



BILLET D'ÉTAT

WEDNESDAY, 29th MARCH, 2017

VII
2017

ELECTIONS AND APPOINTMENTS

1. Committee *for* Home Affairs – Police Complaints Commission:
Reappointment of Member, P. 2017/9
2. States' Trading Supervisory Board – Appointment of a Non-Executive
Director – Guernsey Post Limited, P. 2017/10
3. Policy & Resources Committee – Appointment of Ordinary Members of the
Guernsey Financial Services Commission, P. 2017/12
4. Committee *for the* Environment & Infrastructure – Planning Panel -
Appointment of New Chairman, P. 2017/13

Appointment laid before the States

Appointment of Chairman of the Guernsey Banking Deposit Compensation
Board

LEGISLATIVE BUSINESS

Legislation Laid Before the States

The Document Duty (Amendment) Ordinance, 2017
The Driving Tests (Fees) Regulations, 2017

CONTINUED OVERLEAF

Legislation for Approval

5. Development & Planning Authority - Land Planning and Development (Use Classes) Ordinance, 2017, P. 2017/16
6. Development & Planning Authority - Land Planning and Development (Plans) (Amendment) Ordinance, 2017, P. 2017/17
7. Committee *for* Home Affairs - Population Management (Guernsey) Law, 2016 (Commencement) Ordinance, 2017, P. 2017/18
8. Committee *for* Home Affairs - Population Management (Miscellaneous Provisions) Ordinance, 2017, P. 2017/19
9. Committee *for* Home Affairs - Population Management (Guernsey) Law, 2016 (Amendment) Ordinance, 2017, P. 2017/20
10. Committee *for the* Environment & Infrastructure - Open Market Housing Register Ordinance, 2017, P. 2017/21
11. Committee *for the* Environment & Infrastructure - Open Market Housing Register (Guernsey) Law, 2016 (Commencement) Ordinance, 2017, P. 2017/22
12. Committee *for the* Environment & Infrastructure - Open Market Housing Register (Part D Cap) Ordinance, 2017, P. 2017/23
13. Committee *for* Economic Development - Image Rights (Bailiwick of Guernsey) (Amendment) Ordinance, 2017, P. 2017/24

OTHER BUSINESS

14. Committee *for* Economic Development – Insolvency Review – Amendments to the Companies Law, P. 2017/14
15. Schedule for future States’ business, P. 2017/25

CORRIGENDUM

Articles 10, 11 and 12 were wrongly listed in an earlier version of this Billet d’État as being the responsibility of the Committee *for* Home Affairs. Political responsibility for them rests with the Committee *for the* Environment & Infrastructure.

BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **29th March, 2017** at **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

14th March, 2017

**THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY**

THE COMMITTEE *FOR* HOME AFFAIRS

POLICE COMPLAINTS COMMISSION: REAPPOINTMENT OF MEMBER

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Police Complaints Commission: Reappointment of Member' of the Committee *for* Home Affairs, they are of the opinion to re-appoint Ms Alison Quinn as an ordinary member of the Police Complaints Commission for four years, with effect on and from 1st April 2017.

The above propositions have 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.

**THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY**

THE COMMITTEE *FOR* HOME AFFAIRS

POLICE COMPLAINTS COMMISSION: REAPPOINTMENT OF MEMBER

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

30th January, 2017

Dear Sir

1. Executive Summary

The purpose of this report is to propose the reappointment of Ms Alison Quinn as a member of the Police Complaints Commission ('the Commission').

2. Background

In 2005, the States of Deliberation approved the Committee *for* Home Affairs' (then Home Department's) recommendation that legislation be introduced to establish a Police Complaints Commission at a local level (Billet d'État I, 2005). The Police Complaints (Guernsey) Law, 2008 ('the Law') accordingly came into effect on 1st July 2011 and creates the Commission as an independent panel to maintain oversight of how complaints against the police are handled.

The Schedule to the Law sets out the composition of, and appointment process to, the Commission, including:-

- the Commission shall consist of a Chairman and five ordinary members;
- the Chairman and ordinary members shall be appointed for a term of four years by the States of Deliberation upon the recommendation of the Committee *for* Home Affairs;
- the Commission may be reappointed.

3. Reappointment

Ms Quinn has served as a Commissioner since her appointment on 1st February 2013, meaning that her term of office comes to an end on 1st February 2017.

The Committee is satisfied that Ms Quinn meets all the prescribed criteria set out in Law regarding the suitability for reappointment and, over the last four years, she has discharged her duties with professionalism and integrity. The Committee is therefore pleased to confirm that Ms Quinn has indicated her wish to stand for reappointment.

4. Recommendation

The States are asked to decide whether they are of the opinion:-

To re-appoint Ms Alison Quinn as ordinary member of the Police Complaints Commission for four years with effect on and from 1st April, 2017.

5. Proposition

In accordance with Rule 4(4) of The Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions accompanying this policy letter have the unanimous support of the Committee *for* Home Affairs.

Yours faithfully

M M Lowe
President

R H Graham
Vice-President

M P Leadbeater
V Oliver
R G Prow

ALISON QUINN FCCA

Aon Insurance Managers (Guernsey) Limited, Guernsey April 2008 – September 2011

Aon corporation is a leading provider of risk management services, insurance and reinsurance brokerage. The Guernsey office specialises in captives, protected and incorporated cell companies.

As an Assistant Director and part of the senior management team this involves managing both a portfolio of clients and support staff. As operational executive for various clients this covers overseeing the production and sign off on client quarterly management accounts, cash analysis and presenting to the captive owners at Board Meetings.

Accenture, London May 2004 – March 2008 www.accenture.com

Accenture is a global management consulting, technology services and outsourcing company, with net revenues of US\$16.65 billion for the fiscal year ended August 2006.

May 2007 – March 2008

Sole responsibility for the client financial management of the IT Outsourcing division of Accenture's second largest FTSE 100 client, which had an annual turnover circa £28m. Involved in the model building of cost and profit scenarios for the contract renegotiation, which incorporated cost complexities of incentive schemes and offshoring levels, and various revenue drivers over five and ten year projections. Responsible for the execution of the monthly deliverables run by a team of four based across satellite offices, comprising of forecasting, revenue recognition, estimates to completion, variance analysis, revenue sharing, inventory reconciliations and invoicing. Worked alongside the finance transition team to improve on the revenue recognition model used to increase its functionality and improve team efficiencies on the monthly deliverables. Ensured the team were constantly striving to improve the quality of service provided to the client and internal management. Identified and developed opportunities to optimise individual's performance, and acted as career counsellor to three resources outside of the team. Developed recommendations and implemented action plans to Senior Executives on driving initiatives to meet targets and how to effectively manage and forecast operational costs. Compiling global reporting requirements on the division's metrics and ensuring adherence to US GAAP. Liaised with the client and adeptly managed their expectation.

May 2004 - May 2007

On joining Accenture commenced on the Transformation division of the same client, as part of a team of six, responsible for client invoicing and forecasting and managing two resources. Ensuring the accuracy of the invoice involved overseeing time and materials billing for over 600 resources from various locations, based within the UK and Spain. Adapted and increased the functionality of the invoicing model which streamlined the

process, and factored in additional requirements at the client's request. Identified shortfalls of the forecasting process and tested a new model devised to increase accuracy of forecasting revenue and costs. After 18 months promoted to manage this division, responsible for supervising invoicing, forecasting, receivables management and revenue recognition whilst the team was restructured.

Chime Communications, Bell Pottinger PR Group, London April 2001 – May 2004
www.chime.plc

Chime Communications is the UK's leading independent communication group. Public relations division turnover for 2003 was £42m (unaudited).

On joining as a part qualified accountant initially responsible for the management accounts and balance sheets for two of the Bell Pottinger Group of six companies. On their merging took on a further company with an overseas office. After 6 months attended the monthly management meetings to present the accounts to senior management and company directors, commenced working on financials for pipeline opportunities and new business targets. Compiled the annual company budgets and managed the monthly forecasts, produced variance analysis and calculation of client gains and losses. Instigated a trial time reporting system for staff use and evaluate client profitability. Reviewed work in progress for client incurred expenses and ensured these were correctly billed to the client under individual contractual terms.

Producing statutory accounts and tax packs, working with auditors. Compiled P11D information for 30 staff. Tested and provided input at developmental stages for the installation of new accounting systems introduced.

John Charcol Limited, London May 1999 – March 2001 www.bradford-bingley.co.uk

Now part of Bradford and Bingley. John Charcols was an IFA established in 1974, offering advice to customers with complex financial needs including mortgages, pensions, investments and insurance.

Purchase ledger clerk responsible for the payment of invoices for the thirteen nationwide branches, liaising with suppliers, and internal staff resolving queries and disputed costs. After a year promoted to head up this area and recruited and managed temporary staff. Systems tested the fixed asset module built and maintained the fixed asset register. Worked with the Bradford and Bingley finance team in both the transition of the purchase ledger to their Hatfield offices and the implementation of the new processes to the existing suppliers. Assisted with the management accounts and preparation of the statutory accounts and liaising with auditors.

Temporary assignments, Guernsey & London March 1998 – April 1999

Ansbacher (Guernsey) Limited: Sending SWIFT payments. Calculation and entry of stock and share dividends

Marsh and McLean, Guernsey: Preparing mortgage quotes and pension plans
Bristol and West, Guernsey: Daily bank reconciliations and arranging bank transfers for foreign payments
Primary Care Agency, London: Preparation of variance analysis from the annual budget for expenditure by GP practices

Travelling November 1997 – February 1998

Travelled around Australia and New Zealand

Marine & General Engineers, Guernsey August 1995 – September 1996

Calculation of the weekly payroll for 50 staff. Preparation of work in progress reports, maintaining sales and purchase ledgers, liaising with clients and suppliers to resolve any disputes.

Learning Disability Services, Guernsey August 1994 – July 1995

Assistant psychologist worked with children with learning disabilities as part of the Mental Health Team

Voluntary work, London August 1993 – August 1994

Six months as a personal assistant to a paralysed gentleman and six months as day care assistant at a residential RNIB school for children with learning disabilities

Education and Qualifications

August 2003 ACCA qualified

1996 – 1997 Keele University
MA in Community Care

1990 – 1993 University of Portsmouth
BSc Honours 2ii degree in Psychology

1983 – 1990 Blanchelande College, Guernsey
10 GCSE's / O Levels (all grade A-C) and 3 A Levels: Biology (C); Mathematics (C) and Chemistry (E)

Systems Experience

Advanced Excel, Microsoft Outlook and Lotus Notes. SAP, Agresso, Globe and Sun Accounting Systems

Relevant experience

Following University in 1993 I spent a year as a community service volunteer, initially spending six months as an assistant to a tetraplegic gentleman living independently in London. This was an eye opener from University life and I had to quickly adapt to very different challenges. It was a character building time and one where I learnt hands on about equal opportunities. Years later the gentleman asked me to be part of a team where we spent three months travelling around Australia and New Zealand, and he remains a friend. What I have learnt from knowing this gentleman is diverse. A common sense view was needed at all times, being able to make a quick judgement of what was and wasn't possible. Initially the gentleman had come straight from hospital and a trip out of his flat was a week to plan, building to myself stood on top of a bridge in Australia helping tie support ropes before he bungeed jumped in a wheelchair. Initially it was also a very mentally challenging time, as he was learning to adapt to a new way of life.

