



BILLET D'ÉTAT

WEDNESDAY, 28th APRIL, 2021

IX
2021

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BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **28th April, 2021** at **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. McMAHON
Bailiff and Presiding Officer

The Royal Court House
Guernsey

29th March, 2021

**ELECTION OF A MEMBER OF THE
PRIAULX LIBRARY COUNCIL**

The States are asked:

- (1) To elect a member of the Priaulx Library Council, who need not be a member of the States, to replace Mr Gordon Snell whose term of office expired on the 31st December 2020 and who does not seek re-election, in accordance with Rule 16 of the Rules of Procedure of the States of Deliberation.

- N.B.*
1. *Nominations may be made from the floor of the Assembly.*
 2. *The proposers of candidates who are not Members of the States must also comply with the relevant provisions of Rule 36 of the Rules of Procedure which state:*

“... where a person nominated is not a sitting Member of the States the proposer shall provide to Members of the States, no later than the start of the Meeting at which the election is to be held, a full report in writing containing background information about the candidate, including a statement that the proposer had seen a Declaration of Interest from the candidate and was satisfied that there would be no conflict of interest if the candidate were appointed, or if there was potentially one it could be managed, the candidate’s willingness to seek election and the reasons for his or her name having been put forward. The Declaration in respect of the successful candidate shall be lodged with the Greffier and published by him as if the person concerned was subject to the provisions of Rule 29.”.



Bringing local history to life

The Bailiff

Bailiffs Chambers

The Royal Court

St Peter Port

Guernsey

GY1 2NZ

24th February 2021

Dear Sir,

I am writing at the request of the Priaulx Library Council which would be grateful if you would request the States of Deliberation to appoint Mrs Yasmin Le Huray as a Council member for a term of two years to replace Mr Gordon Snell, Mr Snell having completed his term of office on the 31st December 2020.

The Council believe that Mrs Le Huray who is a fellow of the Association of Chartered Certified Accountants and has considerable management and board level experience will be able to perform a vital role in connection with financial management of the Library. The Council consider this to be a necessity when dealing with funds sourced from the States of Guernsey and from donations given to the Library from charitable organizations and members of the public. Accordingly the Council are of the opinion that Mrs Le Huray would add considerably to the skills available to the Council.

Mrs Le Huray was selected for nomination following the Council embarking on a recruitment exercise which resulted in a shortlist of three possible candidates being interviewed by means of Zoom and Microsoft Teams earlier this month.

In addition her involvement as the Treasurer of the Friends of the Duke of Edinburgh Awards Scheme and as a member of the Guernsey Chamber of Commerce retail group indicates a commitment to the voluntary and charitable sector within the Bailiwick.

This nomination continues the drive towards the Council becoming a multi skill cross function group of professionals who will be able to lead and direct the Library to meet the increasing challenges facing States funded non-profit organizations.



Mrs Le Huray has confirmed her willingness to be appointed as a member of the Council and would be honoured if the States of Deliberation would look favourably upon this nomination.

I understand that Deputy Lindsay De Sausmarez would be happy to act as the proposer for Mrs Le Huray.

Yours faithfully,



J N van Leuven

Chairman

Priaulx Library Council

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' TRADING SUPERVISORY BOARD

APPOINTMENT OF A NON-EXECUTIVE DIRECTOR – GUERNSEY ELECTRICITY LIMITED

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'Appointment of a Non-Executive Director – Guernsey Electricity Limited' dated 18 February, 2021, they are of the opinion:-

1. To approve the appointment of Mrs Joanne Peacegood as a non-executive director of Guernsey Electricity Limited with effect from the 2021 Guernsey Electricity Annual General Meeting.

The above 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.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' TRADING SUPERVISORY BOARD

APPOINTMENT OF NON-EXECUTIVE DIRECTORS – GUERNSEY ELECTRICITY LIMITED

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

18 February, 2021

Dear Sir

1 Executive Summary

- 1.1 The purpose of this policy letter is to seek the States' approval for the appointment of a new non-executive director to the Board of Guernsey Electricity Limited (GEL).

2 Background

- 2.1 Under the terms of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001 (as amended), non-executive directors of the States Trading Companies¹ are appointed by the States upon the nomination of the States' Trading Supervisory Board (STSB).
- 2.2 In early 2020, GEL undertook an open recruitment process to identify candidates for appointment to current and anticipated vacancies on the company's board. This process was carried out in accordance with the company's succession plan, which has previously been established by GEL in consultation with the STSB.
- 2.3 The recruitment process was preceded by an analysis of the skills against which GEL wanted to recruit, which were finalised following consultation with the STSB.
- 2.4 An advert was placed in the Guernsey Press and other media platforms to seek applications from interested individuals. Those applications were considered alongside the candidates included in the STSB's business adviser pool, as

¹ For the purposes of the Ordinance, only Guernsey Electricity Limited and Guernsey Post Limited are designated as States Trading Companies.

established by the Board in 2019². Following the review process, a short list of eight candidates was put forward for interview by GEL's Remuneration and Nominations Committee.

- 2.5 Following that recruitment process, GEL recommended the appointment of 2 candidates to vacancies on its Board that existed in 2020 and, upon the nomination of the STSB, these were approved by the States at their meeting on 22nd April, 2020³.
- 2.6 In accordance with its aforementioned succession plan, GEL has proposed to the STSB the appointment of a third candidate, Mrs Joanne Peacegood, as a non-executive director, to be effective from the company's 2021 AGM.
- 2.7 It is noted that this appointment will increase the number of non-executive directors on the GEL Board to seven on a temporary basis, pending the planned retirement of the current Chairman in April, 2022, when the number will fall back down to its normal number of six.
- 2.8 Having carefully considered this recommendation, the STSB supports the nomination of Mrs Peacegood with effect from the 2021 GEL AGM.
- 2.9 A summary of Mrs Peacegood's curriculum vitae is included in Appendix 1.

3 Compliance with Rule 4

- 3.1 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.
- 3.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 3.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Board.
- 3.4 In accordance with Rule 4(5), the Propositions relate to the duties of the STSB to carry out the States' role as shareholder of any incorporated companies which are owned by the States and which the States have resolved to include in the mandate of the Board.

² The STSB's business adviser talent pool was established in 2019 following an open recruitment process seeking experienced business leaders to provide additional commercial expertise to the different trading assets at board level.

³ Propositions 1 and 2 of Article II of Billet d'Etat X of 2020 – Appointment of Miss T Songini and Professor I Chapman

Yours faithfully

P J Roffey
President

C N K Parkinson
Vice-President

N G Moakes
Member

S J Falla MBE
Non-States Member

J C Hollis
Non-States Member

CURRICULUM VITAE

Mrs Joanne Peacegood

Mrs Peacegood holds a select number of Non-Executive Director positions, specifically in the Investment Management Industry, and including Listed and Private Entities. Her clients range from FTSE250 Listed Funds to smaller private equity vehicles who own significant stakes in UK businesses.

Prior to becoming a Non-Executive Director, Mrs Peacegood worked for PricewaterhouseCoopers in the Channel Islands (Guernsey based), UK and Canada for over 20 years. Her primary role was as an Audit Engagement Leader where she was responsible for the audits of a portfolio of Asset Management Clients including (but not limited to) Listed and Private Funds and Third Party Service Providers.

Mrs Peacegood also led the Control Assurance Practise in Guernsey, the Innovation and Technology team across the Channel Islands and was the Risk and Quality Director for the Channel Islands for five years.

Her roles included leading teams, clients, network and regulatory relationships; assessing and responding to risk; auditing complex valuations; considering the sufficiency of the control environment and responding accordingly; assessing the quality of systems and work delivered; developing controls / policies and leading on implementation; training the workforce; considering the future strategy of the business and the use of technology; and leading the CSR initiative.

Mrs Peacegood has an honours degree in Accounting from Bournemouth University and is a Chartered Accountant with the ICAEW. She moved from the UK to Guernsey in 1999 and has worked with a number of Charities over the years, primarily focused on Children and Education. Mrs Peacegood is currently the Vice Chair of Guernsey Investment & Funds Association and is also a member of the Guernsey International Business Association Council.

Mrs Peacegood's key skills include understanding business strategy, priorities and challenges, managing stakeholders' expectations, navigating challenges to ensure overall objectives are achieved, managing competing priorities, understanding technically complex areas, delivering results and building strong relationships.

Mrs Peacegood is married to a Guernsey man and has two daughters in secondary education in Guernsey. She is also currently studying the Institute of Directors Diploma.

ORDINANCE LAID BEFORE THE STATES

The States of Deliberation have the power to annul the Ordinance detailed below.

THE MERCHANT SHIPPING (BAILIWICK OF GUERNSEY) LAW, 2002 (COMMENCEMENT) ORDINANCE, 2021

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, “The Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2021”, made by the Policy & Resources Committee on the 2nd March, 2021, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance commences section 296 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 to the extent necessary to give effect to the repeal of the UK Statutory Instruments entitled the Merchant Shipping (Distress Signals and Prevention of Collisions) (Guernsey) Order 1989 and the Merchant Shipping (Distress Signals and Prevention of Collisions) (Guernsey) (Amendment) Order 1991. (They will be replaced by domestic regulations made under the Merchant Shipping (Bailiwick of Guernsey) Law, 2002.)

The Ordinance was approved by the Legislation Review Panel on the 1st March, 2021 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No. 117 of 2020

THE EUROPEAN UNION (PATENT CO-OPERATION TREATY) (BREXIT) (BAILIWICK OF GUERNSEY) REGULATIONS, 2020

In pursuance of section 11(10) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, “The European Union (Patent Co-operation Treaty) (Brexit) (Bailiwick of Guernsey) Regulations, 2020” made by the Policy & Resources Committee on 8th December 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations give automatic effect to international patents registered in the United Kingdom under the Patent Cooperation Treaty from 1 January 2021, and apply the provisions of the Patents Ordinance to such international patents without any requirement to register.

These Regulations came into force on 8th December 2020.

No. 118 of 2020

THE EUROPEAN UNION (PERFORMERS’ RIGHTS) (WPPT) (BREXIT) (BAILIWICK OF GUERNSEY) REGULATIONS, 2020

In pursuance of section 11(10) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, “The European Union (Performers’ Rights) (WPPT) (Brexit) (Bailiwick of Guernsey) Regulations, 2020” made by the Policy & Resources Committee on 8th December 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations give partial effect to the WIPO Performance and Phonograms Treaty, by introducing moral rights for performers.

These Regulations came into force on 8th December 2020.

No. 119 of 2020

**THE EUROPEAN UNION (REGISTERED DESIGNS) (HAGUE AGREEMENT) (BREXIT)
(BAILIWICK OF GUERNSEY) REGULATIONS, 2020**

In pursuance of section 11(10) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, “The European Union (Registered Designs) (Hague Agreement) (Brexit) (Bailiwick of Guernsey) Regulations, 2020” made by the Policy & Resources Committee on 8th December 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations give automatic effect to international design rights which take effect in the United Kingdom by virtue of the United Kingdom's implementation of the Geneva Act to the Hague Agreement from 1 January 2021, and apply the provisions of the Registered Designs Ordinance to such international registered designs without any requirement to register.

These Regulations came into force on 8th December 2020.

No. 147 of 2020

THE TRADE MARKS (MADRID) (BAILIWICK OF GUERNSEY) REGULATIONS, 2020

In pursuance of section 101(3) of the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006, “The Trade Marks (Madrid) (Bailiwick of Guernsey) Regulations, 2020” made by the Committee *for* Economic Development on 21st December 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations make provision for the extension of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks to the Bailiwick.

