



III  
2017

# BILLET D'ÉTAT

WEDNESDAY, 1<sup>st</sup> FEBRUARY, 2017

## *ELECTIONS*

1. The Ladies' College Board of Governors – Election of new Member,  
P. 2016/74
2. Committee for Employment & Social Security – Appointment of an  
Industrial Disputes Officer and Deputy Industrial Disputes Officer,  
P. 2016/71

## *LEGISLATIVE BUSINESS*

### *Legislation Laid Before the States*

The Social Insurance (Residence and Persons Abroad) (Guernsey)  
(Amendment) Regulations, 2016  
The Social Insurance (Determination of Claims and Questions) (Guernsey)  
(Amendment) Regulations, 2016  
The Social Insurance (Contributions) (Amendment) Regulations, 2016  
The Health Service (Medical Appliances) (Amendment) Regulations, 2016  
The States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment)  
Regulations, 2016  
The States Housing (Statutory Tenancies) (Guernsey) (Amendment)  
Regulations, 2016  
The Water Charges (Amendment) Regulations, 2016  
The Wastewater Charges (Guernsey) Regulations, 2016

CONTINUED OVERLEAF

The Income Tax (Guernsey) (Valuation of Benefits in Kind) (Amendment) Regulations, 2016  
The Waste Disposal and Recovery Charges Regulations, 2016  
The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2016  
The Social Insurance (Benefits) (Amendment) (No. 2) Regulations, 2016  
The Social Insurance (Benefits) (Amendment) (No. 3) Regulations, 2016  
The Supplementary Benefit (Guernsey) (Amendment) Regulations, 2016  
The Health Service (Payment of Authorised Appliance Suppliers) (Amendment) Regulations, 2016  
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# BILLET D'ÉTAT

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## TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

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I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **1<sup>st</sup> February, 2017** at **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. COLLAS  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey

12<sup>th</sup> January, 2017

**ELECTION OF A MEMBER OF THE  
LADIES' COLLEGE BOARD OF GOVERNORS**

The States are asked:

To elect Ms. Cathryn Llywella Perkins as a member of the Ladies' College Board of Governors who has been nominated in that behalf by the Chairman, the two States-appointed Governors and the two Governors appointed by the States on the nomination of the Committee *for* Education, Sport & Culture, to complete the unexpired term of office of Mrs. S. A. Nickolls who has resigned that office, that is until the 31<sup>st</sup> May 2018.

*N.B. Nominations cannot be made from the floor of the Assembly.*



The Bailiff  
Bailiff's Chambers  
The Royal Court House  
St Peter Port  
GY1 2NZ

Les Gravées, St Peter Port  
Guernsey, GY1 1RW  
Tel: (01481) 721602  
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21<sup>st</sup> December 2016

Dear Sir

I am writing at the request of the Board of Governors of The Ladies' College which would be grateful if you would request the States to appoint a member of the Board to complete the term (until May 2018) of Mrs Stephanie Nickolls who has chosen to retire from the Board with effect from 31<sup>st</sup> December 2016. The Board wishes to express its sincere thanks to Mrs Nickolls for her service to the College over the last 16 years

Mrs Nickolls was a nominee of the Board and the Board now wish to nominate Ms Cathy Perkins to complete her term of office.

As you are aware, the Board of Governors has conducted a skills analysis of the Governors in order to ensure that the Board has a suitable range of skills and experience amongst its members. In so doing, the Board were mindful of the guidance of the Association of Governing Bodies in Independent Schools (AGBIS), of which the College is a member, about the range of backgrounds and skills that a Governing Body should ideally encompass.

Ms Perkins would bring to the Board a broad range of financial and management experience gained in an operating environment. Ms Perkins is, as Mrs Nickolls, an alumna of the College.

Ms Perkins has confirmed her willingness to act in this capacity as a member of the Board of Governors.



Ms Perkins' CV is attached and Deputy Heidi Soulsby has agreed to be her proposer in the States.

Yours faithfully

*Elizabeth Bridge*

Elizabeth Bridge  
Clerk to the Governors

### **CV for Ms Cathy Perkins**

Ms Perkins is the Group Accounting Technical Manager at Specsavers Optical Group Limited, responsible for the preparation of the financial statements for a large number of entities. She also manages the delivery of training and development for all Chartered Accountants throughout the Specsavers Group. Ms Perkins' previous role as Internal Audit Senior Manager included establishing and managing the group risk matrix and undertaking process reviews. Whilst at Specsavers, Ms Perkins has also been responsible for the management of events.

Ms Perkins has a long association with The Ladies' College having attended the College and currently serving on both the Parents' Association Committee and The College Guild Committee.

Since May 2016 Ms Perkins has also contributed to the governance of the College as an Associate Governor.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE *FOR* EMPLOYMENT AND SOCIAL SECURITY**

APPOINTMENT OF AN INDUSTRIAL DISPUTES OFFICER AND DEPUTY INDUSTRIAL  
DISPUTES OFFICER

The States are asked to decide whether, after consideration of the Policy Letter entitled 'Appointment of an Industrial Disputes Officer and Deputy Industrial Disputes Officer' dated 21<sup>st</sup> December 2016, they are of the opinion:-

1. to appoint Mr Neil Carrington as Industrial Disputes Officer with immediate effect for the period ending on 31<sup>st</sup> December 2019, and
2. subject to the approval of the foregoing proposition, to approve the appointment of Mr Stuart Le Maitre as Deputy Industrial Disputes Officer for the same period.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.



**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE *FOR* EMPLOYMENT AND SOCIAL SECURITY**

**APPOINTMENT OF AN INDUSTRIAL DISPUTES OFFICER AND DEPUTY INDUSTRIAL  
DISPUTES OFFICER**

The Presiding Officer  
States of Guernsey  
Royal Court House  
St Peter Port

21<sup>st</sup> December 2016

Dear Sir

**1. Executive Summary**

- 1.1 Under The Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993 ("the Law"), the States are required to appoint an Industrial Disputes Officer. The role of the Industrial Disputes Officer is to resolve industrial disputes using advice and assistance, conciliation, or voluntary arbitration between the parties; or to refer the dispute to the Industrial Disputes Tribunal if necessary, with the agreement of the parties.
- 1.2 The Law provides that the Industrial Disputes Officer shall appoint a Deputy Industrial Disputes Officer. The appointment of the Deputy Industrial Disputes Officer is subject to the approval of the States.
- 1.3 The term of office for the current Industrial Disputes Officer, Mr Michael Fooks, expires on 31<sup>st</sup> December 2016. Mr Fooks is not seeking re-appointment for a further term. The term of office of the current Deputy Industrial Disputes Officer, Mr Neil Carrington, also expires on 31<sup>st</sup> December 2016.
- 1.4 Following an open recruitment and assessment process, the Committee is recommending that the States appoint Mr Neil Carrington as Industrial Disputes Officer. Mr Carrington has indicated that if the States approve his appointment, he will appoint Mr Stuart Marcel Le Maitre, as Deputy Industrial Disputes Officer. The Committee is therefore, also recommending the States to approve Mr Le Maitre's appointment. Both terms of office will have immediate effect and will run until 31<sup>st</sup> December 2019.

## **2. Background**

- 2.1 Section 1 of the Law requires the States to appoint an Industrial Disputes Officer. Section 2 of the Law requires the Industrial Disputes Officer to appoint a Deputy Industrial Disputes Officer, whose appointment is subject to the approval of the States.
- 2.2 The current Industrial Disputes Officer, Mr Michael Fooks, has served in the offices of Deputy Industrial Disputes Officer and Industrial Disputes Officer for more than 20 years. The Committee wishes to place on record the appreciation and gratitude of the States for the significant contribution made by Mr Fooks to industrial relations in Guernsey over this long period. Mr Fooks has assisted in the timely resolution of numerous industrial disputes and has been successful in discharging a wider role, helping to maintain good industrial relations between the parties during conflict and encouraging continued good industrial relations in the workplace after a dispute.
- 2.3 Mr Fooks has carried out his duties in an exemplary manner, maintaining independence and impartiality, and universally commanding the respect of the parties through his practical approach to dispute resolution. His close working relationship with his predecessor Industrial Disputes Officer, his Deputy Industrial Disputes Officer, and the staff of the Employment Relations Service, has ensured a joint approach to dispute resolution that has helped maintain Guernsey's enviable record of good industrial relations.

## **3. Recruitment and Selection Process**

- 3.1 In October 2016, the Committee advertised the impending vacancies in the positions of Industrial Disputes Officer and Deputy Industrial Disputes Officer. Short-listed candidates were interviewed by a three-person panel including a senior industrial relations and dispute resolution specialist from the Advisory and Conciliation and Arbitration Service (ACAS). Candidates were assessed against the key criteria and skills identified for the positions, with part of the interview being based on the analysis of a typical, but hypothetical, industrial dispute.

## **4. Term of Office**

- 4.1 The Law specifies that the Industrial Disputes Officer shall hold office for such period as the States may direct. The States normally make the appointment for a period of three years. The Committee recommends that the appointment of the Industrial Disputes Officer should be with immediate effect and should continue until 31<sup>st</sup> December 2019. As the Industrial Disputes Officer appoints the Deputy Industrial Disputes Officer, the term of office of the latter shall be the same.

## **5. Conclusions**

- 5.1 The Committee recommends that the States appoint Mr Neil Carrington as Industrial Disputes Officer with immediate effect for the period ending on 31<sup>st</sup> December 2019.
- 5.2 Mr Carrington has indicated that, subject to the States approving his own appointment, and in the light of recommendations of the selection panel, he will appoint Mr Stuart Marcel Le Maitre as Deputy Industrial Disputes Officer.
- 5.3 Brief career histories of Mr Carrington and Mr Le Maitre appear in the Appendix to this Policy Letter.

## **6. Propositions**

- 6.1 The States are asked to decide whether they are of the opinion:-
- a) to appoint Mr Neil Carrington as Industrial Disputes Officer with immediate effect for the period ending on 31<sup>st</sup> December 2019, and
  - b) subject to the approval of the foregoing proposition, to approve the appointment of Mr Stuart Marcel Le Maitre as Deputy Industrial Disputes Officer for the same period.

## **7. Committee Support for Propositions**

- 7.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

M K Le Clerc  
President

S L Langlois  
Vice-President

M J Fallaize  
J A B Gollop  
E A Yerby

M J Brown  
Non-States Member

A R Le Lièvre  
Non-States Member

## **APPENDIX**

### **Neil Carrington**

Mr Carrington is currently Chief Executive of a local company specialising in the area of employment, particularly in the Maritime and Energy Industries. He has a background of working with Unions within the Maritime industry and has significant experience of liaising with staff, management and union representatives. He has held the office of Deputy Industrial Disputes Officer since 2012 and has successfully dealt with a number of private and public sector disputes in that period.

### **Stuart Marcel Le Maitre**

Mr Le Maitre is currently self-employed carrying out consultancy work, is a Douzenier for the Vale Parish, and holds Non-Executive Director roles. Previously Mr Le Maitre was a Civil Servant for over 20 years, both in the UK and Guernsey; including working in the Industrial Relations Service (now the Employment Relations Service), where he gained first-hand knowledge of working with the Industrial Disputes Officers at that time, and developed extensive experience of chairing conciliation meetings. He also has experience of working in the commercial sector locally having held senior positions for five years.

## **STATUTORY INSTRUMENTS LAID BEFORE THE STATES**

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No.61 of 2016

### **THE SOCIAL INSURANCE (RESIDENCE AND PERSONS ABROAD) (GUERNSEY) (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 117 of the Social Insurance (Guernsey) Law, 1978, The Social Insurance (Residence and Persons Abroad) (Guernsey) (Amendment) Regulations, 2016, made by the Committee *for* Employment & Social Security, on 6<sup>th</sup> December 2016, are laid before the States.

