

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

28th September 2022

Proposition No. P.2022/70

Committee for Employment & Social Security

The Prevention of Discrimination (Guernsey) Ordinance, 2022

AMENDMENT

Proposed by: Deputy R C Murray

Seconded by: Deputy S P Haskins

At the end of the Proposition add: “, subject to the amendments indicated below”.

1. In section 75 -
 - (a) delete “(1)”,
 - (b) for paragraph (c) substitute—

“(c) shall not have effect unless and until approved by a resolution of the States.”,
 - (c) delete subsection (2).
2. In section 67 -
 - (a) in subsection (1), after "codes of practice" insert "or guidance",
 - (b) delete subsection (2), and renumber subsections (3) and (4) accordingly.

Rule 4(1) information

a) The proposition contributes to the States’ objectives and policy plans as it is in line with the States strategic objective of introducing legislation to prevent discrimination.

b) In preparing the proposition there have been discussions and communications about the amendment with the President and Members of the Committee for Employment and Social Security and Committees Officers.

c) The proposition has been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.

d) There are no financial implications to the States of carrying the proposal into effect.

Explanatory Note

The proposer and seconder of this amendment believe that once enacted any amendments to the Ordinance relating to the extensive regulations currently provided for, are likely to be of particular interest and importance to members of the community, including members of the States. They believe that it should be possible for members to consider and debate such changes. As the Ordinance is to apply only to Guernsey and bearing in mind the power of the Policy & Resources Committee to enact Ordinances in the event that any urgent amendment is necessary, they do not believe that inclusion of such extensive regulatory-making powers without States oversight is desirable, 25 instances of which, are detailed (in **bold**) by means of illustration, as follows.

1. Part VII Duties - Disability
Duty to make reasonable adjustments for a disabled person
32 (9) The Committee may by **regulation** amend the definition of physical feature in subsection (8) including to specify other physical elements or qualities which are physical features. (Page 54)
2. Part VII Duties - Disability
Duty to carry out minor improvements: commercial or residential landlords.
34 (9) The Committee may by **regulation** amend the definition of minor improvement in subsection (7). (Page 57)
3. Part VII Duties - Disability
35 (5) (c) any other adjustment to a physical feature which the Committee prescribes by **regulation** for the purposes of this section. (Page 59)
4. Part VII Duties - Disability
Disability: public sector duty to prepare accessibility action plans
37 (1) The Committee may by **regulation** impose a duty on public sector providers and public sector school or education providers to prepare and implement an accessibility action plan, and **regulations** may, without limitation – (Page 61)
5. Part VIII Complaints Procedure and the Tribunal
Refusal to hear complaints

- 45 (7) (a) “**independent adviser**” means a lawyer, a representative of a trade union or person of another description specified in **regulations** of the Committee and (Page 71)
6. Part VIII Complaints Procedure and the Tribunal
Amount of compensation – work
50 (1) (b) an amount payable for injury to feelings, hurt or distress calculated by the Tribunal in accordance with **regulations** prescribed by the Committee up to a maximum of £10,000. (Page 76)
7. Part VIII Complaints Procedure and the Tribunal
Amount of compensation – cases where pay or financial loss may be awarded
51 (1) (b) an amount payable for injury to feelings, hurt or distress calculated by the Tribunal in accordance with **regulations** prescribed by the Committee up to a maximum of £10,000. (Page 77)
8. Part VIII Complaints Procedure and the Tribunal
Amount of compensation – cases where pay or financial loss may be awarded
51 (2) (b) an amount payable for injury to feelings, hurt or distress calculated by the Tribunal in accordance with **regulations** prescribed by the Committee up to a maximum of £10,000. (Page 77)
9. Part VIII Complaints Procedure and the Tribunal
Amount of compensation – goods and services etc.
52 (b) an amount payable for injury to feelings, hurt or distress calculated by the Tribunal in accordance with **regulations** prescribed by the Committee up to a maximum of £10,000. (Page 78)
10. Part VIII Complaints Procedure and the Tribunal
Joined complaints under this Ordinance
55 (4) (a) (ii) an amount payable for injury to feelings, hurt or distress calculated by the Tribunal in accordance with **regulations** prescribed by the Committee up to a maximum of £10,000, (Page 80)
11. Part VIII Complaints Procedure and the Tribunal
Joined complaints under this Ordinance
55 (4) (b) (ii) an amount payable for injury to feelings, hurt and distress calculated by the Tribunal in accordance with **regulations** prescribed by the Committee up to a maximum of £10,000, (page 80)
12. Part VIII Complaints Procedure and the Tribunal
Joined employment complaints
56 (2) (b) (ii) an amount payable for injury to feelings, hurt or distress calculated by the Tribunal in accordance with **regulations** prescribed by the Committee up to a maximum of £10,000. (Page 82)

