

PROJET DE LOI

ENTITLED

The Government of Alderney Law, 2004

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The Government of Alderney Law, 2004

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 20th October, 2004, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

PART I

GENERAL CONSTITUTIONAL PROVISIONS

Legislative and executive functions.

1. All legislative and executive functions which may be exercised within Alderney are exercisable -

- (a) by the States of Alderney constituted in accordance with Part III, or
- (b) in the case of a function conferred by or under an enactment or resolution, by the committee of the States or other body on which, or by the person on whom, the function is conferred.

Judicial functions.

2. All judicial functions which may be exercised within Alderney are exercisable, unless any enactment provides otherwise, by the Court of Alderney

constituted in accordance with Part II.

Public office, oaths and affirmations.

3. (1) The holding of public office in Alderney is open to any person who is not an alien, regardless of sex, marriage, religion or property.

(2) Without prejudice to the generality of subsection (1), a person who conscientiously objects to taking an oath required by law may make a solemn affirmation to the same effect as the oath, and the same consequences attach to the affirmation as attach to the oath.

The prerogative, laws and customs and public functions.

4. (1) Her Majesty's prerogative is unaffected by this Law.

(2) Except to the extent that their continued existence or exercise would be inconsistent with this Law, this Law does not affect -

(a) any of the laws or customs of Alderney; or

(b) the rights and functions of a person exercising public functions in relation to Alderney.

(3) It is hereby declared for the avoidance of doubt that the customary law in criminal matters is the same in Alderney as in Guernsey.

PART II

THE COURT OF ALDERNEY

The Jurats and Chairman of the Court

Constitution and general powers of the Court of Alderney.

5. The Court of Alderney -

- (a) consists of such persons as the Secretary of State may, by an instrument under his hand, appoint as Jurats; and
- (b) has, subject to this Law, the same powers as the Court had immediately before the commencement of this section.

Chairman of the Court.

6. (1) The Chairman of the Court is -

- (a) such person as the Secretary of State may, by an instrument under his hand, appoint as Chairman; or
- (b) if no person is for the time being appointed under paragraph (a), such person as the Jurats may select from among themselves.

(2) If at a sitting of the Court the Chairman is not present or is disqualified from acting as a member of the Court, the Court shall select a Jurat to act as chairman for that sitting.

Oath and term of office of Jurats.

7. (1) Before entering on office a person appointed as Jurat shall take at a full court, consisting of two or more Jurats in addition to the Jurat acting as chairman, an oath in such form as may be prescribed by Her Majesty by Order in Council, and he shall not be required to take an oath in any other form.

(2) A Jurat shall hold office during good behaviour but, subject to subsection (3), shall not after attaining the age of 70 years -

(a) sit in court; or

(b) otherwise act as Jurat except in such matters as may be specified in rules of court.

(3) Notwithstanding subsection (2) the Secretary of State may, by an instrument under his hand, authorise a Jurat to continue to sit and act as Jurat for a specified period after attaining the age of 70 years.

Number and opinions of the Court.

8. (1) The functions of the Court shall, unless the contrary is provided by or under any enactment, be exercised by a full court.

(2) In determining the opinion of the full court on any matter the opinion of the Jurat acting as chairman shall not be counted, but if the opinions of the other Jurats are equally divided the chairman shall determine which opinion shall prevail.

Conduct of proceedings and disability of Jurats.

9. (1) The Jurat acting as chairman at a sitting of the Court shall have general conduct of the proceedings, which shall be conducted in accordance with the rules of natural justice relating to the exercise of judicial functions.

(2) Without prejudice to the generality of subsection (1) -

(a) a Jurat shall not sit when the Court is dealing with any

matter in which he has a personal interest;

- (b) a Jurat engaged in an occupation for the carrying on of which a licence is required shall not sit when the Court is dealing with any matter relating to a licence for the carrying on of that occupation.

(3) If it appears to the Chairman that by reason of the operation of subsection (1) or (2) the Court will not be able to deal with a matter, and in such other cases or circumstances as the States may prescribe by Ordinance, he shall apply to the Bailiff to appoint a person to exercise the powers of the Court in relation to that matter; and a person so appointed shall have all the powers of the Court in relation to that matter.

Contempt.

10. (1) The Court has jurisdiction under this section to deal with any person who -

- (a) wilfully insults a Jurat, any witness before or officer of the Court or any advocate having business in the Court, during his sitting or attendance in court or in going to or from the Court; or
- (b) wilfully interrupts the proceedings of the Court or otherwise misbehaves in court.

(2) In a case mentioned in subsection (1) the Court may order an officer of the Court or a police officer to take the offender into custody and detain him until the rising of the Court; and the Court may commit the offender to custody for a specified period not exceeding one month, or impose a fine on him not

exceeding level 5 on the Alderney uniform scale, or both.

(3) This section is in addition to, and not in derogation from, any other power of the Court to deal with cases of contempt.

Jurisdiction of the Court

Extent of civil jurisdiction.

11. (1) The civil jurisdiction of the Court comprises all matters other than criminal matters -

- (a) in which the Court had jurisdiction immediately before the commencement of this section,
- (b) which are assigned to it by or under this Law or any other enactment;

and in this Law such matters are referred to as a "**civil matters**".

(2) The jurisdiction of the Court in a civil matter is not limited by reference to any question of value.

Extent of criminal jurisdiction.

12. (1) The Court has jurisdiction to try and determine a charge alleging an offence for which the maximum penalty permitted by law does not exceed the penalty set out in section 13(1).

(2) The Court does not have jurisdiction to try and determine a charge alleging an offence of treason, homicide, piracy, rape, perjury or robbery but shall, if a charge alleges any such offence, consider whether there is a prima

facie case for the accused person to answer.

(3) In the case of a charge alleging an offence to which neither subsection (1) nor subsection (2) applies the Court may -

(a) if of the opinion that, should the offence be proved, a penalty not exceeding that set out in section 13(1) should be imposed, itself try and determine the charge; or

(b) consider whether there is a prima facie case for the accused person to answer.

(4) If the Court, acting under subsection (2) or (3)(b), considers in any case that there is a prima facie case for the accused person to answer, it shall transfer the case to the Royal Court sitting as an Ordinary Court with a view to its being dealt with in accordance with Part IV of the Magistrate's Court (Guernsey) Law, 1954^a.

Penalty powers of the Court.

13. (1) The maximum penalty which the Court has jurisdiction to impose in respect of any one offence is, subject to subsections (2) and (3), imprisonment for a term not exceeding 6 months, or a fine not exceeding level 5 on the Alderney uniform scale, or both.

(2) The maximum penalty which the Court has jurisdiction to impose on a person on any one occasion is imprisonment for terms which in

^a Ordres en Conseil Vol. XVI, p. 103.

aggregate do not exceed 12 months, or fines which in aggregate do not exceed twice level 5 on the Alderney uniform scale, or both.

(3) If the maximum penalty which may be imposed in respect of an offence is prescribed by an enactment other than this section, this section does not authorise the Court to impose in respect of the offence a penalty greater than that prescribed by the other enactment.

Service of sentences of imprisonment in Guernsey.

14. If the Court sentences to imprisonment a person who, under the law in force in Guernsey, may lawfully be detained there, it may order all or any part of the sentence to be served in Guernsey.

Functions of the Court in succession to former offices.

15. Notwithstanding section 1, and without prejudice to any other functions of the Court, those functions include the functions which were, immediately before 8th March 1949, exercisable by -

- (a) the greffier, so far as they related to the keeping of a record of legislation and the registering of enactments therein;
- (b) the douzaine, so far as they related to the inheritance of real property.

Procedure, costs, interest and appeals

Institution of criminal proceedings.

16. Criminal proceedings before the Court may be instituted only by or under the authority of Her Majesty's Procureur.

Rules of Court and procedure.

17. (1) The Royal Court may make rules of court for the Court which may, subject to subsection (3) -

- (a) prescribe those matters which must be dealt with by a full court and those which may be dealt with by a single Jurat;
- (b) prescribe any matters which may be dealt with out of court;
- (c) specify any matters in which, notwithstanding section 7(2), a Jurat may act after attaining the age of 70 years;
- (d) prescribe forms of summons to be used for initiating proceedings in the Court.

(2) Subject to subsection (3) and to any rules of court made under a provision mentioned in subsection (4), the Court may regulate its own procedure and may for that purpose make rules of court; but rules made under this subsection shall, with prejudice to the validity of anything done under them or to the making of new rules, cease to have effect -

- (a) if they are disapproved by the Royal Court, immediately upon such disapproval; or
- (b) if they are not approved by the Royal Court within 3 months after being made, at the expiration of those 3

months.

