

GUERNSEY STATUTORY INSTRUMENT

2009 No. 27

**The Public Health (Vessels) (Guernsey) (Amendment)
Order, 2009**

Made

15th May, 2009

Coming into operation

15th May, 2009

THE STATES OF GUERNSEY HEALTH AND SOCIAL SERVICES DEPARTMENT, in consultation with the States of Guernsey Home Department and in exercise of the powers conferred on it by section 2 of the Public Health (Vessels and Aircraft) (Guernsey) Law, 1950^a, and all other powers enabling it in that behalf, hereby makes the following Order:-

Citation and commencement.

1. This Order may be cited as the Public Health (Vessels) (Guernsey) (Amendment) Order, 2009 and shall come into force on 15th May 2009.

Amendment of the 1974 Order.

2. (1) The Public Health (Vessels) (Guernsey) Order, 1974^b is further amended as follows.

(2) In section 1 amend the defined term "**infected area**" to "**affected area**", and thereafter amend "infected area" to "affected area" wherever it appears.

^a Ordres en Conseil Vol. XIV, p. 404; amended by Ordres en Conseil Vol. XXIX, p. 329.

^b G.S.I. 1974 No. 46; amended by G.S.I. 1975 No. 9.

(3) In section 1 –

(a) for the definition of "**Chief Revenue Officer**" substitute –

"**Chief Revenue Officer**" means the Chief Officer of Customs and Excise and shall include any officer of Customs and Excise acting by or under his authority;"

(b) delete the definition of "**diseases subject to the International Health Regulations**";

(c) after the definition of "**epidemic**" insert –

"**examination**", in relation to a person or group of persons, includes such medical tests as the medical officer considers to be appropriate and proportionate in the circumstances;"

(d) in the definition of "**infected person**", immediately after "the International Health Regulations" insert ", or any other infectious disease,";

(e) in the definition of "**infected ship**", immediately after "subject to the International Health Regulations" insert ", or any other infectious disease"; and

(f) at the end of the definition of "**isolation**", insert ", and **isolated**" shall be construed accordingly".

(4) In section 5(2)(b), immediately after "where necessary, disinfected" insert "or destroyed".

(5) In section 6(1)(a), immediately after "in the case of an infectious disease," insert "place such person under surveillance for the appropriate period specified in section 30(1), or".

(6) Replace section 6(2) with the following subsection –

"(2) Where the Board is satisfied that a danger to public health exists by reason of infectious disease and has notified the medical officer accordingly, an authorised officer may require a person disembarking from a ship to state in writing his name, his intended address in the Island, and such other contact details, such as his mobile telephone number and email address (if any), as the authorised officer may specify."

(7) Immediately after section 6(2) insert a new subsection –

"(3) An authorised officer may give such directions to persons disembarking from a ship as the medical officer considers necessary and proportionate in the interests of protecting public health."

(8) In section 18, replace "a disease subject to the International Health Regulations" with "an infectious disease".

(9) Immediately after section 29 insert the following sections –

"Review of isolation.

29A. (1) Where, under this Order, the medical officer causes a person to be isolated, or to be sent to a hospital or to some other suitable place, he shall review that person's case after not more than fourteen days, and shall direct that the person shall be no longer be isolated, or shall be free to leave the hospital or other place (as the case may be) (together, "released from isolation") unless he is satisfied that the person remains an infected person and a danger to public health.

(2) The medical officer shall review every seven days the case of a person whom he has directed not to be released from isolation on a review under subsection (1), and on a subsequent review the medical officer shall direct that he be released from isolation unless he remains satisfied that the person remains an infected person and a danger to public health.

Right of appeal.

29B. (1) A person aggrieved by a decision of the medical officer that he be isolated, or sent to a hospital or to some other suitable place, or by a decision of the medical officer not to direct on a review under section 29A that he be released from isolation, may appeal against the decision to the Royal Court on one or more of the grounds in subsection (3).

(2) A person making an appeal under subsection (1) shall remain in isolation, or the hospital or other place where he has been sent, pending the outcome of his appeal.

(3) The grounds of an appeal under this section are that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(4) An appeal under this section shall be instituted by summons served on the medical officer stating the grounds and material facts on which the appellant relies; and the address for service on the medical

officer under this section shall be St James Chambers, St Peter Port, Guernsey GY1 4BY.

(5) The Royal Court may dispense with a hearing of an appeal under this section, and may instead determine the appeal on considering the appellant's summons and any representations in response submitted on behalf of the medical officer.

(6) On an appeal under this section, the Royal Court may

–

- (a) dismiss the appeal,
- (b) order that the medical officer review the appellant's case, or
- (c) order that the appellant be released from isolation.

(7) For the purposes of determining an appeal under this section, the Royal Court –

- (a) may appoint a medical practitioner to assist it, and
- (b) is properly constituted by the Bailiff sitting unaccompanied by the Jurats,

and in this section "Bailiff" includes Deputy-Bailiff and Lieutenant-Bailiff."

(10) At the end of section 30(1), insert –

- "(e) in respect of any other infectious disease, fourteen days, or such other period as the

medical officer may prescribe in respect of that disease."

Dated this 15th day of May 2009.



Mr Hunter Adam

Minister of the Health and Social Services Department

For and on behalf of the Department

Explanatory Note

This Note is not part of the Order

This Order amends the Public Health (Vessels) (Guernsey) Order, 1974. The principal change it effects is to introduce a requirement that the medical officer review the cases of people in isolation on a regular basis, and a mechanism for such people to appeal against their being placed in isolation. It also widens the definitions of infected ship and infected person, and allows for the medical officer to direct that a person leaving a vessel whom he suspects is suffering from an infectious disease be placed under medical surveillance, as an alternative to placing that person in isolation. In addition it gives authorised officers a power to give such directions to persons disembarking from a ship as the medical officer considers necessary and proportionate in the interests of protecting public health; an envisaged example of such a direction is a direction to complete a health declaration form. The change of "infected area" to "affected area" reflects changed WHO terminology.