

# ORDER IN COUNCIL

**XIX  
2009**

ratifying a Projet de Loi

ENTITLED

## **The Police Complaints (Guernsey) Law, 2008**

(Registered on the Records of the Island of Guernsey  
on the 9th November, 2009.)



2009



## ORDER IN COUNCIL



### IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

9<sup>th</sup> day of November, 2009 before Sir Geoffrey Rowland, Bailiff; present:- Derek Martin Le Page, Stephen Edward Francis Le Poidevin and Alan Cecil Bisson, Esquires, The Reverend Peter Gerald Lane, Michael John Tanguy, Esquire, Susan Mowbray, Barbara Jean Bartie, Stephen Murray Jones, Esquire, Claire Helen Le Pelley, Peter Sean Trueman Girard, Esquire, Constance Helyar-Wilkinson and Terry George Snell, Esquire, Jurats

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 15<sup>th</sup> October 2009 approving and ratifying a Projet de Loi entitled “The Police Complaints (Guernsey) Law, 2008”, 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.



*At the Court at Buckingham Palace*

THE 15th DAY OF OCTOBER 2009

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 26th January 2005 and 28th November 2008, the States of Deliberation at a meeting on 10th December 2008 approved a *Projet de Loi* entitled the Police Complaints (Guernsey) Law, 2008 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 Police Complaints (Guernsey) Law, 2008, and to order that it shall have force of law in the Island of Guernsey.

"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 Island of Guernsey, 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.

*Judith Simpson*

# PROJET DE LOI

ENTITLED

## **The Police Complaints (Guernsey) Law, 2008**

### ARRANGEMENT OF SECTIONS

#### PART I ESTABLISHMENT OF GUERNSEY POLICE COMPLAINTS COMMISSION

1. Establishment of the Guernsey Police Complaints Commission.

#### PART II COMPLAINTS AND OTHER MATTERS CONCERNING MEMBERS OF THE FORCE

2. Matters to which Part II does not apply.
3. Duty of Chief Officer in relation to evidence.
4. Duty of Chief Officer in relation to the Register.
5. Informal resolution of complaints and appointment of investigating officer.
6. Referral of other matters to the Commission.
7. Supervision of investigation of member of the Force.
8. Reports etc. on supervised investigation of member of the Force.
9. Steps to be taken after supervised investigation of member of the Force.
10. Powers of Commission as to disciplinary charges.
11. Hearing of disciplinary charges preferred at the direction of the Commission.
12. Disciplinary appeals.
13. Regulations.

#### PART III MISCELLANEOUS AND SUPPLEMENTAL

14. Delegation by Chief Officer.
15. Reports.
16. Restriction on disclosure of information.
17. Restrictions on subsequent proceedings.
18. Territorial application.
19. Interpretation.

20. Power to make Ordinances.
21. General provisions as to Ordinances and regulations.
22. Short title and commencement.

SCHEDULE: The Guernsey Police Complaints Commission.

# PROJET DE LOI

ENTITLED

## **The Police Complaints (Guernsey) Law, 2008**

**THE STATES**, pursuant to their Resolutions of the 26<sup>th</sup> January, 2005<sup>a</sup> and the 28<sup>th</sup> November 2008<sup>b</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 Island of Guernsey.

### PART I

#### ESTABLISHMENT OF GUERNSEY POLICE COMPLAINTS COMMISSION

##### **Establishment of the Guernsey Police Complaints Commission.**

1. (1) There is established the Guernsey Police Complaints Commission ("**the Commission**"), which has the functions set out in this Law.

(2) The Schedule has effect in relation to the Commission.

### PART II

#### COMPLAINTS AND OTHER MATTERS CONCERNING MEMBERS OF THE FORCE

##### **Matters to which Part II does not apply.**

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<sup>a</sup> Article VI of Billet d'État No. I of 2005.

<sup>b</sup> Article XIX of Billet d'État No. XV of 2008.

2. (1) Nothing in this Part has effect in relation to a complaint in so far as it relates to the direction or control of the Island Police Force ("**the Force**") by the Chief Officer.

(2) If any conduct to which a complaint wholly or partly relates is or has been the subject of criminal or disciplinary charges, none of the provisions of this Part which relate to the recording and investigation of complaints has effect in relation to the complaint in so far as it relates to that conduct.

