

BILLET D'ÉTAT No. XI, 2015

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The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015

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The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015

THE STATES, in pursuance of their Resolution of the 25th June, 2014^a and in exercise of the powers conferred on them by sections 1, 2 and 3 of the Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012^b and section 1 of the Alderney (Application of Legislation) Law, 1948^c and all other powers enabling them in that behalf, hereby order:-

PART I REGISTRATION AND ANNUAL CHARGES

Medical practitioners to be licensed and registered.

1. A person must not practise, or hold himself out as practising or as being prepared to practise, as a medical practitioner unless the person satisfies the following conditions –

- (a) the person is fully registered in the register of medical practitioners kept under the 1983 Act, and the person's registration is not suspended under that Act,
- (b) the person holds a licence to practise granted under that Act, and

^a Article IV of Billet d'État No. XII of 2014.

^b Order in Council No. IX of 2013.

^c Ordres en Conseil Vol. XIII, p. 448; as amended by Vol. XXIV, p. 210; Vol. XXIX, p. 299; Vol. XXX, p. 224; Vol. XXXVII, p. 251.

- (c) the person is registered as a medical practitioner in the Register.

Registration.

2. (1) Any person may apply to the Department for registration in accordance with this section.

(2) An application must –

- (a) be in the prescribed form and manner,
- (b) include the prescribed information relating to the applicant, verified in any manner the Department considers appropriate, and
- (c) be accompanied by the prescribed fee.

(3) On receiving an application made in accordance with subsection (2), if satisfied that the applicant satisfies the conditions in section 1(a) and (b), the Department must register the applicant as a medical practitioner in the Register by entering in the register any information required to be entered by regulations made by the Department.

Classification.

3. (1) Upon registering any medical practitioner other than a responsible officer, the Department must classify the practitioner in accordance with the following –

- (a) a medical practitioner is in the UK Connected Practitioners class if the practitioner has a UK connection, and
- (b) any other medical practitioner is in the Local Practitioners class.

(2) The Department must remove any registered practitioner who becomes a responsible officer from any class within which the practitioner has been classified.

(3) For the purposes of subsection (1)(a), a medical practitioner has a UK connection if a designated body, within the meaning of any regulations made under section 45A of the 1983 Act, has a connection with the practitioner that is prescribed in any such regulations.

Annual charges.

4. (1) The Department may make regulations to prescribe an annual charge payable by registered practitioners in respect of any registration year, which may include an amount to reimburse the general revenue account of the States of Guernsey for –

- (a) any costs and expenses associated with the discharge of the functions of the Department under this Ordinance, and
- (b) the costs, emoluments and expenses associated with responsible officers and mentioned in paragraph 2 of Schedule 1.

(2) An annual charge in respect of a registration year may be prescribed at any time on or before the registration year.

(3) A registered practitioner must pay the annual charge in respect of each registration year for which the practitioner is registered –

- (a) calculated in accordance with subsection (4), and
- (b) within the time specified in subsection (5).

(4) The annual charge payable by a registered practitioner in respect of any registration year is –

- (a) where the practitioner is registered as a medical practitioner in the Register before the commencement of the registration year, the annual charge prescribed in respect of that registration year, and
- (b) where the practitioner is registered as a medical practitioner in the Register at any time during the registration year, the annual charge prescribed in respect of that registration year multiplied by the remaining period of the registration year expressed as a fraction of that registration year.

(5) A registered practitioner must pay the annual charge payable by the practitioner in respect of any registration year –

- (a) where the practitioner is registered before the commencement of the registration year, on or before

the date which is one month following the date on which the registration year commences, and

- (b) where the practitioner is registered at any time during the registration year, on or before the date which is one month following the date on which that practitioner was so registered.

(6) If a registered practitioner does not pay an annual charge in respect of a registration year within the time specified for the payment of the charge in subsection (5), the Department may –

- (a) send the practitioner a written notice to remind that practitioner to pay the charge, and
- (b) whether or not a notice is sent under paragraph (a), recover the charge from the practitioner as a civil debt due and payable by the person to the States of Guernsey.

(7) In this section, "**registration year**" means any prescribed period of 12 months, subject to any prescribed transitional period shorter than 12 months in relation to the first period for which an annual charge is prescribed.

PART II

THE REGISTER AND RELATED DUTIES

Duties of the Department in relation to Register.

- 5. (1) The Department must establish a register of medical

practitioners (referred to in this Ordinance as "**the Register**") for the purposes of this Ordinance.

- (2) The Department –
 - (a) must maintain the Register in accordance with regulations made by the Department,
 - (b) must make available to the public, in a form and manner the Department considers appropriate, any information prescribed by regulations made by the Department, and
 - (c) at the request of a responsible officer for a registered practitioner, must –
 - (i) give that responsible officer access to any register information relating to the practitioner, and any other information relating to the practitioner kept in the Register or otherwise held by the Department for the purposes of this Ordinance, and
 - (ii) allow that responsible officer to inspect, examine, take extracts of, copy, and photograph that information.

Delegations by the Department.

6. Section 4 of the Public Functions (Transfer and Performance)

(Bailiwick of Guernsey) Law, 1991^d has effect in relation to the functions of the Department under this Ordinance as if the reference to "any officer responsible to that Committee" in section 4(1) (a) of that Law includes a reference to any employee of the States of Guernsey (whether or not that employee is responsible to the Department).

Registered practitioner's duty to notify.

7. (1) A registered practitioner who becomes aware or is made aware of a prescribed event or a relevant change must give the Department written notice of the event or change in accordance with this section.

(2) The registered practitioner must give the Department written notice of –

- (a) a prescribed event within 7 days of becoming aware or being made aware of the occurrence of the event, and
- (b) a relevant change within one month of becoming aware or being made aware of the change.

