GUERNSEY BAR EXAMINATION

09:30AM, MONDAY 11 MAY 2026

COMPULSORY PAPER

BAILIWICK LAWS, CONSTITUTIONS AND ADMINISTRATIONS

THREE HOURS

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

- **QUESTION 1 – 10 MARKS**
- **QUESTION 2 – 25 MARKS**
- **QUESTION 3 – 15 MARKS**
- **QUESTION 4 – 15 MARKS**
- **QUESTION 5 – 25 MARKS**
- **QUESTION 6 – 10 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)**

No Supplementary material is provided with this examination paper

QUESTION 1 [10 marks]

A Deputy in the current States has opined that States Members enjoy less freedom of speech than the ordinary citizen. This was in the context of a decision of the Commissioner for Standards in respect of another Deputy and the obligation of States members to comply with the Code of Conduct and not to abuse absolute privilege.

1.1 Analyse and discuss the Deputy's concerns.

1.2 Explain the differences in the constitution and functions in relation to Guernsey of:

I. The States of Deliberation, and

II. The States of Election.

QUESTION 2 [25 marks]

Guernsey has recently legislated (by means of regulations enacted by the Policy and Resources Committee under the Income Tax (Guernsey) Law, 1975) to implement certain international tax-related obligations:

> The 2023 OECD Framework on International Standards for Automatic Exchange of Information imposing obligations on crypto-asset service providers and updating the Common Reporting Standard; and
>
> The Global Anti-Base Erosion Model Rules (Pillar Two), approved by the OECD/G20 Inclusive Framework on BEPS, designed to ensure that large multinational enterprise Groups ("**MNE Groups**") pay a minimum level of tax on the income arising in each jurisdiction where they operate.

Explain:

I. The relationship between the United Kingdom and Guernsey in relation to taxation and Guernsey's historic rights in this respect;

II. Guernsey's identity in the international sphere; and

III. Given that the United Kingdom is responsible for Guernsey's international relations, the source of Guernsey's ability to legislate, autonomously, in relation to the implementation of taxation standards imposed by the international community.

QUESTION 3 [15 marks]

It has been triumphantly announced in local media that an independent panel (to be known as the Bailiwick Commission, the five members of which are external to the Bailiwick) is being set up by Guernsey, Alderney and Sark to conduct a comprehensive review of the constitutional, economic and working relationships between the three jurisdictions.

One of the matters to be explored is the 1948 Agreement between Guernsey and Alderney, which established the current financial relationship between the governments of those islands.

Explain:

I. The 1948 financial relationship by reference to the provision of public services in, and the taxation and governance of, the islands of Guernsey and Alderney, and the respective legislative powers in this context of the States of Deliberation and the States of Alderney.

Also to be examined by the Commission are the legislative processes for enacting civil and criminal legislation across the Bailiwick to consider if they are fit for purpose.

Explain:

II. The enactment of legislation in and in relation to Sark, and the powers in this respect of the States of Deliberation and Royal Court.

QUESTION 4 [15 marks]

I. In relation to the Bailiwick of Guernsey, what is, and what is the provenance of, the customary law?

II. Describe three areas of Guernsey law or legal practice where the customary law remains relevant (wholly or partially), and in what way.

III. Does the Code Civil have any relevance to the law of Guernsey and, if so, what?

IV. Identify two significant steps in the development of Guernsey's customary law and explain their importance.

QUESTION 5 [25 marks]

You have been consulted by a newly elected deputy, Percival de la Pommeraie, who is of the vehement belief that Guernsey people below the age of 16 should be restricted in their usage of mobile phones and social media and is frustrated by perceived delays in legislating for the matter. He has spoken to the Law Officers, although he explains to you in confidence that he does not trust their advice, because "they are appointed by the English Crown and are under the yoke of the Englishman", and clearly therefore not independent.

The Law Officers told him that the matter could certainly be legislated for locally by means of a Projet de Loi but a possible alternative legal solution would be the extension to Guernsey of the Online Safety Act 2023 (the "**OSA**"), an Act of Parliament. The OSA extends (with certain exceptions) to England and Wales, Scotland and Northern Ireland and, in section 239(7), contains the following permissive extent clause -

> "*His Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to the Bailiwick of Guernsey or to the Isle of Man*."

Draft advice to Deputy de la Pommeraie on the following matters:

i. The constitutional principles that underpin firstly the inclusion of permissive extent clauses in Acts of Parliament and secondly the use of such clauses to enact an Order in Council extending a provision of an Act of Parliament to Guernsey;

ii. Any relevant Guernsey legislative safeguards in relation to proposals for the enactment of such Orders in Council and their subsequent registration by the Royal Court; and

iii. In relation to the Deputy's doubts about their independence and loyalties, the appointment and a summary of the duties of the Law Officers.

<u>QUESTION 6</u> [10 marks]

Explain the criminal and civil jurisdiction, original and appellate, of the Royal Court (in all of its divisions) in respect of -

I. The Bailiwick, Sark and Alderney, and

II. The Court of the Seneschal and the Court of Alderney.