These Regulations came into force on 21st December 2020.

No. 18 of 2021

THE EUROPEAN UNION (COMPETITION) (BREXIT) (GUERNSEY) REGULATIONS, 2021

In pursuance of section 11(10) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The European Union (Competition) (Brexit) (Guernsey) Regulations, 2021" made by the Policy & Resources Committee on 23rd February 2021, are laid before the States.

EXPLANATORY NOTE

These Regulations are made under the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, as a consequence of the withdrawal of the United Kingdom from the EU. The Regulations amend section 54 of the Competition (Guernsey) Ordinance, 2012 so that when determining questions arising in relation to competition law, the taking into account of EU principles and decisions by the Guernsey Competition and Regulatory Authority and Royal Court, is discretionary rather than mandatory.

These Regulations came into force on 23rd February 2021.

No. 19 of 2021

THE ELECTORAL ROLL (PUBLIC INSPECTION) (AMENDMENT) RULES 2021

In pursuance of section Article 34(5) and (6), and 78 of the Reform Law (Guernsey) Law, 1948, The Electoral Roll (Public Inspection) (Amendment) Rules 2021, made by the Committee for Home Affairs on 26th February 2021, is laid before the States.

EXPLANATORY NOTE

These Rules amend the Electoral Roll (Public Inspection) Rules, 2020 to provide for the public inspection of the Electoral Roll in 2021 to take place in April instead of March. The amendment is made as a result of the Coronavirus-related "lockdown" still in force in the Island.

The full text of the legislation can be found at: <http://www.guernseylegalresources.gg>

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE TERRORISM AND CRIME (BAILIWICK OF GUERNSEY) LAW, 2002 (AMENDMENT)
ORDINANCE, 2021**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Amendment) Ordinance, 2021", and to direct that the same shall have effect as an Ordinance of the States.

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

This Ordinance amends the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 ("the 2002 Law"). The amendments are closely based on provision made in United Kingdom legislation, in Schedule 3 to the Counter-Terrorism and Border Security Act 2019, and Schedule 1 to the Counter-Terrorism and Security Act 2015. The Ordinance has been prepared in consultation with Guernsey police.

The Ordinance principally amends Schedule 8 (Port and Border Controls) to the 2002 Law. It also amends the index of defined expressions at section 80, and Schedule 9 (Detention).

Section 1 amends the index of defined expressions, which amendments are consequential on amendments made to Schedules 8 and 9 at sections 2 to 5. Sections 2 to 4 contain amendments of Schedule 8, grouped as follows: provisions in relation to the seizure and retention of travel documents at section 2, provisions in relation to "hostile activity" at section 3, and other amendments at section 4. Section 5 contains amendments to Schedule 9. Sections 6, 7 and 8 are the extent, citation and commencement clauses.

Section 2(2) inserts new definitions into Schedule 8 to the 2002 Law. Section 2(3) inserts new paragraphs 8A and 8B into that Schedule, which are concerned with the inspection, seizure, and retention of travel documents, and an associated power of search. Paragraph 8A confers powers and duties, and paragraph 8B creates associated offences. These powers are related to terrorism-related activity.

Section 3 amends several paragraphs of Schedule 8 and inserts new paragraphs 9A to 9E. Paragraphs 9A to 9E are concerned with powers to detain, and destroy or use,

articles detained under paragraph 9. It confers powers and duties on and in respect of the Regulation of Investigatory Powers Law ("RIPL") Commissioner (for example, to be informed of certain matters and to authorise certain actions), including powers in relation to confidential material (defined as items subject to legal professional privilege and special material for the purposes of the Police Powers and Criminal Evidence Law – for example, journalistic material or medical records). The authorising role of the RIPL Commissioner in this regard mirrors that of the Investigatory Powers Commissioner in the United Kingdom.

Section 4 makes other amendments to Schedule 8. They include widening the definition of "examining officer" to include a customs officer; making further provision in relation to detention time-limits and limits on the use of information given in response to questioning in criminal proceedings; and restrictions on search powers. The amendments also confer a duty on the Committee for Home Affairs to issue Codes of Practice.

The amendments to Schedule 9 at section 5 include providing for an increase in the period of detention that may be applied for on application to the Bailiff for a warrant for further detention from 7 to 14 days. As elsewhere, these amendments are based on the position in the relevant United Kingdom legislation.

The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Amendment) Ordinance, 2021

THE STATES, in pursuance of their Resolutions of the 4th day of November, 2020^a, and in exercise of the powers conferred on them by sections 81A and 82 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, as amended^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of index of defined expressions.

1. (1) In section 80 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 ("**the 2002 Law**"), insert at the appropriate places -

""the Commissioner"	Schedule 8 paragraph 1(3)",
""Confidential material"	Schedule 8 paragraph 9E(8)",
""Intimate search"	Schedule 8 paragraph 6(4)",
""Involvement in terrorism-related activity"	Schedule 8 paragraph 1(3)",
""Passport"	Schedule 8 paragraph 1(3)",

^a Article I of Billet d'État No. XXIII of 2020.

^b Order in Council No. I of 2000; as amended by No. XVI of 2002; No. VII of 2005; No. XIII of 2006; No. XIII of 2010; No. XI of 2011 and No. XIV of 2012; Ordinance No. XXXIII of 2003; No. XLVI of 2007; Nos. XIII, XX and XXXVI of 2010; Nos. XXIX and LIV of 2014; No. IX of 2016; and Nos. XXVI and XLV of 2018; G.S.I. No. 16 of 2003; G.S.I. No. 41 of 2005; and G.S.I. No. 5 of 2017.

""Senior officer	Schedule 8 paragraphs 9B(7) and 9E(7)",
""Strip search	Schedule 8 paragraph 6(4)", and
""Travel document	Schedule 8 paragraph 1(3)".

Seizure and retention of travel documents.

2. (1) Schedule 8 to the 2002 Law is amended as follows.

(2) After paragraph 1(2) insert -

"(3) In this Schedule -

"the Commissioner" means the Commissioner appointed under the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003,

"involvement in terrorism-related activity" means any one or more of the following -

- (a) the commission, preparation or instigation of acts of terrorism,
- (b) conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so,

- (c) conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so,
- (d) conduct that gives support or assistance to individuals who are known or believed by the person concerned to be involved in conduct falling within paragraph (a),

and it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general,

"passport" means -

- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971),
- (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or
- (c) a document that can be used (in some or all circumstances) instead of a passport, and

"travel document" means anything that is or appears to be –

- (a) a passport, or

- (b) a ticket or other document that permits a person to make a journey by any means from a place within the Bailiwick to a place outside the Bailiwick."

- (3) After paragraph 8, insert -

"Seizure and retention of passports and other travel documents.

8A. (1) If an examining officer has reasonable grounds to suspect that a person who is at a port in the Bailiwick is there with the intention of leaving the Bailiwick for the purpose of involvement in terrorism-related activity elsewhere, or has arrived in the Bailiwick with the intention of leaving soon for that purpose, the officer may stop that person or any vehicle in which the person is, using reasonable force if necessary, and may -

- (a) require the person to hand over all travel documents in his or her possession to the officer,
- (b) search the person, anything that the person has with him or her, and any vehicle in which the person has travelled or is about to travel, for travel documents relating to the person, and take possession of any that the officer finds,
- (c) inspect any travel document relating to the person, and

- (d) retain any travel document relating to the person that is lawfully in the possession of the officer.

(2) An examining officer exercising a power conferred by subparagraph (1)(a) or (b) must tell the person concerned that he or she is suspected of intending to leave the Bailiwick for the purpose of involvement in terrorism-related activity elsewhere and that the officer is therefore entitled to exercise that power.

(3) If a travel document relating to a person described in subparagraph (1) lawfully comes into the possession of an examining officer without any exercise of a power under that subparagraph, the officer may retain it.

(4) An examining officer who has retained a travel document pursuant to subparagraph (1)(d) or (3) must as soon as possible seek authorisation for its further retention from one of the persons listed in subparagraph (5), who may grant such authorisation if satisfied that there are reasonable grounds for the suspicion referred to in subparagraph (1).

(5) The persons referred to in subparagraph (4) are –

- (a) a police officer of at least the rank of chief inspector,
- (b) the chief immigration officer, and

(c) a customs officer of at least the grade of surveyor.

(6) A travel document authorised to be retained under subparagraph (4) may be so retained while consideration is given to cancelling the person's passport, charging the person with an offence, or making the person subject to any order or measure connected with protecting members of the public from a risk of terrorism, or while steps are taken to carry out any of those actions, but, subject to subparagraphs (7), (8) and (10), not for more than 14 days.

(7) An examining officer may retain a travel document for more than 14 days if the officer believes on reasonable grounds that it may be needed as evidence in criminal proceedings or in connection with a decision by the Lieutenant Governor whether to make a deportation order under the Immigration Act 1971.

(8) The Magistrate's Court may, on the application of a police officer of at least the rank of chief inspector or the chief immigration officer or a customs officer of at least the grade of surveyor, order the extension of the period of 14 days mentioned in subparagraph (6) to a period not exceeding 30 days in total, but only if the court is satisfied that -

(a) the matters referred to in that subparagraph have been, and are being, pursued diligently and expeditiously, and

(b) reasonable efforts have been made to notify the person to whom the application relates of the

time and place at which it is to be heard, and that that person may (subject to subparagraph (9)) make oral or written representations to the court, and be represented by an Advocate.

(9) An officer applying under subparagraph (8) may also apply to the court, ex parte and in camera, for an order -

- (a) excluding from any part of the hearing the person to whom the application relates, or anyone representing that person, or both,
- (b) that specified information on which the officer intends to rely be withheld from the person to whom the application relates, or anyone representing that person, or both,

and the court may make such an order only if satisfied that without it there are reasonable grounds for believing that -

- (i) evidence of an offence under this Law would be interfered with or harmed,
- (ii) the recovery of property obtained as a result of an offence under this Law would be hindered,
- (iii) the recovery of property in respect of which a forfeiture order could be made

under this Law would be hindered,

- (iv) the apprehension, prosecution or conviction of a person who is suspected of being a terrorist would be made more difficult as a result of the person being alerted,
- (v) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted,
- (vi) the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with,
- (vii) a person would be interfered with or physically injured, or
- (viii) national security would be put at risk.

(10) Where a power under this paragraph to retain a document is exercised and such powers have been exercised in the same person's case on two or more occasions in the previous six months –

- (a) the Magistrate's Court may only grant an application made under subparagraph (8), if satisfied that there are exceptional circumstances

justifying the further use of powers under this paragraph in relation to the same person, and

- (b) on granting such an application, the Magistrate's Court may only order the extension of the period of 14 days mentioned in subparagraph (6) to a period not exceeding 20 days in total.

(11) If a person is unable to leave the Bailiwick because any of his or her travel documents are retained under this paragraph -

- (a) the Committee for Home Affairs may make whatever arrangements it thinks appropriate in relation to that person, and
- (b) if the person does not have leave to enter or remain in the Bailiwick, the person's presence in the Bailiwick is nevertheless not unlawful for the purposes of the Immigration Act 1971.

8B. (1) A person who is required under paragraph 8A(1)(a) to hand over all travel documents in the person's possession commits an offence if he or she fails without reasonable excuse to do so.