**Duty of Chief Officer in relation to evidence.**

3. Where a complaint is submitted to the Chief Officer, he shall take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct in respect of which the complaint is submitted.

**Duty of Chief Officer in relation to the Register.**

4. (1) The Chief Officer shall maintain a register of complaints ("**the Register**").

(2) Upon submission of a complaint to him, the Chief Officer shall record it in the Register.

(3) In relation to each complaint submitted to him, the Chief Officer shall record in the Register -

- (a) the nature of the complaint,
- (b) the steps taken in dealing with the complaint, and
- (c) the outcome of the complaint.



(4) The Chief Officer shall, as soon as practicable, notify a complainant in writing of the outcome of the complaint.

(5) The Chief Officer shall, when requested by the Commission, make the Register available to it for inspection.

(6) The Register shall not be available for public inspection.

**Informal resolution of complaints and appointment of investigating officer.**

5. (1) If it appears to the Chief Officer that a complaint is suitable for informal resolution, he shall seek to resolve it informally and may appoint a person, who may be a member of the Force or a police officer from some other force, but who shall not be a member of the Commission, to do so on his behalf.

(2) A complaint is not suitable for informal resolution unless -

- (a) the complainant gives his consent, and
- (b) the Chief Officer is satisfied that the conduct complained of, even if proved, would not justify a criminal or disciplinary charge.

(3) If it appears to the Chief Officer that a complaint is not suitable for informal resolution or that, after attempts have been made to resolve a complaint informally, informal resolution of the complaint is impossible or the complaint is, for any other reason, unsuitable for informal resolution, he shall -

- (a) notify the Commission of the complaint, and

- (b) subject to section 7(3), appoint a member of the Force or a police officer from some other force to investigate it formally.

(4) The Chief Officer may ask the chief officer of some other force to provide a police officer of his force for appointment under subsection (1) or (3)(b).

(5) No officer may be appointed under this section unless he is -

- (a) of at least the rank of Inspector,
- (b) of at least the rank of the member of the Force against whom the complaint is made, and
- (c) approved in that behalf by the Commission.

(6) A member of the Force or a police officer from some other force may not be appointed to investigate a complaint under subsection (3)(b) if he has previously been appointed in relation to, or otherwise substantially participated in, its informal resolution.

**Referral of other matters to the Commission.**

6. The Chief Officer may refer to the Commission any matter which -

- (a) appears to him to indicate that a member of the Force may have committed -

- (i) a criminal offence, but only if Her Majesty's Procureur agrees that a reference should be made, or
  - (ii) an offence against discipline, and
- (b) is not the subject of a complaint,

if it appears to him that the matter ought to be referred by reason of its gravity or public importance or any exceptional circumstances.

**Supervision of investigation of member of the Force.**

7. (1) The Commission shall supervise the investigation -
- (a) of any complaint alleging that the conduct of a member of the Force resulted in the death of or serious injury to some other person, whether or not in custody, and
  - (b) of any other description of complaint that may be prescribed.
- (2) The Commission may supervise the investigation -
- (a) of any complaint the investigation of which it is not required to supervise under subsection (1), and
  - (b) of any matter referred to it under section 6,

if it considers that it is desirable in the public interest that it should supervise that investigation.

(3) Where an investigation is supervised by the Commission, it may require -

(a) that no appointment shall be made of a person to investigate the complaint or matter unless it has given notice to the Chief Officer that it approves the member of the Force or police officer from some other force whom he proposes to appoint, or

(b) if such an appointment has already been made and the Commission is not satisfied with the person appointed, that -

(i) the Chief Officer shall, as soon as is reasonably practicable, select another member of the Force or police officer from some other force and notify the Commission of the proposed appointment, and

(ii) that appointment shall not be made unless the Commission gives notice to the Chief Officer that it approves the person to be appointed.

(4) In supervising an investigation into a complaint, the Commission -

- (a) may require the investigating officer to report to the Commission from time to time on the conduct and progress of the investigation, and
- (b) may require the investigating officer to produce to the Commission at any time for consideration all documents, materials and information available to, or in the possession or control of, the investigating officer including (without limitation) statements (whether in writing, or tape or video recorded, or otherwise) and any evidence, or copies and transcripts thereof.