- (3) Rules of court shall not -
- (a) permit the determination of a criminal matter, the hearing of a petition under section 34(4) or the determination of a question regarding the law as to elections in Alderney otherwise than by a full court;
 - (b) permit any question concerning the grant, refusal or withdrawal of a licence to deal in intoxicating liquor to be dealt with out of court;

and in this section the expression "the law as to elections in Alderney" has the meaning given by section 26(2).

(4) The provisions referred to in subsection (2) are subsection (1) of this section, Article 64 of the Reform (Guernsey) Law, 1948^b, section 3 of the Court of Alderney (Appeals) Law, 1969^c, section 40 of the Arbitration (Alderney) Law, 1983^d, section 1 or section 2 of the Judgments (Interest) (Bailiwick of Guernsey) Law, 1985^e and any other power of the Royal Court to make rules.

Costs.

18. (1) The costs of and incidental to any proceedings in the Court in

^b Ordres en Conseil Vol. XIII, p. 288.

^c Ordres en Conseil Vol. XXII, p. 192.

^d No. XIII of 1983.

^e No. XVII of 1985.

a civil matter are in the discretion of the Court, and the Court may determine by whom and to what extent such costs are to be paid.

(2) The Court may by rules of court prescribe the fees payable to the Court and to the Greffier in respect of proceedings in the Court in a civil matter and the fees and expenses recoverable by a party in a case where costs are awarded to that party under subsection (1).

(3) The Court may order any person convicted of an offence in proceedings in the Court in a criminal matter to pay to any other person attending the Court to give evidence in those proceedings an allowance, calculated at such rate as the Court may prescribe by rules of court in respect of that other person's attendance.

Appeals in civil matters to the Royal Court.

19. The Court of Alderney (Appeals) Law, 1969 continues to have effect for the purpose of appeals in civil matters from the Court to the Royal Court as it had effect before the commencement of this Law.

The Greffier and Deputy Greffier

The Greffier.

20. (1) The Alderney Appointments Board shall, with the approval of the Lieutenant Governor, appoint at a salary approved by the Lieutenant Governor a person to the office of Greffier to act generally as the clerk of the Court and as clerk of the States of Alderney when acting as a legislative assembly and to carry out the functions assigned to the Greffier by law and by Standing Order or resolution of the States.

(2) A person appointed as Greffier shall not be removed from

office without the approval of the Lieutenant Governor, and his salary shall not be reduced below that approved by the Lieutenant Governor.

- (3) The Alderney Appointments Board comprises -
 - (a) the Chairman and Deputy Chairman of the Court;
 - (b) the President and Vice-President of the States; and
 - (c) one other person appointed by the Lieutenant Governor.

Deputy Greffier.

21. (1) The Alderney Appointments Board -
 - (a) shall appoint one or more Deputy Greffiers; and
 - (b) may at any time revoke an appointment made under this section.

(2) If at any time the office of Greffier is vacant or the Greffier is absent from, or unable to perform the duties of, his office, a Deputy Greffier shall act in his place and, while so acting, shall have all powers conferred by law on the Greffier.

- (3) A Deputy Greffier may be paid -
 - (a) as part of the expenses of administering justice in Alderney, such fee in respect of the performance of his duties as, subject to paragraph (b), the Court

thinks fit; and

- (b) such fee in respect of the performance of his duties as clerk of the States of Alderney when acting as a legislative assembly as the States think fit.

Greffier where States a party.

22. For the avoidance of doubt, if the States are party to proceedings in the Court -

- (a) the Greffier may act as Greffier in those proceedings; and
- (b) a Deputy Greffier may act in those proceedings in the place of the Greffier.

Fees, fines and receipts, etc.

23. (1) The Greffier shall furnish to the Treasurer, within the first 7 days of every month, an account of -

- (a) all fees, fines and other payments received by the Court or by him as Greffier during the preceding month, other than payments received pursuant to -
 - (i) an order under section 27 of the Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964^f or section 17 of the

^f Ordres en Conseil Vol. XIX, p.241.

Arbitration (Alderney) Law, 1983, or

- (ii) any other enactment requiring their remission to another person; and
- (b) all payments made by him during the preceding month in the execution of his office, other than payments made remitting to another person payments mentioned in paragraph (a)(i) or (ii);

and shall forthwith pay to the Treasurer any balance shown in that account.

- (2) Nothing in this section applies to a fee payable to a Jurat.

Salaries, wages and expenses.

24. (1) The salary of the Greffier and of every officer or servant of the Court, and all necessary expenses of administering justice in Alderney certified by the Greffier to have been incurred, shall be defrayed by the Treasurer out of the revenues of Alderney, without the necessity of an order, vote or resolution of the States.

- (2) The Treasurer shall -
 - (a) when the Policy and Finance Committee is preparing the statement referred to in section 58, produce for that Committee a statement of the moneys received by him under section 23 and the expenditure defrayed by him under this section since the preceding 31st day of December; and

- (b) when he publishes the statement referred to in section 59, publish with it a statement or an epitome of a statement of the moneys received by him under section 23 and the expenditure defrayed by him under this section during the previous calendar year.

Functions of the Greffier in succession to former offices.

25. (1) Without prejudice to any other functions of the Greffier, those functions include -

- (a) the functions other than those specified in section 15(a) which it was, immediately before 8th March 1949, the duty of the greffier to perform and which are not assigned by law to any other person,
- (b) the functions which it was, immediately before 8th March 1949, the duty of the Procureur du Roi to perform and which are not assigned by law to any other person,
- (c) the keeping of any records of a nature which would, immediately before 8th March 1949, have been kept by the douzaine and which are not required by law to be kept by any other person,
- (d) subject to subsection (2), the functions which were, immediately before 8th March 1949, exercisable by the sheriff and by the sergeant,
- (e) the functions assigned by law to the Clerk of the

Court, including, without limitation -

- (i) the functions of Land Registrar under the Alderney Land and Property, etc, Law, 1949^g,
 - (ii) the functions of Registrar under the Companies (Alderney) Law, 1994^h, and
 - (iii) the functions of the Clerk of the Court under the legislation for the time being in force relating to the registration of births, marriages and deaths, and
- (f) the functions assigned by law and by Standing Order or resolution of the States to the Clerk of the States in his capacity as Clerk of the States of Alderney when acting as a legislative assembly.

(2) The Greffier may arrange for any of his functions under subsection (l)(d) and (e) to be exercised under his general direction by such person and at such fee or remuneration as the Court may order.

(3) The provisions of this section are without prejudice to the provisions of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991ⁱ.

^g Ordres en Conseil Vol. XIV, p. 67.

^h Order in Council No. XXXIII of 1994.

PART III
THE PRESIDENT AND STATES OF ALDERNEY

Interpretation of Part III

Interpretation of Part III.

26. (1) In this Part of this Law -

"**ordinary election**" means an election for members of the States on a day appointed under section 28(1);

"**ordinary presidential election**" means an election for the President of the States on a day appointed under section 28(2);

"**by-election**" means an election to fill a casual vacancy among members of the States on a day appointed under section 28(3);

"**presidential by-election**" means an election to fill a casual vacancy in the office of President on a day appointed under section 28(4).

(2) In this Law the expression "**the law as to elections in Alderney**" means any provision relating to elections in Alderney whether contained in this Law, an Ordinance made under this Law or any other enactment in force in Alderney.

The States of Alderney

The States of Alderney.

i Order in Council No. XXI of 1991.

27. (1) The States of Alderney consist of 10 members and the President, each of whom shall be elected by secret ballot at an election held in accordance with this Law.

(2) The States are not incompetent to perform any function conferred on them by or under this Law or any other enactment by reason only of the existence of a vacancy among the members or in the office of President.

Elections for the President and members of the States

Times of elections.

28. (1) The States shall in the year 2004 and in every second year thereafter appoint a day, not earlier than the 14th November and not later than the 14th December in that year (or such other dates as the States may appoint by Ordinance) on which an ordinary election shall be held for the purpose of electing members of the States in place of the members whose terms of office expire in that year.

(2) The States shall in the year 2004 and in every fourth year thereafter appoint a day in November of that year, not less than 2 days before the last day on which, in accordance with an Ordinance made under section 31, nominations for the ordinary election in that year must be submitted to the Chief Executive, on which an ordinary presidential election shall be held for the purpose of electing a President of the States in place of the President whose term of office expires in that year.

(3) If a casual vacancy occurs among the members, the States shall appoint a day not later than 3 months after the vacancy occurs on which there shall be held a by-election, unless the vacancy occurs on or after the 1st July in the final year of office of the member whose office has become vacant, in which case

the vacancy shall remain unfilled until the next ordinary election.

