

STATES OF JERSEY



JERSEY HERITAGE TRUST: AMENDMENTS TO CONSTITUTION

Lodged au Greffe on 2nd October 2013
by the Minister for Education, Sport and Culture

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to refer to their Act dated 25th May 1999 in which they approved a revised Constitution for the Jersey Heritage Trust, and to their Act dated 8th July 2003 in which they agreed that responsibility for the Trust should pass from the Finance and Economics Committee to the Education, Sport and Culture Committee, and –

to agree, in accordance with clause 11.2 of the Constitution of the Trust, that it be permitted to amend its constitution so that –

- (a) references in clause 4.2 and 5.3.1 to the “Education, Sport and Culture Committee” be changed to the “Minister for Education, Sport and Culture”; and
- (b) clause 5.3.3 be deleted with consequential re-numbering of the clauses which follow;
- (c) the words ‘three’ be changed to ‘five’, and ‘seven’ be changed to ‘nine’ in the existing clause 5.3.5;
- (d) in existing clauses 5.4. and 5.5 the word ‘seven’ be changed to ‘eight’.

MINISTER FOR EDUCATION, SPORT AND CULTURE

Note. For convenience the Constitution as it would be amended by these amendments is set out in the Appendix.

REPORT

This proposition was originally lodged on 27th March 2012 but subsequently withdrawn by the Minister in order that the Council of Ministers could consider the wider principles that it raised. This exercise was completed earlier in the summer, the Council of Ministers accepting the principle that lines of accountability for public funding should not be compromised by the representation of the sponsoring Minister on the organisation for which he maintains a funding responsibility. Accordingly, the proposition is lodged again in its original form.

The Constitution of the Jersey Heritage Trust dates from the period of committee government when it was thought desirable to have a member of the relevant funding committee sit on the board of organisations in receipt of significant grants from the States.

Since then the monitoring of third party organisations funded by the States has become more formal, governed by written agreements, meetings with the ministerial team and the submission of annual business plans, accounts and budgets. The Minister for Education, Sport and Culture last year signed a detailed Service Level Agreement with the Jersey Heritage Trust.

These 2 approaches produce a contradictory position whereby the Minister for Education, Sport and Culture is responsible for maintaining independent scrutiny over a body on which he himself – or one of his 2 Assistant Ministers – must also sit. The Minister regards this as an unsatisfactory state of affairs.

While taking steps to remove the member of the Education, Sport and Culture ministerial team from the Board of Trustees, the Minister has also given thought to the position of the second States member on the board who is selected on the basis of being ‘committed to the objectives of the Jersey Heritage Trust.’ That member was added to the Board of Trustees as a result of an amendment brought to the States on the last occasion that the Constitution was changed.

The Minister has consulted with the States-appointed chairman of the Jersey Heritage Trust and with the Connétable of St. Helier, who sits as the States’ representative, on this matter. Both share the view that it would now be appropriate to remove the requirement that a member of the States serves as a trustee. There is, of course, nothing to preclude a member committed to the objectives of the Trust offering himself, or herself, as a trustee. The open appointments process for trustees is overseen by the Jersey Appointments Commission.

Under Clause 11.1 of the Constitution of the Trust (see Appendix) certain clauses can be amended by the Trust with the agreement of the Minister alone (the reference in that clause to the Committee is construed to refer to the Minister). There are certain changes therefore that the Trust will therefore need to make to mirror these amendments, for example the reference to the Committee in clause 1. However, under clause 11.2, clauses 3, 4 and 5 can only be amended with the prior approval of the States and it is for that reason that this proposition is being brought to the Assembly to obtain that approval.

This proposition gives effect to these changes in the following way. The purpose of amendment (a) is simply to confirm references to the Minister for Education, Sport and Culture as the inheritor of the responsibilities of the previous Committee for

Education, Sport and Culture. Amendment (b) removes the 2 States members, while amendment (c) increases by 2 the number of trustees elected by open process to maintain the number of trustees at the present level. Amendment (d) remedies what appears to be a mathematical inconsistency in the current Constitution whereby the minimum number of trustees totals 8 rather than 7.

Financial and manpower implications

There are no financial and manpower implications arising from this proposition.

JERSEY HERITAGE TRUST CONSTITUTION

1. Definitions

1.1 In this Constitution –

- 1.1.1 words importing the masculine gender shall include the female and neuter genders;
- 1.1.2 words in the singular shall include words in the plural and words in the plural shall include the singular;
- 1.1.3 the headings and sub-headings to this Constitution are inserted only for reference to the provisions thereof and shall not affect the construction of such provisions;
- 1.1.4 reference to the Education, Sport and Culture Committee shall include such other committee as may succeed it from time to time.

2. Incorporation

2.1 The Jersey Heritage Trust was incorporated by the “Loi accordant un Acte d’Incorporation à l’Association dite ‘The Jersey Heritage Trust’ ”, which was registered in the Royal Court on 3rd June 1983.

