

# ORDER IN COUNCIL

**XXVII**  
**1986**

ratifying a Projet de Loi

ENTITLED

## **The Administrative Decisions (Review) (Guernsey) Law, 1986**

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(Registered on the Records of the Island of Guernsey  
on the 17th February, 1987.)

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**1986**

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 17th day of February, 1987 before Sir Charles Frossard, Kt., Bailiff; present:—Donald Pescott Plummer, Brian Ernest Herbert Joy, Esquires, Charles Henry Hodder, Esquire, O.B.E., Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, John Christopher Bulstrode, Stanley Walter John Jehan, Raymond Arthur Heaume and Leonard Arthur Moss, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 16th day of December, 1986, approving and ratifying a *Projet de Loi* entitled "The Administrative Decisions (Review) (Guernsey) Law, 1986", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

# **At the Court at Buckingham Palace**

The 16th day of December 1986

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 9th day of December 1986 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 Résolution of the 30th day of October 1985, the States of Deliberation at a meeting held on the 24th day of September 1986 approved a Bill or “Projet de Loi” entitled “The Administrative Decisions (Review) (Guernsey) Law, 1986”, 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 might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Administrative Decisions (Review) (Guernsey) Law, 1986”, 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.

*G. I. de Deney.*



# PROJET DE LOI

## ENTITLED

### **The Administrative Decisions (Review) (Guernsey) Law, 1986**

THE STATES, in pursuance of their Resolution of the 30th day of October, 1985, 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.

1. Where any person (hereinafter referred to as "the complainant") is aggrieved by any decision made, or any act done or omitted, relating to any matter of administration by any Committee of the States or by any person acting on behalf of any such Committee, he may apply to the States Supervisor to have the matter reviewed by a Review Board constituted in accordance with this Law (hereinafter referred to as a "Board"):

Application  
by com-  
plainant for  
review of  
administra-  
tive decision.

Provided that—

(a) where the matter complained of relates to any matter of administration by the States Advisory and Finance Committee or by any person acting on behalf of that Committee;

or

(b) the complainant is a member on the staff of that Committee;

the application under this section shall be made to Her Majesty's Greffier.

Action by  
States Super-  
visor or Her  
Majesty's  
Greffier.

2. On receipt of an application made under section 1 of this Law the States Supervisor or Her Majesty's Greffier, as the case may be, shall enquire into the facts of the matter and, if satisfied as a result of his enquiries that the circumstances justify a review of the matter by a Board, he shall refer the matter to the Chairman of the Panel of Members who shall, as soon as may be, appoint a Board in accordance with this Law and thereafter forthwith refer the matter to the Board so constituted for the Board's action in accordance with this Law.

Cases where  
complaints  
shall not be  
referred to  
the Chair-  
man.

3. The States Supervisor or Her Majesty's Greffier, as the case may be, shall not refer any complaint under this Law to the Chairman if in his opinion—

- (a) the matter complained of is not within the jurisdiction of a Board;
- (b) the matter complained of relates to a decision, act or omission of which the complainant has had knowledge for more than twelve months;
- (c) the subject matter of the complaint is trivial;
- (d) the complaint is frivolous, vexatious or is not made in good faith;
- (e) the complainant has not a sufficient personal interest in the subject matter of the complaint;
- (f) the complainant has in respect of the matter complained of a right of appeal, reference or review to or before a tribunal constituted by or under any enactment or a remedy by way of proceedings in any court of law

unless, in any such case, the States Supervisor or Her Majesty's Greffier, as the case may be, is satisfied that in the particular circumstances it is not reasonable to expect the complainant to resort to or to have resorted to that right or remedy.

4. (1) Boards shall be constituted from a Panel of Members consisting of— The Panel  
of Members.

(a) Members of the States of Deliberation for the time being who have held a seat in the States for a period of three years or more (hereinafter referred to as "the Members"); and

(b) Deans for the time being of every Douzaine of the Parishes of the Island of Guernsey (hereinafter referred to as "the Deans").

(2) The States shall every year elect one of the Members to be Chairman, and one of the Deans to be Deputy Chairman, of the Panel of Members: Provided that a Dean who is a Member of the States of Deliberation shall not be appointed Deputy Chairman.

(3) The Chairman and Deputy Chairman shall each hold office for a period of one year computed from the first day of May in the year of his election.

(4) Where any Member of the Panel ceases to be qualified for membership of the Panel in accordance with the provisions of paragraph (a) or (b) of subsection (1) of this section he shall forthwith be deemed to have ceased to be a Member of the Panel; and, in that event, where such a person holds also the office of Chairman or Deputy Chairman he shall equally forthwith be deemed to have ceased to be Chairman or Deputy Chairman, as the case may be.



