

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE POSTAL VOTING (AMENDMENT) ORDINANCE, 2020

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Postal Voting (Amendment) Ordinance, 2020", 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 provisions of the Reform (Amendment) (Guernsey) Law, 1972 ("the 1972 Law") relating to postal voting, so as to –

- reflect changes to the Reform (Guernsey) Law, 1948 made by the Reform (Guernsey) (Amendment) (No. 2) Law, 2019 to provide for Island-Wide Voting (for example, the move to one electoral district);
- provide at inserted section 5(2) that for the 2020 general election, applications for a postal vote have to be made by 5th June;
- provide at inserted section 7A for the Registrar-General to have power to re-issue, and cancel issued, postal ballot voting packs in certain circumstances;
- create a power at inserted section 15B (subject to a requirement to consult the Registrar-General) for the States Assembly & Constitution Committee to make regulations modifying the application of certain sections of the 1972 Law for the purpose of facilitating the potential introduction of automated processes in the administration of postal voting in this or subsequent elections;
- make changes consequential on other changes made by the Reform (Guernsey) (Amendment) (No. 2) Law, 2019; and
- make several other minor changes for administrative ease and flexibility.

The Postal Voting (Amendment) Ordinance, 2020

THE STATES, in pursuance of their Resolutions of the 25th April, 2019^a and 12th December, 2019^b, and in exercise of the powers conferred on them by section 15A of the Reform (Amendment) Guernsey Law, 1972^c, and all other powers enabling them in that behalf, hereby order:-

Amendment of the 1972 Law.

1. The Reform (Amendment) Guernsey Law, 1972 is amended as follows.
2. In section 4, in subsection (1) delete "in a book kept solely for the purpose", and delete subsection (2).
3. In section 5 –
 - (a) renumber the text subsection (1),
 - (b) at the start of subsection (1) insert "Subject to subsection (2),",
 - (c) in subsection (1), for "the date appointed for the holding of

^a Articles II and III of Billet d'État No. VII of 2019.

^b Article XIII of Billet d'État No. XXIV of 2019.

^c Ordres en Conseil Vol. XXIII, p. 476; as amended by Vol. XXVI, p. 255; Vol. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, p. 295; No XIII of 2003; No. VII of 2010; Ordinance No. III of 2004; No. LI of 2006; the Reform (Guernsey) (Amendment) (No. 2) Law, 2019.

that election" substitute "the first day on which votes may be cast at a polling station at that election", and

(d) after subsection (1), insert –

"(2) An absent voter who is desirous of voting by post at the general election to be held in June 2020 must apply to the Registrar-General on or before 5th June 2020 on such form as the Registrar-General may from time to time prescribe to have his name entered in the Register."

4. For section 6, substitute –

"Entry on Register by Registrar-General.

6. Upon receipt of an application under section 5, the Registrar-General shall, if he is satisfied that the applicant is an absent voter, enter the name and address of the absent voter in the Register, and against such entry the Registrar-General shall enter a number personal to that absent voter for the election concerned; the names entered in the Register under this section shall be numbered consecutively throughout the Register."

5. After section 7, insert –

"Registrar-General power to reissue and cancel postal ballot packs.

7A. (1) For the avoidance of doubt, the Registrar-General may provide the absent voter with another set of the documents referred to in section 7(1) in circumstances where the Registrar-General is satisfied that –

(a) the documents previously sent to the absent voter were not received by the voter, have been

lost by the voter, or have been damaged such that they cannot be used, or

- (b) the absent voter otherwise needs to be provided with another set of those documents to be able to vote, and it would not threaten the integrity of the election so to provide them.

(2) Before providing the absent voter with another set of documents under subsection (1), the Registrar-General must ensure that procedures are in place to render null and of no effect the documents previously sent to the absent voter, and otherwise to protect the integrity of the election.

(3) For the avoidance of doubt, the Registrar-General may render null and of no effect documents sent to the absent voter under section 7(1) (or subsection (1)) without sending that voter another set of such documents in circumstances where the Registrar-General is satisfied that –

- (a) it is necessary to do so for the purposes of protecting the integrity of the election, and
- (b) he is not preventing a voter who is desirous of voting at an election from so doing."

6. In section 8, for "the last preceding section" substitute "section 7 or section 7A".

7. In section 9, delete "letter and", and for "section seven" substitute

"section 7 or section 7A".