(3) A notice under this section must include any information required to be included in the notice by regulations made by the Department.

(4) In this section, "**relevant change**", in relation to any registered practitioner, means any circumstances (other than the occurrence of a prescribed event) which would require an amendment to be made to the register

^d Ordres en Conseil Vol. XXXIII, p. 478; as amended by Recueil d'Ordonnances Tome XXIX, p. 406.

information relating to the practitioner in order for that information to be correct, accurate and up-to-date.

Registered practitioner's duty to verify.

8. (1) The Department may, by notice in writing to a registered practitioner, require the practitioner to –

- (a) give the Department evidence of any event or change notified under section 7, or
- (b) verify or inform the Department of any change in the register information relating to that practitioner, whether or not the change is notified under section 7,

on or before a date specified by the Department in the notice.

(2) For the purposes of subsection (1) (b), the Department may send a registered practitioner all or any of the register information relating to the practitioner and require that practitioner to –

- (a) make a statement either confirming that the information is correct, or providing details of information which is omitted from the statement or which has changed,
- (b) sign and date the statement, and
- (c) send the statement to the Department no later than the date specified by the Department in the notice under subsection (1).

(3) A practitioner to whom a notice is issued under this section must comply with any requirement specified under subsection (1) or (2) on or before the date specified in the notice under subsection (1).

Amendment of entries and termination of registration.

9. (1) The Department may amend any register information or any other information kept in the Register to keep the Register correct, accurate and up-to-date.

(2) The Department must terminate the registration of a registered practitioner –

- (a) upon the death of the practitioner, or
- (b) if the practitioner does not satisfy or no longer satisfies any condition in section 1(a) or (b).

(3) The Department may terminate the registration of a registered practitioner –

- (a) if the practitioner fails to pay an annual charge payable by that practitioner within one month of the date of a reminder notice sent to that practitioner under section 4(6)(a), or
- (b) if requested in writing by the practitioner.

PART III
RESPONSIBLE OFFICERS

Appointment of responsible officers.

10. (1) The States must appoint a responsible officer nominated by the Department to be responsible for each of the two classes of registered practitioners.

(2) A person may be appointed as a responsible officer for both classes of registered practitioners.

(3) If, in the opinion of the Policy Council, there is a conflict of interest or an appearance of bias in relation to a responsible officer ("**the first responsible officer**") and any registered practitioner ("**the relevant practitioner**") in a class for which the officer is responsible, the Policy Council must appoint a second or further responsible officer for the class.

(4) In considering who to appoint under subsection (3), the Policy Council must ensure that there is no conflict of interest or appearance of bias, in relation to the person to be appointed and the relevant practitioner.

(5) Where a second or further responsible officer has been appointed under subsection (3), that responsible officer, and not the first responsible officer, is to exercise and perform the functions of a responsible officer in relation to the relevant practitioner.

(6) A person must not be appointed as a responsible officer unless the person –

(a) is a registered practitioner,

- (b) has been allocated or assigned a non-Island responsible officer in accordance with the 1983 Act or a relevant foreign enactment,
 - (c) has been, throughout the preceding 5 years, fully registered as a medical practitioner under the 1983 Act, and
 - (d) is not an employee or agent of the States of Guernsey.
- (7) A person appointed as a responsible officer must not continue in that office if –
- (a) the General Medical Council has not approved the person for that role within a period of 6 months following the appointment, or
 - (b) the person becomes an employee or agent of the States of Guernsey.

Terms and conditions of appointment.

11. (1) Schedule 1 has effect in relation to any responsible officer appointed under section 10.

(2) The office of a responsible officer is a public office and a responsible officer is under a duty to carry out the functions of that office with complete fairness, impartiality and independence.

(3) The terms and conditions of the appointment of a responsible

officer under section 10 are as agreed between the Policy Council and the responsible officer, but no term or condition is to be –

- (a) inconsistent with any provision of Schedule 1 or any other provision of this Ordinance, or
- (b) construed so as to create a contract of employment or agency between the States of Guernsey and the responsible officer.

Functions of responsible officers.

12. (1) Schedule 2 has effect in relation to the functions of a responsible officer appointed for the Local Practitioners class.

(2) Schedule 3 has effect in relation to the functions of a responsible officer appointed for the UK Connected Practitioners class.

Powers of responsible officers.

13. (1) Where a responsible officer appointed for a class of registered practitioners becomes aware of a concern that appears to raise an issue regarding the fitness to practise of a practitioner in the class ("**the practitioner concerned**"), the responsible officer may exercise all or any of the powers specified in subsection (2) for the purpose of ascertaining whether the concern in fact raises an issue regarding the fitness to practise of the practitioner concerned.

- (2) The powers are –
 - (a) to enter and inspect any relevant premises at a reasonable time,

- (b) to require a relevant person –
 - (i) to answer questions, either alone or in the presence of any other person requested by the relevant person,
 - (ii) to produce to the responsible officer any information kept by or on behalf of the relevant person, and
 - (iii) to provide the responsible officer with any facilities and assistance that the officer considers necessary,
- (c) to inspect, examine, take extracts of, copy and photograph any information produced to the responsible officer.

(3) A responsible officer must not enter or inspect a dwelling or any part of a dwelling under this section except under the authority of a warrant granted by the Bailiff under section 14.

(4) The powers in subsection (2) do not extend to requiring any person to answer any question or produce any information that the person could not be compelled to answer or produce in civil proceedings before the Royal Court; and for the avoidance of doubt, such information includes any items subject to legal professional privilege (within the meaning given by section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^e).

^e Ordres en Conseil Vol. XLIII(2), p. 617; as amended by Order in Council No. XVI of 2009 and No. XV of 2011; Recueil d'Ordonnances Tome XXIX, p. 406, Tome XXXIII, p. 617 and Ordinance No. XXIX of 2011.