(5) The Department may by regulation confer power on the Commission, subject to any restrictions or conditions specified in any such regulation, to impose requirements as to a particular investigation additional to any requirement imposed by virtue of subsection (3).

(6) It shall be the duty of a member of the Force and an investigating officer to comply with any requirement imposed on him by virtue of any regulation made under subsection (5).

**Reports etc. on supervised investigation of member of the Force.**

8. (1) If, during the course of an investigation supervised by the Commission relating to a complaint, it becomes clear to the investigating officer that the complaint is frivolous, vexatious or otherwise an abuse of process, he shall report that finding to the Chief Officer and recommend that the investigation should not be pursued further.

(2) Where the investigating officer makes a report and recommendation to the Chief Officer under subsection (1), the Chief Officer may, with the concurrence of the Commission and, in the case of a criminal allegation, with the concurrence of Her Majesty's Procureur, direct that the investigation shall not be pursued further.

(3) At the end of an investigation supervised by the Commission, the investigating officer shall -

- (a) submit a report on the investigation to the Commission, and
- (b) send a copy of the report to the Chief Officer and, in the case of a criminal allegation, to Her Majesty's Procureur.

(4) After considering a report submitted to it under subsection (3), the Commission shall prepare a statement -

- (a) stating whether the investigation has or has not been conducted to its satisfaction, and
- (b) specifying any respect in which it has not been so conducted.

(5) The Commission may prepare separate statements in respect of the criminal and disciplinary aspects of an investigation.

(6) The Commission shall submit the statement to -

- (a) the Chief Officer, and
- (b) where the statement is in respect of a criminal allegation, the Chief Officer and Her Majesty's Procureur.

(7) Where it is practicable to do so, and unless Her Majesty's Procureur in any case directs otherwise, the Commission shall send a copy of the statement to -

- (a) the member of the Force whose conduct has been investigated, and
- (b) if the investigation related to a complaint, the complainant.

**Steps to be taken after supervised investigation of member of the Force.**

9. (1) Where an investigation has been supervised by the Commission, no disciplinary charge shall be preferred before the Chief Officer receives the report and statement required to be submitted to him under section 8 (3)(b) and (6).

(2) After considering a report and statement submitted to him under section 8(3)(b) and (6)(b), Her Majesty's Procureur shall inform the Chief Officer whether or not criminal proceedings will be initiated, and the Chief Officer shall inform the Commission of that decision.

(3) After either Her Majesty's Procureur has informed the Chief Officer that criminal proceedings will not be initiated or such proceedings are concluded, the Chief Officer shall send the Commission a memorandum, signed by

him and stating whether he intends to prefer disciplinary charges in respect of the conduct which was the subject of the investigation and, if not, his reasons for not doing so.

**Powers of Commission as to disciplinary charges.**

10. (1) Where, following an investigation supervised by the Commission, the Chief Officer does not propose to prefer disciplinary charges, the Commission may recommend him to prefer such disciplinary charges as it may specify, but only after hearing the Chief Officer thereon.

(2) Subject to subsection (6), the Chief Officer may not withdraw charges which he has preferred in accordance with a recommendation under subsection (1).

(3) If, after the Commission has made a recommendation under subsection (1) and consulted the Chief Officer, he is still unwilling to prefer such charges as the Commission consider appropriate, it may direct him to prefer such charges as it may specify.

(4) Where the Commission gives the Chief Officer a direction under subsection (3), it shall furnish him with a written statement of its reasons for doing so.

(5) Subject to subsection (6), it shall be the duty of the Chief Officer to prefer and proceed with charges specified in a direction given under subsection (3).

(6) The Commission may give the Chief Officer leave -



- (a) not to prefer charges which subsection (5) would otherwise oblige him to prefer, and
- (b) not to proceed with charges with which subsections (2) or (5) would otherwise oblige him to proceed.

(7) The Commission may request the Chief Officer to furnish it with such information as it may reasonably require for the purpose of discharging its functions under this section and the Chief Officer shall comply with any such request.

