

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

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

No. 43 of 2019

THE HIGHWAY CODE FOR GUERNSEY, 2019

In pursuance of section 1 of the Road Traffic (Guernsey) Ordinance, 2019, and all other powers enabling it in that behalf, “The Highway Code for Guernsey, 2019”, made by the Committee *for the* Environment and Infrastructure on 27th March 2019 are laid before the States.

EXPLANATORY NOTE

This Code is made under section 1 of the Road Traffic (Guernsey) Ordinance, 2019 and comprises directions for the guidance of persons using public highways. It incorporates, by reference, the Official Highway Code issued by the Department for Transport for England and Wales, and also includes provision for guidance where Guernsey legislation or driving conditions require different provisions. Contravention of the Code does not of itself render a person liable to civil or criminal proceedings but may be taken into account as tending to establish or negative liability.

This Code came into force on the 29th day of March, 2019.

No. 44 of 2019

THE TRAFFIC SIGNS AND TRAFFIC LIGHT SIGNALS (AMENDMENT) ORDER, 2019

In pursuance of section 16A of the Traffic Signs and Traffic Light Signals Ordinance, 1988, and all other powers enabling it in that behalf, “The Traffic Signs and Traffic Light Signals (Amendment) Order, 2019”, made by the Committee *for the* Environment and Infrastructure on 27th March 2019 are laid before the States.

EXPLANATORY NOTE

This Order amends the description or illustration of some traffic signs and traffic light signals and road markings set out in the Schedules to the Traffic Signs and Traffic Light Signals Ordinance, 1988 (the “Ordinance”) and inserts some new signs, signals and road markings.

This Order came into force on the 29th day of March, 2019.

No. 60 of 2019

**THE CONTROL OF TRADE IN ENDANGERED SPECIES ETC. (BAILIWICK OF GUERNSEY)
ORDINANCE, 2016 (COMMENCEMENT) ORDER, 2019**

In pursuance of sections 54 and 62 of the Control of Trade in Endangered Species etc. (Bailiwick of Guernsey) Ordinance, 2016 made by the Committee *for the* Environment & Infrastructure on 4th April, 2019, is laid before the States.

EXPLANATORY NOTE

This Order brings into force on 4th April, 2019 the Control of Trade in Endangered Species etc. (Bailiwick of Guernsey) Ordinance, 2016.

No. 67 of 2019

THE MISUSE OF DRUGS (MODIFICATION) ORDER, 2019

In pursuance of section 30(3) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended, "The Misuse of Drugs (Modification) Order, 2019" made by the Committee *for* Health & Social Care on the 1st May 2019 is laid before the States.

EXPLANATORY NOTE

This Order amends the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997 ("the Ordinance") to allow the wider use of cannabis-based products for medicinal use in humans, essentially for medical purposes.

Article 2 of this Order inserts in section 1(1) of the Ordinance definitions of "cannabis-based product for medicinal use in humans", "dronabinol" and "specialist medical practitioner".

Articles 3, 4, 5, 6 and 7 of this Order amend sections 5, 6A, 6, 7 and 9 of the Ordinance respectively, to modify the application of those provisions of the Order to cannabis-based product for medicinal use in humans.

Article 8 of this Order inserts a new section 14A in the Ordinance, which contains provisions that restrict the ordering, supply and administration of cannabis-based product for medicinal use in humans, over and above the controls generally imposed in relation to drugs specified in Schedule 2 to the Ordinance.

This new section 14A of the Ordinance specifies requirements for the order and supply of these products for the purpose of administration (whether to humans or animals) and their use. The order (by prescription, direction or otherwise) must be for: (a) a special medicinal product (within the meaning of the new Schedule 2A to the Ordinance) for use in accordance with the prescription or direction of a specialist medical practitioner; or (b) a medicinal product with a marketing authorisation. Any supply of these products, by administration or for the purpose of administration, must be pursuant to such an order. Additionally, a person is restricted from self-administration of a cannabis-based product for

medicinal use in humans by way of smoking. An exception is, however, created for the order and supply of such products for administration to animals for research purposes.

Article 9 of this Order inserts a new paragraph 6 in Schedule 1 to the Ordinance. The new paragraph excludes cannabis-based products for medicinal use in humans from the list of drugs specified in that schedule.