(5) A person exercising the powers conferred by this section must, if required by the occupier or person in charge of the premises entered, produce evidence of the person's appointment as a responsible officer (or other authority to exercise the powers conferred by this section).

(6) In this section –

"relevant person" means –

- (a) the practitioner concerned,
- (b) the designated body of the practitioner concerned, or
- (c) any person whom the responsible officer finds in any premises entered under this section, and

"relevant premises" means any premises at or in which the responsible officer has reasonable grounds for believing that –

- (a) the practitioner concerned is practising or has practised as a medical practitioner, or
- (b) any information is kept relating to practice of the practitioner concerned as a medical practitioner.

Warrant to enter dwellings.

14. (1) On application made by a responsible officer for a class of

registered practitioners, the Bailiff may grant a warrant conferring on the responsible officer all or any of the powers set out in section 13(2), if the Bailiff is satisfied by information on oath supplied by the responsible officer that –

- (a) the responsible officer is aware of a concern that appears to raise an issue regarding the fitness to practise of a practitioner in the class ("**the practitioner concerned**"),
- (b) there are reasonable grounds for believing that, at or in premises identified by the responsible officer –
 - (i) the practitioner concerned is practising or has practised as a medical practitioner, or
 - (ii) information is kept relating to the practice of the practitioner concerned as a medical practitioner,
- (c) those premises consist of a dwelling or part of a dwelling, and
- (d) it is necessary or expedient for the responsible officer to enter those premises for the purpose of ascertaining whether the concern mentioned in paragraph (a) in fact raises an issue regarding the fitness to practise of the practitioner concerned.

(2) A warrant granted under subsection (1) authorises the responsible officer to exercise the powers specified in the warrant in relation to the

premises identified in that warrant subject to section 13(4).

(3) The Bailiff must not issue a warrant under subsection (1) unless the Bailiff is satisfied that –

- (a) those premises are unoccupied,
- (b) the occupier of those premises has been notified of the responsible officer's intention to apply for a warrant,
- (c) the occupier of those premises is absent and notice of the responsible officer's intention to apply for a warrant has been left in a conspicuous place on those premises, or
- (d) notifying the occupier of those premises of the responsible officer's intention to apply for a warrant would prejudice or frustrate the purpose for which the warrant is sought.

(4) A responsible officer executing a warrant granted under subsection (1) –

- (a) must be accompanied by a police officer, and
- (b) may use such reasonable force as may be necessary.

(5) Subject to any necessary modifications, section 10 (search warrants - safeguards) and section 11 (execution of warrants) (except section 11(10)(c)) of the Police Powers and Criminal Evidence (Bailiwick of Guernsey)

Law, 2003 apply in relation to a warrant sought or granted under this section, as if the responsible officer seeking or being granted the warrant were a police officer.

Duty to co-operate and share information.

15. (1) A responsible officer must co-operate with and provide any information reasonably required by a relevant body or officer for a relevant purpose.

(2) A responsible officer may also give any information relating to a concern that raises or may raise an issue regarding a registered practitioner's fitness to practise to a relevant body or officer for a relevant purpose.

(3) A responsible officer must inform a registered practitioner when the responsible officer gives information concerning the practitioner to any person under subsection (1) or (2).

(4) For the avoidance of doubt, subsections (1) and (2) apply whether the information has been obtained by a responsible officer in carrying out the officer's functions under this Ordinance, or provided to a responsible officer voluntarily by a registered practitioner or any other person.

PART IV

DUTIES OF REGISTERED PRACTITIONERS AND DESIGNATED BODIES

General duties of registered practitioners.

16. (1) A registered practitioner must co-operate with and provide any information reasonably required by a relevant body or officer for a relevant purpose.

(2) Without limiting subsection (1), a registered practitioner must collect and present to the responsible officer or non-Island responsible officer for the practitioner any supporting information required by that officer for the purposes of revalidation of the practitioner under the 1983 Act.

Designated bodies and medical practitioners.

17. (1) For the purposes of this Ordinance (other than section 3(3)), the following are designated bodies –

- (a) any person who employs a medical practitioner to provide services as a medical practitioner in the Island,
- (b) any person who contracts with or otherwise engages a medical practitioner to provide services as a medical practitioner in the Island,
- (c) to the extent that any medical practitioner provides services as a medical practitioner in the Island as a partner in a firm (within the meaning of the Partnership (Guernsey) Law, 1995^f), each of the partners in the firm is jointly and severally the designated body,
- (d) to the extent that any medical practitioner is self-employed, the practitioner himself or herself, and
- (e) any other person prescribed by regulations, in relation

^f Ordres en Conseil Vol. XXXVI, p. 179.

to any prescribed medical practitioner.

(2) For the purposes of this Ordinance (other than section 3(3)), the designated body of any medical practitioner is the person who is the designated body under subsection (1) in relation to the practitioner.

(3) For the avoidance of doubt, each of two or more persons may be the designated body of the same medical practitioner.

Duties of designated bodies.

18. Schedule 4 has effect in relation to the duties of designated bodies.

PART V

MISCELLANEOUS AND GENERAL PROVISIONS

Confidentiality.

19. (1) A relevant body or officer who acquires any information from any person under this Ordinance must not use or disclose it for any purpose other than a relevant purpose.

(2) Without limiting subsection (1), a person acquiring any information under this Ordinance from which an individual or body may be identified must not disclose the information without the consent of every individual who, and every body which, can be identified from that information.

