

# ORDER IN COUNCIL

II  
2020

ratifying a Projet de Loi

ENTITLED

## **The Reform (Guernsey) (Amendment) (No. 2) Law, 2019**

(Registered on the Records of the Island of Guernsey on the 9th  
March, 2020.)



2020

# ORDER IN COUNCIL



## IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 9th day of March, 2020 before Richard James McMahon, Esquire, Deputy Bailiff; present:- Stephen Murray Jones, Esquire, O.B.E. Claire Helen Le Pelley, David Percy Langley Hodgetts, Esquire, L.V.O., Terry John Ferbrache, David Allan Grut, Steven John Morris, David James Mortimer, Alan Stevenson Boyle, Peter Francis Gill, and David John Robilliard, Esquires, Marilyn Jasmine King and Tina Jane Le Poidevin, Jurats.

The Deputy Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 12th February 2020, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Population Management (Guernsey) (Amendment) Law, 2019”. THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED that the said Order in Council be registered on the records of this Island.

J. TORODE  
Her Majesty’s Greffier.



*At the Court at Buckingham Palace*

THE 12th DAY OF FEBRUARY 2020

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 18th February 2016, 17th March 2016 and 25th April 2019, the States of Deliberation at a meeting on 26th September 2019 approved a Projet de Loi entitled the Reform (Guernsey) (Amendment) (No. 2) Law, 2019 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) (No. 2) Law, 2019, 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.

# PROJET DE LOI

ENTITLED

## **The Reform (Guernsey) (Amendment) (No. 2)**

**Law, 2019**

**THE STATES**, in pursuance of their Resolutions of the 18<sup>th</sup> February 2016<sup>a</sup>, the 17<sup>th</sup> March, 2016<sup>b</sup> and the 25<sup>th</sup> April, 2019<sup>c</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.

### **Amendment of the Reform Law.**

1. The Reform (Guernsey) Law, 1948<sup>d</sup> is amended as follows.

2. In paragraph (2) of Article 5, for the words from the start to subparagraph (a) substitute "The following provisions apply to an election for the

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<sup>a</sup> Article II of Billet d'État No. IV of 2016.

<sup>b</sup> Article III of Billet d'État No. IX of 2016.

<sup>c</sup> Article II of Billet d'État No. VII of 2019.

<sup>d</sup> Ordres en Conseil Vol. XIII, p. 288; as amended by Ordres en Conseil Vol. XIV, p. 407; 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, pp. 164 and 278; 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; No. II of 2007; No. XX of 2007; Nos. XIII and XXII of 2008; No. VII of 2010; Nos. II and XIV of 2012; No. XVII of 2015; Ordinance No. XXXIII of 2003; No. XXVI of 2008; No. XXXII of 2011; and No. IX of 2016.

office of Jurat –", at the end of subparagraph (c) delete "and", at the end of subparagraph (d) insert "and,", and after subparagraph (d) insert –

"(e) the ballot papers shall be kept in a sealed box, and after the elected candidate has been sworn in the ordinary manner, the ballot papers shall be destroyed."

3. In Article 8, at the end of paragraph (e) for "." substitute ",", and after paragraph (e) insert –

"(f) he is inscribed on the Electoral Roll."

4. In Article 9, after paragraph (1) insert –

"(2) Before the election the Presiding Officer shall, by means of an announcement in the Gazette Officielle, notify the Members of the States of Election of the nominations delivered to him in accordance with paragraph (1)."

5. At the end of Article 20H(2)(b), for "." substitute ", and", and immediately after that paragraph insert –

"(c) may apply any of those provisions, with or without modification, to any standing or ad hoc panel appointed pursuant to the powers and duties of any Committee of the States to carry out particular aspects of its mandate on that Committee's behalf."

6. The following Article is inserted between Article 20H and Article 22 -

**"Scrutiny.**

20I. (1) The States may by Ordinance make any such provision as might be made by Order in Council to facilitate the effective scrutiny by the Scrutiny Management Committee of the conduct, policies, use of resources, and activities in general, of any committee of the States of Guernsey, any person or statutory body whose functions include functions of a public nature, and any other organisation which is or has been in receipt of public funds.

(2) Without prejudice to the generality of the foregoing, an Ordinance made under this Article may in particular -

- (a) confer on witnesses appearing before the Scrutiny Management Committee or any standing or *ad hoc* panel appointed by that Committee immunity from civil or criminal proceedings in respect of words spoken before it or contained in any document submitted to and accepted by it as evidence,
- (b) provide that answers given, statements made, and (once accepted as evidence) documents produced, by such a witness shall not be admissible in evidence against that person in any other civil or criminal proceedings,

- (c) specify circumstances in which, and procedures in accordance with which, any immunity and exclusion described in paragraphs (a) and (b) respectively may be withdrawn by the person chairing a meeting of that Committee or any such panel,
- (d) make provision in respect of the power of the Scrutiny Management Committee to request any person to –
  - (i) appear before that Committee or any standing or *ad hoc* panel appointed by that Committee, and
  - (ii) give evidence and produce documents to that Committee or any such panel,
- (e) provide for any specified court in Guernsey, on the application of the Scrutiny Management Committee, to order any person to –
  - (i) appear before that Committee or any standing or *ad hoc* panel appointed by that Committee, and
  - (ii) give evidence and produce documents to that Committee or any

such panel, and

- (f) make it an offence, punishable on conviction by imprisonment for a term of up to 2 years and to a fine of up to level 5 on the Uniform Scale, for any person to –
  - (i) disobey an order of a Guernsey court requiring that person so to appear or to produce documents, or
  - (ii) refuse to be examined before, or to answer any lawful and relevant question put by, that Committee or panel,
  - (iii) knowingly or recklessly give false or misleading oral or written evidence to that Committee or panel,
  - (iv) obstruct, deter, harass or molest any person who has been required or requested to appear before or produce documents to that committee or panel.