Article 10 of this Order amends Schedule 2 to the Ordinance to list in that schedule cannabis-based products for medicinal use in humans, as well as stereoisomers, esters, salts, and other preparations or products containing such products, where these are produced for medicinal use in humans.

The effect of articles 9 and 10 of this Order is to transfer cannabis-based products for medicinal use in humans, as well as stereoisomers, etc. of such products from Schedule 1 to Schedule 2 to the Ordinance. A synthetic version of a constituent of cannabis, dronabinol, was already listed in Schedule 2 to the Ordinance, and the new definition of dronabinol was inserted (by article 2 of this Order) to ensure its position is unchanged.

Article 11 of this Order inserts a new Schedule 2A in the Ordinance. This new schedule defines "special medicinal product" for the purposes of the new section 14A of the Ordinance.

Article 12 of this Order amends paragraph 10(b) of Schedule 5 to the Ordinance to clarify the maximum content of cannabidiol and cannabidiol derivatives which a cannabidiol preparation is allowed to have before it falls outside Schedule 5.

Articles 13 and 14 are the citation and commencement provisions respectively.

This Order came into force on the 1st June, 2019.

No. 69 of 2019

**THE DATA PROTECTION (GENERAL PROVISIONS) (BAILIWICK OF GUERNSEY)
(AMENDMENT) REGULATIONS 2019**

In pursuance of sections 7(1), 37(1)(c), 40 and 109 of, and paragraph 17(a) of Schedule 2, paragraphs 1(2), 2 and 3(b) of Schedule 4, and paragraph 19 of Schedule 8 to, the Data Protection (Bailiwick of Guernsey) Law, 2017, sections 5(5) and 6(5)(b) of, and paragraph 7(a) of Schedule 2 to, the Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018, The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment) Regulations 2019, made by the Committee *for* Home Affairs on 13th May 2019, is laid before the States.

EXPLANATORY NOTE

These Regulations amend the Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018 ("**the principal Regulations**").

Regulation 2 of these Regulations amends regulation 2(2) of the principal Regulations

(registration fees) to exempt an additional category of controllers and processors from the £50 registration fee. This additional category relates to a category of controllers and processors that, prior to the commencement of the Data Protection (Bailiwick of Guernsey) Law, 2017 on the 25th May, 2018, were **not** required to be notified (registered) ("**formerly exempt controllers and processors**"). This exemption applies only if the application for registration is made on or before the 1st January, 2020.

Regulation 3 of these Regulations amends regulation 3 of the principal Regulations (other requirements for applications) to substantially reduce the types of information that need to be provided in an application for registration.

Regulation 4 of these Regulations amends regulation 4 of the principal Regulations (Authority to publish register particulars) to omit the requirement for the Data Protection Authority ("**the Authority**") to publish registration particulars in a public register.

Regulation 5 of these Regulations amends regulation 5 of the principal Regulations (registered controllers and processors to notify necessary changes) to reflect the reduced information requirements for an application for registration.

Regulation 6 of these Regulations amends regulation 6(4) of the principal Regulations (registered controllers and processors to pay annual levies) to exempt formerly exempt controllers and processors from any levy or penalty payable under regulation 6(1) of the principal Regulations, if the levy or penalty would otherwise be payable on or before the 1st January, 2020.

Regulation 7 of these Regulations amends regulation 11(2) of the principal Regulations (special authorisation for processing of personal data). These amendments reflect the insertion of new row 13A in the table in Schedule 2 to the principal Regulations (authorised processing of personal data) and provide that the authorisation to process personal data, in respect of rows 13A, 14, 15 and 16 of that table, extends to processing the personal data despite the prohibition against processing for a non-law enforcement purpose personal data collected for a law enforcement purpose (in section 6 of the Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018 ("**the LE Ordinance**")).

Regulation 8 of these Regulations inserts new regulation 11A in the principal Regulations (special authorisation for processing certain personal data for purposes other than law enforcement). The new regulation 11A authorises the processing of personal data where it satisfies any condition in Schedule 2 to the LE Ordinance (excluding the conditions in paragraphs 7(a) and 8, respectively, of that schedule), despite the prohibition against processing for a non-law enforcement purpose personal data collected for a law enforcement purpose in section 6 of the LE Ordinance.

