

**THE POPULATION MANAGEMENT (GUERNSEY) LAW, 2016
(AMENDMENT) ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Population Management (Guernsey) Law, 2016 (Amendment) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Ordinance amends the transitional provisions in the Population Management (Guernsey) Law, 2016 set out at section 6. The purpose of the amendments is primarily to ensure that all persons resident in Guernsey on the coming into force of the Population Management (Guernsey) Law, 2016 are able to benefit properly from the shorter qualification periods introduced by the new regime.

The Ordinance also makes a minor amendment to section 57 (another transitional provision), so as to provide that a person to whom it applies may only benefit from its provisions for so long as the person's circumstances do not change in any material way, and amends section 83 to ensure that the time spent outside Guernsey by the spouse/partner of a person serving with HM Forces is treated as ordinary residence in Guernsey where appropriate.

The Population Management (Guernsey) Law, 2016

(Amendment) Ordinance, 2017

THE STATES, in pursuance of their Resolution of the 2nd day of December, 2016^a, and in exercise of the powers conferred on them by section 75(1)(d) and section 76 of the Population Management (Guernsey) Law, 2016^b, hereby order:-

Amendment of section 6(1) of the Law.

1. For section 6(1) of the Population Management (Guernsey) Law, 2016 ("**the Law**"), substitute -

"(1) The following persons are Permanent Residents –

(a) a person (A) who –

(i) was born in Guernsey,

(ii) was under eight years of age on Commencement, and

(iii) on Commencement had been ordinarily resident since birth,

^a Article IX of Billet d'État No. XXIX of 2016.

^b Order in Council No. VI of 2016.

and one of whose birth parents (B) was born in Guernsey, where -

(A) B was ordinarily resident at the time of A's birth, and

(B) one of B's parents was born in Guernsey,

(b) a person who was born in Guernsey before Commencement, and who -

(i) was ordinarily resident on Commencement and completes on or after Commencement an aggregate period of eight years ordinary residence in an 18 year period, or

(ii) completes an aggregate period of eight years ordinary residence in an 18 year period started after Commencement,

one of whose parents –

(A) is (or was before his death, as the case may be) a Permanent Resident, and

(B) was ordinarily resident at the time of the person's birth,

(c) a person who was first resident before Commencement as a minor in the household of one or both of his parents, and who -

(i) was ordinarily resident on Commencement and completes on or after Commencement an aggregate period of eight years ordinary residence in an 18 year period, or

(ii) completes an aggregate period of eight years ordinary residence in an 18 year period started after Commencement,

one of whose parents –

(A) is (or was before his death, as the case may be) a Permanent Resident, and

(B) was born in Guernsey,

(d) a person who was ordinarily resident on Commencement and who completes on or after Commencement a period of eight consecutive

years ordinary residence started before Commencement, one of whose parents –

(i) is (or was before his death, as the case may be) a Permanent Resident, and

(ii) was born in Guernsey,

(e) a person who was born in Guernsey before Commencement at a time when one of his parents was ordinarily resident, and who -

(i) was ordinarily resident on Commencement, and completes on or after Commencement an aggregate period of 14 years ordinary residence in a 24 year period, or

(ii) completes an aggregate period of 14 years ordinary residence in a 24 year period started after Commencement,

(f) a person who was first resident before Commencement as a minor in the household of one or both of his parents, and who -

(i) was ordinarily resident on Commencement, and completes on or after Commencement an aggregate

period of 14 years ordinary residence in
a 24 year period, or

- (ii) completes an aggregate period of 14
years ordinary residence in a 24 year
period started after Commencement,

(g) a person who on Commencement was –

- (i) ordinarily resident, and
- (ii) the spouse or partner of a person (C),
who was on Commencement or has
subsequently become a Permanent
Resident,

and who completes, on or after Commencement,
a period of ten consecutive years ordinary
residence in co-habitation with C started before
Commencement,

(h) a person who on Commencement was –

- (i) ordinarily resident, and
- (ii) in cohabitation with his spouse or
partner, who was on Commencement or
subsequently became a Permanent

Resident, and who has died since
Commencement,

and who has completed, or who completes on or
after Commencement, a period of ten
consecutive years ordinary residence since he
started co-habiting with his spouse or partner,

(i) a person who on Commencement was –

(i) ordinarily resident, and

(ii) the surviving spouse or partner of a
person who –

(A) was a qualified resident under
the Housing Control Law, and

(B) cohabited with him as his
spouse or partner for a period of
not less than five consecutive
years immediately prior to his
death,

and who has completed, or who completes on or
after Commencement, a period of ten
consecutive years ordinary residence,

(j) a person who –

- (i) was ordinarily resident on Commencement, and
- (ii) completes on or after Commencement a period of 14 consecutive years ordinary residence in a Local Market dwelling,
- (k) a person who, after Commencement, satisfies the conditions of becoming a qualified resident under section 10(2)(d), (e), (f), (h), (i), (j) or (m) of the Housing Control Law, in circumstances where he was first ordinarily resident before Commencement,
- (l) a person who, after Commencement, satisfies the conditions of becoming a qualified resident under section 10(2)(k) of the Housing Control Law, in circumstances where he first occupied a dwelling in Guernsey before Commencement, and
- (m) a person who was a qualified resident under the Housing Control Law.

(1A) In any case where he thinks it necessary to achieve compatibility with one or more Convention rights, or otherwise equitable to do so, the Administrator may give notice in writing to a person that a period of that person's ordinary residence in occupation of a dwelling or dwellings shall be treated as having been under or by virtue of a licence or licences of a

type described in sections 10(2)(h)(i) and (ii) or 10(2)(j) (i) and (ii) (as the case may be) of the Housing Control Law; and on such a notice being served, the period of residence in question shall be deemed to have been under or by virtue of such a licence or licences."

Amendment of section 57(1) of the Law.

2. At the end of section 57(1) of the Law, insert "for so long as his circumstances do not change in any material way".

Amendment of section 83 of the Law.

3. For section 83(4), substitute –

"(4) A period of time spent outside Guernsey by a person (R) as a necessary result of service with Her Majesty's Forces by R's spouse or partner (S), during which period their relationship subsists, shall be deemed to be a period of ordinary residence for the purposes of this Law if –

(a) S was ordinarily resident at any time during the period of six months ending with the start of the period of service with Her Majesty's Forces,

(b) that period of service ceases on or after Commencement, and

(c) either –

(i) S and R return to Guernsey in a subsisting relationship and become ordinarily resident, or

(ii) S dies during his period of service.

(5) Where a period of time spent outside Guernsey is deemed to be a period of ordinary residence under subsection (4), R shall be treated as having been in occupation of a Local Market dwelling throughout that period if, were it not for S's service with Her Majesty's Forces, R could have lived lawfully in Guernsey in a Local Market dwelling throughout the period."

Interpretation.

4. Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation and Commencement.

5. This Ordinance may be cited as the Population Management (Guernsey) Law (Amendment) Ordinance, 2017, and shall come into force on 3rd April, 2017.