Before studying for my Masters in Learning Disability I also completed a year's work placement for the Guernsey Learning Disability Services working as an assistant psychologist. This was very intensive work but also most rewarding.

Both these experiences highlighted to me the importance of listening and reviewing situations in their entirety and often from different perspectives. I realised there was not always a right and wrong, but rather different ways to view a scenario. My studies introduced me to the concept of informed choice and how the application of equal opportunities and human rights has changed since the 1960's within the field of disabilities.

Whilst I enjoyed my time and studies in psychology I decided it was not the career path for me and I found myself working in the finance sector in London in 2000. I worked at an insurance company, John Charcol's, where I was involved with the start-up of several of their branches across the UK. I enjoyed the team work and the satisfaction of reaching goals and targets. I started studying accountancy and qualified in 2003. Since then I have worked at Bell Pottinger and Accenture, leaving London in 2008 to return to Guernsey. From 2008 to 2011 I was an Assistant Director at Aon Insurance Managers.

As an accountant I have learnt to work under pressure having to organise my time ensuring deadlines were met whilst guaranteeing the job got proper attention. For example working at Accenture and Aon both had American head offices and outsourcing in Bangalore; UK bank holidays were not recognised and time lines affected availability of information when aiming to meet deadlines. Planning was a necessity and working as a team paramount. As a trainee accountant I delivered unfavourable results to company heads when reporting financial results through to my time at Aon, preparing their internal accounts and having to question Directors on particular expenses. At Aon I also headed up the Company Secretarial department,

responsible for the internal monitoring to ensure the Guernsey Financial Services regulations were met. Again this involved questioning Directors. I have always worked as a member of a team, and from my time since Bell Pottinger also lead a team.

When I was a newly promoted manager taking on a team of staff I recall being advised my actual accounting work would need to be done in 3 days, as time for team work would take up 2 days. This surprised me but in fact proved to be the case and I would pride myself in saying I have always taken the time to listen to staff issues and aimed to find work around solutions. Given my background in psychology, personnel matters have always been important to me.

My career has ranged from psychology to accountancy. Given this diversity I am able to consider the human factor of unpredictability and whilst not always understanding why behaviours occur I can be open minded in hearing different viewpoints. I have a methodical and logical mindset and express myself clearly having attended and been a member of various management teams. I am competent presenting information both orally and written. I enjoy the challenges faced being a member of the police complaints commission whilst fully appreciative of the significance of decisions made.

I am currently a full time Mum to our 5 year old daughter and 4 year old son.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' TRADING SUPERVISORY BOARD

APPOINTMENT OF A NON-EXECUTIVE DIRECTOR - GUERNSEY POST LIMITED

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'Appointment of a Non-Executive Director – Guernsey Post Limited', they are of the opinion:-

1. To approve the appointment of Mr Richard Digard as a non-executive director of Guernsey Post Limited with immediate effect.

The above 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.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' TRADING SUPERVISORY BOARD

APPOINTMENT OF A NON-EXECUTIVE DIRECTOR - GUERNSEY POST LIMITED

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

9 February, 2017

Dear Sir

1 Executive Summary

- 1.1 The purpose of this policy letter is to seek the States' approval for the appointment of a new non-executive director at Guernsey Post.

2 Background

- 2.1 Under the terms of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001 (as amended), non-executive directors of the States Trading Companies¹ are appointed by the States upon the recommendation of the States' Trading Supervisory Board.
- 2.2 Following the retirement of one of the existing non-executive directors, Guernsey Post undertook an open recruitment process during 2016 to identify a replacement. This included placing an advert in the Guernsey Press to seek applications from interested individuals and the shortlisting of candidates against an agreed set of key criteria.
- 2.3 Following the recruitment process, Guernsey Post proposed to the States' Trading Supervisory Board the appointment of Mr Richard Digard as a non-executive director of the Company. The Board supports this proposed appointment, which the Company is recommending should be effective immediately.

¹ For the purposes of the Ordinance, only Guernsey Electricity Ltd and Guernsey Post Ltd are designated as States Trading Companies.

- 2.4 A summary of Mr Digard's curriculum vitae is included in Appendix 1. In recommending his appointment, Guernsey Post advised the Board that it was particularly conscious that Mr Digard would bring a range of experience to the role which is quite different from its other non-executive directors and which has particular relevance to the Company. These experiences include a strong trading background with hands-on experience of the challenges and opportunities created for established industries by new technology.

3 Proposition

The States are asked to decide whether they are of the opinion:-

1. To approve the appointment of Mr Richard Digard as a non-executive director of Guernsey Post Limited with immediate effect.

4 Committee Support for Proposition(s)

- 4.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the proposition above has the unanimous support of the Board.

Yours faithfully

C N K Parkinson
President

J C S F Smithies
Vice-President

S J Falla MBE
Non-States Member

J C Hollis
Non-States Member

CURRICULUM VITAE

Mr Richard Digard

Mr Digard is a career journalist, editor and newspaper management specialist with extensive experience at director level of running the Channel Islands' two daily newspapers and other titles and digital publications.

Having been educated at Elizabeth College and Coventry University, Mr Digard became the first news editor of the Guernsey Press and Star in 1987. Subsequently, he was appointed as Marketing Manager at Sun Alliance International Life in 1994 where he ran its marketing division, serving marketing teams in the UK, Europe, Africa and the Far East.

Mr Digard returned to the Guernsey Press and Star as Training Editor in 1997 and later held the position of Deputy Editor. In 2000, Mr Digard became Editor of the Press and shortly after this appointment he joined the Board of the Guernsey Press Co. Ltd. He went on to join Guiton Publishing, a group board committee responsible for the strategic direction and financial performance of its two Channel Islands newspapers.

Since his retirement in 2014, Mr Digard has been a member of the Independent Review Panel appointed by the States to consider States Members' remuneration and he also served as a Member of the Scrutiny Management Committee until early 2017. Mr Digard is also a non-executive director of a locally-based captive insurance company and has been a douzenier of the Vale Parish since 2016.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

**APPOINTMENT OF ORDINARY MEMBERS OF THE GUERNSEY FINANCIAL SERVICES
COMMISSION**

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 14th February, 2017, of the Policy & Resources Committee, they are of the opinion:-

1. To appoint Mr. John Aspden as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 3rd April 2017.
2. To appoint Mr. Philip Middleton as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 3rd April 2017.

The above Propositions have 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.

POLICY & RESOURCES COMMITTEE

APPOINTMENT OF ORDINARY MEMBERS OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

Presiding Officer
Royal Court
St Peter Port
Guernsey

14th February 2017

Dear Sir

1. Executive Summary

- 1.1 Mr. Alex Rodger's term as an ordinary member of the Guernsey Financial Services Commission came to an end on 1st February 2017. Mr. Rodger is not seeking reappointment.
- 1.2 A number of other Commissioners will be reaching the end of their terms in the near future and, having already served more than one term, will not be seeking reappointment.
- 1.3 In order to seek to ensure continuity of experience, this report proposes the appointment of Mr. John Aspden and Mr. Philip Middleton as ordinary members of the Guernsey Financial Services Commission for a three year term with effect from 3rd April 2017.

2. Report

John Aspden

- 2.1 Mr. John Richard Aspden is a senior finance professional with significant experience in investment and banking supervision in both the public and private sectors.
- 2.2 Mr. Aspden was Chief Executive of the Financial Supervision Commission in the Isle of Man from 1998 to 2015, where he was responsible for the regulation and supervision of all banking, securities and funds, trusts and companies, and money transmission activities.
- 2.3 Prior to taking up his role at the Financial Supervision Commission in the Isle of Man, Mr. Aspden held roles in the private sector including Managing Director of

Matheson InvestNet Ltd (1996-1998), where he was responsible for all activities of what was then Hong Kong's largest independent distributor of and adviser on collective investments for retail investors. Mr. Aspden has also held the role of Deputy General Manager of the International Bank of Asia Ltd (1992-1996), and has worked in banking supervision at the Bank of England (1972-1988) and at the Office of the Commissioner of Banking in Hong Kong, now HKMA (1988-1992). Mr. Aspden has also been Chairman of the Group of International Finance Centre Supervisors since 2011.

Philip Middleton

2.4 Mr. Philip D. Middleton is a senior financial services strategist with significant recent experience in advising government, central banks and financial institutions on crisis related issues.

2.5 Since 2015 Mr. Middleton has carried out consulting and advisory work in central banking and financial services through Rifle House Capital Ltd. He is also an active member of three leading think tanks. He has had significant experience in the private sector, holding various roles within KPMG LLP (1991-2001), including Partner and European Head of Financial Services Strategy, and within Ernst & Young LLP (2002-2014), including Partner and Head of Central Banking, EMEIA.

3. Conclusion

3.1 The Financial Services Commission (Bailiwick of Guernsey) Law, 1987, specifies that ordinary members of the Commission should "be persons having knowledge, qualifications or experience appropriate to the development and supervision of finance business in the Bailiwick". A recruitment process was undertaken involving the placing of advertisements within and outside Guernsey and interviews by the Vice President of the Policy & Resources Committee, the President of the Committee *for* Economic Development, and the Chairman of the Guernsey Financial Services Commission.

3.2 Based on the outcomes of the appointment process, the Policy & Resources Committee is pleased to nominate both Mr. John Aspden and Mr. Philip Middleton as ordinary members of the Commission.

4. Recommendation

4.1 The States are asked to decide whether they are of the opinion:-

1. To appoint Mr. John Aspden as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 3rd April 2017.

2. To appoint Mr. Philip Middleton as an ordinary member of the Guernsey Financial Services Commission for a three year term with effect from 3rd April 2017.

5. Proposition

- 5.1 In accordance with Rule 4(4) of The Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions accompanying this policy letter are supported unanimously by the Policy & Resources Committee.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

A H Brouard
J P Le Tocq
T J Stephens

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR THE* ENVIRONMENT & INFRASTRUCTURE

PLANNING PANEL - APPOINTMENT OF A NEW CHAIRMAN

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "Planning Panel – Appointment of a New Chairman" dated 20th February 2017, they are of the opinion:-

1. To elect Mr. David Gwyn Harry as Chairman of the Planning Panel with effect from 1st April 2017 to hold office for the unexpired portion of Mr. Patrick Russell's term ending on 31st March 2021; and
2. To note the resignation of Mr. Patrick Russell from the Planning Panel with effect from 31st March 2017.

The above Propositions have 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.

COMMITTEE *for the* ENVIRONMENT & INFRASTRUCTURE

PLANNING PANEL – APPOINTMENT OF A NEW CHAIRMAN

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port
Guernsey

20th February 2017

Dear Sir

1. Executive Summary

The purpose of this States Report is to ask the States to:

- Elect Mr. David Gwyn Harry as the Chairman of the Planning Panel (“the Panel”);
- Note the resignation of Mr. Patrick Russell from the Panel.

2. Background

- 2.1 The Land Planning and Development (Guernsey) Law, 2005 (“the 2005 Law”) came into force on 5th April 2009. Section 86 of the 2005 Law explains the requirements for establishing the Planning Panel and the appointment of a Chairman.

