

PROJET DE LOI

ENTITLED

The Employers' Liability (Compulsory Insurance) (Guernsey) Law, 1993 *

[CONSOLIDATED TEXT]

NOTE

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* No. XIII of 1993 (Ordres en Conseil Vol. XXXIV, p. 551); as amended by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996 (No. XXXI of 1996, Recueil d'Ordonnances Tome XXVII, p. 139); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207).

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The Employers' Liability (Compulsory Insurance) (Guernsey) Law, 1993

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THE STATES, in pursuance of their Resolution of the 27th day of January, 1993^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.

Insurance against liability for employees.

1. (1) Subject to the provisions of this Law, every employer carrying on business in Guernsey shall insure, and maintain insurance, under an approved policy with an authorised insurer against liability for bodily injury or disease sustained by his employees and arising out of and in the course of their employment in Guernsey in that business.

(2) The States may by Ordinance provide that the amount for which an employer is required by this Law to insure and maintain insurance shall be limited in such manner as may be prescribed by the Ordinance.

NOTE

The following Ordinance has been made under section 1:

*Employers' Liability (Compulsory Insurance) (General Provisions)
Ordinance, 1994.*

^a Article XVIII of Billet d'État No. I of 1993.

Exempted injuries and diseases.

2. Except in so far as the States may by Ordinance provide otherwise, this Law shall not require an employer to insure or maintain insurance against liability for injury or disease suffered or contracted outside Guernsey.

Exempted employees.

3. This Law shall not require an employer to insure or maintain insurance

- (a) in respect of an employee of whom the employer is the spouse, parent, grandparent, step-parent, child, grandchild, step-child, brother, sister, half-brother or half-sister,
- (b) except in so far as the States may by Ordinance provide otherwise, in respect of an employee not ordinarily resident in Guernsey.

Exempted employers.

4. This Law shall not require an employer to insure or maintain insurance if he is for the time being exempted from the provisions of this Law by Ordinance of the States.

NOTE

The following Ordinances have been made under section 4:

Employers' Liability (Compulsory Insurance) (Subsidiary Companies) Ordinance, 1997;
Employers' Liability (Compulsory Insurance) (Exemptions) Ordinance, 2009.

Production of certificates of insurance.

5. (1) An officer of police or an inspector, for the purposes of determining whether or not any person is an employer required to insure and maintain insurance in accordance with the provisions of this Law and, if so, whether or not he has so insured and is maintaining such insurance, may at any reasonable time enter any land and –

- (a) make such inquiry of any person thereon, and
- (b) require any such person to furnish, either forthwith or at such time and place as the officer of police or inspector may specify, such information and such certificates of insurance and other documents,

as he may consider necessary for those purposes.

(2) A person seeking to exercise any power conferred by this section shall, if so requested, furnish evidence of his office or appointment.

Display etc. of certificates.

6. Every employer required by this Law to insure and maintain insurance

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- (a) shall display at all times for the information of his employees, in a conspicuous place in any premises which are occupied by him and in which his employees undertake employment for him, copies of certificates of insurance required to be effected and maintained for the purposes of this Law,

- (b) shall produce or send the said certificates or copies thereof to such persons, at such places, times and intervals and in such circumstances as the [Committee] may require,
- (c) shall permit the policy of insurance or a copy thereof to be inspected by such persons, at such places, times and intervals and in such circumstances as the [Committee] may require.

NOTE

In section 6, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Offences.

- 7. (1) A person who –
 - (a) contravenes or fails to comply with any provision or requirement imposed by or under this Law or any Ordinance made under it,
 - (b) in response to an inquiry made of him under section 5(1)(a) or in purported compliance with a requirement imposed by or under this Law or any Ordinance made under it –
 - (i) makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,

- (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
 - (iii) furnishes, produces or displays or causes or permits to be furnished, produced or displayed any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
 - (iv) recklessly furnishes, produces or displays or recklessly causes or permits to be furnished, produced or displayed, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular,
- (c) without reasonable excuse, proof whereof shall lie on him, obstructs or fails to give all reasonable assistance to an officer of police or inspector exercising or purporting to exercise any power conferred by or under this Law,

is guilty of an offence.

(2) A person guilty of an offence by virtue of subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Offences by bodies corporate.

8. (1) Where an offence under this Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or

to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

Interpretation.

9. (1) In this Law, except where the context requires otherwise –

"approved policy" means a policy of insurance not subject to any conditions or exceptions prohibited for the purposes of this Law by Ordinance of the States,

"authorised insurer" means a person –

- (a) who is registered as an insurer under section 11 of the Insurance Business (Guernsey) Law, 1986^b, or
- (b) who is exempted from the provisions of sections 5, 6 and 7 of that Law by or under section 8 thereof,

and who lawfully issues the policy referred to in section 1(1) of this Law in the course of carrying on insurance business in Guernsey in accordance with the provisions of that Law,

"[Committee]" means the [States of Guernsey [Committee for

^b Ordres en Conseil Vol. XXIX, p. 214.

Employment & Social Security]],

"business" includes a trade or profession and any activity carried on by a body of persons, whether corporate or unincorporate,

"employee" means an individual who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work or otherwise, and whether express, implied, oral or in writing,

"Guernsey" means the Islands of Guernsey, Herm and Jethou,

"inspector" means an inspector appointed under section 15 of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987^c and any other person appointed in writing for the purposes of this Law by the [Committee],

"officer of police" means a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey.

(2) Except in so far as the States may by Ordinance provide otherwise, an employer not having a place of business in Guernsey shall be deemed not to carry on business there.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

^c Recueil d'Ordonnances Tome XXIV, p. 162.

NOTES

In section 9,

the words in square brackets in the definition of the expression "Committee" in subsection (1) were substituted by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 10, with effect from 31st October, 1996;

the words, first, "Committee" and, second, "Committee for Employment & Social Security" in square brackets in the definition of the expression "Committee" in subsection (1) and, third, the word "Committee" in square brackets wherever else occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4, section 2, Schedule 1, paragraph 1(b), Schedule 2, Part 1, paragraph 1 and section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Employment & Social Security and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(b), Schedule 2, Part 1, paragraph 1, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

The following Ordinance has been made under section 9:

Employers' Liability (Compulsory Insurance) (General Provisions) Ordinance, 1994.

In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

The Insurance Business (Guernsey) Law, 1986 has since been repealed by the Insurance Business (Bailiwick of Guernsey) Law, 2002, section 100(1), Schedule 6, Part I, with effect from 5th November, 2002, subject to the savings in, first, section 102 of the 2002 Law and, second, section 78 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002.

General provisions as to Ordinances.

10. (1) An Ordinance of the States under this Law –

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to the States to be necessary or expedient.

(2) Any power conferred upon the States by this Law to make an Ordinance may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (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,
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.

Citation.

11. This Law may be cited as the Employers' Liability (Compulsory Insurance) (Guernsey) Law, 1993.

Commencement.

12. This Law shall come into force on the day appointed by Ordinance of the States.

NOTE

The Law was brought into force on 1st March, 1994 by the Employers' Liability (Compulsory Insurance) (Commencement) Ordinance, 1994, section 1.

¹ The words "Committee for Employment & Social Security" were previously substituted by the Board of Employment, Industry and Commerce by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 10, with effect from 31st October, 1996; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

² The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Law were previously transferred to them from the Board of Industry and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 5, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions of the Board of Industry under this Law were previously transferred to it from the Board of Employment, Industry and Commerce by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 1, Schedule 1, paragraph 11, with effect from 31st October, 1996, subject to the savings and transitional provisions in section 2 of the 1996 Ordinance.