(3) In this Article "**proceedings**" includes disciplinary proceedings before an internal or professional tribunal; and in this Article and Article 20E, "**the Scrutiny Management Committee**" means the States



Scrutiny Management Committee."

7. In Article 25, at the start of paragraph (2) insert "Subject to Article 34A (Application for name and address to be omitted from Electoral Roll)", and for "Christian names" substitute "forenames", and after paragraph (3) insert –

"(4) The Electoral Roll shall be divided into 10 sections whereof each shall represent one Parish."

8. In Article 26 –

(a) for the Article heading, substitute "The Electoral District, and polling stations",

(b) delete paragraph (1),

(c) for paragraph (2), substitute –

"(2) In the General Election to be held in 2020, and thereafter, for the purposes of elections to the office of People's Deputy Guernsey shall comprise one Electoral District returning 38 People's Deputies.",

(d) delete paragraph (2A), and

(e) in paragraph (3), delete "In each of the Districts," for "the Constables of the Parishes concerned" substitute "the Registrar-General", for "and the Constables of a Parish" substitute "and the Registrar-General", delete

"therein", and for "they" substitute "he".

9. In Article 27 –

(a) after paragraph (1A) insert –

"(1B) The Registrar-General may, on receipt of an application for inclusion on the Electoral Roll, request the applicant to provide evidence of his date of birth.

(1C) If in the opinion of the Registrar-General the applicant fails unreasonably to provide evidence of his date of birth on a request being made under paragraph (1B), or the evidence provided shows that the person is not entitled to be inscribed on the Electoral Roll, or the Registrar-General is otherwise not satisfied with the evidence provided, the Registrar-General –

(a) shall refuse to grant the application, if the evidence shows that the person is not entitled to be inscribed on the Electoral Roll, and

(b) may refuse to grant the application until evidence of the applicant's date of birth which he considers satisfactory is provided, in any other case.",

(b) in paragraph (2), after "this Law," insert "and to the provisions of any Ordinance made under section 15A of the Reform (Amendment) (Guernsey) Law, 1972", for "for a District" substitute "representing a Parish",

and for "that District" substitute "that Parish",

(c) for paragraph (3), substitute –

"(3) Subject to paragraph (3B), at an election the Central Returning Officer shall cause to be kept at each polling station by the Polling Station Officer a list (hereinafter referred to as "**a list of voters**") which shall, in respect of every person who voted at that polling station, specify his surname, the initials of his forenames and the number assigned to him pursuant to Article 25(2), and the Central Returning Officer shall cause the lists from each polling station to be compared and shall report to the Law Officers of the Crown the name and address of any person appearing to have voted more than once at that election."

(d) in paragraph (3A), delete "by the Returning Officer of each District", and for "Returning Officer" substitute "Central Returning Officer",

(e) after paragraph (3A) insert –

"(3B) The States' Assembly and Constitution Committee may, after consulting the Registrar-General, make regulations empowering the Central Returning Officer to provide to each Polling Station Officer a mechanism different from a list of voters for recording the details of persons voting at the Polling Station Officer's polling station, for the purpose of more efficiently identifying persons who have voted more than once at the election.

(3C) The States' Assembly and Constitution Committee may not make regulations under paragraph (3B) unless the Registrar-General has

confirmed that he is satisfied that the specified mechanism does not threaten the secret ballot in particular or the integrity of the election in general.

(3D) Regulations under paragraph (3B) may provide that the mechanism specified in the regulations –

- (a) shall be used instead of a list of voters, or
- (b) may be used as an alternative to, or in addition to, a list of voters.", and
- (f) after paragraph (4) insert –

"(5) For the purposes of this Part, a person is "**ordinarily resident**" in Guernsey during any period if throughout that period he was living lawfully in, and had his home in, Guernsey; and for these purposes a person may be ordinarily resident in Guernsey if he has no fixed or permanent address .".

10. In Article 28, for "and a person shall vote only in the District in respect of which his name appears in the Electoral Roll", substitute "and (subject to the provisions of any Ordinance made under Article 34B and under section 15A of the Reform (Amendment) (Guernsey) Law, 1972) a person shall vote only in the Parish in respect of which his name appears in the Electoral Roll".

11. In Article 29 in paragraph (1) delete "for any District" and "in respect of that District".

12. For Article 30 substitute –

**"Secret ballot, and number of votes that may be cast in a General Election.**

30. (1) Voting in an election for the office of People's Deputy shall be by secret ballot, carried out by means of a ballot paper marked in such a manner that its authenticity can be verified, and placed in a ballot box suitable for the purpose.

(2) In the General Election to be held in 2020 and at each General Election thereafter, a person entitled to vote in accordance with this Law may cast votes for up to 38 candidates."

13. In Article 31, for "a further election" to the end, substitute "the result shall be determined by the drawing of lots, overseen by the Central Returning Officer".