Establishment of Planning Panel.

- 86.** (1) *The States shall, on the recommendation of the Committee for the Environment & Infrastructure, draw up and maintain a panel to be called the Planning Panel which shall consist of six independent persons and from which the members of the Planning Tribunal shall, from time to time, be appointed.*
- (2) *A recommendation of the Committee for the Environment & Infrastructure under subsection (1) may be amended by resolution of the States to the intent that persons other than those recommended by the Committee for the Environment & Infrastructure may be elected to the Planning Panel.*

- (3) *Of the members of the Planning Panel –*
 - (a) *not less than four shall be permanently resident within the Channel Islands,*
 - (b) *not less than two, who shall be designated by States' resolution as the "**professional members**", shall be persons with such qualifications and experience in planning matters as in the opinion of the States is necessary for the hearing and determination of appeals to the Planning Tribunal,*
 - (c) *one shall be designated by States' resolution as the Chairman of the Planning Panel, and*
 - (d) *one shall be designated by States' resolution as the Deputy Chairman thereof.*
- (4) *The members of the Planning Panel shall, subject to the provisions of subsection (5), hold office for a term of six years, and a person may be elected for more than one term of office.*

Such appointments must be made by the States upon the recommendation of the Committee *for the Environment & Infrastructure*.

2.2 At its meeting in 25th March 2009, the States approved the appointment of Mr. Patrick Russell as Chairman of the Panel for a six year term. Mr. Russell was re-elected as Chairman of the Panel on 13th February 2015 for a further six year term.

2.3 Under the provisions of Section 4 of the Land Planning and Development (Appeals) Ordinance, 2007, the following individuals are precluded from serving as a member of the Panel:

- (a) a Member of the States of Deliberation within the meaning of the Reform (Guernsey) Law, 1948;
- (b) an employee of the States who is employed by the States within the Development & Planning Authority, a member of the Authority or a person who carries out work for, or provides services to the Authority in relation to any functions of the Authority under the 2005 Law or the repealed enactments¹,
- (c) a member of the Strategic Land Planning Group;
- (d) a person who holds appointment to any judicial office in Guernsey; or
- (e) any person who has been such a person at any time within the period of two years ending on the date of the proposed election.

¹ This refers to the previous planning legislation. The reference was relevant when the current legislation first came into force as work was being carried out under the former legislation as part of transitional arrangements.

- 2.4 In November 2016, Mr. Russell tendered his resignation from the Panel effective from 1 April 2017.
- 2.5 The Committee *for the* Environment & Infrastructure would like to express its thanks to Mr. Russell for his substantial contribution as Chairman of the Planning Panel as it was both originally established and during its subsequent development. The Committee is grateful to Mr. Russell for his hard work in leading the Panel for its first eight years and acknowledges that his considerable professional experience, especially as a part-time Tribunal Judge of the First-Tier Tribunal, Health, Education and Social Care Chamber, has helped establish the Panel as an accessible appellant body for those wishing to challenge a planning decision.

3. Appointment of a new Chairman

- 3.1 The Committee noted that the former Policy Council, when appointing members to the Panel in early 2009, considered that the Panel should be chaired by a legally qualified person. Mr. Russell was appointed as he is a qualified solicitor and had significant experience as a part-time Tribunal Judge of the First-Tier Tribunal, Health, Education and Social Care Chamber.
- 3.2 Therefore, the Committee invited expressions of interest from the Panel's legally qualified members regarding the vacant Chairman's position.
- 3.3 After careful consideration of the expressions of interest received, the Committee is recommending that Mr. David Gwyn Harry be elected as the Panel's Chairman. Mr. Harry is a Guernsey resident and has served as a Panel member since September 2012 and prior to that he served as a "reserve member". A brief summary of Mr. Harry's curriculum vitae is appended to this Report.

4. Propositions

- 4.1 The States are asked to decide

Whether, after consideration of the Policy Letter entitled "Planning Panel – Appointment of a New Chairman" dated 20th February 2017, they are of the opinion:-

- (a) To elect Mr. David Gwyn Harry as Chairman of the Panel with effect from 1st April 2017 to hold office for the unexpired portion of Mr. Russell's term until 31st March 2021; and
- (b) To note the resignation of Mr. Russell from the Panel with effect from 31st March 2017.

4.2 In accordance with Rule 4(4) of The Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions accompanying this policy letter are supported unanimously by the Committee *for the Environment & Infrastructure*.

Yours faithfully

B L Brehaut
President

M H Dorey
Vice-President

H L de Sausmarez

S T Hansmann Rouxel

S L Langlois

APPENDIX 1

Curriculum Vitae for Mr. David Gwyn Harry

Mr. Harry was appointed as an Ordinary Member of the Planning Panel in 2009. As a member of the Planning Panel, Mr. Harry has served on a large number of Planning Tribunals and has attended the Panel's various ongoing training sessions.

In 2015, Mr. Harry was appointed as the Chief Executive Officer for the Guernsey Sports Commission. This post is a part-time appointment.

Qualifications:	Batchelor of Law Degree 1973 Solicitor of the Supreme Court of England and Wales 1977 Member of the Society of Trust and Estate Practitioners 1995 Judicial Skill and Competences 2010
Professional:	Qualified as a Solicitor in 1977 with Fonseca and Partners South Wales
Experience:	1980 - partner at Fonseca and Partners 1990 - joined Wedlake Bell McKean in Guernsey 1991 – appointed partner at Wedlake Bell McKean and Wedlake Bell in London 1990 to 2014 - Non-Executive Director of various Trust Companies and property funds

Mr. Harry retired from professional practice in 2014. Throughout his professional career as a solicitor specialising in property matters he gained a wide ranging commercial and private client legal experience including advocacy before courts and tribunals and considerable property and planning experience in connection with residential and commercial property situated in England and Wales.

In addition, since moving to Guernsey, Mr. Harry has been actively involved in Island life and has served on the St. Peter Port and St. Andrew's Douzaine (he stood down from the St. Andrew's Douzaine in December 2016). He has also been actively involved in sport on in Guernsey, especially cycling. He is also chairman of the Guernsey Commonwealth Games Association and is a member of the panel of legal advisers appointed to advise the Commonwealth Games Federation.

APPOINTMENT LAID BEFORE THE STATES OF DELIBERATION

APPOINTMENT OF CHAIRMAN OF THE GUERNSEY BANKING DEPOSIT COMPENSATION BOARD

In accordance with section 3(4) of the Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008, the appointment by the Committee *for* Economic Development of Mr. John Lee as Chairman of the Guernsey Banking Deposit Compensation board with effect from 6th February 2017 is laid before the States of Deliberation. Mr. Lee has been appointed as Chairman until 25th November 2018.

The States of Deliberation have the power to annul the appointment.

Mr. Lee's CV is summarised below.

Mr. John Preston Lee TD., FCIB.

Education: Emanuel School, SW 11 (1945-1952)

Career: 2nd Lieutenant Royal Artillery (1952-1955)
Captain Royal Artillery (Territorial Army) (1955-1971)
Lloyds Bank (1955 – 1960)
Midland Bank (1960 – 1994)

Senior Managerial Positions:

Senior Assistant Manager, Guernsey (1972 – 1974)
Controller of Advances Regional Head Office, Southampton (1974 – 1976)
Assistant Regional Director (Operations), Home Counties (1976 – 1980)
General Manager's Assistant (Treasury), Head Office (1980 – 1981)
Area Manager, Guernsey (1981 – 1994)

Professional Qualifications:

Associate of the Chartered Institute of Bankers - 1960
Fellow of the Chartered Institute of Bankers - 1985

Non-Executive Directorships:

JCB Insurance Co. Ltd.
MDDUS Insurance Ltd.

Other:

Ordinary member of the Guernsey Banking Deposit Compensation board (2008 – current)
Trustee of Channel Island Air Search

ORDINANCE LAID BEFORE THE STATES

THE DOCUMENT DUTY (AMENDMENT) ORDINANCE, 2017

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Document Duty (Amendment) Ordinance, 2017", made by the Policy & Resources Committee on the 14th February, 2017, is laid before the States.

EXPLANATORY MEMORANDUM

The Ordinance amends paragraph 3 of Schedule 1 to the Document Duty Ordinance 2003 which was substituted by the Document Duty (Amendment) Ordinance 2016 with effect from 1st January 2017. The purpose of the present amendment is to clarify the wording of the entry relating to conveyances by way of exchange, in particular as it affects exchanges of properties of equal value. The revised wording clarifies that each party to a conveyance by way of exchange is *prima facie* liable to pay document duty according to the value of the property which that party is acquiring; but such liability will be subject to a discount in each case of 2% of the value of the lower value property.

The Ordinance was made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948, and shall be deemed to have come into force on the 1st January, 2017. Under the proviso to Article 66A(1) of the Reform (Guernsey) Law, 1948, the States of Deliberation have the power to annul the Ordinance.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No. 1 of 2017

THE DRIVING TESTS (FEES) REGULATIONS, 2017

In pursuance of Sections 2A(b) and 2B of the Motor Taxation and Licensing (Guernsey) Law, 1987, as amended, The Driving Tests (Fees) Regulations, 2017, made by the Committee *for the* Environment and Infrastructure on 13th February 2017, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the current fees that are chargeable for tests of competence which take place, on or after the 1st April 2017.

These Regulations come into force on the 17th February 2017.

The full text of the statutory instruments and other legislation included in this document can be found at: <http://www.guernseylegalresources.gg/article/151276/2016>

THE LAND PLANNING AND DEVELOPMENT (USE CLASSES) ORDINANCE, 2017

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Land Planning and Development (Use Classes) 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 repeals and replaces the Land Planning and Development (Use Classes) Ordinance, 2007. The main purpose of the Ordinance is to prescribe use classes for the purposes of the Land Planning and Development (Guernsey) Law, 2005 ("the Law"). These are listed in Schedule 1 to the Ordinance. The prescribing of use classes is important as the Law provides that any change in the use of land from a use specified in one use class to a use specified in a different use class is a material change of use (section 13(3)(c)); a material change of use is development requiring planning permission under the Law.

The Ordinance also specifies that where a building or other land is used for a purpose of any numbered use class then its use for any other purpose of the same numbered class shall not be taken to constitute development so that planning permission will not be required.

The main difference between the proposed Ordinance and the current 2007 Ordinance is that the number of use classes is reduced from 44 in the current Ordinance to 28 in the proposed Ordinance so that fewer changes of use will requiring planning permission.

The main changes are –

- to the descriptions of the use classes set out in Schedule 1 reflecting the amalgamation of certain classes and other changes, including -
 - minor changes to the sheltered accommodation use class and to add a new specialised housing use class;
 - the amalgamation of the former two classes relating to houses in multiple occupation into one new use class 6;

- amendments to visitor accommodation use classes and related definitions to amalgamate them into either use for serviced or non-serviced visitor accommodation whilst clarifying that non-serviced visitor accommodation, principally self-catering accommodation, can also be used for winter lets during the winter months;
- amendments to retail use classes and related definitions in particular to provide a separate use class for convenience retail consistent with the retail policy in the new Island Development Plan;
- the consolidation of certain public amenity uses into new use class 19;
- the consolidation of certain storage and distribution uses into new use class 22;
- the amalgamation of –
 - current use class 39 relating to use for commercial laundering into the general industry use class (now 25),
 - three uses with high impacts on amenity into new use class 26 (special industry),

and the drafting of a broader use class for uses in relation to waste (new 27).

