

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

REMOTE ATTENDANCE AT COMMITTEE MEETINGS AND
EXTENDING PROXY VOTING AT STATES' MEETINGS

The States are asked to decide whether, after consideration of the policy letter entitled "Remote attendance at Committee Meetings and extending proxy voting at States' Meetings" dated 13th March, 2020, they are of the opinion:-

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) Insert the following immediately after paragraph (3) of Rule 26 as paragraph 3A:

"(3A) The Presiding Officer may, from time to time, upon representations from the Civil Contingencies Authority in light of circumstances prevailing in the Island, prescribe certain reasons for absence ('Authorised Absence') from a meeting of the States, which shall entitle a Member to arrange for their vote to be cast by another Member acting as a proxy (a proxy vote) if their circumstances require them to take an Authorised Absence from one or more States Meetings. The manner in which the proxy arrangements between Members will operate in respect of an Authorised Absence will be as directed by the Presiding Officer. Proxy voting arrangements in respect of an Authorised Absence shall only be valid during the period prescribed by the Presiding Officer."

b) In paragraph (5) of Rule 26 after the words "A proxy vote", insert ",other than one being cast pursuant to Authorised Absence,"

c) Substitute paragraph (13) of Rule 26 to read:

"The provisions of paragraph (3) that enable a Member to vote by proxy do not apply to the Alderney Representatives;

Provided that:

an Alderney Representative may act as a proxy for another Member, other than a Member who is an Alderney Representative"., and

d) Insert the following paragraphs immediately after paragraph (7) of Rule 40:

“(8) Paragraphs (9) and (10) shall have effect only when the Presiding Officer has made a determination upon representations from the Civil Contingencies Authority in light of circumstances prevailing in the Island which make it appropriate for them to have effect; and those paragraphs shall have effect only until the Presiding Officer makes a further determination upon representations from the Civil Contingencies Authority that they shall cease to have effect.

(9) A member of a Committee of the States who is in communication with the other members by telephone, live television link or any other means of telecommunications, so that each member can hear or read what is said or communicated by each of the others, is deemed (subject to paragraph (10) below) to be present and participating at the meeting of the Committee for all purposes, including the quorum and voting.

(10) In the event that the link fails or is corrupted or confidentiality is compromised, the person presiding at the meeting shall have discretion at any point during the meeting to determine that a member who is in a remote location can no longer be regarded as in attendance.”.

2. To direct the States’ Assembly & Constitution Committee to review the operation of and requirement for Rules 40(8) to (10) and 26(3A) and, if it considers that changes are necessary, to return to the States with proposals no later than the end of 2020.

The above Propositions have been submitted to Her Majesty’s Procureur for advice on any legal or constitutional implications.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

REMOTE ATTENDANCE AT COMMITTEE MEETINGS AND
EXTENDING PROXY VOTING AT STATES' MEETINGS

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

13th March, 2020

Dear Sir

1 Executive Summary

- 1.1 The procedures and practices governing attendance at Committee Meetings and Meetings of the States of Deliberation are set out in the Rules of Procedure of the States of Deliberation and their Committees (the 'Rules'). Any changes to the Rules must be made by States Resolution.
- 1.2 The emergence of Covid-19 has prompted the States' Assembly & Constitution Committee ('the Committee') to consider the Rules in relation to contingency arrangements that could be put in place relating to the procedures and practices of the States of Deliberation and committees of the States, and the practical functioning of the States of Deliberation, should the need arise.
- 1.3 Procedures governing Committee meetings and meetings of the States' Assembly are enshrined in the Rules and such changes need to be agreed by the States. The Committee considers that a more nimble approach is required in advance preparation for situations that might arise. It is very important that this policy letter is read in this context – i.e. advance preparation for a situation that might arise, rather than as any indication that such a situation is imminent.
- 1.4 Given that background, the Committee believes it is prudent to introduce Rules to enable States Members to attend Committee meetings remotely on a temporary basis. This is set out in section 2.
- 1.5 The Committee is also recommending that the Rules relating to proxy voting should be extended should this be required on a temporary basis. This is set out in section 3.

