

PROJET DE LOI

ENTITLED

The Government of Alderney (Amendment) Law, 2025

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 14th May, 2025, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

Amendment of Law.

1. (1) The Government of Alderney Law, 2004^a ("**the Law**") is amended as follows.

(2) In subsection (2) of section 48A (code of conduct) –

(a) in paragraph (b), for "such allegations and complaints" substitute "allegations and complaints falling within subparagraph (a)(ii)",

(b) in paragraph (c), after "a panel" insert "or the Alderney Commissioner", and for "it" substitute "the panel or the

^a Order in Council No. III of 2005; this enactment has been amended.

Alderney Commissioner (as the case may be)",

(c) in paragraph (d), after "the panel" insert "and the Alderney Commissioner", and for "it" substitute "the panel or the Alderney Commissioner (as the case may be)",

(d) in paragraph (e), at the end of item (i) delete "or" and after item (i) insert –

"(ia) requiring the member to apologise, or", and

(e) for subsection (5), substitute –

"(5) A person ("P") attending to give evidence to or to produce a document before –

(a) a panel established pursuant to this section to investigate an allegation or complaint that there has been a failure to comply with a code of conduct or a breach or abuse of privilege, or

(b) the Alderney Commissioner,

is entitled, in respect of any evidence given or document produced by P, to the same immunities and privileges as if P were a witness before the Court of Alderney."

(3) Immediately after section 48, for the cross heading "*Code of conduct*" substitute "*Code of conduct and Alderney Commissioner for Standards*", and after section 48A insert –

"Alderney Commissioner for Standards.

48AA. (1) Schedule 4 (Alderney Commissioner for Standards) has effect.

(2) The States may by Ordinance amend Part II, and paragraph 17, of Schedule 4."

(4) In section 48F, before the definition of "document" insert –

""**Alderney Commissioner**" means the Alderney Commissioner for Standards,

"Alderney Commissioner for Standards" means the Alderney Commissioner for Standards appointed under Schedule 4,".

(5) After Schedule 3 insert the Schedule 4 set out at the Schedule to this Law.

Extent.

2. This Law shall have effect in the Island of Alderney.

Citation.

3. This Law may be cited as the Government of Alderney (Amendment) Law, 2025.

Commencement and transitional provision.

4. (1) This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different purposes.

(2) An investigation into an allegation or complaint falling within section 48A(2)(a)(i) of the Law that, immediately before commencement, has been started (but not concluded) by a panel established under a code of conduct pursuant to section 48A(2)(b), may, on commencement, be continued and concluded by the Alderney Commissioner (within the meaning of the Law) at the Alderney Commissioner's discretion in accordance with the provisions of the Schedule 4 to the Law inserted by section 1(5) in the same way as if the investigation had been started by the Alderney Commissioner, and in those circumstances that schedule shall be construed accordingly.

(3) An Ordinance made under subsection (1) may make such further transitional provision in respect of any investigation falling within subsection (2) as the States consider necessary or expedient for the purpose of ensuring that it can be continued and concluded by the Alderney Commissioner fairly and efficaciously.

SCHEDULE

Section 1(5)

"SCHEDULE 4

ALDERNEY COMMISSIONER FOR STANDARDS

Section 48AA

PART I – ESTABLISHMENT AND ADMINISTRATION

Office of Commissioner.

1. (1) There is established an office of Alderney Commissioner for Standards.

(2) A person who holds the office of Alderney Commissioner for Standards is referred to in this Law as the "**Alderney Commissioner**".

Appointment of Alderney Commissioner.

2. (1) The Alderney Commissioner shall be appointed by the States on the nomination of the Committee.

(2) The Alderney Commissioner shall be appointed on such terms and conditions as may from time to time be agreed between the Committee and the Alderney Commissioner, provided that none of those terms and conditions is inconsistent with any provision of this Schedule.

(3) Without prejudice to subparagraph (2), and subject to the provisions of this paragraph and paragraph 3 (vacancy in office), the Alderney Commissioner shall hold office for such term not exceeding five years as may be agreed between the Committee and the Alderney Commissioner at the time of appointment.

(4) On being appointed the Alderney Commissioner shall cease to-

(a) hold any employment as an employee of the States, and

(b) be the holder of any public office in the Bailiwick.

(5) If the Alderney Commissioner ceases to hold office by reason of the expiration of the agreed term, he or she shall be eligible for reappointment.

