

## **THE PRISON (GUERNSEY) (AMENDMENT) ORDINANCE, 2016**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Prison (Guernsey) (Amendment) Ordinance, 2016", 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 Prison (Guernsey) Ordinance, 2013 ("the principal Ordinance").

Clause 2 of the Ordinance substitutes subsection (1) of section 17 of the principal Ordinance with a new subsection (1) that provides for the Committee for Home Affairs ("the Committee") to appoint members of the Independent Monitoring Panel ("the Panel"), subject to confirmation by the States of Deliberation.

Clauses 3(a) and (b) of the Ordinance amend paragraph 1 of Schedule 3 to the principal Ordinance to reflect this new method of appointing members of the Panel. Clause 3(c) omits paragraph 1(6)(b) of Schedule 3, which previously prevented any employee of the States from being appointed a Panel member.

Clause 3(d) inserts new subparagraphs (7) and (8) at the end of paragraph 1 of Schedule 3 to the principal Ordinance. The new subparagraph (7) provides that an appointment by the Committee lapses at the end of the calendar year in which the appointment is made, unless confirmed by the States of Deliberation. The new subparagraph (8) provides that if the States of Deliberation repudiates an appointment to the Panel at any time, the appointment terminates immediately.

Clause 4 of the Ordinance is the interpretation clause. Clause 5 of the Ordinance saves existing appointments of the Chairman and other members of the Panel. Clauses 6 and 7 are the citation and commencement clauses respectively.

The Ordinance will come into force on the 3<sup>rd</sup> November, 2016.



## **The Prison (Guernsey) (Amendment) Ordinance, 2016**

**THE STATES**, in pursuance of their Resolution of the 29<sup>th</sup> September, 2015<sup>a</sup> and in exercise of the powers conferred on them by sections 6, 7 and 8 of the Prison (Enabling Provisions) (Guernsey) Law, 2010<sup>b</sup>, hereby order:-

### **Amendment of the Ordinance of 2013.**

1. The Prison (Guernsey) Ordinance, 2013<sup>c</sup> is amended as follows.
2. For section 17(1) of that Ordinance, substitute the following subsection –

"(1) The Committee must appoint the Chairman and other members of a panel to be known as the Independent Monitoring Panel, subject to confirmation by the States in accordance with Schedule 3."

3. In paragraph 1 of Schedule 3 to that Ordinance –
  - (a) in subparagraph (2), for "nominating a person to the States for appointment", substitute "appointing a person",
  - (b) in subparagraph (4), for "States", substitute "Committee",
  - (c) in subparagraph (6), omit item (b), and

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<sup>a</sup> Article XIX of Billet d'État No. XVI (Vol. 2) of 2015.

<sup>b</sup> Order in Council No. XIII of 2012.

<sup>c</sup> Ordinance No. XXIX of 2013; as amended by Ordinances No. XXVII of 2015 and No. IX of 2016.

- (d) immediately after subparagraph (6), insert the following subparagraphs –

"(7) If any appointment made by the Committee to the Panel is not confirmed by the States before the end of the calendar year in which the appointment is made, that appointment lapses at the end of that calendar year.

(8) If an appointment made by the Committee to the Panel is repudiated by the States at any time, the appointment is terminated immediately."

**Interpretation.**

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

**Savings.**

5. On the commencement of this Ordinance, the persons who were the Chairman and other members of the Panel (as defined in section 55(1) of the Prison (Guernsey) Ordinance, 2013) immediately before the commencement of this Ordinance are deemed to have been duly appointed and confirmed as the Chairman and other members of that panel in accordance with the Prison (Guernsey) Ordinance, 2013 as amended by this Ordinance.

**Citation.**

6. This Ordinance may be cited as the Prison (Guernsey) (Amendment) Ordinance, 2016.

**Commencement.**

7. This Ordinance shall come into force on the 3<sup>rd</sup> November, 2016.