(3) Neither subsection (1) nor subsection (2) prohibits –

(a) use or disclosure of information for the purpose of enabling or assisting a relevant body or officer to

discharge the functions of the relevant body or officer in connection with a relevant purpose,

- (b) disclosure of information which at the time of disclosure is or has already been made available to the public from other sources,
- (c) disclosure of information in the form of a summary or collection so framed as not to enable information relating to any particular individual or body to be ascertained from it,
- (d) use or disclosure of information in connection with any proceedings arising out of the 1983 Act, any relevant foreign enactment, this Ordinance or any other enactment in force in the Island,
- (e) disclosure of information to comply with an order of a court,
- (f) use or disclosure of information where it appears to the person making the use or disclosure to be authorised or required by or under the 1983 Act, any relevant foreign enactment, this Ordinance or any other enactment in force in the Island,
- (g) use or disclosure of information where it appears to the person making the use or disclosure to be necessary –
 - (i) to enable or assist functions under the 1983

Act, any relevant foreign enactment, this Ordinance or any other enactment in force in the Island to be carried out,

(ii) for the discharge of any international obligation to which the Bailiwick of Guernsey is subject, or

(iii) for –

(A) the investigation, detection or prevention of offences,

(B) the apprehension or prosecution of offenders, or

(C) the instigation or conduct of any disciplinary or criminal proceedings,

whether in Guernsey or Alderney or elsewhere.

(4) In subsection (3)(g)(iii), "**offence**" includes professional misconduct or a disciplinary offence, and "**offender**" has a corresponding meaning.

Protection from self-incrimination.

20. A statement made by a person in response to a requirement imposed by or under this Ordinance ("**the statement concerned**") -

(a) may be used in evidence against the person in proceedings other than criminal proceedings, and

- (b) may not be used in evidence against the person in criminal proceedings except -
 - (i) where evidence relating to the statement concerned is adduced, or a question relating to the statement concerned is asked, in the proceedings by or on behalf of that person,
 - (ii) in proceedings for perjury or perverting the course of justice, or
 - (iii) in proceedings where, in giving evidence, that person makes a statement inconsistent with the statement concerned, but in this case the statement concerned is only admissible to the extent necessary to establish the inconsistency.

Offences and penalties.

21. (1) A person is guilty of an offence who, without reasonable excuse, fails to comply with or contravenes –

- (a) section 1,
- (b) section 7(1),
- (c) section 8(3), or
- (d) section 19(1) or (2).

(2) A person guilty of an offence under subsection (1) is liable upon summary conviction or conviction on indictment to imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the uniform scale, or both.

(3) In proceedings against a person for an offence under subsection (1), it is a defence for that person to show –

- (a) that the person took all reasonable steps and exercised all due diligence to avoid committing the offence, or
- (b) in relation to an offence under subsection (1)(d), that the person did not know and had no reason to suspect that the information in question was to be regarded as confidential.

Offences by legal persons and unincorporated bodies.

22. (1) Where a legal person is guilty of an offence under this Ordinance, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) any director, manager, secretary or other similar officer, or any foundation official, of the legal person, or
- (b) any person purporting to act in any such capacity,

he as well as the legal person is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a legal person are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director.

(3) Where an offence under this Ordinance is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where an offence under this Ordinance is alleged to have been committed by an unincorporated body, proceedings for the offence must be brought in the name of that body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of an offence under this Ordinance must be paid from the funds of that body.

(6) In this section, "**legal person**" includes any body corporate

and any other body of persons on which legal personality is conferred by any enactment.

Exclusion of liability.

23. (1) Subject to subsection (2), a responsible officer is not liable in damages or personally liable in any civil proceedings in respect of anything done or omitted to be done after the commencement of this Ordinance in the discharge or purported discharge of the functions of the responsible officer under this Ordinance, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000^g.

Service of documents.

24. (1) Any document to be given or served under, or for the purposes, of this Ordinance may be given or served –

- (a) on an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, the individual's usual or last known place of abode,
- (b) on a company, by being left at, or sent by post or transmitted to, its registered office,

^g Ordres en Conseil Vol. XL, p. 396; amended by Order in Council No. I of 2005; Recueil d'Ordonnances Tome XXIX, p. 406; and G.S.I. No. 27 of 2006.

- (c) on an overseas company, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in the Island or, if there is no such place, its registered or principal office or last known registered or principal office elsewhere,
 - (d) on an unincorporated body, by being given to or served on any partner, member, manager or authorised officer thereof in accordance with paragraph (a), or by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in the Island or, if there is no such place, its principal or last known principal place of business elsewhere, or
 - (e) on the Department or a responsible officer, by being left at, or sent by post or transmitted to, the offices of the Corporate Headquarters of the Department at Rue Mignot, St Andrews, GY6 8TW or any other prescribed offices.
- (2) In subsection (1) –
- (a) the expression "**by post**" means by recorded delivery service or ordinary letter post, and
 - (b) the expression "**transmitted**" means transmitted by electronic communication, facsimile transmission or other similar means which produce or enable the production of a document containing the text of the

communication; in which event the document is to be regarded as served when it is received.

(3) If a person notifies the Department or a responsible officer of an address for service within the Island for the purposes of this Ordinance, any document to be given to or served on the person may be given or served by being left at, or sent by post or transmitted to, that address.

(4) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served –

- (a) by being published by the Department, or as the case may be, the responsible officer, in such manner and for such period as the Department or the responsible officer thinks fit, or
- (b) by being published in La Gazette Officielle on two occasions falling in successive weeks,

and a document served under this subsection is sufficient if addressed to the person for whom it is intended.

(5) Subsections (1) to (4) are without prejudice to any other lawful method of service.

(6) Notwithstanding subsections (1) to (5) and (8) and any other enactment or rule of law in relation to the service of documents, no document to be given to or served on the Department or a responsible officer under or for the purposes of this Ordinance is to be regarded as having been given or served until it is received.