Appoint-  
ment of  
Board.

5. A Board shall be composed of three persons selected from the Panel of Members and appointed by the Chairman after consultation with the Deputy Chairman and, in appointing those persons, the Chairman shall have regard to the subject matter of the complaint to ensure that a member of a Board is not a member of a Committee which is in any way concerned with the complaint in question:

Provided that where the Chairman is a member of a Committee which is in any way concerned with the complaint in question, the selection and appointment of persons constituting a Board under this section shall be made solely by the Deputy Chairman.

Calling of  
documents  
and hearing  
of evidence.

6. For the purposes of this Law a Board, the States Supervisor and Her Majesty's Greffier, as the case may be, shall have power to call for documents from any Committee or officer or employee of any Committee and to hear any person in connection with any complaint:

Provided—

- (a) that the power conferred under this section regarding the calling of documents and hearing of evidence shall not extend to the calling of any document containing, or the hearing of any evidence upon, any information the disclosure of which is prohibited under or by virtue of any provisions of any enactment or is confidential or privileged from disclosure under or by virtue of any enactment, custom or rule of law;
- (b) that a witness before a Board, the States Supervisor or Her Majesty's Greffier for the purpose of enquiring into any complaint

under this Law shall be entitled to the same immunities and privileges as if he were a witness before the Royal Court.

7. (1) A Board shall, with the least possible delay, enquire into any complaint referred to it under this Law and for this purpose shall regulate its own procedure: Action by Board.

Provided that every sitting of the Board to enquire into any complaint referred to it under this Law shall be held in public unless the public is excluded therefrom (whether during the whole or part of the proceedings) by decision of the Board whenever the Board is of the opinion that it would not be in the public interest expedient for such sitting to be held in public for reasons connected with the subject-matter of the complaint or the nature of the evidence to be given.

(2) After completing its enquiry, a Board shall report its findings in writing to the complainant and to the Committee, or person concerned.

(3) Where a Board after making enquiry as aforesaid is of opinion that the decision, act or omission which was the subject matter of the complaint—

- (a) was contrary to law; or
- (b) was unjust, oppressive or improperly discriminatory, or was in accordance with a provision of any enactment or practice which is or might be unjust, oppressive or improperly discriminatory; or
- (c) was based wholly or partly on a mistake of law or fact; or

(d) could not have been made by a reasonable body of persons after proper consideration of all the facts; or

(e) was contrary to the generally accepted principles of natural justice;

the Board, in reporting its findings thereon to the Committee or person concerned, shall request that Committee or person to reconsider the matter.

(4) Where a Board requests reconsideration of any matter, it shall also request the Committee or person concerned to inform it within a specified time of the steps which have been taken to reconsider the matter and the result of that reconsideration.

(5) Where a Board, having requested reconsideration by the Committee, or person concerned, is of the opinion that the findings of the Board have been insufficiently considered or implemented, it shall refer the matter to the States.

**Annual  
Report to  
the States.**

8. The Chairman shall, every twelve months, report to the States on the complaints received, the findings of any Board in relation thereto and any steps taken on a reconsideration of any matter.

**Savings.**

9. The provisions of this Law shall be in addition to, and not in derogation of, any other remedy which may be available to a complainant.

**Interpreta-  
tion.**

10. (1) In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“Board” has the meaning assigned to it by section 1 of this Law;

“Chairman” means the Chairman of the Panel of Members;

“Committee” means any body set up by or at the instance of the States, whether it be styled a Committee, a Board or otherwise and includes any other body whatsoever administered by or on behalf of the States; and the expression “any person acting on behalf of any such Committee” shall be construed accordingly;

“complainant” has the meaning assigned to it by section 1 of this Law; and the expression

“complaint” shall be construed accordingly;

“the Deans” has the meaning assigned to it by section 4 of this Law;

“Deputy Chairman” means the Deputy Chairman of the Panel of Members;

“enactment” includes any order, rule or regulation under any enactment;

“Her Majesty’s Greffier” means Her Majesty’s Greffier or such other person as the States may, from time to time, appoint to perform the functions of Her Majesty’s Greffier under this Law;

“the Members” has the meaning assigned to it by section 4 of this Law;

“the States Supervisor” means the States Supervisor or such other person as the States may, from time to time, appoint to perform the functions of the States Supervisor under this Law.

(2) Any reference in this Law to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Law.

Citation.

11. This Law may be cited as the Administrative Decisions (Review) (Guernsey) Law, 1986.

K. H. TOUGH,  
Her Majesty's Greffier.