

ORDER IN COUNCIL

**IX
2013**

ratifying a Projet de Loi

ENTITLED

The Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012

(Registered on the Records of the Island of Guernsey
on the 16th September, 2013.)



2013

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 16th day of September, 2013 before Richard John Collas, Esquire, Bailiff; present:- Stephen Edward Francis Le Poidevin, Esquire, Barbara Jean Bartie, Stephen Murray Jones, Peter Sean Trueman Girard, Esquires, Constance Helyar-Wilkinson, Terry George Snell, Niall David McCathie, Terry John Ferbrache, David Allan Grut, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 10th July, 2013 approving and ratifying a Projet de Loi entitled “The Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED that the said Order be registered on the records of this Island.



At the Court at Windsor Castle

THE 10th DAY OF JULY 2013

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

"In accordance with Your Majesty's General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

"That, in pursuance of their Resolution of 26th April 2007, the States of Deliberation at a meeting on 21st February 2012 approved a *Projet de Loi* entitled the Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012, and to order that it shall have force of law in the Islands of Guernsey, Herm and Jethou.

"The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it".

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Islands of Guernsey, Herm and Jethou and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty's Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

Richard Tilbrook

PROJET DE LOI

ENTITLED

The Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012

ARRANGEMENT OF SECTIONS

1. General power to make Ordinances concerning health professions.
2. Specific matters for which Ordinances may make provision.
3. General provisions as to Ordinances, etc.
4. Interpretation.
5. Schedule 2 may be amended by Ordinance.
6. Citation.

Schedule 1: Specific matters for which an Ordinance may be made.

Schedule 2: Examples of health professions.

PROJET DE LOI

ENTITLED

The Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012

THE STATES, in pursuance of their Resolution of the 26th April, 2007^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the islands of Guernsey, Herm and Jethou.

General power to make Ordinances concerning health professions.

1. The States may by Ordinance make such provision as they think fit concerning all or any of the following matters –

- (a) any health profession,
- (b) any person with a prescribed connection to a health profession, and
- (c) any person who purports to practise, or to be qualified to practise, a health profession.

Specific matters for which Ordinances may make provision.

2. Without limiting the generality of section 1, an Ordinance may make provision in relation to all or any of the matters set out in Schedule 1.

^a Article VII of Billet d'État No. XIII of 2007.

General provisions as to Ordinances, etc.

3. (1) An Ordinance under this Law –
 - (a) may be amended or repealed by a subsequent Ordinance, and
 - (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient (including, without limitation, provision making consequential amendments to this Law and any other enactment).
- (2) Any power to make an Ordinance under this Law may be exercised –
 - (a) in relation to all cases to which the power extends, or in relation to all those cases subject to prescribed exceptions, or in relation to any prescribed cases or classes of cases, and
 - (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends or any lesser provision (whether by way of exception or otherwise),

- (ii) the same provision for all cases, or different provision for different cases, or classes of cases, or different provision for the same case or class of case for different purposes, or
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Without prejudice to the generality of the other provisions of this Law, an Ordinance under this Law –

- (a) may, subject to subsection (4), make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences,
- (b) may empower the Department, any other department of the States, any other body or authority (including, without limitation, any court in the Island), or any other person to –
 - (i) make subordinate legislation, or
 - (ii) issue codes or guidance,

in relation to any matter for which an Ordinance may be made under this Law (except an amendment or substitution of Schedule 2 under section 5 of this Law),

- (c) may make provision for the purpose of dealing with

matters arising out of or related to matters set out in section 1,

- (d) may provide that no liability shall be incurred by any person in respect of anything done or omitted to be done in the discharge or purported discharge of any of his functions unless the thing is done or omitted to be done in bad faith,
 - (e) may make provision under the powers conferred by this Law despite the provisions of any enactment for the time being in force,
 - (f) may repeal, replace, amend, extend, adapt, modify or disapply any rule of custom or law, and
 - (g) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by *Projet de Loi*, but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.
- (4) An Ordinance may not –
- (a) provide for offences to be triable only on indictment,
 - (b) authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on

the Magistrate's Court by section 9(1)(a) or (2) of the Magistrate's Court (Guernsey) Law, 2008^b, or

- (c) authorise the imposition, on conviction on indictment of an offence, of a term of imprisonment exceeding two years.