#### **EXPLANATORY NOTE**

These Regulations set out the exceptions to the general disqualification for the receipt of maternal health allowance, newborn care allowance and parental allowance by reason of being absent from Guernsey, as provided for under section sixty-seven of the Social Insurance (Guernsey) Law, 1978.

These Regulations also substitute a reference to “maternity benefit” with “maternal health allowance”, which is one of the new parental benefits which will replace the current maternity benefits with effect from 1 January 2017.

These Regulations also replace a reference to “the age of 65 years” with the term “Pensionable age”. This change is necessary because Pensionable age, which is currently 65 years, will start to increase incrementally in 2020.

These Regulations come into force on the 1<sup>st</sup> day of January, 2017.

No.56 of 2016

### **THE SOCIAL INSURANCE (DETERMINATION OF CLAIMS AND QUESTIONS) (GUERNSEY) (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 117 of the Social Insurance (Guernsey) Law, 1978, The Social Insurance (Determination of Claims and Questions) (Guernsey) (Amendment) Regulations, 2016, made by the Committee *for* Employment & Social Security, on 6<sup>th</sup> December 2016, are laid before the States.

#### **EXPLANATORY NOTE**

With effect from 1<sup>st</sup> January 2017, the provisions of the Social Insurance (Guernsey) Law, 1978 (“the 1978 Law”) relating to maternity allowance will be repealed. From this date, maternity allowance will be replaced with the new benefits known as maternal health

allowance and newborn care allowance and an equivalent benefit, known as parental allowance, will be available to adoptive parents.

These Regulations replace a reference in the Social Insurance (Determination of Claims and Questions) Regulations, 1978 to “maternity allowance” with a reference to the new benefits “maternal health allowance, newborn care allowance and parental allowance”.

These Regulations come into force on the 1<sup>st</sup> day of January, 2017.

No.57 of 2016

**THE SOCIAL INSURANCE (CONTRIBUTIONS) (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 117 of the Social Insurance (Guernsey) Law, 1978, The Social Insurance (Contributions) (Amendment) Regulations, 2016, made by the Committee *for* Employment & Social Security, on 6<sup>th</sup> December 2016, are laid before the States.

EXPLANATORY NOTE

With effect from 1st January 2017, the provisions of the Social Insurance (Guernsey) Law, 1978 (“the 1978 Law”) relating to maternity allowance will be repealed. From this date, maternity allowance will be replaced with the new benefits known as maternal health allowance and newborn care allowance and an equivalent benefit, known as parental allowance, will be available to adoptive parents.

These Regulations replace references in the Social Insurance (Contributions) Regulations, 2000 to “maternity allowance” with references to “maternal health allowance, newborn care allowance and parental allowance”. They provide for contribution credits to be awarded to people who do not satisfy the contribution conditions for the receipt of maternal health allowance, newborn care allowance or parental allowance. They also provide that where contributions are credited to a person who does not satisfy the contribution conditions for the receipt of maternal health allowance, newborn care allowance or parental allowance, they shall be deemed to be paid for the purpose of determining the period for which a newborn care allowance or parental allowance is payable, as appropriate.

These Regulations come into force on the 1<sup>st</sup> day of January, 2017.

No. 60 of 2016

**THE HEALTH SERVICE (MEDICAL APPLIANCES) (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 35(4) of the Health Service (Benefit) (Guernsey) Law, 1990, The Health Service (Medical Appliances) (Amendment) Regulations, 2016, made by the Committee *for* Employment & Social Security on 6<sup>th</sup> December 2016, are laid before the States.

**EXPLANATORY NOTE**

These Regulations further amend the Health Service (Medical Appliances) Regulations, 1990, as amended, by increasing the charges payable to authorised appliance suppliers in Guernsey and Alderney by persons supplied with Part I, II or III medical appliances, who are not exempt from such charges. The increased charges amount to £3.80 for each appliance.

These Regulations also substitute a reference to “the age of 65 years” in Regulation 6 of the Health Service (Medical Appliances) Regulations, 1990, as amended, concerning the grant of a certificate of exception from liability to pay appliance charges, with a reference to “Pensionable age”. This change is required in preparation for the phased increase in Pensionable age which is due to commence in 2020.

These Regulations come into force on the 1<sup>st</sup> day of January, 2017.

No. 58 of 2016

**THE STATES HOUSING (RENT AND REBATE SCHEME) (GUERNSEY) (AMENDMENT) REGULATIONS, 2016**

In pursuance of Section 5(3) of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004, The States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2016, made by the Committee *for* Employment & Social Security on 6<sup>th</sup> December 2016, are laid before the States.

**EXPLANATORY NOTE**

These Regulations amend the States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005 by making changes to the States Rental Formula and to the charges applied to non-dependent persons residing in the household of a statutory tenant, and to the allowances given to dependent children residing in the household of a statutory tenant.

These Regulations come into force on the 31<sup>st</sup> December, 2016.

No.59 of 2016

**THE STATES HOUSING (STATUTORY TENANCIES) (GUERNSEY) (AMENDMENT)  
REGULATIONS, 2016**

In pursuance of Section 5(3) of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004, The States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations 2016, made by the Committee *for* Employment & Social Security on 6<sup>th</sup> December 2016, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the States Housing (Statutory Tenancies) (Guernsey) Regulations, 2005, by replacing the requirement for 7 days' notice of termination of tenancy with a requirement for 28 days' notice of such termination, calculated from the Saturday following service of the notice.

In addition, these Regulations replace the requirement for 7 days' notice of variation of the Terms and Conditions of Statutory Tenancy (including variations to rent), with a requirement for 28 days' notice of such variation.

These Regulations also consequentially replace the reference to 7 days' notice, in the Notice for Amending, Modifying or Disapplying Terms, Conditions & Particulars of Statutory Tenancy in Schedule 4, with a reference to 28 days' notice.

Finally, these Regulations include transitional provisions to save the effect of a notice to vary or terminate the Statutory Tenancy given before these Regulations come into force.

No.64 of 2016

**THE WATER CHARGES (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007, "The Water Charges (Amendment) Regulations, 2016", made by the States' Trading Supervisory Board on 8<sup>th</sup> December, 2016, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the charges which will be made for the supply of water for 2017.

These Regulations come into force on 1<sup>st</sup> January, 2017.



No.63 of 2016

**THE WASTEWATER CHARGES (GUERNSEY) REGULATIONS, 2016**

In pursuance of section 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007, "The Wastewater Charges (Guernsey) Regulations, 2016", made by the States' Trading Supervisory Board on 8<sup>th</sup> December, 2016, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe new wastewater charges and rates applying under the Wastewater Charges (Guernsey) Law, 2009.

These Regulations come into force on 1<sup>st</sup> January, 2017.

No.62 of 2016

**THE INCOME TAX (GUERNSEY) (VALUATION OF BENEFITS IN KIND) (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 203A of the Income Tax (Guernsey) Law, 1975, as amended, "The Income Tax (Guernsey) (Valuation of Benefits in Kind) (Amendment) Regulations, 2016" made by the Policy & Resources Committee on 22 November, 2016, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the Income Tax (Guernsey) (Valuation of Benefits in Kind) Regulations, 2010 by increasing the value of the benefits from motor vehicles and accommodation and food benefits for the specified categories of taxpayer (for example, proprietary directors and proprietary employees) in a hotel or guesthouse for the years of charge 2017, 2018 and 2019 (and, unless further provision is made, any subsequent year).

These Regulations came into force on 1 January, 2017.

No.65 of 2016

**WASTE DISPOSAL AND RECOVERY CHARGES REGULATIONS, 2016**

In pursuance of sections 32(3)(c) and (4) and section 72 of the Environmental Pollution Law, 2004, "The Waste Disposal and Recovery Charges Regulations, 2016" made by the Waste Disposal Authority on 8<sup>th</sup> December, 2016, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the charges, or rates of charge, payable in 2017 as a pre-condition of the acceptance of waste of particular descriptions by the Waste Disposal

Authority for disposal or recovery at specified public waste management sites (see Table 1 in Schedule 1). They also set out charges in 2017 for the reloading of waste which is not accepted at specified public waste management sites (see Table 2 in Schedule 1).

These Regulations come into force on 1<sup>st</sup> January, 2017.

The full text of the statutory instruments and other legislation included in this document can be found at: <http://www.guernseylegalresources.gg/article/151276/2016>

**STATUTORY INSTRUMENTS LAID BEFORE THE STATES**

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No. 53 of 2016

**REGULATION OF HEALTH PROFESSIONS (MEDICAL PRACTITIONERS) (GUERNSEY AND ALDERNEY) REGULATIONS, 2016**

In pursuance of section 25 of the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2016, the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Regulations, 2015, made by the Committee for Health & Social Care on the 26<sup>th</sup> October, 2016, are laid before the States.

EXPLANATORY NOTE

Regulation 1 prescribes the form and manner, and information and application fee to be included, in an application for registration as a medical practitioner in the Register under the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015 ("the Ordinance"), as amended by the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015

Regulation 2 specifies the information to be entered and kept in the Register, while regulation 3 sets out the information that is to be made public.

Regulation 4 prescribes the registration year and the annual charges to be paid by practitioners in respect of each registration year.

Finally, regulation 5 prescribes events that are required to be notified by a registered practitioner to the Committee within seven days of the practitioner becoming or being made aware of their occurrence.

These Regulations came into force on the 27<sup>th</sup> October, 2016.

No. 75 of 2016

**THE SOCIAL INSURANCE (BENEFITS) (AMENDMENT) (NO. 2) REGULATIONS, 2016**

In pursuance of section 117 of the Social Insurance (Guernsey) Law, 1978, the Social Insurance (Benefits) (Amendment) (No.2) Regulations, 2016 made by the Committee for Employment & Social Security on 20<sup>th</sup> December, 2016, are laid before the States.

EXPLANATORY NOTE

The Social Insurance (Guernsey) Law (Amendment) Ordinance, 2016 ("the 2016 Ordinance") will come into force on 1st January, 2017. The 2016 Ordinance amends the Social Insurance (Guernsey) Law, 1978 ("the 1978 Law") in order to create four new benefits known as adop-

tion grant, maternal health allowance, newborn care allowance and parental allowance. Together with maternity grant, the benefits are referred to collectively as "parental benefit". The 2016 Ordinance also repeals the provisions of the 1978 Law relating to maternity allowance, which is in effect replaced with the new benefits known as maternal health allowance and newborn care allowance.

These Regulations amend the Social Insurance (Benefits) Regulations, 2003 ("the 2003 Regulations").

Regulation 2 makes various amendments to the "Arrangement of Regulations".

Regulation 3 inserts in regulation 1(1) of the 2003 Regulations the definitions of various expressions used in the newly inserted regulations.

Regulations 4 and 6 to 17 of these Regulations make a variety of amendments to the 2003 Regulations to substitute, at the relevant places, references to "maternity allowance" and "maternity benefit" with references to the appropriate new benefit(s) and the new collective term "parental benefit".

Regulation 5 inserts new paragraphs into regulation 3 of the 2003 Regulations setting out the evidence to be furnished in respect of a claim for newborn care allowance, adoption grant or parental allowance.

As well as making the necessary substitutions of benefit names, Regulation 7 inserts a new sub-paragraph in regulation 8(3) of the 2003 Regulations setting out the prescribed time for the making of a claim for adoption grant and parental allowance.

Regulation 18 inserts a new regulation into the 2003 Regulations numbered 41A. This regulation provides that a woman shall elect a date, within the confines set out in the 1978 Law, on which her claim to maternal health allowance is to commence and, in the event that no election is made by the woman, when it will commence.