**Hearing of disciplinary charges preferred at the direction of the Commission.**

**11.** (1) A disciplinary charge preferred at the direction of the Commission given under section 10(3) shall be heard by the Police Complaints Tribunal ("**the Complaints Tribunal**") which shall consist of -

- (a) subject to subsection (2), the Chief Officer, who shall be the chairman, and
- (b) two members of the Commission nominated by the Chairman of the Commission, being members who have not been concerned with the case.

(2) In the event that the Chief Officer should not be chairman, whether by reason of his interest otherwise than as Chief Officer, or that he is a material witness, or for any other reason, the chairman of the tribunal shall be such chief officer of some other force as has consented to act in the case, at the request of the Chief Officer.

(3) The Complaints Tribunal shall decide whether the member of the Force is guilty of the disciplinary charge and their decision may be a majority decision.

(4) The chairman of the Complaints Tribunal, after consulting with the other members of the tribunal, shall determine any punishment to be imposed.

(5) Where -

- (a) a disciplinary charge is to be heard in accordance with this section, and
- (b) there is another disciplinary charge against the member of the Force which, in the opinion of the Chief Officer, can conveniently and fairly be determined at the same time,

the Chief Officer may direct that this section shall apply also to the hearing of the other charge.

#### **Disciplinary appeals.**

**12.** (1) The Department may prescribe those disciplinary proceedings to which the provisions of this section (in addition to proceedings in respect of a disciplinary charge preferred at the direction of the Commission pursuant to section 10(3)) shall apply, and reference in this Law to "**prescribed disciplinary proceedings**" shall be construed accordingly.

(2) A member of the Force who is found guilty of a disciplinary charge, whether at a hearing held under section 11 or in prescribed disciplinary proceedings, may appeal against -

(a) the decision on the disciplinary charge, and

(b) the punishment imposed.

(3) An appeal shall be made to the Police Appeal Tribunal ("**the Appeal Tribunal**") whose membership is prescribed under section 13(1)(h).

(4) Subject to subsection (5), an appeal must be made within the period of 28 days beginning on the day the appellant is notified in writing of the decision against which he wishes to appeal.

(5) Where the Appeal Tribunal is satisfied, on the application of the appellant, that by reason of the special circumstances of the case it is just and proper so to do, it may extend the period within which an appeal must be made whether or not the period of 28 days referred to in subsection (4) has expired.

(6) An appeal under this section shall be instituted by serving written notice as follows -

(a) if the appeal is against the decision of the Complaints Tribunal, on the Commission, or

(b) in any other case, on the Chief Officer.

(7) The Commission or the Chief Officer (as the case may be) shall have the right to be heard on the appeal, and the appellant shall have the final right of reply.

(8) The appellant may conduct his appeal in person, or be represented by an advocate or by a member of the Force selected by him.

(9) The Appeal Tribunal may -

- (a) allow the appeal,
- (b) dismiss the appeal,
- (c) subject to subsection (10), substitute some other punishment, or
- (d) subject to subsection (14), remit the matter to the Complaints Tribunal.

(10) The Appeal Tribunal may not substitute another punishment under subsection (9)(c) unless -

- (a) the person or persons who heard the disciplinary charge could have imposed it, and
- (b) it is less severe than the punishment imposed by that person or those persons.

(11) Subject to subsection (12), all the costs and expenses of an appeal under this section, including the costs of the parties, shall be defrayed out of the revenues of the States.

(12) Without prejudice to its other powers in respect of costs, the Appeal Tribunal may direct an appellant to pay all, or any part, of -

- (a) his own costs,
- (b) the costs of the Appeal Tribunal, and
- (c) the costs of any other party to, or person heard at, the appeal, including the Commission and the Chief Officer,

as the Appeal Tribunal may determine.

(13) The Appeal Tribunal may direct that -

- (a) all, or any part, of the appeal should be heard in private,
- (b) all or any of the persons referred to during the course of the appeal proceedings, or in the judgment, should remain anonymous, and
- (c) all, or any part, of its judgment should not be published, except as to the result.