Interpretation.

- 4. (1) In this Law, unless the context requires otherwise –

"**Department**" means the States of Guernsey Health and Social Services Department,

"**enactment**" means any Law, Ordinance, or subordinate legislation,

"**functions**" includes powers and duties,

"**health profession**" –

- (a) means a profession or occupation of any kind or description in the medical or healthcare sector,
- (b) without limiting the generality of paragraph (a), includes a profession or occupation listed in Schedule 2, and

^b Order in Council No. XVIII of 2009; as amended by Ordinance No. XXII of 2009.

- (c) includes any health professional,

"health professional" means –

- (a) any person who practises a profession or occupation referred to in paragraph (a) or (b) of the definition of **"health profession"** in this subsection, or
- (b) any person undergoing practical training to practise any such profession or occupation,

"this Law" includes –

- (a) any Ordinance made under this Law, and
- (b) any subordinate legislation made under any such Ordinance,

"person" includes any body or authority,

"prescribed" means prescribed by or under an Ordinance, and

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect.

(2) Unless the context requires otherwise, references in this Law to any enactment are references thereto as amended, varied, re-enacted (with or without modification), extended or applied.

(3) Unless the context requires otherwise, the Interpretation (Guernsey) Law, 1948^c applies to the interpretation of this Law throughout the islands of Guernsey, Herm and Jethou.

Schedule 2 may be amended by Ordinance.

5. The States may at any time by Ordinance amend or substitute all or any part of Schedule 2.

Citation.

6. This Law may be cited as the Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012.

S. M. D. ROSS,
Her Majesty's Deputy Greffier.

^c Ordres en Conseil Vol. XIII, p. 355,

SCHEDULE 1

SPECIFIC MATTERS FOR WHICH AN ORDINANCE MAY BE MADE

Section 2

1. Any form of regulation of, or restriction on, the practise of a health profession, including a prohibition of the practise of the profession unless the person concerned satisfies prescribed requirements or conditions, for example –
 - (a) being employed by or having a prescribed connection with a prescribed person,
 - (b) being registered, licensed, certified or accredited in a prescribed manner,
 - (c) holding a prescribed qualification or being qualified in a prescribed manner, or
 - (d) practising the profession only in premises of a prescribed kind or description or premises that meet prescribed standards or requirements.
2. Establishment, appointment or recognition of any person for the purposes of the regulation of a health profession, including giving the person powers, duties and other functions.
3. Standards or requirements relating to the fitness to practice, or continued fitness to practice (including standards or requirements relating to

qualifications, education and training), a health profession.

4. Standards or requirements relating to conduct (including codes of conduct), ethics or performance in relation to a health profession.
5. Duties, obligations, rights and privileges of or in relation to a health profession.
6. Use of names, titles or descriptions in any way associated with a health profession.
7. Duties and obligations of any employer of, or any person who has a prescribed connection with, health professionals.
8. The levying or imposition of fees or charges in connection with any matter for which an Ordinance may be made under this Law.
9. Any powers considered necessary or expedient for the enforcement or due administration of this Law, including (without limitation) powers of entry, inspection, questioning, search, seizure, forfeiture and disposal, arrest and detention, disclosure of information or requiring the disclosure of information.
10. Appeals in relation to any decision made under this Law.
11. Any other matters necessary or expedient for giving full effect to this Law and for its due administration.

SCHEDULE 2

EXAMPLES OF HEALTH PROFESSIONS

Section 4(1)

1. Medical practitioner, dentist or pharmacist (including pharmaceutical chemist, chemist or druggist).
2. Nurse, midwife or health visitor.
3. Arts therapist.
4. Biomedical scientist.
5. Chiropodist or podiatrist.
6. Chiropractor.
7. Clinical dental technician.
8. Clinical scientist.
9. Dental nurse.
10. Dental technician.
11. Dental therapist.
12. Dietitian.
13. Occupational therapist.
14. Operating department practitioner.
15. Orthodontic therapist.
16. Orthoptist.
17. Osteopath.
18. Paramedic.
19. Physiotherapist.
20. Practitioner psychologist.
21. Prosthetist or orthotist.
22. Radiographer.
23. Social worker.
24. Speech and language therapist.

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