Regulation 19 inserts new regulations into the 2003 Regulations numbered 42A to 42D. Inserted regulation 42A provides that an adopter who adopts more than one child shall, if the other conditions for the payment of an adoption grant are satisfied in respect of the adoption, be entitled to an adoption grant for each of them. Inserted regulation 42B provides for the persons who are, or are to be regarded as, a parent of a child to whom a claim for new-

born care allowance relates. Inserted regulation 42C provides for the persons who are, or are to be regarded as, an adopter of a child to whom a claim for parental allowance relates. Inserted regulation 42D sets out the circumstances in which a person is, or is to be regarded as, the primary care-giver of a child for the purposes of entitlement to newborn care allowance or parental allowance, as appropriate.

Regulation 21 inserts new regulations into the 2003 Regulations numbered 43A to 43D. Inserted regulation 43A prescribes a maximum number of transfers between parents or adopters in respect of a newborn care allowance or a parental allowance. Inserted regulation 43B prescribes modifications to the 1978 Law in relation to the period of a maternal health allowance, a newborn care allowance or a parental allowance payable in certain circumstances. These circumstances include stillbirth after 24 weeks, death of the child or the mother of the child in respect of whom a claim for maternal health allowance relates before the end of the compulsory maternity leave period and the taking of the child in respect of whom a claim for one of the three new allowance relates into voluntary care. Inserted regulation 43C prescribes modifications to the 1978 Law in respect of persons ordinarily resident in Alderney where the Maternity Leave and Adoption Leave (Guernsey) Ordinance, 2016 does not apply. Inserted regulation 43D prescribes the circumstances in which a parent or an adopter shall be exempted from the requirement to be the primary care-giver of the child in respect of a claim for newborn care allowance or parental allowance respectively.

Regulation 22 sets out the full and reduced rates of maternity allowance payable to a woman to whom section 17(1) of the 2016 Ordinance applies (i.e. a woman whose date of confinement was expected to fall before 1st January, 2017, and who gave birth to a child before 1st January, 2017).

With the exception of Regulation 22, which comes into force on 2<sup>nd</sup> day of January, 2017, these Regulations come into force on the 1<sup>st</sup> day of January, 2017.

No. 74 of 2016

### **THE SOCIAL INSURANCE (BENEFITS) (AMENDMENT) (NO.3) REGULATIONS, 2016**

In pursuance of section 117 of the Social Insurance (Guernsey) Law, 1978, the Social Insurance (Benefits) (Amendment) (No.3) Regulations, 2016 made by the Committee *for* Employment & Social Security on 20<sup>th</sup> December, 2016, are laid before the States.

#### **EXPLANATORY NOTE**

These Regulations amend the schedules to the Social Insurance (Benefits) Regulations, 2003 and prescribe the reduced rates of benefit payable from 2nd January, 2017 to claimants

who do not satisfy the conditions for entitlement to payment of the maximum rate of benefit.

These Regulations come into force on the 2<sup>nd</sup> day of January, 2017.

No. 73 of 2016

**THE SUPPLEMENTARY BENEFIT (GUERNSEY) (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 15B(1)(c) of the Supplementary Benefit (Guernsey) Law, 1971, the Supplementary Benefit (Guernsey) (Amendment) Regulations, 2016, made by the Committee *for* Employment & Social Security on 20<sup>th</sup> December, 2016, are laid before the States.

EXPLANATORY NOTE

With effect from 1st January 2017, the provisions of the Social Insurance (Guernsey) Law, 1978 (“the 1978 Law”) relating to maternity allowance will be repealed. From this date, maternity allowance will be replaced with the new benefits known as maternal health allowance and newborn care allowance and an equivalent benefit, known as parental allowance, will be available to adoptive parents.

These Regulations amend Regulation 11 of the Supplementary Benefit (Guernsey) Regulations, 2014 in order to remove maternity allowance and add maternal health allowance, newborn care allowance and parental allowance to the list of benefits, allowances and pensions payable under the 1978 Law that can be abated under the Supplementary Benefit (Guernsey) Law, 1971 (“the principal Law”), at the discretion of the States Committee for Employment & Social Security, in respect of supplementary benefit payable under the principal Law.

These Regulations come into force on 1<sup>st</sup> January, 2017.

No. 78 of 2016

**THE HEALTH SERVICE (PAYMENT OF AUTHORISED APPLIANCE SUPPLIERS) (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 35(4) of the Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Payment of Authorised Appliance Suppliers) (Amendment) Regulations, 2016, made by the Committee *for* Employment & Social Security on 20<sup>th</sup> December, 2016, are laid before the States.

## EXPLANATORY NOTE

These Regulations revoke and replace the Schedules to the Health Service (Payment of Authorised Appliance Suppliers) Regulations, 2003. The Schedules set out the payments which may be made out of the Health Service Benefit Fund for the supply of medical appliances.

These Regulations come into force on the 1<sup>st</sup> January, 2016.

No. 77 of 2016

**THE HEALTH SERVICE (PAYMENT OF AUTHORISED SUPPLIERS) (AMENDMENT) (NO.2) REGULATIONS, 2016**

In pursuance of section 35(4) of the Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Payment of Authorised Suppliers) (Amendment) (No.2) Regulations, 2016, made by the Committee *for* Employment & Social Security on 20<sup>th</sup> December, 2016, are laid before the States.

## EXPLANATORY NOTE

These Regulations revoke and replace the Schedules to the Health Service (Payment of Authorised Suppliers) Regulations, 2003. The amendments have the effect of increasing the graduated fees paid out of the Guernsey Health Service Fund, in connection with the supply of certain pharmaceutical benefit, to pharmacists not employed by a medical practice.

These Regulations come into force on 1<sup>st</sup> January, 2017.

No. 76 of 2016

**THE HEALTH SERVICE (PHARMACEUTICAL BENEFIT) (AMENDMENT) (NO.2) REGULATIONS, 2016**

In pursuance of section 35(4) of the Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Pharmaceutical Benefits) (Amendment) (No.2) Regulations, 2016, made by the Committee *for* Employment & Social Security on 20<sup>th</sup> December, 2016, are laid before the States.

## EXPLANATORY NOTE

These Regulations reduce the period during which an authorised supplier may provide pharmaceutical benefit in advance of the prescription date for persons who will be temporarily absent from Guernsey or Alderney on the date specified on the prescription, from 30 days to 28 days.

These Regulations come into force on the 20<sup>th</sup> day of December, 2016.

The full text of the statutory instruments and other legislation included in this document can be found at: <http://www.guernseylegalresources.gg/article/151276/2016>



**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE**

ENVIRONMENTAL POLLUTION (GUERNSEY) LAW, 2004  
PART VII – AIR POLLUTION

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 30<sup>th</sup> November, 2016 entitled “Environmental Pollution (Guernsey) Law, 2004 Part Vii – Air Pollution”, they are of the opinion:-

1. To approve the proposals set out in this policy letter (including appendices) to;
  - a) commence part VII of the 2004 Law,
  - b) set standards for local air quality consistent with those in the UK as proposed by paragraphs 10-13 to the Director’s report,
  - c) prescribe the operations listed in paragraph 14 of the Director’s report as operations requiring a licence under Part III of the 2004 Law, subject to provisions for exemptions as set out in paragraph 16 of the Director’s report,
  - d) prohibit emissions of dark smoke subject to the exemptions listed in paragraph 21 of the Director’s report,
  - e) require the prior approval of the installation of new commercial boilers and furnaces and to impose controls on emissions from existing commercial boilers and furnaces, subject to exemptions, as proposed in paragraphs 23-26 of the Director’s report,
  - f) prohibit the uncontrolled burning of non-garden waste in the open air subject to exemptions as proposed in paragraphs 27-32 of the Director’s report,
  - g) prohibit the use of gas oils and fuels oils with a sulphur content above the levels set out in paragraphs 35 of the Director’s report subject to the exemptions as proposed in paragraphs 36-37 of the Director’s report,
  - h) provide for powers for the Director to require information concerning air pollution by notice as proposed in paragraphs 41-44 of the Director’s report;
  - i) provide for the standard necessary appeal, procedural, enforcement fee and transitional provisions relating to the above proposals as set out in paragraphs 62-65 of the Director’s report; and

- j) to direct the preparation of the necessary legislation to give effect to the above proposals.

The above Propositions have been submitted to Her Majesty's Procurer for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE**

ENVIRONMENTAL POLLUTION (GUERNSEY) LAW, 2004  
PART VII – AIR POLLUTION

The Presiding Officer  
States of Guernsey  
Royal Court House  
St Peter Port

30<sup>th</sup> November, 2016

Dear Sir

**1. Executive Summary**

- 1.1 The Committee *for the* Environment & Infrastructure having received and considered a report (Appendix 1) from the Director of Environmental Health and Pollution Regulation (the Director) and having consulted with key States Committees and the Douzaines recommends the States to approve the proposals set out in the Director's report and direct the preparation of subordinate legislation under Part VII - Air Pollution - of the Environmental Pollution (Guernsey) Law, 2004 (the 2004 Law) to give effect to the same so as to enable the effective regulation of air pollution.
- 1.2 The recommendations implement parts of the Environmental Policy Plan and are consistent with the health protection and health improvement measures outlined in the Committee *for* Health & Social Care's '2020 Vision' strategy and frameworks.
- 1.3 Provision for regulation of air pollution will assist in maintaining and improving the quality of the air in Guernsey and will allow for the application of controls over installations, equipment and practices which could damage air quality and potentially lead to adverse health effects.
- 1.4 The 2004 Law (Order in Council XIII 2004) is set out in several parts including Part V dealing with waste, Part VI dealing with water pollution, Part VII dealing with Air Pollution and Part VIII dealing with Pollution by Sound, Light etc. The Law also includes general provisions such as for the licensing of operations involving risk of environmental pollution, powers establishing standards and objectives, and provides for enforcement which applies to all types of pollution.
- 1.5 The general, administrative and enforcement provisions of the 2004 Law (Parts I-IV and Parts IX and X) were commenced in 2006. The parts of the Law relating to waste, water and air pollution set out powers to provide for further detailed regulation in

these areas by Ordinance and statutory instrument. A Waste Ordinance and Regulations came into force in 2010.

- 1.6 The States has also approved the policy in respect of regulation of water pollution and work is now proceeding on drafting of the necessary legislation. This report, therefore, seeks to set out the policy for legislation under the general, licensing provisions and Part VII of the 2004 Law to regulate air pollution.

## **2. Background**

- 2.1 Part I, section 1 of the 2004 Law states that “the purposes of this Law are to empower the States to enact, monitor and effectively enforce all such measures as may be conducive to the preservation and enhancement of the environment through the limitation of pollutants therein”.
- 2.2 Part I, section 2 states that “the environment” means the media of air, water or land and “pollution” means the presence in the environment, whether permanently or temporarily, of any pollutant. “A pollutant” is any substance or energy capable of causing harm to health and wellbeing of man, including damage to or deleterious interference with man’s senses, harm to health of other living organisms supported by the environment or other interference with the ecological systems of which man or other living organisms form part”.
- 2.3 Part VII of the 2004 Law enables the States to control the nature, volume and intensity of pollutants other than energy released into or present in the air, to prohibit release into the air of substances capable of causing serious harm and to impose restrictions or limits to prescribe conditions on the release of substances in the air.
- 2.4 The Director’s report at Appendix 1 sets out the details of the recommended proposals to regulate air pollution. This includes the setting of Guernsey Air Quality Standards that apply to ambient (outdoor) air. The current UK air quality standards, objectives and target values are set out in Appendix 2 and it is proposed that air quality standards for Guernsey will be developed to be consistent with those of the UK.
- 2.5 Other proposals recommended include the licensing of certain operations, involving risk of air pollution, under Part III of the Law and controls on emissions of dark smoke, furnaces and boilers, composition of fuels and uncontrolled burning in the open air of waste matter other than garden waste. Most of these controls reflect similar regulation in place in the UK in particular the Clean Air Act 1993.