- 1.6 The provisions recommended in this policy letter would only have effect if the Presiding Officer determined that they were needed, upon representations from the Civil Contingencies Authority ('CCA') in light of circumstances prevailing in the Island and would cease to have effect when the Presiding Officer made a further determination upon representations from the CCA that they were no longer needed.
- 1.7 The Committee believes that it is prudent for the application of the Rules to be flexible for them to be implemented in emergency or emerging situations where advice has been issued that members (or particular categories of members, such as those with certain underlying health conditions) should avoid travelling or gathering together – for example, extreme weather events.

2 Remote Attendance at Meetings of Committees of the States

- 2.1 The Committee presented a policy letter entitled '[Remote Attendance at Meetings of Committees of the States](#)' at the March, 2014 meeting. This set out the arguments for and against allowing remote attendance at meetings and potential changes to the Rules of Procedure of the States of Deliberation and their Committees (the 'Rules'). The changes were rejected by the States in 2014.
- 2.2 The Rules do not preclude members who are not physically present from participating in discussion at meetings of Committees of the States but they cannot be recorded as having been present and they are not permitted to vote.
- 2.3 The Committee recommend that a rule is introduced to enable remote attendance by Members at Committee meetings on a temporary basis in the circumstances set out in paragraphs 1.6 & 1.7 above.
- 2.4 As part of the States contingency planning, work is being undertaken to ensure Members have the correct training and can use new remote working and collaboration tools, which includes the ability to co-ordinate and run meetings by remote working.

Amendment to the Rules to enable remote attendance at Committee Meetings

- 2.5 The previously suggested amendments to the Rules in 2014 to facilitate remote attendance have been considered. It is recommended that in order to facilitate remote attendance at Committee Meetings, Rule 40 should be amended by the insertion of new paragraphs (8) to (10) as follows:
- (8) Paragraphs (9) and (10) shall have effect only when the Presiding Officer has made a determination upon representations from the Civil Contingencies Authority in light of circumstances prevailing in the Island

which make it appropriate for them to have effect; and those paragraphs shall have effect only until the Presiding Officer makes a further determination upon representations from the Civil Contingencies Authority that they shall cease to have effect.

- (9) A member of a Committee of the States who is in communication with the other members by telephone, live television link or any other means of telecommunications, so that each member can hear or read what is said or communicated by each of the others, is deemed (subject to paragraph (10) below) to be present and participating at the meeting of the Committee for all purposes, including the quorum and voting.
- (10) In the event that the link fails or is corrupted or confidentiality is compromised, the person presiding at the meeting shall have discretion at any point during the meeting to determine that a member who is in a remote location can no longer be regarded as in attendance.

3 Extension of proxy voting at States' Meetings

- 3.1 The Reform (Guernsey) Law, 1948, as amended, sets out the rules relating to the States of Deliberation being quorate. Article 3.(1) reads as follows:

Subject to the provisions of paragraphs (4) and (5) of this Article the Presiding Officer or acting Presiding Officer, as the case may be, and a number of voting Members equal to the nearest whole number above one half of the number of voting Members for the time being specified in Article 1 shall form a Quorum of the States of Deliberation.

- 3.2 The total number of voting Members specified in Article 1 is 40 (the thirty-eight People's Deputies and the two Alderney Representatives). The quorum of the States of Deliberation is therefore 21.
- 3.3 On 17th October, 2019, the States agreed, after consideration of the policy letter entitled "[Proxy Voting for Parental Absence](#)", to amend the Rules to enable a Member, by reason only of absence from a Meeting of the States of Deliberation for the purpose of childbirth or care for an infant or newly-adopted child for their vote to be cast by another Member acting as a proxy for a time-limited period. Rule 26 applies.
- 3.4 It is recommended that proxy voting arrangements should be extended to cover certain emergency or emerging situations. In a similar way to the provisions above relating to remote attendance at meetings of Committees of the States, and for the same reasons, it is recommended that this extension would only apply in circumstances specified by the Presiding Officer, for such period as the Presiding Officer may specify.