(2) A person who intentionally obstructs, or seeks to frustrate, a search under paragraph 8A(1)(b) commits an offence.

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

Hostile activity.

3. (1) Schedule 8 to the 2002 Law is amended as follows.

(2) In paragraph 2(1), for "a person falling within section 41(1)(b)" substitute -

"(a) a person falling within section 41(1)(b), or

(b) a person who is, or has been, engaged in hostile activity".

(3) At the end of the words in paragraph 2(4), insert "or that a person is or has been engaged in hostile activity".

(4) After paragraph 2(4), insert -

"(5) A person is or has been engaged in hostile activity for the purposes of this Schedule if the person is or has been concerned in the commission, preparation or instigation of a hostile act that is or may be –

(a) carried out for, or on behalf of, a State other than the United Kingdom, or

(b) otherwise in the interests of a State other than the United Kingdom.

- (6) An act is a hostile act if it -
- (a) threatens national security,
 - (b) threatens the economic well-being of any part of the British Islands in a way relevant to the interests of national security, or
 - (c) is an act of serious crime.
- (7) For the purposes of this paragraph -
- (a) it is immaterial -
 - (i) whether a person is aware that activity in which he or she is or has been engaged is hostile activity, or
 - (ii) whether a State for or on behalf of which, or in the interests of which, a hostile act is carried out has instigated, sanctioned, or is otherwise aware of, the carrying out of the act,
 - (b) "**State**" includes the government of a State and any organ of its government,

- (c) references to a State other than the United Kingdom include references to any territory outside the British Islands,
- (d) the reference to serious crime is to crime where—
 - (i) the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age of 18 and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 3 years or more, or
 - (ii) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose."

(5) In paragraph 6(1), immediately after "section 41(1)(b)" insert "or has been engaged in hostile activity", in subparagraph (d) for "." substitute ",", and after subparagraph (d) insert -

- "(e) search a vehicle which is on a ship or aircraft,

- (f) search a vehicle which the officer reasonably believes has been, or is about to be, on a ship or aircraft."

(6) At the end of paragraph 7(1) insert "or in connection with a person's engagement in hostile activity".

(7) In paragraph 7(2)(a) immediately after "ship" insert "or vehicle".

(8) At the end of paragraph 9(2)(b) delete "or", at the end of paragraph 9(2)(c) for "." substitute ",", and after subparagraph (c) insert -

"(d) while the officer believes that it could be used in connection with the carrying out of a hostile act, or

(e) while the officer believes it necessary to do so for the purpose of preventing death or significant injury."

(9) After paragraph 9 insert -

"9A. (1) This paragraph applies in relation to an article detained by virtue of paragraph 9(2)(d) or (e), other than an article in respect of which an authorisation is granted under paragraph 9B.

(2) The Commissioner must be informed of the article's detention as soon as is reasonably practicable.

(3) Subparagraph (4) applies where it appears to the Commissioner that there are reasonable grounds to believe -

- (a) that the article has been or could be used in connection with the carrying out of a hostile act, or
- (b) that returning the article to the person from whom it was taken could result in a risk of death or significant injury to any person.

(4) The Commissioner may -

- (a) direct that the article is destroyed, or
- (b) authorise the detention and use of the article (subject to subparagraph (5)).

(5) The Commissioner may authorise the detention and use of an article under subparagraph (4)(b) that consists of or includes confidential material only if satisfied that -

- (a) arrangements are in place that are sufficient for ensuring that the material is detained securely, and
- (b) the material will be used only so far as necessary and proportionate for a relevant purpose.

(6) If the Commissioner does not proceed under subparagraph (4) in relation to an article, the Commissioner must (subject to subparagraph (7)) direct that the article is returned to the person from whom it was taken.

(7) Subparagraph (6) does not apply if the article is further detained under a power conferred by paragraph 9(2)(b) or (c).

(8) In authorising the detention and use of an article under this paragraph the Commissioner may impose whatever conditions the Commissioner thinks appropriate in relation to its retention and use.

(9) For the purposes of subparagraph (5)(b), the use of material is necessary for a relevant purpose if it is necessary –

- (a) in the interests of national security,
- (b) in the interests of the economic well-being of any part of the British Islands so far as those interests are also relevant to the interests of national security,
- (c) for the purpose of preventing or detecting serious crime, or
- (d) for the purpose of preventing death or significant injury.

- 9B.** (1) This paragraph applies where -
- (a) an article is detained by virtue of paragraph 9(2)(d) or (e), and
 - (b) the examining officer who detained the article considers that the urgency condition is met in relation to the article.
- (2) The urgency condition is met in relation to an article if –
- (a) there is an urgent need for the article to be examined or otherwise used for the purpose of preventing –
 - (i) the carrying out of a hostile act, or
 - (ii) death or significant injury, or for the purpose of mitigating the risk of any such act, death or injury occurring, and
 - (b) the time it would take for the requirements of paragraph 9A to be complied with in relation to the article would not enable such use to take place with sufficient urgency.

(3) Where this paragraph applies, the examining officer may apply to a senior officer for authorisation to continue to detain and use the article.

(4) An application under subparagraph (3) in relation to an article may be made only to a senior officer who has not been directly involved in the exercise of any power under this Schedule to take the article or to question a person from whom the article was taken.

(5) A senior officer may grant an authorisation under this paragraph for the detention and use of the article if satisfied -

(a) that there are reasonable grounds for considering that the urgency condition is met in relation to the article, and

(b) in the case of an article that consists of or includes confidential material, that -

(i) arrangements are in place that are sufficient for ensuring that the material is detained securely, and

(ii) the material will be used only so far as necessary and proportionate for a purpose mentioned in subparagraph (2)(a).

(6) An authorisation under this paragraph -

- (a) must be recorded in writing,
 - (b) may be granted subject to whatever conditions the senior officer thinks appropriate.
- (7) In this paragraph, "**senior officer**" means -
- (a) where the examining officer is a police officer, another officer of at least the rank of chief inspector, and
 - (b) where the examining officer is an immigration officer or a customs officer, an immigration officer or customs officer as the case requires of a higher grade than the examining officer.

Power to make and retain copies.

9C. (1) This paragraph applies where the examining officer is a police officer.

- (2) The officer may copy anything which -
- (a) is given to the officer in accordance with paragraph 3,
 - (b) is searched or found on a search under paragraph 6, or

(c) is examined under paragraph 7.

(3) A copy made under subparagraph (2) may be retained -

(a) for so long as it is necessary for the purpose of determining whether a person is or has been engaged in hostile activity,

(b) while the examining officer believes that it may be needed for use as evidence in criminal proceedings,

(c) while the examining officer believes that it may be needed in connection with a decision by the Lieutenant Governor whether to make a deportation order under the Immigration Act 1971,

(d) while the examining officer believes it necessary to retain the copy -

(i) in the interests of national security,

(ii) in the interests of the economic well-being of any part of the British Islands so far as those interests are also relevant to the interests of national security, or

(iii) for the purpose of preventing or detecting an act of serious crime, or

(e) while the examining officer believes it necessary to retain the copy to prevent death or significant injury.

9D. (1) This paragraph applies in relation to a copy consisting of or including confidential material that is retained by virtue of paragraph 9C(3)(d) or (e), other than a copy in respect of which an authorisation is granted under paragraph 9E.

(2) The Commissioner must be informed of the copy's retention as soon as is reasonably practicable.

(3) The Commissioner may authorise the retention and use of the copy if both of the following two conditions are met.

(4) The first condition is that it appears to the Commissioner that there are reasonable grounds to believe that it is necessary to retain the copy -

(a) in the interests of national security,

(b) in the interests of the economic well-being of any part of the British Islands so far as those interests are also relevant to the interests of national security,

(c) for the purpose of preventing or detecting an act of serious crime, or

(d) for the purpose of preventing death or significant injury.

(5) The second condition is that the Commissioner is satisfied that -

(a) arrangements are in place that are sufficient for ensuring that any confidential material contained in the copy is retained securely, and

(b) the material will be used only so far as necessary and proportionate for a relevant purpose.

(6) If the Commissioner does not proceed under subparagraph (3) in relation to a copy, the Commissioner must direct that the copy is destroyed.

(7) In authorising the retention and use of a copy under subparagraph (3) the Commissioner may impose whatever conditions the Commissioner thinks appropriate in relation to its retention and use.

(8) For the purposes of subparagraph (5)(b), the use of material is necessary for a relevant purpose if it is necessary -

(a) in the interests of national security,

- (b) in the interests of the economic well-being of any part of the British Islands so far as those interests are also relevant to the interests of national security,
- (c) for the purpose of preventing or detecting serious crime, or
- (d) for the purpose of preventing death or significant injury.

9E. (1) This paragraph applies where -

- (a) a copy consisting of or including confidential material is retained by virtue of paragraph 9C(3)(d) or (e), and
- (b) the examining officer who retained the copy considers that the urgency condition is met in relation to the copy.

(2) The urgency condition is met in relation to a copy if -

- (a) there is an urgent need for the copy to be examined or otherwise used for the purpose of preventing -
 - (i) the carrying out of a hostile act, or

(ii) death or significant injury, or for the purpose of mitigating the risk of any such act, death or injury occurring, and

(b) the time it would take for the requirements of paragraph 9B to be complied with in relation to the copy would not enable such use to take place with sufficient urgency.

(3) The examining officer may apply to a senior officer for authorisation to continue to retain and use the copy.

(4) An application under subparagraph (3) in relation to a copy may be made only to a senior officer who has not been directly involved in the exercise of any power under this Schedule to make the copy or to question a person from whom the article was taken from which the copy was made.

(5) A senior officer may grant an authorisation under this paragraph for the retention and use of a copy if satisfied that -

(a) there are reasonable grounds for considering that the urgency condition is met in relation to the copy,

(b) arrangements are in place that are sufficient for ensuring that confidential material contained in the copy is retained securely, and

(c) the material will be used only so far as necessary and proportionate for a purpose mentioned in subparagraph (2)(a).

(6) An authorisation under this paragraph -

(a) must be recorded in writing,

(b) may be granted subject to whatever conditions the senior officer thinks appropriate.

(7) In this paragraph “**senior officer**” means –

(a) a police officer of at least the rank of chief inspector,

(b) the chief immigration officer, or

(c) a customs officer of at least the grade of surveyor.

(8) For the purposes of this paragraph and paragraphs 9A, 9B and 9D, documents, articles and items are “**confidential material**” if they are –

- (a) items subject to legal professional privilege, as defined in section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, or
 - (b) special material, as defined in section 25 of that Law."
- (10) In Schedule 9 to the 2002 Law -
 - (a) in paragraph 7(4)(e), immediately after "terrorism" insert "or acts carried out in connection with a person's engagement in hostile activity", and
 - (b) at the end of paragraph 14(2) insert "or an investigation into whether a person has engaged in hostile activity".

General amendments to Schedule 8.

- 4. (1) Schedule 8 to the 2002 Law is amended as follows.
 - (2) In paragraph 1(1)(a) omit "or", in paragraph 1(1)(b) for "." substitute ", or", and immediately after insert -
 - "(c) a customs officer."
 - (3) For subparagraphs 4(3) and 4(4) substitute -

"(3) Where a person is detained under this paragraph the provisions of Part I of Schedule 9 (treatment) and Part II of Schedule 9 (review of detention under section 42) shall apply.

(4) A person may not be questioned under paragraph 2 for more than one hour unless the person is detained under this paragraph, and a person so detained must be released not later than the end of six hours after first being questioned (unless detained under another power).

