

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

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

No. 3 of 2020

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT) REGULATIONS, 2020

In pursuance of sections 10 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990, made by the Committee *for* Employment & Social Security on 21st January, 2020 are laid before the States.

EXPLANATORY NOTE

These Regulations add a number of drugs to the list of drugs that may be prescribed as pharmaceutical benefit.

These Regulations come into force on the 22nd January, 2020.

No. 7 of 2020

THE REGISTRATION OF POLITICAL PARTIES (FEES) REGULATIONS, 2020

In pursuance of Article 77C of, the Reform Law (Guernsey) Law, 1948 , and all other powers enabling it in that behalf, “The Registration of Political Parties (Fees) Regulations, 2020” made by the States’ Assembly & Constitution Committee on 30th January, 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations set at £80 the fee that must accompany an application to register a political party under the Fourth Schedule to the Reform Law (Guernsey) Law, 1948. These Regulations were made on 30th January 2020 and came into force on the day they were made.

No. 8 of 2020

THE POLLING STATIONS (HOURS OF OPENING) REGULATIONS, 2020

In pursuance of Article 77C of the Reform Law (Guernsey) Law, 1948, and all other powers enabling it in that behalf, “The Polling Stations (Hours of Opening) Regulations, 2020” made by the States’ Assembly & Constitution Committee on 30th January, 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations provide for polling stations in the 2020 General Election to be open between 8am and 8pm. The polling stations are set out in the Schedule to the Advance Polling and Super Polling Stations Ordinance, 2020. These regulations were made on 30th January 2020 and came into force on the day they were made.

No. 9 of 2020

THE ELECTIONS (PRESENCE OF CANDIDATES AT COUNT) RULES, 2020

In pursuance of Articles 38A(5) and 78 of the Reform Law (Guernsey) Law, 1948, and all other powers enabling it in that behalf, "The Elections (Presence of Candidates at Count) Rules, 2020" made by the States' Assembly & Constitution Committee on 30th January, 2020, are laid before the States.

EXPLANATORY NOTE

These Rules specify the conditions on which election candidates or their representatives may be present at the counting of votes. The rules also prescribe forms for the notification of a candidate's intention to exercise either his or her entitlement to be present when the votes are counted or to nominate a representative to be present in his or her stead. They were made on 30th January 2020 and came into force on the day they were made.

No. 13 of 2020

THE ELECTORAL ROLL (PUBLIC INSPECTION) RULES, 2020

In pursuance of Sections 34(5) and (6), and 78 of the Reform Law (Guernsey) Law, 1948, the Electoral Roll (Public Inspection) Rules, 2020 made by the Committee *for* Home Affairs on 3rd February 2020, is laid before the States.

EXPLANATORY NOTE

These Rules specify the places at which and the period during which the draft Electoral Roll being prepared for the 2020 General Election is available for public inspection, and when future draft Electoral Rolls will be made available for public inspection.

ORDINANCES LAID BEFORE THE STATES

THE PLANT HEALTH (ENABLING PROVISIONS) (GUERNSEY) LAW, 2014 (COMMENCEMENT) (AMENDMENT) ORDINANCE, 2020

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Plant Health (Enabling Provisions) (Guernsey) Law, 2014 (Commencement) (Amendment) Ordinance, 2020", made by the Policy & Resources Committee on the 4th February, 2020, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Plant Health (Enabling Provisions) (Guernsey) Law, 2014 (Commencement) Ordinance, 2019 made by the Policy & Resources Committee on the 23rd April 2019 and laid before the States on the 12th June, 2019. The amendment changes the commencement date for the Plant Health (Enabling Provisions) (Guernsey) Law, 2014, under which the Plant Health (Implementation) (Guernsey) Ordinance, 2020 is proposed to be made, from exit day to 4th February, 2020 when the Implementation Ordinance was made. Exit day will not take place in the Bailiwick until the end of the Transition Period under the EU Withdrawal Agreement agreed between the UK and the EU.

The Ordinance was approved by the Legislation Review Panel on the 3rd February, 2020 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE PLANT HEALTH (IMPLEMENTATION) (GUERNSEY) ORDINANCE, 2020

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Plant Health (Implementation) (Guernsey) Ordinance, 2020", made by the Policy & Resources Committee on the 4th February, 2020, is laid before the States.

EXPLANATORY MEMORANDUM

Introduction

This Ordinance implements the EU's Plant Health Regulation ("PHR") which came into force on the 14th December, 2019. Guernsey is required to implement the PHR in view of its obligations in relation to goods under Protocol 3 to the UK's Treaty of Accession to the European Communities and Regulation 7906/73 relating to agricultural matters.

Due to the extension of the article 50 period agreed between the EU27 and the UK beyond 31st October, 2019, the PHR has direct effect in Guernsey and so must be enforced/implemented. During the current Transition Period, as part of the UK's Withdrawal Agreement with the EU, the UK is to be treated as an EU member State and is required to

implement EU legislation during this period. Therefore, the Implementation Ordinance treats the UK as a member State.

The PHR, together with the EU Official Controls Regulation ("OCR"), EU Animal Health Regulation, and related EU legislation relating to food and feed, forms the EU "Smarter Rules for Safer Food" (SRSF) legal framework. The framework is designed to provide "farm to fork" coverage in terms of the application of EU standards and to safeguard biosecurity from sanitary and phytosanitary threats posed by third countries and from within the European Union.

The European Communities (Official Controls) (Implementation and General Provisions) (Guernsey) Ordinance, 2019, made by the Policy & Resources Committee on the 10th December, 2019 and laid before the States on the 5th February, 2020 provides a general foundation by which official controls implementing the SRSF can be performed whilst other legislation will provide for enforcement of the detailed, area specific controls under specific EU legislation such as the PHR.

