



**XXV  
2012**

# **BILLET D'ÉTAT**

**WEDNESDAY 12th DECEMBER 2012**

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*Statutory Instrument laid before the States*

The Land Planning and Development (Fees) (Amendment) Regulations, 2012

# ***B I L L E T D ' É T A T***

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## **TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY**

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I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **12<sup>th</sup> DECEMBER, 2012**, at 9.30am, to consider the items contained in this Billet d'État which have been submitted for debate.

**R. J. COLLAS**  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey  
2 November 2012

**PROJET DE LOI**

entitled

**THE AIR NAVIGATION (BAILIWICK OF GUERNSEY) LAW, 2012**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Projet de Loi entitled “The Air Navigation (Bailiwick of Guernsey) Law, 2012” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**PROJET DE LOI**

entitled

**THE AVIATION (AMENDMENT) (BAILIWICK OF GUERNSEY) LAW, 2012**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Projet de Loi entitled “The Aviation (Bailiwick of Guernsey) (Amendment) Law, 2012” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE ROAD TRAFFIC (COMPULSORY THIRD PARTY INSURANCE)  
(AMENDMENT) (GUERNSEY) ORDINANCE, 2012**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Road Traffic (Compulsory Third Party Insurance) (Amendment) (Guernsey) Ordinance, 2012”, and to direct that the same shall have effect as an Ordinance of the States.

**THE OFFENCES (FIXED PENALTIES) (GUERNSEY) LAW, 2009  
(AMENDMENT) ORDINANCE, 2012**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled “The Offences (Fixed Penalties) (Guernsey) Law, 2009 (Amendment) Ordinance, 2012”, and to direct that the same shall have effect as an Ordinance of the States.

**THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENTS WITH  
ITALY AND LATVIA) ORDINANCE, 2012**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Guernsey) (Approval of Agreements with Italy and Latvia) Ordinance, 2012”, and to direct that the same shall have effect as an Ordinance of the States.

## POLICY COUNCIL

### APPOINTMENT OF LEGAL AID ADMINISTRATOR

#### 1. Executive Summary

- 1.1 The Policy Council is recommending to the States the appointment of Mrs Hayley Elizabeth Cooper to the office of the Legal Aid Administrator, for a period of 5 years in accordance with Section 2 of the Legal Aid (Bailiwick of Guernsey) Law, 2003.

#### 2. Background

- 2.1 On 25<sup>th</sup> July 2001 the States resolved to approve that a comprehensive system for the provision of civil and criminal legal aid be established in Guernsey to satisfy the Island's obligations under the European Convention on Human Rights and the International Covenant on Civil and Political Rights.
- 2.2 On the basis of that States Resolution, the Legal Aid (Bailiwick of Guernsey) Law, 2003 ("the Law") was approved by the States on 1<sup>st</sup> August 2001 and came into force on 28<sup>th</sup> September 2005.
- 2.3 The Guernsey Legal Aid Service came into being on 1<sup>st</sup> September 2001, at first offering assistance in criminal matters only. In January 2002, its scope was extended to cover civil matters. It was recognised from the outset that it would take some time to develop this new and potentially complex service, to establish and refine procedures, set up an office, negotiate arrangements with the Guernsey Bar and in particular to take account of constantly evolving legislation which would have an impact on the service. Accordingly, it was decided to operate the scheme for civil and criminal legal aid under the current extra-statutory basis known as the "Interim Scheme".
- 2.4 The Interim Scheme provides access to free or reduced cost legal advice in criminal and civil cases for individual members of the public who could not otherwise afford an advocate. It operates in three main areas and is only available for legal assistance within the Bailiwick of Guernsey, comprising: the **Duty Advocate Scheme**: providing free legal advice 24 hours a day to a person who is detained or who voluntarily attends at the police station or offices of the Border Agency; "**Green Form**" Assistance, which usually provides up to two hours of advice and assistance on a means-tested basis and which can also include the preparation of a case or a legal document and representation at court; **Full Legal Aid** covering more prolonged and /or complex court cases and this is both means and merit tested.
- 2.5 The Policy Council considers it necessary and desirable to now complete the process of establishing a statutory legal aid scheme or schemes to operate on substantially the same basis as the existing arrangements. A key element to this is the appointment of a statutory official to the independent post of Legal Aid Administrator under Section 2 of the 2003 Law.

2.6 The relevant Ordinance placing Legal Aid on a statutory footing has now been prepared in draft by the Law Officers and will be submitted for approval by the States in early 2013. It is proposed that the Ordinance will contain a variety of provisions, including those enabling the Policy Council or (mindful that responsibility for Legal Aid which currently forms part of the Policy Council Mandate could be transferred elsewhere in the future) any Department of the States which is responsible for legal aid to require the Administrator, when administering any statutory scheme, to have regard to general policies and act in accordance with specific directions notified to the Administrator by the Policy Council or whichever Department may subsequently be mandated in respect of Legal Aid. These provisions are intended to provide a balance between the independent discharge of the Administrator's duties (which is a statutory requirement under section 8(2) of the Law) and the need to ensure an appropriate and effective measure of control over the scope and cost of any statutory scheme and enable formal guidance and direction to be given to the Administrator, in order that the office holder can prioritise and manage accordingly. Recommendation 5 (1) (b) below has been included to cover the interim period between Mrs Cooper's appointment and the relevant Ordinance coming into force.

### **3. Policy Council's recommendation for the Appointment of Legal Aid Administrator**

3.1. Mrs Hayley Cooper, admitted as a solicitor in England and Wales in 1985, has been in post as the non statutory Legal Aid Administrator under the Interim Scheme since 2004. Since taking over this role from her predecessor Advocate Dr. N Le Poidevin, Mrs. Cooper has been instrumental in the development of the Guernsey Legal Aid Service.

