

ORDER IN COUNCIL

X
2008

ratifying a Projet de Loi

ENTITLED

The Emergency and Health Workers (Bailiwick of Guernsey) Law, 2006

(Registered on the Records of the Island of Guernsey
on the 7th July, 2008.)



2008

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

7th day of July, 2008 before Geoffrey Robert Rowland, Esquire, Bailiff; present:- David Charles Lowe, OBE, Alan Cecil Bisson, Keith Bichard, OBE, The Reverend Peter Gerald Lane, Michael Henry De La Mare, Michael John Tanguy, Esquires, Susan Mowbray, Barbara Jean Bartie, David Osmond Le Conte and John Ferguson, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 11th June 2008 approving and ratifying a Projet de Loi entitled “The Emergency and Health Workers (Bailiwick of Guernsey), Law 2006”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED: -

1. That the said Order in Council be registered on the records of this Island;
and
2. That an extract of this present Act, together with a copy of the said Order in Council be sent by Her Majesty’s Greffier to the Greffier of the Court of Alderney and to the S n schal of Sark for registration on the records of those Islands respectively.



At the Court at Buckingham Palace

THE 11th DAY OF JUNE 2008

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

“That, in pursuance of their Resolution of 27th April 2006, the States of Deliberation at a meeting on 29th November 2006 approved a *Projet de Loi* entitled *The Emergency and Health Workers (Bailiwick of Guernsey) Law, 2006* and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction *The Emergency and Health Workers (Bailiwick of Guernsey) Law, 2006*, and to order that it shall have force of law in the Bailiwick of Guernsey.

“The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Bailiwick of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

Judith Simpson

PROJET DE LOI

ENTITLED

The Emergency and Health Workers (Bailiwick of Guernsey) Law, 2006

ARRANGEMENT OF SECTIONS

Emergency workers

1. Assaulting, obstructing or hindering emergency workers.
2. Assaulting, obstructing or hindering persons assisting emergency workers.
3. Meaning of "emergency circumstances".
4. Provisions supplementary to sections 1 and 2.
5. Meaning of "emergency worker".

Health workers

6. Assaulting, obstructing or hindering health workers in hospitals.
7. Assaulting, obstructing or hindering persons assisting health workers in hospitals.
8. Provisions supplementary to sections 6 and 7.
9. Meaning of "health worker".

General

10. Penalties.
11. Saving for certain other offences.
12. Power to extend meaning of "emergency worker", etc.
13. Interpretation.
14. Power to amend Law by Ordinance.
15. Citation.

PROJET DE LOI

ENTITLED

The Emergency and Health Workers (Bailiwick of Guernsey) Law, 2006

THE STATES, in pursuance of their Resolution of the 27th April, 2006,^a have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Emergency workers

Assaulting, obstructing or hindering emergency workers.

1. (1) A person who -
 - (a) assaults, or
 - (b) without reasonable excuse, obstructs or hinders,

an emergency worker while the emergency worker is responding to emergency circumstances commits an offence.

(2) No offence is committed under subsection (1) unless the person who assaults, obstructs or hinders the emergency worker knows or ought reasonably to know that the emergency worker -

^a Article XI Billet d'État No. VIII of 2006.

(a) is acting in that capacity, and

(b) is or might be responding -

(i) to emergency circumstances, or

(ii) as if there were emergency circumstances.

(3) A person who gives false information with the intention that an emergency worker will, while responding to emergency circumstances or instead of doing so, act upon that information is to be regarded, for the purposes of subsection (1), as hindering the emergency worker.

(4) Subsection (3) does not prejudice the generality of section 4(a).

Assaulting, obstructing or hindering persons assisting emergency workers.

2. (1) A person who -

(a) assaults, or

(b) without reasonable excuse, obstructs or hinders,

a person assisting an emergency worker while the emergency worker is responding to emergency circumstances commits an offence.

(2) No offence is committed under subsection (1) unless the person who assaults, obstructs or hinders the person assisting an emergency worker knows or ought reasonably to know -

- (a) that the emergency worker is acting in that capacity,
- (b) that the emergency worker is or might be responding -
 - (i) to emergency circumstances, or
 - (ii) as if there were emergency circumstances, and
- (c) that the person being assaulted, obstructed or hindered is assisting the emergency worker acting in that capacity.