(4) If a casual vacancy occurs in the office of President, the States shall appoint a day not later than 3 months after the vacancy occurs on which there shall be held a presidential by-election, unless the vacancy occurs more than 3 years and 6 months after the day of the preceding ordinary presidential election, in which case the vacancy shall remain unfilled until the next ordinary presidential election.

Returning officer.

29. (1) At an election held under this Law the Chief Executive shall be the returning officer.

(2) The returning officer shall do all things necessary for effectually conducting the election in accordance with the law as to elections in Alderney.

(3) A person is not subject to any incapacity to vote at an election by reason only of his being the returning officer at that election.

Result of election and equality of votes.

30. (1) Alderney is one constituency and at an ordinary election the returning officer shall, subject to subsection (3), declare to be elected as members of the States the 5 candidates who have respectively received the largest, and the second, third, fourth and fifth largest, number of votes.

(2) At a by-election, a presidential election or a presidential by-election the returning officer shall, subject to subsection (3), declare to be elected, as a member or as the President of the States as the case may be, the candidate who has received the largest number of votes.

(3) If at any election held under this Law the number of candidates is not greater than the number of vacancies to be filled, the returning officer shall, after the time fixed for the making of nominations has expired, declare to be elected each candidate who has consented to a nomination.

(4) If at any election held under this Law there is an equal number of votes for two or more candidates, the returning officer shall, by drawing lots, place those candidates in an order which, for the purpose of the election, shall be deemed to have been determined by the number of votes they have received.

Ordinances, absent voters, voting by proxy and destruction of papers.

31. (1) The States may by Ordinance -

- (a) prescribe the place at which and the hours during which polling is to take place;
- (b) regulate the polling and counting of votes at any election and confer powers on the returning officer to regulate the polling at any election;
- (c) prescribe the time at which, and the form and manner in which, a nomination is to be made and the manner of signifying consent to a nomination;
- (d) prescribe the form of the registers to be prepared under sections 34 and 35 and make provision as to the manner of their publication;
- (e) prescribe the manner in which a person may apply to

have his name inscribed in the register of electors and, subject to section 34(4), the manner in which a person may object to the inclusion or correction of a name or other entry in the register or to the exclusion of a name from the register;

- (f) provide that a contravention of the Ordinance is to be an offence punishable, on conviction, by a fine not exceeding level 4 on the Alderney uniform scale or less; and
- (g) regulate generally the conduct of elections in Alderney.

(2) The provisions of Schedule 1 have effect as respects absent voters, voting by proxy and destruction of papers.

Offences.

32. (1) A person who -

- (a) votes more than once at an election, whether in person or by post, or both in person and by post; or
- (b) makes an application or declaration under the law as to elections in Alderney which he knows to be false,

is guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

(2) An election is not invalidated by reason of the fact that a

person has been convicted of an offence under this section in relation to the election; but nothing in this subsection validates the election to the office of member or President of the States of a person who is not, at the time of the election, qualified to hold the office.

Franchise and registration of electors

Franchise and inclusion in register of electors.

33. (1) A person is entitled to vote at an election if on the date appointed for the election he is entitled to have his name inscribed, and his name is inscribed, in the register of electors then in force; but a person whose name is added to the register pursuant to section 34(2) is not entitled to vote at an election held on or before the 15th October of the year in which his name is so added.

(2) A person is eligible to be elected as a member or President of the States at an election held for that purpose if -

- (a) he is entitled under subsection (1) to vote at the election;
- (b) he has been ordinarily resident in Alderney throughout the 36 months immediately preceding the date appointed for the election;
- (c) he is not a Jurat; and
- (d) he has been nominated and has signified his consent to nomination in the form and manner prescribed by Ordinance under section 31.

(3) A person is entitled to have his name inscribed in the register of electors if -

- (a) he has attained, or will attain by the 15th October in the year in which he applies for his name to be inscribed, the age of 18 years;
- (b) he is not an alien;
- (c) he is ordinarily resident in Alderney;
- (d) he will have been ordinarily resident in Alderney throughout the 12 months immediately preceding the 15th October of the year in which he applies for his name to be inscribed;
- (e) he is not (age apart) subject to any legal disability; and
- (f) he has applied to have his name inscribed and has complied with all provisions in that regard prescribed by Ordinance under section 31.

Register of electors, amendments and challenges.

34. (1) The Chief Executive of the States shall, in 2005 and in each third year thereafter, by the 15th October of that year, prepare a register of electors containing the names and addresses of all persons entitled to have their names inscribed in it, and that register shall be the register of electors in force throughout the 36 months immediately following the 15th October of that year.

(2) The Chief Executive shall keep the register of electors under

review and shall -

- (a) add to the register the names of all persons who are entitled to have their names inscribed in it but whose names are not already inscribed;
- (b) delete from the register the names of any persons who, in the opinion of the Chief Executive, are not entitled to have their names inscribed in it; and
- (c) make such other corrections to the register as appear to him to be necessary.

(3) The register of electors is open for inspection at the States Office at all reasonable times.

(4) No challenge shall be made to the inclusion, correction or exclusion of a name in or from the register of electors unless made by petition to the Court on or before the 15th November next following the date on which the inclusion, correction or exclusion was first made; and if upon hearing such a petition the Court so directs, the Chief Executive shall forthwith amend the register of electors.

(5) For the purposes of any election, the register of electors is conclusive evidence that the persons whose names were at the time of the election inscribed in the register, and only those persons, were entitled to vote at that election, and an election is not invalidated by reason of the inclusion, correction or exclusion of a name in or from the register, whether or not the inclusion, exclusion or correction is challenged under subsection (4).

Register of absent voters.

35. The Chief Executive shall establish and maintain in accordance with the provisions of Schedule 1 a register of absent voters in a book kept solely for that purpose, which shall be in such form as the Chief Executive shall determine and which shall be open for inspection at the States Office at all reasonable times.

The President, Vice-President and members of the States

Oath of office.

36. (1) Subject to section 3(2), before entering on their respective offices the President shall take before the States, and each member of the States shall take before the President, an oath of office in such form as may be prescribed by Her Majesty by Order in Council.

(2) The oath of office shall be taken by a member or the President of the States after each occasion on which he is elected, notwithstanding that he may previously have held either of those offices.

Entry upon and tenure of office.

37. (1) Subject to subsection (3) and sections 36 and 38, if a member or the President of the States is elected at an ordinary election or at an ordinary presidential election, as the case may be, he shall come into office on, and shall hold office for a term of 4 years reckoned from, the 1st January next following the date on which he is elected.

(2) Subject to subsection (3) and section 38, if a member or the President of the States is elected at a by-election, or at a presidential by-election, as the case may be, he shall come into office as soon as he has complied with section 36(1), and shall hold office for the period for which the former member or President in whose place he has been elected would have held office.

(3) A person who, when elected as a member or as the President of the States, is a States employee shall not come into office while he continues to be a States employee.

(4) Nothing in this section precludes the election of an outgoing President or an outgoing member of the States for a further term of office.

Vacation and resignation of office

38. (1) A member of the States shall vacate his office if he -

- (a) ceases to have his ordinary residence in Alderney, or is absent from Alderney for a period longer than two consecutive months otherwise than by reason of illness or a cause approved by the States;
- (b) is elected President;
- (c) is appointed as a Jurat; or
- (d) becomes a States employee.

(2) The President shall vacate his office if he -

- (a) ceases to have his ordinary residence in Alderney, or is absent from Alderney for a period longer than two consecutive months otherwise than by reason of illness or a cause approved by the States;
- (b) is elected a member of the States;

- (c) is appointed as a Jurat; or
- (d) becomes a States employee.

(3) A person shall also vacate the office of member or President of the States in the event of his legal disability or insolvency; and for the purposes of this subsection a person is deemed to be insolvent -

- (a) if he has been declared to be insolvent pursuant to the provisions of the Law entitled "Loi ayant rapport aux Débiteurs et à la Renonciation" of 1929^j;
- (b) if a Commissioner or Committee of Creditors has been appointed under that Law to supervise or secure his estate;
- (c) if his affairs have been declared in a state of "désastre" by his arresting creditors at a meeting held before a Commissioner; or
- (d) if a preliminary vesting order has been made against him in respect of any of his real property in the Bailiwick.

(4) If to the knowledge of the Greffier a member of the States is or has become disqualified the Greffier shall so inform the President who shall, if

^j Ordres en Conseil Vol. VIII, p. 310.

satisfied that such is the case, declare the office of that member to be vacant, and no such declaration shall be challenged otherwise than by an appeal made to the Royal Court sitting as an Ordinary Court, as if the declaration were a decision of the Court in relation to a civil matter, within one month of the making of the declaration.

(5) Her Majesty's Procureur, if it appears to him that the President is or has become disqualified from acting as President, may move the Royal Court sitting as an Ordinary Court for a declaration that the office of President is vacant, and the Royal Court may so declare.

