

BILLET D'ÉTAT No. XVII, 2011

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*Article I***PROJET DE LOI**

ENTITLED

The Reform (Guernsey) (Amendment) Law, 2011

THE STATES, in pursuance of their Resolution of the 25th February, 2010^a, 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 Law of 1948.

1. The Reform (Guernsey) Law, 1948, as amended^b is further amended as follows.

2. Immediately before article 27(1A) insert the following paragraph -

"(1AA) Notwithstanding paragraph (1), a person who on the date of his application to be inscribed on the Electoral Roll has not been ordinarily resident in this Island for the period or periods specified in item (i) or (ii) of paragraph (1)(d) -

^a Article XI of Billet d'État No. IV of 2010.

^b Ordres en Conseil Vol. XIII, p. 288; 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; No. XIII of 2003; No. III of 2004; No's. II and XX of 2007; No's. XIII and XXII of 2008; No. VII of 2010; also amended by Recueil d'Ordonnances Tome XXIX, p. 406; and Tome XXXIII, p. 126.

- (a) is, subject to compliance with the other subparagraphs of paragraph (1), entitled to be inscribed on the Electoral Roll, but
- (b) may not vote at any election before he has been ordinarily resident in this Island for the period or periods specified in the said item (i) or (ii)."

3. After article 27(3) insert the following paragraph -

"(3A) The list of voters to be kept by the Returning Officer of each District at each polling station under paragraph (3) may be kept in such form as the Returning Officer thinks fit, including, without limitation, in electronic form."

4. After article 34(8) insert the following paragraphs -

"(8A) The Registrar-General may remove a person's name and address from any section of the Electoral Roll on the grounds that that person -

- (a) is no longer resident at that address, or
- (b) is deceased.

(8B) An application for the removal of a person's name and address under paragraph (8A) may be made -

- (a) in the case of an application by virtue of

subparagraph (a) of that paragraph, by the current occupier of the dwelling of that address, the application being accompanied by a declaration by the applicant stating that the person named in the Electoral Roll is no longer resident at that address, or

- (b) in the case of an application by virtue of subparagraph (b) of that paragraph, by a relative, acquaintance or neighbour of the person named in the Electoral Roll, the application being accompanied by a death certificate relating to that person (or, at the discretion of the Registrar-General, a document of equivalent effect and authority).

(8C) An application or declaration under paragraph (8B) shall be made in such form and manner and accompanied by such information, documents and other material as the Registrar-General may require."

5. After article 34(9) insert the following paragraph -

"(9A) The copy of the appropriate section of the Electoral Roll to be furnished by the Registrar-General to the Returning Officer of each District under paragraph (9) may be furnished in such form and by such means as the Registrar-General thinks fit, including, without limitation, in electronic form and by electronic means."

6. In article 34(10) -

- (a) for the words "in an application" substitute "in or for the purposes of an application or declaration", and
- (b) for the word "information" wherever appearing substitute " information, document or other material".

7. After article 34(11) insert the following paragraphs -

"(11A) Notwithstanding paragraph (11), the Registrar-General may at any time amend the Electoral Roll or any entry therein in order to rectify any formal defect or any administrative or clerical error or omission, whether on the application in writing of the person in respect of whom the defect, omission or error has occurred or of his own motion.

(11B) An application under paragraph (11A) shall be made in such form and manner and accompanied by such information, documents and other material as the Registrar-General may require."

8. In article 34(12) for "paragraph (11)" substitute "paragraphs (11) and (11A)".

Citation.

9. This Law may be cited as the Reform (Guernsey) (Amendment) Law, 2011.

The Elections Ordinance, 2011

THE STATES, in pursuance of their Resolution of the 28th July, 2011^a, and in exercise of the powers conferred on them by Articles 29(3), 39(2) and 44(1) of the Reform (Guernsey) Law, 1948, as amended^b and all other powers enabling them in that behalf, hereby order:-

Date of People's Deputies' Election.

1. The date for the General Election of People's Deputies to be held in April 2012 shall be the 18th April, 2012.

Electoral expenditure: People's Deputies.

2. A candidate in an election for the office of People's Deputy may, during the period beginning on the day on which he delivers his nomination form to the Presiding Officer of the States and ending on the day of the election, expend money or give value in money's worth in respect of that election up to a maximum of £2,100.

