

**IN THE STATES OF THE ISLAND OF GUERNSEY  
ON THE 26<sup>TH</sup> FEBRUARY, 2020**

**The States resolved as follows concerning Billet d'État No V  
dated 7<sup>th</sup> February, 2020**

ELECTION OF ONE MEMBER OF THE STATES' TRADING SUPERVISORY BOARD  
P.2020/16

- I. To elect Deputy P.J. Roffey as a member of the States' Trading Supervisory Board to complete the unexpired term of office of the late Deputy J. Kuttelwascher (that is to the 30<sup>th</sup> June 2020).

**COMMITTEE FOR HOME AFFAIRS**

POLICE COMPLAINTS COMMISSION:  
APPOINTMENT OF CHAIR AND NOTIFICATION OF RESIGNATION  
P.2020/12

- II. After consideration of the Policy Letter dated 20<sup>th</sup> January 2020, of the Committee *for* Home Affairs:
  1. To note the resignation of Mr Stewart Chisholm as Chairman, of the Police Complaints Commission with effect from 1<sup>st</sup> January 2020 and as Member of the Police Complaints Commission with effect from 1<sup>st</sup> March 2020.
  2. To appoint Mr Robert Steven Jordan as the Chairman of the Police Complaints Commission with immediate effect for a term of four years.

**STATUTORY INSTRUMENTS LAID BEFORE THE STATES**

No. 109 of 2019

**THE REPUBLIC OF MALDIVES (REPEAL OF RESTRICTIVE MEASURES) (GUERNSEY AND SARK)  
REGULATIONS, 2019**

In pursuance of section 2 of the Sanctions (Bailiwick of Guernsey) Law, 2018, "The Republic of Maldives (Repeal of Restrictive Measures) (Guernsey and Sark) Regulations, 2019", made by the Policy *and* Resources Committee on 7<sup>th</sup> November, 2019, were laid before the States.

No. 110 of 2019

**THE NICARAGUA (RESTRICTIVE MEASURES) (BAILIWICK OF GUERNSEY) REGULATIONS, 2019**

In pursuance of section 2 of the Sanctions (Bailiwick of Guernsey) Law, 2018, "The Nicaragua (Restrictive Measures) (Bailiwick of Guernsey) Regulations, 2019", made by the Policy *and* Resources Committee on 7<sup>th</sup> November, 2019, were laid before the States.

No. 111 of 2019

**THE CYBER-CRIME (RESTRICTIVE MEASURES) (BAILIWICK OF GUERNSEY) REGULATIONS, 2019**

In pursuance of section 2 of the Sanctions (Bailiwick of Guernsey) Law, 2018, "The Cyber-Crime (Restrictive Measures) (Bailiwick of Guernsey) Regulations, 2019", made by the Policy and Resources Committee on 7<sup>th</sup> November, 2019, were laid before the States.

No. 125 of 2019

**THE HEALTH SERVICE (BENEFIT) (GENERAL) (AMENDMENT) REGULATIONS, 2019**

In pursuance of sections 5 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, made by the Committee *for* Employment & Social Security on 13<sup>th</sup> December, 2019 were laid before the States.

No. 1 of 2020

**THE INCOME SUPPORT (GUERNSEY) (AMENDMENT) REGULATIONS, 2020**

In pursuance of sections 1 and 15B of the Income Support (Guernsey) Law, 1971, made by the Committee *for* Employment & Social Security on 7<sup>th</sup> January, 2020 were laid before the States.

No. 2 of 2020

**THE DATA PROTECTION (GENERAL PROVISIONS) (BAILIWICK OF GUERNSEY) (AMENDMENT) REGULATIONS 2020**

In pursuance of sections 7(1) and 109 of, and paragraph 17(a) of Schedule 2, to the Data Protection (Bailiwick of Guernsey) Law, 2017, The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations 2020, made by the Committee *for* Home Affairs on 6th January 2020, were laid before the States.

**THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENT WITH ISLE OF MAN) ORDINANCE, 2020**

P.2020/4

- III. To approve the draft Ordinance entitled "The Income Tax (Guernsey) (Approval of Agreement with Isle of Man) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

**THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENT WITH NEW ZEALAND) ORDINANCE, 2020**

P.2020/5

- IV. To approve the draft Ordinance entitled "The Income Tax (Guernsey) (Approval of Agreement with New Zealand) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

**THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENT WITH ESTONIA)  
ORDINANCE, 2020  
P.2020/6**

- V. To approve the draft Ordinance entitled "The Income Tax (Guernsey) (Approval of Agreement with Estonia) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

**COMMITTEE FOR HEALTH & SOCIAL CARE**

**'CAPACITY LAW' - SUPPLEMENTARY POLICY MATTERS AND POTENTIAL FINANCIAL  
IMPLICATIONS ARISING FROM THE APPEALS PROCESS  
P.2020/10**

- VI. After consideration of the Policy Letter entitled "Capacity Law' – Supplementary Policy matters and potential financial implications arising from the appeals process', dated 20<sup>th</sup> January, 2020:-

1. To agree the supplementary matters of policy as described in section 3 of this Policy Letter and direct that the Projet de Loi entitled "The Capacity (Bailiwick of Guernsey) Law, 2020" is drafted accordingly.
2. To agree that legal representation at Mental Health and Capacity Review Tribunal hearings (primarily in relation to protective authorisations) is to be provided under the Legal Aid Scheme generally on a '*no means, no merits test*' basis; whilst reserving the right for the Legal Aid Administrator to exceptionally apply a '*means test*' to an application, where reasonable and in conformity with human rights obligations.
3. To agree that legal representation for appeals from a Mental Health and Capacity Review Tribunal to the Royal Court or Court of Appeal may be provided under the Legal Aid Scheme on a '*means and merit test*' basis.
4. To note that, upon enactment of "The Capacity (Bailiwick of Guernsey) Law, 2020", there are anticipated to be additional ongoing funding requirements of:
  - i. £25,000 per annum for the Guernsey Legal Aid Service; and
  - ii. £75,000 per annum for the future Mental Health and Capacity Review Tribunal

and that requests for additional budget will be submitted as part of the annual budget process.

5. To direct the Committee *for* Health & Social Care to report back to the States with proposals for the introduction of an advocacy service.

## COMMITTEE FOR HOME AFFAIRS

### SEXUAL OFFENCES LEGISLATION: SUPPLEMENTARY POLICY MATTERS P.2020/7

- VII. After consideration of the Policy Letter entitled "Sexual Offences: Supplementary Policy Matters" dated 6<sup>th</sup> January 2020, of the Committee for Home Affairs:
1. To agree to the inclusion in the projet de loi entitled "the Sexual Offences (Bailiwick of Guernsey) Law, 2020" the offences set out in this Policy Letter including -
    - i. specific offences in relation to complainants under 13, as set out in section 3.3.1 of the report;
    - ii. breach of trust offences to protect 16 or 17 year old complainants, set out in section 3.4.1;
    - iii. an offence of sexual communication with a child, as set out in section 3.5.1;
    - iv. an offence of possession of extreme pornographic images, as set out in section 3.6.1;
    - v. an offence of malicious disclosure of private sexual photographs, as set out in section 3.6.3;
    - vi. specific offences to deal with "upskirting" and voyeurism more generally, as set out in section 3.7;
    - vii. offences in relation to the possession of paedophile materials and child sex dolls as set out in section 3.8.
  2. To direct the preparation of the necessary legislation to give effect to the foregoing.
  3. To direct the Committee *for* Home Affairs, as part of its ongoing review of Justice Policy, to consider the appropriateness of introducing legislation enabling pre-charge bail conditions to prevent a suspect from failing to surrender, offending on bail, interfering with prosecution witnesses or otherwise obstructing the course of justice and to report its findings to the States no later than 28 February 2021.
  4. To direct the Committee *for* Home Affairs, as part of its ongoing review of justice policy, to consider how consent might be defined as an affirmative action (not simply a passive belief in the absence of explicit dissent) in the context of a single sexual act and/or a continuous series of sexual activities, and report its findings to the States no later than 28<sup>th</sup> February 2021.

