

PROJET DE LOI

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The Government of Alderney (Amendment) Law, 2020

THE STATES OF ALDERNEY, in pursuance of their Resolutions of the 16th October, 2019 and the 9th September, 2020 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.

Amendment of the Government of Alderney Law.

1. The Government of Alderney Law, 2004^a ("**the principal Law**") is amended as follows.

2. In section 41 (ordinary and annual meetings) of the principal Law, subsection (3) is repealed.

3. After Part III (the President and States of Alderney) of the principal Law, insert –

^a Order in Council No. III of 2005; amended by Order in Council No. XXII of 2010; No. XI of 2012; No. V of 2014; and Alderney Ordinance No. IX of 2016.

"PART IIIA

IMMUNITY FROM CIVIL OR CRIMINAL PROCEEDINGS

Absolute privilege for members of the States and the President in course of States' proceedings etc.

48B. No civil or criminal proceedings may be instituted against a member of the States or the President for or in respect of –

- (a) any words spoken before, or written in any report to, the States, any committee or a people's meeting, or
- (b) any matter or thing brought by a member of the States or the President in or before the States, any committee or people's meeting by requête, amendment, question, report or other written document.

Protection of persons responsible for States' publications.

48C. (1) No civil or criminal proceedings may be instituted against any person for or in respect of the publication by the person or the person's servant or agent of any document by order or under the authority of the States or any committee.

(2) For the purposes of subsection (1), a certificate under the hand of the Chief Executive stating that a document was published by order or under the authority of the States or any committee is conclusive evidence of that fact.

Protection of persons who publish extracts, etc. of States' documents.

48D. No civil or criminal proceedings may be instituted against any person for or in respect of the publication by the person or the person's servant or agent, in good faith and without malice, of any account, summary or abstract of, or any extract from, any document published by order or under the authority of the States or any committee.

Protection of persons who publish reports of States' proceedings.

48E. No civil or criminal proceedings may be instituted against any person for or in respect of the publication by the person or the person's servant or agent of a fair and accurate report of any proceedings in public of a meeting of the States or of a people's meeting unless the publication is shown to be made with malice, but –

- (a) this section does not apply to the publication to the public, or a section of the public, of matter which is not of public concern and the publication of which is not for the public benefit, and
- (b) nothing in this section shall be construed –
 - (i) as protecting the publication of matter the publication of which is prohibited by law, or
 - (ii) as limiting or abridging any privilege subsisting apart from this section.

Interpretation of Part IIIA.

48F. In this Part, unless the context requires otherwise –

"document" includes an enactment, and

"to publish" includes -

- (a) to make known, distribute or transmit to any person,
- (b) to publish in any electronic or other non-visible or non-legible form from which the content may, by any means, be reproduced in visible or legible form,
- (c) to broadcast by means of wireless telegraphy within the meaning of section 116 of the Wireless Telegraphy Act 2006, and
- (d) to include in a programme service within the meaning of section 201 of the Broadcasting Act 1990."

4. After Part IV (committees and officers) of the principal Law insert—

"PART IVA

EMERGENCY PROCEDURES

Application.

55A. (1) This Part shall apply only in the circumstances set out in subsection (2) and despite any other provisions of or under this Law.

(2) The circumstances are that the President has made a determination, upon representations from the Civil Contingencies Authority, in the light of circumstances prevailing in Alderney in relation to Severe Acute

Respiratory Syndrome Coronavirus 2 or another emergency, that it is appropriate for this Part to apply.

(3) Before issuing a determination under subsection (2), the President must seek the advice of Her Majesty's Procureur in relation to the appropriateness and proportionality of such a determination in relation to the emergency in question.

(4) This Part shall cease to apply if the President makes a further determination, upon representations from the Civil Contingencies Authority in the light of circumstances prevailing in Alderney, that it is appropriate for it to cease to apply.

(5) This section is subject to section 55I(3), 55K(3) and 55L(4).

People's Meetings.

55B. (1) A people's meeting need not be held under section 42 before a meeting of the States and subsection (2) shall apply to that States' meeting if a people's meeting has not been so held.