14. In Article 32 –

(a) in paragraph (1), for "on the section" to the end substitute "on the Electoral Roll, and shall otherwise be made in such form as the Presiding Officer of the States directs, and shall be delivered to the Presiding Officer not later than such time on such day as the Presiding Officer may appoint in accordance with a recommendation made by the States' Assembly and Constitution Committee",

(b) in paragraph (2), after "declaring" insert "-", label the remaining words of the paragraph "(a)" and after subparagraph (a) insert –

"(b) his unspent convictions which resulted in sentences of imprisonment as defined in the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 in any jurisdiction anywhere in the world, other than convictions in respect of an act or default which would not constitute an offence if committed in Guernsey; or, if he has no such unspent convictions, declaring that to be the case.", and

(c) for paragraph (3) substitute –

"(3) The Presiding Officer of the States may, in respect of any declaration made by a candidate under paragraph (2)(b), take such steps as he reasonably considers necessary and proportionate to verify the information in the declaration, and (subject, for the avoidance of doubt, to any court order to the contrary) he shall require such declarations to be destroyed as soon as reasonably practicable after the conclusion of the election to which they relate.".

**15.** In Article 33, delete "for that District".

**16.** In Article 34 –

(a) before paragraph (1), insert –

"(A1) Paragraphs (5) – (7) (relating to the publication and availability for inspection of the Electoral Roll) of this Article are subject to

Article 34A (application for name and address to be omitted from Electoral Roll).".

- (b) in paragraphs (4) and (5) for "District" substitute "Parish",
- (c) in paragraph (5), for "District" substitute "Parish", and in paragraphs (5) and (6), for "States' Assembly and Constitution Committee" substitute "Committee for Home Affairs",
- (d) after paragraph (8A), insert –

"(8AA) The Registrar-General may remove a person's name and address from the Electoral Roll on an application being made to him in accordance with this Article, or of his own volition in circumstances where he is satisfied that one of the grounds in paragraph (8A) is satisfied in respect of that person.",

- (e) for paragraph (9), substitute –

"(9) Subject to the provisions of any Ordinance made under Article 34B (Supplementary Electoral Roll) of this Law, and under section 15A (Ordinances as to postal voting, etc.) of the Reform (Amendment) (Guernsey) Law, 1972, the section of the Electoral Roll compiled and amended as in this Article provided in respect of each Parish shall constitute the Electoral Roll of that Parish and shall determine, subject to Articles 27(4) and 27A of this Law, whether or not a person is entitled to vote in that Parish at an election for any of the offices of People's Deputy, Constable or

Douzenier; and at any election a copy of the appropriate section shall be furnished free of charge by the Registrar-General to each Polling Station Officer, and each Polling Station Officer shall ensure that a copy is available at his polling station.",

(f) in paragraph (9A), for "the Returning Officer of each District" substitute "each Polling Station Officer",

(g) after paragraph 9(A), insert –

"(9B) In paragraphs 9 and 9A, references to a Polling Station Officer include references to the Returning Officer for the election where the election in question is an election to the office of Constable or Douzenier.",

(h) in paragraph (11A), after "paragraph (11)" insert "and the provisions of any Ordinance made under Article 34B", and

(i) delete paragraph (12).

17. After Article 34 insert –

**"Application for name and address to be omitted from Electoral Roll.**

**34A.** (1) A person may apply to the Registrar-General for the person's name and address to be omitted from the Electoral Roll published for inspection in accordance with paragraphs (5) to (7) of Article 34 and rules made thereunder (in this Article and Articles 35, 48A and 72B, the "**Published Electoral Roll**").



(2) For the avoidance of doubt, the omission of a person's name and address from the Published Electoral Roll in consequence of an application under paragraph (1) does not affect a person's entitlement to vote at an election.

(3) An application under paragraph (1) may only be made on the grounds that the person, his family or his property would be at risk of harm or damage if the person's name and address were included in the Published Electoral Roll, and shall be made in such form and manner and accompanied by such information, documents and other material as the Registrar-General may direct.

(4) On an application being made under paragraph (1), if the Registrar-General is satisfied that the grounds in paragraph (3) are made out, he shall grant the application and take all reasonable steps to ensure that the applicant's name and address are omitted from the Published Electoral Roll.

(5) In either of the circumstances set out in paragraph (6), the Registrar-General may inscribe or re-inscribe in the Published Electoral Roll the name and address of a person that have been omitted from the Published Electoral Roll pursuant to an application in accordance with this Article.

(6) Those circumstances are –

(a) on a request being made to the Registrar-General by the person, and

- (b) on the volition of the Registrar-General, where–
  - (i) the Registrar-General is satisfied that there are no longer grounds for the omission, and
  - (ii) the person has consented in writing to the inscription or re-inscription.

**Supplementary Electoral Roll.**

**34B.** (1) Subject to the provisions of paragraph (2), the States may by Ordinance make such provision from time to time as it thinks fit in respect of the creation of a Supplementary Electoral Roll, for the purpose of enabling persons eligible for inscription on the Electoral Roll who apply after the date of closure of the Electoral Roll prior to an election to be inscribed on that Supplementary Electoral Roll and to vote in that election, while maintaining the integrity of that election.

(2) Without prejudice to the generality of the foregoing, an Ordinance under this Article –

- (a) shall specify the period (which may be specified as ending on any date after the closure of the Electoral Roll and before the date of the election in question) during which a person may apply for inscription on the Supplementary Electoral Roll,
- (b) may provide that specified provisions of this

Law and the Reform (Amendment) (Guernsey) Law, 1972 apply *pari passu*, or with such modifications as may be specified, in respect of the Supplementary Electoral Roll as they apply in respect of the Electoral Roll, and

- (c) may place restrictions on the methods by which persons inscribed on the Supplementary Electoral Roll may vote in the election in question, including (but not limited to) providing that a person inscribed on the Supplementary Electoral Roll may not vote by postal vote."