(5) If a person detained under this paragraph is removed to hospital because the person needs medical treatment -

(a) any time during which the person is being questioned under paragraph 2 in hospital or on the way there or back is to be included in calculating the six hours mentioned in subparagraph (4), but

(b) any other time when the person is in hospital or on the way there or back is not to be included."

(4) After paragraph 4 insert -

"4A. (1) An answer or information given orally by a person in response to a question asked under paragraph 2 may not be used in evidence in criminal proceedings.

(2) Subparagraph (1) does not apply -

- (a) in the case of proceedings under paragraph 15 of this Schedule,
- (b) on a prosecution for perjury, or
- (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the answer or information mentioned in subparagraph (1).

(3) A statement may not be used by virtue of subparagraph (2)(c) unless -

- (a) evidence relating to it is adduced, or
- (b) a question relating to it is asked, by or on behalf of the person in the proceedings arising out of the prosecution."

(5) For paragraph 6(2), substitute -

"(2) A search of a person under this paragraph -

- (a) must be carried out by somebody of the same sex,
- (b) does not extend to the carrying out of an intimate search.

(3) A strip search of a person may not be carried out under this paragraph unless –

- (a) the person is detained under paragraph 4,
- (b) the examining officer has reasonable grounds to suspect that the person is concealing something which may be evidence that the person is or has been engaged in acts of terrorism or hostile activity, and
- (c) the search is authorised by an officer of higher rank or grade than the examining officer and who has not been directly involved in the questioning of the person.

(4) In this paragraph –

"intimate search" means a search which consists of a physical examination of a person's body orifices other than the mouth,

"strip search" means a search which is not an intimate search but involves the removal of an article of clothing which –

- (a) is being worn wholly or partly on the trunk, and
- (b) is being so worn either next to the skin or next to an article of underwear."

(6) In paragraph 15(2), for "three months" substitute "12 months".

(7) After paragraph 15, insert -

"Information.

16. Information acquired by an examining officer may be supplied -

- (a) to the Committee for Home Affairs or the Lieutenant Governor for use in relation to immigration,
- (b) to another examining officer,
- (c) to a person exercising public functions specified in regulations made by the Committee for Home Affairs for use of a kind specified in the regulations.

Other police, customs and immigration officer powers.

17. (1) A power conferred by virtue of this Schedule on an examining officer -

- (a) is additional to powers exercisable by a police officer or an immigration officer or a customs officer under the customary law or by virtue of any other enactment, and

- (b) is not to be taken to affect those powers.

General Schedule 8 Codes of Practice.

18. (1) The Committee shall issue codes of practice about -

- (a) training to be undertaken by and accreditation to be given to police, customs and immigration officers who are to act as examining officers or exercise other functions under this Schedule,
- (b) reviews under Part II of Schedule 9, as applied by paragraph 4(3) of this Schedule, including the training to be undertaken by persons who are to act as review officers,
- (c) the exercise by examining officers, and others of other functions conferred on them by this Schedule.

(2) An examining officer must perform the functions conferred by virtue of this Schedule in accordance with any relevant code of practice in operation under subparagraph (1)(b).

(3) The failure of an examining officer to observe a provision of a code of practice does not of itself make the officer liable to criminal or civil proceedings.

(4) A code of practice -

(a) is admissible in evidence in criminal and civil proceedings, and

(b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

(5) The Committee may revise a code of practice and issue the revised code."

General amendments to Schedule 9.

5. (1) Schedule 9 to the 2002 Law is amended as follows.

(2) In paragraph 1(5), immediately after "arrested" insert "under this Law or detained under Schedule 8".

(3) After paragraph 6(2) insert -

"(3) A detained person must be informed of the right under subparagraph (1) on first being detained."

(4) In paragraph 9 -

(a) for subparagraphs (1) and (2) substitute –

"(1) This paragraph applies where a detained person exercises the right under paragraph 6 to consult an Advocate.

(2) A police officer of at least the rank of chief inspector or the chief immigration officer or a customs officer of at least the grade of surveyor may direct that the right –

(a) may not be exercised (or further exercised) by consulting the Advocate who attends for the purpose of the consultation or who would so attend but for the giving of the direction, but

(b) may instead be exercised by consulting a different Advocate of the detained person's choosing.

(2A) A direction under this paragraph may be given before or after a detained person's consultation with an Advocate has started (and if given after it has started the right to further consult that Advocate ceases on the giving of the direction)", and

(b) omit subparagraphs (4) and (5).

(5) At the end of the heading to Part II add "OR SCHEDULE 8".

(6) In paragraph 24(1) for "an officer of the Island police force of at least the rank of Chief Inspector" and in paragraph 31(1) for "a police officer of at least the rank of chief inspector" substitute "a police officer of at least the rank of chief inspector or the chief immigration officer or a customs officer of at least the grade of surveyor".

(7) In paragraph 31(3) for "seven" substitute "14".

(8) After paragraph 32 insert -

"General Schedule 9 Codes of Practice.

33. (1) In addition to the code of practice about recording of interviews under paragraph 3, the Committee may issue codes of practice -

- (a) making supplementary provision, not inconsistent with this Law, concerning the photographing, measuring or otherwise identifying of detained persons, the entitlements and requirements concerning informing another person of detention and access to an Advocate, and the taking of fingerprints, non-intimate samples and intimate samples,
- (b) making provision concerning the periods during which photographs, measurements, fingerprints, non-intimate samples, intimate samples and other identification material are to be retained, arrangements for their security, and the circumstances in which any such material must be destroyed,
- (c) imposing requirements as to the times at which, persons by whom, and manner in which the

retention of any such material must be reviewed, and

- (d) otherwise governing the exercise by examining officers, authorised persons and others of any other functions conferred on them by this Schedule.

(2) An examining officer must perform the functions conferred by virtue of this Schedule in accordance with any relevant code of practice in operation under subparagraph (1).

(3) The failure of an examining officer to observe a provision of a code does not of itself make the officer liable to criminal or civil proceedings.

(4) A code of practice -

- (a) is admissible in evidence in criminal and civil proceedings, and
- (b) is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

(7) The Committee may revise a code of practice and issue the revised code."

Extent.

6. This Ordinance has effect throughout the Bailiwick.

Citation.

7. This Ordinance may be cited as the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 (Amendment) Ordinance, 2021.

Commencement.

8. This Ordinance shall come into force on the 3rd May, 2021.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE GAMBLING (CHANNEL ISLAND LOTTERY) (BAILIWICK OF GUERNSEY)
(AMENDMENT) ORDINANCE, 2021**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Gambling (Channel Island Lottery) (Bailiwick of Guernsey) (Amendment) Ordinance, 2021", and to direct that the same shall have effect as an Ordinance of the States.

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

This Ordinance amends the Gambling (Channel Island Lottery) (Bailiwick of Guernsey) Ordinance, 1975 to extend the deadline by which a report on the Channel Islands Lottery must be submitted to the States from the 31st March to the 30th June in each year.

The Gambling (Channel Island Lottery) (Bailiwick of Guernsey) (Amendment) Ordinance, 2021

THE STATES, in pursuance of their Resolution of the 26th September, 2014^a, and in exercise of the powers conferred on them by section 2 of the Gambling (Bailiwick of Guernsey) Law, 1974^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of the 1975 Ordinance.

1. In section 2(5) of the Gambling (Channel Island Lottery) (Bailiwick of Guernsey) Ordinance, 1975^c, for "the thirty-first day of March" substitute "the 30th day of June".

Citation.

2. This Ordinance may be cited as the Gambling (Channel Island Lottery) (Bailiwick of Guernsey) (Amendment) Ordinance, 2021.

Commencement.

3. This Ordinance shall come into force on the 30th April, 2021.

^a Article XIII of Billet d'État No. XX of 2014.

^b Ordres en Conseil Vol. XXIV, p. 400; amended by Ordinance No. XXXIII of 2003; and No. IX of 2016.

^c Recueil d'Ordonnances Tome XX, p. 51, amended by Ordres en Conseil Vol. XXXI, p. 278; Recueil d'Ordonnances Tome XXI, p. 75; Tome XXIII, p. 470; Tome XXV, p. 131; Tome XXVI, p. 312; Tome XXVII, p. 395; Ordinance No. VIII of 2001; No. XXXIII of 2003; No. VII of 2008; No. XLIII of 2013; and No. IX of 2016.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE COMPANIES (GUERNSEY) LAW, 2008 (MISCELLANEOUS AMENDMENTS)
ORDINANCE, 2021

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Companies (Guernsey) Law, 2008 (Miscellaneous Amendments) Ordinance, 2021", and to direct that the same shall have effect as an Ordinance of the States.

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

This Ordinance amends the Companies (Guernsey) Law, 2008 (the "Law").

Sections 2, 4, 5, 8 and 10 amend the Law to provide that the Registrar of Companies may specify the form of certain applications without prescribing the form by regulations.

Section 3 amends section 25 of the Law to allow a company to change its name by any other means as may be specified in its articles, as an alternative to passing a special resolution.

Section 6 amends section 52A of the Law to permit a poll of the holders of cell shares to be held or demanded on a proposal to convert a cell of a protected cell company into a non-cellular company, in addition to the current provision for written consent or a show of hands.

Section 7 amends section 69(2)(b) of the Law to provide that in the case of an amalgamated body corporate which is a new company, the requirement of section 15(3) of the Law that the founder member shall subscribe to the memorandum of the company will be satisfied where at least one founder member of the company subscribes. Section 9 amends section 84(1)(b) of the Law to provide that in the case of an amalgamated body corporate which is a company which is migrating to Guernsey, the requirement of section 15(3) of the Law that the founder member shall subscribe to the memorandum of the company will be satisfied where at least one founder member of the company as proposed immediately after registration as a Guernsey company subscribes.

Section 11 amends section 110 of the Law to define the meaning of 75% in value in that section.

Section 12 and 13 amend the Law to allow divergence between the membership of the board of directors of an incorporated cell that of its incorporated cell company, provided that at least one of the directors of an incorporated cell shall also be a director of its incorporated cell company.

Section 14 amends the Law to provide that the deeming of a meeting of directors to be held in the place in which the chairman is present, is subject to the company's memorandum and articles, or a resolution of the company's board.

Section 15 amends the Law to provide that a notice of a general meeting which is to be held entirely electronically must state the means and manner by which persons may attend.

Sections 16 to 21, 23 and 26 repeal provisions of the Law which are no longer considered to be necessary.

Section 22 amends section 260 of the Law to widen the scope of which partnerships or body corporates are qualified for appointment as auditor of a Guernsey company; inserts a power for the Committee for Economic Development (the "Committee") to authorise partnerships and body corporates to audit the accounts of companies; and inserts a power for the Committee to make regulations prescribing a fee payable to the Committee by any person or body making an application for authorisation.

Section 24 amends the Law to provide that a company's shares may not be converted into stock.

Section 25 amends the Law to provide that, for the purposes of the Law, companies may make an offer of shares in lieu of dividends to shareholders by publication in La Gazette Officielle, or in any other manner allowed by the company's articles, should the law of the jurisdiction in which the shareholder is resident prohibit or restrict the making of an offer of shares in lieu of dividends.