(6) An act of a person as a member or President of the States is not and has never been invalid by reason only of -

- (a) any lack of qualification on his part to be elected in accordance with section 33(2);
- (b) the existence of any circumstances requiring him to vacate his office in accordance with this section.

(7) Notwithstanding any other provision of this Law -

- (a) the President may at any time resign his office by letter addressed to the States and delivered to the Greffier; and
- (b) a member of the States may at any time resign his office by letter addressed to the President and delivered to the Greffier.

The Vice-President of the States.

39. (1) The States shall, each year at the annual meeting held in accordance with section 41(2), elect one of their members to be Vice-President of the States of Alderney, and the person so elected shall, unless he earlier ceases to be a member of the States or resigns the office of Vice-President by letter addressed to the States and delivered to the Greffier, hold office until the annual meeting of the States next after his election as Vice-President.

(2) If at any time the office of President is vacant or the President is not present or is incapable of performing the duties of his office, the Vice-President may discharge the functions of the office of President and shall for that purpose have all the powers conferred by law on the President.

(3) Nothing in this section precludes the election of an outgoing Vice-President for a further term of office.

Precedence and expenses of the President.

40. (1) The President has precedence in Alderney over all persons except -

- (a) a member of the Royal Family or a person who directly represents Her Majesty;
- (b) the Lieutenant Governor or a person whom the Lieutenant Governor has named to represent him;
- (c) the Bailiff.

(2) The States may resolve to place at the disposal of the President such annual, periodic or other sums as they consider appropriate to meet

expenditure incurred or to be incurred by the President in connection with the duties of his office, and such sums may be spent by the President at his discretion.

Meetings of the States and people's meetings

Ordinary and annual meetings.

41. (1) Every meeting of the States shall be convened by the President by the publication of a Billet d'État giving notice of the business to be transacted at the meeting, and a decision is not effective as a resolution of the States unless it is taken at a meeting of the States in accordance with this Law; but nothing in this Law prevents any members of the States from assembling at any time, with or without the President, to discuss any matter which they think fit to discuss.

(2) The first meeting of the States in every year shall be held as soon as practicable after the 1st January and shall be called the "**annual meeting**"; and at the annual meeting, before any other business is transacted, the States shall elect a Vice-President and appoint a qualified auditor.

(3) For the avoidance of doubt, and for the purposes of the laws of defamation, a statement made by a member of the States or by the President in the course of the proceedings of a meeting of the States or of any committee thereof enjoys qualified privilege.

(4) The Greffier shall attend every meeting of the States and act as clerk to the meeting.

People's meetings.

42. (1) Before every meeting of the States a meeting open to the public (a "**people's meeting**") shall be held for the purpose of informing those present of the business to be transacted at that meeting of the States and giving any

explanation required by the people's meeting.

(2) Only a member of the electorate may speak at a people's meeting.

(3) The people's meeting shall be called by a member of the States nominated by the President as convener of that meeting.

(4) The convener of the people's meeting -

(a) shall preside over and control the meeting,

(b) may require any person whose conduct at the meeting appears to the convener to be incompatible with an orderly meeting to leave the meeting, and

(c) may in the event of disorder adjourn and reconvene the meeting at his discretion.

(5) The Chief Executive shall attend the people's meeting and assist the convener.

(6) The members of the States and the President in exercising his casting vote are not bound to vote at a meeting of the States in accordance with any view expressed at a people's meeting.

(7) The expenses of calling and holding a people's meeting shall be defrayed as part of the expenses of the States.

Public attendance and participation at States meetings.

43. (1) All meetings of the States are open to the public.

(2) The person presiding over a meeting of the States has the same powers in relation to the meeting as are conferred on a convener by section 42(4) in relation to a people's meeting.

(3) At not less than two meetings in any year, which, unless the States by Ordinance otherwise determine or in a particular year otherwise resolve, shall be the meeting next after the annual meeting and a meeting in September, any person whose name is inscribed in the register of electors and who has complied with subsection (4) may bring personally before the States any matter of public interest which he requests shall be considered, and may address the States, not more than once except by special leave of the States, in support of his request.

(4) A person intending personally to bring any matter before the States under subsection (3) shall give to the Greffier at least 5 days' notice in writing containing full particulars of the matter of public interest which he requests shall be considered.

(5) Notice that subsection (3) applies to a meeting of the States shall be given -

(a) in the Billet d'État for that meeting, and

(b) orally, by the person presiding at the people's meeting held before that meeting.

(6) The order of speaking among persons personally bringing matters before a meeting of the States under subsection (3) shall be decided by the person presiding at that meeting.

(7) Nothing in this section confers on a person who addresses the States under subsection (3) any other right, privilege or immunity.

Chairmanship at meetings of the States, etc.

44. (1) At a meeting of the States the President or, if he is absent, the Vice-President or, if both the President and Vice-President are absent, such person as the States appoint in respect of that meeting, shall preside.

(2) At a meeting of the States the President may take part in discussion, but has no vote except a casting vote, to be exercised in the event of an equality of votes.

(3) A person other than the President presiding at a meeting of the States has both an original and a casting vote.

(4) The President or Vice-President, if appointed to a committee, shall not as such preside at a meeting of that committee, but the President may vote at a meeting of that committee.

Other rules of procedure.

45. (1) Subject to the provisions of this Law, the States may by resolution prescribe rules of procedure applicable to meetings of the States including, without limitation, rules governing the conduct of persons personally bringing matters before the States under section 43(3); and rules under this section may, in like manner, be suspended, varied or revoked.

(2) The quorum at a meeting of the States is 7 members in addition to the person presiding.

(3) Notwithstanding subsection (2), a decision is not effective as a resolution of the States to the extent that its implementation would require the amendment of any provision of this Law unless -

(a) it is taken at a meeting of the States at which there are present at least 9 members in addition to the person presiding, and

(b) at least 7 of the members present vote in favour of the resolution.

(4) If 4 members of the States sign a requête to the President to place any proposal before the States, the President shall within 2 months submit the requête to a meeting of the States together with any relevant documents which the 4 members consider necessary.

Matters for which Ordinances may provide.

46. (1) The States may make Ordinances for the good rule and government of, and for the prevention and suppression of nuisances in, the whole or any part of Alderney, including the territorial waters adjacent thereto.

(2) Without limitation, an Ordinance under this section may make provision for any of the matters specified in Schedule 2.

(3) An Ordinance under this section shall be read as subject to any Order in Council having force of law in Alderney and is void to the extent that it is repugnant to any such Order in Council.

(4) Subject to subsections (5) and (6), an Ordinance under this section shall not confer any right of entry onto private premises or authorise the

destruction of, or any interference with, private property.

(5) Notwithstanding subsection (4), an Ordinance made for any of the purposes set out in paragraphs (a), (b), (c), (d), (e), (g) (h) or (n) of Schedule 2 may empower an officer of police or an officer of the States authorised in that behalf to enter any premises, or any class of premises, and to carry out such inspections or examinations and do such other acts as are authorised by, and are necessary or expedient for the purposes of, the Ordinance.

(6) Notwithstanding subsection (4) -

(a) an Ordinance made for any of the purposes set out in paragraph (a) of Schedule 2 may empower the Court of Alderney to disqualify persons from ownership of animals or to order the destruction of any animal, and may -

(i) empower the States General Services Committee to require the isolation or slaughter or other disposal of any animal, the destruction of any animal carcass, milk or eggs and the cleaning or destruction of any premises, vehicle or article used in connection with any infected animal;

(ii) require persons to notify prescribed facts or to furnish information to the States General Services Committee or the States Veterinary Officer;

- (b) an Ordinance made for any of the purposes set out in paragraph (b) of Schedule 2 may empower the States General Services Committee to require the removal or destruction of any crop, seed, plant or part thereof, or any substance which has on it or is infected with a pest, or to or by means of which a pest is, in the opinion of that Committee, likely to spread;
- (c) an Ordinance made for any of the purposes set out in paragraphs (c) or (d) of Schedule 2 may empower the States General Services Committee to require the destruction of any fish, animal, carcass or meat which in the opinion of that Committee is infected, contaminated, decayed or stale;
- (d) an Ordinance made for any of the purposes set out in paragraphs (h), (j) or (k) of Schedule 2 may, without prejudice to sections 60 and 61 of the Building and Development Control (Alderney) Law, 2002^k, make provision for the entry into and the moving or removal of vessels or vehicles and for the harbour officer to prohibit the landing of any vessel;
- (e) an Ordinance made for any of the purposes set out in paragraph (l) of Schedule 2 may provide for an officer of police to give directions to persons using a highway;

^k Order in Council No. XII of 2003.