(14) If on an appeal it appears to the Appeal Tribunal that all or any part of -

- (a) the decision was ultra vires or unreasonable,
- (b) the decision was affected by some material error either of law or as to the facts, or
- (c) the tribunal proceedings or the prescribed disciplinary proceedings, as the case may be, were subject to some material substantive or procedural irregularity,

the Appeal Tribunal may remit the matter for rehearing as to all or part of the proceedings, with such directions or determinations as the Appeal Tribunal shall deem just and appropriate.

(15) A question of law arising in connection with the hearing and determination by the Appeal Tribunal of an appeal under this Law may, if it thinks fit, be referred for decision to the Royal Court in such manner and within such period as may be prescribed by order of the Royal Court.

(16) An appeal on a point of law, certified as such by the Bailiff or a single judge of the Court of Appeal, by any party to a hearing before the Appeal Tribunal shall lie from a decision of the Appeal Tribunal to the Royal Court, save that an appeal does not lie in respect of a question of law which has been referred to the Royal Court under subsection (15).

(17) An appeal from a decision of the Royal Court made on a reference under subsection (15) or an appeal under subsection (16) by any party to the hearing before the Appeal Tribunal lies, with leave of the Royal Court or the

Court of Appeal, to the Court of Appeal.

(18) Section 21 of the Court of Appeal (Guernsey) Law, 1961<sup>c</sup> ("powers of a single judge"), applies to the powers of the Court of Appeal to give leave to appeal under this section as it applies to the powers of the Court of Appeal to give leave to appeal under Part II of that Law.

**Regulations.**

- 13** (1) The Department may by regulation make provision for -
- (a) the informal resolution of complaints about members of the Force, and for giving any such member an opportunity to comment orally or in writing on the complaint,
  - (b) the investigation of any complaint or matter in respect of a member of the Force, whether supervised by the Commission or otherwise,
  - (c) the disciplinary code for members of the Force, save that any regulations made under this paragraph shall have no effect until approved by resolution of the States,
  - (d) the hearing of disciplinary charges against a member of the Force, whether preferred on the recommendation or at the direction of the Commission

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<sup>c</sup> Ordres en Conseil Vol. XVIII, p. 315.

or otherwise, including provision for the representation of such a member at such a hearing and for the disclosure of documents to him for the purposes of the hearing,

- (e) the suspension of a member of the Force pending the investigation of any complaint or matter,
- (f) the punishment by way of dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution of a member of the Force found guilty of an offence against discipline,
- (g) the procedures of the Commission in discharging its functions under this Part, including the discharge of any function of the Commission by one or more of the Commission's members,
- (h) the membership, powers and procedures of the Appeal Tribunal, save that any regulations made under this paragraph shall have no effect until approved by resolution of the States,
- (i) the provision of information to complainants in respect of the way in which their complaints have been dealt with, and the power of complainants to appeal to the Commission in respect of the way in which their complaints have been dealt with by the Force, and
- (j) the general purposes of carrying this Law into effect.



(2) The Department may prescribe by regulations anything which may or shall be prescribed for the purposes of this Part.

### PART III

#### MISCELLANEOUS AND SUPPLEMENTAL

#### **Delegation by Chief Officer.**

**14.** The Chief Officer may delegate any of his functions under this Law or in relation to a disciplinary investigation or disciplinary proceedings to the Deputy Chief Officer, or to such other officer not below the rank of Superintendent as the Chief Officer shall nominate, and references in this Law to "**Chief Officer**" shall be construed accordingly.

#### **Reports.**

**15.** (1) The Commission shall, at the request of the Department or Her Majesty's Procureur, report on such matters relating generally to the Commission's functions as the Department or Her Majesty's Procureur may specify, and the Commission may for that purpose carry out research into any such matters.

(2) The Commission may report to the Department on any matters coming to its notice under this Law to which it considers that the Department's attention should be drawn by reason of their gravity or public importance or of other exceptional circumstances.

(3) The Commission shall send a copy of any report made under subsection (2) to Her Majesty's Procureur and the Chief Officer.

(4) As soon as is practicable after the end of each calendar year -

- (a) the Commission shall prepare a report upon the discharge of its functions during that year and submit it to the Department, and
- (b) the Department shall present the report to the States.

(5) The Chairman shall report to the Department upon the administration and operation of the Commission or any aspect thereof when requested to do so by the Department.