Sections 27 and 28 amend the Law so that member approval of certain actions relating to 'off-market' acquisition by a company of its own shares need only be by ordinary resolution rather than special resolution. Members will also only be required to authorise the minimum and maximum amounts to be paid rather than the terms of the acquisition, where acquisition of the shares is for the purpose of an employee share scheme. The member whose shares are to be acquired is excluded from voting on the resolution except where that member is the sole shareholder in that company.

Section 29 amends section 337 of the Law enabling a notice to acquire shares in a company takeover to be issued as soon as the requisite 90% threshold has been reached.

It also makes further provision relating to shares which will not be taken into account in calculating the 90% threshold.

Section 30 amends the Law to provide that the Registrar of companies may destroy documents received or issued by, or on behalf of, the Registrar where a copy in electronic form is retained.

Section 31 amends the definition of confidential information in section 532(1), to clarify, for the avoidance of doubt, that a director's usual residential address is only confidential information where the address in the company's register of directors is a service address and his usual residential address has been notified to the Registrar in accordance with the requirements of section 148.

The Companies (Guernsey) Law, 2008

(Miscellaneous Amendments) Ordinance, 2021

THE STATES, in pursuance of their Resolution of the 26th September 2019^a, and in exercise of the powers conferred on them by sections 533 and 538 of the Companies (Guernsey) Law, 2008, as amended^b, and all other powers enabling them in that behalf, hereby order:-

Amendments to the Companies (Guernsey) Law.

1. The Companies (Guernsey) Law, 2008 ("**the principal Law**") is further amended as follows.

2. In section 17(2) of the principal Law, insert " or otherwise specified" immediately after "prescribed".

3. In section 25 of the principal Law –

(a) for subsection (2), substitute the following subsection –

^a Article XIV of Billet d'État No. XVIII of 2019.

^b Order in Council No. VIII of 2008; No. XIII of 2010; No. I of 2013; No. VI of 2014; No. VI of 2017; Ordinance No. XXV of 2008; No. LIV of 2008; No. VII of 2009; No. XIV of 2009; No. XI of 2010; No. XXXI of 2012; No. XXXI of 2013; No. IV of 2015; No. XII of 2015; No. XXVI of 2015; No. IX of 2016; No. XXIX of 2017; No. XXVII of 2018; G.S.I. No. 34 of 2009; G.S.I. No. 37 of 2013; G.S.I. No. 84 of 2014; G.S.I. No. 29 of 2016; G.S.I. No. 35 of 2016; G.S.I. No. 38 of 2016; G.S.I. No. 35 of 2017; G.S.I. No. 43 of 2017; G.S.I. No. 103 of 2017; G.S.I. No. 90 of 2018; G.S.I. No. 18 of 2019; G.S.I. No. 19 of 2019; G.S.I. No. 14 of 2020; G.S.I. No. 81 of 2020; and G.S.I. No. 111 of 2020.

"(2) In order to authorise a change of name, a company shall -

- (a) pass a special resolution authorising the change of name, or
- (b) authorise the change of name by any other means as may be specified in its articles.", and

(b) for subsection (3), substitute the following subsection –

"(3) The application shall be in the form prescribed or otherwise specified by the Registrar and shall be accompanied by –

- (a) where the change of name was authorised by special resolution in accordance with subsection (2)(a) -
 - (i) the special resolution authorising the change of name, and
 - (ii) a declaration of compliance (name change), and
- (b) in all other cases, a declaration of compliance (name change).".

4. In section 27(2) of the principal Law, insert " or otherwise specified" immediately after "prescribed".

5. In section 30(3)(a) of the principal Law, insert " or otherwise specified" immediately after "prescribed".

6. In section 52A of the principal Law –

(a) for subsection (3), substitute –

"(3) Subject to subsection (3A), if cell shares have been issued in respect of the cell, the holders of those shares must give the requisite consent to –

(a) the conversion and incorporation,

(b) the non-cellular company name, in order to comply with the requirements of sections 21(1) and 24(1),

(c) the non-cellular company type (limited by shares, limited by guarantee, unlimited or mixed liability, as the case may be),

(d) upon conversion –

(i) the adoption of a memorandum and articles of incorporation which are to be binding on the non-cellular company immediately after conversion and incorporation (and for the purposes of this section, the

requirements of section 15(3) will be satisfied where at least one founder member of the non-cellular company enters his name, address and signature in the memorandum as required by that section),

- (ii) the registration of the cell as a non-cellular company on the Register of Companies,
- (iii) the translation of the capacity, status and interest of the members of the protected cell company (including where applicable, and for the avoidance of doubt, members who are the holders of cell shares) in respect of or attributable to the cell from that of member of the protected cell company into that of member of the non-cellular company, and
- (iv) the translation of the shares (including, where applicable, cell shares), guarantees, rights, interests, debts, obligations and liabilities of the members of the protected cell company in respect of, or attributable to, the cell into shares, guarantees,

rights, interests, debts, obligations and liabilities in or to the non-cellular company,

(e) in the case of a non-cellular company which is to have shares, the inclusion in its memorandum of a statement of –

(i) the number of shares to be taken on conversion and incorporation by each member,

(ii) the aggregate value of those shares (whether on account of the nominal value of the shares or by way of premium), and

(iii) the amount to be paid up and the amount (if any) to be unpaid on those shares (whether on account of the nominal value of the shares or by way of premium),

(f) in the case of a non-cellular company which is to be limited by guarantee, the inclusion in its memorandum of a statement of the guaranteed amount of each member.", and

(b) immediately after subsection (3), insert the following

subsections –

"(3A) For the purposes of subsection (3), the holders of the cell shares are considered to have given the requisite consent to the matters set out in paragraphs (a) to (f) of that subsection only if –

- (a) the holders of not less than 75% in number of those shares give their written consent thereto, or
- (b) consent thereto is given at a meeting on a show of hands by not less than 75% of –
 - (i) the holders of those shares who vote in person on the matter, and
 - (ii) the persons who vote on the matter as duly appointed proxies of the holders of those shares, or
- (c) consent thereto is given on a poll at a meeting of the holders of cell shares by holders of cell shares representing not less than 75% of the total voting rights of the holders of cell shares who, being entitled to do so, vote in person or by proxy on the matter.

(3B) In relation to consent given on a poll of the holders of cell shares at a meeting referred to in subsection (3A)(c), the following have

voting rights in respect of the poll –

- (a) if –
 - (i) the cell has shares with no voting rights, a share entitles every holder to one vote in respect of each share held,
 - (ii) the cell has shares with voting rights, a share entitles every holder to one vote subject to any provision of the company's memorandum or articles,
- (b) every proxy present who has been duly appointed by a holder of cell shares entitled to vote on the resolution has the same number of votes as the holder of those shares would have in respect of the shares for which the proxy was appointed, and
- (c) if a company's articles provide that a holder of cell shares has a different number of votes in relation to consent when it is given in writing and when it is given at a meeting on a poll –
 - (i) the provision about how many votes a holder of cell shares has in relation to the matter on a poll is void, and

- (ii) a holder of cell shares has the same number of votes in relation to the matter on a poll as he has when his consent is given in writing.

(3C) When giving his written consent for the purposes of subsection (3A)(a), or on a poll taken at a meeting referred to in subsection (3A)(c), any holder of cell shares entitled to more than one vote need not, if voting, use all such votes or cast all available votes in the same way."

- 7. For section 69(2)(b) of the principal Law, substitute –

"(b) in cases where the amalgamated body corporate will not be one of the amalgamating bodies corporate but a new company, the particulars required under section 17(2) in respect of the incorporation of a company (and for the purposes of this paragraph, the requirements of section 15(3) will be satisfied where at least one founder member of the company enters his name, address and signature in the memorandum as required by that section),".

- 8. In section 83(2) of the principal Law, insert " or otherwise specified" immediately after "prescribed".

- 9. For section 84(1)(b) of the principal Law, substitute –

"(b) a copy of the memorandum and articles which are to be binding on the company immediately after its registration in Guernsey, complying with the requirements of this Law as to memoranda

and articles, together with, if different, a copy of the company's current memorandum and articles, (and for the purposes of this paragraph, the requirements of section 15(3) will be satisfied where at least one member of the company as proposed immediately after registration as a Guernsey company enters his name, address and signature in the memorandum as required by that section),".

10. In section 97(2) of the principal Law, insert " or otherwise specified" immediately after "prescribed".

11. In section 110 of the principal Law, immediately after subsection (1) insert the following subsection –

"(1A) The reference to 75% in value mentioned in subsection (1) means –

- (a) in the case of members, 75% of the voting rights of the members or class of members (as the case may be), and
- (b) in the case of creditors, 75% of the value of the debts owed to the creditors or class of creditors (as the case may be).".

12. For section 136 of the principal Law, substitute –

"Directors of incorporated cell companies.

136. (1) Subject to the provisions of this Law, any person may be

a director of an incorporated cell provided that at least one of the directors of an incorporated cell shall also be a director of its incorporated cell company.

(2) An incorporated cell of an incorporated cell company must notify the incorporated cell company within 7 days of a director of the cell being appointed or of a director of the cell ceasing to be a director.

(3) Subsection (1) is subject to –

(a) any exercise of the powers of an administrator under section 379(6) or (7),

(b) any direction given during a liquidation under section 478."

13. For section 143(3) of the principal Law, substitute –

"(3) Where, in accordance with sections 136(1), 379(6) or (7) or 478, the directors of an incorporated cell are different from the directors of its incorporated cell company, the register shall set out those differences."

14. For section 153(2) of the principal Law, substitute –

"(2) Subject to the company's memorandum or articles or a resolution of the company's board, a meeting of directors conducted pursuant to subsection (1) shall be deemed to be held in the place in which the chairman of the meeting is present."

15. For section 210(1)(b) of the principal Law, substitute –

"(b) state the place of the meeting or, where the meeting is to be held entirely electronically or via telephone, the means and manner by which persons may attend,".

16. In section 224(2) of the principal Law, repeal paragraph (c).

17. In section 226(6) of the principal Law, repeal paragraph (c).

18. Repeal section 241 of the principal Law.

19. Repeal section 246 of the principal Law.

20. In section 251 of the principal Law, repeal subsection (3).

21. Repeal section 253 of the principal Law.

22. In section 260 of the principal Law –

(a) for subsection (2), substitute the following subsection –

"(2) A partnership is not qualified for appointment as auditor unless the requirements of either subsection (2A) or subsection (2B) are satisfied.",

(b) immediately after subsection (2), insert the following subsections -

"(2A) A partnership is qualified for appointment as auditor

if -

- (a) control of the partnership rests with any of the following, or a combination of any of the following –
 - (i) qualified individuals,
 - (ii) individuals who hold a qualification to audit the accounts of companies under the law of a European Economic Area member state,
 - (iii) one or more partnerships or bodies corporate, control of which rests with qualified individuals, or
 - (iv) one or more partnerships or bodies corporate which have been recognised by an appropriate body as qualified to audit the accounts of companies incorporated in the United Kingdom or Republic of Ireland,
- (b) every partner or member who is not a qualified individual satisfies any applicable requirement of an appropriate body to observe and uphold the ethical standards thereof, and

- (c) each person who will be responsible for the conduct of the audit is a qualified individual.

