

PROJET DE LOI

ENTITLED

The Health and Safety at Work etc. (Guernsey) Law, 1979

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[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XXVII, p. 155; as amended by the Health and Safety (Fees) (Guernsey) Law, 1993 (No. XIV of 1993, Ordres en Conseil Vol. XXXIV, p. 586); the Transfer of Functions Ordinance, 1991 (Recueil d'Ordonnances Tome XXV, p. 328); 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). This Law is applied, in part, to persons at work within the territorial waters of Guernsey by the Renewable Energy (Guernsey) Law, 2010 (No. XIV of 2011). See also the Health and Safety (Fees) Order, 2015 (G.S.I. No. 2 of 2015).

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The Health and Safety at Work etc. (Guernsey) Law, 1979

THE STATES, in pursuance of their Resolution of the twenty-sixth day of November, nineteen hundred and seventy-five, 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.

Interpretation.

1. (1) In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"authority" means any person entrusted with powers, or upon whom duties are imposed, by the States,

"[the Committee]" means the [States of Guernsey [Committee for Employment & Social Security]] or such other Committee of the States as may for the time being be responsible for the administration of this Law in pursuance of a Resolution of the States passed under this Law,

"contract of employment" means a contract of employment or apprenticeship (whether express or implied and, if express, whether oral or in writing),

"employee" means an individual who works under a contract of employment,

"premises" includes any place and, in particular, includes –

- (a) any vehicle, vessel, aircraft or hovercraft,

- (b) any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof), and
- (c) any tent or movable structure,

"self-employed person" means an individual who works for gain or reward otherwise than under a contract of employment, whether or not he himself employs others,

"undertaking" means any undertaking by way of trade or business.

(2) Subject to the next following subsection, for the purposes of this Law –

- (a) **"work"** means work as an employee or as a self-employed person,
- (b) an employee is at work throughout the time when he is in the course of his employment, but not otherwise, and
- (c) a self-employed person is at work throughout such time as he devotes to work as a self-employed person,

and the expressions **"work"** and **"at work"** shall be construed accordingly.

(3) The States may from time to time by Ordinance extend the meanings of "work" and "at work" for the purposes of this Law.

NOTES

In section 1,

the words in the second pair of square brackets were substituted by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 6, with effect from 31st October, 1996;

the words "the Committee" and "Committee for Employment & Social Security" in square brackets in subsection (1), wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4 and section 2, Schedule 1, paragraph 1(b), Schedule 2, Part 1, paragraph 1, 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

In accordance with the provisions of the Health and Safety (Fees) (Guernsey) Law, 1993, section 1(c), with effect from 1st February, 1994, the Committee for Employment & Social Security may by Order specify the fees to be payable to the States in respect of the grant, renewal or variation of licences, or applications therefor, or the provision of services or documents, under or for the purposes of, or in connection with the exercise of any function arising under, any provision of this Law and any Ordinance or other subordinate legislation made hereunder.

In accordance with the provisions of the Health and Safety (Fees) Order, 2015, with effect from 1st February, 2015, the fees payable for the provision of the services or documents therein referred to under or for the purposes of this Law and any Ordinance or subordinate legislation made hereunder are as contained in article 5 thereof.

In accordance with the provisions of the Renewable Energy (Guernsey) Law, 2010, section 5(1), with effect from 30th May, 2012 and subject to subsection (3) of that section, this Law, and any provisions made hereunder, shall apply to and in relation to persons at work (within the meaning of this Law) within the territorial waters of Guernsey where such work is carried on in connection with the activities as set out in the said section 5.

Administration.

2. [The Committee] shall be responsible for carrying out the provisions of any Ordinance made under this Law except for the carrying out of such provisions, if any, as the States may require to be carried out by some other authority.

NOTE

In section 2, the words in square brackets were 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.

Powers of the States to make Ordinances.

3. (1) The States may from time to time by Ordinance provide –
- (a) for securing the health, safety and welfare of persons at work,
 - (b) for protecting persons, other than persons at work, against risks to health and safety arising out of or in connection with the activities of persons at work,
 - (c) for regulating or prohibiting the importation, production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition or use of explosive or highly flammable or otherwise dangerous substances,
 - (d) for controlling the emission into the atmosphere of noxious or offensive substances from any premises,
 - (e) for the entry into and inspection of any premises for any purpose connected with the exercise of powers conferred under this Law,
 - (f) for the taking and detention of samples of any article or substance found in any premises, and of the atmosphere in or in the vicinity of any premises, for any purpose connected with the exercise of powers conferred under this Law,
 - (g) for any incidental and supplementary matters for which the States deem it expedient for the purposes of

the Ordinance to provide,

and may from time to time make such provision, including provision for requiring any person to furnish any information and to keep any record, as the States think necessary or expedient for facilitating the introduction or operation of a scheme of control for which provision has been made, or for which, in the opinion of the States, it will or may be found necessary or expedient that provision should be made under this Law.

(2) An Ordinance made under this Law may prohibit the doing of anything regulated by the Ordinance except under the authority of a licence granted by [the Committee] or some other authority or person as may be specified in the Ordinance [subject to the payment of such fee as may be specified by order of [the Committee] under the Health and Safety (Fees) (Guernsey) Law, 1993], and may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking, and so as to have effect either generally or in any particular area.