3. Statement of purpose (objects)

3.1 Jersey’s heritage and culture is special. The purpose of the Jersey Heritage Trust is to care for it, promote wide access to it, act as advocates on its behalf, and bring imagination to telling its stories so that we inspire people to create a better Island for everyone.

3.2 In order to accomplish this, the Jersey Heritage Trust shall, in addition to any other method that may seem appropriate to it from time to time –

- 3.2.1 collect, document, and preserve unique collections of artefacts, works of art, archival material, specimens and information relating to the history, culture and environment of the Bailiwick of Jersey. These collections define the Island, hold the evidence for its historical development and act as the community’s memory;
- 3.2.2 make these collections widely accessible and promote learning through museums, galleries, the archives centre, exhibitions and events in a range of venues, publications and the Internet;
- 3.2.3 acquire, maintain, open and develop significant historic sites, museums and galleries, including Mont Orgueil, Elizabeth

Castle, Hamptonne, La Hougue Bie, the Jersey Museum, No. 9 Pier Road, the Jersey Archives Centre and the Sir Francis Cook Gallery;

- 3.2.4 provide comprehensive information, education and outreach services to a wide audience;
- 3.2.5 provide outstanding, memorable and inspirational experiences for the visiting public;
- 3.2.6 work with other organisations in and outside the Island, and in particular the Société Jersiaise, to deliver these aims;
- 3.2.7 promote an inclusive sense of belonging and pride in the Island, advance the cause of its heritage and support its cultural identity.

4. Powers of the Jersey Heritage Trust

4.1 The Jersey Heritage Trust has the powers granted to it under its Act of Incorporation, namely (in translation) –

- 4.1.1 the power to have and to use a special seal to certify all acts, contracts, agreements and undertakings;
- 4.1.2 the power to take, acquire, hold and possess all kinds of moveable and immovable property and to receive, hold and possess all kinds of gifts and legacies of moveable and immovable property which may be made to it;
- 4.1.3 the power to appear before all courts and tribunals through its officers or other persons authorised by it;

and by implication all other powers necessary to achieve its purposes.

4.2 To enable it to carry out its purposes, the Jersey Heritage Trust may borrow such amounts as it shall consider necessary from time to time, but it shall not secure any such borrowing upon any real property it may own or upon any collections it may own or hold without the prior written consent of the ~~Education, Sport and Culture Committee~~ **Minister for Education, Sport and Culture**.

5. Board of trustees

5.1 The Jersey Heritage Trust shall consist of and be governed by a board of trustees appointed in the manner set out below.

5.2 The powers of the Jersey Heritage Trust shall be exercised by the board of trustees.

5.3 The board of trustees shall comprise –

- 5.3.1 a chairman nominated by the ~~Education, Sport and Culture Committee~~ **Minister for Education, Sport and Culture** after consultation with the Jersey Heritage Trust and appointed by the States of Jersey. The chairman shall be appointed for a period not exceeding four years, and may be re-appointed by the States of Jersey for one further period of four years, giving a maximum period of eight years in which any one individual appointed under this sub-clause can serve as chairman;
- 5.3.2 the President for the time being of the Société Jersiaise;
- ~~5.3.3 a member for the time being of the States of Jersey who is committed to the objectives of the Jersey Heritage Trust as set out in paragraph 3 of the Constitution, and a member for the time being of the Education, Sport and Culture Committee nominated in writing by that Committee;~~
- 5.3.4 a trustee appointed by the Jersey Heritage Trust at its discretion but on the recommendation of the Société Jersiaise. This trustee shall be appointed for a period not exceeding three years and may be re-appointed by the Jersey Heritage Trust for one further period of three years, giving a maximum period of six years in which any one individual appointed under this sub-clause can serve as a trustee;
- 5.3.5 no fewer than ~~three~~ **five** and no more than ~~seven~~ **nine** further trustees appointed by the Jersey Heritage Trust for the skills, experience and influence they can bring and the contribution they can make to the Jersey Heritage Trust. These trustees shall be appointed for a period not exceeding three years and may be re-appointed by the Jersey Heritage Trust for one further period of three years giving a maximum period of six years in which any one individual appointed under this sub-clause can serve as a trustee;
- 5.3.6 In exercising its powers of appointment under sub-clause 5.3.5 above, the Jersey Heritage Trust shall use its best endeavours to ensure that the board of trustees shall be a diverse and balanced group of people in terms of gender, age, experience, skills, track record and attitudes, who share a commitment to the Jersey Heritage Trust;
- 5.3.7 nothing shall prevent a trustee appointed under one of the above sub-clauses and whose term has expired for whatever reason from being appointed a trustee under any of the other above sub-clauses, save that –
- 5.3.7.1 a chairman appointed under 5.3.1 above cannot be re-appointed under any of the other above sub-clauses unless a year has expired pursuant to the provisions of sub-clause 5.3.8 below;