(2B) A partnership is qualified for appointment as auditor if the partnership is for the time being authorised by the Committee to audit the accounts of companies.",

- (c) for subsection (3), substitute the following subsection –

"(3) A body corporate is not qualified for appointment as auditor unless the requirements of either subsection (3A) or subsection (3B) are satisfied.",

- (d) immediately after subsection (3), insert the following subsections -

"(3A) A body corporate is qualified for appointment as auditor if -

- (a) control of the body corporate rests with any of the following, or a combination of any of the following –
 - (i) qualified individuals,
 - (ii) individuals who hold a qualification to audit the accounts of companies under the law of a European Economic Area member state,

- (iii) one or more partnerships or bodies corporate, control of which rests with qualified individuals, or
 - (iv) one or more partnerships or bodies corporate which have been recognised or accepted by an appropriate body as qualified to audit the accounts of companies incorporated in the United Kingdom or Republic of Ireland,
- (b) every director who is not a qualified individual satisfies any applicable requirement of an appropriate body to observe and uphold the ethical standards thereof, and
- (c) each person who will be responsible for the conduct of the audit is a qualified individual.

(3B) A body corporate is qualified for appointment as auditor if the body corporate is for the time being authorised by the Committee to audit the accounts of companies.", and

- (e) immediately after subsection (8), insert the following subsections –

"(9) The Committee may by regulation prescribe the fees payable to the Committee for an authorisation to audit mentioned under

subsections (1)(b), (2B) and (3B).

(10) For the avoidance of doubt, the authorisation mentioned in subsections (1)(b), (2B) and (3B) may be subject to such terms and conditions as the Committee thinks fit."

23. In section 261 of the principal Law repeal subsection (1).

24. In section 283 of the principal Law, for "A company's shares may be converted into stock" substitute "A company's shares may not be converted into stock."

25. In section 306 of the principal Law -

(a) renumber the text as subsection (1),

(b) immediately after subsection (1), insert the following subsections –

"(2) For the avoidance of doubt an offer to issue shares in lieu of dividends for the purposes of subsection (1) may be made to and accepted by a shareholder who is resident or otherwise present in any district, territory or place outside Guernsey, irrespective of any law in force in that district, territory or place prohibiting or restricting the making or acceptance of such offers; and accordingly that law does not prevent such an offer being made or accepted for the purposes of this Part.

(3) If the law in force in any district, territory or place outside Guernsey prohibits or restricts the making of an offer to issue shares

in lieu of dividends by a company to a shareholder who is resident or otherwise present in that district, territory or place, then for the purposes of this Law the offer may be made by the company to the shareholder by publication in La Gazette Officielle or in any other manner allowed by the company's articles.

(4) Subsection (3) is without prejudice to any other method or means of making such offers lawfully in Guernsey or elsewhere."

26. In section 313 of the principal Law, subsection (3) is repealed.

27. In section 314 of the principal Law –

(a) for subsection (2), substitute –

"(2) The terms of the proposed contract shall –

(a) in the case of an acquisition for the purpose of an employee share scheme, be authorised by an ordinary resolution of the company before the contract is entered into specifying the minimum and maximum amount that may be paid for the shares, or

(b) in any other case, be authorised by an ordinary resolution of the company before the contract is entered into,

and the following subsections apply in respect of that

authority and to resolutions conferring it.",

- (b) in subsection (3), for "special resolution", substitute "an ordinary resolution", and
- (c) immediately after subsection (4), insert the following subsection –

"(5) The member whose shares are to be acquired under this section is excluded from voting on the resolution except where that member is the sole shareholder in that company.".

28. In section 317(2) of the principal Law for "a special resolution", substitute "an ordinary resolution".

29. In section 337 of the principal Law –

- (a) for subsection (1), substitute the following subsection –

"(1) If, within a period of four months after the date of making an offer (the "**offer period**") in respect of such a scheme or contract as is mentioned in section 336, the offer is approved or accepted by shareholders comprising not less than 90% in value of the shares affected ("the threshold"), the transferee may, within a period of two months immediately after the threshold is reached, give notice to any dissenting shareholder that it desires to acquire his shares (a "**notice to acquire**").", and

- (b) for subsection (7), substitute the following subsection –

"(7) For the purposes of calculating the threshold specified in subsection (1) of 90% in value of the shares affected, the following shall not be taken into account –

- (a) shares held as treasury shares,
- (b) shares held by the transferee or any class or description of person specified in section 337A at the date of the offer mentioned in subsection (1),
- (c) shares acquired by the transferee during the offer period at a price higher than the offer price, save where the offer price is raised to match the higher price."

30. In section 498A of the principal Law, for subsection (1), substitute the following subsection –

"(1) Documents received or issued by, or on behalf of, the Registrar under or for the purposes of this Law (including documents in electronic form or sent by electronic means) may, if a copy of the document is retained in electronic form, be destroyed or otherwise disposed of at any time."

31. In section 532(1) of the principal Law, in the definition of "confidential information", substitute for paragraph (a), the following paragraph –

- "(a) a director's usual residential address, where –

- (i) the director's address in the company's register of directors is a service address pursuant to section 143(4)(b)(ii), and
- (ii) his usual residential address has been notified to the Registrar in accordance with the requirements of section 148,".

Citation.

32. This Ordinance may be cited as the Companies (Guernsey) Law, 2008 (Miscellaneous Amendments) Ordinance, 2021.

Commencement.

33. This Ordinance shall come into force on the 1st May, 2021.

RESPONSIBLE OFFICER FOR THE BAILIWICK OF GUERNSEY

**Under “The Regulation of Health Professions
(Medical Practitioners) (Guernsey and Alderney)
Ordinance, 2015”**

ANNUAL REPORT FOR THE YEAR 2020

Dr Peter Rabey, MBChB, FRCA.

Responsible Officer

States of Guernsey.

Date: 25 Feb. 2021

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1. Executive summary

The Responsible Officer is required to submit an annual report to the States of Guernsey, through the Committee *for* Health & Social Care, as to the discharge of his or her functions. This report provides a summary of activity relating to regulation and revalidation of doctors in 2020.

Key Findings:

- The year 2020 was dominated by the Covid-19 pandemic. Changes were made to the registration and regulation of doctors in response to the pandemic.
- At the end of 2020 there were a total of 249 doctors on the Bailiwick Register and with a licence to practice. Of these 149 were “local practitioners” and 100 were “UK-connected Practitioners”. A breakdown is given in section 7 of this report.
- A more flexible approach to medical appraisal was supported by the GMC and the Royal Colleges in response to the pandemic.
- Nonetheless, 97.3% of local practitioners had completed appraisals in 2020. This is similar to 2019, and compares favourably with the most recently published UK rates of 91.5% [NHS England Annual Report for 2018/19 ¹]
- The GMC deferred revalidation dates in response to the pandemic.
- Revalidation recommendations were made for sixty one local to the GMC by the RO in 2020. Positive recommendations were made for 60 of these doctors.
- Some of the work of the fitness to practice side of GMC and of the Medical Practitioners Tribunal Service was delayed due to the pandemic.
- Three local doctors began 2020 with ongoing General Medical Council investigations from 2019. One doctor was erased from the medical register, two other cases remain open.
- The RO is aware of another 1 open GMC case involving a doctor who was in Guernsey at the time of the initial concern but who is no longer on the local register.
- Governance: The Responsible Officer continues to maintain strong links with the General Medical Council, NHS England, and the Faculty of Medical Leadership and Management (FMLM).

¹ (<https://www.england.nhs.uk/wp-content/uploads/2019/10/nhs-englands-professional-standards-report-to-ministers-1819.pdf>)

2. Purpose of the Report

This report is to inform the Committee *for* Health & Social Care and through them the States of Guernsey, as to the discharge of the Responsible Officer's functions during the calendar year 2020. This is a requirement of the Responsible Officer under the Ordinance.

3. Background

In 2015 the Bailiwick established the role of Responsible Officer for the States of Guernsey as part of "The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015". The role mirrors, to a significant extent, that established in 2010 UK legislation ("The Medical Profession (Responsible Officers) Regulations 2010").

The Responsible Officer has prescribed obligations regarding medical practitioners which include: ensuring that appropriate annual appraisals take place (for local practitioners), liaising with UK RO's (for UK-connected doctors working here), making recommendations to the General Medical Council (GMC), investigating and referring concerns, protecting patients, and ensuring that any conditions are complied with.

The ordinance describes two classes of medical practitioner: "Local Practitioners" (those doctors on the local register who do not have a connection to UK designated body), and "UK Connected Practitioners" (those doctors on the local register who do).

Although defined as Responsible Officer in local law, the GMC recognise a Suitable Person role for local practitioners in the Bailiwick, rather than a Responsible Officer role under the UK Regulations. This is because the Bailiwick is not a UK Designated Body under their legislation. This is also the case in Jersey, Isle of Man, and Gibraltar (among others). The Suitable Person role is similar to the UK Designated Body Responsible Officer role in terms of making recommendations to the GMC about revalidation of doctors.

Dr Rabey remained the Responsible Officer for all but one local doctor in the Bailiwick in 2020. Dr John McInerney, Responsible Officer in Jersey continued to act as RO for one doctor working in the Bailiwick because of a conflict of interest (as described in previous reports).

Every licensed doctor who practices medicine in the Bailiwick of Guernsey must be registered with the General Medical Council and must take part in medical revalidation.

4. Duties of the Responsible Officer

The duties of the Responsible Officer in relation to revalidation of doctors are laid out in schedules 2 and 3 of the Ordinance. For local practitioners they are as follows. For UK-connected practitioners they are similar except that responsibility for appraisal, revalidation, and fitness to practice recommendations lies with their UK responsible officer.

Duties of responsible officer – appraisals and fitness to practise.

(1) In relation to the evaluation of the fitness to practise of every practitioner, the responsible officer must –

(a) assess –

(i) whether the practitioner undergoes regular appraisals, and

(ii) whether those appraisals satisfy the requirements of subparagraph (2), and receive such appraisals submitted by the practitioner,

(b) assess whether the designated body of the practitioner has established and is carrying out appropriate procedures, using appropriate persons, to investigate concerns about that practitioner's fitness to practise raised by any person,

(c) where appropriate, take all reasonably practicable steps to investigate concerns about the practitioner's fitness to practise raised by any person,

(d) where appropriate, refer concerns about the practitioner to a relevant body or officer for a relevant purpose,

(e) take any steps necessary to protect patients, including recommend to the designated body of the practitioner that that practitioner should be suspended from practising as a medical practitioner or should have conditions or restrictions placed upon his or her practice,

(f) where the practitioner is subject to conditions imposed by, or undertakings agreed with, the General Medical Council, monitor compliance with those conditions or undertakings,

(g) make recommendations to the General Medical Council about the practitioner's fitness to practise,

(h) maintain records of the practitioner's fitness to practise evaluations, including appraisals and any other investigations or assessments, and

(i) communicate to the designated body of the practitioner any concerns held by the responsible officer regarding the discharge or adequate discharge of that designated body's functions under this Ordinance.

5. Impact of the Covid-19 Pandemic on Appraisal and Revalidation.

The Covid-19 pandemic had a major impact on the delivery of services in 2020, and regulatory bodies made adjustments to prioritise delivery of frontline services. Doctors in the Bailiwick were directly involved in providing frontline services, and all were affected by lockdown, travel restrictions, and other aspects of the pandemic. It is a credit to their professionalism that engagement with appraisal and revalidation remained outstanding.

National Response to Covid-19 Pandemic:

GMC:

The GMC's response to the Covid pandemic was aimed at supporting the provision of frontline clinical care.