3.2 The Policy Council wishes to take the opportunity to thank Advocate Dr. N Le Poidevin for all his work in the early stages of the Legal Aid provision in Guernsey.

3.3 Mrs Cooper has amassed years of experience dealing with Legal Aid in Guernsey and prior to this specialised in legally aided civil and criminal litigation in private practice in England. Her curriculum vitae is appended to this States Report. Her current duties are wide and varying, ranging from administrative responsibilities to the determination of complex issues and this breadth has provided her with a broad oversight of what providing Legal Aid entails.

3.4 Her current role encompasses all aspects within the life of a legal aid certificate granted under the Full Legal Aid scheme and indeed all matters connected with legal aid in the Bailiwick including review and grant of all legal aid certificates, and deciding if the financial and legal merits criteria are met for both civil and criminal legal aid for Guernsey, Alderney and Sark. These functions include paying and evaluation, assessment and payment of advocates' accounts, general administration, advising applicants, interacting with, inter alia, with police, court officials, advocates, civil servants and lawyers from other Jurisdictions. She reviews, revises and issues notification on any changes to the interim scheme and any documentation as required. She reviews all debts to legal aid and

institutes proceedings again as required. She also advises on financial matters pertaining to legal aid including budgetary and audit issues. She supervises two assistant administrators and the Deputy Administrator and all other administrative matters connected with the running of the legal aid office. She researches, reviews and advises Policy Council and other departments as required on developments which affect the Legal Aid Service including new legislation. These duties will continue after her appointment.

3.5 Following detailed discussions with Mrs. Cooper, the Policy Council is now in a position to recommend to the States her formal appointment under Section 2 of the 2003 Law.

3.6 The Policy Council therefore proposes that Mrs. Cooper is appointed to the office of Legal Aid Administrator for a period of five years, with effect from 1 January 2013.

#### **4. Principles of Good Governance**

4.1 The Policy Council believes that the proposals in this report comply with the relevant principles of good governance as defined by the UK Independent Commission on Good Governance in Public Services (Billet d'État IV of 2011).

#### **5. Recommendation**

5.1 The Policy Council recommends the States:

(a) to appoint Mrs. Hayley Elizabeth Cooper to the office of Legal Aid Administrator, for a period of 5 years, with effect from 1<sup>st</sup> January 2013 pursuant to Section 2(2) of the Legal Aid (Bailiwick of Guernsey) Law, 2003; and

(b) to authorise the Policy Council to issue written guidance or directions to the Legal Aid Administrator, which the office holder shall have regard to, or act in accordance with, as described in paragraph 2.5 of this Report.

Deputy P A Harwood  
Chief Minister

15<sup>th</sup> October 2012

Deputy J P Le Tocq  
Deputy Chief Minister

Deputy G A St Pier  
Deputy R Domaille  
Deputy D B Jones  
Deputy R W Sillars  
Deputy P A Luxon

Deputy A H Langlois  
Deputy K A Stewart  
Deputy A H Adam  
Deputy M G O'Hara

**HAYLEY ELIZABETH COOPER**

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**PROFESSIONAL QUALIFICATIONS:**

**Oct 1985**      **Solicitor of the Supreme Court of England and Wales**

**EMPLOYMENT:**

**1983-1991**      **Messrs. Sewell Mullings and Logie, Solicitors**

**7 Dollar Street, Cirencester, Glos. England**

Trainee solicitor and assistant solicitor with experience in all aspects of general practice, specialising in legally aided civil and criminal litigation.

**July 1993**      **The Law Society**

Assessor marking papers in consumer law for Law Society Final Examinations.

**May 2000-**      **FJ Haskins and Co Advocates. College Chambers, St Peter Port,**  
**Feb 2002**      **Guernsey**

Legal assistant in matrimonial and family law (part time)

**May 2002-**      **Guernsey College of Further Education, Route des Coutanchez, St**  
**Feb 2004**      **Peter Port, Guernsey**

Examinations invigilator (part time).

**Nov 2003-**      **Specsavers Optical Group Limited, La Villiaze, St Andrews,**  
**Feb 2004**      **Guernsey**

Legal administrator in business development and business transfer. (part time temporary contract).

**Aug 2004**      **The States of Guernsey**  
**to date**

Legal Aid Administrator under the interim scheme, undertaking the management and administration of the interim legal aid scheme and assisting in the development of the Statutory Scheme.

**FURTHER EDUCATION:**

**1978-1981**      **University of Birmingham LLB (Hons)**

**1982-1983**      **Solicitors Final Examinations, College of Law, Guildford**



**(NB As there are no resource implications identified in this report, the Treasury and Resources Department has no comments to make.)**

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 15<sup>th</sup> October, 2012, of the Policy Council, they are of the opinion:

1. To appoint Mrs. Hayley Elizabeth Cooper to the office of Legal Aid Administrator, for a period of 5 years, with effect from 1 January 2013 pursuant to Section 2(2) of the Legal Aid (Bailiwick of Guernsey) Law, 2003.
2. To authorise the Policy Council to issue written guidance or directions to the Legal Aid Administrator, which the office holder shall have regard to, or act in accordance with, as described in paragraph 2.5 of this Report.