(f) an Ordinance made for any of the purposes set out in paragraph (n) of Schedule 2 may require persons to furnish prescribed information in connection with the census to which the Ordinance relates.

(7) Without prejudice to subsections (4) to (6), a power of entry conferred by an Ordinance under this section is not exercisable in relation to a private dwelling except under and in accordance with a warrant issued by the Chairman of the Court on information laid before him on oath.

(8) An Ordinance under this section may empower a committee to make regulations for the purposes of the Ordinance and to issue licences, approvals, permissions or directions in such manner and in such circumstances as the Ordinance may provide.

(9) An Ordinance under this section may provide that no liability shall be incurred -

(a) by the States or by any committee thereof;

(b) by the President; or

(c) by any member, officer or servant of the States or of any committee thereof or of the Court;

in respect of anything done or omitted to be done in the discharge or purported discharge of their respective functions, unless the thing is done or omitted to be done in bad faith.

(10) An Ordinance under this Law -

- (a) may be amended or repealed by a subsequent Ordinance hereunder,
- (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to the States to be necessary or expedient;
- (c) may make provision for its enforcement, including provision in relation to the creation, trial and punishment of offences, but shall not specify as the penalty or maximum penalty for an offence created by it a penalty greater than that which the Court of Alderney can impose by virtue of section 13(1).

(11) Any power conferred by this Law to make an Ordinance may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(12) An Ordinance under this Law may make provision for the purpose of dealing with matters arising out of or related to any matter in relation to which the Ordinance can make provision.

Establishment by Ordinance of Alderney Special Constabulary.

47. (1) There is established a special constabulary which shall be known as the "**Alderney Special Constabulary**" and the members of which shall be known as "**special constables**".

(2) The States may by Ordinance make provision in relation to the establishment and composition of the Alderney Special Constabulary and the powers and duties of special constables, including (without limitation) -

- (a) the nomination, appointment, resignation and removal from office of special constables;
- (b) the form of oath or affirmation to be taken by any person appointed as a special constable prior to entering on the functions of that office;

- (c) the functions of the office of special constable and the performance of those functions:

Provided always that a special constable may, subject to the provisions of any Ordinance under this section, be appointed with functions which are limited, whether by reference to their nature, the area in which they are to be performed or otherwise;

- (d) the training, discipline, direction and control of special constables;
- (e) the administration of the Alderney Special Constabulary;
- (f) the issue to special constables, and the recovery from them, of badges, uniforms and other equipment.

Validity of existing Ordinances, etc.

48. (1) An Ordinance made by the States between 1st January 1949 and the date of commencement of section 46 which could, after the commencement of that section, be made by the States under the powers conferred thereby is not and has never been invalid by reason only of a limitation on the powers of the States as they existed before the commencement of that section.

(2) Any regulation made by a committee and any other thing done by any person in the purported exercise or discharge of a function under an Ordinance described in subsection (1), being a function which could, after the commencement of section 46, be conferred by an Ordinance under section 46, is not and has never been invalid by reason only of a limitation of the powers of the

States as they existed before the commencement of section 46.

PART IV
COMMITTEES AND OFFICERS

Committees of the States

Appointment, duration, membership and quorum of committees.

49. (1) The States may appoint committees of the States, and may elect some or all of the members of the States and, subject to subsection (5), persons who are not members of the States, to be members of such committees.

(2) The States shall appoint under subsection (1) a committee of the States to perform (in addition to any other functions delegated to it by resolution) the functions conferred on the Policy and Finance Committee by or under this Law and any other enactment.

(3) A committee appointed under subsection (1) shall exercise the functions delegated to it by resolution of the States during such period not exceeding 3 years as the States by resolution determine.

(4) Subject to subsection (5), the States may at any time elect a person to a committee appointed under subsection (1) or, by resolution, remove a person from such a committee.

(5) The Policy and Finance Committee appointed under subsection (1) shall not include any person who is not a member of the States; and the majority of the members of any other committee shall be members of the States.

(6) The quorum at a meeting of a committee is 3 members or

such larger number of members as the States may, in respect of a particular committee, resolve.

(7) A person may at any time resign his membership of a committee by a letter addressed to the President of the States and delivered to the Chief Executive.

(8) A person who ceases to be a member of the States shall thereupon cease to be a member of any committee but without prejudice to the operation of subsection (4) in his case.

(9) The President shall for the purposes of this section be deemed to be a member of the States.

Chairmanship, etc, of committees.

50. (1) The chairman of a committee is such person as the States elect as chairman of that committee.

(2) A committee may appoint one of its members as deputy chairman of that committee.

(3) At a meeting of a committee the chairman or, if he is absent, the deputy chairman (if any) or, if both the chairman and deputy chairman are absent, such person as the committee appoints in respect of a particular meeting, shall preside.

(4) A person presiding at a meeting of a committee has an original and a casting vote.

Functions of committees.

51. (1) The States may, subject to subsection (3), delegate to a committee -

- (a) executive functions exercisable by the States;
- (b) to the extent permitted by section 46(8) or any Order in Council, and subject to subsection (6), legislative functions exercisable by the States.

(2) A delegation of functions under subsection (1) may be on such conditions as the States think fit including, without limitation, conditions restricting the power of the committee to act without prior approval of the States and conditions requiring that the committee's actions be reported to the States at specified times and in a specified manner.

(3) Nothing in this section empowers the States -

- (a) to delegate to any other committee the functions which are by this Law assigned to the Policy and Finance Committee appointed under section 49;
- (b) to delegate to any committee the functions of the States under section 58.

(4) A committee may not subdelegate any legislative functions.

(5) Except to the extent that the States may in a particular case authorise a committee to do so, a committee may not subdelegate any of its executive functions to a subcommittee without requiring that the prior approval of the committee be obtained to any action proposed to be taken by the subcommittee.

(6) Regulations made by a committee in exercise of a power delegated under subsection (1) shall be laid before a meeting of the States as soon as possible after being made; and if at that meeting or the next meeting the States resolve that the regulations be annulled, they shall cease to have effect but without prejudice to anything done under them or to the making of new regulations.

(7) The provisions of this section are without prejudice to the provisions of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991¹.

Officers of the States

The Chief Executive of the States.

52. (1) The States shall, with the approval of the Lieutenant Governor, appoint at a salary approved by the Lieutenant Governor a person to act generally as the Chief Executive of the States and to carry out under the general direction of the States the functions assigned to the Chief Executive by law and by Standing Order or resolution of the States.

(2) A person appointed as Chief Executive under subsection (1) shall not be removed from office without the approval of the Lieutenant Governor, and his salary shall not be reduced below that approved by the Lieutenant Governor.

(3) The Chief Executive shall be ordinarily resident in Alderney and shall devote his whole time to the functions of Chief Executive.

¹ Order in Council No. XXI of 1991.

(4) The Chief Executive shall, by virtue of his office, be the clerk of every committee.

(5) The functions of Chief Executive include the functions assigned to the Clerk of the States (other than functions as clerk of the States of Alderney when acting as a legislative assembly) by law and by Standing Order or resolution of the States.

Deputy or temporary Chief Executive of the States

53. (1) The States may appoint a Deputy or temporary Chief Executive of the States and may at any time revoke the appointment.

(2) If at any time the office of Chief Executive is vacant or the Chief Executive is absent from, or unable to perform the functions of, his office, a Deputy or temporary Chief Executive shall act in his place and, while so acting, shall have all functions assigned to the Chief Executive by law and by Standing Order or resolution of the States.

Treasurer of the States.

54. (1) The States shall, with the approval of the Lieutenant Governor, appoint at a salary approved by the Lieutenant Governor a person to act generally as Treasurer of the States and to carry out the functions assigned to the Treasurer by law and by Standing Order or resolution of the States.

(2) A person appointed as Treasurer under subsection (1) shall not be removed from office without the approval of the Lieutenant Governor, and his salary shall not be reduced below that approved by the Lieutenant Governor.

(3) The Treasurer shall be ordinarily resident in Alderney and

shall devote his whole time to the functions of Treasurer or, if he is also appointed as Deputy or temporary Chief Executive of the States, or if he is a person employed in the Guernsey public service, to those functions and his functions as a person so appointed or employed.

States Engineer and other appointments.

55. (1) The States shall appoint a person to act generally as States Engineer and to carry out the functions assigned to the States Engineer by law and by resolution of the States.

(2) The States Engineer shall be ordinarily resident in Alderney and shall devote his whole time to the functions of States Engineer.

(3) The States may make any other appointment which they think necessary or expedient for any purpose of the States.

(4) The States may at any time revoke an appointment made under this section.

PART V

PROPERTY, CONTRACTS AND FINANCIAL PROVISIONS

Property and contracts

Acquisition, management and disposal of property.

