

GUERNSEY BAR EXAMINATION

09:30AM, MONDAY 12 MAY 2025

COMPULSORY PAPER

BAILIWICK LAWS, CONSTITUTIONS AND ADMINISTRATION

THREE HOURS

CANDIDATES ARE REQUIRED TO ANSWER ALL QUESTIONS. THE MARKS AVAILABLE FOR EACH QUESTION ARE SHOWN BELOW.

- **QUESTION 1 – 20 MARKS**
- **QUESTION 2 – 15 MARKS**
- **QUESTION 3 – 15 MARKS**
- **QUESTION 4 – 15 MARKS**
- **QUESTION 5 – 20 MARKS**
- **QUESTION 6 – 15 MARKS**

PLEASE ENSURE THAT THE FOLLOWING IS CLEARLY MARKED ON EACH PAGE OF YOUR ANSWER SCRIPT:

- **NAME OF PAPER**
- **CANDIDATE LETTER**
- **QUESTION NUMBER**
- **PART NUMBER OF QUESTIONS (if applicable)**

QUESTION 1 (20 marks)

1. Guernsey will hold a general election in June 2025 for the States of Deliberation in order to choose People's Deputies under the Island Wide Voting ("IWV") system.

- 1.1 Set out the development of the States of Deliberation since their establishment.
- 1.2 Explain the difference in the function and membership of the States of Election, compared with the States of Deliberation.
- 1.3 Explain how the IWV system for elections to the States of Deliberation differs from the previous system in use.
- 1.4 Explain how, and by whom, policy proposals can be submitted for discussion in the States of Deliberation.

QUESTION 2 (15 marks)

2. "The 1948 Agreement was set up post-war when Alderney needed expertise and resources, in return for which we entered a fiscal union, which initially resulted in us producing a surplus of revenue versus the cost of transferred services. This is not the case today."

Nigel Vooght, former Chairman of Alderney's Policy and Finance Committee, in the States of Alderney Budget debate on 16th October 2024

Explain the purpose and principal terms of the 1948 Agreement on the financial relationship between Guernsey and Alderney. You should include in your explanation a description of -

- 2.1 the public services covered by the Agreement for which Guernsey assumed financial and administrative responsibility;
- 2.2 the legislation that underpins and enacts the Agreement;
- 2.3 the powers of taxation respectively conferred on Alderney and Guernsey in respect of Alderney; and
- 2.4 the electoral representation attributed to Alderney in the States of Deliberation.

QUESTION 3 (15 marks)

3. As the 2025 general election nears, States' veteran Deputy Ouistiti has recently been shown the Royal Charters stored in the Greffe Strongroom and, eager to establish a political legacy if she is not re-elected, wants the States formally to resolve that the Royal Charters are vitally important constitutional documents to Guernsey. However, she would like some help explaining why this is the case to her fellow States Members.

- 3.1 Explain the basis for, and the status of, the Royal Charters in the Bailiwick.
- 3.2 Set out the most significant rights included in the Royal Charters.
- 3.3 Comment critically on whether the Royal Charters are of any continuing constitutional or legal relevance, providing any examples which support or undermine your comments.

QUESTION 4 (15 marks)

4. "L'Approbation forms only part of the customary law of Guernsey": *A v. R* [2018] UKPC 4, para. 32 per Lord Hodge

- 4.1 Explain the origin of *L'Approbation des Loix* and, by reference to how it is approached by the courts in practice and otherwise, its status.
- 4.2 Discuss the criticisms which have been made of *L'Approbation* by Guernsey commentators, explaining whether or not they should be given any weight.
- 4.3 In *A v. R*, the Privy Council described the "customary law" as including decisions of Guernsey's courts. Explain the significance of *Morton v. Paint* (1996) 21.GLJ.61 to the development of the customary law (as so described).

QUESTION 5 (20 marks)

5. One of the candidates for People's Deputy, Ebenezer Boothroyd, has read a disgruntled comment on the Bailiwick Press website suggesting that Guernsey's parliament would be better served by having an elected speaker.

Although Mr Boothroyd knows that Bailiffs have always been "good chaps", he freely admits that he doesn't really understand the functions and powers of that office. He wants to set out his views in his manifesto, so asks you for an explanation. Your explanation should address the following points:

- 5.1 the history and origins of the role of Bailiff;
- 5.2 the current and historic functions and powers of the Bailiff; and
- 5.3 possible reasons for and against the replacement of the Bailiff as presiding officer of the States of Deliberation and States of Election (including references to any relevant case law); and, if considered relevant any other discussions/actions on this point.

QUESTION 6 (15 marks)

In the light of recent international events, the newly elected President of the People's Republic of Murica states in a press conference that he wishes to buy Guernsey from the United Kingdom and will invade if it isn't for sale. Although some beer swilling Westminster parliamentarians simply want to negotiate the best price, there is significant concern in the Bailiwick over this plan and you are asked to advise the senior committees of all 3 islands on the constitutional position, answering the following questions:

- 6.1 Is Guernsey the United Kingdom's to sell? Explain the basis of Guernsey's relationship with the Crown and the United Kingdom.
- 6.2 What responsibilities does the United Kingdom have in relation to the Bailiwick's external affairs? Explain how the United Kingdom is required to act when exercising those responsibilities.

Alfie Nagger M.P. subsequently announces that the Westminster Parliament can sell Guernsey whenever it likes and will pass an Act of Parliament if absolutely necessary.

- 6.3 What are the grounds on which the Kilbrandon Report states that the UK Parliament may legislate for Guernsey? Set out your view on whether they are justified, including any academic views as you see fit.