(7) If a person upon whom a document is to be served under this Ordinance is person under legal disability, the document must be served on the person's guardian; and if there is no guardian, the party wishing to effect service may apply to the court for the appointment of a person to act as guardian for the purposes of this Ordinance.

(8) A document sent by post is, unless the contrary is shown, deemed for the purposes of this Ordinance to have been received –

- (a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,
- (b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any day which is not a working day.

(9) Service of a document sent by post is to be proved by showing the date of posting, the address thereon and the fact of prepayment.

(10) In this section "**document**" does not include a summons.

(11) The provisions of this section are subject to any contrary provision under this Ordinance.

General provisions as to regulations.

25. (1) Regulations under this Ordinance –

- (a) may be amended or repealed by subsequent regulations made under this section,
 - (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Department to be necessary or expedient, and
 - (c) must be laid before a meeting of the States as soon as possible and, if at that or the next meeting the States resolve to annul them, must cease to have effect, but without prejudice to anything done under them or to the making of new regulations.
- (2) Any power conferred by this Ordinance to make regulations may be exercised –
- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
 - (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of

cases, or different provision for the same case or class of case for different purposes,

- (iii) any such provision either unconditionally or subject to any conditions specified in the regulations.

Interpretation.

26. (1) In this Ordinance, unless the context requires otherwise –

"1983 Act" –

- (a) means the Medical Act 1983^h, and
- (b) includes any subordinate legislation made under that Act,

"annual charge" means an annual charge prescribed under section 4,

"the Bailiff" –

- (a) in relation to Guernsey, Herm and Jethou means the Bailiff, the Deputy Bailiff, a Judge of the Royal Court, the Lieutenant-Bailiff or a Juge Délégué, and
- (b) in relation to Alderney, means the Chairman of the Court of Alderney, or, if the Chairman is not

^h An Act of Parliament (Chapter 54 of 1983).

available, a Jurat of that court,

"**class**" means any class of registered practitioners specified in section 3(1),

"**Department**" means the Health and Social Services Department,

"**designated body**" has the meaning given by section 17,

"**enactment**" means any Act, Law, Ordinance or subordinate legislation,

"**foundation official**" has the meaning given by the Foundations (Guernsey) Law, 2012ⁱ,

"**function**" includes any power or duty,

"**General Medical Council**" means the General Medical Council continued as a body corporate by section 1 of the 1983 Act,

"**information**" includes any photograph, document, statement or evidence, regardless of the manner or form in which it is kept or given,

"**Island**" means the island of Guernsey, Herm, Jethou or Alderney,

ⁱ

Order in Council No. I of 2013.

"non-Island responsible officer" –

- (a) in relation to a registered practitioner in the UK Connected Practitioner class, means the practitioner's responsible officer determined in accordance with regulations made under section 45A of the 1983 Act, and
- (b) in relation to a registered practitioner in any other class, means a person (however designated) discharging functions (under a relevant foreign enactment) comparable to those of a responsible officer for the purposes of revalidation of medical practitioners under the 1983 Act,

"this Ordinance" includes any regulations made under this Ordinance,

"prescribed", in relation to any provision of this Ordinance, means prescribed for the purposes of the provision by regulations made by the Department,

"the Register" means the register established and maintained under Part II,

"register", in relation to any person, means register as a medical practitioner in the Register, and **"registered"** and **"registration"** have corresponding meanings,

"register information" means information required by regulations made under section 2(3) to be entered into the Register when the Department registers a medical practitioner,

"registered practitioner" means a person registered as a medical practitioner in the Register under this Ordinance,

"relevant body or officer" means a body or officer specified in the left-hand column of Schedule 5,

"relevant foreign enactment" means any enactment (in any country or territory) which is similar or comparable in purpose or effect to the 1983 Act or this Ordinance,

"relevant purpose", in relation to any relevant body or officer, means the purpose specified in the right-hand column of Schedule 5 in relation to the relevant body or officer,

"responsible officer" –

- (a) means a responsible officer appointed under section 10, and
- (b) in relation to a registered practitioner in any class, means the responsible officer appointed under section 10 for the class,

and

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any

enactment and having legislative effect.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Consequential amendments.

27. (1) The Doctors, Dentists and Pharmacists Ordinance, 1987^j is amended as set out in Schedule 6.

(2) A reference in any other enactment to a recognised medical practitioner within the meaning of the Doctors, Dentists and Pharmacists Ordinance, 1987 or any provision of that Ordinance, is to be construed as a reference to a registered practitioner.

Transitional and savings provisions.

28. Schedule 7 has effect.

Extent and application to Alderney.

29. This Ordinance has effect in Guernsey, Herm, Jethou and Alderney.

Citation.

30. This Ordinance may be cited as the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015.

^j Recueil d'Ordonnances Tome XXIV, p. 79; as amended by Ordres en Conseil Vol. XXXI, p. 278; Recueil d'Ordonnances Tome XXIV, p. 238; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003). Applied to the Island of Alderney by Recueil d'Ordonnances Tome XXIV, p. 262.

Commencement.

31. This Ordinance shall come into force on a date specified by regulation made by the Department.

SCHEDULE 1
RESPONSIBLE OFFICERS

Section 11

1. Tenure of office.

- (1) Subject to the provisions of this paragraph, a responsible officer is to hold office for a term not exceeding five years agreed between the Policy Council and the responsible officer at the time of the officer's appointment.
- (2) A responsible officer may be relieved of office before the expiration of its full term, only by the Policy Council –
 - (a) pursuant to a Resolution of the States requiring the Policy Council so to do,
 - (b) on receipt of a written request made by the responsible officer, or
 - (c) if the Policy Council is satisfied that the responsible officer does not satisfy or no longer satisfies a requirement of section 10(6) or (7).
- (3) If a responsible officer ceases to hold office by reason of the expiration of the officer's term, the responsible officer is eligible for reappointment.