Vacancy in office.

3. (1) The office of Alderney Commissioner becomes vacant if -

(a) the term of appointment of the person holding the office expires,

(b) the States resolves to revoke the appointment, or

(c) the person holding the office -

(i) dies,

(ii) gives the Committee written notice of resignation from the appointment,

(iii) stands for election to the office of member of the States,

(iv) becomes an employee of the States, or the

holder of a public office in the Bailiwick,

- (v) is compulsorily detained or made subject to guardianship under the Mental Health (Bailiwick of Guernsey) Law, 2010,
- (vi) becomes bankrupt,
- (vii) whether in the Bailiwick or elsewhere, is convicted of an offence involving corruption, or
- (viii) whether in the Bailiwick or elsewhere, is ordered to be imprisoned following conviction for any offence.

(2) Subject to subparagraph (3), the Committee may appoint a person to carry out the duties of the office of the Alderney Commissioner while -

- (a) the office is vacant, or
- (b) the holder of the office is unable to perform the functions of the office.

(3) The Committee must report an appointment under subparagraph (2) to the States as soon as reasonably practicable.

Resources.

4. The States must ensure that the Alderney Commissioner is provided with such administrative and other support as the Alderney Commissioner may

reasonably require for the purpose of discharging the functions of the Alderney Commissioner under this Law.

PART II - POWERS AND DUTIES

Appointment of Deputy Commissioner.

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

- (a) during any period during which the Alderney Commissioner is unavailable, and
- (b) in respect of any matter in relation to which the Alderney 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 an Alderney Deputy Commissioner pursuant to an appointment under this paragraph is for all purposes exercised by the Alderney Commissioner; and every decision taken or other thing done by an Alderney Deputy Commissioner pursuant to such an appointment has the same effect as if taken or done by the Alderney Commissioner.

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

- (a) may be varied or terminated at any time by the Alderney 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 Alderney Commissioner while the appointment subsists.

Commissioner's functions relating to investigations, complaints and other matters.

- 6. (1) The functions of the Alderney Commissioner are -
 - (a) to investigate a complaint to the Alderney Commissioner that a breach of the code of conduct has occurred,
 - (b) to initiate an investigation if the Alderney Commissioner believes that a breach of the code of conduct may have occurred,
 - (c) to report to the Committee on the outcome of any investigation referred to in item (a) or (b), including directing that any action be taken that is in accordance with the sanctions available under the Guide to the Code of Conduct,
 - (d) on the Alderney Commissioner's own initiative or, if requested by the Committee, to give advice on any

matter relating to standards of conduct of elected members of the States, including proposals to change the code of conduct, and

- (e) all such other functions as may be assigned to the office of the Alderney Commissioner by Resolution of the States, or under any other enactment.

(2) The Alderney Commissioner shall not investigate a complaint which -

- (a) is made anonymously,
- (b) in the Alderney Commissioner's opinion, is frivolous, vexatious or unsubstantiated, or
- (c) is made by a person who is not a member of the States, regarding words spoken by, or actions of, an elected member during a meeting of the States.

(3) On receipt of a complaint described in subparagraph (1)(a), the Alderney Commissioner must decide whether there are grounds to investigate and shall either -

- (a) notify the complainant that no such grounds exist (including, but not limited to, because the complaint falls into subparagraph (2)), or
- (b) undertake an investigation,

save that (for the avoidance of doubt) the Alderney Commissioner is not required to notify the complainant under item (a) where the complaint has been made anonymously.

(4) The Alderney Commissioner shall determine the procedure and timing of any investigation.

(5) In making a report to the Committee under subparagraph (1)(c), the Alderney Commissioner shall state their conclusions and direct what action, if any, is to be taken.

(6) For the avoidance of doubt, subject to paragraph 10 (appeals) the Alderney Commissioner's conclusions and directions are binding and final, and may not be overturned or otherwise amended by the States (including the Committee or any other committee thereof).

Independence.

7. (1) The Alderney Commissioner must not be directed by any person on how any function of the office of Commissioner is to be carried out, including, in particular, whether or not to undertake an investigation referred to in paragraph 6(1)(a) or (b).

(2) The Alderney Commissioner may seek legal advice from His Majesty's Procureur on any subject relevant to the functions of the office of the Alderney Commissioner.