**TREASURY AND RESOURCES DEPARTMENT****RULES FOR PAYMENTS TO STATES MEMBERS, FORMER STATES MEMBERS AND  
NON-STATES MEMBERS OF STATES DEPARTMENTS AND COMMITTEES**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

2<sup>nd</sup> October 2012

Dear Sir

**1. Executive Summary**

In January 2012, following consideration of the Policy Council's Report on the Review of States Members and Non-States Members Pay, the States directed the Treasury and Resources Department to present to the States of Deliberation for approval the necessary amendments to the Rules for payments to States Members and Non-States Members of States Departments and Committees.

This Report seeks States approval of the revised Rules which are attached as Appendix I.

The Department has delayed submission of this Report until the States decision on the requête seeking to freeze States Members pay until 30 April 2016 was known.

**2. Background**

On 28 February 2008 the States resolved that the remuneration of States Members and non-States Members should again be subject to independent review prior to the 2012 General Election.

Accordingly in early 2011 the Policy Council established an Independent Review Board and a Report was submitted for consideration at the January 2012 States meeting.

As the Report recommended fairly significant changes to the way in which States Members are remunerated, particularly the closure of the pension scheme, it was agreed that the revised rules for payments should be submitted to the States for formal approval.

The resolutions approved by the States in respect of States Members pay on 27 January 2012 are set out below:

1. That the basic Remuneration and Expenses allowance paid to States Members and Non-States Members of Departments and Committees with effect from 1 May 2012 shall remain in force until 30 April 2016, subject to annual review and adjustment in accordance with changes in Guernsey median earnings.

2. That the Remuneration and Expenses allowance to be paid to States Members and Non-States Members of Departments and Committees with effect from 1 May 2012 shall be as follows:

States Members Remuneration	£32,155
Deputy Minister and Vice-Chairman Remuneration	£34,550
Chairman Remuneration	£37,570
Minister Remuneration	£44,350
Deputy Chief Minister Remuneration	£46,450
Chief Minister Remuneration	£58,520
Alderney Representative Remuneration	£10,050
Alderney Representative Remuneration with Departmental/Committee seat	£13,965

\* social security uplift to be deducted for those aged 65 and over.

Tax free Expenses allowances:

States Members Expenses allowance (other than the Chief Minister)	£2,000
Chief Minister's Expenses Allowance	£3,000
Alderney Representatives Expenses Allowance	£1,000
Non-States Members allowance per half-day attendance	£65

- 2.A To direct the Policy Council to publish as soon as practicable in an Appendix to a Billet d'État the total remuneration received during the preceding calendar year by each States Member in respect of his or her performance of States business.
3. That the existing States Members' pension scheme be closed for service for current or new States Members with effect from 30 April 2012 and Members and former States Members be provided with the additional option to transfer accrued benefits in respect of all service into alternative pension arrangements, on terms to be advised by the States Actuary.
- 3.A To direct the Treasury and Resources Department to present to the States of Deliberation for approval the necessary amendments to the Rules for payments to States Members, Former States Members and Non-States Members of States Departments and Committees to give effect to their above decisions.
4. To direct the Treasury and Resources Department to develop a detailed policy specifying the IT equipment and software that should be made available to States Members including the provision of secure email; such policy to be based upon the principles established by the Independent Panel.
5. to direct the Policy Council to set up an independent review of the Remuneration and Expenses allowance to be paid to States Members and Non-States Members of Departments and Committees which shall report in advance of the 2016 General Election.

On 27 September 2012 the States rejected the requête that sought to keep the remuneration of States Members at the current rate until 30 April 2016.

### 3. Revised Rules

The revised Rules for payments to States Members and Non-States Members of States Departments and Committees have been amended in line with the above decisions and are attached as Appendix I. They include the changes required to the States Members Pension Scheme Rules, following the decision to close it with effect from 30 April 2012 and allow States Members and Former States Members to transfer accrued benefits into alternative pension schemes.

In compiling the revised Rules the Department noted that there were two issues, both concerning the remuneration of Alderney Representatives, where the intentions of the States were not clear and therefore open to interpretation. The Department is also recommending that it publishes the annual report detailing individual States Members remuneration rather than the Policy Council. The details are set out below.

#### Alternative Alderney Representatives

In respect of Alternative Alderney Representatives attending States meetings, the Independent Review Board had stated in its report (paragraph 6.46) *'The Board considers that if an Alderney Representative is unable to attend a meeting in Guernsey and that another person attends in his or her stead, that other person should be remunerated according to the rate for the remuneration of Non-States Members'*. However, no States Resolution was made to that effect.

Prior to May 2008 Alderney Representatives and Alternative Representatives were entitled to claim the same allowance for attending States meetings as Non-States Members attending Department/Committee meetings. However, from May 2008 Alderney Representatives were entitled to claim basic and expenses allowances but no provision was made for any payments to an Alternative Representative.

The Department concurs with the Independent Review Board's recommendation on this matter and the attached revised Rules therefore make provision for an Alternative Alderney Representative to claim an allowance of £65 per half-day for attendance at meetings of the States of Deliberation.

#### Alderney Representatives

In January 2012 the States agreed that an Alderney Representative (under 65) would be entitled to £10,050 or £13,965 if [s]he had a seat on a Department or Committee. However, the States Report did not make it clear what should happen if an Alderney Representative was elected to a position of additional responsibility such as Minister of a Department. The Independent Review Board did not cover this possibility in its report but it did imply that it supported the view of the 2007 Review Board that Alderney Representatives Allowance *'cannot include the constituency work and extra involvement expected of Guernsey Deputies'*.

If an Alderney Representative is elected to a position such as Minister his/her workload will increase quite considerably and there is clearly a case for the remuneration available to be higher than if [s]he just held a seat on a Department/Committee. However, it also appears to be accepted that the workload of an Alderney Representative in other areas is less than that of a Guernsey Deputy.