Regulation 9 of these Regulations amends regulation 17(2)(b) of the principal Regulations (transitional exemptions from registration). This amendment delays the expiry of the transitional exemption from the duty to register given to formerly exempt controllers and processors. The previous expiry date was the 25th May, 2019, but this amendment replaces that date with the 1st January, 2020.

Regulation 10 of these Regulations amends regulation 18(1) of the principal Regulations (interpretation) to delete a definition that is no longer necessary as a consequence of the amendments made to regulation 3 of the principal Regulations.

Regulation 11 of these Regulations amends Schedule 2 to the principal Regulations (authorised processing of personal data). These amendments –

- replace the existing row 5 of the table in that schedule with a new row 5 that expands the authorisation for insurers to process health data or criminal data where necessary for a purpose that is in the public interest related to the carrying on of insurance business (with additional safeguards in relation to the personal data of individuals who do not have and are not expected to acquire rights or obligations under an insurance contract),
- insert a new row 13A in that table, that authorises controllers to process personal data where necessary for the publication of a judgment or other decision of a court or tribunal, and
- updates rows 14, 15 and 16 of that table to refer to the processing of any personal data (instead of only special category data), as these rows now authorise the processing for a non-law enforcement purpose of *any* personal data collected for a law enforcement purpose (regardless whether or not that personal data is special category data).

Regulation 12 of these Regulations amends Schedule 6 to the principal Regulations (transitional exemptions from registration) as a consequence of the amendments made to regulations 2(2) (registration fees) and 6(4) (registered controllers and processors to pay annual levies) of the principal Regulations.

Regulations 13 and 14 of these Regulations are the citation and commencement provisions respectively.

These Regulations come into force on the 25th May, 2019.

No. 70 of 2019

THE MENTAL HEALTH (TREATMENT AND FORMS) REGULATIONS, 2013

In pursuance of the powers conferred on it by sections 9, 11, 20(2), 21, 23(2), 24, 28(4), 33(2), 34, 51(1), 52(1), 55(1)(c), 62(2), 82(2) and 101 of the Mental Health (Bailiwick of Guernsey) Law, 2010, and sections 1, 5(7), 7(6), 11(1) and 18 of the Mental Health (Miscellaneous Provisions) (Guernsey and Alderney) Ordinance, 2013, “The Mental Health (Treatment and Forms) Regulations, 2013” made by the Health and Social Services Department on the 5th April 2013 are laid before the States.

EXPLANATORY NOTE

These Regulations are made under the Mental Health (Bailiwick of Guernsey) Law, 2010 and the Mental Health (Miscellaneous Provisions) (Guernsey and Alderney) Ordinance, 2013. They principally prescribe the forms to be used under the Law and the Ordinance but also prescribe a specified type of treatment for the purposes of the Law.

Regulation 1 prescribes electro-convulsive therapy for patients who have not attained 18 years of age as a treatment prescribed for the purposes of section 55(1)(c) of the Law. Before such treatment can be given to a person aged under 18, that person must consent and a second opinion approved doctor must certify that (a) the person in question has the capacity to and did consent to the treatment, and (b) the treatment is appropriate.

Regulations 2 and 3 prescribe the forms which must be used in relation to the appointment of a nominated representative and the delegation of the rights and functions of the nearest relative.

Regulations 4 and 5 prescribe the forms to be completed when applying for an assessment order or a treatment order, and regulation 6 prescribes the forms for use when applying to renew a treatment order, or to vary the particulars of an assessment or a treatment order.

Regulation 7 prescribes the forms which must be used in relation to an application for an overseas transfer order and to the receipt of a patient from overseas.

Regulation 8 prescribes the forms that must be used by a Law Officer when making an assessment order, a treatment order, an order renewing a treatment order or an overseas transfer order.

Regulation 9 prescribes the forms to be completed in relation to community treatment orders.

Regulation 10 prescribes the particulars of an assessment order or a treatment order which may be varied under section 34 of the Law.

Regulation 11 prescribes the relevant form when transferring a patient between approved establishments.

Regulations 12, 13, 14 and 15 prescribe forms to be used certificates are issued by medical practitioners or authorised nurses (regulation 12), second opinion approved doctors, responsible medical officers and approved medical practitioners (regulations 13 and 14), and persons authorised to give treatment under Part II of the Ordinance (regulation 15).

The full text of the legislation can be found at:

<http://www.guernseylegalresources.gg/article/90621/Statutory-Instruments>