

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

**PROPOSITIONS IN PURSUANCE OF RULE 18 SUBMITTED BY THE  
STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

**PROPOSED POSTPONEMENT OF THE JUNE 2020 GENERAL ELECTION**

The States are asked to decide:-

Whether, after consideration of the policy letter entitled "Proposed postponement of the June 2020 General Election" dated 24<sup>th</sup> March, 2020, they are of the opinion:-

1. To agree that, in view of the circumstances currently prevailing in the Island, the General Election for the office of People's Deputy scheduled to be held on 17<sup>th</sup> June, 2020 should be postponed.
2. To agree that the term of office of current People's Deputies should be extended until 29<sup>th</sup> October, 2020.
3. To agree that the General Election for the office of People's Deputy should be rescheduled to 21<sup>st</sup> October 2020, and note that:
  - The nomination period will start on 14<sup>th</sup> September and conclude on 18<sup>th</sup> September, 2020.
  - The current political term will end on 29<sup>th</sup> October 2020 and new Members will be sworn in on 30<sup>th</sup> October 2020.
4. To agree that:
  - (a) States Meetings should be convened on:
    - (i) 27th May, 2020;
    - (ii) 24th June, 2020;
    - (iii) 22nd July, 2020;
    - (iv) 19th August, 2020; and
    - (v) 9th September, 2020; and
  - (b) the States Meetings currently due to take place on 5<sup>th</sup> May, 1<sup>st</sup> July, 3<sup>rd</sup> July, 7<sup>th</sup> July, 13<sup>th</sup> July, 21<sup>st</sup> July and 2<sup>nd</sup> September, 2020 shall be cancelled.
5. Only if Proposition 4 carries:
  - (a) to agree that the Special Meeting of the States ('End of Term' Meeting) due to take place on 21<sup>st</sup> April, 2020, shall be rescheduled;
  - (b) to agree that the States Meeting due to take place on 22<sup>nd</sup> April, 2020, shall continue to be held; however, all items of business currently scheduled for

that Meeting shall be deferred until the States Meeting to be convened on 27<sup>th</sup> May, 2020, with the exception of:

- (i) Items to be taken under subparagraphs (a) to (d) of Rule 9(1) of the Rules of Procedure;
  - (ii) Legislation laid before the States;
  - (iii) P.2020/50 – The Capacity (Bailiwick of Guernsey) Law, 2020;
  - (iv) P.2020/39 – The Scrutiny of States and Public Bodies (Guernsey) Ordinance, 2020;
  - (v) P.2020/34 – The Reform (Guernsey) (Amendment) (No.2) Law, 2019 (Commencement) Ordinance, 2020; and
  - (vi) Any items of urgent business submitted in accordance with Rule 2(4) or Rule 18 of the Rules of Procedure of the States of Deliberation;
- (c) to agree that the final date for submission of items of business to be considered by the States at Meetings, up to and including the Meeting to be held on 9<sup>th</sup> September, 2020, shall continue to be 2<sup>nd</sup> April, 2020;
- (d) to note that, after Thursday 2<sup>nd</sup> April, 2020, there shall be no further opportunities for the submission of ordinary business to the States, but that urgent business may continue to be submitted at any time in accordance with Rule 2(4) or Rule 18, in order to enable the prompt consideration by the States of emergency provisions and other time-critical matters; and
- (e) to agree that the Policy & Resources Committee, in consultation with other States Committees, should plan for the remaining ordinary business of the States to be distributed more or less evenly across the Meeting dates set out in Proposition 4(a).
6. To agree that if any casual vacancies in the office of Deputy occur before the revised date of the General Election, no by-election will be held to fill the seat(s) in question.
7. To agree that, if circumstances in the Island are such that holding a General Election on 21<sup>st</sup> October, 2020, is not viable, the Election will be held on 16<sup>th</sup> June, 2021.
8. To direct the States' Assembly & Constitution Committee to submit a policy letter to the States, to be considered no later than the meeting commencing on 22<sup>nd</sup> July, 2020, to:
- (a) recommend proceeding with the General Election on 21<sup>st</sup> October, 2020 date, or to further postpone the Election until 16<sup>th</sup> June, 2021; and

- (b) if a further delay is approved, include dates for States Meetings to be convened between October 2020 and May 2021; and
  - (c) include submission dates for ordinary business to be considered at those States Meetings.
9. To agree that the following Ordinances be withdrawn:
- P.2020/35 - The Elections Ordinance, 2020
  - P.2020/36 - The Postal Voting (Amendment) Ordinance, 2020
  - P.2020/37 - The Advance and Super Polling Station Ordinance, 2020
  - P.2020/38 - The Elections (Nominations and Ballot Papers for People's Deputies) Ordinance, 2020
10. To note that the Electoral Roll will remain open and an Ordinance will be presented to the States of Deliberation recommending a date upon which the new Electoral Roll shall be closed for the purpose of a postponed Election.
11. To direct the Civil Contingencies Authority to consider the exercise of its powers to make emergency regulations under the [Civil Contingencies \(Bailiwick of Guernsey\) Law, 2012](#) insofar as may be necessary and possible for the purpose of enabling the above decisions to be given effect.
12. 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**

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

**PROPOSED POSTPONEMENT OF THE JUNE 2020 GENERAL ELECTION**

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

24<sup>th</sup> March, 2020

Dear Sir

**1 Executive Summary**

- 1.1 Under the States (Reform) (Guernsey) Law, 2015, the term of office of Deputies elected in April 2016 or later ends at midnight on 30<sup>th</sup> June 2020.
- 1.2 On 25<sup>th</sup> April, 2019, the States agreed that a General Election of People's Deputies would be held on Wednesday 17<sup>th</sup> June, 2020. The States approved the Projet de Loi entitled "[The Reform \(Guernsey\) \(Amendment\) \(No. 2\) Law, 2019](#)"<sup>1</sup> on 26<sup>th</sup> September 2019, and this was registered at the Royal Court on 9<sup>th</sup> March, 2020. The [Reform \(Guernsey\) \(Amendment\) \(No.2\) Law, 2019 \(Commencement\) Ordinance, 2020](#) is scheduled for consideration by the States of Deliberation at its meeting on 22<sup>nd</sup> April, 2020.
- 1.3 Preparations are therefore well under way for Guernsey's first Island-wide election. Although Election Day is just under three months away, the build-up to the Election starts much earlier. The nomination period for individuals to stand as candidates begins on 12<sup>th</sup> May, 2020, and from this point there would normally be an intense period of activity in engaging the public with the election, candidates canvassing, general information being distributed etc.
- 1.4 As Members are well aware, this year has seen events unprecedented in modern times with the spread of Covid-19 around the globe. The virus is impacting all aspects of people's lives, with some countries closing their borders, and governments issuing advice to citizens about measures to contain the virus,