In the Independent Review Panel's report the difference in remuneration between a Guernsey Deputy with no additional responsibilities and an Alderney Representative with a seat on a Department/Committee, before the uplifts for pension and social security, is £13,385. Therefore, if an Alderney Representative is elected to a position of additional responsibility the Department believes it would be appropriate for the maximum allowance claimable to be reduced by this amount. The revised Rules have been compiled on this basis.

#### Annual Publication of Individual States Members remuneration

Following an amendment from Deputy Lowe the States agreed '*to direct the Policy Council to publish as soon as practicable in an Appendix to a Billet d'État the total remuneration received during the preceding calendar year by each States Member in respect of his or her performance of States business*'.

In order to fulfil its obligations under the resolution, the Policy Council would first need to obtain the relevant data from the Treasury. The matter has been discussed with the Policy Council and it is considered appropriate for the Treasury and Resources Department to take responsibility for publishing this information, possibly as part of the annual Accounts. The revised Rules incorporate this change.

#### **4. Annual Review of Remuneration and Expenses payable to States Members and Non-States Members**

As agreed by the States in January 2012, States Members and Non-States Members of Departments and Committees remuneration and expenses will be subject to annual review and adjustment in accordance with changes in Guernsey median earnings.

It will be around the end of March before Policy Council staff can finalise the calculation of the change in median earnings. Once the figure is known the Treasury and Resources Department will adjust the various allowances and arrange for the revised amounts to be paid from 1 May each year. This is in line with the date that increases in States Members pay have previously been applied and is the same date that pensions paid to former States Members are reviewed annually.

The adjusted rates will automatically be paid to all States Members who are claiming allowances unless they notify the Treasury and Resources Department in writing that they do not wish to receive any increase.

#### **5. Principles of Good Governance**

In preparing this Report, the Department has been mindful of the States Resolution to adopt the six core principles of good governance as defined by the UK Independent Commission on Good Governance in Public Services (Billet d'Etat IV of 2011). The Department believes that the proposal in this Report comply with those principles.

## **6. Recommendation**

The Treasury and Resources Department therefore recommends the States:

- i. To approve the revised Rules for Payments to States Members, Former States Members and Non-States Members attached as Appendix I to this Report.

Yours faithfully

Deputy G A St Pier  
Minister

Deputy J Kuttelwascher, Deputy Minister  
Deputy G M Collins  
Deputy M H Dorey  
Deputy A Spruce

**APPENDIX I****INDEX**

Rules for Payments to States Members	I
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**SECTION I****RULES FOR PAYMENTS TO STATES MEMBERS***Definition of States Members*

1. For the purpose of this section of the Rules a States Member means any People's Deputy or Alderney Representative in the States of Deliberation (but not an alternative Representative elected or appointed under the States of Guernsey (Representation) Law, 1978).

*Remuneration*

2. Subject to the conditions set out in paragraph 4 below the following remuneration is available to States members:

**People's Deputies**

	Basic Remuneration	** Uplift for Social Security	Total
Chief Minister	£56,000	£2,520	£58,520
Deputy Chief Minister	£44,450	£2,000	£46,450
Ministers	£42,450	£1,900	£44,350
Chairmen*	£35,950	£1,620	£37,570
Deputy Ministers and Vice- Chairmen*	£33,060	£1,490	£34,550
All other Members	£30,770	£1,385	£32,155

\* Standing committees only – not special States committees

\*\* The uplift for Social Security (i.e. the difference between the contribution rates of employed and self-employed persons) is not payable to Members aged 65 and over

**Alderney Representatives**

	Basic Remuneration	** Uplift for Social Security	Total
Chief Minister	£37,115	£1,670	£38,785
Deputy Chief Minister	£25,565	£1,150	£26,715
Ministers	£23,565	£1,060	£24,625
Chairmen*	£17,865	£800	£18,665
Deputy Ministers and Vice-Chairmen*	£15,365	£690	£16,055
Alderney Representatives with seat on a Department or Committee*	£ 13,365	£ 600	£13,965
Alderney Representatives without a seat on Department or Committee*	£9,615	£ 435	10,050
* Standing committees only – not special States committees ** The uplift for Social Security (i.e. the difference between the contribution rates of employed and self-employed persons) is not payable to Members aged 65 and over			

3. Subject to the conditions set out in paragraph 4 below the following allowances are available to States members:

	Allowance
Chief Minister	£3,000
Alderney Representatives	£1,000
All other Members	£2,000

**Conditions**

4. (i) The Remuneration and Allowances specified in paragraphs 2 and 3 above shall be payable by monthly instalments in arrears.
- (ii) The Remuneration and Allowances specified in paragraphs 2 and 3 above shall be payable following application in writing to the Minister of the States Treasury and Resources Department in the year of election and thereafter during May in the year of each General Election. In the case of new Members and Members newly elected to positions of special responsibility as specified in the table in paragraph 2, and Alderney Representatives newly elected to Departments, Committees or positions of special responsibility, application should be made before the end of the month



following the month in which election took place. Claims submitted after the time limits specified above will be back-dated only to the first day of the month in which application is made. No retrospective payments shall otherwise be made.