Meaning of "emergency circumstances".

3. (1) For the purposes of sections 1 and 2, an emergency worker is responding to emergency circumstances if -

- (a) he is going anywhere for the purpose of dealing with emergency circumstances occurring there, or
- (b) he is dealing with emergency circumstances or preparing to do so.

(2) For the purposes of this Law, circumstances are "**emergency circumstances**" if they are present or imminent and -

- (a) are causing or are likely to cause -
 - (i) serious injury to or the serious illness (including mental illness) of a person,

- (ii) serious harm to the environment (including the life and health of plants and animals),
- (iii) serious harm to any building or other property, or
- (iv) a worsening of any such injury, illness or harm, or

(b) are likely to cause the death of a person.

(3) For the purposes of sections 1 and 2, and notwithstanding subsection (2), circumstances to which an emergency worker is responding are to be taken to be emergency circumstances if the worker believes and has reasonable grounds for believing that those circumstances are or may be emergency circumstances.

Provisions supplementary to sections 1 and 2.

4. A person may be convicted of an offence under section 1 or 2 of obstructing or hindering notwithstanding that it is -

- (a) effected by means other than physical means, or
- (b) effected by action directed only at -
 - (i) any vehicle, vessel, apparatus, equipment or other thing, or
 - (ii) any animal,

used or to be used by an emergency worker or a person assisting an emergency worker.

Meaning of "emergency worker".

5. In this Law, "**emergency worker**" means a person acting in any of the following capacities -

- (a) a police officer,
- (b) a customs officer,
- (c) a full or part time member of any fire and rescue service,
- (d) a full or part time member of, or a person providing or employed in the provision of, any ambulance service,
- (e) a prison officer,
- (f) a probation officer,
- (g) a person appointed as Harbourmaster for a harbour in the Bailiwick and any person employed to assist a Harbourmaster,
- (h) a member of the crew of a vessel operated by -
 - (i) the Royal National Lifeboat Institution, or

(ii) any other person or organisation operating a vessel for the purpose of providing a rescue service,

or a person who musters the crew of such a vessel or attends to its launch or recovery,

(i) a medical practitioner,

(j) a nurse or midwife,

(k) a veterinary surgeon,

(l) a full or part time member of the Royal Navy, the Royal Marines, the Army or the Royal Air Force,

(m) a person providing services for the transport of organs, blood, equipment or personnel pursuant to arrangements made by, or at the request of, the States Department of Health and Social Services or a person or service mentioned in any of the above paragraphs,

(n) the States Emergency Planning Officer or any member of his staff, or

(o) a States employee carrying out functions on behalf of the States Public Services Department.

Health workers

Assaulting, obstructing or hindering health workers in hospitals.

6. (1) A person who, in a hospital or on land adjacent to and used wholly or mainly for the purposes of a hospital -

(a) assaults, or

(b) without reasonable excuse, obstructs or hinders,

a health worker commits an offence.

(2) No offence is committed under subsection (1) unless the person who assaults, obstructs or hinders the health worker knows or ought reasonably to know that the health worker is acting in that capacity.

Assaulting, obstructing or hindering persons assisting health workers in hospitals.

7. (1) A person who, in a hospital or on land adjacent to and used wholly or mainly for the purposes of a hospital -

(a) assaults, or

(b) without reasonable excuse, obstructs or hinders,

a person assisting a health worker commits an offence.

(2) No offence is committed under subsection (1) unless the person who assaults, obstructs or hinders the person assisting a health worker knows or ought reasonably to know -

(a) that the health worker is acting in that capacity, and

- (b) that the person being assaulted, obstructed or hindered is assisting the health worker acting in that capacity.

Provisions supplementary to sections 6 and 7.

8. A person may be convicted of an offence under section 6 or 7 of obstructing or hindering notwithstanding that it is -

- (a) effected by means other than physical means, or
- (b) effected by action directed only at any vehicle, apparatus, equipment or other thing used or to be used by a health worker or a person assisting a health worker.

Meaning of "health worker".

9. For the purposes of sections 6, 7 and 8 the following are "**health workers**" -

- (a) medical practitioners,
- (b) dentists,
- (c) nurses, midwives and health visitors,
- (d) physiotherapists,
- (e) a full or part time member of, or a person providing or employed in the provision of, any ambulance

service (including any air ambulance service) maintained in the Bailiwick,

- (f) social workers, and
- (g) any other persons who by reason of their employment have contact with patients or visitors to hospitals.