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<sup>1</sup> [States Meeting on 25<sup>th</sup> September 2019 \(Billet d'État XVIII\): States' Assembly & Constitution Committee - The Reform \(Guernsey\) \(Amendment\) \(No. 2\) Law, 2019 \(P2019/78\)](#)

which include requirements for individuals to self-isolate if public health advice directs. Guernsey is no different and Islanders are having to change their way of life while the Island tries to protect against the spread of Covid-19 in our community.

- 1.5 At the time of this policy letter being drafted, a number of restrictions are in place, and are likely to remain in place for some time, as set out in section 3 of this policy letter.
- 1.6 In light of the current situation, and the impact that this will have on the ability of the Island to hold an election under current circumstances, the States' Assembly & Constitution Committee ('the Committee') believes it is prudent to consider whether the General Election should go ahead as planned in June.
- 1.7 The Committee recognises that it is a very significant decision for a government to extend its own term, which is why it has considered very carefully whether there are any viable alternatives to postponing the election. Despite exploring all avenues, it has come to the conclusion that any election in June would be most unlikely to be sufficiently free, fair and safe.
- 1.8 Consequently, the Committee is seeking the States' agreement that the June election should be postponed, initially until 21<sup>st</sup> October 2020. As much remains unknown about the long-term progress of the virus, it is difficult to state with certainty at this point that it will be possible to hold the Election in October. Therefore, the Committee is suggesting this decision should be further reviewed by the States in July in order to determine whether the October date is realistic in light of the situation prevailing at that time.
- 1.9 If the States should decide, in July, that it would not be possible to hold a free, fair and safe election in October, then the Committee believes that it will be necessary to further delay the General Election until 16<sup>th</sup> June 2021 (one year after the original date).
- 1.10 The Committee has also included certain recommendations about how States' business should be managed during the period of any extension. These are intended to balance the essential requirement for Guernsey to maintain a functioning government during a time of need, with a recognition that, beyond June 2020, this States may not have a mandate to develop significant new policy initiatives that are not linked to the current crisis.
- 1.11 Clearly any decision to postpone the General Election will have significant implications and these are explored in this policy letter.

## **2 Introduction**

- 2.1 The preparation for any election is complex and time-consuming. Preparing for Guernsey's first Island-wide General Election is no exception. As this is the first election of its kind on the Island, there has been a steep learning curve for all involved, who must ensure that the election is well-run and, most importantly, meets the necessary criteria to be deemed a fully democratic, free and fair election. Such is the commitment to these principles that international election observers have been invited to the Island to observe proceedings.
- 2.2 Regrettably, the emergence of a pandemic means that governments the world over are restricting the movement of people within and between communities. Guernsey is no different and restrictions currently in place to protect Islanders are having an impact on the ability of the States to ensure that the election will be able to meet the necessary international standards.
- 2.3 Guernsey's election is not the only one affected by these world events. On 12<sup>th</sup> March 2020, the Chief Executive of the UK Electoral Commission wrote to the UK Government to recommend that the May elections be postponed until the autumn. In response, the Government decided to postpone them for a year, until May 2021.
- 2.4 The full letter is attached as Appendix One to this policy letter but, significantly, it identifies risks that are equally applicable to Guernsey's situation, as follows:
- "... risks to delivery that have been identified are such that we cannot be confident that voters will be able to participate in the polls safely and confidently, nor that campaigners and parties will be able to put their case to the electorate."*
- 2.5 In light of this strong advice from an independent electoral commission, equally applicable to Guernsey, combined with the response of the UK Government, the Committee, given its mandate to advise the States on elections to the office of People's Deputy, concluded it was vital to consider the implications for Guernsey of holding an election in June.
- 2.6 In so doing, the Committee unanimously acknowledges that deferring the election is a significant decision that is not itself free of risk. However, as the UK Electoral Commission made clear in its letter to the UK Government, we are in "unprecedented times", and such times call for difficult decisions to be made.

## **3 The prevailing circumstances in the Island at the present time**

- 3.1 Since early March 2020, the States of Guernsey have been providing regular updates and guidance to the public on the impact of Covid-19 on the Island, and the steps that the Island has to take to help prevent the spread of the virus in the

community. At the time of writing, this has included:

- All non-essential travel has been advised to cease and anyone arriving in the Bailiwick has to self-isolate for 14 days by law;
- Individuals with 'flu-like symptoms' or a fever are advised to self-isolate for the duration of the symptoms and for 48 hours afterwards;
- Social distancing recommendations are in place;
- The Island's schools have been closed for an extended Easter holiday; and
- Older people and people with existing health conditions are being advised to avoid non-essential close contact as much as possible, including not going out to group meetings, meals or shopping.

3.2 As shown in the next section, such restrictions have a direct impact on the ability for a General Election to be held. The Committee recognises that, if it had to hold a General Election today, it would not be possible to do so, in light of the current public health advice aimed at containing the spread of coronavirus. The mass mobilisation of voters in the run-up to Election Day, and any face-to-face canvassing by candidates, would pose serious risks of transmission of the virus across the community.

#### **4 Principles of democratic elections**

4.1 There are many sources of guidance to help those involved in running and participating in elections to ensure that they meet standards necessary to ensure that the elections are truly democratic. Such sources include, but are not limited to, the Venice Commission (who published the Code of Good Practice in Electoral Matters<sup>2</sup>); the UK Electoral Commission; and the Commonwealth Parliamentary Association (CPA).