## **3. Compliance with States’ Strategic Policy**

- 3.1 Commencement of Part VII – Air Pollution - of the 2004 Law and making provision for detailed regulation of air pollution under the Law is consistent with the requirements of the States Strategic Plan and the Environment Policy Plan in ensuring recognition of international protocols on climate change, a reduction in air pollution and protection of the public from the risk of air pollution. It is also consistent with the

requirements for health protection and health improvement set out in the Committee *for* Health & Social Care's (CHSC) 2020 Vision Strategy and Frameworks.

#### **4. Consultation**

- 4.1 The Director has carried out public consultation as set out in the Director's report. The Committee *for the* Environment & Infrastructure has consulted key States Committees and the parish Douzaines.

#### **5. Legislation Costs and Resources**

- 5.1 The Committee understands that the Director has consulted with the Law Officers in developing proposals and approximately three months of legislative drafting time will be required.
- 5.2 It is proposed that fees will be charged in relation to applications concerning prescribed operations, as currently set for such applications in relation to waste operations. The Office of the Director operates so that licence fees for prescribed operations are set to cover the cost of inspections and monitoring. No additional staff have yet been employed to deliver the regime required by the 2004 Law and as such an additional member of staff will be required to deliver the service. Income already generated from waste licensing will be used to employ a local science graduate as an Environmental Protection Technician to administer the waste regime and this will release existing staff to deliver implementation of further parts of the Law.

#### **6. Conclusion**

- 6.1 Having considered the Director's report and consulted on the proposals, the Committee *for the* Environment & Infrastructure supports the commencement of Part VII of the law and making provision for detailed regulation of air pollution under the Law as a means of regulating air pollution and improving the air quality in Guernsey.

#### **7. Propositions**

The States are asked to decide whether they are of the opinion:

1. To approve the proposals set out in this policy letter (including appendices) to;
  - a) commence part VII of the 2004 Law,
  - b) set standards for local air quality consistent with those in the UK as proposed by paragraphs 10-13 to the Director's report,
  - c) prescribe the operations listed in paragraph 14 of the Director's report as operations requiring a licence under Part III of the 2004 Law, subject to provisions for exemptions as set out in paragraph 16 of the Director's report,
  - d) prohibit emissions of dark smoke subject to the exemptions listed in paragraph 21 of

the Director's report,

- e) require the prior approval of the installation of new commercial boilers and furnaces and to impose controls on emissions from existing commercial boilers and furnaces, subject to exemptions, as proposed in paragraphs 23-26 of the Director's report,
- f) prohibit the uncontrolled burning of non-garden waste in the open air subject to exemptions as proposed in paragraphs 27-32 of the Director's report,
- g) prohibit the use of gas oils and fuels oils with a sulphur content above the levels set out in paragraphs 35 of the Director's report subject to the exemptions as proposed in paragraphs 36-37 of the Director's report,
- h) provide for powers for the Director to require information concerning air pollution by notice as proposed in paragraphs 41-44 of the Director's report;
- i) provide for the standard necessary appeal, procedural, enforcement fee and transitional provisions relating to the above proposals as set out in paragraphs 62-65 of the Director's report; and
- j) to direct the preparation of the necessary legislation to give effect to the above proposals.

## **8. Committee Support for Propositions**

- 8.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

B L Brehaut  
President

M H Dorey  
Vice-President

S L Langlois  
H L de Sausmarez  
S T Hansmann-Rouxel

**ENVIRONMENTAL POLLUTION (GUERNSEY) LAW 2004**

**PART VII (AIR POLLUTION)**

**DIRECTOR'S REPORT**

**1. EXECUTIVE SUMMARY**

- 1.1 The Director of Environmental Health and Pollution Regulation (the Director) is recommending the States to agree to the drafting of the necessary legislation to commence Part VII of the Environmental Pollution (Guernsey) Law, 2004 (the Law) on Air Pollution and to provide for detailed regulation of air pollution under generally applicable parts of the 2004 Law and Part VII.
- 1.2 The recommendations will implement parts of the Environmental Policy Plan and are consistent with the health protection and health improvement measures outlined in the CHSC '2020 Vision' strategy and frameworks.
- 1.3 Provision for detailed regulation of air pollution will assist in maintaining and improving the quality of the air in Guernsey and will allow the Director to apply controls over installations, equipment and practices which could damage air quality and potentially lead to adverse health effects.
- 1.4 Detailed research in Guernsey has shown that when air pollution levels rise, there are increased admissions to the Princess Elizabeth Hospital of people who suffer from respiratory conditions such as asthma etc. Poor air quality impacts on the quality of life of islanders and therefore on States' budgets for treatment services (Cameron, 2014).
- 1.5 In particular the legislation would;
- introduce statutory ambient air quality standards for common pollutants
  - provide for some of the most polluting processes to be prescribed and licensed
  - make provision for Air Quality Management through controls on future developments that may impact on air quality
  - prohibit emissions of dark and black smoke
  - require prior approval for specified large boiler plant
  - restrict uncontrolled burning of waste material
  - regulate the composition of fuels
  - require information about air pollution to be provided to the Director

**2. CONTROL BY ORDINANCE OF THE NATURE, VOLUME AND INTENSITY OF AIR POLLUTION**

- 2.1 The Environmental Policy Plan within the States Strategic Plan states that "maintaining sustainable practices", "climate change impacts", "biodiversity and threats to the nature of the island's countryside" are challenges that the Island faces. Items 15 and 22 of the 'outcomes' section within the Policy Plan state that "our biodiversity will be healthier" and, more specifically to this report, that there should be "a reduction in air

pollution". The contents of this report will also have an impact on the delivery of outcome items 6 on education on environmental impacts and quality information, 9 on stakeholder roles and responsibilities on climate change, 10 on greenhouse gas emissions and item 13 on sustainable energy.

- 2.2 An air quality screening and assessment report (entitled 'Air Quality in Guernsey – Screening and Assessment Document') was completed by the Office of Environmental Health and Pollution Regulation (OEHPR) in July 2015 in order to provide an overview of the air pollution levels on-Island and the local contributors to the measured pollutants. This report was the second comprehensive air quality screening and assessment document that has been produced for Guernsey and provides a comparison of Guernsey's air quality with that of the UK. The report focused on sources and levels of local atmospheric pollution in comparison with the standards and objectives set within The Air Quality Strategy for England, Wales and Northern Ireland (July 2007) and the Air Quality Standards Regulations 2010 (applying in England).
- 2.3 The Regulations implement the requirements under relevant EU Directives in relation to air quality. Whilst these standards, objectives and target values are not currently legally applicable to Guernsey, they can be considered to be the most applicable benchmark to establish Guernsey's current position against. Air pollutants are continuing to be monitored locally and the information within the 'Screening and Assessment' document provides a baseline against which to assess "a reduction in air pollution" as required by the States Strategic Plan and Environmental Policy Plan. Legislative controls are, however, essential in order to control current and potential sources of air pollution on Guernsey and to facilitate this reduction.
- 2.4 The document – 'Air Quality in Guernsey – Screening and Assessment Document' – can be found at [www.gov.gg/nuisances](http://www.gov.gg/nuisances)
- 2.5 Part VII of the Law (Air Pollution) has "the purpose of better enabling the States to control by Ordinance the nature, volume and intensity of pollutants other than energy released into or present in the air, whatever their origin". Traffic pollution is currently the biggest local polluter and there are also numerous point sources of pollution ranging from open burning to industrial activities. These sources have a negative impact upon local air quality standards and the health of the Island's inhabitants. Part VII will allow proportionate controls to be put into place to reduce or prevent emissions into the air from current and potential polluters which will ensure the maintenance of good local air quality and positively impact on the health of Islanders.
- 2.6 Part VII allows control, via Ordinance, to "prohibit the release into the air of Guernsey, or at any specified place or description of place within Guernsey, of any substance capable of causing serious pollution of the air, whether in Guernsey or elsewhere". Guernsey is defined in the Law to include the territorial waters.
- 2.7 Section 49 of the Law also provides powers, by Ordinance, to "impose restrictions and limits on the amount of any substance which may be released into the air" and to "prescribe conditions subject to which that substance may be so released either generally, during any specified period, at specified places, or from premises, vehicles, vessels or processes of specified descriptions".



- 2.8 Air quality monitoring has been carried out in Guernsey since 1992 and, based upon data compiled by the OEHP, air quality in Guernsey is generally very good. The 'Air Quality in Guernsey – Screening and Assessment' report focused on sources and levels of local atmospheric pollution in comparison with the standards and objectives set within The Air Quality Strategy for England, Wales and Northern Ireland (July 2007 and updated in 2011) and the Air Quality Standards Regulations 2010 (Appendix 2). This document concluded that there were no overall exceedances of the English standards but that the more stringent Scottish standards for certain pollutants would be exceeded. The areas where the standards for nitrogen dioxide are exceeded include Fountain Street, Bulwer Avenue and the Bridge area.
- 2.9 It should be noted that nitrogen dioxide is an irritant gas that has adverse affects on health particularly those with ill-health conditions such as asthma and Chronic Obstructive Pulmonary Disease (COPD) etc. Nitrogen dioxide exposure may reduce the development of the lungs in children thus reducing lung function in adults, who will be four times more likely to develop COPD (European Respiratory Society, 2013). The Director is currently conducting detailed research into the emissions of nitrogen dioxide around local primary schools.
- 2.10 There are no specific legislative controls in Guernsey for current or future emissions to the air from local sources, other than where amounting to a nuisance, and no enforceable air quality standards.

### 3. AIR QUALITY STANDARDS AND MANAGEMENT

- 3.1 The Director proposes that once Part VII has been commenced, a set of Air Quality Standards are adopted by the States, through Ordinance, which reflect the UK Air Quality Objectives and the limit values, target values and objectives set out for certain pollutants in the Air Quality Standards Regulations 2010 (Appendix 2). Air quality standards are set for all ambient (outside) air that can be breathed in by all islanders and the limits are determined to protect human health, ecosystems and the environment. The standards are used as a benchmark for ambient air quality monitoring programmes which establish the state of the air environment and inform any decision making for future developments and controls that may need to be applied. Any breaches in air quality standards are attributed to pollution from point and line sources e.g. combustion and industrial plant, traffic emissions etc. The standards will also be used to inform the management of traffic flows around the island and for the setting of conditions for "prescribed operations" to ensure that local ambient air quality is not compromised by their emissions to the air.
- 3.2 These standards would set air quality objectives for benzene, 1,3-butadiene, carbon monoxide, lead, oxides of nitrogen, particulate matter of specified size (e.g. PM<sub>10</sub> are particles with a diameter of less than 10 microns) and sulphur dioxide. Air quality targets would be set for arsenic, cadmium, nickel, benzo(a)pyrene and PM<sub>2.5</sub>. As the proposed legislation is some five years behind comparable legislation in the UK, it is proposed that air quality targets and target dates in Guernsey will be 2020 for all parameters, to allow a suitable lead in time. It is not currently envisaged that any of these targets and target dates will be a cause for concern in Guernsey due to the lack

of heavy industry, however, more detailed monitoring of PM<sub>2.5</sub> is required and the Director has already started the process to extend the existing monitoring programme to include this.

- 3.3 Whilst ozone levels would continue to be monitored on-Island to provide essential environmental health data, it is not proposed that ozone would be included as a locally enforceable standard because ozone levels are greatly affected by transboundary airflows and cannot be controlled at a local level. It is, however, proposed that the target value within the Air Quality Standards Regulations 2010 for ozone levels is used as a trigger level to issue advice to the public due to the adverse health impacts known to be associated with ozone inhalation.
- 3.4 The standards would provide a framework against which to assess trends in air pollution and to regulate line and point sources of air pollution that have an adverse impact on ambient (outdoor) air quality.
- 3.5 Through reference to the Air Quality Standards for certain pollutants, the Director would then impose proportionate controls for 'prescribed operations', which require a licence under Part III of the Law, relevant to the process, locality and measured emissions. The Director is required under the Law to take into account any relevant objectives, requirements or limits to control pollution when considering an application for a licence and may attach relevant conditions to a licence.
- 3.6 Ambient air pollution standards would also be taken into account when making amendments to planning policy. A reference to the same in development plan policies would enable standards to be taken into account and, where necessary, relevant conditions imposed, when planning applications are considered for developments which could result in increased emissions of relevant pollutants at e.g. air pollution hot spots such as Fountain Street in St Peter Port.