Statement of manner in which functions are to be discharged.

8. (1) The Alderney Commissioner may make and publish a

statement of the manner in which the Alderney Commissioner proposes to discharge the functions of that office under this Schedule and any other enactment.

(2) The Alderney Commissioner shall keep under review and revise, as needed, any statement made and published under subparagraph (1).

(3) The Alderney Commissioner must, at the same time that a statement or revision is made, provide a copy of the statement or revision, as the case may be, to the Committee.

(4) The Committee must, as soon as reasonably practicable, lay any statement made under this paragraph, and any revision of it, before the States.

Duty to prepare annual report.

9. (1) The Alderney Commissioner shall, each year -

(a) make a report in respect of the activities of the office of Commissioner for the previous year, and

(b) at the same time as the report is made, provide a copy of it to the Committee.

(2) On receiving the report mentioned in subparagraph (1) the Committee shall, as soon as reasonably practicable, lay it before the States.

Appeals.

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

mechanism for the making of appeals against decisions of the Alderney 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 Alderney Commissioner are that –

- (a) there was a material error in the relevant investigation by the Alderney Commissioner that affected the decision,
- (b) the decision was unreasonable,
- (c) the process followed by the Alderney 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 Alderney Commissioner may make provision in respect of any related procedural matters in such manner as the Alderney 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 Alderney 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 Alderney 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 8, and for any prescribed forms or other materials relating to appeals to be appended thereto.

PART III – ENFORCEMENT AND OFFENCES

Power to require people to appear, answer questions and provide documents.

11. (1) Subject to subparagraph (2), the Alderney Commissioner may, in the exercise of their functions, do all or any of the following -

- (a) require a person to appear before the Alderney Commissioner to give evidence or to produce a

specified document, or to do both,

- (b) require a person to answer questions,
- (c) require a person who has access to a document to provide the information contained in it to the Alderney Commissioner in a legible and comprehensible form.

(2) For the avoidance of doubt, a person may at any time refuse to answer a question from, or produce a document to, the Alderney Commissioner on the ground of a privilege conferred by section 48A(5).

(3) The power under subparagraph (1)(a) to require a document to be produced includes a power -

- (a) if the document is produced, to retain the document or to take copies of it or extracts from the information it contains, and
- (b) if the document is not produced, to require the person to whom the requirement was directed to state, to the best of that person's knowledge and belief, where it is.

(4) If documents are retained, a list of the documents must be supplied to the person from whom they were obtained.

(5) A document retained under subparagraph (3)(a) -

- (a) may be retained for one year, but

- (b) if within that year proceedings to which the document is relevant are commenced against any person, may be retained until the conclusion of those proceedings.
- (6) If -
- (a) the Alderney Commissioner has retained a document under subparagraph (3)(a), and
 - (b) a person reasonably requires the document for that person's business,

the Alderney Commissioner must provide the person with a copy of it as soon as reasonably practicable.

(7) In this Part, "**document**" has the meaning given in Part II of the Schedule to the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016.

Offences

Disobedience to requirement of Commissioner.

12. (1) A person who, without reasonable excuse -
- (a) disobeys a requirement to produce documents to the Alderney Commissioner, to answer questions or to appear before the Alderney Commissioner to give evidence, or

- (b) having so appeared, refuses to comply with a requirement to answer a question put by the Alderney Commissioner,

is guilty of an offence.

(2) A person guilty of an offence under subparagraph (1) shall be liable to a fine not exceeding level 5 on the uniform scale.

Interference with witnesses.

13. (1) A person is guilty of an offence if that person, by fraud, intimidation, force or threat, by the offer or promise of any inducement or benefit, or by other improper means –

- (a) induces or attempts to induce another person who has been required to answer questions from, appear before or produce documents to the Alderney Commissioner, to refrain from doing as requested or formally required, or
- (b) influences or attempts to influence another person in respect of any information given or documents produced in response to such a request.

(2) A person guilty of an offence under subparagraph (1) shall be liable to imprisonment for a term not exceeding two years, or to a fine, or to both.

False or misleading information.

14. (1) If a person to whom subparagraph (2) applies -

- (a) makes a statement which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (b) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (c) produces or furnishes, or causes or permits to be produced or furnished, any information or document which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (d) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,

that person is guilty of an offence.

