

GUERNSEY STATUTORY INSTRUMENT

2006 NO. 11

**The Employment Protection (Summoning of
Witnesses and Documents) Order, 2006**

Made , 2006

Laid before the States , 2006

Coming into force 1st March, 2006

THE COMMERCE AND EMPLOYMENT DEPARTMENT, in exercise of the powers conferred on it by paragraph 3 of the Schedule to the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005^a ("**the Ordinance**") and all other powers enabling it in that behalf, hereby makes the following order:-

Application of Order.

1. This Order applies in relation to the hearing and determination by the Employment and Discrimination Tribunal ("**the Tribunal**") of complaints under section 16(1)(a), (b) or (c) of the Employment Protection (Guernsey) Law, 1998, as amended^b ("**the Law**").

^a Ordinance No. XXX of 2005.

^b Order in Council No. IX of 1998; amended by No. XVIII of 2001; No. VIII of 2002; the Employment Protection (Guernsey) (Amendment) Law, 2005; and the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 (No. XXXI of 2005). Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003)..

Summoning of witnesses.

2. The Tribunal may summons any person to appear before it as a witness.

Summoning of documents.

3. The Tribunal may also summons any person to appear before it and to produce before it any document, exhibit or other relevant item or material in his possession, custody or power.

Parties may require issue of summons.

4. The Tribunal shall not, pursuant to paragraph 2(h) of the Schedule to the Ordinance, authorise any party to cause a summons to be served on any person to give evidence or produce any document if -

- (a) the evidence to be given by the witness in question would be irrelevant or, as the case may be,
- (b) the document in question would be irrelevant.

Administration of oath.

5. The Tribunal may require any witness appearing before it to take the oath or affirmation, which the person chairing the Tribunal may administer.

Form of summons.

6. Every summons shall be in writing and shall contain the following information -

- (a) the names of the parties to the proceedings,
- (b) the place where the proceedings are to be heard,

- (c) the date upon which and the time at which the witness is to appear,
- (d) the descriptions of any document, exhibit or other relevant item or material or any class thereof which the witness is to produce,
- (e) where the witness is summonsed to appear on the request of any party to the proceedings, the name of that party.

Issue and service of summons.

7. Every summons shall be issued under the hand of the person chairing the Tribunal and shall be served on the witness -

- (a) by being delivered to him or by being left at, or sent by registered post or recorded delivery service to, his usual or last known place of abode or employment, or
- (b) in any manner in which a document may be served under Part I of the Royal Court Civil Rules, 1989.

Interpretation.

8. (1) In this Order -

"**Department**" means the Commerce and Employment Department,

"**Law**" means the Employment Protection (Guernsey) Law, 1998, as

amended^c,

"**Ordinance**" means the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005^d,

"**Tribunal**" means the Employment and Discrimination Tribunal established under the Ordinance,

and other expressions, except where the context excludes, have the same meanings as in the Law or, as the case may require, the Ordinance.

(2) The Interpretation (Guernsey) Law, 1948^e applies to the interpretation of this Order as it applies to the interpretation of an enactment;

Repeal.

9. The Employment Protection (Summoning of Witnesses and Documents) Order, 1999^f is repealed.

Transitional provisions.

10. Notwithstanding the provisions of article 9, the Employment Protection (Summoning of Witnesses and Documents) Order, 1999 shall apply in

^c Order in Council No. IX of 1998; amended by No. XVIII of 2001; No. VIII of 2002; the Employment Protection (Guernsey) (Amendment) Law, 2005; and the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 (No. XXXI of 2005). Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003)..

^d Ordinance No. XXX of 2005.

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

^f G.S.I. No. 9 of 1999.

relation to a complaint against an employer under section 17(1)(a), (b) or (c) of the Law (as the Law had effect immediately before the date of commencement of the Employment Protection (Guernsey) (Amendment) Law, 2005^g) which was presented to the Department before that date in all respects as that Order had effect immediately before that date.

Commencement.

11. This Order shall come into force on the 1st March, 2006.

Citation.

12. This Order may be cited as the Employment Protection (Summoning of Witnesses and Documents) Order, 2006.

Dated this 9 day of February, 2006

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S. FALLA

Minister of the States Commerce and Employment Department

For and on behalf of the Department

^g The Employment Protection (Guernsey) (Amendment) Law, 2005 came into force on the 1st March 2006.

EXPLANATORY NOTE

The purpose of this order is to provide for the summoning of witnesses to appear before proceedings of the Employment and Discrimination Tribunal under the Employment Protection (Guernsey) Law, 1998, either to give testimony or to produce documents.