From 17th March 2020 the GMC deferred the revalidation dates of doctors who were due to revalidate before the end of September 2020 by one year. This allowed doctors more time to reschedule and complete appraisals. This was extended in June to doctors with revalidation dates between 1st October 2020 and 16 March 2021. In October this was further extended to those due to revalidate before July 2021, whose dates were put back by 4 months. Doctors affected by this were put "under notice", so that a recommendation for revalidation could be made when the evidence to support it was in place.

The GMC also took emergency measures to re-register doctors who had recently left the Medical Register on a temporary basis, in order to support efforts to tackle the pandemic. Some 35,000 doctors were given temporary registration: they were those who had left the register or who gave up their licence to practice in the preceding 3 years, and who had no outstanding fitness to practice investigations, sanctions or conditions on their registration. The doctors were given the opportunity to opt out of re-registration.

"Appraisal 2020"

The GMC, Academy of Medical Royal Colleges, and NHS England agreed a revised format for medical appraisal in light of the pandemic. The goal was to simplify expectations around supporting information and pre-appraisal paperwork, and to focus on how doctors maintained their health and wellbeing during the Covid pandemic, and any support they might require.

NHS England encouraged Responsible Officers to adopt a flexible approach to resumption of appraisals after the first wave of the pandemic. They also cancelled the 2019/20 Annual Organisational Audit, meaning that comparison data for completed appraisal rates in NHS England have not been updated since 2018/19.

Local Response to Covid-19 Pandemic:

A total of 31 doctors with local addresses were re-registered by the GMC during the pandemic. One continues to take an active part in providing Covid-related services in the Public Health team.

Local doctors due to revalidate between 17th March and the end of 2020 had their revalidation date deferred by the GMC. However the great majority achieved the requirements of revalidation during the year, and 60 were revalidated in 2020. The doctors were not disadvantaged by revalidating within the year. A total of 5 doctors with

deferred dates from 2020 will be due for recommendations in the coming months, and plans are in place for all to achieve the requirements for a positive recommendation.

“Appraisal 2020” was accepted locally, and widely used. Doctors commented favourably on the reduced administration demands in preparing for appraisal, and on the emphasis on health, wellbeing and support of the new appraisal format.

The great majority of off-island appraisals in 2020 were conducted remotely using applications such as “Teams”. Feedback was positive and it is likely that this will continue in most cases even when travel is unrestricted in future.

6. Governance Arrangements

Register of Local Doctors:

Administration of the local register of doctors in 2020 was supported by Ms Tanya le Pavoux. The register describes the two classes of medical practitioners (“Local” and “UK-connected”), and indicates whether the doctors main link is with the Medical Specialist Group (MSG), Health and Social Care (HSC), Primary Care (GP’s), or “Other”.

The list of names of doctors on the register is in the public domain, as is their GMC registration. The local register of doctors may be accessed by the public through the HSC website at <https://gov.gg/healthprofessionalregisters>.

The GMC register may be accessed through their website at <https://www.gmc-uk.org>

The Registration Panel:

The Ordinance describes the role of the Registrations Panel in supporting the local register and as a review body to review decisions relating to registration made by the Responsible Officer. Appointments to the Panel are made by the Policy & Resources Committee. No decisions of the RO were appealed to the Registration Panel in 2020.

Appraisal of Doctors:

The Responsible Officer works closely with Appraisal Leads to ensure that appraisals of doctors on the Local Practitioners List are conducted to appropriate high standards.

The following acted as Appraisal Leads in 2020 for the different groups of Local Practitioners:

- HSC and MSG Doctors: Dr Heather Flambert (supported by Mr Marc le Page).
- General Practitioners: Dr Tony Chankun (supported by Ms Jocelyn Le Guilcher.)

The Appraisal Leads and RO can access real-time information about progress of appraisals, allowing monitoring against due dates. This is monitored regularly and any issues flagged with the appraisal leads in the first instance.

Appraisal Quality Review:

The Wessex Area Team from NHS England will oversee new appraiser training and update appraiser training for both primary and secondary care doctors. It was not possible to run this in the normal way in 2020 due to the pandemic, but it will be delivered in 2021.

The Appraisers Network meeting is chaired by the Appraisal Lead for HSC and MSG and considers matters related to appraisal policy and practice.

External quality assurance of appraisals in secondary care will take place led by the Wessex Appraisal Service in 2021.

Local appraisers receive feedback from the Appraisal Leads and if relevant, the RO. All appraisees provide feedback about their appraisal, which is provided in anonymised form to appraisers.

External appraisers undergo quality review from their host organisations: usually the Wessex Area Team or University Hospitals of Southampton.

Engagement with External Bodies:

The RO remains an active participant in the Responsible Officer Network organised by NHS England, and attends the Suitable Person Reference Group meetings organised by the General Medical Council. Responsible Officer Network meetings were postponed in 2020. The Suitable Person Reference Group met virtually in December 2020.

The RO meets regularly with their designated GMC Employment Liaison Advisor, and has further ad-hoc communication as required. A contract is in place with NHS Resolution to provide expert advice, support and interventions for concerns regarding doctors. The RO has an external Responsible Officer – Mr Peter Lees of the Faculty of Medical Leadership and Management, and takes part in appraisal and revalidation under their auspices. The RO was revalidated by the GMC in 2019 and his appraisal position is fully up to date.

7. Register of Doctors

The Register of doctors is a live document and is amended regularly to reflect additions, departures, and other changes. The Bailiwick Register is available in summary form on-line at <https://gov.gg/healthprofessionalregisters>.

At the end of 2020 there were a total of 249 doctors on the Guernsey Register and with a licence to practice; a decrease of 8 from 2019. Of these 149 were “Local Practitioners” and 100 were “UK-connected Practitioners”.

A breakdown for the position at the end of 2020 is provided in the table below, with the change from 2019 identified.

Local Register of Medical Practitioners 2020										
	HSC		MSG		GP's		Others		Total	
	2020	+/-	2020	+/-	2020	+/-	2020	+/-	2020	+/-
Local Practitioners	34	(+3)	50	(+2)	62	(-2)	3	(+1)	149	(+4)
UK-Connected Practitioners	57	(-2)	14	(-)	14	(-8)	15	(-2)	100	(-12)
Total	91	(+1)	64	(+2)	76	(-10)	17	(-1)	249	(-8)

UK Connected Doctors: 57 UK-connected doctors worked for HSC in 2020. This includes locums, visiting doctors, and visiting appraisers for doctors. Twelve doctors acted as locums for MSG in 2020 and retained a UK connection, and 2 others retained a UK connection. A total of 14 GP's were connected to UK designated bodies; most acted as locums (including for Alderney and Sark) while in the Bailiwick.

Doctors Classed as "Others": This group consist largely of doctors who hold private clinics, provide medical advice to local firms, and services to Guernsey prison. The local RO is able to identify and communicate with the RO of any UK-connected doctors through use of GMC Connect – the GMC's online portal for revalidation of doctors.

Conditions: The RO has powers to add conditions to a doctor's local registration. In 2020 this power was not exercised. The GMC also did not impose conditions on the practice of any locally registered doctors in 2020.

8. Medical Appraisal

a. Appraisal and Revalidation Performance Data

In 2020 there were 149 locally connected doctors who required an appraisal in-year. A total of 145 appraisals were completed within the agreed time period. The table below gives details:

Appraisals 2019					
	HSC	MSG	GP's	Others	Total
Number with appraisal due in 2020	34	50	62	3	149
Appraisals within agreed time period	34	48	61*	2**	145
%	100%	96%	98%	67%	97%

Of appraisals not completed within prescribed time period:

- MSG: 2 doctors had late appraisals. One was due in January 2020 but not done until Jan 2021. The other had their appraisal in Dec 2020 but it was not signed off until Jan 2021.
- GP's: 1 GP* had their appraisal in October, but due to illness the appraiser had not written it up by the end of 2020. 100% compliance among the remainder.
- Other: One doctor** retained a licence to practice in 2020 but did not actually work as a doctor or have an appraisal in the calendar year. They have subsequently relinquished their licence to practice and no longer need to undergo appraisals or take part in revalidation.

It is worthy of note that, for the first time, 100% of HSC doctors completed their appraisal in 2020, and I am grateful to the efforts of Dr Flambert as Appraisal Lead in this achievement.

The overall in-year appraisal rate for local practitioners was 97.3%. This is similar to 2019 (96.6%) and compares favourably with the most recent NHS England rate of 91.5% [NHS England Professional Standards Report to Ministers for 2018/19 ¹]. (Note NHS England reporting was suspended in 2020 in response to the Covid-19 pandemic.)

If the RO believes that a doctor may not be engaging appropriately in the process of revalidation he may, after consultation with the GMC Employment Liaison Advisor, request that the GMC send a non-engagement concern to the doctor directly by completing a "Rev6" form. This was not done in 2020, although concern was raised about one of the delayed appraisals.

¹ <https://www.england.nhs.uk/wp-content/uploads/2019/10/nhs-englands-professional-standards-report-to-ministers-1819.pdf>

b. Appraisers

Medical appraisal is the cornerstone of revalidation of doctors. Doctors with a UK connection take part in appraisal and revalidation with their UK designated body. For locally-connected doctors there are 2 main groups of appraisers. Most doctors fit cleanly into one of these groups, but for doctors in the "other" category, their appraiser is determined by best-fit (nearly always obvious).

Primary Care: Doctors in General Practice in Guernsey continue to demonstrate high levels of engagement in appraisal. Only one doctor was not able to complete their appraisal in-year, due to illness affecting the appraiser after the meeting but before write-up (now completed). The others were all category 1 appraisals (appraisals satisfactorily completed to the standard required). Most GP's undertake appraisals with the Wessex Appraisal Service, a service run by Health Education England; they use a mix of off-island and on-island appraisers.

Secondary Care: Approximately half of appraisals in secondary care were conducted on-island (46), with the remainder conducted by an off-island appraiser (largely remotely). The on-island appraisals were delivered by a group of eight trained doctors comprising of both States employed doctors and doctors from the Medical Specialist

Group. Off-island appraisers were largely delivered by experienced appraisers from Southampton University Hospitals.

Over a five year revalidation cycle every secondary care doctor will have at least 2 off-island appraisals as part of a continuing programme to facilitate specialty-specific and independent appraisals over the revalidation cycle. Individual appraiser feedback continues to demonstrate high levels of satisfaction with the quality of appraisers.

A local Appraisers Network meeting takes place regularly, chaired by the Appraisal Lead, Dr Flambert.

Others: One doctor used the Wessex scheme and the other used an independent appraisal scheme.

c. Quality Assurance

As in previous years, routine ongoing quality assurance continues with active involvement of the appraisal leads and the RO, including reviews of appraisal portfolios and reflection and feedback for individual appraisers. Formal feedback to appraisers from the Wessex Appraisal Service will resume in 2021.

d. Access, Security and Confidentiality

The RO deals with a significant amount of sensitive personal data, and it is important that this is dealt with in line with best practice.

The Responsible Officer is registered with the Data Protection Commissioner for the Channel Islands, and has up-to-date Data Protection training.

e. Clinical governance

Prior to their appraisal, doctors receive information about all complaints and incidents in which they are named. This report is available to the appraiser, appraisal lead and to the RO. In addition some doctors may be asked to reflect with their appraiser about specific incidents or events at their appraisal. The appraisal systems allow for such specific items to be identified clearly to both the appraiser and to the RO, to ensure that appropriate reflection and learning has taken place and been evidenced.

9. Revalidation Recommendations

Revalidation typically takes place over a five year cycle, at the end of which the GMC seek a recommendation from the doctor's RO / Suitable Person (if they have one).