Hours of Polling in St Peter Port.

3. At every election for the office of People's Deputy held in the Electoral Districts of St Peter Port South and St Peter Port North every polling station must open at 8.00 a.m. and be kept open until 8.00 p.m.

^a Article XII of Billet d'État No. XIII of 2011.

^b Ordres en Conseil Vol. XIII, p. 288; Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, p. 84; Vol. XIX, p. 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; No. III of 1998; No. X of 1998; No. XIII of 2003; No. III of 2004; No's. II and XX of 2007; No's. XIII and XXII of 2008; No. VII of 2010; also amended by Recueil d'Ordonnances Tome XXIX, p. 406; and Tome XXXIII, p. 126.

Repeals.

4. Sections 1, 2, 3 and 4 of the Elections Ordinance, 2007^c are repealed.

Citation.

5. This Ordinance may be cited as the Elections Ordinance, 2011.

Commencement.

6. This Ordinance shall come into force on the 1st January, 2012.

^c Tome XXXII, p. 674.

The Electoral Roll Ordinance, 2011

THE STATES, in pursuance of their Resolution of the 23rd November, 2010^a, and in exercise of the powers conferred on them by Articles 25(3) and 34(11)(a) of the Reform (Guernsey) Law, 1948, as amended^b and all other powers enabling them in that behalf, hereby order:-

Cessation of current Electoral Roll.

1. The Electoral Roll in existence at 11.59 p.m. on the 29th February, 2012 ("**the current Electoral Roll**") shall, at that time, cease to be valid, and shall be replaced by a new Electoral Roll ("**the new Electoral Roll**") which shall be compiled by the Registrar-General in accordance with the provisions of the Reform (Guernsey) Law, 1948, as amended.

Closure of entries to new Electoral Roll.

2. In relation to the General Election of People's Deputies to be held on the 18th April, 2012, the new Electoral Roll shall be closed on the 1st March, 2012 and, subject to the provisions of the Law, no entry to it shall be made or amended during the period beginning on that date and ending on the date of the election.

Transcription of entries from current Electoral Roll.

3. The provisions of section 2 do not prevent the transcription by the

^a Article VI of Billet d'État No. XXI of 2010.

^b Ordres en Conseil Vol. XIII, p. 288; Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, p. 84; Vol. XIX, p. 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; No. XIII of 2003; No. III of 2004; No's. II and XX of 2007; No's. XIII and XXII of 2008; No. VII of 2010; also amended by Recueil d'Ordonnances Tome XXIX, p. 406; and Tome XXXIII, p. 126.

Registrar General of the entries appearing on the current Electoral Roll at the time of its cessation onto the new Electoral Roll.

Citation.

4. This Ordinance may be cited as the Electoral Roll Ordinance, 2011.

Commencement.

5. This Ordinance shall come into force on the 1st January, 2012.

*Article IV***The Reform (Guernsey) (Amendment) Ordinance, 2011**

THE STATES, in pursuance of their Resolution of the 27th May, 2011^a, and in exercise of the powers conferred on them by article 20H of the Reform (Guernsey) Law, 1948, as amended^b and all other powers enabling them in that behalf, hereby order:-

Amendment of 1948 Law.

1. After article 20F(4)(b) of the Reform (Guernsey) Law, 1948, as amended^c insert the following subparagraph -

"and (c) a person who has at any time been a member of the States of Deliberation,".

Citation.

2. This Ordinance may be cited as the Reform (Guernsey) (Amendment) Ordinance, 2011.

Commencement.

3. This Ordinance shall come into force on the 1st November, 2011.

^a Article X of Billet d'État No. VIII of 2011 (Vol. 2).

^b Ordres en Conseil Vol. XIII, p. 288; 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; No. XIII of 2003; No. III of 2004; No's. II and XX of 2007; No's. XIII and XXII of 2008; No. VII of 2010; also amended by Recueil d'Ordonnances Tome XXIX, p. 406; and Tome XXXIII, p. 126.

^c Article 20F was inserted by No. II of 2007.