**Restriction on disclosure of information.**

**16** (1) No information received by the Commission in connection with any of its functions shall be disclosed by any person who is or has been a member, officer or servant of the Commission except -

- (a) to the Department, or a member, officer or servant of the Commission or, so far as may be necessary for the proper discharge of the functions of the Commission, to other persons,
- (b) to Her Majesty's Procureur,
- (c) for the purposes of any criminal, civil or disciplinary proceedings, or
- (d) in the form of a summary or other general statement made by the Commission which does not identify the person from whom the information was received or any person to whom it relates.

(2) Any person who discloses information in contravention of paragraph (1) shall be guilty of an offence and liable on conviction to a fine not exceeding level 5 on the uniform scale.

**Restrictions on subsequent proceedings.**

17. (1) Subject to subsection (2), no statement made by any person for the purpose of the informal resolution of a complaint under Part II shall be admissible in any subsequent criminal, civil or disciplinary proceedings.

(2) A statement is not rendered inadmissible by section (1) if it consists of or includes an admission relating to a matter which does not fall to be resolved informally.

**Territorial application.**

18. For the avoidance of doubt, the provisions of this Law shall apply to a member of the Force wheresoever in the Bailiwick of Guernsey or elsewhere his conduct occurs.

**Interpretation.**

19. (1) In this Law, unless the context requires otherwise -

"**Bailiff**" means the Bailiff, Deputy Bailiff, Judge of the Royal Court, Lieutenant-Bailiff or Juge Délégué,

"**bankrupt**" in relation to an individual, includes an individual -

- (a) whose affairs have been declared to be in a state of "désastre" by his arresting creditors at a meeting held before a Commissioner of the Royal Court, the Court

of Alderney or the Court of the Seneschal,

- (b) against whom an interim vesting order has been made in respect of any real property in the Bailiwick, or
- (c) in respect of whom a declaration of insolvency has been made under the Loi ayant rapport aux Débiteurs et à la Renonciation, 1929<sup>d</sup>,

**"Commission"** means the Guernsey Police Complaints Commission established by section 1, or any member carrying out the Commission's functions in accordance with any regulation made under this Law,

**"Chairman"** means the Chairman of the Commission appointed under paragraph 1(2) of the Schedule,

**"Chief Officer"** means, subject to section 14, the Chief Officer of the Force,

**"chief officer of some other force"** means a chief officer of a force in the British Islands,

**"complaint"** means any complaint about the conduct of a member of the Force which is submitted -

- (a) by, or on behalf and with the consent of, a member of the public,

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<sup>d</sup> Ordres en Conseil Vol. VIII, p. 310.

(b) by a member of the Force otherwise than in the course of his duty, or

(c) by Her Majesty's Procureur,

**"Department"** means the States of Guernsey Home Department,

**"enactment"** means a Law, an Ordinance and any subordinate legislation,

**"functions"** includes powers and duties,

**"Her Majesty's Procureur"** includes Her Majesty's Comptroller,

**"investigating officer"** means the member of the Force or police officer from some other force appointed to carry out an investigation,

**"Island Police Force"** means the police force comprising –

(a) members of the salaried police force of the Island of Guernsey, and

(b) such members of the special constabulary of the Island of Guernsey as are prescribed,

**"police officer from some other force"** means a police officer from a force in the British Islands,

**"prescribed"** means prescribed by regulations made by the Department,

"**prescribed disciplinary proceedings**" has the meaning given in section 12,

"**Principal Law**" means the Loi ayant rapport à la Police Salariée pour l'Île Entière, 1920<sup>e</sup>,

"**Register**" has the meaning given in section 4(1),

"**subordinate legislation**" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect, and

"**uniform scale**" means the uniform scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>f</sup>.

(2) Unless the context requires otherwise, any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

#### **Power to make Ordinances.**

20. (1) The States may by Ordinance -

(a) amend sections 1 to 12, 14 to 16(1), 17 to 19, 22 and the Schedule, where it appears to the States to be

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<sup>e</sup> Ordres en Conseil Vol. VI, pg. 176.