- (iii) For the avoidance of doubt, following a General Election, Members elected to a position of special responsibility or an Alderney Representative elected to a Department or Committee shall be entitled to claim the additional allowance for that position with effect from 1<sup>st</sup> May in that year.
- (iv) The Remuneration and Allowance shall terminate on the last day of the month in which a Member ceases to hold a seat in the States of Deliberation.
- (v) The higher level of remuneration payable to an Alderney Representative by virtue of the holding of a seat on a Department, Committee or position of special responsibility shall terminate on the last day of the month in which the Alderney Representative ceases to hold a seat on any Department or Committee or position of special responsibility.
- (vi) The additional Allowances payable to the Chief Minister, Deputy Chief Minister, Ministers, Chairmen, Deputy Ministers, Vice-Chairmen and Alderney Representatives with a seat on a Department or Committee shall terminate on the last day of the month in which a member ceases to hold the position in respect of which that Allowance is payable.
- (vii) The expense allowance paid under paragraph 3 in any calendar year shall be free of tax.

## **SECTION II**

### **RULES FOR PAYMENTS TO MEMBERS OF STATES DEPARTMENTS, COMMITTEES AND NON-GOVERNMENTAL BODIES WHO ARE NOT MEMBERS OF THE STATES and to ALTERNATIVE ALDERNEY REPRESENTATIVES**

- 1. (a) Any member of a States Department, Committee or Non-Governmental Body, or properly constituted Sub-Committee thereof who is not a member of the States shall be entitled upon application to the Minister of the States Treasury and Resources Department to be awarded in respect of his attendance at:
  - (i) a properly convened meeting of a States Department, Committee or Non-Governmental Body;
  - (ii) a properly convened meeting of a properly constituted Sub-Committee of a States Department, Committee or Non-Governmental Body;
  - (iii) a conference or other meeting attended as the duly authorised representative of a States Department, Committee or Non-Governmental Body or Sub-Committee thereof

- (b) Any Alternative Alderney Representative shall be entitled upon application to the Minister of the States Treasury and Resources Department to be awarded in respect of his attendance at a properly convened meeting of the States of Deliberation which he has been appointed to attend, pursuant to section 4 of the States of Guernsey (Representation of Alderney) Law, 1978

an attendance allowance not exceeding £65 per half-day or part thereof, which sum shall be subject to tax.

Provided that:

- (a) not more than one allowance shall be awarded in respect of meetings attended in any one half day;
- (b) where there is no adjournment of a meeting for the purpose of taking a mid-day meal an allowance shall be payable in respect of one half-day only.
2. Applications for an allowance payable under the provisions of paragraph 1 above should be made to the Minister of the Treasury and Resources Department in respect of meetings attended in the three month periods ending on the last day of March, the last day of June, the last day of September and the last day of December. Applications should be received by the Minister not later than the last day of the month next following the period in respect of which the application is made. Alternatively, claims may be made in respect of meetings attended in each calendar month, in which case applications should be received not later than the last day of the month next following the above three month period in which the month falls. Applications received after the time limits specified above shall not be granted.
3. Payments under this section shall be available to members of the States Members' Conduct Panel.<sup>1</sup>

### SECTION III

#### **RULES FOR PAYMENT OF PENSIONS TO FORMER STATES MEMBERS, THEIR SURVIVING SPOUSES AND DEPENDENT CHILDREN**

##### *Definition of Former States Members*

1. For the purpose of this Scheme a Former States Member means any Conseiller, any Deputy (excluding representatives of the States of Alderney) and any Douzaine Representative in the States of Deliberation, who:
- (i) no longer has a seat in the States of Deliberation, and
- (ii) has in the aggregate held a seat in the States of Deliberation for a period of four years or more, and
- (iii) (a) has attained the age of 65 years, or

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<sup>1</sup> Paragraph 3 inserted by Resolution of the States of 28<sup>th</sup> September, 2006.

- (b) has died before attaining the age of 65 years.

***Pension***

2. Subject to the conditions set out in rule 5 and in accordance with the rates of payment set out in Schedule 1 to these Rules:

**(A) Former States Members who ceased to hold office on or before 31<sup>st</sup> December, 1989 (Non-contributory Scheme)**

- (a) Former States Members who ceased to be Members of the States on or before the 31<sup>st</sup> December, 1989, shall be entitled to claim a pension of Rate D per week for each year of service in the States of Deliberation;
- (b) where sub-paragraph 1 (iii) (a) applies, the surviving spouse of a Former States Member shall be entitled to claim a pension equal to fifty per centum of the sum which would have been payable to the Former States Member, subject to such pension ceasing in the event of a subsequent remarriage;
- (c) where sub-paragraph 1 (iii) (b) applies, the surviving spouse of a Former States Member shall be entitled to claim a pension amounting to Rate E per week for each year of service of the Former States Member, subject to such pension ceasing in the event of a subsequent remarriage;
- (d) where there is no surviving spouse but there is a dependent child the pension referred to in sub-paragraphs (b) and (c) of this rule shall be payable to such person as the Department may determine on behalf of that dependent child (and, if more than one, in equal shares) subject to that pension ceasing when that child is no longer a dependent.

**(B) Former States Members who ceased to hold office on or before 30<sup>th</sup> April, 2004 (1<sup>st</sup> January, 1990 up to and including 30<sup>th</sup> April, 2004 Contributory Scheme)**

- (a) Former States Members who ceased to be Members of the States on or before 30<sup>th</sup> April, 2004, shall be entitled:
- (i) in respect of service up to and including the 31<sup>st</sup> December, 1989, to a pension of Rate D per week for each year of service in the States of Deliberation; and
- (ii) in respect of service from 1<sup>st</sup> January, 1990, unless they opt out in accordance with the rules of the Scheme, to a pension of Rate B per week for each year of service in the States of Deliberation;
- (b) where sub-paragraph 1(iii)(a) applies, the surviving spouse of a Former States Member shall be entitled to a pension equal to fifty per centum of the sum which would have been payable to the Former States Member, subject to such pension ceasing in the event of a subsequent re-marriage;
- (c) where sub-paragraph 1 (iii)(b) applies, the surviving spouse of a Former States Member shall be entitled to a pension amounting to Rate E per week for each year

of service of the Former States Member prior to 31<sup>st</sup> December, 1989, and Rate D per week for each year of service of the Former States Member after 1st January, 1990, subject to such pension ceasing in the event of a subsequent re-marriage;

- (d) where there is no surviving spouse but there is a dependent child the pension referred to in sub-paragraphs (b) and (c) of this rule shall be payable to such person as the Department may determine on behalf of that dependent child (and, if more than one, in equal shares) subject to that pension ceasing when that child is no longer a dependent.