Article V

**The Housing (Control of Occupation)
(Extension) Ordinance, 2011**

THE STATES, in pursuance of their Resolution of the 27th April, 2011^a, and in exercise of the powers conferred on them by section 77 of the Housing (Control of Occupation) (Guernsey) Law, 1994^b and all other powers enabling them in that behalf, hereby order:-

Extension of the Housing (Control of Occupation) (Guernsey) Law, 1994.

1. The Housing (Control of Occupation) (Guernsey) Law, 1994, as amended, shall remain in force until 31st December, 2013.

Citation.

2. This Ordinance may be cited as the Housing (Control of Occupation) (Extension) Ordinance, 2011.

^a Article VII of Billet d'État No. VI of 2011.

^b Ordres en Conseil Vol. XXXV(1), p. 75 and Vol. XXXVIII, p. 193; Order in Council No. III of 2002; No. VIII of 2007 and No. I of 2009 and Recueil d'Ordonnances Tome XXIX, p. 406 and Tome XXXIII, p. 100.

Article VI

**The Data Protection (Bailiwick of Guernsey)
(Amendment) Ordinance, 2011**

THE STATES, in pursuance of their Resolution of the 26th July, 2000^a, and in exercise of the powers conferred on them by sections 66 and 69 of the Data Protection (Bailiwick of Guernsey) Law, 2001^b, hereby order:-

Amendment of the 2001 Law.

1. In section 32(2)(d) of the Data Protection (Bailiwick of Guernsey) Law, 2001, for "11" substitute "12".

Interpretation.

2. (1) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of this Ordinance throughout the Bailiwick.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Extent.

3. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

4. This Ordinance may be cited as the Data Protection (Bailiwick of

^a Article II of Billet d'État No. XVIII of 2000.

^b Order in Council No. V of 2002 as amended by Ordinance No. II of 2010.

^c Ordres en Conseil Vol. XIII, p. 355.

Guernsey) (Amendment) Ordinance, 2011.

Commencement.

5. This Ordinance shall come into force on the 26th October, 2011.

ORDINANCE LAID BEFORE THE STATES

**The Afghanistan (Restrictive Measures)
(Guernsey) Ordinance, 2011**

THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b, and all other powers enabling the States in that behalf, hereby order:-

Application and infringement of EU Regulation.

1. (1) Council Regulation (EU) No. 753/2011 of the 1st August, 2011^c concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan ("**the EU Regulation**") is, subject to such exceptions, adaptations and modifications as may be specified in this Ordinance, applicable in Guernsey in all respects as if Guernsey were a Member State.

(2) A person who infringes, or causes or permits any infringement of, Article 2 or 3 of the EU Regulation is guilty of an offence.

Modification of Regulation.

2. The EU Regulation in its application to Guernsey is modified as follows -

^a Ordres en Conseil Vol. XXXV(1), p. 65.

^b Ordres en Conseil Vol. XIII, p. 288 (there are amendments not material to this Ordinance).

^c OJ L 199, 2.8.2011, p.1

- (a) Articles 1(i) and 13 shall not apply,
- (b) in Article 5.1, for the words "the competent authorities of the Member States as identified on the websites listed in Annex II," substitute "the States of Guernsey Policy Council ("the Policy Council")",
- (c) in Articles 5.2 and 5.5, for the words "the competent authorities of the Member States, as identified on the websites listed in Annex II" substitute "the Policy Council",
- (d) in Articles 5.1 and 5.2, for the words "the Member State concerned" substitute "the Policy Council",
- (e) in Article 5.3 -
 - (i) for the words "the relevant competent authority of the Member State as listed in Annex II" substitute "the Policy Council", and
 - (ii) for the words "The competent authority listed in Annex II" substitute "The Policy Council",
- (f) in Article 6.2 -
 - (i) the reference to the Union shall be construed as including Guernsey, and
 - (ii) for the words "the relevant competent authority" substitute "the Policy Council",

- (g) in Article 8.1 -
 - (i) in paragraph (a), for the words "the competent authority in the Member State where they are resident or located, as indicated on the websites listed in Annex II, and shall transmit such information, either directly or through the Member States, to the Commission", substitute "the Policy Council", and
 - (ii) in paragraph (b), for the words "that competent authority" substitute "the Policy Council",
- (h) in Articles 5, 9 and 12, references to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council to inform or notify one of Her Majesty's Principal Secretaries of State,
- (i) in Article 14 -
 - (i) in paragraph (a), for "the territory of the Union, including its airspace" substitute "Guernsey, including its airspace and the territorial waters adjacent thereto",
 - (ii) in paragraph (b), the reference to a Member State shall be construed as including Guernsey,
 - (iii) in paragraph (d), the reference to the law of a

Member State shall be construed as including the law of Guernsey, and

- (iv) in paragraph (e), the reference to the Union shall be construed as including Guernsey.