Compliance with the PHR and alignment with the UK legislation implementing the PHR is required to ensure continued market access in the EU and the UK for Guernsey plants and plant products.

Why a new Ordinance is needed

A new Ordinance is needed to implement the PHR as the Plant Health (Guernsey) Ordinance, 2019 (2019 Ordinance), , was put in place to ensure EU and UK market access for Guernsey companies in the event of a hard Brexit so has not come into force. The 2019 Ordinance implemented the previous EU Plant Health Directive, which the PHR repealed and replaced, and was based on a UK/British Islands plant passport area rather than the European Union territory. As the PHR has direct effect in Guernsey, unlike the previous EU Directive, the new Implementation Ordinance only needs to provide for enforcement and administrative provisions in relation to the substantive requirements which are set out in the PHR. The 2019 Ordinance, which comes into force on exit day at the end of the transition period under the Withdrawal Agreement, is not being repealed now in case there is a hard Brexit. However, the need for repeal will be reviewed during 2020 as the most likely outcome is that the Implementation Ordinance will remain in force after the Transition Period subject to any necessary amendments/modifications that may be made at that time. This is because the PHR and the OCR will be Preserved EU law under Bailiwick Brexit legislation on exit day.

Context

The Official Controls Ordinance designated the Committee for the Environment & Infrastructure (E&I) as the Designated Authority in relation to protective measures against plant pests and gave it powers to appoint Designated Officers to discharge its functions under the OCR. The Implementation Ordinance confers enforcement and other administrative functions on the Committee, as the Designated Authority responsible for plant health, to enforce the detailed plant health controls in the PHR. The PHR requires that enforcement and other administrative arrangements to implement the PHR are carried out in accordance with the framework for official controls in the OCR to ensure consistency of

official controls across the SCRF framework. The Implementation Ordinance sets out the specific civil notice and criminal offence provisions to enforce requirements of the PHR, and various procedural requirements relating to authorisations and registrations under the PHR to the extent that the detail of those provisions are left to the discretion of EU Member States.

The Ordinance

The Implementation Ordinance is also consistent with the April, 2006 policy resolution of the States which approved the drafting of legislation in accordance with policy principles which provided for comprehensive new plant health legislation in line with international standards.

The main purpose of the Implementation Ordinance is to provide for enforcement of the plant health measures in the PHR. The Implementation Ordinance is also aligned closely with equivalent English Plant Health Legislation enforcing the requirements of the PHR and providing for local measures where derogations or stricter local controls are allowed under the PHR. The policy is to align closely with the UK to facilitate continued access for Guernsey plant and plant product companies to the important UK plant/plant product market.

The Implementation Ordinance gives enforcement functions to E&I and to plant health officers appointed by its President. A person appointed as an official plant health officer under the Implementation Ordinance is also automatically a Designated Person, with powers to carry out certain enforcement action, under the Official Controls Ordinance.

Part I of the Implementation Ordinance requires plant health officers to serve specified notices where certain plants, plant products or plant pests have been brought into Guernsey from outside the Union territory in breach of EU plant health legislation or without being presented for required official controls on entry. Part III sets out notice powers and powers of entry for plant health officers to prevent the establishment or spread of plant pests. Parts VII and VIII set out further general powers for plant health officers to enter premises, request and disclose information and take steps where requirements of notices are not met and general provisions in relation to notices given by plant health officers and appointment of such officers.

Part V provides for procedure in relation to registration and authorisations under the PHR which must be made to E&I as the competent authority. The PHR includes a duty for plant breeders/producers etc. to register as professional operators and provides for authorisation of such registered operators to issue plant passports in relation to movements of certain plants in the Union territory. General transitional provisions applying to all areas covered by the OCR are provided for under section 31 and Schedule 2 of the Official Controls Ordinance which provides for previous non-statutory authorisations to issue plant passports to remain in force and gives certain plant businesses, required to register as professional operators under the PHR, a transitional period of 6 months from 14th December, 2019 to do so.

Part VI requires prior notification to either plant health officers or E&I when specified plants with higher plant health risks are to be brought into Guernsey. Part II provides for an exception from the requirement for movements of plants to be accompanied by a plant

passport and Part IV and Schedule 1 mirror additional local plant health measures provided for in England in relation to certain plants. Part IX provides for standard appeal provisions against certain decisions of E&I or plant health officers, Part X and Schedules 2 and 3 provide for the offence and penalty provisions in relation to breaches of the PHR, the OCR in relation to plants and plant products and other EU plant health legislation which has direct effect in Guernsey; Part XI provides for a power for E&I to provide for fees by Order and for standard exclusion of liability provisions. Part XII provides for a power to amend or prescribe certain provisions by Order of E&I and for standard provisions. Some additional repeals of out of date plant health legislation are made under section 52 which were not repealed in the Plant Health Enabling Law.

The Implementation Ordinance and the PHR will also replace the current plant health legislation listed in the Schedule to the Plant Health (Enabling Provisions) (Guernsey) Law, 2014 (Commencement) Ordinance, 2019. As with the 2019 Ordinance, the Implementation Ordinance and PHR will combine and update the current controls on trade in plants, trees and certain wood and measures to control and prevent outbreaks of plant pests which are currently contained in separate Ordinances. The provisions reflect the agreed policy principles in the 2006 resolution and policy letter except that the PHR and the Ordinance do not provide for controls on the means and methods of transportation of plants and the control of noxious and invasive plants in respect of which current controls have for now been retained. Alignment with the EU and UK requirements will also assist in meeting the requirements of the International Plant Protection Convention, 1951 the UK's ratification of which has been extended to Guernsey.

The Ordinance was approved by the Legislation Review Panel on the 3rd February, 2020 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

The full text of the legislation can be found at:

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