NOTES

In section 3,

the words "the Committee" in square brackets, wherever occurring, were 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;

the words in the second pair of square brackets in subsection (2) were inserted by the Health and Safety (Fees) (Guernsey) Law, 1993, section 2(3), with effect from 1st February, 1994.

The following Ordinances have been made under section 3:

*Health and Safety at Work (General) (Guernsey) Ordinance, 1987;
Health and Safety at Work (Freight Containers Safety Convention)
Ordinance, 1992;*

*Health and Safety (Gas) (Guernsey) Ordinance, 2006;
Health and Safety at Work (General) (Guernsey) (Amendment)
Ordinance, 2012.*

Offences.

4. Save as otherwise expressly provided by that Ordinance, any person

who contravenes or attempts to contravene or fails to comply with any of the provisions of any Ordinance made under this Law or any direction or requirement imposed under or by virtue of that Ordinance shall be guilty of an offence under that Ordinance.

NOTE

The following Ordinance has been made under section 4:

Health and Safety (Gas) (Guernsey) Ordinance, 2006.

Penalties, etc.

5. The States may from time to time by Ordinance –
- (a) prescribe the penalties which shall be incurred by any person guilty of an offence under any Ordinance made under this Law, and different penalties may be so prescribed for different offences,
 - (b) provide that where a person is convicted of an offence under any such Ordinance –
 - (i) in respect of any matters which appear to the Court to be matters which it is in the power of that person to remedy, the Court may, in addition to, or instead of, imposing any penalty, order that person, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters,
 - (ii) in respect of any article or substance, the Court may order the article or substance in question to be forfeited and either destroyed or dealt with in such other manner as the Court may order.

NOTE

The following Ordinances have been made under section 5:

Health and Safety at Work (Freight Containers Safety Convention) Ordinance, 1992;
Health and Safety (Gas) (Guernsey) Ordinance, 2006;
Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2012.

Variation of Ordinances.

6. Any power conferred by this Law to make any Ordinance shall be construed as including a power exercisable in the like manner to vary or repeal the Ordinance.

Repeals, transitional provisions and savings.

7. (1) The States may by Ordinance repeal or modify any of the Laws mentioned in the Schedule to this Law.

(2) An Ordinance made under this section may contain such transitional provisions and savings as appear to the States to be necessary or expedient.

Citation.

8. This Law may be cited as the Health and Safety at Work etc. (Guernsey) Law, 1979.

NOTE

The Law received Royal Sanction on 19th October, 1979 and was registered on the Records of the Island of Guernsey and came into force on 13th November, 1979.

SCHEDULE Section seven
LAWS WHICH THE STATES MAY REPEAL OR MODIFY BY ORDINANCE
UNDER SECTION SEVEN OF THIS LAW

The Explosives (Guernsey) Law, 1905^a.

The Explosives (Guernsey) (Amendment) Law, 1914^b.

The Law entitled "The Explosives (Guernsey) (Amendment) Law, 1951", registered on the seventeenth day of February, nineteen hundred and fifty-one^c.

The Law entitled "Loi relative aux Huiles ou Essences Minérales, ou autres substances de la même nature, 1924", registered on the fifth day of April, nineteen hundred and twenty-five^d.

The Law entitled "Loi supplémentaire à la Loi relative aux Huiles ou Essences Minérales ou autres substances de la même nature (1927)", registered on the sixteenth day of July, nineteen hundred and twenty-seven^e.

The Law entitled "Loi ayant rapport à l'Emploi de Femmes, de Jeunes Personnes et d'Enfants", registered on the twentieth day of November, nineteen hundred and twenty-six^f.

The Law entitled "The Health, Safety and Welfare of Employees Law, 1950", registered on the twenty-second day of April, nineteen hundred and fifty^g.

^a Ordres en Conseil Vol. III, p. 414 and 473.

^b Ordres en Conseil Vol. V, p. 30.

^c Ordres en Conseil Vol. XV, p. 11.

^d Ordres en Conseil Vol. VII, p. 324.

^e Ordres en Conseil Vol. VIII, p. 149.

^f Ordres en Conseil Vol. VIII, p. 29.

^g Ordres en Conseil Vol. XIV, p. 312.

The Poisonous Substances (Guernsey) Law, 1958^h.

NOTE

The Poisonous Substances (Guernsey) Law, 1958 has since been repealed by the Poisonous Substances (Guernsey) Law, 1994, section 5, with effect from 1st November, 1995.

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 6, 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 were previously transferred to it 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 6, with effect from 31st October, 1996, subject to the savings and transitional provisions in section 2 of the 1996 Ordinance. The functions of the Board of Employment, Industry and Commerce were previously transferred to it from the Labour and Welfare Committee by the Transfer of Functions Ordinance, 1991, section 2, Schedule 2, paragraph 12, with effect from 31st July, 1991, subject to the savings and transitional provisions in section 3 of the 1991 Ordinance.

^h Ordres en Conseil Vol. XVII, p. 378.