- (2) This subparagraph applies to a person ("P") who -
 - (a) makes any statement or provides any information or document to the Alderney Commissioner, or to any officer, servant or agent of the Alderney Commissioner, when the Alderney Commissioner or that person is acting in the exercise of his or her

functions, or

- (b) otherwise than as mentioned in paragraph (a) makes any statement or provides any information or document to the Alderney Commissioner in circumstances in which P knows or could reasonably be expected to know that the statement, information or document would or might be used by the Alderney Commissioner for the purpose of exercising his or her functions.

(3) A person guilty of an offence under subparagraph (1) shall be liable to imprisonment for a term not exceeding two years, or to a fine, or to both.

Obstruction.

15. (1) A person shall be guilty of an offence if that person hinders or obstructs a person in the exercise by that person of a function under this Schedule.

(2) A person guilty of an offence under subparagraph (1) shall be liable to a fine of level 5 on the standard scale, to a period of imprisonment not exceeding three months, or to both.

Destruction of documents.

16. (1) A person shall be guilty of an offence if, when required to produce a document under this Schedule or knowing that a document may be required to be produced under this Schedule, the person, with intent to deceive, destroys the document or in any other way renders it unintelligible or useless, or difficult or impossible to retrieve.

(2) A person guilty of an offence under subparagraph (1) shall be liable to imprisonment for a term not exceeding two years, or to a fine, or to both.

PART IV – FINAL

Immunity of persons appearing, answering questions and providing documents.

17. (1) Subject to subparagraphs (2) and (3) -

(a) no civil proceedings or criminal proceedings may be instituted against any person in respect of any words spoken or written by that person -

(i) in a complaint to the Alderney Commissioner that a breach of the code of conduct has occurred, or

(ii) in the course of answering questions from, or appearing and giving evidence before, the Alderney Commissioner, and

(b) an answer given by a person to a question put to that person, or an oral or written statement made by a person in the course of the person's appearance before the Alderney Commissioner, shall not be admissible in evidence against the person in any other civil proceedings or criminal proceedings.

(2) Subparagraph (1) does not preclude the institution of criminal proceedings under paragraph 14 (false or misleading information).

(3) Subparagraph (1)(a) does not apply to a complaint that the Alderney Commissioner does not investigate in accordance with paragraph 6(2).

(4) Where a person ("A") provides, in compliance with a request made under this Schedule, a document in respect of another person ("B"), the provision of that document shall not be regarded as a breach of any duty owed by A to B.

Exclusion of liability.

18. (1) No person undertaking a function under this Schedule (including, but not limited to, the Alderney Commissioner) is to be liable in damages or personally liable in any civil proceedings in respect of anything done, or omitted to be done, after the coming into force of this Schedule in respect of that function, unless the thing was done or omitted to be done in bad faith.

(2) Subparagraph (1) does not prevent an award of damages in respect of an act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000.

Interpretation.

19. In this Schedule, unless the context requires otherwise –

the "**Alderney Commissioner**": see paragraph 1(2),

"**bankrupt**", in relation to any person ("**P**"), means -

- (a) that P has been declared by the Court to be insolvent or that a Commissioner or Committee of Creditors

has been appointed by the Court to supervise or secure P's estate,

- (b) that P's affairs have been declared in a state of "désastre" at a meeting held before a Commissioner,
- (c) that a preliminary vesting order has been made against P in respect of any of P's real property in the Bailiwick, or
- (d) that a composition or arrangement with creditors has been entered into in respect of P whereby P's creditors will receive less than 100p in the pound or that possession or control has been taken of any of P's property or affairs by or on behalf of creditors,

"the code of conduct" means a code of conduct within the meaning of section 48A that is in force at the relevant time, and for these purposes **"the relevant time"** means -

- (a) for the purposes of paragraph 6(1)(a), the time of the alleged breach relating to the complaint,
- (b) for the purposes of paragraph 6(1)(b), the time of the suspected breach, and
- (c) for the purposes of paragraph 6(1)(d), the time the proposals for change are made,

the "**Committee**" means the States' Policy and Finance Committee, and

the "**Guide to the Code of Conduct**" means the document approved by Resolution of, and published by, the States entitled "Guide to the Code of Conduct for States Members & the Commissioner for Standards" as amended from time to time, and includes any successor document published by or on behalf of the States or a committee thereof setting out the sanctions available to the Commissioner, howsoever entitled."