13. Part X Miscellaneous and Final
Codes of practice and guidance
67 (1) The Committee may by **regulation** provide for codes of practice on the prevention of discrimination, or the promotion of equality, under this Ordinance. (Page 96)
14. Part X Miscellaneous and Final
Ships and aircraft
73 (1) only in such circumstances as are prescribed by **regulations** of the Committee. (Page 109)
15. Part X Miscellaneous and Final
Commencement
79 (2) Section 8 shall not come into force before 1st October 2028 insofar as the existence of a physical feature falling within section 32(2)(b) constitutes the application of a provision, criterion or practice falling within section 8(1), in which regard it shall come into force on the day appointed by **regulations** of the Committee, and different dates may be appointed for different provisions or parts thereof and for different purposes. (Page 112)
16. Part X Miscellaneous and Final
Commencement
79 (3) Save as provided by subsections (4), (5), and (6)(b), sections 32 and 33, insofar as those sections impose a duty on a school or education provider, shall not come into force before 1st September 2025, and those sections insofar as they impose that duty will come into force on the day appointed by **regulations** of the Committee, and different dates may be appointed for different provisions or parts thereof and for different purposes. (Page 112).
17. Part X Miscellaneous and Final
Commencement
79 (4) Section 33 shall not come into force before 1st October 2028 insofar as it imposes a proactive duty on service providers and school and education providers to make reasonable adjustments to physical features, and that section insofar as it imposes that duty will come into force on the day appointed by **regulations** of the Committee, and different dates may be appointed for different provisions or parts thereof and for different purposes. (Page 112)
18. Part X Miscellaneous and Final
Commencement
79 (5) Subject to subsection (6), sections 29, 32(2)(b), 34, 35, 36, and 37 shall come into force on the day appointed by **regulations** of the Committee, and different dates may be appointed for different provisions or parts thereof and for different purposes. (Page 112)

19. Part X Miscellaneous and Final
Commencement
79 (6) **Regulations** under subsection (5) may not provide for – (Page 112)
20. Schedule
Section 74
Part I
General Exceptions to the prohibitions in Parts IV to VII
Animals
14 (2) The criteria are that the animal is a dog (or other animal prescribed for the purposes of this paragraph by **regulations** of the Committee) which has been trained by a prescribed organisation to – (Page 124)
21. Schedule
Section 74
Part I
General Exceptions to the prohibitions in Parts IV to VII
Animals
14 (2) (e) assist a person who has a disability (other than one falling within subparagraphs (a) to (d)) of a kind as set out **regulations** of the Committee. (Page 125)
22. Schedule
Section 74
Part I
General Exceptions to the prohibitions in Parts IV to VII
Animals
14 (3) In this paragraph, a “**prescribed organisation**” is an organisation which trains dogs or other animals which has been prescribed for the purposes of this paragraph by **regulations** of the Committee. (Page 125)
23. Part II
Specific Exceptions – Work
Employment of people with a particular disability
21 (1) It is not a contravention of this Ordinance for a person who provides supported employment to treat persons who have the same disability, or a disability of a description as prescribed by **regulations** of the Committee, more favourably than those who do not have that disability or a disability of such a description in providing such employment. (Page 129)
24. Part II
Specific Exceptions – Work
Employment of people with a particular disability
21 (2) In this paragraph, “**a person who provides supported employment**” means Grow Ltd, The Guernsey Employment Trust LBG and any other person specified from time to time for this purpose in **regulations** made by the

Committee. (Page 129)

25. Part VI

Specific Exceptions – Accommodation

Power of Committee to amend Schedule

46. The Committee may by **regulation** amend this Schedule. (Page 144)