General

Penalties.

10. A person guilty of an offence under this Law is liable on summary conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Saving for certain other offences.

11. Nothing in this Law affects -

- (a) section 1 or 2 of the Offences against Police Officers (Bailiwick of Guernsey) Law, 1963^b, or
- (b) section 13 of the Fire Services (Guernsey) Law, 1989^c.

Power to extend meaning of "emergency worker", etc.

12. (1) The States Home Department may by regulation modify this Law by -

^b Ordres en Conseil Vol. XIX, p. 123; and No. VI of 1996.

^c Ordres en Conseil Vol. XXXI, p. 432.

- (a) adding a person or class or description of person to, or
- (b) removing a person or class or description of person from,

those whom it is an offence under this Law to assault, obstruct or hinder, and by making such provision in connection with that modification as it thinks fit.

(2) The States Home Department shall not make regulations under subsection (1)(a) unless it appears to the Department that the person to be added (or, as the case may be, each person of the class or description to be added) is one whose functions or activities are such that the person is likely, in the course of carrying them out, to have to deal with emergency circumstances or perform work at a hospital.

(3) Sections 14(3)(b) and (c) and 14(4) apply in relation to regulations under this section as they apply in relation to an Ordinance under this Law.

Interpretation.

13. (1) In this Law, unless the context requires otherwise -

"ambulance service" means an ambulance service (including an air ambulance service) maintained in the Bailiwick,

"Bailiwick" means the Bailiwick of Guernsey,

"customs officer" means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^d,

"dentist" : see subsection (2),

"emergency circumstances" : see section 3,

"emergency worker" : see section 5,

"fire and rescue service" means -

- (a) a fire and rescue service maintained in the Bailiwick,
or
- (b) a fire and rescue service maintained elsewhere, any member of which is present in the Bailiwick pursuant to an agreement or arrangement with or in respect of a service described in paragraph (a),

and (for the avoidance of doubt) includes a fire brigade,

"health visitor" : see subsection (2),

"health worker" : see section 9,

"hospital" includes any premises used for the purposes of his profession by a medical practitioner, dentist or physiotherapist,

^d Ordres en Conseil Vol. XXIII, p. 573; and No. XIII of 1991.

"medical practitioner" : see subsection (2),

"midwife" : see subsection (2),

"nurse" : see subsection (2),

"physiotherapist" : see subsection (2),

"police officer" means a member of the salaried police force of the Island of Guernsey and -

- (a) in relation to Guernsey, Herm and Jethou, and within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,
- (b) in relation to Alderney, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed pursuant to section 47 of the Government of Alderney Law, 2004^e, and
- (c) in relation to Sark, the Constable and the Vingtenier,

"prison officer" means a person employed in that capacity by, or acting in that capacity pursuant to an agreement or arrangement with, the States Home Department,

^e Order in Council No. III of 2005.

"probation officer" means a person employed in that capacity by the States Home Department,

"social worker" means a person employed in that capacity by the States Department of Health and Social Services,

"States" means the States of Guernsey,

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^f,

"veterinary surgeon" : see subsection (2).

(2) References in this Law to dentists, health visitors, medical practitioners, midwives, nurses, physiotherapists and veterinary surgeons are references to members of those professions who may lawfully practise in the part of the Bailiwick in which the offence under this Law is alleged to have occurred.

(3) The Interpretation (Guernsey) Law, 1948^g applies to the interpretation of this Law throughout the Bailiwick.

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

Power to amend Law by Ordinance.

^f Ordres en Conseil Vol. XXXI, p. 278.

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

14. (1) The States may by Ordinance amend this Law.
- (2) Subsection (1) is without prejudice to any power under this Law to make regulations (and vice versa).
- (3) An Ordinance under this Law -
- (a) may, for the avoidance of doubt -
 - (i) create new offences, and
 - (ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,
 - (b) may be amended or repealed by a subsequent Ordinance hereunder, and
 - (c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient.
- (4) Any power conferred by this Law to make an Ordinance 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 prescribed conditions.

Citation.

15. This Law may be cited as the Emergency and Health Workers (Bailiwick of Guernsey) Law, 2006.