

**Proposition in pursuance of Rule 18 submitted by the  
President of the States' Assembly & Constitution Committee**

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

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

**THE REFORM (GUERNSEY) (AMENDMENT) LAW, 2020**

The States are asked to decide:-

Whether, after consideration of "The Reform (Guernsey)(Amendment) Law, 2020" and the Policy Letter dated 5<sup>th</sup> May, 2020, they are of the opinion:-

1. To approve the draft Projet de Loi entitled "The Reform (Guernsey) (Amendment) Law, 2020", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

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**

Section 1 of the Reform (Guernsey) (Amendment) Law, 2020 ("the Law") amends the Reform (Guernsey) Law, 1948 ("the Reform Law"). It amends references to the date of the general election from 2020 to 2021, and creates a power for the States by Ordinance to modify the application of Article 29 and any other provision of Part IV of the Reform Law from time to time, for the purpose of enabling a general election to be held at a time other than as provided for in paragraph (1) of Article 29. Inserted Article 29(5) provides that the provisions of Article 3(5) of the Reform Law apply in relation to such an Ordinance as they apply to a Projet de Loi intended to repeal or vary any of the provisions of the Reform Law (mirroring a requirement in respect of an existing power to amend by Ordinance at Article 20H). The Article 3(5) requirements include a requirement for a two-thirds majority of members present and voting for the approval of the Ordinance to be effective immediately.

Section 1 also amends the Reform Law to provide that no by-election shall be held if a casual vacancy in the office of Deputy occurs before the 2021 General Election. Section 3 provides that this amendment shall cease to have effect on 1st January, 2022, to avoid this provision of time-bound application being permanently on the face of the statute book.

Section 2 of the Law repeals section 1 of the States (Reform) Law, 2015, which provides that a person elected to the office of People's Deputy at the 2016 general election or a by-election thereafter shall retire from office on 30 June 2020. Sections 4 and 5 are the citation and commencement provisions.

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THE REFORM (GUERNSEY) (AMENDMENT) LAW, 2020

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

12<sup>th</sup> May, 2020

Dear Sir

**1 Executive Summary**

1.1 On the 15<sup>th</sup> April, 2020, the States considered the propositions and policy letter from the States' Assembly & Constitution Committee ("the Committee") entitled '[Proposed Postponement of the 2020 General Election](#)'. The propositions were successfully amended<sup>1</sup> and the States agreed that:

- the General Election for the office of People's Deputy scheduled to be held on 17<sup>th</sup> June, 2020 should be postponed<sup>2</sup>;
- the term of office of current People's Deputies should be extended until 30<sup>th</sup> June, 2021<sup>3</sup>; and
- the General Election for the office of People's Deputy should be rescheduled to 16<sup>th</sup> June, 2021 and the Committee should submit a policy a policy letter to the States with recommendations for any further practical arrangements and legislative requirements to facilitate the rescheduling of the General Election<sup>4</sup>.

1.2 The States also agreed 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<sup>5</sup>.

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<sup>1</sup> Three amendments were successfully laid against the propositions: [Amendment 1](#), [Amendment 4](#) and [Amendment 5](#). They can be found on the 14<sup>th</sup> April, 2020 States' Meeting page on [www.gov.gg](http://www.gov.gg) where a consolidated version of the [amended propositions](#) and the [States' Resolutions](#) can also be read.

<sup>2</sup> Resolution 1.

<sup>3</sup> Resolution 2.

<sup>4</sup> Resolution 3.

<sup>5</sup> Resolution 8.

- 1.3 The Civil Contingencies Authority were directed 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<sup>6</sup>. In response to that direction the Authority made the [Emergency Powers \(Coronavirus\) \(General Provision\) \(Bailiwick of Guernsey\) \(Amendment\) Regulations, 2020](#) which came into operation on the 24 April, 2020.
- 1.4 These Regulations amended the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) Regulations, 2020 to include provision modifying the application of the Reform (Guernsey) Law, 1948 and the States Reform (Guernsey) Law, 2015 to enable the terms of office of People's Deputies elected in 2016 (and at any subsequent election to fill any casual vacancy) to extend beyond 30th June 2020, and the General Election to be held in June 2021 instead of June 2020.
- 1.5 The policy letter made clear that given the temporary nature of emergency regulations under the [Civil Contingencies \(Bailiwick of Guernsey\) Law, 2012](#), it was essential that the States should approve suitable permanent legislative provision as soon as reasonably practicable to address the postponement.
- 1.6 Paragraph 8.7 of the policy letter stated:
- “... 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”.
- 1.7 The purpose of this policy letter is to explain the changes to the Reform (Guernsey) Law, 1948 ("the Reform Law") and the States (Reform) (Guernsey) Law, 2015 made by the attached Projet de Loi in order to give effect to the above direction; to request the States to approve the Projet; and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.
- 1.8 The Committee has submitted this proposition under Rule 18 of The Rules of Procedure of the States of Deliberation and their Committees given an immediate decision is necessary to enable the Projet de Loi to be submitted for consideration at the July meeting of the Privy Council.

