

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE MACHINERY OF GOVERNMENT (TRANSFER OF FUNCTIONS) ORDINANCE, 2020

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Machinery of Government (Transfer of Functions) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has 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.

EXPLANATORY MEMORANDUM

Section 1 of this Ordinance transfers to the Committee for Health & Social Care the functions of the Committee for Employment & Social Security relating to (i) health service benefits provided under the Health Service (Benefit) (Guernsey) Law, 1990, and (ii) travelling allowance grant under the Social Insurance (Guernsey) Law, 1978. Sections 2 to 4 make related provision in relation to the consequent amendment of statutory references, relevant things done or in the process of being done before the Ordinance comes into force, and subordinate legislation. Section 5 makes appropriate alternative provision in respect of the one relevant provision in the Health Service (Benefit) (Guernsey) Law, 1990 where specific provision is necessary. Section 6 sets out what are effectively consequential amendments to the Social Insurance (Guernsey) Law, 1978 that flow from the transfer of functions made in respect of travelling allowance grant, in relation to associated regulation making powers. Section 7 amends the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990 to provide for amendments to the Health Service (Benefit) (Guernsey) Law, 1990 to automatically extend to Alderney. Sections 8 and 9 are the citation and commencement provisions.

The Machinery of Government (Transfer of Functions)

Ordinance, 2020

THE STATES, in pursuance of their Resolutions of the 13th June, 2019^a, and in exercise of the powers conferred on them by sections 1 and 3 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991^b, sections 115A and 116 of the Social Insurance (Guernsey) Law, 1978^c, section 1 of the Alderney (Application of Legislation) Law, 1948^d, and all other powers enabling them in that behalf, hereby order:-

Transfer of Functions.

1. The functions, rights and liabilities of the Committee for Employment & Social Security arising under –

^a Article VII of Billet d'État No. X of 2019.

^b Ordres en Conseil Vol. XXXIII, p. 478; as amended by Ordinance No. XXXIII of 2003 and No. IX of 2016.

^c Ordres en Conseil Vol. XXVI, p. 292; as amended by Ordres en Conseil Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; Vol XXXI, p. 278; Vol. XXXII, p. 59; Vol. XXXIV, p. 510; Vol. XXXV(1), p. 164; Vol. XXXVI, pp. 123 and 343; Vol. XXXVIII, p. 59; Vol. XXXIX, p. 107; Order in Council No. X of 2000; No. IX of 2001; No. XXIII of 2002; No. XXIV of 2003; No. XI of 2004; No. XVIII of 2007; No. V of 2012; No. IV of 2014; No. III of 2016 and No. IV of 2018; Recueil d'Ordonnances Tome XXV, p. 148; Tome XXVI, p. 177; Ordinance No. XXXIII of 2003; No. XLIV of 2007; Nos. VII and XLII of 2009; No. XVII of 2011; No. XXXVIII of 2012; No. XXX of 2013; Nos. IX and XXX of 2016; Nos. XIII and XXIII 2017; Nos. XXVII and XXIX of 2019; and Alderney Ordinance No. VIII of 2018.

^d Ordres en Conseil Vol. XIII, p. 448; as amended by Ordres en Conseil Vol. XVI, pp. 124 and 126; Vol. XXIV, p. 210; Vol. XXXIX, p. 299; Vol. XXX, p. 224; Vol. XXXVII, p. 251; Ordinance No. XXXIII of 2003; No. XXXIII of 2007; and No. IX of 2016.

- (a) Parts II to VI, sections 21 to 23, and Parts VIII to X of the Health Service (Benefit) (Guernsey) Law, 1990^e, and
- (b) section 36 of the Social Insurance (Guernsey) Law, 1978,

are transferred to and vested in the Committee for Health & Social Care; and the Parts and sections listed in paragraphs (a) and (b) are referred to in this Ordinance as the "**Relevant Enactments**".

Amendment of statutory references.