5. To direct the Committee *for* Home Affairs, as part of its ongoing review of justice policy, to consider whether the definition of extreme pornographic images as set out in section 3.6.1 and referred to in Proposition 1(iv) should be amended as ‘those which portray in an explicit and realistic way acts which could threaten or take a person’s life or might result in serious injury, acts which include sexual interference with a corpse, acts of sexual intercourse with an animal, and “rape porn” showing non-consensual sexual penetration of a person’s vagina, anus or mouth by another person’s penis or another item,’ or wording that captures that slightly broader definition, and report its findings to the States no later than 28<sup>th</sup> February 2021.

## **POLICY & RESOURCES COMMITTEE AND STATES’ TRADING SUPERVISORY BOARD**

### STATES’ TRADING SUPERVISORY BOARD – SUCCESSION PLANNING P.2020/9

VIII: After consideration of the policy letter ‘States’ Trading Supervisory Board – Succession Planning’ dated 20 January, 2020:-

1. To agree that the Rules of Procedure of the States of Deliberation and Their Committees should be amended with immediate effect as follows –

(a) for Rule 16.(6), substitute:

"16. (6) On a proposition to elect members of a Committee (other than members of the States’ Trading Supervisory Board who are not sitting members of the States), the Presiding Officer shall first invite the President of the Committee concerned, and thereafter other Members, to propose eligible candidates. Candidates must be proposed and seconded. Nobody shall speak about a candidate at that stage; and if no more candidates are proposed and seconded than there are vacancies the Presiding Officer shall put the election of the candidate(s) to the vote without speeches. If there are more candidates than vacancies the Presiding Officer shall invite each proposer to speak, for not more than three minutes in respect of each candidate proposed by that person; and each candidate to speak, for not more than three minutes, before voting takes place. No other member shall be entitled to speak.",

(b) immediately after Rule 16.(6) insert the following paragraph :

"(7) On a Proposition to elect members of the States’ Trading Supervisory Board who are not sitting Members of the States, the President of the States’ Trading Supervisory Board shall have the exclusive right to propose eligible candidates and the Presiding Officer shall invite the President of the States’ Trading Supervisory Board and no other Member to propose eligible candidates (who must then be seconded) and to speak, for not more than three minutes in respect of each such candidate. The Presiding Officer shall thereafter put the election of the candidate(s) to the vote without further

speeches.",

(c) re-number existing paragraph (7) of Rule 16 as paragraph (8), and

(d) for Rule 37.(1), substitute:

"37. (1) The term of office of all Presidents and members of all Committees (excluding members of the States' Trading Supervisory Board who are not sitting members of the States) shall expire at the end of a States' term. Where an office is required to be filled by a sitting Member of the States the said office shall be deemed to have been vacated upon the office holder ceasing to be a sitting Member of the States.

(2) The term of office for members of the States' Trading Supervisory Board, who are not sitting members of the States, shall expire at the end of the December of any year in which the end of a States' term occurs.",

(e) re-number existing paragraphs (2) to (7) of Rule 37 as paragraphs (3) to (8),

(f) in Rule 46.(3), for "37(3)" substitute "37(4)".

2. To direct the States' Trading Supervisory Board to report back to the States no later than the 16<sup>th</sup> December 2020 States' Meeting with its proposals to either retain or replace one or both of its Non-States' Members.
3. To direct the States' Trading Supervisory Board, subject to the States' approval of the proposed changes to the Rules and the resultant establishment of the principle to extend the terms of office for the STSB's Non-States' Members, to report back to the States no later than the 26th May 2021 States' Meeting with its longer term succession planning proposals for the STSB beyond 2020. These could include a limit on the number of terms served by an individual Non-States' Member (as is the practice of the incorporated entities) and/or varying the periods of office to stagger the appointment cycle, thereby reducing the possibility that all members of the Board would be required to stand down in close succession in the future.

S.M.D. ROSS  
HER MAJESTY'S DEPUTY GREFFIER