marque qui, à l'avis des scrutateurs, signifie sans aucun doute l'intention de l'électeur)".

Amendment of Deputy Bailiff Law.

3. In sections 1(3), 1(4) and 1(5) of the Deputy Bailiff (Guernsey) Law, 1969^{hh} for the word "President" wherever appearing substitute "Presiding Officer".

^{ff} Ordres en Conseil Vol. III, p.175; a second paragraph was added to article 5 by Vol. IV, p.392. The Law was also amended by Vol. V, p.444; Vol. VII, p.310; No's V of 1993; II of 1996; III of 1998; and X of 1998.

^{gg} The words "ou une coche" were inserted by No. III of 1998.

^{hh} Ordres en Conseil Vol. XXII, p.122.

Amendment of Reform Law of 1972.

4. (1) In section 3(d) of the Reform (Amendment) (Guernsey) Law, 1972, as amendedⁱⁱ, for the words "otherwise than" substitute "whether or not".

(2) In section 15(2) of the Reform (Amendment) (Guernsey) Law, 1972, as amended, for the word "President" substitute "Presiding Officer".

(3) After section 15 of the Reform (Amendment) (Guernsey) Law, 1972, as amended, insert the following section -

"Ordinances as to postal voting, etc.

15A. (1) The States may by Ordinance make such provision as they think fit in relation to -

(a) postal voting; and

(b) other means of voting, whether or not involving attendance at a polling station;

at elections for the office of People's Deputy or any other office specified by the Ordinance.

(2) An Ordinance under this section -

ⁱⁱ Ordres en Conseil Vol. XXIII, p. 476; amended by Vol. XXVI, p. 255; No. V of 1993; No. II of 1996; and No. X of 1998; section 3(d) was inserted by No. II of 1996.

- (a) may amend any provision of this Law;
- (b) may contain incidental, consequential, supplementary and transitional provisions;
- (c) may make consequential amendments to the provisions of the principal Law and the law from time to time regulating the procedure for Secret Ballot; and
- (d) may be amended or repealed by a subsequent Ordinance hereunder."

Citation.

5. This Law may be cited as the Reform (Guernsey) (Amendment) Law, 2003.

Commencement.

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