2. Staffing and resources.

- (1) The Department must make available to a responsible officer any staff, accommodation, equipment, secretarial and clerical services, and other facilities that the responsible officer reasonably requests for the proper and effectual discharge of that responsible officer's functions.

- (2) The costs of meeting the requirements of subparagraph (1) and any agreed emoluments and expenses of the responsible officer must be paid by the Department from the general revenue account of the States of Guernsey.
- (3) For the avoidance of doubt, where the services of a States employee ("A") are made available to a responsible officer, the responsible officer may arrange for A to perform any of the responsible officer's functions in the name of the responsible officer under section 4 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991.

3. Financial and accounting provisions.

- (1) Any fee or charge received by a responsible officer in the exercise of the responsible officer's functions must be paid to the Department for the general revenue account of the States of Guernsey.
- (2) Subparagraph (1) does not apply if and to the extent that, in accordance with agreed financial procedures, the Department otherwise directs.
- (3) A responsible officer must –
 - (a) maintain proper accounts and proper records in relation to those accounts, and
 - (b) furnish to the Department, as often as the Department may reasonably direct but not less frequently than once in any period of 12 months, a full and accurate statement of those accounts.

4. Annual report.

As soon as practicable after the end of each calendar year, a responsible officer must, through the Department, submit a written report to the States

of Deliberation as to the discharge of the officer's functions during the calendar year.

5. Presumption of authenticity of documents.

Any document purporting to be issued by a responsible officer and to be signed by or on behalf of the responsible officer is to be treated as such a document unless the contrary is shown.

SCHEDULE 2

FUNCTIONS OF RESPONSIBLE OFFICERS FOR LOCAL PRACTITIONERS

Section 12(1)

1. Interpretation of this schedule.

In this Schedule –

"**practitioner**" means a registered practitioner in the Local Practitioners class, and

"**responsible officer**" means the responsible officer appointed for the Local Practitioners class.

2. Duties of responsible officer – appraisals and fitness to practise.

(1) In relation to the evaluation of the fitness to practise of every practitioner, the responsible officer must –

(a) assess –

(i) whether the practitioner undergoes regular appraisals, and

(ii) whether those appraisals satisfy the requirements of subparagraph (2), and

receive such appraisals submitted by the practitioner,

(b) assess whether the designated body of the practitioner has established and is carrying out appropriate procedures, using appropriate persons, to investigate concerns about that practitioner's fitness to

practise raised by any person,

- (c) where appropriate, take all reasonably practicable steps to investigate concerns about the practitioner's fitness to practise raised by any person,
- (d) where appropriate, refer concerns about the practitioner to a relevant body or officer for a relevant purpose,
- (e) take any steps necessary to protect patients, including recommend to the designated body of the practitioner that that practitioner should be suspended from practising as a medical practitioner or should have conditions or restrictions placed upon his or her practice,
- (f) where the practitioner is subject to conditions imposed by, or undertakings agreed with, the General Medical Council, monitor compliance with those conditions or undertakings,
- (g) make recommendations to the General Medical Council about the practitioner's fitness to practise,
- (h) maintain records of the practitioner's fitness to practise evaluations, including appraisals and any other investigations or assessments, and
- (i) communicate to the designated body of the practitioner any concerns held by the responsible officer regarding the discharge or adequate discharge of that designated body's functions under this Ordinance.

- (2) The appraisals undertaken by a practitioner must –
- (a) be carried out by an appropriate person, and
 - (b) involve obtaining and taking into account all available information relating to the practitioner’s fitness to practise in the work carried out by the practitioner during the appraisal period.
- (3) In carrying out functions under subparagraph (1), the responsible officer must seek and take into account the practitioner’s comments, where appropriate.

3. Duty to have regard to guidance.

In carrying out functions under paragraph 2, the responsible officer must have regard to –

- (a) guidance given by the Secretary of State of the United Kingdom in accordance with the 1983 Act, and
- (b) guidance given by the General Medical Council, including Good Medical Practice and guidance on fitness to practise procedures to the extent that it relates to the nomination or appointment of responsible officers or their responsibilities.

SCHEDULE 3
FUNCTIONS OF RESPONSIBLE OFFICERS FOR UK CONNECTED
PRACTITIONERS

Section 12(2)

1. Interpretation of this schedule.

In this Schedule –

"**practitioner**" means a registered practitioner in the UK Connected Practitioners class, and

"**responsible officer**" means the responsible officer appointed for the UK Connected Practitioners class.

2. Duties of responsible officer – fitness to practise.

- (1) In relation to the evaluation of the fitness to practise of every practitioner, the responsible officer must –
- (a) where appropriate, take all reasonably practicable steps to investigate concerns about the practitioner's fitness to practise raised by any person,
 - (b) where appropriate, refer concerns about the practitioner to the practitioner's responsible officer in the United Kingdom or to any other relevant body or officer for a relevant purpose, and
 - (c) take any steps necessary to protect patients, including recommend to the designated body of the practitioner that that practitioner should be suspended from practising as a medical practitioner or should have

conditions or restrictions placed upon his or her practice.

- (2) In carrying out functions under subparagraph (1), the responsible officer must seek and take into account the practitioner's comments, where appropriate.

3. Duty to have regard to guidance.

In carrying out functions under paragraph 2, the responsible officer must have regard to –

- (a) guidance given by the Secretary of State of the United Kingdom in accordance with the 1983 Act, and
- (b) guidance given by the General Medical Council, including Good Medical Practice and guidance on fitness to practise procedures to the extent that it relates to the nomination or appointment of responsible officers or their responsibilities.

