

PROJET DE LOI

ENTITLED

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

[CONSOLIDATED TEXT]

NOTE

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* No. X of 2008; as amended by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207).

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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) is acting in that capacity, and

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

- (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 [Committee for Health & Social Care] 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 [Committee for the Environment & Infrastructure].

NOTES

In section 5,

the words in the first pair of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016;

the words in the second pair of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 12(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Health and Social Services

Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The functions, rights and liabilities of the Public Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for the Environment & Infrastructure and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 12(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

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

- (b) section 13 of the Fire Services (Guernsey) Law, 1989^c.

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

12. (1) The States [Committee for Home Affairs] may by regulation modify this Law by –

- (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 [Committee for Home Affairs] shall not make regulations under subsection (1)(a) unless it appears to [the Committee] 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.

NOTES

In section 12, the words, first "Committee for Home Affairs" and, second, "the Committee" in square brackets, wherever occurring, were substituted by

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

the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 6(a) and section 5(1), Schedule 3, paragraph 7, with effect from 1st May, 2016.

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

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

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

- (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,

"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 [Committee for Home Affairs],

"probation officer" means a person employed in that capacity by the States [Committee for Home Affairs],

"social worker" means a person employed in that capacity by the States [Committee for Health & Social Care],

"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

^e Order in Council No. III of 2005.

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

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.

NOTES

In section 13,

the words "Committee for Home Affairs" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;

the words in square brackets in the definition of the expression "social worker" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016.

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

In accordance with the provisions of the Police Force (Bailiwick of

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

Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Power to amend Law by Ordinance.

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.

NOTE

The Law received Royal Sanction on 11th June, 2008 and was registered on the Records of the Island of Guernsey and came into force on 7th July, 2008.