**(C) Other Members (1<sup>st</sup> May 2004 up to and including 30<sup>th</sup> April, 2012 Contributory Scheme)**

- (a) Members of the States who become Former States Members on or after 1<sup>st</sup> May, 2004, shall be entitled

- (i) in respect of service up to and including the 31<sup>st</sup> December, 1989, to a pension of Rate D per week for each year of service in the States of Deliberation;

- (ii) in respect of service from 1<sup>st</sup> January, 1990 up to and including 30<sup>th</sup> April, 2004, unless they opt out in accordance with the rules of the Scheme, to a pension of Rate B per week for each year of service in the States of Deliberation; and

- (iii) in respect of service from 1<sup>st</sup> May, 2004 up to and including 30<sup>th</sup> April 2012, unless they opted out in accordance with the rules of the Scheme, to a pension of Rate A per week for each year of service in the States of Deliberation;

- (b) where sub-paragraph 1(iii)(a) applies, the surviving spouse of a Former States Member shall be entitled to a pension equal to fifty per centum of the sum which would have been payable to the Former States Member, subject to such pension ceasing in the event of a subsequent re-marriage;

- (c) where sub-paragraph 1 (iii)(b) applies, the surviving spouse of a Former States Member shall be entitled to a pension amounting to Rate E per week for each year of service of the Former States Member prior to 31<sup>st</sup> December, 1989, Rate D per week for each year of service of the Former States Member from 1<sup>st</sup> January, 1990 up to and including 30<sup>th</sup> April, 2004 and Rate C per week for each year of service of the Former States Member from 1<sup>st</sup> May, 2004 up to and including 30<sup>th</sup> April 2012, subject to such pension ceasing in the event of a subsequent re-marriage;

- (d) where there is no surviving spouse but there is a dependent child the pension referred to in sub-paragraphs (b) and (c) of this rule shall be payable to such person as the Department may determine on behalf of that dependent child (and, if more than one, in equal shares) subject to that pension ceasing when that child is no longer a dependent.

***Pension Fund***

3. There shall be a fund entitled the "States Members Pension Fund".

- (a) There shall be paid into the Fund -
  - (i) contributions from the States Members up to and including 30<sup>th</sup> April 2012;
  - (ii) contributions from the States of Guernsey, of such amounts as the Department may from time to time resolve.
- (b) There shall be paid out of the Fund -
  - (i) pensions in accordance with these Rules;
  - (ii) refunds of contributions in accordance with these Rules;
  - (iii) transfers of accrued benefits in accordance with these Rules;
  - (iv) investment and professional fees and other expenses of investment.
- (c) The Fund shall be invested by the Department in a similar manner to the assets of the fund authorised under the States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972 as amended.
- (d) The Department shall appoint an actuary and arrange for actuarial reviews to be effected from time to time.

### ***Repayments and transfers of benefits***

4.

- (a) Any Member who has contributed to the Fund but who does not qualify for a Pension in accordance with these rules or who opts out in accordance with the rules of the Scheme shall be entitled to repayment of the aforementioned contributions together with compound interest thereon at the rate of three per centum per annum with yearly rests at the 31<sup>st</sup> December in each year.
- (b) Any Member who has contributed to the Fund shall be entitled to transfer accrued benefits in respect of all service into alternative pension arrangements, on terms to be advised by the States Actuary.

### ***Conditions***

5

- (a) Pensions to Former States Members who ceased to be Members of the States on or before the 31<sup>st</sup> December, 1989, shall be payable following application in writing to the Minister of the Department and claims will be back-dated only to the first day of the month in which the application is made. No retrospective payments shall otherwise be made.
- (b) Pensions to Members of the States who become Former States Members on or after the 1<sup>st</sup> January, 1990, shall be paid without application.
- (c) The pension specified in paragraph 2 above shall be payable by monthly instalments in arrears.
- (d) Any amount specified in rule 2 may be varied by resolution of the Department in accordance with section V.
- (e) A Member of the States may opt out of the 1<sup>st</sup> January, 1990 to 30<sup>th</sup> April, 2004 Contributory Scheme by notifying the Department in writing accordingly, and if he does so then:

- (i) no pension shall be payable under rule 2(B) in respect of his service from 1<sup>st</sup> January 1990 up to and including 30<sup>th</sup> April, 2004; and
  - (ii) rule 4(a) shall cease to apply in his case; and
  - (iii) he shall be entitled to repayment of his contributions together with compound interest at three per centum per annum with yearly rests at each 31<sup>st</sup> December; and
  - (iv) it is declared for the avoidance of doubt that he may not thereafter seek to gain entitlement to such a pension by paying contributions.
- (f) A Member of the States may opt out of the 1<sup>st</sup> May, 2004 to 30<sup>th</sup> April, 2012 Contributory Scheme by notifying the Department in writing accordingly, and if he does so then:
- (i) No pension shall be payable under rule 2(C) in respect of his service from 1<sup>st</sup> May, 2004; and
  - (ii) rule 4(a) shall cease to apply in his case; and
  - (iii) he shall be entitled to repayment of his contributions together with compound interest at three per centum per annum with yearly rests at each 31<sup>st</sup> December; and
  - (iv) it is declared for the avoidance of doubt that he may not thereafter seek to gain entitlement to such a pension by paying contributions.