- to section 4(3), which lists certain uses which do not fall within any of the use classes in Schedule 1 (known as sui generis uses), in particular to add use for composting carried out on a commercial basis or a large scale, use as a nightclub, as a camp site, as a tattoo parlour or as a solar farm.

This means that a change to or from such a use would generally require planning permission if the change of use is a material one. The current section 4(4) relating to accommodation of people in tents has not been carried forward consequential upon the addition of camp site as a sui generis use; and

- a new definition of "agriculture" at section 5(1) and (2) to clarify what is intended to be included within agricultural use class 28.

Schedule 2 to the Ordinance makes certain amendments to the Land Planning and Development (Exemptions) Ordinance, 2007. These mainly comprise amendments –

- consequential upon the changes to the Use Classes Ordinance including the removal of one exemption for certain retail changes of use; and

- to provide for new exemptions for changes between residential use class 5 (use of part of a dwelling for business purposes) to use within use class 1 (dwelling house) or 2 (flat), for certain changes between light industrial use and general storage or distribution uses and from general industrial use to general storage or distribution uses.

The new provisions are subject to the transitional provisions in section 7.

The Land Planning and Development (Use Classes)

Ordinance, 2017

ARRANGEMENT OF SECTIONS

1. Use Classes.
2. Ancillary and incidental uses.
3. Minor uses.
4. Uses falling outside use classes.
5. Interpretation.
6. Consequential amendments.
7. Transitional provisions and savings.
8. Repeal.
9. Citation.
10. Commencement.

SCHEDULE 1: Use Classes.

SCHEDULE 2: Consequential amendments to the Land Planning and Development (Exemptions) Ordinance, 2007.

The Land Planning and Development (Use Classes)

Ordinance, 2017

THE STATES, in pursuance of their Resolution of the 26th January, 2016^a, and in exercise of the powers conferred on them by sections 13(4) and (6), 28 and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order:-

Use Classes.

1. (1) Any numbered class of use identified in Schedule 1 is hereby prescribed as a use class for the purposes of the Law and for the purposes of any description used in the Strategic Land Use Plan and any Plan or Local Planning Brief.

(2) Subject to sections 2 to 4, where a building or other land is used for a purpose of any numbered class specified in Schedule 1, the use of that building or other land for any other purpose of the same numbered class shall not be taken to constitute development.

(3) References in subsection (2) to a building include references to land occupied with the building and used for the same purposes.

Ancillary and incidental uses.

2. Where the principal use of any premises falls within a use class, any

^a Article XII of Billet d'État No. I of 2016.

^b Order in Council No. XVI of 2005 to which there are amendments not relevant to this Ordinance.

other use of those premises (or of adjacent premises used as part of the same undertaking) for a purpose which is ancillary or ordinarily incidental to that principal use is to be regarded as also falling within that use class, notwithstanding that such other use might (if carried on independently of the principal use) have fallen within a different use class.

Minor uses.

3. Where the principal use of any premises falls within a use class, any other insignificant, temporary or occasional use of those premises is to be regarded as also falling within that use class –

- (a) unless that other use has material effects, having regard to the matters set out in section 13(1)(a), (d), (e) and (i) of the General Ordinance^c as though that section referred to the likely effect of that use, and
- (b) notwithstanding that it might (if carried on at a significant, permanent or frequent level) have fallen within a different use class.

Uses falling outside use classes.

4. (1) For the avoidance of doubt, if a change is made between two uses, and one or both of those uses does not fall within a use class, that change of use constitutes development within the meaning of the Law only if it is a material change.

(2) Where premises are used for a mixture of uses that do not fall

^c Ordinance No. XXI of 2007 as amended by Ordinance No. IX of 2016.

within one use class so that there is no principal use ("**mixed use**"), then any of the uses comprising that mixed use shall be regarded as not falling within any use class, notwithstanding that any such use might (if carried out independently of the other uses) have fallen within a specified use class.

(3) Subject to sections 2 and 3, no use class specified in Schedule 1 includes use –

- (a) for the sale of fuel for motor vehicles or boats,
- (b) as a taxi business,
- (c) as a betting office,
- (d) as a funeral parlour or for the business of a funeral director or undertaker,
- (e) as a veterinary clinic or for the boarding of animals,
- (f) for the sale, or display for sale or hire, of motor vehicles,
- (g) as a casino,
- (h) for composting carried out on a commercial basis or a large scale,
- (i) as a nightclub,

(j) as a camp site,

(k) as a tattoo parlour, or

(l) as a solar farm.

(4) For the avoidance of doubt, sections 2 and 3 apply only to a case where the principal use of any premises falls within a use class and are not to be construed as inferring that a mixed use or sui generis use could not have ancillary, incidental or minor uses as described in those sections.

Interpretation.

5. (1) In this Ordinance, unless the context requires otherwise -

"**agriculture**" includes dairy farming, livestock breeding and keeping, horticulture, fruit growing, seed growing, the use of land as an orchard or as grazing land, osier land, meadow land, market gardens and nursery grounds,

"**animals**" includes birds, fish, insects and reptiles,

"**art gallery**" means premises used for the public display of works of art for their appreciation and not for their sale,

"**boarding permit**" means a permit granted by the States Economic Development Committee under and for the purposes of the Tourist Law, 1948^d,

^d Ordres en Conseil Vol. XIII, p. 329 to which there are amendments not relevant to this Ordinance.

"**camp site**" means land in the open air used for the temporary accommodation of people in moveable structures including in moveable tents, yurts, tepees, tree-houses, caravans or motor homes,

"**care**" means personal care for people in need of such care by reason of age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder,

"**day centre**" means premises which are visited during the day for social or recreational purposes or for the purposes of rehabilitation or occupational training, at which care is also provided,

"**development**" is to be construed in accordance with section 13(1) of the Law and Part I of the General Ordinance,

"**dwelling**" means a building or part of a building designed for human habitation, and includes any land within the curtilage of that building,

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**essential items for daily or frequent use**" includes food, other fresh produce purchased for daily or frequent use, essential household toiletries, essential household cleaning products and newspapers and magazines,

"**flat**" means a self-contained dwelling comprising part of a building and lying wholly or partly above or below some other part of that building,

"**food**" includes alcoholic and non-alcoholic drinks,

"**garden centre**" means premises used as a plant centre and for all of the following uses -

- (a) the retail sale of any other goods associated with plants and gardening,
- (b) the offering of services related to gardening to the public,
- (c) the holding on an occasional basis of fairs and other events related to gardening,

"**general industrial purpose**" means an industrial purpose which is not a light industrial purpose or a special industrial purpose,

"**General Ordinance**" means the Land Planning and Development (General Provisions) Ordinance, 2007,

"**goods**" includes, for the avoidance of doubt, tickets and live animals,

"**household**" means -

- (a) a person living alone,
- (b) any number of people living together as a family, or

- (c) up to six people living together as a single household,

"industrial purpose" means the carrying on of any process, including data processing for, or incidental to, any of the following purposes, namely -

- (a) the making of any article or of part of any article (including a ship or vessel, or a film, video, Compact Disc, Digital Versatile Disc or sound recording),
- (b) the altering, repairing, maintaining, decorating, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or destruction of any article,
- (c) the dressing of stone, being a process carried on in the course of a trade or business other than agriculture, or
- (d) the cleaning, laundering or drying of clothes or fabrics, other than use as a launderette,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"light industrial purpose" means any industrial purpose, which is not a special industrial purpose, where the processes carried on and the machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area for any reason including by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit, artificial lighting or discharge of solid or liquid substances,

"livestock" includes any animal kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land,

"non-serviced visitor accommodation" means premises providing temporary accommodation for visitors for reward, with no, or only a basic level, of guest services, and includes -

- (a) premises of such a description which would be categorised as a self-catering unit under the Tourist Law, 1948 were a permit to be granted in respect of those premises under that Law, and
- (b) premises of such a description which also provide sleeping accommodation or lodging but not board to persons other than visitors at any time between 1st November and 31st March inclusive (known as a winter let) in any 12 month period,

"nursing home" means premises used for the accommodation and nursing of people suffering from sickness, injury or infirmity,

"plant centre" means premises used for the retail sale of plants and goods used in relation to the growing and care of plants,

"premises" includes buildings and any other land,

"the public" includes any section of the public,

"retail trade or business" means the trade or business of -

- (a) selling goods other than hot food,
- (b) a post office,
- (c) a travel agency,
- (d) selling cold food for consumption off the premises,
- (e) hairdressing,
- (f) a nail bar or beauty parlour or salon,
- (g) displaying goods for sale,
- (h) hiring out domestic or personal goods , or
- (i) a launderette or receiving goods to be washed, cleaned or repaired, to, from, or for, visiting members of the public,

"serviced visitor accommodation" means premises providing temporary accommodation for visitors for reward, with a standard or high level of guest services, and includes for the avoidance of doubt, premises providing such accommodation and services which would be categorised as a hotel, guest house, bed and breakfast accommodation or a serviced apartment under the Tourist Law, 1948 were a permit to be granted in respect of those premises under that Law,

"solar farm" means –

- (a) an area of land in the open air, or
- (b) a structure situated on land in the open air,

on which solar panels, intended to be used for the generation of electricity or heat, are erected or installed but does not include such land comprising a building, or within the curtilage of a building, except where the building is a glasshouse or other temporary building,

"special industrial purpose" means an industrial purpose -

- (a) which falls within the following subparagraphs -
 - (i) extraction, grinding, crushing or screening of minerals in bulk,
 - (ii) breaking vehicles, crushing or baling scrap metal,
 - (iii) recovering metal from scrap,
 - (iv) power-hammering, power-forging, riveting, panel beating or similar metal working activities, or
- (b) where the processes carried on and the machinery

installed are such as could not be installed or carried on in any residential area without causing a serious detrimental effect to the amenity of that area for any reason including by reason of noise, vibration, smell, fumes, smoke, ash, dust or grit, artificial lighting or discharge of any solid or liquid substances,

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

"sui generis use" means a use falling within section 4(3),

"use class" is to be construed in accordance with section 1(1),

"waste" includes -

- (a) scrap material, effluent or other unwanted surplus arising from any process, and
- (b) anything which requires to be disposed of as being broken, worn out, contaminated, spoiled or redundant,

and other terms used in this Ordinance which are not defined in it but are defined in the Law are to have the same meaning as in the Law.

- (2) For the avoidance of doubt, the following uses of land, except

for land used as a garden (other than a market garden), are treated as land used for agriculture falling within use class 28, in accordance with section 45A of the Law, whether or not they also fall within the definition of agriculture in subsection (1) –

(a) land used or, with the application of good husbandry, capable of being used for –

(i) dairy farming,

(ii) production, rearing or maintenance of livestock, or

(iii) market gardening or the outdoor cultivation of flowers, bulbs or nursery stock,

(b) land which is covered by a glasshouse, or

(c) land which was covered by a glasshouse and falls within paragraph (a).