4.2 The CPA UK handbook for election observation missions sets out a number of key electoral rights taken from the Universal Declaration of Human Rights (UDHR) as follows:

- Participation rights (generally understood to relate to participation as a candidate and/or voter in an election);
- Periodic elections – elections should be held at reasonable intervals in order to take account of the changing will of the electors;
- Genuine elections – incorporates key political rights and freedoms, such as freedom of expression and freedom of association, as well as the concept that in order to be genuine an election must be competitive, providing voters with a real choice;
- Universal suffrage – participation rights for voters should be as inclusive as

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<sup>2</sup> [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev2-cor-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev2-cor-e)

possible, ensuring eligibility criteria are reasonable and all eligible sectors of the population are included;

- Equal suffrage – sometime also referred to as the principle of “one person, one vote” (individuals may have more than one vote depending on the electoral system but votes should have more or less equal weight; and
- Secret vote.

4.3 The main issue that the States need to consider is the ability of both voters and candidates to participate in an election in these circumstances. The CPA guidance includes a table entitled “Applying international standards and best practice”, which outlines key international obligations, commitments and standards, drawn from international and regional instruments. It also includes relevant aspects of the electoral cycle (which covers the elements of the electoral process) and some key indicators/benchmarks which Election Observation missions can use in making their assessment.

4.4 Some of the issues summarised in the table are compromised by the Covid-19 outbreak. These have been extracted from the table and are set out below for ease of reference, with the areas most significantly impacted in bold text. The full table is attached as Appendix Two.

	<b>Key Election Obligations, Commitments, Standards and Best Practice</b>	<b>Electoral Cycle (covering the key elements of the electoral process)</b>	<b>Some key Indicators/ Benchmarks</b>
(a)	Genuine election	<ul style="list-style-type: none"> <li>• election administration</li> <li>• registration of parties/ candidates</li> <li>• election campaign</li> </ul>	<ul style="list-style-type: none"> <li>• Election Management body (EMB) is independent, effective and has confidence of stakeholder</li> <li>• <b>Election is truly competitive</b></li> <li>• State resources are used appropriately</li> </ul>
(b)	Right and opportunity to vote	<ul style="list-style-type: none"> <li>• voter registration</li> <li>• voter id requirements</li> <li>• <b>Provision of and access to adequate polling places</b></li> <li>• voter education</li> </ul>	<ul style="list-style-type: none"> <li>• those seeking to register are captured on the voter list</li> <li>• voters are aware of how to register and when, where and how to vote</li> <li>• <b>voting arrangements and procedures facilitate participation</b></li> </ul>



(c)	Free expression of will of electors	<ul style="list-style-type: none"> <li>• <b>election campaign</b></li> <li>• <b>voter education</b></li> <li>• election dispute resolution</li> </ul>	<ul style="list-style-type: none"> <li>• <b>voters have access to credible and timely information on political choices and electoral procedures</b></li> <li>• <b>there are no undue obstacles to participation or physical impediments to voting</b></li> <li>• votes are counted and reported honestly</li> </ul>
(d)	Freedom of movement	<ul style="list-style-type: none"> <li>• election administration</li> <li>• election campaign</li> <li>• election day</li> </ul>	<ul style="list-style-type: none"> <li>• EMB is able to access all parts of country</li> <li>• <b>Candidates and parties are able to access all parts of country freely and safely</b></li> <li>• <b>Voters are able to reach polling places</b></li> </ul>
(e)	Freedom of assembly	<ul style="list-style-type: none"> <li>• election campaign</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Candidates and parties are able to organise public meetings without hindrance</b></li> </ul>

4.5 It is worth considering in more detail the extent to which Guernsey would be able to meet some of these key indicators/benchmarks if a General Election were to be held in June.

#### **(a) Genuine election**

4.6 A key indicator is that the “Election is truly competitive”. Given the current limitations around social contact, potentially combined, in the case of some would-be candidates, with personal health concerns, it is questionable whether all those who wanted to put themselves forward for election would feel able to do so at this time. This in turn could prove an advantage to any current Members seeking re-election, as they are already known to the community and consequently would need to undertake less engagement given their existing profiles, which could impact the results.

#### **(b) Right and opportunity to vote**

4.7 This section makes reference to the “provision of and access to adequate polling places”. This is also touched on by the Venice Commission, which includes guidance that *“voters should always have the possibility of voting in a polling*

station.” The guidelines go on to say that other means of voting are acceptable under certain conditions, namely:

- Postal voting should be allowed only where the postal service is safe and reliable;
- The right to vote using postal votes may be confined to people who are in hospital or imprisoned or to persons with reduced mobility or to electors residing abroad;
- Fraud and intimidation must not be possible.

- 4.8 The Committee did consider whether moving to the option of postal voting only might be a solution that would allow the election to go ahead but, in light of the above points, did not believe it to be satisfactory. In particular, whilst Guernsey’s postal system is certainly safe and reliable, the guidance is clear that there are other factors that must be considered and the option to vote in a polling station must be available, and is still the most common way that voters cast their vote.

#### **(c) Free expression of will of electors**

- 4.9 Key indicators include that “voters have access to credible and timely information on political choices and electoral procedures” and that “there are no undue obstacles to participation or physical impediments to voting”. As stated by the Electoral Commission:

*“It is ... vital that voters are able to hear the positions of candidates, parties and campaigners before they cast their vote; however, many forms of campaigning may not be possible, leaving insufficient space for the arguments to be heard.”*

- 4.10 It is essential that voters have the information that they need to decide how to cast their votes, and for candidates to be able to transmit their messages through a number of different means but in the current climate this is simply not possible.

#### **(d) Freedom of movement**

- 4.11 This is considerably compromised by measures currently in place restricting social contact.

#### **(e) Freedom of assembly**

- 4.12 This is also significantly hindered in the current climate, meaning that public meetings could not be organised “without hindrance”.

- 4.13 These principles are crucial in order to ensure a truly free, fair and democratic election. This was underlined by the European Court of Human Rights in the case of *Bowman v UK* (1998) when it was stated that:

*“Free elections and freedom of expression, particularly freedom of political debate, together form the bedrock of any democratic system... The two rights are interrelated and operate to reinforce each other... For this reason it is particularly important in the period preceding an election that opinions and information of all kinds are permitted to circulate freely.”*

It is clear this would not be achievable with a June election date.