SCHEDULE 4
DUTIES OF DESIGNATED BODIES

Section 18

1. **Interpretation of this schedule.**

In this Schedule –

"designated body", in relation to any practitioner, means the designated body of the practitioner, and

"practitioner" means any registered practitioner.

2. **Duties in relation to recruitment.**

- (1) Subject to subparagraph (2), a designated body must -
- (a) ensure that a practitioner has qualifications and experience appropriate to the work to be performed,
 - (b) ensure that a practitioner has sufficient knowledge of the English language necessary for the work to be performed in a safe and competent manner,
 - (c) ensure that appropriate references for a practitioner are obtained and checked,
 - (d) take any steps necessary to verify the identity of a practitioner, and
 - (e) maintain accurate records of all steps taken for the purposes of complying with any duty applicable to the designated body under this

paragraph.

- (2) The duties in subparagraph (1)(c) and (d) do not apply to a designated body, where the designated body is the practitioner himself or herself, but, for the avoidance of doubt, where the designated body is each of the partners of a firm and the practitioner is one of those partners, those duties are (jointly and severally) duties of the partners of the firm other than the practitioner.

3. Duties in relation to monitoring conduct and performance.

A designated body must ensure that adequate systems and procedures are in place –

- (a) to regularly review relevant information held by the designated body concerning the performance of a practitioner, including clinical indicators relating to outcomes for patients,
- (b) to identify any issues arising from that information, such as variations in individual performance, and
- (c) to ensure that steps are taken by or on behalf of the designated body to address any such issues.

4. Duties in relation to concerns about conduct or performance.

A designated body must ensure that adequate systems and procedures are in place –

- (a) to address concerns about the conduct or performance of a practitioner raised by any person,
- (b) where appropriate, for an appropriately qualified investigator to

initiate an investigation into the conduct or performance of a practitioner,

- (c) to ensure that any investigation into the conduct or performance of a practitioner takes into account any other relevant matters, such as systemic issues within the hospital or other administration in which the practitioner works, which may have contributed to the concerns identified,
- (d) to consider the need for further monitoring of the conduct or performance of a practitioner,
- (e) where appropriate, to ensure that such further monitoring takes place,
- (f) to ensure that a practitioner who is subject to procedures under this paragraph is kept informed about the progress of the investigation,
- (g) to ensure that procedures under this paragraph include provision for the practitioner's comments to be sought and taken into account where appropriate,
- (h) to take any steps necessary to protect patients,
- (i) to identify concerns and ensure that appropriate measures are taken to address these, including but not limited to –
 - (i) requiring the practitioner to undergo training or retraining,
 - (ii) offering rehabilitation services,

(iii) providing opportunities to increase the practitioner's work experience, and

(iv) addressing any systemic issues within the hospital or other administration in which the practitioner works, which may have contributed to the concerns identified,

and

(j) to maintain accurate records of all steps taken in accordance with this paragraph.

5. Duty to have regard to guidance.

In carrying out its functions under paragraphs 1, 2 and 3, the designated body must have regard to guidance given by the Secretary of State of the United Kingdom in accordance with the Health and Social Care Act 2008^k.

6. Duty to co-operate and provide information.

A designated body must co-operate with and provide any information reasonably required by a relevant body or officer for a relevant purpose.

^k An Act of Parliament (Chapter 14 of 2008).

SCHEDULE 5
RELEVANT BODIES, OFFICERS AND PURPOSES

Section 26(1)

Relevant body or officer	Relevant purpose
A responsible officer.	The exercise or performance of any functions of a responsible officer under this Ordinance, or of any functions for the purposes of revalidation of medical practitioners under the 1983 Act.
The Department.	The exercise or performance of the Department's functions under or for the purposes of this Ordinance or any other enactment.
The General Medical Council or any of its committees, or any person authorised by the General Medical Council or any of its committees.	The exercise or performance of any functions under the 1983 Act.
Any non-Island responsible officer for a registered practitioner.	The exercise or performance of the non-Island responsible officer's functions under the 1983 Act or any relevant foreign enactment.

SCHEDULE 6
CONSEQUENTIAL AMENDMENTS TO
DOCTORS, DENTIST AND PHARMACISTS ORDINANCE, 1987

Section 27(1)

Provision	Amendment
Section 1 (including paragraph (b))	Delete the expressions "a medical practitioner,", "a recognised medical practitioner," and "as a "recognised medical practitioner" ".
Section 2(3)(b)	Delete the expression "as a medical practitioner,".
Section 4(1)	For the expression "recognised medical practitioner", substitute "registered practitioner (within the meaning given by section 26(1) of the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015)".
Section 6(2) and (3)	Delete the expressions "a medical practitioner," and "as a medical practitioner," respectively.

SCHEDULE 7
TRANSITIONAL AND SAVINGS

Section 28

1. Interpretation.

In this schedule –

"**commencement date**" means the date specified by regulation made under section 31 for this Ordinance to come into force,

"**existing medical practitioner**" means a person to whom paragraph 2 applies, and

"**last application date**" means the date which is two months following the commencement date.

2. Transitional provisions for existing medical practitioners.

- (1) This paragraph applies to any person who, immediately before the commencement date, is registered as a recognised medical practitioner in the register maintained by the Department under the Doctors, Dentists and Pharmacists Ordinance, 1987 (an "**existing medical practitioner**").
- (2) Subject to subparagraph (3), for the purposes of this Ordinance –
 - (a) an existing medical practitioner is deemed to have been duly registered as a medical practitioner in the Register on the commencement date, and
 - (b) for the avoidance of doubt, section 17 has effect accordingly, so that

any person who would be the designated body of the existing medical practitioner if the practitioner were registered in accordance with section 2 is to be regarded as the designated body of that existing medical practitioner.