56. The Chief Executive of the States, as agent for the States, has all powers necessary -

- (a) to give a receipt for property acquired by or on behalf of the States, and not vested in a person as trustee for

or on behalf of the States, which receipt is sufficient acknowledgement of its receipt by the States;

(b) subject to any direction of the States, for the management and control of property vested in the States;

(c) for the disposal of property vested in the States of which the States have authorised him to dispose.

Contracts.

57. A contract made on behalf of the States shall be expressed to be made by the States but shall be signed by the Chief Executive of the States or such other person as the States may by Ordinance determine or by resolution in a particular case direct; and the signature of the Chief Executive or of such other person is *prima facie* evidence that the contract is the contract of the States.

Financial provisions

Annual budget.

58. (1) The Policy and Finance Committee shall, not later than the 30th September in each year, prepare with the assistance of the Treasurer a budget statement showing the estimated expenditure and estimated revenue of the States during that and the next calendar year.

(2) During October in each year the States shall -

(a) as soon as practicable, hold a meeting (the "**budget meeting**"); and

- (b) as soon as practicable thereafter, transmit to the Bailiff the budget statement prepared during that year under subsection (1).

Annual financial statement.

59. The Treasurer shall, not later than the 7th May (or such other date as the States may by Ordinance appoint) in each year, prepare and publish in Alderney a financial statement showing the revenue and expenditure of the States during the previous calendar year.

Preparation of accounts.

60. (1) Accounts shall be prepared in respect of each calendar year in such form as the States shall, subject to this section, resolve.

(2) The accounts shall be both revenue and capital accounts and shall include an account of monies received by and expended by or on behalf of the States.

(3) The Treasurer shall ensure that accounts are prepared and submitted to the auditor, as soon as practicable after the end of each calendar year, by every person who has, during that calendar year, received or expended money, or had the control or management of property, on behalf of the States.

Audit etc. of accounts.

61. (1) A person shall not be appointed under section 41(2) as auditor if he is a member of the States or if he holds any public office in Alderney other than that of special constable.

(2) The remuneration and necessary expenses of the auditor in connection with his functions under this section are a debt due to him from the

States as soon as he has completed the performance of those functions and shall be defrayed by the Treasurer out of the revenues of Alderney without the necessity of an order or vote or resolution of the States.

(3) The auditor shall audit the accounts prepared under section 60 and shall, as soon as possible after his audit is completed -

(a) submit a report to the Policy and Finance Committee;
and

(b) publish in Alderney an epitome of that report.

(4) The auditor shall draw attention in the report referred to in subsection (3) to any item of expenditure which appears to him not to be supported by legal authority.

(5) As soon as practicable after the submission to it of the report referred to in subsection (3) the Policy and Finance Committee shall submit the report to the States together with the accounts to which it relates and the Policy and Finance Committee's comments thereon.

PART VI

MISCELLANEOUS AND GENERAL

Interpretation.

62. (1) In this Law, unless the context requires otherwise -

"**absent voter**" means a person to whom Schedule 1 applies by virtue of paragraph 3 of that Schedule,

"**Alderney Appointments Board**" means the body constituted in accordance with section 20(3),

"**alien**" means a person who is an alien within the meaning of the law for the time being in force in the United Kingdom,

"**annual meeting**" means the first meeting of the States in every year held under section 41(2),

"**appoint**" means appoint by resolution,

"**auditor**" means the person for the time being appointed as auditor at an annual meeting,

"**Bailiff**" means the Bailiff of Guernsey,

"**budget meeting**" means the meeting of the States held each October under section 58(2)(a),

"**calendar year**" means a period of 12 months beginning on the 1st January,

"**Chairman**", in relation to the Court, means, except in sections 8(2) and 9(1), the person appointed or selected as Chairman of the Court under section 6(1); and in sections 8(2) and 9(1) "chairman" means the person selected to act as chairman for that sitting of the Court under section 6(2),

"**Chief Executive**" means the Chief Executive of the States appointed under section 52(1),

"**civil matters**" has the meaning given by section 11(1),

"**committee**" means a committee of the States appointed under section 49(1),

"**Court**", except in sections 5(b), 11(1)(a) and 64(1)(d), means the Court of Alderney constituted in accordance with Part II of this Law and, in those sections, means the Court of Alderney constituted in accordance with the Government of Alderney Law, 1987^m,

"**Deputy Greffier**" means a Deputy Greffier appointed under section 21(1),

"**election**" means an election held under this Law for the purpose of electing a member or members of the States or the President of the States,

"**full court**" has the meaning given by section 7(1),

"**Greffier**" means the Greffier appointed under section 20(1),

"**Guernsey police officer**" means a member of the salaried police force of the Island of Guernsey,

"**Harbour Officer**" means the person appointed by the States General Services Committee as the Harbour Officer of Braye Harbour and includes any person acting under the authority of the Harbour Officer,

^m Ordres en Conseil Vol. XXX, p. 37.

"Her Majesty's Procureur" includes Her Majesty's Comptroller,

"law as to elections in Alderney" has the meaning given by section 26(2),

"legal disability" means -

- (a) certification as a person of unsound mind,
- (b) subjection in the case of a person aged 18 years or over to guardianship,
- (c) being an in-patient for reasons of mental illness at a hospital or other institution, or
- (d) service of a sentence of imprisonment imposed in consequence of conviction of an offence,

"Lieutenant Governor" means His Excellency the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey and its Dependencies,

"meeting of the States" means any meeting convened in accordance with section 41, including the annual meeting and the budget meeting,

"officer of police" means a Guernsey police officer, a member of any police force established by the States of Alderney and a special constable,

"people's meeting" means a meeting open to the public held under

section 42 before every meeting of the States,

"Policy and Finance Committee" means the Policy and Finance Committee of the States appointed pursuant to section 49(2),

"premises" includes any land, building, vehicle, vessel and aircraft,

"President" means the President of the States,

"qualified auditor" means a person who is a member of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland or the Chartered Association of Certified Accountants, or who is recognised by the States as having similar qualifications obtained outside the United Kingdom,

"requête" means a written request,

"register of electors" means the register required to be prepared under section 34,

"regulations" includes orders, rules, schemes and other subordinate instruments of a legislative nature but does not include rules of court,

"robbery" means the offence under section 8 of the Theft (Bailiwick of Guernsey) Law, 1983¹,

"Royal Court" means the Royal Court of Guernsey,

"**rules of court**", in relation to rules made by the Royal Court, means rules of court made under section 17(1) and, in relation to rules made by the Court, means rules of court made under section 17(2),

"**Secretary of State**" means one of Her Majesty's Principal Secretaries of State,

"**special constable**" means a person appointed pursuant to an Ordinance under section 47 to be a special constable,

"**States**" means the States of Alderney,

"**States employee**" means a person employed by the States or by the States of Guernsey in such circumstances that the States or the States of Guernsey have a right to require that he devote the whole of his services to such employment during all the hours of work normally applicable thereto,

"**States Engineer**" means a person appointed to act as States Engineer under section 55(1),

"**States Veterinary Officer**" means a person nominated as the States Veterinary Officer by the States General Services Committee and includes any person acting under the authority of the States Veterinary Officer,

"**Treasurer**" means the person appointed to act as Treasurer of the States under section 54(1),

ⁿ No. I of 1983.

"vessel" includes a hovercraft, hydrofoil, sailboard, surf-board and any man-made structure at sea,

"Vice-President" means the Vice-President of the States elected under section 39.

(2) Unless the context requires otherwise, a reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(3) The Interpretation (Guernsey) Law, 1948^o applies to the interpretation of this Law.

(4) This Law repeals and re-enacts with modifications the Government of Alderney Law, 1987, as amended.

Repeals and general savings.

63. (1) The enactments specified in Schedule 3 are repealed.

(2) With prejudice to the general application of section 19 of the Interpretation (Guernsey) Law, 1948 (effect of repeal and re-enactment) -

(a) a reference, however expressed, in any enactment, regulation or rule of court to an enactment repealed by this Law shall, unless the contrary intention appears, be construed as a reference to the corresponding provision of this Law;

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

- (b) any document referring, expressly or by implication, to an enactment repealed by this Law shall, so far as may be necessary for preserving its effect, be construed as referring to the corresponding provision of this Law;
- (c) any Ordinance, rule of court or regulation made or other thing done under an enactment repealed by this Law, or having effect as if so made or done, which could have been made or done under a corresponding provision of this Law, shall have effect as if made or done under that corresponding provision; and
- (d) where any period of time specified in an enactment repealed by this Law is current at the commencement of this Law, and there is a corresponding provision in this Law, this Law shall have effect as if that corresponding provision had been in force when that period began to run.

Specific savings and transitional provisions.