In 2020, the RO made a total of 61 revalidation recommendations to the GMC. Positive recommendations were made for 60 doctors, following review of their appraisal portfolios and the evidence submitted against GMC requirements.

One deferral recommendations was made, for a doctor who had not been able to produce sufficient evidence to support a positive recommendation due to illness. The doctor subsequently voluntarily relinquished their licence to practice.

There were no notifications to the GMC of non-engagement by a doctor in processes for revalidation.

All 61 recommendation were made on schedule and were accepted by the GMC. (Appendix B presents numerical details using the NHS England audit template.)

10. Recruitment and engagement background checks

Background checks remain in place for doctors seeking to join the local Register, including:

- Checks of GMC registration:
 - o Current GMC Registration
 - o Holds a valid Licence to Practice
 - o On the Specialist Register or GP Register (as appropriate)
- Curriculum Vitae (CV) of the doctor
- References (minimum of two)
- Recent enhanced Disclosure and Barring Service (DBS) check
- Form of information completed (contact details, training, qualifications, etc.)
- Specimen Signature
- Registration fee paid.

When a doctor's name is added to the local register a circular is sent widely (including all island pharmacies) informing them of the name, specialty, and role of the new doctor, and providing a specimen signature.

Doctors undergo normal employment checks by their prospective employer in addition to the process of adding to the local register.

Guernsey remains in a favourable position in terms of obtaining appropriate information for background checks before a doctor's name is added to the local register. The use of very short-term locums is impractical for geographical and regulatory reasons, and there are robust processes for identifying and checking on any new doctors who work in the Bailiwick.

11. Responding to Concerns and Remediation

As noted in previous reports, concerns about doctors can be raised in many ways. In addition to the powers given to the RO under the Ordinance, local policies for responding to concerns are in place for both Primary and Secondary Care. The policies are based on “Maintaining High Professional Standards”, and provide pathways for action when a concern arises.

Concerns about doctors may result in informal or formal management. Informal management typically is used for minor matters when there is no risk to patients and the doctor demonstrates insight.

One formal investigation under the Ordinance was undertaken, with the appointment of an Authorised Person. The conclusion was that no substantive concern was upheld against the doctor. The doctor received words of advice in relation to the concern. This course of action was supported by the GMC Employment Liaison Advisor. Another 2 concerns raised with the RO in 2020 were found not to raise a substantive matter under the Ordinance, but informal attempts to resolve the issues were made.

Appendix A presents numerical information about formal management of new concerns raised about doctors in 2020.

General Medical Council and Medical Practitioners Tribunal Service.

My 2019 report referred to four doctors then awaiting GMC investigation or proceedings at the Medical Practitioner Tribunal Service (MPTS), two of whom were working in the Bailiwick at the time. The MPTS erased one doctor (Dr Lydall) from the GMC Register in August 2020 – his registration had previously been suspended (see 2019 report). One case relates to a doctor who has not worked locally for 2 years, and is no longer on the local register. Both other cases remain outstanding – the pandemic resulted in delays to the work of the MPTS.

In addition the GMC issued a formal Warning to a local doctor in 2020, following a conviction and fine imposed in relation to a planning application. A Warning is in the public domain at the GMC website and remains on the doctor’s record for two years.

As RO I reported one historical matter to the GMC 2020. This related to a former doctor where a new concern was raised with me which I could not investigate locally, as the doctor had left the Bailiwick in 2018. (This does not feature in the table below as it did not relate to a current doctor.)

12. Risks and Issues:

Complaints: In 2019 the Office of the Data Protection Authority (ODPA) received a complaint about the handling of a Subject Access Request by three parties, one of which was the RO. The matter was closed by the ODPA in 2020 with no action. No new complaints were received in 2020 about the discharge of the RO function.

Conflicts of Interest: No new conflicts of interests were reported in 2020.

13. Progress against 2019 “Next Steps”

Progress against the stated aims for the year of 2019 are as follows:

Planned Next Steps for the Year 2020		
	Stated Aim from 2019 Report	Progress in 2020
a	Complete further updates of the appraisal policy for doctors in secondary care.	This was not completed in 2020.
b	Implement and audit the use of the NHS England Medical Practice Information Transfer (MPIT) Form to obtain information about newly registered local Practitioners from their previous RO's.	MPIT forms were requested from previous RO's for all new secondary care doctors in 2020.

14. Next Steps for 2021:

Plans for 2020 include:

- Complete update of the Appraisal Policy.
- Resume off-island appraiser training and feedback following the impact of the pandemic in 2020.
- Complete revalidation recommendations for doctors deferred by the GMC from 2020 to 2021.

15. Conclusion

This annual report has presented details of the discharge of the Responsible Officer's functions in the year 2020. Despite the impact of the pandemic, standards around revalidation remain high, and processes for identifying and acting on concerns are in place and working effectively.

The RO would like to thank all those involved in helping to deliver high quality regulation of doctors in the Bailiwick in 2020.

16. Annual Report Appendix A: Audit of concerns about a doctor's practice.

Concerns about a doctor's practice	High level ¹	Medium level	Low level	Total
Number of doctors with concerns about their practice in 2020 (new concerns).	0	1	0	1
Capability concerns (as the primary category) in the last 12 months	0	0	0	0
Conduct concerns (as the primary category) in the last 12 months	0	1	0	1
Health concerns (as the primary category) in the last 12 months	0	0	0	0
Remediation/Reskilling/Retraining/Rehabilitation				
Numbers of doctors with whom the designated body has a prescribed connection as at 31 December 2020 who have undergone formal remediation between 1 January 2020 and 31 December 2020. Formal remediation is a planned and managed programme of interventions or a single intervention e.g. coaching, retraining which is implemented as a consequence of a concern about a doctor's practice				0
Consultants				0
Staff grade, associate specialist, specialty doctor				0
General practitioner				0
Trainee: doctor on national postgraduate training scheme				0
Doctors with practising privileges who are independent healthcare providers				0
Temporary or short-term contract holders				0
Other (including all responsible officers, and doctors registered with a locum agency, members of faculties/professional bodies, some management/leadership roles, research, civil service, other employed or contracted doctors, doctors in wholly independent practice, etc) All Designated Bodies				0
TOTALS				0
Other Actions/Interventions				
Local Actions:				
Number of doctors who were suspended/excluded from practice between 1 January 2020 and 31 December 2020:				0
Duration of suspension: Less than 1 week				0

¹ http://www.england.nhs.uk/revalidation/wp-content/uploads/sites/10/2014/03/rst_gauging_concern_level_2013.pdf

1 week to 1 month (*Doctor did not return from exclusion due to sickness)	0
1 – 3 months	0
3 - 6 months	0
6 - 12 months	0
Number of doctors who have had local restrictions placed on their practice in the last 12 months?	0
GMC Actions: Number of doctors who:	
Were referred by the designated body to the GMC between 1 January 2020 and 31 December 2020	1
Underwent or are currently undergoing GMC Fitness to Practice procedures between 1 January 2020 and 31 December 2020 (includes investigations; see section 10 above)	2
Had conditions placed on their practice by the GMC or undertakings agreed with the GMC between 1 January 2020 and 31 December 2020	0
Had their registration/licence suspended by the GMC between 1 January 2020 and 31 December 2020	0
Were erased from the GMC register between 1 January 2020 and 31 December 2020 (*Not including those who voluntarily relinquished their registration due to normal retirement).	1*
National Clinical Assessment Service actions:	0
Number of doctors about whom the National Clinical Advisory Service (NCAS) has been contacted between 1 January 2020 and 31 December 2020 for advice or for assessment. (NCAS now part of NHS Resolution)	0
Number of NCAS assessments performed	0

17. Annual Report Appendix B: Audit of revalidation recommendations.

Revalidation recommendations between 1 January 2020 to 31 December 2020	
Recommendations completed on time (within the GMC recommendation window)	61
Late recommendations (completed, but after the GMC recommendation window closed)	0
Missed recommendations (not completed)	0
TOTAL	61
Primary reason for all late/missed recommendations : For any late or missed recommendations only one primary reason must be identified	
No responsible officer in post	0
New starter/new prescribed connection established within 2 weeks of revalidation due date	0
New starter/new prescribed connection established more than 2 weeks from revalidation due date	0
Unaware the doctor had a prescribed connection	0
Unaware of the doctor's revalidation due date	0
Administrative error	0
Responsible officer error	0
Inadequate resources or support for the responsible officer role	0
Other	0
Describe other	-
TOTAL [sum of (late) + (missed)]	0

The Presiding Officer
States of Guernsey
Bailiff's Chambers
Royal Court House
St Peter Port
Guernsey
GY1 2NZ

23rd March 2021

Dear Sir

Election of Non-voting Members of the Committee *for* Health & Social Care

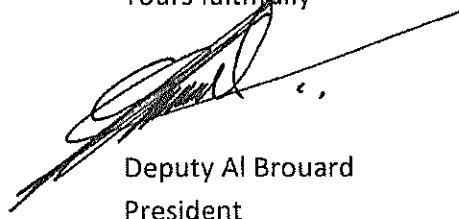
The Committee for Health & Social Care is permitted by the terms of its constitution to elect up to two non-voting members who shall not be sitting Members of the States.

After an open and competitive recruitment process, I am pleased to inform you that, in accordance with Rule 46(5) of the Rules of Procedure, the Committee *for* Health & Social Care formally elected George Anthony Oswald and Emily Jane Litten as Non-Voting Members of the Committee at its meeting of 23rd March 2021.

Prior to the election, the Committee was provided with completed Declarations of Interest and Declarations of Unspent Convictions by both candidates in accordance with Rule 46(2). The Committee is satisfied that the appointment of these persons would not lead to a conflict of interest or in the case a conflict emerged it could be managed. The Committee will be lodging the completed Declarations with the States Greffier.

The Committee would be grateful if you could arrange for this letter to be published as an appendix to a future Billet d'État in accordance with Rule 46(2).

Yours faithfully


Deputy Al Brouard
President

**NOMINATION
OF ACTING PRESIDING OFFICERS OF
THE STATES OF DELIBERATION
AND
THE STATES OF ELECTION**

**NOMINATION OF ACTING PRESIDING OFFICERS OF
THE STATES OF DELIBERATION**

Pursuant to paragraph (2) of Article 1 of the Reform (Guernsey) Law, 1948, as amended, I hereby nominate:

Deputy John Alfred Bannerman GOLLOP
Deputy Peter John ROFFEY
Deputy Lyndon Sean TROTT

to perform the duties of Acting Presiding Officer of the States of Deliberation, whose seniority in order of appointment shall rank immediately after the Deputy Presiding Officer and in the order in which their names appear herein.

R J McMAHON
Bailiff and Presiding Officer of the States of Deliberation

26th March 2021

**NOMINATION OF ACTING PRESIDING OFFICER OF
THE STATES OF ELECTION**

Pursuant to paragraphs (2) and (3) of Article 1 and to paragraph (3) of Article 4 of the Reform (Guernsey) Law, 1948, as amended, I hereby nominate:

Deputy John Alfred Bannerman GOLLOP
Deputy Peter John ROFFEY
Deputy Lyndon Sean TROTT

to perform the duties of Acting Presiding Officer of the States of Election, whose seniority in order of appointment shall rank immediately after the Deputy Presiding Officer and in the order in which their names appear herein.

R J McMAHON
Bailiff and Presiding Officer of the States of Election

26th March 2021