- 5.3.7.2 a trustee appointed under sub-clause 5.3.4 above cannot be re-appointed a trustee under sub-clause 5.3.5 above and vice versa unless a year has expired pursuant to the provisions of sub-clause 5.3.8 below;
- 5.3.8 for the purposes of this clause, a person who has not been a trustee of the Jersey Heritage Trust for one year shall be eligible for re-appointment under any of the above provisions as if he had never before been a trustee of the Jersey Heritage Trust.
- 5.4 The minimum number of trustees shall be ~~seven~~ *eight* and the maximum number of trustees shall be twelve.
- 5.5 If the number of trustees falls below ~~seven~~ *eight*, then it shall be lawful for the remaining trustees to act as trustees for the purpose of filling up vacancies but not for any other purpose.
- 5.6 The trustees shall appoint a vice-chairman from among their number.
- 5.7 For the duration of his appointment each trustee shall be an officer of the Jersey Heritage Trust and shall have the following duties –
- 5.7.1 to hold the purposes and values of the Jersey Heritage Trust;
- 5.7.2 to promote the purposes, objects and interests of the Jersey Heritage Trust;
- 5.7.3 to act bona fide in the best interests of the Jersey Heritage Trust.
- 5.8 A trustee may at any time resign his trusteeship by giving not less than one month's notice in writing.
- 5.9 The board of trustees may, by majority vote, terminate the appointment of any trustee appointed under sub-clauses 5.3.4 and 5.3.5 for any reason.
- 5.10 The States of Jersey may terminate the appointment of the chairman for any reason.
- 5.11 The board of trustees may, by majority vote, terminate the appointment of any trustee upon the happening of any of the following events, namely that the trustee –
- 5.1.1 has been absent from three consecutive meetings of the Jersey Heritage Trust without the permission of the Jersey Heritage Trust;
- 5.1.2 has become bankrupt;

5.1.3 is incapacitated by physical or mental illness.

5.12 A trustee shall retire on reaching the age of 75 years.

6. Proceedings of the board of trustees

6.1 At a meeting of the board of trustees of Jersey Heritage Trust –

6.1.1 the majority of the trustees shall form a quorum;

6.1.2 the chairman or vice-chairman shall preside;

6.1.3 each trustee shall have one vote on each matter for deliberation; and

6.1.4 in the event of an equality in the votes, the chairman of the meeting shall have a casting vote in addition to his own vote.

6.2 A resolution is a valid resolution of the Jersey Heritage Trust even though it was not passed at a meeting of the board of trustees if –

6.2.1 it is signed or assented to by a majority of the trustees; and

6.2.2 proper notice of the proposed resolution was given to all the trustees.

6.3 The trustees shall keep proper minutes of their proceedings including minutes of any business transacted in accordance with paragraph 6.2 above.

6.4 Any two or more trustees shall have the right to convene meetings of the board of trustees.

6.5 Subject to the provisions of this Constitution, the Jersey Heritage Trust may regulate its own proceedings and pursuant thereto may adopt, alter, amend or vary rules for that purpose.

7. Expenses of trustees

7.1 The Jersey Heritage Trust shall pay to its trustees all reasonable out-of-pocket or other expenses occasioned in the course of carrying out their duties, but subject thereto no trustee who is not otherwise an employee of the Jersey Heritage Trust or any company owned by it shall be remunerated.

8. Appointment and remuneration of staff

8.1 The Jersey Heritage Trust may appoint such officers and agents as it considers necessary for carrying out its purposes.

8.2 The Jersey Heritage Trust may –

- 8.2.1 make appointments on such terms as to remuneration, expenses, pensions and other conditions as it thinks fit; and
- 8.2.2 may establish and maintain such schemes or make such arrangements as it thinks fit for the payment of pensions and other benefits in respect of its staff.

9. Accounts

- 9.1 The Jersey Heritage Trust shall keep accounts in such form as shall be acceptable to the Education, Sport and Culture Committee.

10. Accountability to the States of Jersey

- 10.1 In recognition of the funds voted annually by the States of Jersey to the Jersey Heritage Trust to enable the Trust to carry out its purpose and recognising the agreements between the States of Jersey and the Jersey Heritage Trust in respect of the castles and the collections owned by the States of Jersey, the board of trustees shall present annually to the Education, Sport and Culture Committee a business plan, a report of the activities and achievements during the previous year and the audited accounts for the previous year of the Jersey Heritage Trust.

11. Alteration of Constitution

- 11.1 The Jersey Heritage Trust may alter, amend or vary any of the provisions of this Constitution other than clauses 3, 4 and 5 hereof with the prior consent of the Education, Sport and Culture Committee.
- 11.2 The Jersey Heritage Trust may alter, amend or vary any of the provisions of clauses 3, 4 and 5 of this Constitution with the prior consent of the States of Jersey.