**18.** In Article 35 –

- (a) in the heading, for "Electoral Roll" substitute "Published Electoral Roll and candidates' criminal conviction declarations",
- (b) in paragraph (1), at the start insert "Subject to rules made under paragraphs (2) and (3)," and for "Electoral Roll" substitute "Published Electoral Roll and of the declarations of candidates made under Article 32(2)(b) ("criminal conviction declarations")",
- (c) in paragraph (2), in each place for "Electoral Roll" substitute "Electoral Roll and the Published Electoral Roll", and for "States' Assembly and Constitution

Committee" substitute "Committee for Home Affairs",

(d) after paragraph (2), insert –

"(3) The States' Assembly 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 criminal conviction declarations shall be made available,
- (b) the manner in which, the means by which and the times and places at which copies of criminal conviction declarations shall be made available,
- (c) the charges and conditions subject to which copies of criminal conviction declarations shall be made available, and
- (d) the publication and making available for inspection of information relating to the verification of criminal conviction declarations.

(4) Subject to paragraphs (5) and (6), rules made under paragraph (2) may make different provision in relation to the availability of the Electoral Roll, and of the Published Electoral Roll.

(5) Rules made under paragraph (2) must provide that only the Published Electoral Roll shall be available to candidates.

(6) When making rules under this Article, the Committee for Home Affairs must consider whether such rules would create or increase a risk of harm of the type described in Article 34A(3)."

**19.** In Article 37, for the heading substitute "Election officers", and from paragraph (a) to the end substitute –

"(a) a Polling Station Officer for each polling station, who shall appoint such Deputy Polling Station Officers to assist him as he may deem necessary, and who shall have the duties set out in Article 38, and

(b) a Central Returning Officer, who shall appoint such Scrutineers to assist him as he may deem necessary, and who shall cause the votes cast in the Electoral District to be counted,

and every Polling Station Officer and the Central Returning Officer shall on appointment be sworn as such before the Royal Court."

**20.** For Article 38, substitute –

**"38.** (1) The Polling Station Officers shall supervise the conduct of the ballot in their respective polling stations and in particular shall seal the ballot boxes at the conclusion of the voting and shall hand the same to the

Central Returning Officer, who shall cause all the votes cast in the Electoral District to be counted and shall forthwith communicate the result of such count to the Presiding Officer of the States.

(2) The Central Returning Officer may make arrangements for votes cast in a general election to be counted electronically if in his opinion and the opinion of the Registrar-General those arrangements would not threaten the integrity of the election."

**21.** In Article 38A –

(a) in paragraph (1), delete "in an Electoral District", "at any place" and "in that district", and for "that place" substitute "the count", and

(b) in paragraph (3), in each place for "the Returning Officer" substitute "the Central Returning Officer".

**22.** For Article 38B(1), substitute –

"(1) A Polling Station Officer or Deputy Polling Station Officer may require any person who he considers is behaving in a disorderly or indecent manner in, or in the precincts of, a polling station to leave that polling station and its precincts.

(1A) The Central Returning Officer or any Scrutineer may require any person who he considers is behaving in a disorderly or indecent manner in, or in the precincts of, a place where votes are being counted to leave that place and its precincts."

23. In Article 38C for "returning officers" substitute "the Central Returning Officer, Polling Station Officers, Deputy Polling Station Officers".

24. For Article 39(2), substitute –

"(2) The States' Assembly and Constitution Committee may, after consulting the Registrar-General, make regulations from time to time varying the times at which the polling stations shall open and close and may so provide that specified polling stations, or polling stations in specified Parishes, shall open and close at different times."

25. In Article 40, for "each Returning Officer shall in respect of his District", substitute "the Central Returning Officer shall".

26. In Article 41 –

- (a) delete "in the District concerned",
- (b) for "the Returning Officer" substitute "the Central Returning Officer",
- (c) delete "for that District", and
- (d) delete "as to the result of the poll in respect of that District".

27. In Article 43, for "the Returning Officer" substitute "the Central Returning Officer".

28. In Article 44, for the title substitute "Expenditure by candidates and political parties", in paragraph (1) delete from "Save that nothing" to the end, and after paragraph (1) insert –

"(1A) An Ordinance under paragraph (1) may make provision in respect of expenditure by political parties, and by candidates in an election who are members of, or otherwise affiliated to, political parties and restrictions thereon; and such an Ordinance may set permitted levels of expenditure by candidates and by political parties, and make other related provision, including (but not limited to) allowing for candidates to transfer a defined percentage of their permitted expenditure as candidates to a political party, for that party to spend on promotion of the party and its policies.

(1B) Without prejudice to the generality of paragraph (1A), an Ordinance under paragraph (1) may provide that where a political party contravenes a restriction therein on expenditure by political parties, one or more specified officers of that political party shall be guilty of an offence and shall be liable on conviction to a fine not exceeding level 5 on the uniform scale."

29. After Article 44, insert –

**"Donations.**

44A. (1) The Third Schedule ("Donations"), which makes provision for the purposes of this Law in respect of -

- (a) when gifts, loans and the supply of goods and services are donations,



(b) the value to be attributed to a donation, and

(c) related matters,

shall have effect.