Appeals against decisions of Policy Council.

3. (1) A person aggrieved by a decision of the Policy Council made under Article 5 of the EU Regulation, or a decision of the Policy Council not to exercise its powers under that Article, may appeal to the Ordinary Court against that decision on the grounds that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(2) On an appeal under this section the Court may -

- (a) set the decision of the Policy Council aside and, if the Court considers it appropriate to do so, remit the matter to the Policy Council with such directions as the Court thinks fit, or
- (b) confirm the decision, in whole or in part.

(3) On an appeal under this section the Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision in question, pending the determination of the appeal.

Information.

4. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Policy Council, of information for the purpose of ensuring compliance with the EU Regulation.

Failure to provide information or to co-operate.

5. A person who, without reasonable excuse, fails to comply with the obligation to provide information to or co-operate with the Policy Council under Article 8 of the EU Regulation is guilty of an offence.

Furnishing of false information etc.

6. A person who in purported compliance with Article 8 of the EU Regulation intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

Penalties and proceedings.

7. (1) A person guilty of an offence under -

(a) section 1(2), 5 or 6, or

(b) paragraph 2(b) or (c) of the Schedule,

is liable -

(i) on conviction on indictment, to imprisonment

for a term not exceeding two years, to a fine, or to both,

- (ii) on summary conviction, to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(2) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(3) Where a body corporate is guilty of an offence under this Ordinance, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Certain provisions of customs Laws and excise Laws applicable.

8. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^d applies to the detention of a person for an offence under section 1 as it applies to the detention of a person for an offence under the customs Laws or excise Laws.

^d Ordres en Conseil Vol. XXIII, p. 573; Vol. XXXIII, p. 217; and Order in Council No. X of 2004.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 apply in relation to offences, penalties and proceedings for offences under this Ordinance as they apply to offences, penalties and proceedings for offences under the customs Laws or excise Laws.

Interpretation.

9. (1) In this Ordinance, except where the context requires otherwise-

"**Policy Council**" means the States of Guernsey Policy Council,

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly,

"**customs Laws**" and "**excise Laws**" mean those provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 and any other enactment for the time being in force relating to customs or, as the case may be, excise,

"**EU Regulation**" has the meaning given by section 1,

"**Guernsey**" means the Bailiwick of Guernsey apart from the Islands of Alderney and Sark,

"**Ordinary Court**" means the Royal Court of Guernsey sitting as an Ordinary Court, and

"**uniform scale of fines**" means the scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law,

1989^e,

and other terms used in this Ordinance and the EU Regulation shall have the same meaning as in the EU Regulation.

(2) A reference in this Ordinance to an enactment or to the EU Regulation is a reference thereto as from time to time amended, repealed and re-enacted (with or without modification), extended or applied.

Citation.

10. This Ordinance may be cited as the Afghanistan (Restrictive Measures) (Guernsey) Ordinance, 2011.

Commencement.

11. This Ordinance shall come into force on the 22nd August, 2011.

^e Ordres en Conseil Vol. XXXI, p. 278.

SCHEDULE

Section 4

INFORMATION

1. (1) The Policy Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish or produce to it (or, as the case may be, to that authorised person) such information and documents in his possession or control as the Policy Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EU Regulation; and a person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

(3) Nothing in this Schedule compels the production by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(4) Where a person is convicted of an offence under this Schedule of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(5) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person or, where that person is a body

corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

2. A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time is specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, to any person exercising his powers under this Schedule, or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence.

3. (1) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except -

- (a) with the consent of the person by whom the information was furnished or the document was produced: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this item but such

consent may instead be given by any person who is entitled to that information or to possession of that document in his own right,

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of Guernsey,
- (c) on the authority of the Policy Council, to the European Commission or to any of the competent authorities listed in Annex II to the EU Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EU Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an offence.