#### 4. PREScribed OPERATIONS

- 4.1 Whilst Section 49(4)(a) of the Law allows controls to be placed on activities causing air pollution, "whether or not that activity is or involves a prescribed operation", this report proposes to control air pollution by prescribing processes that are known to be potentially high risk in relation to polluting emissions as prescribed operations requiring a licence under Part III of the Law. Licence conditions could then be imposed, reflecting the approved Air Quality Standards, on both existing and new-build installations to ensure that suitable controls are in place to regulate the emissions from the operation. Proportionate controls would be applied and it is an offence to breach licence conditions. Conditions applied to licences would take into consideration a range of international standards and guidance and may include the EU Industrial Emissions Directive and the EU Medium Combustion Plant Directive. Prescribed operations would mirror the high risk installations that are controlled via the Integrated Pollution Prevention and Control (IPPC) system in the UK, namely;

- Energy production
- Refineries
- Production and processing of metals

- Production of cement and lime
- Activities involving asbestos
- Glass, glass fibre and other mineral fibre manufacture
- Ceramic production
- Organic & inorganic chemical production
- Fertiliser and biocide manufacture
- Pharmaceutical manufacture
- Explosives manufacture
- Storage of bulk chemicals
- Incineration
- Paper manufacture
- Tar and bitumen processes
- Coating, printing and textile activities
- Dye, ink and coating material manufacture
- Timber activities
- Rubber activities
- Processing of food and
- Commercial boilers over 0.4MW.

4.2 It should be noted that many of these operations do not exist currently in Guernsey, but are mentioned to ensure controls can be applied should there be a future development.

4.3 It is proposed that the Director would have powers to exempt such operations, by regulations or by written notice, which do not actually involve a significant risk of pollution, from the licensing requirement. This would mirror the exemption powers for prescribed operations under section 3 of the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010.

4.4 An ‘emissions inventory’, which lists the current premises in Guernsey where there are considered to be ‘prescribed operations’, is found at Appendix 3. Most of these, such as the hotels listed, are premises with commercial boilers over 0.4MW thermal capacity. It is anticipated that most of these operations will be made exempt from licensing and this will be dependent on the type of fuel being used and potential for polluting emissions. Any operator that is likely to be deemed to be a prescribed operation has been consulted on the proposals within this report and their comments have been addressed.

## 5. DARK SMOKE

5.1 Section 50 of the Law provides for the prohibition of the emission of “dark smoke” from;

- the chimney of any building other than a dwelling house
- a chimney (not being a chimney of a building) which serves the furnace of any fixed boiler or industrial plant
- the burning of any commercial waste and
- any vehicle or vessel.

- 5.2 The CHSC already has powers to abate smoke nuisances providing that they are “a nuisance or prejudicial to health”, under the Public Health Ordinance 1936. These controls are limited and were not specifically designed to prevent burning that causes dark smoke or to ensure more wider-reaching controls over the Island’s air quality standards.
- 5.3 It is proposed that dark smoke emissions should be prohibited, so that it would be an offence under the Law to breach this prohibition. Dark smoke would be defined by reference to the Ringelmann chart in British Standard BS2742C where smoke is considered ‘dark’ if it has a shade of 2 or darker. It is proposed that the Ordinance would specify that the emissions of dark smoke would not need to be witnessed in order to take enforcement action and that evidence of burnt materials that could cause dark smoke, such as steel reinforcement from tyres, or plastic residues, would be sufficient. It would also preclude the defence of lack of visual evidence, for example when materials are burnt at night.
- 5.4 Section 50(2) of the Law allows exemptions to be made regarding the times, places, durations or other circumstances leading to dark smoke. It is proposed that limited exemptions would be made, by Regulations of the Director, relating to dark smoke emitted in relation to;
- waste explosives
  - materials burned as part of fire fighting research or training activities
  - road and other paving surfacing materials
  - diseased animal carcasses
  - initial start up and shut down of combustion processes
  - emissions associated with maintenance of plant.
- 5.5 Any exemption would take into consideration the following;
- there is no other reasonable, safe and practicable method of disposing of the matter
  - burning must be under the direct and continuous supervision of the occupier of the premises or someone authorised to act on their behalf
  - care must be taken to minimise dark smoke.
  - the emission was the result of a cold start up of a boiler or industrial plant where the emission could not be avoided and was not greater than Ringelmann shade 1 and continuous for no more than 15 minutes at a time.

## 6. FURNACES AND BOILERS

- 6.1 Section 51 of the Law allows the States to provide by Ordinance, “that no furnace or boiler shall be installed on any premises other than a dwelling house unless it is so far as practicable capable of being operated continuously without emitting smoke when burning fuel of a type for which it is designed”.
- 6.2 The Ordinance would place “limits on the rates of emission of grit, dust and other pollutants from the chimneys” of such non-domestic furnaces and boilers and would

include provisions allowing the Director to require;

- the installation and use of plant for arresting emissions of grit, dust and other pollutants
- the installation and use of apparatus for recording such emissions
- the maintenance and furnishing to the Director of records relating to such emissions
- the provision to the Director of information concerning the operation of such furnaces and boilers.

6.3 An Ordinance under this section would also require that the prior approval of the Director be obtained for the installation of such descriptions of furnaces and boilers; and of any chimneys, plant and equipment associated with them, as may be prescribed and make provision as to;

- the conditions to be attached to any such approval
- the consequences of it being granted and
- the rights (including a right of appeal) of a person aggrieved by its refusal, or by any condition attached to it.

6.4 The Director would, therefore, approve installations after considering the proposed plans and specifications before new furnaces or boilers (except of a domestic nature) are commissioned and would exercise controls over existing installations. If the installation is designed to burn;

- pulverised fuel
- any other solid matter at a rate of 45.4kg or more an hour or
- liquid or gaseous matter at a rate equivalent to 366.4 kW or more

then it would be required to be fitted with approved dust and grit arrestment equipment. These standards reflect the provisions detailed in the UK's Clean Air Act 1993. Additional pollution abatement measures may also be required dependant on, and proportionate to, other pollutants that may be emitted. These proposed powers would allow controls to be put in place, separate to planning permission or building control consents, which are specific to the protection of the health of Islanders and the maintenance of good air quality levels locally.

## 7. UNCONTROLLED BURNING

7.1 Section 52 of the Law allows, by Ordinance, the prohibition or restriction of "burning on land in the open air of any substance the burning of which is in the opinion of the States liable to cause pollution". The Director has extensive evidence of the burning of black bag waste, kitchen appliances, paint tins, fibre glass boats, building rubble etc. at various residential sites around the island. In the last two years the Director dealt with 303 cases of complaints about bonfires and smoke. The open burning of this kind of waste causes significant air pollution, impacts on public health, contamination of the land and the water supply so, therefore, it is recommended that it is prohibited.

7.2 The results of an Island-wide public consultation in April 2016 on air pollution and open

burning indicated that the majority of people believe that instances of open, uncontrolled burning should be limited to clean, dry garden waste being burned. This would include e.g. dry hedge cuttings, dry grass, Christmas trees etc. burned on the actual site it was derived from. Concern was also raised regarding the times when burning should be permitted.

- 7.3 The questionnaire and outcomes of the survey on air pollution and open burning can be found at <https://gov.gg/nuisances> and the survey is discussed in more detail in paragraphs 49-57 of this report.
- 7.4 It is, therefore, proposed that uncontrolled burning, including domestic bonfires, would be restricted only to dry garden waste produced on the premises where it is burnt and that weekends should be free from smoke from uncontrolled fires. This would substantially reduce the nuisance and the potential health effects from uncontrolled burning.
- 7.5 For the avoidance of confusion, this legislation is not intended to cover organised social events, camp fires and BBQs provided that they are supervised and using suitable fuels. Uncontrolled burning can be defined as open burning (i.e. not within a purpose-built receptacle) with the intent to dispose of waste materials. It is intended to prevent the disposal by burning of items such as white goods, cables, paint tins, domestic black bag refuse and other materials that are liable to cause pollution to air and ground water.
- 7.6 Exemptions, with conditions on the types and amount of material that could be burnt, would be permitted to allow public bonfires associated with designated events (e.g. Guy Fawkes' night) or certain designated activities (e.g. Scout and Guide events) providing that such fires do not give rise to risks of impacts on the health and well being of the public, contamination of land and ground water and do not give rise to emissions of dark smoke.

## 8. COMPOSITION OF FUELS

- 8.1 Section 53 of the Law states that, by Ordinance, the States may specify substances which may be present, or must not be present, in the composition of any fuel or of any description of fuel. The Ordinance would also "prohibit or restrict the possession, or the burning or other use, of any fuel which does not comply with the specifications therein set out".
- 8.2 Sulphur is naturally present in small quantities in petroleum and coal. Sulphur dioxide (SO<sub>2</sub>) is a major cause of acid rain and air pollution which cause damage the fabric of buildings, to ecosystems, biodiversity and human health.
- 8.3 Due to the known negative health effects of sulphur it is proposed that an Ordinance under this section would prohibit the use gas oils with a sulphur content higher than 0.1% by weight and the use of use heavy fuel oils with a sulphur content higher than 1% by weight. It is understood that current oil imports are mostly in compliance with this requirement through voluntary means. For existing, or new, prescribed operations requiring a licence under Part III of the Law that do not comply with these limits, additional sulphur dioxide attenuation measures could be specified by licence

condition.

- 8.4 The following exclusions would also be included within the proposed Ordinance;
- gas oil for maritime use by ships
  - fuels intended for processing before final combustion
  - fuels intended for processing in refineries
  - fuels intended for the purposes of research and testing
  - fuels used by ships on military service and by any ship to ensure its own safety or for saving life at sea, or the use of which is necessitated as a result of damage.
- 8.5 These limits and exemptions are equivalent to those set out in Directive 93/12/EEC, as subsequently amended, which is intended to combat emissions of sulphur dioxide across the European Union.
- 8.6 The Ordinance would also include provisions to require the verification of the sulphur content of fuels by sampling and analysis.
- 8.7 Additional restrictions could subsequently be placed on the composition of fuels dependant upon trends of pollutants measured across the Island and emerging research and scientific guidance from international sources such as the European Union, World Health Organisation etc. This would be introduced by Ordinance and subject to a further policy letter.
- 8.8 Currently fuels used on-Island are imported from EU States and compliance with the standards can generally be assumed. However, the Ordinance would ensure that it would be an offence to use any non-compliant fuels which are imported. A number of potential developers have already approached the Director to use processes to manufacture fuel from waste materials and this provision would allow proper control over the sulphur content of such fuels.
9. NOTICES TO PROVIDE INFORMATION
- 9.1 Section 54 of the Law allows the States to provide by Ordinance, for the Director to require “the owner or occupier of any premises, other than a dwelling house, or the owner of any vehicle, vessel, plant or machinery, to provide the Director with such information concerning air pollution, or risk of air pollution, arising from the premises, vehicles, vessels, plant or machinery, as may be specified in a notice served pursuant to that Ordinance”.
- 9.2 In order to be able to enforce the other sections of Part VII effectively provision must be made to obtain such information as deemed necessary to inform the Director of the nature and scale of potential or actual air pollution sources.
- 9.3 It is proposed that an Ordinance under this section will allow a Notice to be served upon any persons listed in section 54 of the Law to require specified information concerning air pollution to be provided to the Director.
- 9.4 The Ordinance would;

- specify the circumstances and manner in which a notice pursuant to it may be served i.e. where there are actual or potential instances of emissions of pollutants to the air
- prescribe fair and adequate procedures whereby the requirements of such a notice may be challenged
- set out the consequences (which may include liability to criminal proceedings and power for the Director to take such further steps as are therein set out) of failure to comply with such requirements.