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<sup>6</sup> Resolution 10.

## 2 Amendment of the Reform Law

- 2.1 A review has been undertaken of the Reform Law to identify what amendments are required.

### (a) Date changes

- 2.2 There are three amendments required to change the date from 2020 to 2021, as listed below:

26.(2)	<b>The Electoral District, and polling stations.</b> In the General Election to be held in <del>2020</del> <b>2021</b> , and thereafter, for the purposes of elections to the office of People's Deputy Guernsey shall comprise one Electoral District returning 38 People's Deputies.
29.(1)	<b>Holding of Deputies' Elections.</b> General Elections for the office of People's Deputy shall be held in <del>2020</del> <b>2021</b> 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, an election to fill any vacancy not filled at that General Election shall be held as soon as may be thereafter 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.
30.(2)	<b>Secret ballot, and number of votes that may be cast in a General Election.</b> In the General Election to be held in <del>2020</del> <b>2021</b> and at each General Election thereafter, a person entitled to vote in accordance with this Law may cast votes for up to 38 candidates.

- 2.3 This change is set out in section 1(2) of the Projet de Loi.

### (b) Provision to make changes by Ordinance regarding the postponement of an election

- 2.4 As set out in the quoted paragraph under 1.6, it was suggested that the legislative amendments should also contain provision to enable the States by Ordinance to make suitable provision in the future should similar circumstances arise requiring an election to be moved. This is achieved by the amendment to Article 29 of the Reform Law made by section 1(4) and (5) of the Projet de Loi. Such an Ordinance would require a majority of two-thirds of the members

present and voting in order to be carried immediately, and be subject to the other procedural requirements of Article 3(5).

**(c) Changes of provisions relating to ‘by-elections’**

- 2.5 Article 29(2) of the Reform Law sets out the provisions concerning a casual vacancy in the office of Deputy which reads as follows:

“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”.

- 2.6 The States resolved on 15<sup>th</sup> April, 2020 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.
- 2.7 Members will note that a casual vacancy currently exists further to the death of Deputy Jan Kuttelwascher in January, 2020. Given the vacancy occurred after the 30<sup>th</sup> day of November next preceding the date of a General Election, the Presiding Officer used his discretion in determining an election would not be held to fill the vacated office until the date of the General Election.
- 2.8 Given the date of the General Election has now changed to the 16<sup>th</sup> June, 2021, and the States has agreed no by-election will be held to fill the seat(s) in question, an appropriate amendment has been to Article 29( at section 1(3) of the Projet de Loi.

**3 Amendment of the States Reform (Guernsey) Law, 2015**

- 3.1 Section 1 of the States (Reform) Guernsey Law, 2015 reads as follows:

**General Election: 2016.**

1. A person elected to the office of People's Deputy -
  - (a) at the General Election of People's Deputies due to take place on 27th April 2016, or
  - (b) at any election under Article 29(1) of the Reform (Guernsey) Law, 1948 to fill any vacancy not filled at that General Election,

shall retire from office on 30th June 2020, despite Article 29(1) of the Reform (Guernsey) Law, 1948.

- 3.2 As the States has agreed the term of office of current People's Deputies should be extended until 30<sup>th</sup> June, 2021, the attached draft Projet de Loi repeals the above section of the 2015 Law.

#### **4 Provision relating to remote meetings of the States in the Emergency Powers (Coronavirus)(General Provision) (Bailiwick of Guernsey) Regulations, 2020**

- 4.1 The above regulations came into operation on the 16<sup>th</sup> April, 2020 and superseded the Emergency Powers (Coronavirus) (States Procedures) (Guernsey) Regulations, 2020.
- 4.2 The regulations relating to the States of Deliberation provide that the Reform Law shall apply as if modified by the insertion of a new Article enabling the States of Deliberation to meet remotely. It also empowers the States' Assembly & Constitution Committee to make Rules of Procedure governing remote meetings of the States held pursuant to the inserted Article.
- 4.3 The Committee has not sought to include such a modification in the attached Projet de Loi. It believes the matter of remote attendance at States' Meetings is an issue which requires careful consideration so that it is enabled only in emergency circumstances, where it may not be possible to convene or maintain a quorate meeting of the States, and wishes to consider the matter in more depth in future.