<sup>f</sup> Ordres en Conseil Vol. XXXI, p. 278.

necessary for any of the purposes described in subsection (2), and

- (b) make such additional provision as they think fit for the purposes of carrying this Law into effect.

(2) The purposes are -

- (a) improving or enhancing the effective discharge by the Commission of its functions,

- (b) maintaining public confidence in both the independence of the Commission and its effectiveness in the discharge of its functions, or

- (c) ensuring that the practices and procedures governing -

- (i) investigations into the conduct of, and

- (ii) disciplinary proceedings brought against,

police officers are structured and regulated in the manner that best promotes the fairness, impartiality and independence of those investigations and proceedings.

#### **General provisions as to Ordinances and regulations.**

21. (1) An Ordinance or regulation under this Law -

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

(2) Any power conferred by this Law to make an Ordinance or regulation 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.



(3) Other than in the case of regulations made under section 13(1)(c) or (h), any regulations made under this Law shall be laid before a meeting of the States as soon as may be after being made and if, at that meeting or the next subsequent meeting, the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done under the regulations or to the making of new regulations.

**Short title and commencement.**

**22.** (1) This Law may be cited as the Police Complaints (Guernsey) Law, 2008.

(2) This Law shall come into force on such day as the States may by Ordinance appoint, and different days may be appointed for different provisions of this Law and for different purposes.

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

## SCHEDULE

### THE GUERNSEY POLICE COMPLAINTS COMMISSION

#### **Constitution of the Commission.**

1. (1) The Commission shall consist of a Chairman and five ordinary members.

(2) The Chairman and ordinary members shall be appointed by the States on the recommendation of the Department, but so that no such person shall be appointed otherwise than on the recommendation of the Department.

(3) Before recommending a person to the States for appointment as the Chairman or an ordinary member of the Commission, the Department may require that person to provide, and to authorise the Department to obtain, such particulars (including previous convictions) and references as the Department may reasonably require to ascertain his suitability for chairmanship or membership (as the case may be) of the Commission.

(4) Subject to subparagraph (5) the Chairman and ordinary members shall be appointed for a term of four years.

(5) Three of the five ordinary members of the Commission to be appointed upon the coming into force of this Law shall be appointed for a term of two years.

(6) Members of the Commission may be reappointed.

- (7) A person may not be a member of the Commission if -
  - (a) he is or has previously been a member of the Force, or a member of any other police force,
  - (b) he is a Deputy of the States or a Jurat,
  - (c) he is in the full time employment of the States, or
  - (d) he is a person of such description as may be prescribed by regulations made by the Department.

**Incorporation of the Commission.**

- 2. The Commission is a body corporate.

**Members.**

- 3. (1) A member may resign from office at any time.
- (2) Any resignation by a member must be in writing and made to the Department, and the Department will notify the States of it at the first available opportunity thereafter.
- (3) Any member of the Commission may be removed from office by the Department, if the Department is satisfied that -
  - (a) he has without reasonable cause failed to carry out his duties,
  - (b) he has been convicted of a criminal offence,

- (c) he has become bankrupt,
- (d) he is incapacitated by physical or mental illness, or
- (e) he is otherwise unable or unfit to perform his duties.

**Administration and expenses.**

4. (1) The Commission may appoint a secretary and (after consultation with the Department) such other officers as it thinks fit.

(2) There shall be paid out of the revenues of the States such salaries and allowances to the secretary and officers of the Commission, and such allowances (including attendance allowances) and expenses of the Commission and its members, as the Department may determine.

(3) The Department must cause to be kept records and accounts of the finances of the Commission, and the Commission must co-operate with the Department to enable it to do so.

**Meetings.**

5. (1) The Commission must meet at least once every year, and also from time to time as necessary.

(2) In the absence of the Chairman, any ordinary member may take the chair.

(3) A quorum at any meeting is three members.

(4) The Chairman must meet the Department at the time of presenting the Commission's report under section 15(4) and must attend other meetings if requested to do so.

**Operation.**

6. Subject to any regulations made by the Department under this Law -

- (a) the Commission will carry out its duties in such a manner as it from time to time determines and may regulate its own procedures, and
- (b) the Chairman may make arrangements for the discharge, under the general direction of the Commission, of any of the Commission's functions by one or more of the Commission's members.





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