- 4.14 The Committee has reluctantly concluded that there are simply too many public health risks associated with holding the election in June. It is also aware that the effects of the virus will be felt for a very long time and that, after a suitable postponement, it will still be necessary to take additional measures to mitigate ongoing risks. Such measures might include, for example, hand sanitiser outside polling booths and enforced spacing between queuing voters.

## **5 Election timings**

- 5.1 Whilst it may appear premature to make a decision in March about a June election, it is important to overlay available information regarding the predicted spread of the virus with the whole election timetable. The latter is attached as Appendix Three, showing planned activity from the day on which nominations open (12<sup>th</sup> May) to the point at which all Presidents and Committee members have been elected by the States (13<sup>th</sup> July). Clearly the decision is not so much about what happens on one given day but rather about the prevailing situation over a sustained period, starting from early May.
- 5.2 Professor Chris Whitty, England’s Chief Medical Officer, said on 12<sup>th</sup> March that he expected the UK to reach its peak of the Covid-19 outbreak in approximately 10 to 14 weeks, which is the end of May/early June, exactly the time when candidates will be looking to be most active in their engagement with voters.
- 5.3 Even allowing for the fact that Guernsey’s circumstances differ to those in the UK, in light of these projections, it is inconceivable that Guernsey would be in a position by the time of restrictions having been lifted to such an extent that candidates would be able to pursue such engagement fully.
- 5.4 It is acknowledged that not all engagement would be face-to-face. Candidate manifestoes can be delivered by post and/or put online but inevitably engagement opportunities would be missed. This is likely to be particularly so for the older members of our community who are more likely to be self-isolating and, conversely, may be less likely to view online material. This would potentially

disenfranchise the older population and, given that turnout among older voters is usually high, this would be felt as a serious deficit with the handling of the General Election, if it were to proceed as planned in June.

- 5.5 A further consideration is that, once elected, the Assembly need to come together for events such as being sworn in and on boarding sessions at the start of the political term. If social distancing guidelines are still in place, such large gatherings, involving both elected Members and officials, would be unfeasible. The restrictions on the ability of Deputies to meet *en masse* would hinder their ability to work together as a team. This is of particular importance in a system based on consensus government and would do the Guernsey community a disservice.

## **6 Revised timings**

- 6.1 The Committee recognises that there is, under normal circumstances, no ability for the States to alter the length of its term, either by calling an early election, or by delaying the date of the election. The 2018 Referendum on the Island's Electoral System reinforced this, as members of the public were asked, not only how they wished to elect their government, but also for what length of term. The result of that Referendum was that Deputies should be elected by Island-Wide Voting, for a four-year term.
- 6.2 Nevertheless, in light of all the foregoing, the Committee is strongly recommending that the General Election must be postponed from 17<sup>th</sup> June, 2020, as it believes that it will not be possible to hold a safe, free and fair election at that time. This recommendation is a necessary response to the extraordinary circumstances the Island currently faces.
- 6.3 However, the Committee recognises that the Election cannot be postponed indefinitely. Consequently, it has carefully considered options for revised election dates. The Committee's majority view is that the Election should be held as soon as it is practicable to do so. However, it will also be necessary to ensure that the delay is long enough for the States to be reasonably confident that the situation will have changed sufficiently to allow a free, fair and safe election to take place, in line with the principles set out in section four above.
- 6.4 Given what is known about the timing of the likely peak of the virus, it does not seem that it would be feasible to hold an election before the autumn at the earliest. Given the need to avoid dates which would see the nomination period or canvassing during school holidays, and bearing in mind that there is a period of just over a month between the opening of the nomination period and election day, the Committee considers that the earliest possible date for the election would be 14<sup>th</sup> October, 2020.

- 6.5 In recommending a new date, the Committee has also considered the desire not to push an election too far into the winter months because of the risk of seasonal illnesses commencing, including a possible second wave of Covid-19. In order to balance the need for a long enough period for the spread of the virus potentially to abate, with the preference not to hold an election in winter, the Committee has agreed that the optimum date available at this point in time is **21<sup>st</sup> October 2020**.
- 6.6 Nevertheless, the Committee recognises that there is a risk that the situation will not improve sufficiently in time for an election to be held on that date. Therefore it is further recommending that the States should review the situation no later than **22nd July 2020**, at which point, if there is little realistic chance of ensuring a genuine election can be held in October 2020, then the Committee can see no option but to recommend that polling should take place on **16<sup>th</sup> June 2021**, a delay of one year from the original date.
- 6.7 This is a significant delay but if the preferred October date cannot be achieved and a winter election is avoided, then the earliest opportunity to commence election activity in 2021 would be March – leading to an April or May election. However, the Easter holidays fall between 1<sup>st</sup> and 19<sup>th</sup> April 2021, and they are followed by three bank holidays in May. It is normal practice to avoid an Election being held during school or public holidays, as large numbers of people tend to leave the Island during these times, which leaves June as the earliest feasible time for an election.

## **7 Other considerations**

- 7.1 In anticipation of the States approving its recommendation to postpone the election, the Committee has also given some thought to further decisions that will need to be made.

### **(a) Business to be considered by the States of Deliberation**

- 7.2 The final submission date for all items to be considered during this term is 2<sup>nd</sup> April, with States' Meetings already scheduled for: 21<sup>st</sup> April; 22<sup>nd</sup> April; and 5<sup>th</sup> May. In addition, the Presiding Officer asked States' Members to hold some provisional dates for additional meetings, given the anticipated volume of business. Assuming that the term is extended, it is unlikely that those dates will be needed.
- 7.3 The Committee considers that if the term is extended until October, it would be inadvisable to introduce any "new" business for the Assembly's consideration during that time.

- 7.4 The Committee recommends that the final date for submission of States' business should continue to be Thursday, 2<sup>nd</sup> April, 2020. However, Rule 2(4) and Rule 18 of the Rules of Procedure of the States of Deliberation provide a gateway for urgent and time-critical matters (whether or not related to the Island's coronavirus response) to be submitted and considered at any time. The Committee considers that this strikes the right balance between not introducing new policy initiatives beyond the normal end of term, while enabling the government to continue to respond to important issues in a timely way.]
- 7.5 The Committee recognises that while this approach is reasonable if the Election is delayed for a relatively short period (to October, 2020), more flexibility may be needed if the Election is deferred by up to a year. The States will be asked to make a decision on whether or not to proceed with an October Election date at its meeting in July, 2020. If the decision is a further deferral, then the Committee will recommend that States Meetings are planned in for the period from September, 2020, to May, 2021, and will include new submission dates for ordinary business for each of these Meetings.