8. In section 10, for "section seven" substitute "section 7 or section 7A", and delete "and the letter of the Electoral District entered against the name of the absent voter in the Register".

9. In section 11, in the section heading for "Returning Officer" substitute "Central Returning Officer", and for "each Returning Officer a copy of the section of the Register for his Electoral District and", substitute "the Central Returning Officer a copy of the Register".

10. In section 12, at the end of the section heading insert "or Polling Station Officer", for "section seven" substitute "section 7 or section 7A", for "the provisions of the law from time to time regulating the procedure for Secret Ballot" substitute "the relevant provisions of the Principal Law", and at the end insert ", or returned to a Polling Station Officer at a polling station before the close of the poll".

11. In section 13 –

- (a) in the section heading, for "Returning Officer" substitute "Central Returning Officer",
- (b) renumber the text subsection (1),
- (c) in subsection (1), for "the Returning Officer of the Electoral District indicated by the letter on the envelope", substitute "the Central Returning Officer", and for "prior to the close of the poll on the date appointed for the holding of the election" substitute "prior to the commencement of the vote count", and

(d) after subsection (1), insert –

"(2) A Polling Station Officer shall, on receipt of a pre-paid envelope returned to him under the provisions of the last preceding section, cause that pre-paid envelope to be delivered unopened to the Central Returning Officer so as to reach him prior to the commencement of the vote count."

12. For section 14, substitute –

"Recording of vote of absent voter.

14. (1) The Central Returning Officer shall, no earlier than the day appointed for the holding of the election, cause a pre-paid envelope sent to him under the provisions of section 13(1) or 13(2) above to be opened in the presence of one or more scrutineers appointed by him under the provisions of Article 37 of the principal Law and, after satisfying himself that the number on the form of declaration of identity coincides with the number on the envelope marked "BALLOT PAPER ENVELOPE" and that the form of declaration of identity has been duly completed, he shall place the envelope marked "BALLOT PAPER ENVELOPE" unopened in a ballot box used solely for that purpose and retain the form of declaration of identity and the pre-paid envelope with the Register sent to him as aforesaid save that if the said numbers do not coincide as aforesaid, the Central Returning Officer shall endorse the form of declaration of identity with the words "VOTE REJECTED" and place the envelope marked "BALLOT PAPER ENVELOPE" and the form of declaration of identity and the pre-paid envelope in a container used solely for that purpose.

(2) At the conclusion of the process set out in subsection (1), the Central Returning Officer shall seal in a separate package used solely for that purpose the forms of declaration of identity and the pre-paid envelopes and the copy of the Register, and in a separate package any form of declaration of identity endorsed with the words "VOTE REJECTED" together with the "BALLOT PAPER ENVELOPE" and pre-paid envelope relating thereto.

(3) On the completion of the counting of the votes in pursuance of Article 38 of the principal Law the Central Returning Officer shall seal, in a package used solely for that purpose, the ballot paper envelopes taken from the ballot box in which the unopened ballot paper envelopes were placed."

13. In section 15 wherever it appears, for "the Returning Officer" substitute "the Central Returning Officer", and in section 15(1) delete "three".

14. After 15A insert –

"Regulations as to postal voting.

15B. (1) Subject to subsections (2) and (3), for the purpose of facilitating the introduction of an automated, partially automated or otherwise more efficient system for preparing, collating and sending documents to absent voters under this Law, the States' Assembly & Constitution Committee may by regulations make such provision as it thinks fit to modify any of sections 7, 9, 10 and 14 as they apply in respect of any election to the office of People's Deputy specified in the regulations.

(2) The States' Assembly & Constitution Committee may

only make regulations under this section if it is satisfied that such regulations would not threaten the integrity of the election in question.

(3) The States' Assembly & Constitution Committee must consult the Registrar-General before making regulations under this section.

(4) Regulations under this section –

(a) may contain incidental, consequential, supplementary and transitional provisions,

(b) may be amended or repealed by subsequent regulations hereunder, and

(c) shall be laid as soon as possible before a meeting of the States and shall, if at that or their next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations under this section."

15. In section 18, delete the definition of "the law from time to time regulating the procedure for Secret Ballot".

Citation.

16. This Ordinance may be cited as the Postal Voting (Amendment) Ordinance, 2020.