(2) A political party, or a candidate in an election for the office of People's Deputy, may not keep an anonymous donation; and for the purposes of this Law, a donation is anonymous if the recipient is unable to ascertain the identity of the donor.

(3) A political party, or a candidate in an election for the office of People's Deputy, may not keep a donation from –

(a) an individual, if that individual is not eligible to be inscribed on the Electoral Roll, or

(b) any legal person, unincorporated association or other body based outside Guernsey.

(4) A political party which, or candidate for the office of People's Deputy who, receives a donation of a type described in paragraphs (2) or (3) must, within ten working days of its receipt –

(a) return it to the donor, or

(b) send it to the Greffier for the Greffier to pay it to the States.

(5) The States' Assembly and Constitution Committee may issue guidance in respect of subsections (3) and (4).

(6) A candidate who fails to comply with a prohibition or requirement in this Article, and the treasurer of a political party which fails to comply with such a prohibition or requirement, is guilty of an offence and is liable on conviction to a fine."

**30.** In Article 45 –

(a) for the Article heading, substitute "Returns of expenditure by, and donations received by, candidates and political parties",

(b) in paragraph (1), for "the Returning Officer" substitute "the Central Returning Officer",

(c) after paragraph (1), insert –

"(1A) Every political party which supported or endorsed candidates at any election shall during the fourteen days next following the date of such election submit to the Central Returning Officer a return, in such form as the Central Returning Officer may direct, showing full particulars of all moneys or money's worth expended or given by that party in respect of its promotion of the party or its policies at such election, and shall submit therewith vouchers supporting such disbursements and a declaration in writing signed by two office-holders of the party that the particulars shown in such return are to the best of their knowledge and belief correct.

(1B) Every candidate at any election, and every political party which supported or endorsed candidates at any election, shall during the fourteen days next following the date of such election submit to the Central Returning Officer a return, in such form as the Central Returning Officer may direct, showing the donations received by that candidate or party in respect of the election of a value equal to or greater than £50 or, if no such donations have been received, a nil return, and shall submit therewith a declaration in writing signed by the candidate, or two office-holders of the party (as the case may be), that the particulars shown in such return are to the best of their knowledge and belief correct.

(1C) The States may by Ordinance amend the monetary figure in paragraph (1B).", and

(d) in paragraph (2), after "Any candidate" insert, "or any leader or treasurer of a political party,", and for "the last preceding Article", substitute "Article 44".

31. In Article 48 delete "-", "(a)", and from ", and" to the end.

32. After Article 48 insert –

**"Appeals.**

48A. (1) A person aggrieved by a decision of the Registrar-General to refuse to –

(a) inscribe or re-inscribe his name and address in the Electoral Roll,

- (b) remove his name and address from the Electoral Roll,
- (c) omit his name and address from the Published Electoral Roll under Article 34A, or
- (d) inscribe or re-inscribe his name and address in the Published Electoral Roll under Article 34A,

may appeal to the Court against the decision.

- (2) The grounds of an appeal under this Article are that -
  - (a) the decision was ultra vires or there was some other error of law,
  - (b) the decision was unreasonable,
  - (c) the decision was made in bad faith,
  - (d) there was a lack of proportionality, or
  - (e) there was a material error as to the facts or as to the procedure.
- (3) An appeal under this Article shall be instituted -
  - (a) within a period of 28 days immediately

following the date of the notice of the Registrar-General's decision, and

- (b) by summons served on the Registrar-General stating the grounds and material facts on which the appellant relies.

(4) The Registrar-General may, where an appeal under this Article has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and on hearing the application the Court may -

- (a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the Court may direct), or
- (b) make such other order as the Court considers just.

The provisions of this subparagraph are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007.

(5) On an appeal under this section the Court may -

- (a) set the decision of the Registrar-General aside and, if the Court considers it appropriate to do so, remit the matter to the Registrar-General with such directions as the Court thinks fit, or

(b) confirm the decision.

(6) An appeal from a decision of the Court under this Article lies to the Court of Appeal on a question of law.

(7) In this section "**the Court**" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats.

**Political Parties.**

**48B.** The Fourth Schedule (Political Parties) shall have effect.

**False, deceptive or misleading statements in respect of criminal conviction declarations.**

**48C.** (1) A person commits an offence if, when making a declaration under Article 32(2)(b) (a criminal conviction declaration) he does any of the following –

- (a) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (b) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (c) produces or furnishes or causes or permits to be

produced or furnished any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or

- (d) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular.

(2) A person who commits an offence under this Article is liable on conviction to imprisonment for a term not exceeding 2 years, or to a fine not exceeding twice level 5 on the uniform scale, or to both.

(3) Where a person is convicted of an offence under this Article, the States may by Resolution declare that he is ineligible to hold office as a People's Deputy, or as a member of a States' Committee who is not a People's Deputy, until the next General Election for the office of People's Deputy; and where the States makes a Resolution under this subparagraph in respect of such a person –

- (a) that person may not hold such office for that period, as set out in the Resolution of the States, and
- (b) if that person is currently holding office as a People's Deputy, that office shall immediately be vacated."

33. In Article 49, insert the following definitions in the appropriate place–

""**Central Returning Officer**": see Article 37,"

""**Deputy Polling Station Officer**": see Article 37,"

""**donation**" and related terms: see the Third Schedule,"

""**ordinarily resident**": see Article 27(5),"

""**Polling Station Officer**": see Article 37," and

"**Published Electoral Roll**": see Article 34A(1)".