(3) The level of guest services provided, for the purposes of the definitions of "**non-serviced visitor accommodation**" and "**serviced visitor accommodation**", is to be determined having regard to the minimum level of guest facilities and services that would be required for the type of accommodation in question under the Tourist Law, 1948, were a boarding permit to be granted under that Law.

(4) A reference in this Ordinance to a use class followed by a number is a reference to the use class of that number identified in Schedule 1.

(5) 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.

Consequential amendments.

6. The Land Planning and Development (Exemptions) Ordinance, 2007^e is amended as set out in Schedule 2.

Transitional provisions and savings.

7. (1) The lawfulness of any development carried out before the commencement of section 6 without the permission of the Authority but in accordance with the Land Planning and Development (Exemptions) Ordinance, 2007 as in force immediately before the commencement of section 6, is not affected by the amendments set out in Schedule 2, and any such development commenced but not completed as at the date of commencement of section 6 may be continued provided that it is completed within 12 months of the commencement of section 6.

(2) The lawfulness of any change of use carried out before the commencement of this Ordinance without the permission of the Authority by virtue of that change of use not constituting development in accordance with section 1(2) of the Land Planning and Development (Use Classes) Ordinance, 2007 as in force immediately before the commencement of this Ordinance, is not affected by the repeal of that Ordinance and any such change of use commenced but not completed as at the date of commencement of this Ordinance may be continued provided that it is completed within 6 months of that repeal.

^e Ordinance No. XXIII of 2007 as amended by Ordinance No. IX of 2016.

Repeal.

8. The Land Planning and Development (Use Classes) Ordinance, 2007^f is repealed.

Citation.

9. This Ordinance may be cited as the Land Planning and Development (Use Classes) Ordinance, 2017.

Commencement.

10. This Ordinance shall come into force on the 3rd April, 2017.

^f Ordinance No. XXVI of 2007 as amended by Ordinance No. IX of 2016.

SCHEDULE 1

Sections 1, 4 and 5(4)

USE CLASSES

Residential use classes

Residential use class 1: dwelling house	<p>Use, other than a use falling within use classes 2 to 5, of -</p> <p style="text-align: center;">(a) a detached dwelling, or</p> <p style="text-align: center;">(b) one of a pair or one of a group of dwellings sharing common dividing walls or linked by garages,</p> <p>as a permanent residence for one household.</p>
Residential use class 2: flat	<p>Use, other than a use falling within use class 1, 3, 4 or 5 of a flat as a permanent residence for one household.</p>
Residential use class 3: sheltered housing	<p>Use of one of a group of dwellings affording facilities and support services especially suited to the needs of older, disabled or other persons with particular needs (including the on-call assistance of a warden) as a permanent residence for -</p>

	<p>(a) a person living alone who, or</p> <p>(b) two persons living together of whom at least one,</p> <p>requires access to those facilities because of their disability or other particular needs.</p>
Residential use class 4: specialised housing	<p>Use of a dwelling for the provision of accommodation and care, including use as a nursing home or residential home where staff provide care on-site, other than –</p> <p>(a) a use falling within use class 3 or 5, or</p> <p>(b) use as a hospital.</p>
Residential use class 5: use of part of dwelling for business purposes	<p>Use of a dwelling principally as a permanent residence for one household but also, by a member of that household, for professional or business purposes or retail trade or business and carried on in not more than two rooms but which does not involve -</p>

	<p>(a) storage of hazardous or odorous materials,</p> <p>(b) a use falling within use classes 23, 26 or 27 or for any general industrial purpose, or</p> <p>(c) any other use which could not be carried on without material detrimental effects on a neighbouring property.</p>
Residential use class 6: premises in multiple occupation	Use of a dwelling, other than a use falling within use class 4, as a permanent residence for more than one household.

Visitor economy use classes

Visitor economy use class 7: serviced visitor accommodation	Use as serviced visitor accommodation.
Visitor economy use class 8: non-serviced visitor accommodation	Use as non-serviced visitor accommodation.

Retail use classes

Retail use class 9: convenience retail	Use, other than a use falling within use classes 11 or 12, for sale of items usually purchased as essential items for daily or frequent use.
Retail use class 10: general retail	Any retail trade or business use, not falling within use classes 9 or 11 to 14, the purpose of which is to - <div style="text-align: center;"> <p>(a) sell or display goods for retail sale or for hire, or</p> <p>(b) offer services,</p> </div> to the public.
Retail use class 11: food	Use for sale of food for consumption on the premises.
Retail use class 12: hot food take-away	Use for sale of hot food for consumption off the premises.
Retail use class 13: plant centre	Use as a plant centre.
Retail use class 14: garden centre	Use as a garden centre.

Administrative, financial and professional services use classes

Administrative, financial and professional services use class 15: financial and professional services	Use for providing professional or financial services to visiting members of the public.
Administrative, financial and	Use as an administrative office for any

professional services use class 16: administrative office	purpose, other than a use falling within use class 15 or 17.
Administrative, financial and professional services use class 17: temporary office	Use for the temporary relocation of an administrative office in the event of an emergency.

Public amenity use classes

Public amenity use class 18: non-residential health/welfare services	<p>Use of any premises –</p> <ul style="list-style-type: none"> (a) for the provision of non-residential medical or health services, (b) as a crèche or children's day nursery, or (c) as a day centre.
Public amenity use class 19: non-residential establishments	<p>Use of any premises -</p> <ul style="list-style-type: none"> (a) as a non-residential educational establishment or training centre, other than a use falling within use class 18, (b) as a museum, public

	<p>archive, art gallery, library or reading room, or</p> <p>(c) as a place -</p> <p>(i) of public assembly, or</p> <p>(ii) of public worship or for the social and recreational activities of a religious body.</p>
Public amenity use class 20: assembly or leisure	<p>Use as -</p> <p>(a) an exhibition hall or conference centre, or</p> <p>(b) a theatre, cinema or concert hall.</p>
Public amenity use class 21: sport or fitness	<p>Use as a commercial -</p> <p>(a) gymnasium or sports hall, or</p> <p>(b) fitness centre or health suite.</p>

Storage/distribution use classes

<p>Storage/Distribution use class 22: general storage or distribution</p>	<p>Use, not falling within use class 23 or 27–</p> <ul style="list-style-type: none"> (a) for the storage or parking of motor vehicles, (b) for the storage of goods, (c) for data and archive storage in any form relating to a business carried out elsewhere, (d) for the transfer of goods, or (e) for the distribution of goods in connection with their commercial storage.
<p>Storage/Distribution use class 23: special storage</p>	<p>Use, not falling within use class 27, for the storage of hazardous, odorous, putrescible or offensive material, of noxious organic material or of leather, hide or skin.</p>

Industrial use classes

Industrial use class 24: light industry	Use for any light industrial purpose not falling within use class 27.
Industrial use class 25: general industry	Use for any general industrial purpose not falling within use class 27.
Industrial use class 26: special industry	<p>Use, not falling within use class 27 –</p> <ul style="list-style-type: none"> (a) for the production or processing of any article or substance which may in any reasonably foreseeable circumstances be hazardous, or present a risk to public health or safety, (b) for the processing of putrescible or offensive material or noxious organic material including- <ul style="list-style-type: none"> (i) tanning or dressing leather, hide or skin, or (ii) curing fish, (c) as an abattoir or a knacker's yard, or

	(d) for any special industrial purpose not falling within items (a) to (c).
Industrial use class 27: waste	Use for the storage, sorting, processing, treatment, baling, disposal, recovery or transfer of waste.

Agricultural use class

Agricultural use class 28:	Use of land for agriculture or forestry (including afforestation), including, for the avoidance of doubt, use for any of those purposes of any building occupied together with land so used.
-----------------------------------	--

SCHEDULE 2

Sections 6 and 7(1)

CONSEQUENTIAL AMENDMENTS TO THE LAND PLANNING AND DEVELOPMENT (EXEMPTIONS) ORDINANCE, 2007

1. After Class 1 to the Schedule (development within the curtilage of a dwelling-house), insert the following Class –

"CLASS 1A

RESIDENTIAL CHANGE OF USE

Change from use as part of dwelling for business purposes to other residential uses.

1. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, from an existing use falling within use class 5 (use of part of dwelling for business purposes) to a use within use class 1 (dwelling house) or use class 2 (flat).".
2. In Class 6 to the Schedule (industrial change of use) –

- (a) for the heading substitute –

"STORAGE, DISTRIBUTION AND INDUSTRIAL
CHANGE OF USE",

- (b) for each reference to "use class 38" substitute "use class 25" and for each reference to "use class 37"

substitute "use class 24",

- (c) in paragraph 2, for "within use classes 40 to 43 inclusive" substitute "within use class 26 or 27", and
- (d) after paragraph 2 insert the following paragraphs –

"Changes between light industrial use and general storage or distribution use.

3. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, to or from an existing use for any light industrial purpose within use class 24 to or from use for any general storage or distribution purpose within use class 22 provided that the land comprises premises the total area of which does not exceed 250 square metres.

Changes from general industrial use to general storage or distribution use.

4. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, from an existing use for any general industrial purpose within use class 25 to use for any general storage or distribution purpose within use class 22 provided that the land comprises premises the total area of which does not exceed 250 square metres."

3. In Class 9 to the Schedule (retail and administrative, financial and professional change of use) –

- (a) paragraph 1 (changes from special to general retail use) is repealed, and
- (b) in paragraph 2 (changes from use as an office to use for temporary re-location in emergency) for "use class 22 (use as an administrative office)" substitute "use class 16 (administrative office)" and for "use class 23 (temporary re-location of administrative office in emergency) substitute "use class 17 (temporary office)".

**THE LAND PLANNING AND DEVELOPMENT (PLANS) (AMENDMENT) ORDINANCE,
2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Land Planning and Development (Plans) (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 section 9(4) of the Land Planning and Development (Plans) (Ordinance), 2007 to remove the requirement that the Development & Planning Authority have to request the Committee *for the* Environment & Infrastructure to lay proposals for a new development plan or amendments to the same before the States. The result of the amendment is that there will instead be a duty on the Development & Planning Authority to lay such proposals, together with the other documents listed in section 9(4), before the States.

The Land Planning and Development (Plans) (Amendment) Ordinance, 2017

THE STATES, in pursuance of their Resolutions of the 2nd November, 2016^a, and in exercise of the powers conferred on them by sections 12(1) and (2) and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, hereby order:-

Amendment of the Plans Ordinance.

1. In section 9(4) of the Land Planning and Development (Plans) Ordinance, 2007^c, the words "request the Committee for the Environment & Infrastructure to" are omitted.

Interpretation.

2. 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.

3. This Ordinance may be cited as the Land Planning and Development (Plans) (Amendment) Ordinance, 2017.

^a Article I of Billet d'État No. XXVII of 2016.

^b Order in Council No. XVI of 2005. Section 12 is amended by Ordinance Nos. IX and XI of 2016; there are other amendments to the Law not relevant to this Ordinance.

^c Ordinance No. XXII of 2007 as amended by Ordinance No. XLI of 2008 and Nos. IX and XI of 2016.