### ***General Interpretation***

6 In these rules:

- (a) the masculine includes the feminine, the singular includes the plural, and vice versa;
- (b) a child is "dependent" if -
  - (i) he is under eighteen or is in full time education; and
  - (ii) he was, in the opinion of the Department, wholly or mainly dependant on the former States Member concerned at the date of the latter's death;
- (c) "the Department" means the States of Guernsey Treasury and Resources Department;
- (d) "Compensation Payment" means the payment available to States Members prior to 1<sup>st</sup> May, 2004;
- (e) "Basic Allowance" means the payment available to States Members from 1<sup>st</sup> May 2004 to 30<sup>th</sup> April 2012;

- (f) "the Fund" means the States Members pension fund created pursuant to rule 3 of these rules.

## **SECTION IV**

### **GENERAL RULES**

1. The remuneration and allowances payable under Sections I and II hereof shall remain in force until 30<sup>th</sup> April 2016 subject to annual review and adjustment, by the States Treasury and Resources Department, in accordance with changes in Guernsey median earnings as at the previous 31<sup>st</sup> December. The adjusted amounts will be paid from 1<sup>st</sup> May each year.
2. Members who are in receipt of remuneration and allowances under Sections I and II hereof will automatically be paid the adjusted amount referred to above with effect from 1<sup>st</sup> May each year unless they advise the Minister, Treasury and Resources Department in writing.
3. The States Treasury and Resources Department shall publish as soon as practicable in an Appendix to a Billet d'É'tat the total remuneration received during the preceding calendar year by each States Member in respect of his or her performance of States business.
4. In each year prior to 1<sup>st</sup> May, the States Treasury and Resources Department shall review the amounts payable under section III hereof, having regard to the change in the Guernsey Index of Retail Prices (RPIX) since those amounts were last determined and shall amend the said amounts accordingly.

### **COMMENCEMENT**

These rules shall take effect on 1<sup>st</sup> May, 2012.

### **SCHEDULE 1**

The Rates of Payment specified in Section III paragraph 2 of these Rules shall, with effect from the 1<sup>st</sup> May 2012, be as follows:

Rate A	£11.02
Rate B	£8.05
Rate C	£5.51
Rate D	£4.02
Rate E	£2.01

**(NB The Policy Council has no comment on the proposals.)**

The States are asked to decide:-

VII.- Whether, after consideration of the Report dated 2<sup>nd</sup> October, 2012, of the Treasury and Resources Department, they are of the opinion:-

To approve the revised Rules for Payments to States Members, Former States Members and Non-States Members attached as Appendix I to this Report.



**COMMERCE AND EMPLOYMENT DEPARTMENT**

**REAPPOINTMENT OF AN INDUSTRIAL DISPUTES OFFICER AND  
APPOINTMENT OF DEPUTY INDUSTRIAL DISPUTES OFFICER**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

25<sup>th</sup> September 2012

Dear Sir

**1. Executive Summary**

- 1.1 Under The Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993 (The Law), the States of Guernsey is required to appoint an Industrial Disputes Officer and a Deputy Industrial Disputes Officer.
- 1.2 The term of appointment for the current Industrial Disputes Officer, Mr Michael Allen Fooks, expires on 31 December 2012 and the Deputy Industrial Disputes Officer, Mrs Michele Tiffin has decided not to seek re-appointment on the expiry of her term of office on the same date.
- 1.3 The Department recommends that the States re-appoint Mr Fooks as Industrial Disputes Officer for a period of two years.
- 1.4 Following an open recruitment and assessment process to select a Deputy Industrial Disputes Officer, Commerce and Employment Department is recommending that the States appoint the Industrial Disputes Officer's nomination of Neil Carrington as Deputy Industrial Disputes Officer, also for a period of two years.

**2. Background**

- 2.1 Section 1 of The Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993 (The Law) requires the States to appoint an Industrial Disputes Officer (IDO). Section 2 of the Law requires the Industrial Disputes Officer to appoint a Deputy Industrial Disputes Officer (DIDO), whose appointment is subject to the approval of the States.

- 2.2 The current terms for the Industrial Disputes Officer Mr Michael Allen Fooks and the Deputy Industrial Disputes Officer, Mrs Michele Tiffin end on 31 December 2012. Mr Fooks is seeking re-appointment for a further term but Mrs Tiffin is not. The Commerce and Employment Department wishes to take the opportunity to thank Mrs Tiffin for all her work over the term of her Office.
- 2.3 In 2007 the Department recommended the appointment of Mr Fooks and Mrs Tiffin as IDO and DIDO respectively for a period of five years, during which time it was hoped to complete a review of the Industrial Disputes Law. A part of that review was to consider the appointment process for the IDO and DIDO to see if any changes or modifications were required.
- 2.4 Although work has commenced the full review has not been completed and it is likely, in the light of the current workload of the section, that this will not be finalised until well into 2013. Therefore, the Department has considered the approach to the appointment of the Deputy Industrial Disputes Officers and has continued to use the process devised previously in 2007 of an open recruitment and assessment process to select a new Deputy Industrial Disputes Officer. The Industrial Disputes Officer has formed his recommendation as a result of that process. The Department now expects the review of the Law to be commenced during 2013.