(2) After the reading of each item in the Billet d'État, the President shall call upon a member of the States to provide a report summarising relevant comments made in writing by members of the public in response to the publication of the Billet d'État under section 41 ("**the report**"); and Rules 9(1), 11 and 12 of the States of Alderney Rules of Procedure, shall apply as follows –

(a) the last sentence of Rule 9(1) shall apply as if it referred to that member reporting the numbers

and composition of people who had made such comments in writing, and

- (b) Rules 11 and 12 shall apply as if they referred to that member and the report.

Public Attendance at meetings of the States.

55C. States' meetings need not be open to the public.

Remote Meetings of the States.

55D. (1) The States may meet remotely.

(2) A member of the States, the Greffier or the person presiding in the States shall be treated for all purposes of or under this Law as present in a remote meeting of the States (including, but not limited to, the purpose of forming a quorum in accordance with section 45(3) or 55F) if, by means of electronic communications or telecommunications or otherwise –

- (a) the member, the Greffier or the person presiding, as the case may be, has declared that he or she is present, and
- (b) in the case of a member of the States or the Greffier, the person presiding has declared that the member or the Greffier, as the case may be, shall be treated as present,

except where a member of the States is required to leave the remote meeting in accordance with any provision of or under this Law.

(3) For the purposes of this section, a meeting of the States is a remote meeting if members of the States and the person presiding

communicate and vote during the meeting solely, or primarily, by means of electronic communications or telecommunications.

Proxy voting at meetings of the States.

55E. (1) The President may prescribe certain reasons for absence ("**Authorised Absence**") from a meeting of the States, which shall entitle a member of the States ("**first member**") to arrange for the first member's vote to be cast by another member acting as proxy if the first member's circumstances require the first member to take an Authorised Absence from a meeting of the States.

(2) The President shall make directions as to the manner in which proxy arrangements under subsection (1) shall operate in relation to an Authorised Absence.

(3) Despite section 55D(2), reasons for an Authorised Absence may include where a member is absent for only part of a meeting of the States because it is necessary or expedient for the purposes of other States business or a member is unable to vote remotely due to a failure in telecommunications, electronic communications or other means of communication.

Quorum at a meeting of the States.

55F. (1) The quorum at a meeting of the States is a minimum of five States' members holding office at the time of the meeting in addition to the person presiding at that meeting.

(2) Subsection (1) does not affect the provisions of section 45(3) in relation to resolutions of the States to the extent that their implementation would require the amendment of this Law.

New procedures applying to remote meetings of the States.

55G. (1) The following procedures shall apply where the States meet remotely.

(2) The Greffier shall make arrangements to enable a member of the States to declare, in relation to a meeting of the States, that the member—

(a) is present,

(b) intends to follow proceedings, and

(c) is able to vote by means of electronic communications, telecommunications or otherwise on that day.

(3) The Greffier shall inform the person presiding at the meeting of the States of the name of each member of the States who has made a declaration under subsection (2), and the person presiding shall state that those members are present and instruct the Greffier to keep a record of that fact in the Official Report.

(4) Arrangements made by the Greffier shall include arrangements for members to make a declaration under subsection (2) after proceedings of the States have started; and the President may admit such a member to the remote meeting at any time.

Modifications to the States of Alderney Rules of Procedure for remote meetings of the States.

55H. (1) The States of Alderney Rules of Procedure shall apply to remote meetings of the States with the following modifications.

(2) Rules 8(2) and 9(3) shall not apply.

(3) Rule 8(4) and the last sentence of Rule 8(5) shall apply as if each reference to "to withdraw from the precincts of the States" read "to leave the remote meeting of the States".

(4) Rule 16 shall apply as if "rising and" reads "notifying the President by electronic communications or telecommunications".

Power of Policy and Finance Committee to prescribe further rules of procedure in relation to remote meetings of the States and remote meetings of committees.

55I. (1) The Policy and Finance Committee may make rules of procedure applicable to remote meetings of the States or remote meetings of committees of the States under section 55J supplementing relevant provisions of this Part and provision applying further modifications, for the purpose of such meetings, to the States of Alderney Rules of Procedure or the Rules of Procedure for States Committees, as the case may be, and any other rules of procedure relating to meetings of the States or meetings of committees of the States prescribed under section 45; and section 45 shall be construed accordingly.