## 10. PROVISION OF PUBLIC INFORMATION

- 10.1 It is important that air quality information is provided to the public to allow those with pre-existing respiratory conditions to make informed decisions about their daily activities. The existing air pollution monitoring stations have been linked to the States website via <http://guernseyair.ricardo-aea.com/> so that real-time monitoring data can be viewed at any time. The cost of this was met from within the existing budget.

## 11. FINANCIAL IMPLICATIONS

- 11.1 It is not anticipated that there will be any financial implications relating to the commencement of Part VII of the Environmental Pollution (Guernsey) Law 2004.
- 11.2 The implementation of the requirements of the Law has so far been delivered within budget, without any additional staffing. Income from fees for the Waste Licensing regime, which was implemented in 2010, now amounts to approximately £33,000 per annum for prescribed waste operations and approximately £40,000 every 3 years for waste transport operations.
- 11.3 It is, therefore, proposed that some of this income is used to fund the appointment of a local science graduate as an Environmental Pollution Technician to support the delivery of the waste licensing regime and in order to release existing staff work on the Water Pollution Part of the Law. This is likely to cost approximately £35,000 per annum.
- 11.4 As further Parts of the Law are commenced, there will be further income from fees.

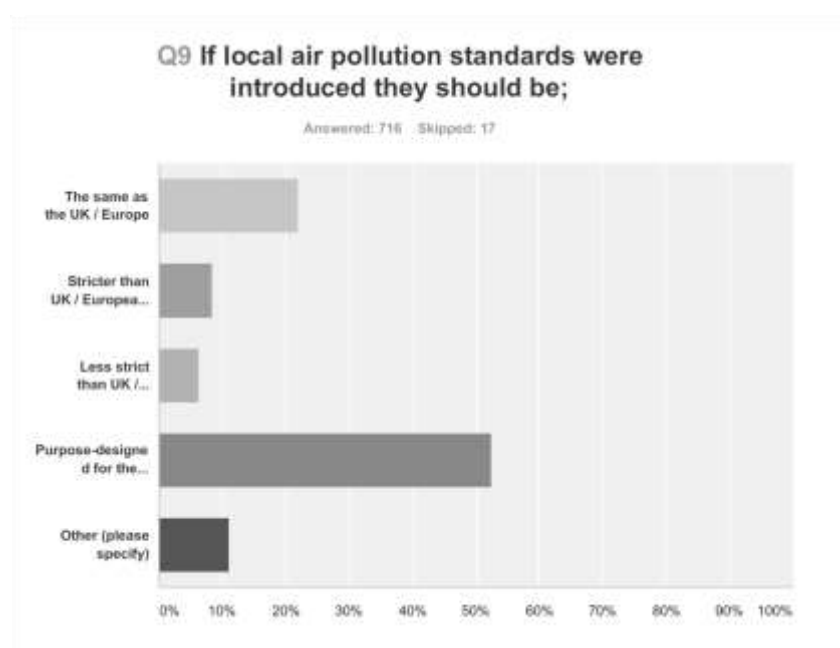
## 12. PUBLIC CONSULTATION

- 12.1 The 'indicator' for outcome 6 of the Environmental Policy Plan ("education about environmental issues") includes conducting "Island wide census / survey" and "other relevant surveys".
- 12.2 A public consultation was undertaken in April, 2016 using SurveyMonkey. The questions referred to health issues and impacts from air pollutants. The issue of uncontrolled burning was a focus for the survey due the high number of public complaints received by the OEHP. 731 responses were received electronically or as hard copies.
- 12.3 Contributions to the consultation were included from a number of sources including

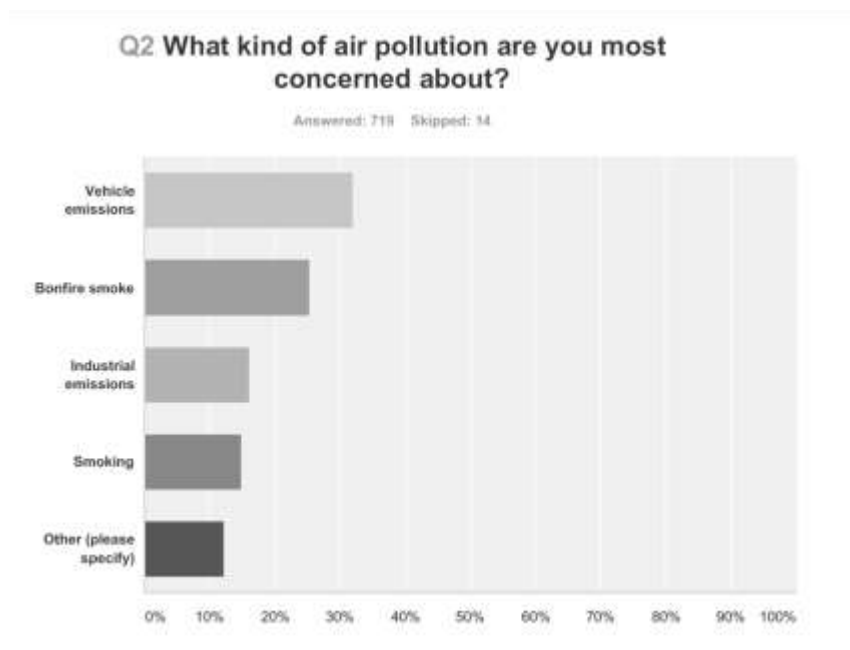


the BBC Radio Guernsey, the Guernsey Press Blog, email comments sent directly to the Department and from the Parishes.

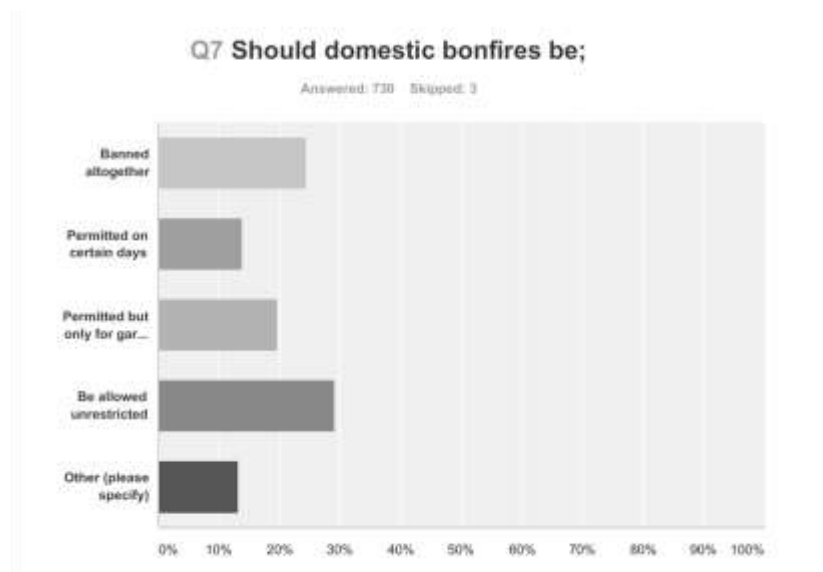
- 12.4 From the questionnaire data, 34% of people thought that air pollution in Guernsey was a problem and 11% thought that air pollution had impacted on their health and well being. 52% of respondents thought that air quality standards should be introduced to set limits for common air pollutants in a context suitable for Guernsey, 22% of respondents thought the UK standards should be introduced, 8% thought the standards should be stricter than the UK/EU whilst 6% thought the standards should be less strict than the UK/EU.



- 12.5 32% of respondents were concerned about the health impacts from traffic emissions, 25% from bonfires, 16% were concerned about industrial emissions, 14% about smoking and a further 12% were concerned about emissions from incinerators, the burning of plastic, rubber, and aircraft etc.



- 12.6 71% of respondents thought that uncontrolled burning, particularly garden bonfires, should be regulated and 24% stated that they would like to see a complete ban on bonfires. 46% of respondents said that bonfires should be regulated so that only garden waste should be permitted to be burned on certain days or certain times of day. There were a number of comments on how this could be achieved.



- 12.7 Many of the respondents who commented on bonfires thought that education campaigns should be introduced to promote recycling and other disposal methods. A number thought that common sense should prevail and that people should be good neighbours so that their bonfires did not cause nuisance to neighbours.
- 12.8 It was interesting to note that 47% of respondents did not think uncontrolled open burning affected the water supply, and 35% of people did not think that uncontrolled open burning affected air quality. The Director will instigate an education campaign to advise the public about the impacts of pollution to ground water and the drinking water supply as well as to the air of pollutants associated with uncontrolled open

burning. 79% of respondents were aware that the OEHPR could investigate complaints about air pollution.

- 12.9 It should be noted that, although there was a good response to the consultation, the data set is small in population terms and so the percentages are subject to variation.

### 13. INDOOR AIR QUALITY

- 13.1 Whilst the controls proposed above relate to outdoor air pollution from processes, vehicles, plant etc., the definition of 'air' the 2004 Law includes air within buildings and structures.

- 13.2 As yet there are no specific standards for indoor air quality in Guernsey, although the UK Committee on the Medical Effects of Air Pollution (COMEAP) has produced guidelines for indoor air. It is known that people spend up to 80% of their time indoors and therefore indoor air quality is an important indicator for human health.

- 13.3 Recent research in Guernsey into indoor air quality (Cameron, 2014) indicated that outdoor air pollutants were found indoors and that the design and layout of indoor spaces could allow the development of micro-environments and elevated concentrations of pollutants. This was exacerbated by the location of indoor combustion sources such as open fires, location of central heating boilers etc.

- 13.4 The Director is normally consulted by the Committee *for the* Environment & Infrastructure in relation to planning applications relating to potentially polluting developments. The Director proposes to include comments on indoor air quality in responses so that such considerations can be taken into account in relation to relevant major developments.

### 14. APPEALS, ENFORCEMENT, PROCEDURAL AND FEES PROVISIONS

- 14.1 It is proposed that there is a right of appeal to the Environmental and Public Health Appeals Tribunal in relation to refusals by the Director of approvals to install commercial boilers and furnaces. Rights of appeal in relation to decisions of the Director relating to licences under Part III are already provided for under section 25 of the Law.

- 14.2 Standard procedural (relating to applications etc.) and civil, including civil notice, and criminal enforcement and defence provisions are proposed in relation to all the above proposals.

- 14.3 Appropriate transitional provisions are proposed in relation to existing operations which are prescribed as prescribed operations requiring a licence under Part III of the Law, so as to allow existing businesses adequate time to apply for a licence once the provisions come into force.

- 14.4 It is proposed to charge a fee in relation to applications relating to licences for prescribed operations as for the current applications in relation to waste licensing operations and to make provision for the Director to set such fees by Regulations. It is

also proposed that a fee is charged in relation to approvals for the installation of boilers and furnaces using existing powers to set fees by regulations under section 8 of the Law.

DR VALERIE CAMERON

Director of Environmental Health and Pollution Regulation

1st May, 2015.

