

# ORDER IN COUNCIL

**III**  
**1998**

ratifying a Projet de Loi

ENTITLED

## **The Reform (Amendment) (Guernsey) Law, 1998**

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(Registered on the Records of the Island of Guernsey  
on the 26th May, 1998.)

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**1998**

## ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 26th day of May, 1998 before de Vic Graham Carey, Esquire, Deputy Bailiff; present:- Leonard Arthur Moss, John Richard Rowe Henry, David Charles Lowe, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin and David Michael Jory, Esquires, Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 22nd April, 1998, approving and ratifying a Projet de Loi entitled "The Reform (Amendment) (Guernsey) Law, 1998", 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 of which Order in Council the tenor followeth:-

## At the Court at Windsor Castle

The 22nd day of April 1998

PRESENT,

### The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 14th day of April 1998 in the words following, viz.:-

"YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:-

"1. That, in pursuance of their Resolution of the 24th day of September 1997, the States of Deliberation at a meeting held on the 18th day of December 1997 approved a Bill or "Projet de Loi" entitled "The Reform (Amendment) (Guernsey) Law, 1998", and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto.  
2. That the said Bill or "Projet de Loi" is as set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "The Reform (Amendment) (Guernsey) Law, 1998", and to order that the same shall have force of law in the Islands of Guernsey, Herm and Jethou."

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of law within the Islands of Guernsey, Herm and Jethou.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*N. H. Nicholls*



**Projet de Loi**  
**entitled**

**The Reform (Amendment) (Guernsey) Law, 1998**

**THE STATES**, in pursuance of their Resolution of 24th September, 1997<sup>1</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.

**Election of Douzaine Representatives**

- 1.** For Article 14(1) of the Reform Law there is substituted:

"(1) The Douzaine of each parish shall elect one Douzaine Representative from that Douzaine:

- (a) in each year during which a General Election for the office of People's Deputy is required by this Law to be held, during the period beginning on 1st February and ending on the third day (not counting any intervening Saturday, Sunday or Public Holiday) before the day appointed by the President of the States under Article 32(1) of this Law for the close of nominations for candidates at that General Election,
- (b) in every other year, during the period beginning on 1st February and ending on 31st March;

and, subject to Article 17 of this Law, the person so elected shall sit as a member of the States of Deliberation during the period of 12 months commencing on 1st May of that year."

**Presence of candidates etc. at count**

- 2.** (1) Immediately after Article 38 of the Reform Law the following Article is inserted:

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<sup>1</sup> on Article 9 of Billet d'État No. XVIII of 1997.

**"Presence of candidates etc. at count**

38A(1) Throughout the time during which the votes cast at an election in an Electoral District are being counted at any place, any candidate in that district is entitled to be present at that place if he has complied, and for so long as he continues to comply, with this Article and all rules made thereunder.

(2) A candidate may, in accordance with any rules made under this Article, nominate one other person to exercise his entitlement under paragraph (1) of this Article in place of, but not as well as, himself.

(3) A candidate or his nominated representative present at any counting of votes pursuant to this Article -

- (a) is to be given by the Returning Officer all such reasonable facilities for overseeing the proceedings, and all such information in respect of them, as can be given consistently with their orderly conduct and the proper discharge of the Returning Officer's duties in connection with them; but
- (b) must not impede the efficient counting of votes; and
- (c) must comply with all rules made under this Article and with all reasonable directions given by the Returning Officer.

(4) The Constitution of the States Review Committee may make rules under this Article -

- (a) requiring candidates who intend to be present at any counting of votes to notify such persons, within such times and in such manner as the rules may specify;
- (b) limiting the description of persons who may be nominated by candidates pursuant to paragraph (2) of this Article, and making provision as to notifications concerning persons so nominated;
- (c) regulating the conduct of persons present at any counting of votes pursuant to this Article;
- (d) making provision generally for the rights conferred by this Article to be exercised without affecting the fairness and efficiency of the counting of votes.

(5) All rules made under this Article shall be laid as soon as possible before a meeting of the States; and if at that or their next meeting the States resolve to annul them then the rules shall cease to have effect, but without prejudice to anything done under the rules or to the making of new rules under this Article."

(2) Immediately after section 6(2)(c) of the Reform (Election of Conseillers and Minor Amendments) (Guernsey) Law, 1993<sup>2</sup> the following paragraph is inserted:

"(cA) Article 38A applies subject to the following modifications:

- (i) in paragraph (1), delete "in an Electoral District" and "in that district";

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<sup>2</sup> Order in Council No. V of 1993.

- (ii) at the end of the words in paragraph (2) insert "in respect of each place at which the votes cast in that election are being counted, or any of them".

### **Maintenance of order at elections**

3. Immediately after Article 38A of the Reform Law (as inserted by section 2(1) of this Law) the following Article is inserted:

#### **"Maintenance of order at elections**

**38B(1)** A Returning Officer, or any person appointed by him to be in charge of a polling station, may require any person who he considers is behaving in a disorderly or indecent manner in, or in the precincts of, a polling station or a place where votes are being counted to leave that polling station or place and its precincts.

- (2) Any person who -
  - (a) behaves in a disorderly or indecent manner in, or in the precincts of, a polling station or a place where votes are being counted; or
  - (b) fails to comply with a requirement imposed under paragraph (1) of this Article; or
  - (c) contravenes paragraph (b) or paragraph (c) of Article 38A(3) of this Law,

is guilty of an offence 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."