**(b) Additional States' Meetings**

- 7.6 If the Election is delayed until October, 2020, the Committee believes that monthly States Meetings should be scheduled in for the period from June to September, 2020. This will allow for the timely consideration of urgent business (submitted under Rule 18 or Rule 2(4)) throughout that period.
- 7.7 It will have the added benefit of enabling the Policy & Resources Committee (in consultation with other States' Committees) to spread existing business over a number of dates. This should help to keep the length of each Meeting manageable, and to minimise the amount of face-to-face contact among States Members during the period where strictest controls, in relation to the spread of the virus, may be required.
- 7.8 The Committee recommends that States Meetings should be scheduled for:
- 27<sup>th</sup> – 29<sup>th</sup> May
  - 24<sup>th</sup> – 26<sup>th</sup> June
  - 22<sup>nd</sup> – 24<sup>th</sup> July
  - 19<sup>th</sup> – 21<sup>st</sup> August
  - 9<sup>th</sup> – 11<sup>th</sup> September
- 7.9 The Committee recommends that the 27<sup>th</sup> May date should replace the Meeting currently scheduled for 5<sup>th</sup> May, and that the 9<sup>th</sup> September date should replace the Meeting currently scheduled for 2<sup>nd</sup> September. A number of States Meetings have been scheduled for July (the 1<sup>st</sup>, 3<sup>rd</sup>, 7<sup>th</sup> and 13<sup>th</sup>) which relate to

Committee Elections, which will not be required if the Election is to be postponed. The Committee also recommends that the 21<sup>st</sup> July meeting date (for consideration of the Accounts) can be cancelled, with the Accounts being considered as part of the Meeting held on 22<sup>nd</sup> July.

7.10 Finally, in discussion with the Policy & Resources Committee, the Committee is making the following recommendations in respect of the April and May States Meetings:

- All ordinary business will be deferred from the April 22<sup>nd</sup> States Meeting to the May 27<sup>th</sup> States Meeting. The Policy & Resources Committee, in consultation with States' Committees, may make recommendations for further deferring certain of these items, if appropriate, in due course. This minimises the amount of business to be considered in April, at a time when it is likely that strict measures to control the spread of the virus are likely still to be in force.
- There are three exceptions to this. Two are concerned, in different ways, with protecting civil liberties, which is more important than ever in times of crisis. One is the **Capacity Law**, which ensures effective protection for people who may not be able to make their own decisions. The other is the **Scrutiny Powers ordinance**, which helps to ensure that there are meaningful checks and balances on the use of government power. The third is **The Reform (Guernsey) (Amendment) (No.2) Law, 2019 (Commencement) Ordinance, 2020**, which brings into force the Reform (Guernsey) (Amendment) (No. 2) Law, 2019.
- Any urgent business which requires a States' decision will be scheduled for the April Meeting, in accordance with Rule 2(4) or Rule 18.
- The "End of Term" meeting scheduled for 21<sup>st</sup> April will be rescheduled. In due course, the Policy & Resources Committee will need to give some consideration as to how the rules concerning the Policy & Resource Plan should operate in the event of an extended States term. This is not a priority at present.

**(c) 2021 Budget and the policy letter on the uprating of non-contributory benefits**

7.11 The 2021 Budget and the policy letter on the uprating of non-contributory benefits are scheduled for consideration by the States on 3<sup>rd</sup> November, 2020. Clearly this time scale is unlikely to be workable if the election is held in the autumn, as Committees will not have been fully constituted by then. Officers from the Policy & Resources Committee have advised that it is not possible to

bring forward the Budget policy letter, which means that a solution would have to be found in due course to enable the Budget debate to take place prior to the end of 2020.

**(d) 'By-elections'**

- 7.12 It is possible that, in the course of an extended States' term, some Members may become unable to continue as a member of the Assembly. This will raise the question of whether to hold a by-election.
- 7.13 However, the same risks exist as for the General Election in terms of candidates being hindered in respect of their engagement with the electorate and voter engagement. Likewise, there are likely to be risks to the public in attending polling stations.
- 7.14 Consequently, the Committee believes that a by-election is no more deliverable than the General Election in the current climate.
- 7.15 As set out in The Reform (Guernsey) Law, 1948 the quorum of the States of Deliberation is:

*"the Presiding Officer... 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".*

The relevant number currently set out in Article 1 is 40 (38 People's Deputies and Two Alderney Representatives), and so the quorum is 21.

- 7.16 The Committee considers it unlikely that the number of Deputies unable to continue in office would be large enough to affect the ability to ensure a quorum for debates. Whilst it is not an ideal situation, the Committee is of the opinion that, for the time being, the States will have to rely on this fact to ensure that the Assembly remains able to make decisions.
- 7.17 In the unlikely event that the number of Members falls to a level that renders it impossible to reach a quorum, the Civil Contingencies Authority would have powers to step in and either make provision for the quorum to be reduced or, if the situation warranted it, take decisions instead of the Assembly.

**(e) Further work required**

- 7.18 The Committee met on Tuesday 17<sup>th</sup> March to consider papers on the options to continue with a June 2020 Election, and to consider whether to recommend to the States that the Election be postponed. It issued a press release that evening



to advise the public of its position and that it would be submitting a policy letter to the States on this subject.

- 7.19 This policy letter has been drafted and approved by the Committee in less than a week since that meeting. Given these time constraints, it necessarily focusses on the high-level decisions to be made by the States at this time.
- 7.20 There is a significant amount of further work that needs to be undertaken if the States decide to postpone the Election. This work will be undertaken by the Project Board who have been in place for over a year, preparing for the 2020 Election, with the oversight of the Committee.
- 7.21 It is acknowledged that there may be a number of areas that Deputies wish to provide feedback on which are not covered by this policy letter. Such feedback can be provided to the Committee and the Project Board if the proposals are approved, so they can be considered as part of the planning process. The Committee will continue to consult with the Policy & Resources Committee, the Committee *for* Home Affairs, and other States Committees as necessary in implementing the decisions of the States.