64. (1) Without prejudice to the generality of section 63(2), a person who immediately before the commencement of this Law was, under an enactment repealed by this Law -

- (a) the President of the States;
- (b) the Vice-President of the States;

- (c) a member of the States;
- (d) the Chairman of the Court;
- (e) a Jurat;
- (f) the Clerk of the States, the Clerk of the Court, Treasurer, States Engineer or the holder of any other public office or appointment, including the office of special constable;

shall be deemed -

- (i) in the case of the Clerk of the States and the Clerk of the Court, to have been appointed as Chief Executive or as Greffier, as the case may be, (on the date on which he was in fact appointed as Clerk of the States or Clerk of the Court) under this Law,
- (ii) in any other case, to have been elected or appointed, as the case may be, (on the date on which he was in fact so elected or appointed) under this Law.

(2) Any legal proceedings commenced in Alderney before the date when Part II of this Law comes into force and continuing on that date may be continued before the Court constituted under Part II as if they had been commenced (on the date when they were in fact commenced) before the Court.

- (3) Nothing in this Law renders a person -
- (a) liable to prosecution under this Law in respect of an act or omission before the commencement of this Law; or
 - (b) liable to a penalty in respect of such an act or omission which is greater than any penalty which could have been imposed in that respect if this Law had not been passed.

(4) A reference in an enactment passed or document made before the commencement of this Law to the States of Alderney or to the Court of Alderney shall, unless the context requires otherwise, be construed after the commencement of this Law as including a reference to the States or the Court, as the case may be, constituted under this Law.

Citation.

65. This Law may be cited as the Government of Alderney Law, 2004.

Commencement.

66. This Law shall come into force on the date appointed by Ordinance of the States, and different dates may be appointed for different provisions of this Law and for different purposes.

SCHEDULE 1

Sections 31(2) and 35

ABSENT VOTERS, VOTING BY PROXY & DESTRUCTION OF PAPERS

PART I

ABSENT VOTERS

Interpretation

1. In this Schedule, except where the context otherwise requires -

"**absent voter**" means a person to whom this Schedule applies by virtue of paragraph 3;

"**ballot paper envelope**" had the meaning given by paragraph 6(c);

"**covering envelope**" has the meaning given by paragraph 6(d);

"**register of absent voters**" means the register required to be established and maintained under section 35 of this Law;

"**registration number**" means, in relation to any absent voter and as respects any election, the number inscribed in the register of absent voters against the name of that voter in respect of that election under paragraph 5.

Postal voting by absent voters

2. A person who is entitled to vote at an election may vote by post in accordance with this Schedule if he is a person to whom this Schedule applies.

Absent voters

3. This Schedule applies, as respects any election, to a person who -
- (a) is blind;
 - (b) will probably be out of Alderney at the time of the election; or
 - (c) is suffering from a physical defect or disability by reason of which he is incapable of attending at the place at which polling is to take place.

Application for registration as absent voter

4. A person who, as respects any election, is an absent voter and who wishes to vote by post shall, not less than two days before the day of the election, apply to the Chief Executive to have his name inscribed in the register of absent voters; and the application shall be made in writing in such form as the Chief Executive shall determine.

Registration of absent voters

5. (1) Where, upon application being made to him in accordance with paragraph 4, the Chief Executive is satisfied that the applicant is an absent voter as respects the election to which the application relates and that the name of the applicant is inscribed in the register of electors in force for the date appointed for the election, the Chief Executive shall inscribe in the register of absent voters, in a separate section thereof relating solely to that election -

- (a) the name and usual address of the applicant;
- (b) the address of the applicant to which the documents referred to in paragraph 6 are to be sent in accordance with that paragraph in any case where the address is different from the usual address of the applicant;
- (c) against the name of the applicant, a number (the "**registration number**") which is personal to the applicant.

(2) The numbers appearing in the same section of the register of absent voters under subparagraph (1) shall be consecutive.

Issue of postal ballot papers etc.

6. The Chief Executive shall, as soon as practicable before the day of the election, deliver personally or send by post to every absent voter whose name is inscribed in the register of absent voters in respect of that election -

- (a) a ballot paper in the same form as, and indistinguishable from, the ballot papers delivered to voters who are not absent voters;
- (b) a form of declaration of identity in such form as the Chief Executive shall determine;
- (c) an envelope marked "BALLOT PAPER ENVELOPE" (the "**ballot paper envelope**"); and

- (d) an envelope addressed to the Chief Executive (the "**covering envelope**").

Marking of documents by Chief Executive of the States

7. (1) The registration number of an absent voter shall be inscribed by the Chief Executive on the counterfoil of the ballot paper issued to the absent voter under paragraph 6; and the Chief Executive shall mark the entry relating to the absent voter in the register of absent voters so as to indicate that a ballot paper has been so issued, but without disclosing the number of that ballot paper.

(2) The number of a ballot paper issued to an absent voter under paragraph 6 shall be inscribed by the Chief Executive on the form of declaration identity and on the ballot paper envelope issued to the voter, and the registration number of the voter shall be inscribed by the Chief Executive on the covering envelope issued to the voter.

Marking of ballot paper by absent voter etc.

8. An absent voter to whom a ballot paper has been issued under paragraph 6 shall -

- (a) mark the ballot paper in accordance with the provisions of the law regulating the procedure for secret ballot;
- (b) after so marking the ballot paper, place and seal it in the ballot paper envelope issued to him;

- (c) complete the form of declaration of identity issued to him and place and seal it and the ballot paper envelope in the covering envelope issued to him; and
- (d) deliver personally or send by post the covering envelope, with the ballot paper envelope and form of declaration of identity duly sealed inside it, to the Chief Executive so as to reach him no later than the day before the day of the election.

Placing of ballot paper envelopes into ballot box

9. Subject to paragraph 10(1), the Chief Executive shall, as soon as may be after the opening of the poll at an election, and in the presence of a Jurat -

- (a) open each covering envelope sent to him by an absent voter at that election under paragraph 8;
- (b) place the ballot paper envelope contained in the covering envelope unopened in the ballot box provided for the purposes of the election;

and, on the completion of the counting of the votes cast at the election, shall place and seal all the covering envelopes and forms of declaration of identity in a packet kept solely for the purpose.

Rejected votes

10. (1) In any case where, at an election -

- (a) the covering envelope, or an envelope purporting to be the covering envelope, issued to an absent voter does not have inscribed on it the registration number of that absent voter for that election;
- (b) the covering envelope does not contain separately both the ballot paper envelope and the form of declaration of identity;
- (c) the covering envelope contains more than one form of declaration of identity or more than one ballot paper envelope;
- (d) the form of declaration of identity has not been duly completed;
- (e) the number inscribed on the form of declaration of identity and on the ballot paper envelope contained in the same covering envelope are not the same; or
- (f) the number inscribed on the form of declaration of identity or on the ballot paper envelope contained in the same covering envelope is not the same as the number of the ballot paper issued for that election to the absent voter who signed that form,

the Chief Executive shall, with the assent of a Jurat, endorse the covering envelope or envelope purporting to be the covering envelope, as the case may be, with the words "VOTE REJECTED", and the endorsement shall be authenticated by the signature of that Jurat.

(2) Upon the endorsement under subparagraph (1) of an envelope at an election, the Chief Executive shall place it, with the contents thereof attached to it, in a packet kept solely for the purpose and, on the completion of the counting of the votes cast at the election, shall seal the packet.

(3) Where a ballot paper envelope contains more than one ballot paper, those ballot papers are null and void.

(4) Where the number inscribed on the ballot paper envelope is not the same as the number inscribed on the ballot paper contained in the envelope, the ballot paper is null and void.

Destruction of sealed packets

11. The Chief Executive may, with the permission of a Jurat, and not before the expiration of 90 days following the day of an election, destroy the sealed packets referred to in paragraphs 9 and 10(2).

PART II
VOTING BY PROXY

Proxy voting at elections.

12. (1) A person entitled to vote at an election may, subject to the following provisions of this Schedule and any administrative arrangements made under paragraph 15, appoint a person as his proxy to cast his vote at that election.

(2) A person shall not appoint more than one person as his proxy at an election.

(3) A person shall not appoint another person as his proxy at an election if that other is a minor or person under legal disability.

(4) A person may not act as proxy at an election if he is a minor or person under legal disability.

(5) A person may not act as proxy at an election for more than two electors of whom that person is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

Appointment of proxies.

13. (1) A proxy shall be appointed by notice in writing given to the Chief Executive not less than two working days before the day of the election; and a "working day" means a day on which office hours fall.

(2) A person who appoints a proxy -

(a) may not rescind the appointment;

(b) shall not himself cast a vote at the election in question.