AIR QUALITY STANDARDS & OBJECTIVES  
UK Air Quality Objectives 2007

Summary of objectives of the UK Air Quality Strategy 2007			
Pollutant	Objective	Measured as	To be achieved by
Benzene All Authorities	16.25 µg/m <sup>3</sup>	Running Annual Mean	31 December 2003
Benzene Authorities in England and Wales only	5 µg/m <sup>3</sup>	Annual Mean	31 December 2010
Benzene Authorities in Scotland and Northern Ireland only	3.25 µg/m <sup>3</sup>	Running Annual Mean	31 December 2010
1,3-Butadiene	2.25 µg/m <sup>3</sup>	Running Annual Mean	31 December 2003
Carbon monoxide Authorities in England, Wales and Northern Ireland only	10.0 mg/m <sup>3</sup>	Maximum daily running 8 Hour Mean	31 December 2003
Carbon monoxide Authorities in Scotland only	10.0 mg/m <sup>3</sup>	Running 8 Hour Mean	31 December 2003
Lead	0.5 µg/m <sup>3</sup>	Annual Mean	31 December 2004
	0.25 µg/m <sup>3</sup>	Annual Mean	31 December 2008
Nitrogen dioxide	200 µg/m <sup>3</sup> Not to be exceeded more than 18 times per year	1 Hour Mean	31 December 2005
	40 µg/m <sup>3</sup>	Annual Mean	31 December 2005
Nitrogen Oxides**	(V) 30 µg/m <sup>3</sup>	Annual Mean	31 December 2000
Ozone*	100 µg/m <sup>3</sup>	Running 8 hour Mean Daily maximum of running 8 hr mean not to be exceeded more than 10 times per year	31 December 2005
Particles (PM <sub>10</sub> ) (gravimetric)	50 µg/m <sup>3</sup> Not to be exceeded	24 Hour Mean	31 December 2004

All authorities	more than 35 times per year		
	40 µg/m <sup>3</sup>	Annual Mean	31 December 2004
Particles (PM <sub>10</sub> ) Authorities in Scotland only	50 µg/m <sup>3</sup> Not to be exceeded more than 7 times per year	24 Hour Mean	31 December 2010
	18 µg/m <sup>3</sup>	Annual Mean	31 December 2010
Particles (PM <sub>2.5</sub> ) Exposure Reduction Authorities in UK (except Scotland)	25 µg/m <sup>3</sup>	Annual Mean	2020
Particles (PM <sub>2.5</sub> ) Exposure Reduction Authorities in Scotland only	12 µg/m <sup>3</sup>	Annual Mean	2020
Particles (PM <sub>2.5</sub> ) Exposure Reduction Authorities in UK urban areas	Target of 15% reduction in concentrations at urban background	Annual Mean	Between 2010 and 2020
Polycyclic aromatic hydrocarbons All authorities	0.25 ng/m <sup>3</sup>	Annual Mean	31 December 2010
Sulphur dioxide	266 µg/m <sup>3</sup> Not to be exceeded more than 35 times per year	15 Minute Mean	31 December 2005
	350 µg/m <sup>3</sup> Not to be exceeded more than 24 times per year	1 Hour Mean	31 December 2004
	125 µg/m <sup>3</sup> Not to be exceeded more than 3 times per year	24 Hour Mean	31 December 2004
	(V) 20 µg/m <sup>3</sup>	Annual Mean	31 December 2000
	(V) 20 µg/m <sup>3</sup>	Winter Mean (01 October – 31 March)	31 December 2000
µg/m <sup>3</sup> – micrograms per cubic metre                      mg/m <sup>3</sup> – milligrams per cubic metre			

\*Ozone is not included in the Regulations    \*\* Assuming NO<sub>x</sub> is taken as NO<sub>2</sub>

### Standards within the Air Quality Standards Regulations 2010

#### Limit Values

Pollutant	Averaging Period	Limit Value	Margin of Tolerance
Sulphur Dioxide	One hour	350 µg/m <sup>3</sup> not to be exceeded more than 24 times a calendar year	150 µg/m <sup>3</sup> (43%)
	One day	150 µg/m <sup>3</sup> not to be exceeded more than 3 times a calendar year	
Nitrogen Dioxide	One hour	200 µg/m <sup>3</sup> not to be exceeded more than 18 times a calendar year	
	Calendar year	40 µg/m <sup>3</sup>	
Benzene	Calendar year	5 µg/m <sup>3</sup>	
Carbon Monoxide	Maximum daily 8 hour mean	10 mg/m <sup>3</sup>	
Lead	Calendar year	0.5 µg/m <sup>3</sup>	100%
Particles (PM <sub>10</sub> )	One day	50 µg/m <sup>3</sup> not to be exceeded more than 35 times a calendar year	50%
	Calendar year	40 µg/m <sup>3</sup>	20%
Particles (PM <sub>2.5</sub> )	Calendar year	25 µg/m <sup>3</sup> to be achieved by 1 January 2015	20% on 11th June 2008, decreasing on the next 1st January and every 12 months thereafter by equal annual percentages to reach 0% by 1st January 2015

#### Target Values

Pollutant	Target Value for the Total Content in the PM <sub>10</sub> Fraction Averaged Over a Calendar Year	Date by Which Target Value Should Be Met
Arsenic	6 ng/m <sup>3</sup>	31 December 2012

Cadmium	5ng/m <sup>3</sup>	31 December 2012
Nickel	20 ng/m <sup>3</sup>	31 December 2012
Benzo(a)pyrene	1 ng/m <sup>3</sup>	31 December 2012

Pollutant	Objective	Averaging Period	Target Value
Ozone	Protection of human health	Maximum daily eight hour mean	120 µg/m <sup>3</sup> not to be exceeded on more than 25 days per calendar year averaged over three years
	Protection of vegetation	May to July	AOT 40 (calculated from 1 h values) 18000 µg/m <sup>3</sup> .h averaged over five years

Pollutant	Averaging Period	Target Value
Particles (PM <sub>2.5</sub> )	Calendar Year	25 µg/m <sup>3</sup>



**EMISSIONS INVENTORY**

Old Government House Hotel  
Duke of Richmond Hotel  
Peninsula Hotel  
St. Pierre Park Hotel  
Rocquettes Hotel  
Moores Hotel  
La Grande Mare Hotel and Country Club  
Cobo Bay Hotel  
Fermain Valley Hotel  
Hotel de Havelet  
Waitrose, Admiral Park  
Waitrose, Rohais  
Alliance Cash and Carry  
B & Q  
Office developments, Admiral Park  
Royal Bank Place  
Guernsey Post Ltd  
Princess Elizabeth Hospital  
Castel Hospital  
States Prison  
Guernsey Electricity Ltd

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

19<sup>th</sup> January, 2017

**Proposition No. P.2016/67**

**AMENDMENT**

Proposed by: Deputy B L Brehaut

Seconded by: Deputy M H Dorey

**Committee for the Environment & Infrastructure**

**Environmental Pollution (Guernsey) Law, 2004 Part VII – Air Pollution**

To delete Proposition 1 and replace it with –

“1. To approve the proposals set out in the policy letter “Environmental Pollution (Guernsey) Law, 2004 Part VII – Air Pollution” (including appendices) to: -

- a) commence part VII of the 2004 Law:
- b) set standards for local air quality consistent with those in the UK as proposed by section 3 of the report of the Director of Environmental Health and Pollution Regulation ("the Director") as appended at Appendix 1 to the policy letter, (“the Director’s report”);
- c) prescribe the operations listed in paragraph 4.1 of the Director’s report as operations requiring a licence under Part III of the 2004 Law, subject to provisions for exemptions as set out in paragraphs 4.3 & 4.4 of the Director’s report;
- d) prohibit emissions of dark smoke subject to the exemptions listed in paragraph 5.4 of the Director’s report;
- e) require the prior approval of the installation of new commercial boilers and furnaces and to impose controls on emissions from existing commercial boilers and furnaces, subject to exemptions, as proposed in section 6 of the Director’s report;
- f) prohibit the uncontrolled burning of non-garden waste in the open air subject to exemptions as proposed in section 7 of the Director’s report;
- g) prohibit the use of gas oils and fuels oils with a sulphur content above the levels set

out in paragraph 8.3 of the Director's report subject to the exemptions as proposed in paragraphs 8.4 of the Director's report;

- h) provide for powers for the Director to require information concerning air pollution by notice as proposed in section 9 of the Director's report;
- i) provide for the appeal, standard procedural and enforcement provisions, transitional and fees provisions relating to the above proposals as set out in section 14 of the Director's report; and
- j) direct the preparation of the necessary legislation to give effect to the above proposals."

### **Explanatory Note**

This amendment corrects references to paragraphs of the Director's report within the propositions. The cross referencing had become confused following changes to the formatting and numbering of the policy letter and appended Director's report prior to submission.

There are also minor amendments to the wording of paragraph i) of the Proposition.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE *for* HOME AFFAIRS**

HOUSING (CONTROL OF OCCUPATION) (GUERNSEY) LAW, 1994  
VARIATION TO THE HOUSING REGISTER

The States are asked to decide:-

Whether, after consideration of 'Housing (Control of Occupation) (Guernsey) Law, 1994, Variation to the Housing Register' dated 12 December 2016, they are of the opinion:-

2. To agree to permit the inscription in Part A of the Housing Register eight apartments, on the former Guernsey Brewery site, subject to a total of eight Part A dwellings located elsewhere in the Island first being deleted from Part A of the Housing Register at the request of the owner of each of those dwellings, and provided each of the eight dwellings is either unoccupied or occupied by an unrestricted qualified resident at the time of its deletion from the Housing Register;
3. To note that the inscription may be made either by the Committee *for* Home Affairs on application being made to it under section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, or by the Committee *for the* Environment & Infrastructure on application being made to it under section 3 of the Open Market Housing Register (Guernsey) Law, 2016, depending on which Law is in force at the time the application is made;
4. To note that if the Housing (Control of Occupation) (Guernsey) Law, 1994, is in force at the relevant time, the Committee *for* Home Affairs may make the inscription only if so permitted by Ordinance of the States made under section 52(1) of that Law; and consequently
5. To direct the preparation of any necessary legislation.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

**COMMITTEE *for* HOME AFFAIRS**

**HOUSING (CONTROL OF OCCUPATION) (GUERNSEY) LAW, 1994  
VARIATION TO THE HOUSING REGISTER**

The Presiding Officer  
States of Guernsey  
Royal Court House  
St. Peter Port

12 December 2016

Dear Sir

**1. Executive Summary**

- 1.1 The purpose of this Policy Letter is to seek approval for the inscription of eight dwellings being created on the site of the former Guernsey Brewery at Havelet, South Esplanade, St Peter Port, in Part A of the Housing Register (i.e. onto the 'Open Market').
- 1.2 Historically, such requests have been relatively straightforward, in that the States have been asked by the former Housing Department, on behalf of the Developer, to agree to the preparation of an Ordinance (under section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994) ("the 1994 Law") to amend the Housing Register to facilitate the inscriptions being requested.
- 1.3 However, the new Committee structure means that functions that previously fell under the mandate of the Housing Department have been divided between various Committees. In consequence, the Committee *for* Home Affairs has responsibility for the administration of the 1994 Law, but responsibility for matters relating to Housing Strategy rests with the Committee *for the* Environment & Infrastructure. Moreover, the Committee for Economic Development also has an interest in promoting the Open Market, via Locate Guernsey. The views of both of those Committees have been sought and are attached.
- 1.4 As this Policy Letter deals with a request first made to the Housing Department, it sets out the strategic housing arguments accepted by the Housing Department when it considered the request.

- 1.5 There is a further complexity: the construction phase in respect of this particular site is likely to be of approximately two years' duration; and the States have agreed that the Housing Control regime will be replaced by a Population Management regime; the regime change is due to take place within the construction timeframe.
- 1.6 For this reason, this Policy Letter seeks the States' agreement to inscribe these eight dwellings in Part A of the Housing Register regardless of whether, ultimately, that inscription takes place by way of an Ordinance in accordance with the provisions of section 52 of the 1994 Law, or takes place under the authority of the Committee *for the Environment and Infrastructure* in accordance with the provisions of section 3 of the Open Market Housing Register (Guernsey) Law, 2016.