## **8 Legislation**

- 8.1 If the States agree to postpone the Election, three Ordinances submitted to the States of Deliberation for consideration on 22<sup>nd</sup> April, 2020 will need to be withdrawn altogether, as they relate to a General Election taking place in June 2020. These Ordinances are as follows:
- [The Elections Ordinance, 2020](#)
  - [The Postal Voting \(Amendment\) Ordinance, 2020](#)
  - [The Advance and Super Polling Station Ordinance, 2020](#)
- 8.2 The Committee also believes there is merit in [The Elections \(Nominations and Ballot Papers for People's Deputies\) Ordinance, 2020](#) being re-reviewed in case there are any further changes required as the States plan for a later Election.
- 8.3 The Committee has therefore included a proposition to withdraw these Ordinances.
- 8.4 [The Polling Stations \(Hours of Opening\) Regulations, 2020](#) which were laid before the States on 18<sup>th</sup> March, 2020, provide for polling stations in the 2020 General Election to be open between 8am and 8pm. The polling stations are set out in the Schedule to the Advance Polling and Super Polling Stations Ordinance, 2020. On the basis the States agree to postpone the Election from June 2020, the regulations above will be revoked.

- 8.5 For the avoidance of doubt, the Electoral Roll will remain open, and voters who have already registered to vote in the June, 2020, General Election will not need to re-register. The Committee will work with the Committee for Home Affairs to make any necessary legislative changes and to propose when it may be appropriate for the Electoral Roll to be closed.
- 8.6 In order for the States to postpone the Election, certain legislative changes are required. The [Reform \(Guernsey\) Law, 1948](#) sets out the month in which the General Election shall be held and when Members elected shall be sworn in, and contains provisions regarding 'by-elections'.

***Holding of Deputies' Elections.***

*29. (1) General Elections for the office of People's Deputy shall be held in 2020 during the month of June and in every fourth year thereafter during the month of June, and, subject to the provisions of Article 19 of this Law, the persons elected shall take office on the 1st day of July next following their election, save that if at any General Election there shall be no candidate or an insufficient number of candidates for any District, an election to fill any vacancy not filled at that General Election shall be held as soon as may be thereafter in respect of that District and any candidate elected thereat shall retire from office on the date on which he would have so retired had he been elected at that General Election.*

*(2) A casual vacancy in the office of Deputy occurring before the first day of December next preceding the date of a General Election shall be filled by election and any person so elected shall hold office for the remainder of the four year term then current or, in the case of the General Election held on the 27th day of April, 2016, until the 30th day of June, 2020, but if such vacancy occurs after the 30th day of November next preceding the date of a General Election it shall be in the discretion of the Presiding Officer of the States whether or not an election shall be held to fill the vacated office until the date of such General Election.*

- 8.7 There is no provision within the Reform Law to amend the above provisions by Ordinance or regulations. In those circumstances, in order for the election to be postponed as a result of the threat to public health from Covid-19 and to remove the requirement for by-elections in the interim, it will be appropriate for the Civil Contingencies Authority to consider the making of emergency regulations enabling the postponement of the General Election for the office of People's Deputy, including the amendment, modification or disapplication of any extant legislation. The States are therefore asked to direct the Civil Contingencies Authority to consider the exercise of its powers to make emergency regulations under [the Civil Contingencies \(Bailiwick of Guernsey\) Law, 2012](#) ('the CCA Law') to make provision enabling the postponement of the General Election for the office of People's Deputy, as set out in this policy letter.

- 8.7 Emergency regulations under the CCA Law are intended to be of temporary application. Under section 16 of the CCA Law they lapse at the end of the period of 30 days beginning with the date on which they are made. Regulations may of course be re-made for a further period or periods of 30 days but it is clearly essential that the States themselves should approve suitable permanent legislative provision as soon as reasonably practicable to address the postponement. Thus the States are also asked to direct the preparation of such legislation for the States to consider and if thought fit approve which would, by *Projet de Loi*, amend the application of certain provisions of the States (Reform) (Guernsey) Law, 2015 and the Reform (Guernsey) Law, 1948 and any other enactment in order to postpone the General Election in accordance with the recommendations in this policy letter. The legislative amendments should, it is suggested, also contain provision to enable the States by Ordinance to make suitable provision in the future should similar circumstances arise requiring the postponement of an election.

## **9 Financial implications of the propositions**

- 9.1 The Committee is conscious that a proposal to postpone the General Election will have financial implications, not least the requirement to extend the contract of the existing Election Team to cover such an extension. At the time of writing, it has not been possible to undertake a detailed analysis of the costs of postponing the Election, however the Project Team supporting the Election project will be undertaking this analysis in the coming weeks.

## **10 Conclusion**

- 10.1 The Committee has explored all avenues to enable the General Election to take place in June. However, faced with evidence about the anticipated spread of the virus and its ongoing impact, it believes it has no option but to ask the States to agree to a postponement.
- 10.2 As set out in this policy letter, the Committee is well aware that this solution is far from ideal but, in the circumstances, it has concluded that the health and welfare of the Island must be put above all other considerations and ask the States to agree the Propositions attached to this policy letter to ensure that the Election is postponed to a later date.
- 10.3 The Committee recognises that a postponement of up to a year may ultimately be inevitable, but suggests that this should not be the States' default position at this time. The propositions in this policy letter give the States the opportunity, in July 2020, to make a more-informed decision as to whether it will be feasible to proceed with a free, fair and safe Election on 21<sup>st</sup> October, 2020. If it is not, the States at that time will be asked to approve a further postponement, to 16<sup>th</sup> June, 2021.