Commencement.

4. This Ordinance shall come into force on the 29th March, 2017.

**THE POPULATION MANAGEMENT (GUERNSEY) LAW, 2016
(COMMENCEMENT) 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 (Commencement) 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 brings the Population Management (Guernsey) Law, 2016 into force on 3rd April, with the exception of paragraph 3 of Schedule 4, which amends the Children (Guernsey and Alderney) Law, 2008. Alternative provision in this respect is made in the Population Management (Miscellaneous Provisions) Ordinance, 2017.

The Population Management (Guernsey) Law, 2016 (Commencement) Ordinance, 2017

THE STATES, in exercise of the powers conferred on them by section 89 of the Population Management (Guernsey) Law, 2016^a, hereby order:-

Commencement of the Population Management Law.

1. The Population Management (Guernsey) Law, 2016 shall come into force on 3rd April, 2017.

Citation.

2. This Ordinance may be cited as the Population Management (Guernsey) Law, 2016 (Commencement) Ordinance, 2017.

^a Order in Council No. VI of 2016.

THE POPULATION MANAGEMENT (MISCELLANEOUS PROVISIONS) ORDINANCE, 2017

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Population Management (Miscellaneous Provisions) 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 makes provision in respect of the residential status, for the purposes of the Population Management (Guernsey) Law, 2016, of minors in fostering, pre-adoptive and similar arrangements, both those accommodated in a dwelling in Guernsey and those who are accommodated outside Guernsey; students from other parts of the Bailiwick accommodated during term time in a dwelling in Guernsey; persons receiving medical treatment outside Guernsey; and prisoners, including persons remanded in custody before trial.

The Population Management (Miscellaneous Provisions) 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 sections 76 and 78(9) and (10) of the Population Management (Guernsey) Law, 2016^b and sections 119 and 120 of the Children (Guernsey and Alderney) Law, 2008^c, hereby order:-

Minors accommodated in a dwelling in Guernsey pursuant to arrangements under the Children Law.

1. (1) A minor who is accommodated in a dwelling in Guernsey pursuant to an arrangement made by the States Committee for Health & Social Care in exercise of its powers under the Children (Guernsey and Alderney) Law, 2008 ("**the Children Law**") may be so accommodated without holding a Certificate or Permit.

(2) Only where subsection (3) applies, a period during which a minor is accommodated in a dwelling in Guernsey pursuant to an arrangement of the type described in subsection (1) shall be treated as a period of ordinary residence for the purposes of the Population Management (Guernsey) Law, 2016 ("**the Law**").

(3) This subsection applies where the Administrator is satisfied that the minor was ordinarily resident –

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

^b Order in Council No. VI of 2016.

^c Order in Council No. XIV of 2009; as amended by Ordinances Nos. XI and XLVIII of 2009, and IX and XX of 2016.

- (a) immediately before, or
- (b) three months immediately after,

the period of accommodation in question.

Students from other islands of the Bailiwick accommodated in Guernsey.

2. (1) For the purposes of the Law, any period during which a person who is not normally resident is accommodated in a dwelling in Guernsey for the purpose of studying in Guernsey shall not be treated as a period of ordinary residence.

(2) A person who is accommodated in a dwelling in Guernsey for the purpose set out in subsection (1) pursuant to the term-time host scheme may be so accommodated without holding a Certificate or Permit.

Persons receiving medical treatment outside Guernsey.

3. (1) For the purposes of the Law, any period during which a person receives medical treatment outside Guernsey is deemed to be a period of ordinary residence if the condition in subsection (2) is satisfied.

- (2) The condition is the Administrator being satisfied that -
 - (a) the person was ordinarily resident immediately before leaving Guernsey for the purpose of receiving the medical treatment, and
 - (b) had the person not received the medical treatment, he

could have lived lawfully in Guernsey throughout the period.

Persons sentenced to a period of lawful imprisonment.

4. For the purposes of the Law, and subject to section 5, any period during which a person is imprisoned in Guernsey by order of a court –

- (a) shall be treated as a period of lawful residence in Guernsey, whether or not the person holds a Certificate or Permit, but
- (b) shall not be treated as a period of ordinary residence.

Persons detained before trial.

5. (1) The duties set out in subsection (2) arise when a person –

- (a) is detained in custody before trial, whether in or outside Guernsey,
- (b) was ordinarily resident at any point in the period of six months before being so detained, and
- (c) is subsequently not convicted of any offence.

(2) As soon as practicable after the person's release from detention the Administrator must –

- (a) ask him whether he wishes that period of detention to be treated, for the purposes of the Law, as a period of ordinary residence, or as a period of residence outside

Guernsey, and

- (b) subject to subsection (3), ensure that the period is treated, for the purposes of the Law, consistently with the person's expressed wishes.

(3) If at the end of the period of one month, the person has not expressed a wish pursuant to subsection (2) as to how that period of detention is to be treated for the purposes of the Law, then the Administrator must ensure that it is treated in the way which, in the opinion of the Administrator, is most advantageous to that person.

Amendment of the Children Law.

6. For section 78(2)(b)(i) of the Children Law, substitute –

- "(i) was ordinarily resident in Guernsey shall, for the purposes of the Housing (Control of Occupation) (Guernsey) Law, 1994, be treated as being ordinarily resident in Guernsey, and for the purposes of the Population Management (Guernsey) Law, 2016, be treated as ordinarily resident within the meaning of that Law, or".

Interpretation.

7. (1) In this Ordinance –

- (a) **"medical treatment"** means –

- (i) medical treatment or care, including such treatment or care in respect of physical or mental disability, or other mental health needs, and
 - (ii) any period of recovery following that treatment or care during which a person is advised by a medical practitioner not to travel, and
- (b) "**the term-time host scheme**" means the scheme referred to as the term-time host scheme and co-ordinated by the States Committee for Health & Social Care or any successor committee of the States,

and other expressions have the same meaning as in the Law.

(2) 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.

8. This Ordinance may be cited as the Population Management (Miscellaneous Provisions) Ordinance, 2017, and shall come into force on 3rd April, 2017.

**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.

THE OPEN MARKET HOUSING REGISTER ORDINANCE, 2017

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Open Market Housing Register 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 makes provision in respect of the form of the Open Market Housing Register, and in respect of requirements to notify the Committee *for the* Environment & Infrastructure of proposed alterations to inscribed dwellings.

The Open Market Housing Register Ordinance, 2017

THE STATES, in pursuance of their Resolution of the [], 2017^a, and in exercise of the powers conferred on them by sections 24 and 32 of the Open Market Housing Register (Guernsey) Law, 2016^b, hereby order:-

Form of Register.

1. (1) The Open Market Housing Register ("**the Register**") shall be maintained in electronic form.

(2) The Register shall be available for inspection from the States of Guernsey website.

(3) The Register shall contain the following information in respect of each dwelling inscribed in it –

(a) its Cadastre number,

(b) its Register reference number,

(c) the Part of the Register in which it is inscribed,

(d) its address,

(e) the name of its owner,

^a Item [] of Billet d'État No. [] of 2017.

^b Order in Council No. VII of 2016.

- (f) the address of its owner, and
- (g) any additional information or remarks in respect of its inscription.

Notification of alterations and change of use.

2. The owner of a dwelling inscribed in the Register who intends to alter that dwelling, whether structurally or by way of change of use, shall inform the States Committee for the Environment & Infrastructure in writing of the nature and extent of the proposed alteration at least seven days before it is proposed that the work to effect the alteration should commence, together with such information and plans and other documents as may be necessary to illustrate or clarify the alteration.

Interpretation.

3. In this Ordinance, "**change of use**" includes the combination of two or more dwellings so as to be used as a single dwelling and the use of a single dwelling or making a single dwelling usable as two or more dwellings, and other expressions have the same meaning as they have in the Open Market Housing Register (Guernsey) Law, 2016.

Citation and Commencement.

4. This Ordinance may be cited as the Open Market Housing Register Ordinance, 2017, and shall come into force on the 3rd April, 2017.

**THE OPEN MARKET HOUSING REGISTER (GUERNSEY) LAW, 2016 (COMMENCEMENT)
ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Open Market Housing Register (Guernsey) Law, 2016 (Commencement) 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 brings the Open Market Housing Register (Guernsey) Law, 2016 into force on 3rd April, 2017.

The Open Market Housing Register (Guernsey) Law, 2016 (Commencement) Ordinance, 2017

THE STATES, in exercise of the powers conferred on them by section 41 of the Open Market Housing Register (Guernsey) Law, 2016^a, hereby order:-

Commencement of the Open Market Housing Register Law.

1. The Open Market Housing Register (Guernsey) Law, 2016 shall come into force on 3rd April, 2017.

Citation.

2. This Ordinance may be cited as the Open Market Housing Register (Guernsey) Law, 2016 (Commencement) Ordinance, 2017.

^a Order in Council No. VII of 2016.

THE OPEN MARKET HOUSING REGISTER (PART D CAP) ORDINANCE, 2017

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Open Market Housing Register (Part D Cap) 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 prescribes the "Part D Cap" – that is, the maximum number of properties that may be inscribed in Part D of the Open Market Housing Register.

The Open Market Housing Register

(Part D Cap) Ordinance, 2017

THE STATES, in pursuance of their Resolution of the 28th June, 2013^a, and in exercise of the powers conferred on them by sections 2(1) and 32 of the Open Market Housing Register (Guernsey) Law, 2016^b, hereby order:-

Prescription of the Part D Cap.

1. The maximum number of properties that may be inscribed in Part D of the Open Market Housing Register is 205.

Citation and Commencement.

2. This Ordinance may be cited as the Open Market Housing Register (Part D Cap) Ordinance, 2017, and shall come into force on 3rd April, 2017.

^a Item 1 of Billet d'État No. XI of 2013.

^b Order in Council No. VII of 2016.

THE IMAGE RIGHTS (BAILIWICK OF GUERNSEY) (AMENDMENT) ORDINANCE, 2017

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Image Rights (Bailiwick of Guernsey) (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 Image Rights (Bailiwick of Guernsey) Ordinance 2012 so as to insert a power enabling the Registrar to issue, after consultation with the Economic Development Committee and other interested parties, Codes of Practice giving guidance as to procedures and best practice in relation to registered image rights, including standards of conduct to be observed by registered image rights agents. The provisions of such codes and any breach thereof may be taken into account by the Registrar in exercising his functions and in any legal proceedings. An amendment is also made to the Image Rights (Bailiwick of Guernsey) Regulations 2012 so as to enable the Registrar to obtain information from agents regarding standards of practice etc in order to assist him in exercising his functions under the Ordinance.

The Image Rights (Bailiwick of Guernsey) (Amendment) Ordinance, 2017

THE STATES, in pursuance of their Resolution of the 30th September, 2011^a, and in exercise of the powers conferred on the States by sections 1 and 3 of the Intellectual Property (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004^b, and all other powers enabling the States in that behalf, hereby orders:-

Amendment to the Image Rights (Bailiwick of Guernsey) Ordinance, 2012.

1. (1) The Image Rights (Bailiwick of Guernsey) Ordinance, 2012 is amended as follows.

(2) After section 81, insert the following section –

"Codes of practice.