3.5 Accordingly it is suggested that Rule 26 is amended by the insertion of paragraph (3A) as follows:

(3A) The Presiding Officer may, from time to time, upon representations from the Civil Contingencies Authority in light of circumstances prevailing in the Island, prescribe certain reasons for absence ('Authorised Absence') from a meeting of the States, which shall entitle a Member to arrange for their vote to be cast by another Member acting as a proxy (a proxy vote) if their circumstances require them to take an Authorised Absence from one or more States Meetings. The manner in which the proxy arrangements between Members will operate in respect of an Authorised Absence will be as directed by the Presiding Officer. Proxy voting arrangements in respect of an Authorised Absence shall only be valid during the period prescribed by the Presiding Officer.

3.6 The Committee believes the proposed new paragraph (3A) should also be applicable to the Alderney Representatives and therefore recommends that paragraph (13) of Rule 26 should be amended to make it clear that it is only paragraph (3) which does not apply to the Alderney Representatives:

(13) The provisions of paragraph (3) that enable a Member to vote by proxy do not apply to the Alderney Representatives;

Provided that:

an Alderney Representative may act as a proxy for another Member, other than a Member who is an Alderney Representative.

3.7 At present, a proxy vote may be cast only if the Presiding Officer has first certified that the Member for whom the vote is to be cast is eligible under the terms of this Rule and if that certificate, including the name of the Member nominated as a proxy, has been submitted to HM Greffier before the commencement of the States Meeting in question.

3.8 Paragraph (3A) sets out that the Presiding Officer will direct the manner in which the proxy arrangements between Members will operate in respect of an Authorised Absence. It is therefore recommended to amend paragraph (5) to clarify that the paragraph does not apply to an Authorised Absence, by inserting the words in bold below:

(5) A proxy vote, **other than one being cast pursuant to an Authorised Absence**, may be cast only if the Presiding Officer has first certified that the Member for whom the vote is to be cast is eligible under the terms of this Rule and if that certificate, including the name of the Member

nominated as a proxy, has been submitted to HM Greffier before the commencement of the States Meeting in question.

- 3.9 There are currently 39 voting Members of the States of Deliberation. It is important to note that should applications for a proxy vote in the above circumstances exceed 18, the States of Deliberation will not be quorate and unable to meet. Unlike the rule changes proposed for Committee Meetings above, and as set out in the Reform Law, only members who are present in person form part of the quorum for States Meetings.
- 3.10 In the event that the States of Deliberation are unable to be quorate, and therefore unable to meet, if circumstances require, the CCA is able to make emergency regulations under the [Civil Contingencies \(Bailiwick of Guernsey\) Law, 2012](#) to deal with any urgent matters. Consideration is being given to the possibility of remote attendance at States' Meetings, if circumstances require.

4 Review of the new Rules

- 4.1 The Committee is cognisant of the speed in which this policy letter is being brought for consideration by the States. It believes it is important that the States agree the propositions attached to this report but also that time is taken to review the new Rules in the near future. It therefore proposes that the States direct the Committee to review the operation of and requirement for Rules 40(8) to (10) and 26(3A) and, if it considers that changes are necessary, to return to the States with proposals no later than the end of 2020.

5 Compliance with Rule 4

- 5.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 5.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 5.3 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.
- 5.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee to advise the States and to develop and implement policies in relation to *'the procedures and practices of the States of Deliberation and committees of the States'* and *'the practical functioning of the States of Deliberation'*.

5.5 Also in accordance with Rule 4(5), the Committee consulted with the Presiding Officer, the Law Officers of the Crown and the Civil Contingencies Authority.

Yours faithfully

N. R. Inder
President

J S Merrett
Vice-President

P T R Ferbrache
J P Le Tocq
E A McSwiggan