## 11 Compliance with Rule 4

- 11.1 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.
- 11.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 11.3 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 have the majority support of the Committee. Deputy Le Tocq was unavailable at the point of the policy letter being approved (due to other States' business) to provide his view.
- 11.4 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 elections to the office of People's Deputy"*.
- 11.5 Also in accordance with Rule 4(5), the Committee consulted with the:
- Registrar-General of Electors
  - The Presiding Officer
  - Civil Contingencies Authority
  - Director of Public Health
  - Law Officers of the Crown.
  - Committee *for* Home Affairs
  - Policy & Resources Committee

Yours faithfully

N. R. Inder  
President

J S Merrett  
Vice-President

P T R Ferbrache  
J P Le Tocq  
E A McSwiggan

## Appendix 1: Letter from the UK Electoral Commission to the UK Government

<b>Date:</b>	12 March 2020
<b>To:</b>	Chloe Smith MP, Minister for the Constitution and Devolution
<b>From:</b>	Bob Posner, Chief Executive

Dear Minister,

In light of the current and emerging situation around Covid-19 in the UK, I wanted to write to set out the Commission's concerns about the real risks to the successful delivery of the scheduled 7 May 2020 elections.

We have been in close contact with a range of key stakeholders across the electoral community – including the Association of Electoral Administrators, Solace, the Greater London Returning Officer, the Wales Electoral Coordination Board, and of course your officials – to assess the risks, and to identify and take forward appropriate mitigations to enable the delivery of the elections. While this work is continuing, it has already become clear that the risks are so significant as to raise serious concerns about the polls continuing to their current timetable.

Although polling day is not until 7 May, preparations for the elections are already well underway and indeed publication of notice of election – which marks the start of the formal timetable – will take place later this month. This means that a decision now needs to be taken, by Government and as appropriate by Parliament, whether to proceed with the scheduled 7 May polls.

So voters can cast their ballot, polling station venues need to be secured, set up, staffed and accessed; we already know that local authorities have concerns about their ability to ensure this, particularly at the same time as continuing to manage other key services in the current circumstances. It is also vital that voters are able to hear the positions of candidates, parties and campaigners before they cast their vote; however, many forms of campaigning may not be possible, leaving insufficient space for the arguments to be heard.

We also anticipate that as a result of the direct and indirect impacts of Covid-19, there will be significant numbers of registered electors who in practice will not have opportunity to vote, or feel inclined to vote. While increased access to post and proxy voting may provide a partial solution for some electors, it would create further and additional pressures and risks in other parts of the system.

Clearly any decisions to delay elections which are due is significant and would not normally be desirable; however, we are in unprecedented times. The risks to delivery that have been identified are such that we cannot be confident that voters will be able to participate in the polls safely and confidently, nor that campaigners and parties will be able to put their case to the electorate. We therefore call on the Government to take steps to provide early clarity to all those with an interest in the electoral process; and on the available information and position we recommend the Government now delay the 7 May polls until the autumn. In this context we are also mindful that the Chief Executives of local authorities and their staff across the country are necessarily focussed on the ongoing management of the impacts Covid-19 is having on their localities.

Similar impacts could also be expected to affect the effective delivery of by-elections during the intervening period, and we would hope that this could also be addressed at the same time by providing that these could also be deferred. Looking further ahead, there may also be a potential impact on annual canvass activity across the UK, and this is something that it will be important for Government to return to with us in due course.

The Commission stands ready to provide further advice and take or co-ordinate necessary actions, as may be of assistance to the Government in this matter.

Key Election Obligations, Commitments, Standards and Best Practice	Electoral Cycle (covering the key elements of the electoral process)	Some key Indicators/Benchmarks
<b>Periodic elections</b>	<ul style="list-style-type: none"> <li>Announcement of election</li> </ul>	<ul style="list-style-type: none"> <li>Term limits are respected</li> <li>Reasonable notice is given to facilitate organisation of election and conduct campaign</li> </ul>
<b>Genuine election</b>	<ul style="list-style-type: none"> <li>Election administration</li> <li>Registration of parties/candidates</li> <li>Election campaign</li> </ul>	<ul style="list-style-type: none"> <li>EMB is independent, effective and has confidence of stakeholders</li> <li>Election is truly competitive</li> <li>State resources are used appropriately</li> </ul>
<b>Universal suffrage</b>	<ul style="list-style-type: none"> <li>Legal framework</li> <li>Voter registration</li> </ul>	<ul style="list-style-type: none"> <li>Eligibility criteria are inclusive and appropriate</li> <li>Voter list includes all sectors of society including minorities, women and youth</li> </ul>
<b>Equal suffrage</b>	<ul style="list-style-type: none"> <li>Election system</li> <li>Boundary demarcation</li> </ul>	<ul style="list-style-type: none"> <li>Electoral system is inclusive and representative</li> <li>The number of seats in each constituency is balanced in terms of population size</li> </ul>
<b>Right to stand for election</b>	<ul style="list-style-type: none"> <li>Party registration (freedom of association)</li> <li>Candidate registration</li> </ul>	<ul style="list-style-type: none"> <li>Registration criteria are reasonable and applied in an inclusive manner</li> <li>Candidate eligibility criteria are reasonable and inclusive</li> <li>Women have the right and opportunity to stand for election and reasonable numbers do so</li> </ul>
<b>Right and opportunity to vote</b>	<ul style="list-style-type: none"> <li>Voter registration</li> <li>Voter ID requirements</li> <li>Provision of and access to adequate polling places</li> <li>Voter education</li> </ul>	<ul style="list-style-type: none"> <li>Those seeking to register are captured on the voter list</li> <li>Voters are aware of how to register and when, where and how to vote</li> <li>Voting arrangements and procedures facilitate participation</li> </ul>
<b>Women's participation</b>	<ul style="list-style-type: none"> <li>Voter registration</li> <li>Candidate registration</li> <li>Electoral system</li> <li>Provision of polling places</li> <li>Appointment of electoral staff</li> </ul>	<ul style="list-style-type: none"> <li>There are no legal or procedural barriers to women's participation as candidates and voters</li> <li>Parties have an open attitude to including women as candidates</li> <li>Women are present in good numbers at all levels of the election administration</li> </ul>
<b>Secret vote</b>	<ul style="list-style-type: none"> <li>Voting procedures</li> </ul>	<ul style="list-style-type: none"> <li>Polling stations are organised to ensure voters can vote in secret</li> <li>Voters are not coerced when making a choice and there are no financial or other inducements</li> </ul>
<b>Free expression of will of electors</b>	<ul style="list-style-type: none"> <li>Election campaign</li> <li>Voter education</li> <li>Election dispute resolution</li> </ul>	<ul style="list-style-type: none"> <li>Voters have access to credible and timely information on political choices and electoral procedures</li> <li>There are no undue obstacles to participation or physical impediments to voting</li> <li>Votes are counted and reported honestly</li> <li>Where required electors are provided with effective legal remedy</li> </ul>
<b>Right to an effective legal remedy</b>	<ul style="list-style-type: none"> <li>All stages of the electoral cycle</li> </ul>	<ul style="list-style-type: none"> <li>Stakeholders are able to seek a timely legal remedy at all stages of the electoral process</li> <li>Election disputes are dealt with in an impartial and transparent way</li> </ul>
<b>Equal treatment</b>	<ul style="list-style-type: none"> <li>Conduct of campaign</li> <li>Media coverage</li> <li>Election dispute resolution</li> </ul>	<ul style="list-style-type: none"> <li>State resources are used appropriately</li> <li>Media, and notably state media, treats contestants equitably</li> <li>Election disputes are resolved in an equal manner</li> </ul>
<b>Freedom of association</b>	<ul style="list-style-type: none"> <li>Registration of political parties</li> </ul>	<ul style="list-style-type: none"> <li>Criteria for party registration are reasonable</li> </ul>

<b>Freedom of expression</b>	<ul style="list-style-type: none"> <li>• Election campaign</li> <li>• Media coverage</li> </ul>	<ul style="list-style-type: none"> <li>• There are no obstacles to contestants gaining access to media coverage</li> <li>• There is generally balanced coverage of the main contestants across media</li> <li>• State media provides balanced and fair coverage</li> <li>• There is no incitement in the media</li> </ul>
<b>Freedom of movement</b>	<ul style="list-style-type: none"> <li>• Election administration</li> <li>• Election campaign</li> <li>• Election day</li> </ul>	<ul style="list-style-type: none"> <li>• EMB is able to access all parts of country</li> <li>• Candidates and parties are able to freely and safely access all parts of country</li> <li>• Voters are able to reach polling places</li> </ul>
<b>Freedom of assembly</b>	<ul style="list-style-type: none"> <li>• Election Campaign</li> </ul>	<ul style="list-style-type: none"> <li>• Candidates and parties are able to organise public meetings without hindrance</li> </ul>
<b>Transparency</b>	<ul style="list-style-type: none"> <li>• Election administration</li> <li>• Election dispute resolution</li> <li>• Election results</li> </ul>	<ul style="list-style-type: none"> <li>• Decisions of EMB are transparent</li> <li>• Election dispute resolution is transparent</li> <li>• Campaign finance regulations provide for transparency</li> <li>• Details of tabulation and results are provided to stakeholders, with details broken down to as low level (polling station) as possible</li> <li>• Campaign finance regulations provide for transparency</li> <li>• Details of tabulation and results are provided to stakeholders, with details broken down to as low-level (polling station) as possible</li> <li>• Citizen observers (and international observers) are provided with full access to the process without impediment</li> </ul>
<b>Non-violent conduct</b>	<ul style="list-style-type: none"> <li>• Election campaign</li> <li>• Voting</li> <li>• Post-election</li> </ul>	<ul style="list-style-type: none"> <li>• The process is free from violence during the pre-election, voting and post-election periods</li> </ul>

An EOM should consider many factors and questions in assessing an electoral process. This list is meant to be a set of indicators only. See Part 4 & 5 on Observing and Assessing the Pre-Election Period and Observing and Assessing the Election Period for further discussion of the types of issues and questions missions should consider.

## Assessment context

Ultimately, the assessment of an election will be objectively based on the extent to which it did or did not reflect the country/territory's international and regional obligations, commitments and standards, as well as its own legislation and regulations. However, some contextual considerations may mitigate or aggravate an assessment.

In circumstances where international obligations, commitments and standards have not been reached, or where national law or international best practice has not been followed, an EOM should consider whether there are mitigating or aggravating factors. For example, an EOM may be less critical in its overall assessment when problems are not deliberate and are addressed openly and honestly, while it should be highly critical of any election where there is dishonesty or undue political or executive interference.

Ultimately, while the conditions and history of a country/territory may help a mission to understand what is possible, it does not change what is acceptable. International and regional obligations, commitment and standards, along with best practice provide a benchmark to assess the credibility of an election. This in turn can assist a country/territory identify what went well and what needs to improve in order to strengthen the conduct of future elections and the wider democratic process.



### Appendix 3: Timetable for the 2020 General Election

Event	Date
<b>Nomination period</b>	Tuesday 12 <sup>th</sup> May at 9:00 a.m. to Friday 15 <sup>th</sup> May at 4:00 p.m.
<b>Deadline for submission of the two page manifesto for the candidate manifesto booklet.</b>	Friday 15 <sup>th</sup> May
<b>Briefing session for all candidates</b>	Friday 15 <sup>th</sup> May evening
<b>Date the candidate manifesto booklet will be distributed by</b>	Thursday 4 <sup>th</sup> June
<b>Meet the candidates events @ Beau Sejour</b>	Saturday 6 <sup>th</sup> & Sunday 7 <sup>th</sup> June
<b>Advance Polling @ Beau Sejour</b>	Saturday 13 <sup>th</sup> June Sunday 14 <sup>th</sup> June
<b>Advance Polling (Parish Polling Stations) Super Polling Station (Beau Sejour)</b>	Tuesday 16 <sup>th</sup> June
<b>Election Day</b>	Wednesday 17 <sup>th</sup> June
<b>Vote Count @ Beau Sejour</b>	Thursday 18 <sup>th</sup> June
<b>Swearing in of People's Deputies</b>	1 <sup>st</sup> July
<b>States' Meeting</b> To elect the President, Policy & Resources Committee	1 <sup>st</sup> July
<b>States' Meeting</b> To elect the Members of the Policy & Resources Committee	3 <sup>rd</sup> July
<b>States' Meeting</b> To elect the Presidents of other Committees	7 <sup>th</sup> July
<b>States' Meeting</b> To elect the Members of other Committees and the Presidents and Members of non-governmental bodies	13 <sup>th</sup> July