### **Election of Constables and Douzeniers**

4. (1) Immediately after Article 52 of the Reform Law the following Article is inserted:



**"Terms of office and casual vacancies**

**52A**(1) Subject to Articles 17(2) and 51 of this Law, and to paragraph (2) of this Article -

- (a) the term of office of a Douzenier shall be six years commencing on 1st January following his election, and
- (b) the term of office of a Constable shall be three years commencing on 1st January following his election.

**PROVIDED THAT** if a Constable notifies the Dean of his Parish's Douzaine before the end of October in his first or second year of office that he so wishes then his term of office shall expire at the end of that year;

**BUT PROVIDED FURTHER THAT** if both Constables of a parish give such notice in the same year only that given by the Senior Constable shall be effective.

(2) If a Constable or Douzenier dies, ceases to reside in the parish concerned, or is discharged from his office by the Royal Court -

- (a) the resulting casual vacancy shall be filled by an election if it occurred more than five whole months before the end of the term of the office vacated, and in any other case may be so filled at the discretion of the Dean of the Parish's Douzaine;
- (b) a person elected to fill such a vacancy shall take office upon complying with Article 61 of this Law and shall hold office (subject to Articles 17(2) and 51 of this Law, and to paragraph (3) of this Article) for the remainder of the term of the office vacated.

(3) In the case of a person elected to fill a casual vacancy in the office of Constable -

- (a) for the purposes of both subparagraphs (a) and (b) of paragraph (2) of this Article any notice given before the occurrence of the vacancy under the proviso to subparagraph (1)(b) of this Article shall be taken into account; and
- (b) if no such notice has been given by his predecessor, he shall be entitled to give any such notice as his predecessor could have given if the vacancy had not occurred."

(2) For Article 54(1) of the Reform Law there is substituted:

"(1) In any election

- (a) for the office of Constable, the Dean of the Parish concerned, or if he is absent, indisposed or otherwise unable to act the Vice-Dean, or if both are absent, indisposed, or otherwise unable to act, a Douzenier appointed in that behalf by the Douzaine,
- (b) for the office of Douzenier, the Senior Constable of the Parish concerned, or if he is absent, indisposed or otherwise unable to act the Junior Constable, or if both are absent, indisposed or otherwise unable to act, a Douzenier appointed in that behalf by the Douzaine

shall be responsible for fixing the place of the electors' meeting, for fixing the date and time of the election, and for the conduct of the election."

(3) In Article 57 of the Reform Law, for "at least seven clear days before the date fixed for the election" there is substituted "not later than 16.00 on the seventh day (not counting any intervening Saturday, Sunday or Public Holiday) before the day fixed for the holding of the election".

### **Marking of ballot papers**

5. In article 6 of the Loi relative au Scrutin Secret, 1899<sup>3</sup> immediately after the words "devra faire une croix" there is inserted "ou une coche".

### **Interpretation and construction**

6. (1) In this Law "the Reform Law" means the Reform (Guernsey) Law, 1948<sup>4</sup> as amended<sup>5</sup>

(2) This Law is to be construed as one with the Reform Law.

### **Citation and collective title**

7. (1) This Law may be cited as the Reform (Guernsey) Law, 1998.

(2) This Law and the Reform (Guernsey) Laws, 1948 to 1996 may be cited together as the Reform (Guernsey) Laws, 1948 to 1998.

### **Commencement and transitional provisions**

8. (1) This Law shall come into force on the day following its registration on the records of Guernsey.

(2) The substitution effected by section 1 of this Law does not apply so as to invalidate or preclude the election of any Douzaine Representative during April 1998.

(3) With regard to the new Article 52A inserted in the Reform Law by section 4(1) of this Law:

(a) the term of office of a Douzenier elected before the commencement of this Law at an election in consequence

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<sup>3</sup> Ordres en Conseil Vol. III, p.175; Vol. IV, p.392; Vol. V, p.444; Vol. VII, p.310.

<sup>4</sup> Ordres en Conseil Vol. XIII, p.288.

<sup>5</sup> Ordres en Conseil Vol. XIV, p.407; Vol. XV, p.279; Vol. XVI, p.178; Vol. XVIII, p.275; Vol. XIX, pp.84 and 140; Vol. XXII, p.122; Vol. XXIII, p.476; Vol. XXV, p.326; Vol. XXVI, p.255; Vol. XXVIII, p.581; Vol. XXIX, p.56; Vol. XXX, p.16; Vol. XXXI, p.58 and p.164; No. II of 1990; No. V of 1993; Nos. II and XI of 1996.

of a casual vacancy is to be computed without reference to the new Article 52A(2)(b); but

- (b) within two months following the commencement of this Law,
  - (i) the Douzaine of each Parish must ascertain whether for the purposes of any election of Douzeniers required by law to be held during the next six years it is necessary to determine seniority as between two or more Douzeniers who took office on the same day; and
  - (ii) any Douzeniers as between whom that matter does need to be determined must make the determination themselves (by drawing lots if they cannot agree) and report it to their Douzaine for inclusion in the minutes of the Douzaine,

whereupon that determination shall irrevocably fix the seniority for electoral purposes of those Douzeniers.

(4) The amendment made by section 4(3) of this Law does not apply in the case of any election for which the date has been fixed before the commencement of this Law.