

The Reform (Guernsey) Law, 1948 (Amendment)

Ordinance, 2024

THE STATES, in pursuance of their Resolution of the 25th January, 2024^a, and in exercise of the powers conferred on them by Articles 77A(a) and 77B of the Reform (Guernsey) Law, 1948^b and all other powers enabling them in that behalf, hereby order:-

Amendment of First Schedule to the Reform Law.

1. (1) Part 2 of the First Schedule to the Reform (Guernsey) Law, 1948 is amended as follows.

(2) Before paragraph 5, insert -

"Appointment of Deputy Commissioner.

4A. (1) The Commissioner, following consultation with the Committee, may, subject to such terms and conditions as the Commissioner thinks fit following that consultation, appoint any person as Deputy Commissioner with authority to exercise the Commissioner's functions –

(a) during any period during which the Commissioner is unavailable, and

^a Article III of Billet d'État No. I of 2024.

^b Ordres en Conseil Vol XII, p. 288; this enactment has been amended.

- (b) in respect of any matter in relation to which the Commissioner considers that he or she is unable to act, because of a conflict of interest or for any other reason.

(2) A function exercised by a Deputy Commissioner pursuant to an appointment under this paragraph is for all purposes exercised by the Commissioner; and every decision taken or other thing done by a Deputy Commissioner pursuant to such an appointment has the same effect as if taken or done by the Commissioner.

(3) An appointment under this paragraph of a Deputy Commissioner -

- (a) may be varied or terminated at any time by the Commissioner following consultation with the Committee, but without prejudice to anything done pursuant to the appointment or to the making of a new appointment,

- (b) does not prevent the exercise of the function by the Commissioner while the appointment subsists."

(3) After paragraph 8, insert –

"Appeals.

8A. (1) Subject to the provisions of this paragraph, and only following consultation with the Committee, the Commissioner shall establish

a mechanism for the making of appeals against decisions of the Commissioner by persons aggrieved by those decisions.

(2) The mechanism established under subparagraph (1) shall provide that the grounds of an appeal against a decision of the Commissioner are that –

- (a) there was a material error in the relevant investigation by the Commissioner that affected the decision,
- (b) the decision was unreasonable,
- (c) the process followed by the Commissioner in reaching the decision was flawed,
- (d) credible new evidence has become available which, if accepted, would have a real prospect of affecting the decision,
- (e) in the case of a decision to impose a sanction, the sanction imposed was disproportionate, or
- (f) there is another compelling reason to allow an appeal to be made.

(3) When establishing a mechanism for the making of appeals under subparagraph (1) –

- (a) (for the avoidance of doubt) the Commissioner may make provision in respect of any related procedural matters in such manner as the Commissioner thinks fit, including (but not limited to) –
 - (i) prescribing forms, and
 - (ii) specifying time limits within which appeals have to be made, and
- (b) the Commissioner shall take into account the importance of ensuring that the mechanism provides for appeals to be determined in a way that is fair and timely.

(4) The Commissioner shall arrange for a description of the appeal mechanism established under subparagraph (1) to be included in the statement to be made and published under paragraph 7, and for any prescribed forms or other materials relating to appeals to be appended thereto."

Citation.

2. This Ordinance may be cited as the Reform (Guernsey) Law, 1948 (Amendment) Ordinance, 2024.

Commencement.

3. This Ordinance shall come into force on being made.