34. For the heading of Part V substitute "Election of Parish Officials".

35. Renumber the text of Article 53 as paragraph (1) and after paragraph (1) insert –

"(2) The States may by Ordinance make such further provision as may be necessary or expedient to modify the application of the provisions of Part IV of this Law to elections to the offices of Constable and Douzenier."

36. After Article 61 insert –

**"Election of other Parish officials."**



**61A.** (1) Subject to the provisions of paragraph (2), the procedure for electing parochial officers other than Constables and Douzeniers (including the elected members of committees established by Parishes) shall be that prescribed, in such manner as it thinks fit, by the Douzaine of the Parish concerned.

(2) Before prescribing a procedure under paragraph (1), the Douzaine of the Parish concerned shall consult Her Majesty's Procureur."

**37.** After Article 72A, insert –

**"General Election Observers.**

**72B.** (1) The States' Assembly and Constitution Committee may, after consultation with the Policy & Resources Committee, appoint one or more observers of a General Election.

(2) The States' Assembly and Constitution Committee shall, as soon as possible after making an appointment under subparagraph (1), present a report to the States of Deliberation informing the States of the appointment.

(3) An observer appointed under subparagraph (1) shall have the right –

(a) to be provided by the Registrar-General with a copy of the Published Electoral Roll,

(b) to be present in any polling station –

- (i) while preparations are being made to open the poll,
  - (ii) during the poll, and
  - (c) to be present during any count of the votes cast in the election.
- (4) When exercising a right conferred by paragraph (3) an observer must not –
  - (a) attempt to influence a voter, or
  - (b) do anything to compromise the secrecy or integrity of voting in an election.
- (5) When exercising a right conferred by paragraph (3) an observer must comply with any direction given to him by the Central Returning Officer, a Polling Station Officer or a Deputy Polling Station Officer.
- (6) A person who contravenes paragraph (4) or (5) is guilty of an offence and is liable on conviction to a fine not exceeding level 5 on the Uniform Scale.
- (7) The States may by Ordinance make further provision in relation to observers appointed under this Article.

**Costs of elections.**

72C. The States shall bear the costs of the election of Jurats and of

elections to the office of People's Deputy, and each Parish shall bear the costs of the election of its officers.".

38. Article 74 (Limitation of the application of the Secret Ballot Laws) is repealed.

39. After Article 77 (Savings) insert –

**"Power to amend Third and Fourth Schedules by Ordinance.**

77A. The States may by Ordinance amend the Third and Fourth Schedules to this Law.

**General provisions as to Ordinances.**

77B. (1) An Ordinance under this Law -

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
- (b) may contain such consequential, incidental, supplementary, savings and transitional provision as may appear to be necessary or expedient, including provision amending any enactment.

(2) Any power conferred by this Law to make an Ordinance 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 class of case for different purposes,

(iii) any such provision either unconditionally or subject to any prescribed conditions.

**General provisions as to regulations.**

77C. (1) Any regulations under this Law-

(a) may be amended or repealed by subsequent regulations hereunder,

(b) may contain such consequential, incidental, supplemental and transitional provision as may

appear to the States' Assembly and Constitution Committee or the Committee for Home Affairs (as the case may be) to be necessary or expedient,

- (c) shall be laid before a meeting of the States of Deliberation as soon as possible and shall, if at that or the 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 regulations.

(2) Any power conferred by this Law to make regulations 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,
- (iii) any such provision either unconditionally or subject to any prescribed conditions."

40. In Article 78, after "the States' Assembly and Constitution Committee" insert "and the Committee for Home Affairs".

41. The First Schedule (Allocation of Deputies between Electoral Districts) is repealed.

42. The schedule set out in Schedule 1 to this Law shall be inserted as the Third Schedule.

43. The schedule set out in Schedule 2 to this Law shall be inserted as the Fourth Schedule.

#### **Amendment of the 1972 Law.**

44. (1) The Reform (Amendment) (Guernsey) Law, 1972<sup>e</sup> is amended

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<sup>e</sup> Ordres en Conseil Vol. XXIII, p. 476; as amended by Ordres en Conseil Vol. XXVI, p. 255; Vol. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, p. 295; Order in Council No. XIII of 2003; No. VII of 2010; Ordinance No. III of 2004; No. LI of 2006; and No. XIII of 2012.

as follows.

(2) After section 15A (1), insert –

"(1A) Without prejudice to the generality of subsection (1), an Ordinance under that subsection may make provision in relation to voting at polling stations before the date appointed for the holding of the election in question, and may provide for a person to vote in an election at a polling station outside the Parish in respect of which his name appears on the Electoral Roll, and the principal Law shall be construed accordingly."

**Power to make transitional, savings and consequential provisions by Ordinance.**

45. (1) The States of Deliberation may by Ordinance make any transitional, savings or consequential provisions they think fit in connection with the commencement of any provision of this Law.

(2) Without limiting subsection (1), an Ordinance under that subsection may –

(a) repeal, revoke or amend any provision of any enactment that is inconsistent with any provision of this Law, and

(b) make any other consequential amendments to any enactment that the States of Deliberation think fit.

(3) In this section, "enactment" excludes an Act of Parliament that applies or extends to the Bailiwick.

**Repeals.**

46. (1) Section 1(4) of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978<sup>f</sup> is repealed.

(2) The Loi relative au Scrutin Secret, 1899<sup>g</sup> is repealed.