81A. (1) The Registrar may, after consultation with –

- (a) the Committee, and
- (b) such other persons as appear to the Registrar to be appropriate including, without limitation, persons representative of the intellectual property industry,

^a Article XV of Billet d'État No. XV of 2011.

^b Orders in Council No. XIV of 2004; as amended by Recueil d'Ordonnances Tome XXIX, p. 406, No. XXXIX of 2015 and No. IX of 2016.

issue such codes of practice as the Registrar thinks necessary –

- (i) for the purpose of providing guidance as to the duties, requirements and standards (including, without limitation, standards of professional conduct and practice) to be complied with and the procedures and best practices to be observed by registered image rights agents,
- (ii) generally for the purposes of this Ordinance.

(2) A code of practice under this section may contain such transitional or savings provisions as appear to the Registrar to be necessary or expedient.

(3) The Registrar may, after consultation as mentioned in subsection (1), revise the whole or any part of a code of practice issued under this section and issue that revised code.

(4) A contravention by any person of a provision of a code of practice under this section shall not of itself render him liable to any proceedings; but –

- (a) the Registrar may take the provision of the code and the contravention thereof into account in determining whether and in what

manner to exercise the powers conferred on the Registrar by or under this Ordinance, and

- (b) in any legal proceedings, whether or not under this Ordinance, the provision of the code shall be admissible in evidence, and if the provision appears to the court or other tribunal before which the proceedings are being conducted to be relevant to any question arising in the proceedings then the provision may be taken into account in determining that question."

Amendment to the Image Rights (Bailiwick of Guernsey) Regulations, 2012.

2. (1) The Image Rights (Bailiwick of Guernsey) Regulations, 2012^c are amended as follows.

(2) After regulation 8 of the Image Rights (Bailiwick of Guernsey) Regulations, 2012, insert the following regulation –

"Notification to the Registrar.

8A. (1) The Registrar may require a registered image rights agent to notify the Registrar in writing of any matter that is determined by the Registrar to be relevant or material in relation to the duties, requirements and standards (including, without limitation, standards of professional conduct and practice) to be complied with, and the procedures and best practices to be observed, by registered image rights agents.

^c Guernsey Statutory Instrument No. 55 of 2012.

(2) A requirement made by the Registrar under paragraph (1) may be in such form and manner as the Registrar thinks fit (including, without limitation, by written notice or the issue of a code of practice).".

Extent.

3. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

4. This Ordinance may be cited as the Image Rights (Bailiwick of Guernsey) (Amendment) Ordinance, 2017.

Commencement.

5. This Ordinance shall come into force on the 1st April, 2017.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *for* ECONOMIC DEVELOPMENT

INSOLVENCY REVIEW - AMENDMENTS TO THE COMPANIES LAW

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Insolvency Review – Amendments to the Companies Law dated 9th February, 2017, they are of the opinion:-

1. To approve the proposals set out in section 3 of the Policy Letter to amend the Companies (Guernsey) Law, 2008 as follows:
 - a. to introduce creditors' committee procedures and rules as set out in paragraph 3.1.1,
 - b. to allow administrators to make distributions to creditors as set out in paragraph 3.1.2,
 - c. to allow the Royal Court to permit dissolution of the company in the circumstances set out in paragraph 3.1.3,
 - d. to introduce objectives of winding up as set out in paragraph 3.2.1,
 - e. to require an independent liquidator in a voluntary winding up where the company is insolvent as set out in paragraph 3.2.2,
 - f. to strengthen creditor protection in an insolvent voluntary winding up by introducing the requirements set out in paragraph 3.2.3,
 - g. to allow inquorate final general meetings in a voluntary winding up as set out in paragraph 3.2.4,
 - h. to provide for rules for the establishment of claims in a winding up as set out in paragraph 3.2.5,
 - i. to exempt companies in liquidation from the requirement to prepare audited accounts as set out in paragraph 3.2.6,
 - j. to allow a liquidator to disclaim onerous assets and unprofitable contracts in the circumstances set out in paragraph 3.2.7,
 - k. to authorise the establishment of a statutory scheme for unclaimed dividends and direct the preparation of a further policy letter as set out in paragraph 3.2.8,
 - l. to introduce a statutory power for the Royal Court to wind up insolvent foreign companies as set out in paragraph 3.2.9,
 - m. to introduce a statutory power for the Committee for Economic Development to make insolvency rules as set out in paragraph 3.3.1,

- n. to require administrators and liquidators to report findings, or suspicions, of misconduct on the part of directors or officers of a company as set out in paragraph 3.3.2,
 - o. to introduce statutory provisions with regard to transactions at an undervalue and extortionate credit transactions as set out in paragraph 3.3.3,
 - p. to introduce statutory powers for liquidators to require statements of affairs and to apply to court for orders requiring the production of such statements and other documents and the attendance of directors and former directors for the purpose of examination, as set out in paragraph 3.3.4, and
 - q. to make ancillary amendments as identified in paragraph 3.3.5 regarding consistency in time periods, utilities and essential services, typographical matters, corrections, clarifications, consequential and minor amendments.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

The above Propositions have 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.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *for* ECONOMIC DEVELOPMENT

INSOLVENCY REVIEW - AMENDMENTS TO THE COMPANIES LAW

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

9th February, 2017

Dear Sir

1 Executive Summary

- 1.1 This report recommends the enactment by the States of Guernsey of amendments to the Companies (Guernsey) Law, 2008 (the “Companies Law”) to reform corporate insolvency provisions. The aim of the reform is to enhance Guernsey’s current corporate insolvency law, to ensure that it continues to be modern and effective and to ensure predictable and equitable outcomes when a business fails. In doing so the reform supports and enhances the financial services industry and the wider economy.

2 Background

- 2.1 Effective, equitable and clear insolvency laws are an essential ingredient of a modern economy. Exit strategies for business are an increasingly important factor when choosing where to establish a venture; and the certainty offered by a clear and effective insolvency regime can give a jurisdiction a competitive advantage. Up to date and effective insolvency laws can also improve the quality and flow of credit to an economy, since they enable creditors to understand at the outset how a liquidation or administration will progress. In turn, this can lead to a greater willingness on the part of credit providers to lend in a jurisdiction; so allowing businesses improved access to finance to facilitate growth.
- 2.2 The proposed amendments are to the Companies Law, which when it was introduced in 2008 represented a fundamental reform of Guernsey’s previous company law. Following a post-implementation review, the Companies Law has been amended on a number of occasions to ensure that it continues to be modern and effective and to support Guernsey’s international offering.

Following an extensive consultation process, this report recommends further amendments to the Companies Law focused on the insolvency provisions of the Law.

- 2.3 Because there are so many more companies in Guernsey compared with other types of entities such as Limited Partnerships, the vast majority of insolvent situations take place in the corporate sphere. The Committee therefore proposes to lead with amendments to the Companies Law, with amendments to the laws relating to other commercial legal entities and arrangements (i.e. Partnerships, Limited Partnerships, Foundations and Limited Liability Partnerships) to be considered as and when these laws are reviewed. The proposed changes to the Companies Law are detailed in section 3 below.

3 Proposed Amendments

3.1 Administration – amendments to Part XXI

Administration is a rescue process. An order may be granted by the Court where a company is, or is about to become, insolvent, and the Administrator is appointed to manage the affairs, business and property of the company. The aims of the process are to rescue the company as a going concern, or if this is not possible, to obtain a more advantageous realisation of the company's assets than would be effected on a winding up.

3.1.1 Creditors' Committee Procedures in Administration – Unlike most jurisdictions, including England and Wales, administrators in Guernsey are currently under no obligation to call a meeting of creditors when conducting an administration (though in practice they generally do, or make informal contact with key creditors). The proposal is that administrators should be obliged to call at least one initial meeting of the company's creditors within a set number of days after appointment. They should also be required to send notice of their appointment to creditors with an explanation of the process and its aims. Following the initial notice and meeting, the proposal is that any further rules with regard to creditors' committee procedures should be flexible so that the process can be tailored to the size and complexity of the administration and the number of creditors.

3.1.2 Powers of Administrators – An administrator has a reasonably comprehensive range of powers set out in Schedule 1 to the Companies Law. However, they are unable to make distributions of the companies' assets to all types of creditor. The administrator can pay secured creditors and pay the expenses of the administration, but there is some debate as to an administrator's ability to pay other creditors (for instance arrears to employees of the company) if it is still trading during administration. The proposal is to amend the Companies Law to

specifically allow administrators to make distributions to creditors where these are in accordance with the objects of the administration.

- 3.1.3 Exit from Administration – Administration can only be brought to an end by the Court. In cases where it is necessary for the company to be wound up after Administration the Court has to bring the Administration to an end and make a winding up order. The proposal is that the Court should have the power to permit dissolution of the company at the same time as discharging an administration order. This would represent a procedural simplification and cost saving in cases where the Court agrees that making a winding up order would be an unnecessary extra step.

3.2 Winding up – amendments to Part XXII, XXIII and XXIV

Winding up, or liquidation as it is often known, is “the end of the road” for a company; it involves the winding up of the company’s affairs and the gathering in of the assets of the company for distribution to creditors (and shareholders in the event of there being a surplus). In Guernsey there are two forms; (i) voluntary winding up which is initiated by the members of the company passing a resolution (or in other limited circumstances such as the expiry of the period, if any, of the company's duration) and which does not usually involve the Court and (ii) compulsory winding up in which the winding up is led and supervised by the Court. There is no legislative distinction in Guernsey Law between a solvent or insolvent winding up, as is found in some other jurisdictions including England and Wales; both voluntary and compulsory winding up can be either solvent or insolvent.

- 3.2.1 Objectives of winding up – Many jurisdictions set out the general objectives of insolvency procedures in their legislation. The Companies Law addresses the objectives of administration in section 374 to the Law, but is silent as to the objectives of liquidations. The Committee is of the view that objectives would provide useful statutory guidance to office holders as to their duties and how these should be fulfilled and proposes the introduction of high level objectives of winding up in Guernsey. These will be to safeguard and collect in assets, realise them and distribute the proceeds to the companies’ creditors in order of priority, after liquidation costs, and the payment of any surplus assets to the entitled recipients. It is also proposed to introduce a provision that these duties should be carried on in a reasonable and efficient manner.

- 3.2.2 Requirement for independence in an insolvent voluntary winding up – At present, there is no statutory restriction on who can be appointed as a liquidator of a Guernsey company, although where the Court makes the appointment there will of course be scrutiny of the suitability of appointees. However, in a voluntary winding up, a company can appoint a liquidator itself by ordinary resolution. This may be a director or

shareholder who will then be empowered to wind up a company in which they have an interest and distribute its assets. This is typically seen as a commercially attractive option due to advantages of speed and cost. Where a company is solvent the Committee believes it to be appropriate to retain this possibility. However, where a company is insolvent this increases the potential risk of creditors being disadvantaged due to conflicts of interest. The Committee proposes that the Companies Law be amended to introduce a requirement that a liquidator appointed by an insolvent company in a voluntary winding up must be independent, subject to the Court, on application, having a power to approve the appointment of a liquidator who does not meet the requirement of independence.