### **3. Recruitment and Selection Process**

- 3.1 To ensure a strong element of independence, and impartiality in the selection process for the post of DIDO, the Department advertised the appointment, and established a selection process for suitable applicants. The process was similar to that used in 2008 and 2010 to select members for the Employment and Discrimination Tribunal Panel and also to the previous selection and recruitment procedure for the IDO and DIDO in 2007.
- 3.2 The short listed candidates for the role of DIDO were interviewed by a panel made up of The Principal Employment Relations Officer, Commerce and Employment Department, a senior industrial relations and dispute resolution specialist from the Advisory and Conciliation and Arbitration Service (ACAS), and the Industrial Disputes Officer. Candidates were assessed against the key criteria and skills identified for the positions, with a part of the interview being based on analysis of a typical, but hypothetical, industrial dispute situation.
- 3.3 The Panel formed recommendations and the Industrial Disputes Officer used these recommendations to decide who he would nominate as the most suitable candidate for appointment as his Deputy.

### **4. Term of the Appointment**

- 4.1 The Law requires the States to appoint the Officers “*for such period as the States may direct.*” The Department understands that Mr Fooks will retire in

two years time and therefore a further recruitment process will need to be undertaken at that time. In addition the review of the Law is likely to take place during that period which may result in changes being made. Having weighed up the options, the Department has concluded that a two year term is appropriate for both of these appointments.

## **5. Proposed Appointments from January 2013**

- 5.1 The Department recommends that the States re-appoints Mr Michael Allen Fooks as Industrial Disputes Officer for a period of two years, with effect from 1 January 2013.
- 5.2 Mr Fooks has been involved with industrial relations for most of his working life, both as a staff representative and, in the last 25 years, as a manager. He was appointed IDO in 2008 by the States following a number of years as Deputy IDO. He has been closely involved with the ever changing dynamics which have, and continue to affect industrial and employment relations and the Island's business and public sectors.
- 5.3 Following discussions between Mr Fooks and the recommended candidate, and in the light of the findings of the selection panel, Mr Fooks proposes to appoint Mr Neil Carrington as his Deputy.
- 5.4 Mr Carrington is currently Chief Executive of a local company specialising in the area of employment, particularly in the Maritime and Energy Industries. He has a background of working with Unions within the Maritime industry and brings with him significant experience of liaising with staff, management and union representatives, all of which will be useful in the role of Deputy Industrial Disputes Officer.
- 5.5 The Department supports Mr Fooks' proposal and recommends the States to approve the appointment of Mr Carrington for a period of two years, with effect from 1 January 2013.

## **6. Principles of Good Governance**

- 6.1 The Department believes that the proposals in this report comply with the relevant principles of good governance as defined by the UK Independent Commission on Good Governance in Public Services (Billet d'État IV of 2011).

**7. Recommendations**

7.1 The Commerce and Employment Department recommends the States:

- (a) to reappoint Mr Michael Allen Fooks as Industrial Disputes Officer for a period of two years with effect from 1 January 2013 and ending 31 December 2014, and
- (b) to approve the appointment of Mr Neil Carrington as Deputy Industrial Disputes Officer for the same period.

Yours faithfully

Deputy K A Stewart  
Minister

Deputy A H Brouard  
Deputy Minister

Deputy M P J Hadley  
Deputy D de G de Lisle  
Deputy L B Queripel

**(NB As there are no resource implications identified in this report, the Treasury and Resources Department has no comments to make.)**

**(NB The Policy Council has no comment on the proposals.)**

The States are asked to decide:-

VIII.- Whether, after consideration of the Report dated 25<sup>th</sup> September, 2012, of the Commerce and Employment Department, they are of the opinion:

1. To reappoint Mr Michael Allen Fooks as Industrial Disputes Officer for a period of two years with effect from 1 January 2013 and ending 31 December 2014.
2. To approve the appointment of Mr Neil Carrington as Deputy Industrial Disputes Officer for a period of two years with effect from 1 January 2013 and ending 31 December 2014.

***STATUTORY INSTRUMENT LAID BEFORE THE STATES***

**THE LAND PLANNING AND DEVELOPMENT (FEES)  
(AMENDMENT) REGULATIONS, 2012**

In pursuance of Section 89 of the Land Planning and Development (Guernsey) Law, 2005 and section 12 of the Land Planning and Development (Fees and Commencement) Ordinance, 2008, The Land Planning and Development (Fees) (Amendment) Regulations, 2012, made by the Environment Department on 25<sup>th</sup> September 2012, are laid before the States.

**EXPLANATORY NOTE**

These Regulations amend the Land Planning and Development (Fees and Commencement) Ordinance, 2008 ("the 2008 Ordinance").

They replace Schedules 1 and 2 of the 2008 Ordinance with the Schedules set out in Schedules 1 and 2 to these Regulations. The Schedules to these Regulations set out new fees to accompany an application for planning permission or an application for approval of reserved matters under a planning application (the new Schedule 1) and new fees to accompany a deposit of full plans made under building regulations (the new Schedule 2).

The new fees will apply to -

- an application for planning permission or an application for approval of reserved matters; or
- of full plans made under building regulations,
- made on or after 1<sup>st</sup> October, 2012 (see regulation 3(1) of these Regulations).

In accordance with section 4B and 4C of the 2008 Ordinance, the new fees also apply in relation to an appeal -

- to the Planning Tribunal; or
- an Adjudicator in respect against a rejection of full plans under building regulations,
- for which a fee is payable under the 2008 Ordinance.

They will apply where the appeal fee is required to be calculated, under section 4B(2) or 4C(2) of the 2008 Ordinance, as if the appeal were made on or after 1<sup>st</sup> October, 2012 (see regulation 3(2) of these Regulations).

These Regulations came into force on the 1st October, 2012.