## **2. Background**

- 2.1 Since the commencement of the Housing (Control of Occupation) (Guernsey) Law, 1982, the Housing Register has been closed for new inscriptions by the Housing Department<sup>1</sup>. However, section 52 of the 1994 Law provides that the States may, by Ordinance, permit the Committee *for Home Affairs* to inscribe any dwelling in Part A (or Part B) of the Housing Register.
- 2.2 On 14 March 2001, the States approved proposals from the then Housing Authority for the inclusion of Open Market accommodation in prestigious or important developments<sup>2</sup>.
- 2.3 The proposals were summarised in that States Report as follows:
1. The policy would not apply to small one-off sites or single dwellings.
  2. It can apply to sites:
    - which are part of a Mixed Use Redevelopment Area (MURA) and where the overall number of new dwellings in the MURA is likely to be in excess of 100; and/or
    - where there are other strategic issues.
  3. In return for each dwelling to be inscribed, one existing dwelling must be deleted from Part A of the Housing Register.
  4. Neither the dwelling to be deleted nor that to be inscribed will have to meet any specific size or rateable value criteria. It will simply be a numerical exchange, albeit that the Authority will have to approve the specific dwelling which is to be inscribed or deleted.

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<sup>1</sup> Section 30 of the Housing (Control of Occupation) (Guernsey) Law, 1994 refers

<sup>2</sup> Billet d'Etat III 2001 page 188 refers.

5. The dwelling to be deleted must be unoccupied, or occupied by an unrestricted qualified resident, at the time of the application to delete the inscription. The fact that the dwelling is the subject of an application for the deletion of the inscription from the Housing Register under this policy would not be regarded as a reason which, of itself, would justify the grant of a housing licence to an occupier or former occupier.
6. The number of dwellings which can be inscribed on a one to one exchange basis will be limited to one third of the total number of dwellings in the development or a maximum of eight dwellings whichever is the lesser.

Note: for the purposes of the above policy statement the words 'site' in number 2 and 'development' in number 6, mean that an owner will only be eligible for one such concession in respect of parcels of adjacent land in his ownership in the MURA. The owner would not be able to increase the number of dwellings beyond the eight or one-third mentioned in number 6 by phasing the site development or by transferring land to an associate company.

- 2.4 The above policy (hereafter referred to as "the Policy") remains in place, and it is by reference to the 'strategic issues' associated with the redevelopment of this site, as envisaged in section 2 of the Policy, that the Developer's request has been made. Given this, the fact that the concept of Mixed Use Redevelopment Areas has been replaced by the concept of Regeneration Areas and Harbour Action Areas under the new Island Development Plan has no bearing on this matter.

### **3. The former Guernsey Brewery, Havelet, South Esplanade, St Peter Port**

- 3.1 Comprop (C.I.) Limited ("the Developer") has been given planning permission<sup>3</sup> to develop 34 residential units on the site of the former Guernsey Brewery at Havelet, South Esplanade, St Peter Port.
- 3.2 The Developer is seeking the 'transfer' of eight Open Market inscriptions in order that eight of the 34 new apartments on this site can be inscribed in Part A of the Housing Register under the terms of the Policy.
- 3.3 Although eight is the maximum number of inscriptions permitted under the Policy, this number amounts to less than one third of the overall number of dwellings being built on the site, and thus the Developer's request is squarely within the numerical parameters of the Policy insofar as the ratio of Local Market and Open Market dwellings is concerned.

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<sup>3</sup> Planning Application reference Number: Full/2014/2261

- 3.4 The Developer already holds six inscriptions, previously assigned to dwellings that have now been deleted from Part A of the Housing Register, and has confirmed that it intends to request the deletion of the inscriptions relating to two further dwellings in exchange for the eight new inscriptions on this site.
- 3.5 The Policy places no requirement on a developer in respect of the type/size/location of the Open Market dwellings to be deleted so as to free-up inscriptions for any new site, it merely seeks a one-for-one exchange, and the Developer has confirmed that this requirement will be met.
- 3.6 As a result of the above, and in compliance with the Policy, overall, there will no numerical loss to the Island's Local Market housing stock as a result of this request. Moreover, given the compensatory deletions referred to above, neither will there be an overall increase in the number of dwellings inscribed in Part A of the Open Market Housing Register. Thus the request fully accords with compensatory deletions aspect of the Policy.
- 3.7 As the site in question is not situated within a MURA development, the Developer has been required to set out, in accordance with the Policy, the 'strategic issues' associated with the development of this site.
- 3.8 In this regard, the Developer has confirmed that, of the 34 dwellings to be created on the site, nine will have one bedroom; 24 will have two bedrooms; and one will have three bedrooms. As such, the Developer asserted - and the former Housing Department agreed - that the units being created on this site are, in the main, the type of dwellings identified by the most recent States of Guernsey Housing Needs Survey as being most in demand; that is to say, dwellings most suited for occupation by single people or couples without dependants.
- 3.9 Furthermore, the Developer has tasked the architect with ensuring that the majority of the dwellings created on this site will incorporate the relevant design criteria of the Lifetime Homes Standards<sup>4</sup> such that they can be readily adapted, if necessary, to meet the changing needs of those occupying them.
- 3.10 The Housing Department was satisfied, based on the information provided to it by the Developer, that the majority of the new dwellings will comply with the relevant Lifetime Homes Standards design criteria, and it accepted that, in view of the topography of the area and other site restrictions, 100% compliance with the Lifetime Homes Standards design criteria is not achievable on this occasion.

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<sup>4</sup> The concept of Lifetime Homes, championed by the Joseph Rowntree Foundation, is to apply design criteria to ensure that new builds incorporate features that will enable dwellings to be flexible and adaptable to meet the needs of residents at different stages of their lives (see [www.lifetimehomes.org.uk](http://www.lifetimehomes.org.uk)). The former Housing Department was a firm supporter of the application of these standards to all new build housing projects in the Island.



- 3.11 In considering this matter, the Housing Department, had been mindful of the Island's changing demographics, and the desire to ensure that islanders can, insofar as is possible, have their changing healthcare needs met whilst still residing in their own home. The Department was of the view that housing developments that provide for - and/or can be readily adapted to cater for – life-long independent living should be encouraged and supported.
- 3.12 With the above in mind, it is possible that the new dwellings on this site, both Open and Local Market, will be attractive to retirees looking to downsize, thus freeing up under-occupied family homes elsewhere in the Island, and the Housing Department considered this to be a key strategic issue identified in the Corporate Housing Programme to cope with the Island's ageing population<sup>5</sup>.
- 3.13 In addition to the above long-term benefits, in the short-term, the site is likely to require a significant number of employees to be engaged over the life-span of the building project, thus providing welcome employment opportunities within the Island's construction industry. This, combined with supply of construction and fit-out materials, which the Developer has confirmed will for the most part be sourced locally, will bring benefits to the local economy.
- 3.14 The Committee for Home Affairs is also mindful that supporting the Developer's proposal helps to reaffirm government's continued support for the Open Market, and shows confidence in this important sector of the Island's housing market.
- 3.15 Given these 'strategic issues', it was the opinion of the Housing Department as recently as April 2016, that the proposed development of the former Guernsey Brewery site meets the criteria of point two of the Policy such that, provided the Developer arranges the prior deletion of a total of eight dwellings from Part A of the Housing Register at the request of the owners, eight of the 34 new dwellings being constructed within this development should be made eligible for inscription in Part A of the Housing Register.
- 3.16 Insofar as it is relevant to its mandate as the temporary custodian of the Open Market Housing Register, the Committee *for* Home Affairs endorses the former Housing Department's comments.

#### **4. Proposals**

- 4.1 Accordingly, the Committee *for* Home Affairs asks the States to agree that, so long as application is made by the owners in the appropriate manner, eight of the 34 dwellings that are being developed on the site of the former Guernsey Brewery can be inscribed in Part A of the Housing Register, regardless of whether those

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<sup>5</sup> Billet d'Etat XI 2010 page 686 refers.

inscriptions take place under relevant provisions of The Housing (Control of Occupation) (Guernsey) Law, 1994 or The Open Market Housing Register (Guernsey) Law, 2016.

## **5. Consultation**

- 5.1 For the reasons outlined above, the Committee *for the* Environment & Infrastructure and Committee *for* Economic Development have been consulted, and self-explanatory letters of comment from both committees are attached as Appendix 1.
- 5.2 The contents of this report have been discussed with the Law Officers of the Crown.

## **6. Financial and Resource Management**

- 6.1 There are no financial or resource implications for the States of Guernsey arising from the recommendations set out below.

## **7. Recommendations**

- 7.1 The Committee *for* Home Affairs recommends the States:-
  - 1. To agree to permit the inscription in Part A of the Housing Register eight apartments, on the former Guernsey Brewery site, subject to a total of eight Part A dwellings located elsewhere in the Island first being deleted from Part A of the Housing Register at the request of the owner of each of those dwellings, and provided each of the eight dwellings is either unoccupied or occupied by an unrestricted qualified resident at the time of its deletion from the Housing Register;
  - 2. To note that the inscription may be made either by the Committee *for* Home Affairs on application being made to it under section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, or by the Committee *for the* Environment & Infrastructure on application being made to it under section 3 of the Open Market Housing Register (Guernsey) Law, 2016, depending on which Law is in force at the time the application is made;
  - 3. To note that if the Housing (Control of Occupation) (Guernsey) Law, 1994, is in force at the relevant time, the Committee *for* Home Affairs may make the inscription only if so permitted by Ordinance of the States made under section 52(1) of that Law; and consequently
  - 4. To direct the preparation of any necessary legislation.

## **8. Committee Support for the Propositions**

- 8.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

Deputy M M Lowe  
President

R H Graham  
Vice-President

M P Leadbeater  
V Oliver  
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21 October 2016

Dear Deputy Lowe

### **Variation to the Housing Register – Guernsey Brewery site**

Thank you for your letter of 11 August 2016 and the accompanying draft Policy Letter, both of which were discussed by the Committee for the Environment and Infrastructure on 6 October 2016.

The Committee appreciates being consulted on this matter given that, as you say, it will in due course become responsible for the operation of the Housing Register, however it did not consider it to be in possession of sufficient information to form a firm view on the merits or otherwise of the Open Market Register changes in respect of this specific development.

It nonetheless acknowledges the existence of the current policy with which the current application appears to accord.

Looking forward, the Committee intends to review the policy; such a review would include careful assessment of the mechanism for effecting changes and deletions to the open market register.

Yours sincerely

**Deputy Barry Brehaut**  
President  
Committee *for the* Environment & Infrastructure



## Committee for Economic Development

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13<sup>th</sup> September 2016

Dear Deputy Lowe

### **Variation to the Housing Register – Guernsey Brewery site**

Thank you for your letter of 11 August 2016, on the above subject, in which you seek the views of the Committee for Economic Development on your Committee's proposal to transfer to the development at the former Guernsey Brewery site at Havelet, South Esplanade, St Peter Port, eight Open Market inscriptions from elsewhere on the Island.

The Committee, at its meeting today, considered your correspondence and the accompanying draft Policy Letter. The Committee is responsible for the promotion and development of all sectors of business, including the construction sector; and for inward investment at the corporate and individual level. Members present by a majority (Deputies Ferbrache and Merrett not present as conflicted) supported the proposal, recognising both the short-term benefits of the proposal to the Island's construction sector and the longer-term benefits of improving the quality of Guernsey's Open Market offering, which has the potential to make the Island more attractive to High Net Worth Individuals considering relocating to Guernsey.

The Committee also has mandated responsibility for the promotion and development of the tourism sector. In this instance, the Committee has no comment, from the perspective of the visitor economy, on the proposal insofar as it relates to the former Guernsey Brewery site; however, should any further applications be made for the transfer of Open Market Part A registrations under the "strategic issues" route in circumstances that impact directly on visitor accommodation or more widely on the visitor economy, the Committee would welcome the opportunity to comment formally in each case.

Yours sincerely

**Jan Kuttelwascher**

Vice President  
Committee for Economic Development