

PROJET DE LOI

ENTITLED

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

[CONSOLIDATED TEXT]

NOTE

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* No. IX of 2013; as amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

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ARRANGEMENT OF SECTIONS

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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.

NOTE

The following Ordinances have been made under section 1:

Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015;

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

Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015.

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.

NOTE

The following Ordinances have been made under section 2:

Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015;

Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015.

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- (a) may be amended or repealed by a subsequent Ordinance, and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 [Committee], 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.

NOTES

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

The following Ordinances have been made under section 3:

Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015;

Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015.

Interpretation.

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

"[**Committee**]" means the States of Guernsey [Committee for Health & Social Care],

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

"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
- (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.

NOTES

In section 4, the words in the first and second pairs of square brackets in the definition of the expression "Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 6 and section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016.

The functions, rights and liabilities of the Health and Social Services 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 Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

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

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.

NOTE

The Law received Royal Sanction on 10th July, 2013 and was registered on the Records of the Island of Guernsey and came into force on 16th September, 2013.

SCHEDULE 1

Section 2

SPECIFIC MATTERS FOR WHICH AN ORDINANCE MAY BE MADE

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

Section 4(1)

EXAMPLES OF HEALTH PROFESSIONS

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.