(3) Where a person appoints a proxy and, before the election, dies or otherwise ceases to be entitled to vote, the proxy shall not cast that person's vote.

(4) A person may only appoint a proxy where he makes a declaration to the Chief Executive that -

(a) he will be absent from the island on the day of the election; or

- (b) he is suffering from illness, injury or infirmity by reason of which, to the best of his belief, he will be unable to vote in person at the election.

- (5) A notice of appointment under subparagraph (1) -
 - (a) shall contain the declaration referred to in subparagraph (4);
 - (b) shall be in such form, and shall contain such information (in addition to the said declaration), as the Chief Executive may direct; and
 - (c) shall be signed by the person entitled to vote and by the proxy.

Issue of proxy authority.

14. (1) The Chief Executive shall, upon receipt of a notice of appointment under paragraph 13(1) and upon being satisfied that the provisions of this Schedule and of any administrative arrangements made under paragraph 15 are complied with, issue the proxy with a proxy authority.

(2) A person to whom a proxy authority is issued may cast the vote of the person who appointed him in all respects as if he were that person.

(3) A person to whom a proxy authority is issued shall be deemed to be an elector for the purposes of sections 8, 10 and 11 of the States of Alderney Election Procedure Ordinance, 1987.

(4) For the removal of doubt, a person to whom a proxy authority is issued may, if himself entitled to vote, also cast his own vote.

(5) A proxy authority is, without prejudice to the provisions of paragraph 16, conclusive evidence that the proxy, and only the proxy, is entitled to cast the vote of the person who appointed him at the election in question; and, notwithstanding the commission of an offence under paragraph 16, or any contravention of the States of Alderney Election Procedure Ordinance, 1987 or of any administrative arrangements made under paragraph 15, an election is not invalidated by reason of the proxy having cast the vote of that person.

Administrative arrangements.

15. The Chief Executive may make such administrative arrangements as he thinks fit for the implementation and administration of this Part of this Schedule.

Offences.

16. A person who -

- (a) contravenes paragraph 12(2), (4) or (5) or paragraph 13(2)(b);
- (b) without reasonable excuse, contravenes paragraph 12(3) or paragraph 13(3); or
- (c) in making a declaration under paragraph 13(4) or in providing any other information to the Chief Executive in connection with the appointment of a proxy or otherwise for the purposes of paragraphs 12 to 15 -

- (i) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular;
 - (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular;
 - (iii) produces or furnishes or causes or permits to be produced or furnished any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular; or
 - (iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular;
- (d) by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment, provision or other gift or consideration whatsoever to or for any person -

- (i) for the purpose of influencing that person or any other person to appoint or to refrain from appointing a person as proxy; or
- (ii) on account of that person or any other person having appointed or refrained from appointing, or being about to appoint or to refrain from appointing, a person as proxy;

is guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding 3 months, to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

Interpretation of provisions relating to proxy voting.

17. In paragraphs 12 to 16, unless the context requires otherwise -

"**proxy**" means a person appointed as proxy in accordance with the provisions of those paragraphs and of any administrative arrangements made under paragraph 15 to cast the vote of another person at an election;

"**proxy authority**" means a proxy authority issued by the Chief Executive under paragraph 14(1).

PART III

DESTRUCTION OF BALLOT PAPERS

18. The Chief Executive may, with the permission of a Jurat, and not before the expiration of 90 days following the day of an election, destroy all ballot papers relating to that election.

PART IV
POWER TO AMEND SCHEDULE I BY ORDINANCE

- 19.** The States may by Ordinance amend the provisions of this Schedule.

SCHEDULE 2

Section 46

MATTERS FOR WHICH ORDINANCES MAY PROVIDE

The matters referred to in section 46(2) as matters for which, without limitation, an Ordinance under that section may make provision are -

- (a) matters relating to wild or tame animals, including birds, fish, reptiles and insects, and in particular -
 - (i) the protection of animals against cruelty or suffering;
 - (ii) preventing or controlling the introduction or spread of contagious diseases of animals;
 - (iii) prohibiting or regulating the importation, exportation, sale, supply, keeping or use of animals or animal semen;
 - (iv) prohibiting or controlling the killing, taking or injuring of animals or interference with eggs or nests of wild birds;
 - (v) preventing or suppressing nuisance caused by animals and regulating the conduct of animals and of owners or persons in charge of animals.
 - (vi) all matters in relation to the disposal or destruction of the carcasses of animals;

- (b) the protection and health of plants, trees and bushes, and in particular the prevention or control of the introduction or spread of pests, including any insects, bacteria fungi or other vegetable or animal organisms, viruses or other agents causative of any transmissible disease of agricultural or horticultural crops or of trees or bushes;
- (c) prohibition or regulation of the taking, possession or sale of fish, including shellfish;
- (d) control and regulation of the slaughter of animals for their meat and the sale, supply and possession for sale or supply of animal carcasses and of meat;
- (e) prohibition or regulation of the burning of growing vegetation, the dropping of litter and the dumping, abandoning or burning of any article or substance;
- (f) prohibition or regulation of the use of any instrument or device for the creation or amplification of sound;
- (g) control and regulation of the sale or supply of intoxicating liquor;
- (h) control of the navigation, mooring, anchoring and use of any vessel and regulation of the conduct of persons on or in connection with any vessel;

- (i) regulation of the entry of persons to and the conduct of persons within or in the vicinity of Alderney Airport and Braye Harbour;
- (j) regulation of the use of vessels for the carrying of passengers for hire or reward or as hired vessels including the licensing of such vessels and of persons in charge of them and the revocation or suspension of licences and variation of the conditions of licences;
- (k) regulation of the use of motor vehicles for the carriage of passengers for hire or reward or as hired motor vehicles, including the licensing of such vehicles and of their drivers and the revocation or suspension of licences and variation of the conditions of licences, and the regulation of the provision and use of bicycles as hired bicycles;
- (l) prohibition, restriction or regulation of the use of any part of a public highway for all or any purposes, at all or otherwise than subject to prescribed conditions, by any person or class of persons or by any vehicle or class of vehicles, and all matters in relation to the repair, maintenance and improvement of public highways and signs thereon;
- (m) regulation and control of interferences with public highways, the foreshore and other public places, and in particular -

- (i) prohibition of the excavation, damaging or obstruction of any public highway or public place or the deposit of any article or substance on or the causing of any danger on or near a public highway or public place;
- (ii) the lopping of cutting of any hedge, tree or shrub overhanging a public highway or public place and the removal of any barbed wire fence from, and the protection of persons using a public highway or public place from any source of danger on, any land adjoining a public highway or public place;
- (iii) the imposition of requirements in relation to public highways and public places on owners and occupiers of adjoining premises;
- (n) the holding and conduct of any census, and the information to be given by persons present in Alderney at the time of the census;
- (o) prescribing days which are to be public holidays;
- (p) prescribing the legal currency and denominations of the legal currency so, however, that that currency and those denominations shall be the same in Alderney as in the United Kingdom; and prescribing the notes and coins the tender of which is legal tender of the payment of money;

- (q) the matters for which the States may, by virtue of any provision of this Law, by Ordinance provide, and such other matters for which the States consider it necessary or expedient to provide for the purpose of implementing this Law.

SCHEDULE 3

Section 63(1)

ENACTMENTS REPEALED

PART I

LAWS

1. The Government of Alderney Law, 1987^p.
2. The Government of Alderney (Amendment) Law, 1988^q.
3. The Government of Alderney (Amendment) Law, 1989^r.
4. The Government of Alderney (Amendment) Law, 1993^s.
5. The Government of Alderney (Amendment) Law, 1995^t.
6. The Government of Alderney (Amendment) Law, 1996^u.
7. The Government of Alderney (Amendment) Law, 1998^v.
8. The Government of Alderney (Amendment) Law, 2000^w.

PART II

ORDINANCES

1. Sections 11A to 11G of the States of Alderney Election Procedure

^p Ordres en Conseil Vol. XXX, p. 37.

^q Ordres en Conseil Vol. XXXI, pp. 83.

^r Ordres en Conseil Vol. XXXI, p. 306.

^s Order in Council No. XI of 1993.

^t Order in Council No. IX of 1995.

^u Order in Council No. IV of 1996.

^v Order in Council No. IV of 1998.

^w Order in Council No. I of 2000.

Ordinance, 1987 (as inserted by the States of Alderney Election Procedure (Amendment) Ordinance, 2000)^x.

2. The States Committees and States Engineer (Transfer of Functions) (Alderney) Ordinance, 1999^y.
3. The States of Alderney Election Procedure (Amendment) Ordinance, 2000^z.

^x Ordinance No. V of 1987.

^y Ordinance No. VI of 1999.

^z Ordinance No. XII of 2000.