(3) The Loi modifiant la Loi relative au Scrutin Secret, 1911<sup>h</sup>, the Loi modifiant la Loi relative au Scrutin Secret, 1917<sup>i</sup> and the Loi Supplémentaire à la Loi relative au Scrutin Secret, 1925<sup>j</sup> are repealed.

**Citation.**

47. This Law may be cited as the Reform (Guernsey) (Amendment) (No.2) Law, 2019.

**Commencement.**

48. 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.

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<sup>f</sup> Ordres en Conseil Vol. XXVI, p. 264; there are amendments not relevant to this enactment.

<sup>g</sup> Ordres en Conseil Vol. III, p. 175; as amended by Ordres en Conseil Vol. IV, p. 392; Vol. V, p. 444; Vol. VII, p. 310; No. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, p. 150; Vol. XXXVIII, p. 295; and Order in Council No. XIII of 2003.

<sup>h</sup> Ordres en Conseil Vol. IV, p. 392.

<sup>i</sup> Ordres en Conseil Vol. V, p. 444.

<sup>j</sup> Ordres en Conseil Vol. VII, p. 310.



Article 42

## SCHEDULE 1

"Article 44A

## THIRD SCHEDULE

## DONATIONS

**Money.**

1. (1) A gift of money is a donation if –
  - (a) it is made at any time before the date of the election and the giver signifies, expressly or otherwise, that the money is intended for use to pay the recipient's election expenses, or
  - (b) it is made after the time and date appointed by the Presiding Officer of the States for the closing of nominations under Article 32(1), and is either made anonymously or the giver does not signify the intended use of the money.
- (2) A loan of money is a donation if –
  - (a) it is made either at no cost to the recipient or on terms below the commercial rate for the loan, and
  - (b) it is made –

- (i) at any time before the election and the lender signifies, expressly or otherwise, that the loan is intended for use to pay the recipient's election expenses, or
- (ii) after the time and date appointed by the Presiding Officer of the States for the closing of nominations under Article 32(1), and is either made anonymously or the lender does not signify the intended use of the loan.

(3) A gift or loan of money is made at the time when the money is given or lent to the recipient or, if earlier, the time when the giver or lender informs the recipient of his intention to make the gift or loan.

**Goods and services.**

2. (1) A supply of goods (including by way of loan or rental) or a supply of services is a donation if -

- (a) it is made free of charge or at a discount to the open market value of or rate for the supply of the goods or services, and
- (b) it is made -
  - (i) at any time before the election, and the person making the supply signifies, expressly or otherwise, that the goods or services are intended for use to promote or procure the

candidate's election,

- (ii) after the time and date appointed by the Presiding Officer of the States for the closing of nominations under Article 32(1), and is either made anonymously or the person making the supply does not signify the intended use of the goods or services.

(2) A supply of goods or services is made at the time when the goods or services are provided to the recipient.

**Value attributable to loans, goods and services.**

3. (1) The value of a donation that is a loan of money is the amount equal to the difference between the cost to the recipient if the loan had been made on commercial terms, and the actual cost to the recipient.

(2) The value of a donation of goods is the amount equal to the difference between the open market value of the goods and the actual cost to the recipient.

(3) The value of a donation of the use of goods is the amount equal to the difference between the open market rate for the use of the goods and the actual cost to the recipient.

(4) The value of a donation of the supply of services is the amount equal to the difference between the open market value rate for their supply and the actual cost to the recipient.

**Exceptions: States Committees, and services of an individual provided without charge.**

4. (1) If a Committee of the States disseminates information about or on behalf of candidates in an election on the same terms to each candidate, that Committee is not making a donation.

(2) If an individual is providing his own services, that individual is not making a donation if those services are provided -

- (a) as a volunteer,
- (b) without charge, and
- (c) otherwise than in the course of the individual's employment, trade, profession or any other business.

**Exceptions: newspapers and broadcasts.**

5. (1) Subject to subparagraph (2), the publication of any matter relating to an election –

- (a) in a newspaper or periodical circulating in Guernsey,
- (b) in a programme broadcast by a television or radio service provider, or
- (c) on a website as part of the news service of a television or radio service provider or news agency,

is not a donation.

(2) Subparagraph (1) does not apply to an advertisement.

(3) Where the publisher of a newspaper or periodical circulating in Guernsey also publishes an edition of the newspaper or periodical on the internet, the reference in subparagraph (1)(a) to a newspaper or periodical includes the edition of it published on the internet.

(4) Where a television or radio service provider makes a programme accessible by streaming or downloading from a website, the reference in subparagraph (1)(b) to the broadcast programme includes the programme as it may be accessed from a website."

Article 43

## SCHEDULE 2

"Article 48B

## FOURTH SCHEDULE

## POLITICAL PARTIES

**Political parties must be registered.**

1. (1) A political party may not support or endorse any candidate for election to the office of People's Deputy unless it is registered under this Schedule.

(2) For the purposes of this Law, a "**political party**" means a free association of persons, one of the aims of which is to participate in the management of public affairs, including through the presentation of candidates to free and democratic elections.

**Application for registration as a political party.**

2. (1) A political party that wishes to be registered under this Schedule shall apply to the Greffe.

(2) A political party that wishes to be registered under this Schedule must have a leader, treasurer and secretary, all of whom must be natural persons; and for the avoidance of doubt, a person may hold more than one such office.

(3) Subject to subparagraph (4), an application under subparagraph (1) shall be in such form as the Greffe may from time to time direct.