#### **5 Further policy letter(s) and legislation**

- 5.1 When the States agreed that the General Election for the office of People's Deputy should be rescheduled to 16<sup>th</sup> June 2021, it also directed the Committee submit a policy letter to the States with recommendations for any further practical arrangements and legislative requirements to facilitate this.
- 5.2 This policy letter, and the attached Projet de Loi, seeks to expediently make the necessary amendments to the Reform Law to reschedule the General Election for the office of People's Deputy to June, 2021.
- 5.3 Other propositions will be submitted to the States in due course, including propositions to approve draft Ordinances, further to the following having been withdrawn on 15<sup>th</sup> April, 2020:
- The Elections Ordinance, 2020
  - The Postal Voting (Amendment) Ordinance, 2020
  - The Advance and Super Polling Station Ordinance, 2020

- The Elections (Nominations and Ballot Papers for People’s Deputies) Ordinance, 2020

5.4 The Committee will return to the States with a policy letter, should it deem it necessary, with recommendations for any further practical arrangements and legislative requirements.

## **6 Compliance with Rule 4**

6.1 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.

6.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty’s Procureur for advice on any legal or constitutional implications.

6.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the proposition has the unanimous support of the Committee in order to fulfil the relevant resolutions agreed by the States on 15<sup>th</sup> April, 2020; notwithstanding that the majority of the Committee voted against amended Propositions 2 and 3 which proposed the terms of office of current Deputies should be extended until 30<sup>th</sup> June, 2021 and that the General Election for the office of People’s Deputy should be rescheduled to 16<sup>th</sup> June, 2021.

6.4 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”*.

Yours faithfully

N. R. Inder  
President

J S Merrett  
Vice-President

P T R Ferbrache  
J P Le Tocq  
E A McSwiggan



# PROJET DE LOI

ENTITLED

## **The Reform (Guernsey) (Amendment)**

**Law, 2020**

**THE STATES**, in pursuance of their Resolutions of the 15<sup>th</sup> April, 2020<sup>a</sup> and the \* May, 2020<sup>b</sup> have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

### **Amendment of the Reform Law.**

1. (1) Subject to section 3 (expiry), the Reform (Guernsey) Law, 1948<sup>c</sup> is amended as follows.

(2) In Article 26(2), Article 30(2), and in Article 29 each time it appears, for "2020" substitute "2021".

(3) At the start of paragraph (2) of Article 29 insert "Subject to paragraph (2A),", and after paragraph (2) insert –

"(2A) A casual vacancy in the office of Deputy occurring

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<sup>a</sup> Billet d'État No. X of 2020.

<sup>b</sup> Article \*\* of Billet d'État No. \*\* of 2020.

before the General Election to be held in 2021 shall not be filled by election."

(4) After paragraph (3) of Article 29 insert –

"(4) The States may from time to time by Ordinance modify the application of this Article, and any other provision in this Part, for the purpose of enabling a General Election to be held at a time other than as provided for in paragraph (1).

(5) The provisions of Article 3(5) (including, for the avoidance of doubt, the proviso thereto) apply in relation to an Ordinance under paragraph (4) as those provisions apply in relation to a *Projet de Loi* intended to repeal or vary any of the provisions of this Law."

**Amendment of the States Reform (Guernsey) Law, 2015.**

2. Section 1 (General Election: 2016) of the States (Reform) Guernsey Law, 2015<sup>d</sup> is repealed.

**Expiry.**

3. The amendments to Article 29 of the Reform (Guernsey) Law, 1948

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<sup>c</sup> Ordres en Conseil Vol. XIII, p. 288; as amended by Ordres en Conseil Vol. XIV, p. 407; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, pp. 84 and 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, pp. 164 and 278; Vol. XXXII, p. 41; Vol. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, pp. 150 and 295; Order in Council No. XIII of 2003; No. III of 2004; No. II of 2007; No. XX of 2007; Nos. XIII and XXII of 2008; No. VII of 2010; Nos. II and XIV of 2012; No. XVII of 2015; No. II of 2020; Ordinance No. XXXIII of 2003; No. XXVI of 2008; No. XXXII of 2011; No. IX of 2016; No. XXVII of 2019; and No. IV of 2020.

<sup>d</sup> Order in Council No. XVII of 2015.

made by section 1(3) shall cease to have effect on 1<sup>st</sup> January, 2022.

**Citation.**

4. This Law may be cited as the Reform (Guernsey) (Amendment) Law, 2020.

**Commencement.**

5. This Law shall come into force on the day of its registration on the Records of the Island of Guernsey.