2. For any reference in the Relevant Enactments to the Committee for Employment & Social Security, however expressed, there is substituted a reference to the Committee for Health & Social Care.

Savings and transitional provisions.

3. Anything done before the date of commencement of this Ordinance, or in the process of being done on that date, by or in relation to the Committee for Employment & Social Security under the Relevant Enactments shall have effect as if done or (as the case may be) may be continued by or in relation to the Committee for Health & Social Care.

^e Ordres en Conseil Vol. XXXII, p. 192; amended by Order in Council No. IX of 2003; No. II of 2011; No. IV of 2018; Recueil d'Ordonnances Tome XXVI, pp. 177 and 483; Ordinance Nos. XXII and XXVII of 2002; No. XXI and XXXIII of 2003; No. XLII of 2006; No. XLIII of 2007; No. XXII of 2015; Ordinance Nos. IX and XLIV of 2016; No. XLIV of 2016; and No. XXX of 2019.

Subordinate legislation.

4. The provisions of sections 1 to 3 apply in relation to any Ordinance or subordinate legislation made or having effect as if made under the Relevant Enactments as they apply in relation to the Relevant Enactments themselves, and the provisions of the enactment under which the subordinate legislation was made are varied insofar as is necessary to give effect to this section.

Exceptions.

5. (1) Sections 1 to 4 do not apply in respect of the definitions of **"approved primary care mental health and wellbeing service arrangement"** and **"approved visiting medical specialist arrangement"** in section 39(1) of the Health Service (Benefit) (Guernsey) Law, 1990, as that Law applies in relation to specialist medical benefit by virtue of the Health Service (Specialist Medical Benefit) Ordinance, 1995^f.

(2) In the definitions of the arrangements referred to in subsection (1), for "Committee for Employment & Social Security" substitute "States Policy & Resources Committee".

(3) Anything done before the date of commencement of this Ordinance, or in the process of being done on that date, by or in relation to the Committee for Employment & Social Security under the arrangements referred to in subsection (1) shall have effect as if done or (as the case may be) may be continued by or in relation to the Policy & Resources Committee.

^f Recueil d'Ordonnances Tome XXVI, p. 484; as amended by Ordinance No. XXIX of 2002; No. XXXIII of 2003; No. XLII of 2013; No. LVII of 2014 and. No. IX of 2016.

Amendment of Social Insurance (Guernsey) Law, 1978.

6. (1) The Social Insurance (Guernsey) Law, 1978 is amended as follows.

(2) In section 64(4)(d), delete ", travelling allowance grant".

(3) After section 64(4)(d), insert –

"(da) for enabling the Guernsey Committee for Health & Social Care to pay any sum payable by way of travelling allowance grant in respect of any liability incurred by the beneficiary or any other person to the person for the time being entitled to give a discharge in respect of such a liability,".

(4) In section 116(2), for "the States or the Committee", substitute "the States, the Committee, or the Guernsey Committee for Health & Social Care".

(5) In section 117, after "the Committee" at the first time it appears insert "or the Guernsey Committee for Health & Social Care", and after "the Committee" at the second time it appears insert "or the Guernsey Committee for Health & Social Care (as the case may be)".

Amendment of the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990.

7. For section 1 of the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990^g substitute –

"Law to have effect in Alderney.

1. The Health Service (Benefit) (Guernsey) Law, 1990 (subject to such amendments, modifications, exceptions and adaptations as are enacted from time to time) is extended to the Island of Alderney subject to the exceptions, adaptations and modifications set out in the Schedule."

Citation.

8. This Ordinance may be cited as the Machinery of Government (Transfer of Functions) Ordinance, 2020.

Commencement.

9. This Ordinance shall come into force on 11th May, 2020.

^g Recueil d'Ordonnances Tome XXV, p. 204; as amended by Recueil d'Ordonnances Tome XXVI, p. 489; Tome XXVI, p. 499; Tome XXVII, p. 9; Tome XXVIII, p. 11; and Ordinance No. XXXIV of 2002.