(4) An application under subparagraph (1) must contain the following information in respect of the political party –

- (a) its name, and any abbreviation of its name,
- (b) its emblem (if any),
- (c) the full names of its leader, treasurer and secretary and any other office-holders,
- (d) its constitution (setting out information relating to the purpose and structure of the party including but not limited to its aims and objectives, one of which must be the support or endorsement of candidates for the office of People's Deputy, and its membership rules),
- (e) its most recent financial accounts, prepared in line with generally accepted accounting standards, and
- (f) its postal address in Guernsey,

and must be signed by at least two members of the party who are inscribed on the Electoral Roll.

(5) An application under subparagraph (1) must be accompanied by such fee not exceeding £200 as the States' Assembly and Constitution Committee may prescribe by regulations.

**Determination of application for registration as a political party.**

3. (1) The Greffier shall determine applications for registration as a political party.

(2) Subject to subparagraph (3), the Greffier must grant an application for registration as a political party if he is satisfied that the application complies with the requirements set out in paragraph 2.

(3) The Greffier may not grant an application for registration as a political party if in his opinion the name, any abbreviation of the name, or emblem of the political party is –

- (a) offensive or otherwise inappropriate, or
- (b) the same as the name, abbreviation or emblem of any other organisation, or of such similarity to the name, abbreviation or emblem of another organisation that it might reasonably be confused with it.

**The Register of Political Parties.**

4. (1) The Greffier shall establish and maintain a Register of Political Parties (in this Schedule, "**the Register**").

(2) The Register shall be kept in such form as the Greffier thinks fit, including in electronic form only.



(3) Where the Greffier grants an application for registration of a political party, he must register that party by entering in the Register the information set out at subparagraphs 2(4)(a) – (f) in respect of that party.

**Public inspection of the Register and other documents.**

5. A person may inspect the Register, and any document filed pursuant to a requirement imposed by this Schedule, at the Greffe during normal office hours.

**Change of name or emblem of registered political party.**

6. (1) A registered political party may apply to the Greffier for the name, any abbreviation of that name, or the emblem of a registered political party to be changed.

(2) An application under subparagraph (1) shall be signed by the leader, treasurer or secretary of the party and accompanied by evidence that the decision to make the change was made in accordance with the party's constitution.

(3) An application under subparagraph (1) must be accompanied by such fee not exceeding £100 as the States' Assembly and Constitution Committee may prescribe by regulations.

(4) The Greffier must grant an application under subparagraph (1) if he is satisfied that the application complies with the requirements set out in paragraphs (2) and (3) and he is not of the opinion set out in paragraph 3(3).

**Change of other particulars of registered political party.**

7. (1) A registered political party must notify the Greffier in writing of a change to any of the following –

- (a) its constitution,
- (b) its leader, treasurer or secretary, or
- (c) its postal address.

(2) A notification under paragraph (1) must be made within ten working days of the change in question occurring, and shall be signed by the leader, treasurer or secretary of the political party and accompanied by evidence that the decision to make the change was made in accordance with the party's constitution.

(3) Where the change was to the political party's constitution, the notification must be accompanied by a copy of the new constitution.

(4) On receipt of a notification under this paragraph, if he is satisfied that it complies with subparagraphs (2) and (3), the Greffier must enter the notified particulars in the Register.

#### **Accounts.**

8. During the month of February each year the treasurer of a registered political party must file with the Greffier financial accounts, for the previous calendar year (or for the part of the previous calendar year it has been a registered political party, if shorter), prepared in line with generally accepted accounting standards.

#### **Removal from the Register.**

9. (1) The Greffier shall remove a political party from the Register –

- (a) upon an application being made to the Greffier that is signed by the leader and one other office-holder of the party, and that is accompanied by evidence that the decision to apply for removal from the Register was made in accordance with the party's constitution,
- (b) of his own volition if he is satisfied that –
  - (i) the party has not supported or endorsed a candidate for election to the office of People's Deputy at either of the two previous general Elections,
  - (ii) the party has failed to comply with paragraphs 7 (Change of other particulars of registered political party) or 8 (Accounts), or
  - (iii) the party has ceased to exist or is otherwise no longer functioning as a political party.

(2) Unless he is satisfied that the party has ceased to exist, the Greffier must notify the party at least two months before removing it from the Register under subparagraph (1)(b).

### **Appeals.**

- 10. (1) A person aggrieved by a decision of the Greffier to –
  - (a) refuse to grant an application to register a political party,

- (b) refuse to grant an application to change the name or emblem of a registered political party, or
- (c) remove a political party from the Register.

may appeal to the Court against the decision.

(2) The grounds of an appeal under this Article are that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(3) An appeal under this section shall be instituted -

- (a) within a period of 28 days immediately following the date of the notice of the Greffier's decision, and
- (b) by summons served on the Greffier stating the grounds and material facts on which the appellant relies.

(4) The Greffier may, where an appeal under this section has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and on hearing the application the Court may -

- (a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the Court may direct), or
- (b) make such other order as the Court considers just.

The provisions of this subparagraph are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007.

(5) On an appeal under this paragraph the Court may -

- (a) set the decision of the Greffier aside and, if the Court considers it appropriate to do so, remit the matter to the Greffier with such directions as the Court thinks fit, or
- (b) confirm the decision.

(6) An appeal from a decision of the Court under this Article lies to the Court of Appeal on a question of law.

(7) In this paragraph "**the Court**" means the Royal Court sitting as

an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats."