

# ORDER IN COUNCIL

IV  
2019

ratifying a Projet de Loi

ENTITLED

## **The Referendums (Enabling Provisions) (Guernsey) Law, 2018**

(Registered on the Records of the Island of Guernsey  
on the 26th March, 2019.)



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2019

## ORDER IN COUNCIL



### IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 26th day of March, 2019 before Richard James McMahon, Esquire, Deputy Bailiff; present:- Barbara Jean Bartie, Stephen Murray Jones, Esquire, O.B.E. Claire Helen Le Pelley, David Percy Langley Hodgetts, Esquire, L.V.O., Niall David McCathie, Terry John Ferbrache, David Allan Grut, Jonathan Grenfell Hooley, David James Mortimer, Alan Stevenson Boyle, David John Robilliard, Esquires, and Marilyn Jasmine King, Jurats.

The Deputy Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 13<sup>th</sup> March 2019, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Referendums (Enabling Provisions) (Guernsey) Law, 2018”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED that the said Order be registered on the records of this Island.

J. TORODE  
Her Majesty’s Greffier.



*At the Court at Buckingham Palace*

THE 13th DAY OF MARCH 2019

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY  
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

“That, in pursuance of their Resolution of 1st August 2002, the States of Deliberation at a meeting on 28th November 2018 approved a *Projet de Loi* entitled the Referendums (Enabling Provisions) (Guernsey) Law, 2018 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction Referendums (Enabling Provisions) (Guernsey) Law, 2018, and to order that it shall have force of law in the Islands of Guernsey, Herm and Jethou.

“The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it”.

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Islands of Guernsey, Herm and Jethou and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

*Richard Tilbrook*

# PROJET DE LOI

ENTITLED

## **The Referendums (Enabling Provisions) (Guernsey) Law, 2018**

THE STATES, in pursuance of their Resolution of the 1<sup>st</sup> day of August, 2002<sup>a</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.

### **Duty on Committee to make regulations.**

1. (1) In the circumstances set out in subsection (2), the Committee shall as soon as reasonably practicable make regulations providing for the holding of a referendum.

(2) The circumstances referred to in subsection (1) are that –

- (a) the States have resolved, by a majority of two-thirds or more, that a referendum be held in respect of a question or questions, and
- (b) the exact wording of the question or questions to be asked in the referendum has been set out in the

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<sup>a</sup> Article X of Billet d'État No. XIX of 2002.

Resolution.

**Eligibility to vote in a referendum.**

2. A person who, on the date a referendum is to be held under this Law, is entitled to vote in an election in accordance with the provisions of the Reform (Guernsey) Law, 1948<sup>b</sup>, is entitled to vote in that referendum.

**Application of provisions of Reform (Guernsey) Law, 1948 and Reform (Amendment) Guernsey) Law, 1972 to referendums.**

3. (1) The Schedule has effect.
- (2) The Committee may amend the Schedule by regulations.

**Regulations under section 1.**

4. (1) The Committee shall take account of the Resolution of the States referred to in section 1(2) ("**the Resolution**") when making regulations under section 1(1).

(2) Regulations made under section 1(1) shall set out the question or questions to be asked in the referendum, and that question or those questions shall be the same as the wording specified for that purpose in the Resolution.

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<sup>b</sup> Ordres en Conseil Vol. XIII, p. 288; as amended by Ordres en Conseil Vol. XIV, p. 407; Vol. XV, p. 279; 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, p. 164; 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; Nos. II and XX of 2007; Nos. XIII and XXII of 2008; No. VII of 2010; No. II and XIV of 2012; No. XVII of 2015; Ordinance No. XXXIII of 2003; No. XXVI of 2008; No. XXXII of 2011 and No. IX of 2016.

(3) Subject to subsection (1), regulations made under section 1(1) shall make such other provision as the Committee thinks fit in respect of the conduct and management of the referendum and associated matters.

(4) Without prejudice to the generality of subsection (3), regulations under subsection (1) may make provision in respect of –

- (a) the publication of the date of the referendum, and of other arrangements in respect of the holding of the referendum,
- (b) the establishment of polling stations,
- (c) expenditure by persons campaigning in the referendum,
- (d) the circumstances in which a recount of votes cast in the referendum shall be held, and general provision in respect of such a recount, and
- (e) the form of the ballot paper in the referendum.

**General provisions as to regulations.**

5. (1) Regulations under this Law -
- (a) may be amended or repealed by subsequent regulations hereunder,
  - (b) may contain such consequential, incidental,

supplemental and transitional provision as may appear to the Committee to be necessary or expedient, and

- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(2) Any power conferred by this Law to make regulations may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

- (b) so as to make, as respects the cases in relation to which it is exercised -

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

- (iii) any such provision either unconditionally or subject to any conditions specified in the regulations.

**Interpretation.**

6. In this Law, "**the Committee**" means the States of Guernsey Policy & Resources Committee, and "**the Resolution**" has the meaning given in section 4(1).

**Citation.**

7. This Law may be cited as the Referendums (Enabling Provisions) (Guernsey) Law, 2018.

**Commencement.**

8. This Law shall come into force on the date of its registration on the records of the Island of Guernsey.

## SCHEDULE

## Section 3

APPLICATION OF PROVISIONS OF REFORM (GUERNSEY) LAW, 1948 AND  
 REFORM (AMENDMENT) (GUERNSEY) LAW, 1972 TO REFERENDUMS HELD  
 UNDER THIS LAW

**Application of provisions of Reform (Guernsey) Law, 1948.**

1. (1) The following provisions of the Reform (Guernsey) Law, 1948 shall apply in respect of the holding of a referendum under this Law, subject to the modifications set out in this paragraph: articles 27(3),(3A) and (4), 27A (Prisoners), 28 (Persons not to vote unless inscribed on the Electoral Roll. Penalties for plural voting), 30 (Elections to be determined by Secret Ballot Law), 34(9), 34(9A), 34(11A), 34(11B), 37 (Returning Officers), 38 (Supervision of Ballot), 38B (Maintenance of order at elections), 39 (Hours of polling), 40 (Duties on completion of Ballot), 43 (Persons physically incapable of recording a vote), 46 (Obligation of secrecy), 49 (Interpretation) and 74 (Limitation of application of the Secret Ballot Laws).

(2) In article 27(3) –

(a) for "At an election the Returning Officer" substitute "At a referendum to be held under the provisions of the Referendums (Enabling Provisions) (Guernsey) Law, 2018 (a "**Referendum**"), the Returning Officer", and

(b) for "that election" substitute "that Referendum".

(3) In article 27(4), for "any election", substitute "a Referendum".

(4) In article 27A(2) –

- (a) for "an election" substitute "a Referendum",
- (b) for "that election" substitute "that Referendum", and
- (c) in paragraph (a), for "or any Ordinance thereunder" substitute "(as applied in respect of the holding of a Referendum)".

(5) In article 28(1), for "at any election" (in both places) substitute "at a Referendum", and for "the election" substitute "the Referendum".

(6) In article 30, in the heading for "Elections" substitute "Referendums", and for "Elections" substitute "A Referendum".

(7) In article 34(9) for "at an election for any of the offices of People's Deputy, Constable or Douzenier, and at any election", substitute "at a Referendum, and at a Referendum", and in article 34(11A) delete "Notwithstanding paragraph (11),".

(8) In article 37, for "At every election" substitute "At a Referendum".

(9) In article 38(1) delete from "In each District" to the end of the subsection.

(10) In article 38B, in the section heading, for "elections" substitute "Referendums", and delete paragraph (2)(c).

(11) In article 39, for "at every election" substitute "on the day on which a Referendum is held".

(12) For article 46(2), substitute –

"(2) Any person who contravenes the provisions of this Article shall be guilty of an offence and liable, on conviction to a fine not exceeding level 5 on the uniform scale, or to a term of imprisonment not exceeding three months, or to both."

(13) In article 49, delete the definition of "Election".

**Application of provisions of Reform (Amendment) (Guernsey) Law, 1972: voting by post in a referendum.**

2. (1) Sections 2 to 15 of Part II (Voting by Post) of the Reform (Amendment) (Guernsey) Law, 1972<sup>c</sup> shall apply in respect of the holding of a referendum under this Law, subject to the modifications set out in this paragraph.

(2) In section 2, for the words from "an election for" to the end, substitute "a referendum to be held under the provisions of the Referendums (Enabling Provisions) (Guernsey) Law, 2018 (a "**Referendum**)".

(3) In section 5, for "that election" substitute "that Referendum", in sections 5, 6A(1) and 14(1), for "an election" substitute "a Referendum", and in

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<sup>c</sup> Ordres en Conseil Vol. XXIII, p. 476; amended by Ordres en Conseil Vol. XXVI, p. 255; Vol. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, p. 295; Order in Council No. XIII of 2003; No. VII of 2010; Ordinance No. III of 2004; No. LI of 2006; and No. XIII of 2012.

sections 8, 11, 12, and 13, for "the election" substitute "the Referendum".

(4) In section 15(1) –

(a) for "forty-eight hours", substitute "three days", and

(b) for "the date appointed for the holding of an election ",  
substitute "the date of the Referendum".

(5) For section 15(2), substitute –

"(2) Not earlier than three days after the publication of the result of the Referendum (or of the result of any recount), the Registrar-General shall destroy all the sealed packages delivered to him in pursuance of subsection (1).".

Copies may be purchased from  
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