(2) For the avoidance of doubt, and without prejudice to subsection (1), the States may –

(a) prescribe rules of procedure applicable to remote meetings of the States or meetings of committees under section 55J, and

(b) (whether meeting remotely or otherwise) resolve to amend, or revoke, rules of procedure prescribed

by the Policy and Finance Committee under subsection (1).

(3) Any rules made under this section at any time when this Part applies shall continue in effect despite this Part ceasing to apply in accordance with section 55A(3) but, for the avoidance of doubt, remote meetings of the States or committees may only be held at any time when this Part applies.

Remote meetings of committees.

55J. (1) A member of a committee of the States or the Chief Executive acting as clerk of the committee, who is in communication with other members of the committee by telephone, live television link or any other means of telecommunications or electronic communications, so that each member of the committee can hear or read what is said or communicated by each of the others, is deemed, subject to subsection (2), to be present in person for all purposes relating to a meeting of that committee including calculating the quorum at the meeting under subsection (5).

(2) In the event that a means of communication referred to in subsection (1) fails, is corrupted or the person presiding at the meeting in accordance with section 50(3) ("**person presiding**") considers that confidentiality is compromised, the person presiding shall have the discretion to determine at any time during the course of the meeting that the member, or the Chief Executive acting as clerk of the committee, who is affected by that failure, corruption or compromising of confidentiality is no longer deemed to be present in person at the meeting.

(3) For the avoidance of doubt, a determination under subsection (2) does not affect the validity of the proceedings of the committee for any purpose prior to the making of that determination.

(4) The reference to the "Chief Executive acting as clerk of the committee" includes any person appointed as the Secretary of the Committee or a person acting in that person's stead as referred to in rule 7 of the Rules of Procedure for States' Committees.

(5) The quorum at a meeting of a committee of the States is one half (or the nearest number above one half) of the number of members of the Committee including the person presiding.

Power of Policy and Finance Committee to amend provisions in relation to rules of procedure.

55K. (1) The Policy and Finance Committee may by regulations amend or substitute any provisions in this Part, including in particular those which modify or otherwise refer to the States of Alderney Rules of Procedure or the Rules of Procedure for States Committees, where it considers it is necessary or expedient as a result of any variation, revocation or replacement of either of those Rules of Procedure under section 45 or any other enactment.

(2) Regulations made 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.

(3) Any amendments or substitutions made under subsection (1) at any time when this Part applies shall continue in effect despite this Part ceasing to apply in accordance with section 55A(3).

Time or mode of elections.

55L. (1) The States may by Ordinance modify, adapt or disapply the law as to elections in Alderney for the purpose of enabling any election

required to be held under this Law or any nominations or other election--related procedure to be –

- (a) subject to subsection (2), held at a time other than that provided for under this Law, or
- (b) held exclusively by postal ballot.

(2) An Ordinance made under subsection (1) may not provide for an election or an election-related procedure to be held more than six months after the latest date on which it could have been held under the law as to elections in Alderney as in force immediately before the making of that Ordinance.

(3) For the avoidance of doubt, subsection (1) includes, without limitation, a power to modify, adapt or disapply provisions under this Law relating to entry upon and tenure of office of the President and of members of the States.

(4) Any modifications made under subsection (1) at any time when this Part applies, shall continue in effect for the purposes of the specific election or election-related procedure in question despite this Part ceasing to apply in accordance with section 55A(3).

(5) The provisions of section 45(3) shall apply in relation to any decision of the States relating to the approval of an Ordinance made under subsection (1) as they apply to a decision the implementation of which would require the amendment of this Law.

Interpretation of Part IVA.

55M. In this Part, unless the context requires otherwise –

"**Civil Contingencies Authority**" means the body of that name established under section 1 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012,

"**emergency**" has the meaning given by the Civil Contingencies (Bailiwick of Guernsey) Law, 2012,

"**Official Report**" means the Official Report of the States of the Island of Alderney, also known as "Hansard", "**Rules of Procedure for States Committees**" means the States of Alderney Rules of Procedure for States Committees made in August, 2005, and

"**States of Alderney Rules of Procedure**" means the States of Alderney Rules of Procedure made on 17th March, 2010."

Citation.

5. This Law may be cited as the Government of Alderney (Amendment) Law, 2020.

Commencement.

6. This Law shall come into force on the day of its registration on the records of the Island of Alderney.