- (3) Subparagraph (2) has effect until –
- (a) the last application date, if the existing medical practitioner has not made an application for registration in accordance with section 2 on or before that date, or
 - (b) where the existing medical practitioner has made an application for registration in accordance with section 2 on or before the last application date –
 - (i) if the application is granted, the date on which the existing medical practitioner is registered under section 2(3) as a result of that application, or
 - (ii) where the application is refused –
 - (A) the expiry of the period of one month from the date of refusal, if no civil proceedings are filed by or on behalf of the existing medical practitioner to challenge or overturn the refusal of the application in a court in the Island within the one-month period, and
 - (B) if any such proceedings are filed within the one-month period, the date on which those proceedings are finally determined or withdrawn.

(4) For the purposes of subparagraph (3)(b)(ii)(B), proceedings are finally determined when –

(a) the court determines those proceedings and any period for appealing the determination expires without any appeal being made against that determination, or

(b) if an appeal against the court's determination is made within the period for appeal, when the appeal is finally determined or withdrawn.

3. Transitional provisions for existing responsible officers.

(1) This paragraph applies to any person who, immediately before the commencement date, is engaged by the Policy Council under a contract for services as a responsible officer.

(2) On this Ordinance coming into force –

(a) a person to whom this paragraph applies is deemed to have been duly appointed under section 10 as the responsible officer for all classes of registered practitioners, and

(b) the terms and conditions of the contract for services mentioned in subparagraph (1) have effect as if they were terms and conditions agreed between the Policy Council and the responsible officer under section 11(3).

**The Electricity (Guernsey) Law 2001 (Amendment)
Ordinance, 2015**

THE STATES, in pursuance of their Resolution of the 26th September, 2013^a, and in exercise of the powers conferred on them by section 36(1) of the Electricity (Guernsey) Law, 2001^b, hereby order:-

Amendment of the Electricity (Guernsey) Law, 2001.

1. (1) The Electricity (Guernsey) Law, 2001 is amended as follows.

(2) Immediately after section 11(3), insert the following subsections -

"(4) For the purposes of determining whether it is reasonable or not for a public electricity supply licensee to be required to give a supply of electricity to any premises under subsection (2)(c) the following considerations shall be taken into account -

(a) the availability of the provision of the supply by means of any existing electric line or electrical plant of the licensee,

(b) the effect of the provision of the supply on -

(i) any existing electric line or electrical

^a Article VI of Billet d'État No. XVIII of 2013.

^b Ordres en Conseil Vol. XLI, p. 343; Recueil d'Ordonnances Tome XXVIII, p. 545; Tome XXIX, p. 406; Ordinance No. XIII of 2012.

plant, and

(ii) the customers,

of the licensee,

(c) the technical feasibility of the provision of the supply,

(d) the investment and expenditure necessary to provide the supply including, without limitation, the recovery of reasonably incurred investment and expenditure from the person requiring the supply,

(e) the provision of adequate security for recovery of payment of reasonably incurred investment and expenditure by the licensee from the person requiring the supply,

(f) the economic viability of the supply taking into account -

(i) the demand for the supply, and

(ii) the period over which the demand is likely to occur,

- (g) the environmental impact of -
 - (i) any development it would be necessary to undertake, and
 - (ii) the method it would be necessary to use,

to enable the provision of the supply,
- (h) the energy efficiency of the supply taking into account -
 - (i) any such development, and
 - (ii) any such method, and

(i) such other considerations reasonably appearing to the licensee to be relevant in the circumstances.

(5) The Commerce and Employment Department may by regulation amend subsection (4).".

(3) For section 13(4), substitute the following subsection –

"(4) Any reference in this section to any expenses reasonably incurred in providing an electric line or electrical plant includes, for the avoidance of doubt -

- (a) a reference to the capitalised value of any expenses likely to be so incurred in maintaining it, in so far as they will not be recoverable by the public electricity supply licensee as part of the charges made by it for the supply, and
- (b) a reference to expenses reasonably incurred on researching and investigating the feasibility and cost of provision of any line or plant, irrespective of whether or not any such provision is made."

(4) Immediately after section 16(3), insert the following subsection -

"(4) For the avoidance of doubt, rights and liabilities under an agreement as provided for in subsection (1) may include rights and liabilities relating to the payment of expenses reasonably incurred on researching and investigating the feasibility and cost of provision of any supply to be made under such an agreement."

(5) In section 33(1), immediately after the definition of "Court" insert the following definition -

""**development**" has the meaning given by section 13 of the Land Planning and Development (Guernsey) Law, 2005,".

Citation.

2. This Ordinance may be cited as the Electricity (Guernsey) Law, 2001

(Amendment) Ordinance, 2015.

Commencement.

3. This Ordinance shall come into force on the 24th June, 2015.

**The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013
(Commencement) (No.2) Ordinance, 2015**

THE STATES, in exercise of the powers conferred on them by sections 55 and 57 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013^a and all other provisions enabling them in that behalf, hereby order:-

Commencement of the Law.

1. (1) The provisions of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 ("**the Law**") set out in subsection (2) shall come into force on the 1st July, 2015.

(2) The provisions of the Law are -

(a) Parts II to IV,

(b) Parts VI and VII, and

(c) sections 50 and 54 (where not already in force).

Interpretation.

2. (1) In this Ordinance, unless the context requires otherwise -

"**enactment**" means any Law, Ordinance or subordinate legislation,

^a Order in Council No. IX of 2014.

"**the Law**" has the meaning given in section 1, and

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect.

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Ordinance throughout the Bailiwick.

(3) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

3. This Ordinance may be cited as the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 (Commencement) (No.2) Ordinance, 2015.

^b Ordres en Conseil Vol. XIII, p. 355.