- 3.2.3 Voluntary winding up and creditor protection – The Committee proposes increasing protection for creditors in respect of voluntary liquidations where the company is insolvent. Where the company is solvent, the creditors should be paid in full, so arguably require less protection and the Committee believes that the current level of creditor protection is sufficient. However, where the voluntary winding up is of an insolvent company, there will by definition be insufficient funds to repay all creditors, who therefore require greater protection and a greater level of engagement in the process. The Committee believes that, where the company being voluntarily wound up is insolvent, notice of a liquidator’s appointment should be required to be sent to creditors with the aim of explaining the process, a liquidator should be required to call at least one initial meeting of creditors, and that there should be an ongoing statutory obligation to report to creditors and shareholders.
- 3.2.4 Allowing inquorate final meetings – In a voluntary winding up it is necessary to hold a final general meeting of the company’s members to present the accounts. In practice, in cases where the affairs of a company have been satisfactorily wound up there may be insufficient members present to form the necessary quorum under section 213 of the Companies Law. The Committee believes it is appropriate for the Companies Law to provide that the final meeting is not invalidated by reason alone of being inquorate.
- 3.2.5 Establishing claims – The Committee believes that a power should be inserted into the Companies Law providing for rules to be prescribed by the Committee relating to the establishment of claims in a winding up. This will address the process by which a liquidator can determine the validity of a claim (a “proof of debt” procedure), and will provide clear guidance as to advertisement, how claims should be submitted and the factors a liquidator should consider when determining the validity of a

claim. Once the correct procedure has been followed, the liquidator will have the statutory power to accept or reject claims. Currently, there is no formal procedure for proving debts and, for instance, liquidators are unable to impose a cut off date on late claims without first making an application to the Court for directions. There should also be a route by which a creditor can challenge a liquidator's decision in Court.

- 3.2.6 Audited Accounts in a Liquidation – The Committee believes that the Companies Law should be amended to exempt companies that are in liquidation from the requirement to prepare audited accounts. The requirement to have accounts audited is an unnecessary expense in circumstances where a liquidator has been appointed; liquidators act in a fiduciary capacity in relation to the company and will report to the Court (or members in a voluntary liquidation) on the company's financial position.
- 3.2.7 Disclaimer of Onerous Assets – In some jurisdictions, liquidators have the power to disclaim onerous property and unprofitable contracts to enable the liquidator to complete the liquidation without being restrained by the continuing obligations of the company, or by the company owning property which is effectively valueless to creditors. The Committee proposes that liquidators should have such a power in Guernsey, subject to a requirement that notice is served on all relevant parties, including Her Majesty's Receiver General where property or rights could become bona vacantia as a result of the exercise of the disclaimer. The Committee also believes that there must be a right for interested parties to apply to the Court to challenge a liquidator's decision to exercise his power.
- 3.2.8 Unclaimed dividends – The Committee is advised that liquidators are sometimes unable to make distributions and/or pay dividends to members, despite their best endeavours, where they are not able to identify up to date contact or payment details. In many jurisdictions, a statutory scheme exists for such amounts to be paid across to the State, from whom it can be reclaimed within a specified period of time. For example the Insolvency Service performs this function in the UK. The Committee has carefully considered a number of options for how to treat such unclaimed distributions in Guernsey, and on balance recommends the establishment of a statutory scheme for such amounts to be held by the States where a liquidator has taken all reasonable steps to make a distribution to a member. Such a scheme would enable legitimate claims to be made by former members of the company within a specified period of time. Consideration will need to be given as to which States body will administer the scheme and what will happen to any funds which are not claimed within the specified period, and this will be brought back to the States in due course.

3.2.9 Winding up of foreign companies – There are a significant number of foreign companies which carry on business in Guernsey and/or which have assets under control here. Some jurisdictions allow for foreign companies to be wound up in certain circumstances, for instance the UK, Hong Kong, Singapore, the BVI, Australia and the Bahamas. Statute and/or case law govern the exercise of the power and typically require a sufficient connection with the jurisdiction, such as a place of business or assets within the jurisdiction. The Committee proposes that the Royal Court should have a statutory power to compulsorily wind up an insolvent foreign company; and that the statutory provisions should reflect the position in English Law. This will have the advantage of allowing the Royal Court to take account of English jurisprudence, which would be of persuasive authority in Guernsey.

3.3 General

3.3.1 Insolvency Rules – In many other jurisdictions such as England and Wales, the Cayman Islands and the BVI, statutory insolvency rules are in place to govern procedural matters (such as standard forms and procedures) to ensure that a predictable, efficient and uniform approach is taken to such matters. The advantages of this are that there can be certainty for those interested in insolvency proceedings and also that the rules can be updated swiftly to keep pace with developments without the need to amend the substantive primary legislation. The Committee believes that a statutory power should be given to the Committee to make Insolvency Rules advised by a standing rules committee, including industry practitioners.

3.3.2 Reporting of findings, or suspicions, of misconduct – The Committee believes it is appropriate to place a statutory duty on administrators and liquidators to report to the relevant authorities if they find, or suspect, misconduct on the part of the directors or officers of a company. The aim of this is to assist the authorities in identifying delinquent directors and officers and protecting Guernsey's reputation. Liquidators in a compulsory liquidation are required to report to the Court at the conclusion on such matters, but there is currently no other mandatory reporting requirements by which suspected misconduct is required to be reported to the authorities. The Committee proposes that reports should be made to the Registrar of Companies in respect of non-GFSC licensed entities, and to both the Registrar of Companies and the GFSC in respect of licensees or former licensees.

3.3.3 Transactions at an undervalue and set aside of extortionate credit transactions – The Committee proposes that liquidators and administrators should be permitted to “claw back” transactions at an

undervalue via an application to Court. This will allow the Court to order that certain funds be refunded to the company such as gifts to unrelated parties, or commercial transactions where the consideration was significantly less than market value where these transactions took place during the run up to insolvency.

The Committee also proposes that liquidators and administrators should be able to apply to Court to ask that extortionate credit transactions be set aside. These are credit transactions which the company enters into in the run up to insolvency, for instance where the company takes out a loan at an extortionate rate of interest, which allows that loan creditor a greater recovery than they would be entitled to had the loan been on reasonable market terms.

These changes will bring Guernsey's regime broadly into line with that in the UK and Jersey.

- 3.3.4 Statement of Affairs and Examination powers – The Committee proposes that liquidators should have the statutory power to require the production of a statement of affairs from the company's directors and officers about the company's financial position. This would enable liquidators to gain a rapid understanding of the company's assets, liabilities, debts, creditors and any security held by creditors. Administrators already have the power under section 387 of the Companies Law to require a statement of affairs, but liquidators do not.

In addition, the Committee believes that the liquidator should have an explicit power to apply to Court to request an order for the production of documents and information from directors, officers, employees, shareholders, accountants, bookkeepers, bankers and any other person involved in the promotion of the company or with knowledge of its affairs. They should also have an explicit power to apply to Court to require the attendance of directors and former directors for the purpose of examination.

Where someone has failed to produce a statement of affairs it is proposed that there should be a power for the liquidator (or administrator under the current provisions regarding statement of affairs in administrations) to apply to Court for an order compelling its production.

- 3.3.5 Ancillary Amendments – In addition to the matters set out above, the Committee has identified the following ancillary amendments that are required:

- Consistency in time periods – statutory time periods to be reviewed and amended as appropriate to ensure they are consistent and logical, and
- In some jurisdictions, provisions exist that require utilities and other essential service providers to continue to provide services during administration and winding up. It is proposed at this time that a regulation making power should be inserted into the Law, to allow the flexibility to introduce such provisions should this be considered appropriate in future.

In addition to the substantive amendments identified above, it is proposed that typographical matters, corrections, clarifications, consequential and minor amendments, which the Committee does not believe will substantively alter the provisions of the Companies Law, will be addressed in the amendments.

4 Consultation

- 4.1 In 2013 a working group of insolvency practitioners was established to advise the Commerce and Employment Department on the options for reform of Guernsey's commercial and personal insolvency regimes. A detailed public discussion paper was issued by the Commerce and Employment Department at the end of 2014 which asked questions on a wide range of issues and options for reform. The consultation was well received with 21 detailed and substantive responses submitted. Following the secondment to the Department of a specialist Insolvency Practitioner, who produced an independent analysis of the responses, policy proposals were developed and a public consultation response document was released in February 2016. This set out the changes which the Commerce and Employment Department intended to take forward and which the Committee has developed and adopted in this report.
- 4.2 The Law Officers have been consulted regarding these proposals.

5 Financial Implications

- 5.1 The new scheme for unpaid dividends to be held by the States will have some financial implications, but these are unlikely to be onerous and are likely to be able to be met within existing resources. There will be legislative drafting and officer time needed to prepare the legislation which will also be met within existing resources.

6 Propositions

The States are asked to decide whether they are of the opinion:-

1. To approve the proposals set out in section 3 of this policy letter to amend the Companies (Guernsey) Law, 2008, as follows:
 - a. to introduce creditors' committee procedures and rules as set out in paragraph 3.1.1,
 - b. to allow administrators to make distributions to creditors as set out in paragraph 3.1.2,
 - c. to allow the Royal Court to permit dissolution of the company in the circumstances set out in paragraph 3.1.3,
 - d. to introduce objectives of winding up as set out in paragraph 3.2.1,
 - e. to require an independent liquidator in a voluntary winding up where the company is insolvent as set out in paragraph 3.2.2,
 - f. to strengthen creditor protection in an insolvent voluntary winding up by introducing the requirements set out in paragraph 3.2.3,
 - g. to allow inquorate final general meetings in a voluntary winding up as set out in paragraph 3.2.4,
 - h. to provide for rules for the establishment of claims in a winding up as set out in paragraph 3.2.5,
 - i. to exempt companies in liquidation from the requirement to prepare audited accounts as set out in paragraph 3.2.6,
 - j. to allow a liquidator to disclaim onerous assets and unprofitable contracts in the circumstances set out in paragraph 3.2.7,
 - k. to authorise the establishment of a statutory scheme for unclaimed dividends and direct the preparation of a further policy letter as set out in paragraph 3.2.8,
 - l. to introduce a statutory power for the Royal Court to wind up insolvent foreign companies as set out in paragraph 3.2.9,
 - m. to introduce a statutory power for the Committee for Economic Development to make insolvency rules as set out in paragraph 3.3.1,
 - n. to require administrators and liquidators to report findings, or suspicions, of misconduct on the part of directors or officers of a company as set out in paragraph 3.3.2,
 - o. to introduce statutory provisions with regard to transactions at an undervalue and extortionate credit transactions as set out in paragraph 3.3.3,
 - p. to introduce statutory powers for liquidators to require statements of affairs and to apply to court for orders requiring the production of such statements and other documents and the attendance of directors and former directors for the purpose of examination, as set out in paragraph 3.3.4, and
 - q. to make ancillary amendments as identified in paragraph 3.3.5 regarding consistency in time periods, utilities and essential services, typographical matters, corrections, clarifications, consequential and minor amendments.

2. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

7 Committee Support for Propositions

- 7.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

P T R Ferbrache
President

J Kuttelwascher
Vice-President

A C Dudley-Owen
J S Merrett
J I Mooney