

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

Smoking (Prohibition in Public Places and Workplaces) (Exemptions and Notices) (Guernsey) Ordinance, 2006 *

[CONSOLIDATED TEXT]

NOTE

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* No. XXIV of 2006 (Recueil d'Ordonnances Tome XXXI, p. 528); as amended by the Population Management (Guernsey) Law, 2016 (No. VI of 2016); the Smoking (Prohibition in Public Places and Workplaces) (Exemptions and Notices) (Amendment) (Guernsey) Ordinance, 2013 (No. V of 2013); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Tobacco Products (Enabling Provisions) (Guernsey) Law, 2010 (No. IV of 2012).

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**Smoking (Prohibition in Public Places and Workplaces)
(Exemptions and Notices) (Guernsey) Ordinance, 2006**

ARRANGEMENT OF SECTIONS

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SCHEDULE Sign and Notice.

(Made on 28th June, 2006.)

Smoking (Prohibition in Public Places and Workplaces) (Exemptions and Notices) (Guernsey) Ordinance, 2006

THE STATES, in exercise of the powers conferred on them by section 2 of the Smoking (Prohibition in Public Places and Workplaces) (Guernsey) Law, 2005^a and of all other powers enabling them in that behalf, hereby order: –

Premises exempt from the provisions of the Law.

1. (1) The premises, or classes and descriptions of premises, referred to in subsection (2) are exempt from the provisions of the Law.

(2) The premises, or classes and descriptions of premises, for the purpose of subsection (1) are –

- (a) ...
- (b) hotel bedrooms which have been designated by the hotel manager as bedrooms where smoking is permitted,
- (c) enclosed workplaces on vessels which are fishing vessels and which –
 - (i) are operated, and
 - (ii) may be operated lawfully,

solely by one master or captain, provided that that master or captain takes appropriate measures to minimise unnecessary exposure of other persons to tobacco smoke,

^a Order in Council No. V of 2006.

Consolidated text

(d) enclosed workplaces (other than those referred to in paragraph (c)) –

(i) which are used as a place of work by a single individual,

(ii) which are not enclosed public places, and

(iii) which are not located on a vessel,

provided that that individual takes appropriate measures to minimise unnecessary exposure of other persons to tobacco smoke,

(e) any area –

(i) which, subject to subsections (3) and (4), is designated by [the Committee], or, in relation to a privately owned residential home or nursing home, the manager, as a place where smoking is permitted,

(ii) which is not an enclosed public place, and

(iii) which is located within –

(aa) a long stay ward, which caters for persons in need of long-term care,

(bb) a residential home,

(cc) a nursing home, or

(dd) an acute psychiatric ward.

(3) [The Committee] or manager shall not designate an area for the purposes of subsection (2)(e) unless it or he is satisfied that –

- (a) appropriate measures have been taken to minimise unnecessary exposure of persons to tobacco smoke in the area, and
- (b) the area is not an enclosed public place.

(4) Where [the Committee] or manager has designated an area for the purposes of subsection (2)(e), and it or he has become aware that –

- (a) measures with which it or he was satisfied under subsection (3) –
 - (i) are no longer appropriate for, or
 - (ii) are not being observed, or enforced, in respect of,

the area concerned, or
- (b) the area concerned has become an enclosed public place,

it or he may revoke, suspend or vary any designation it has made under subsection (3), as it thinks fit.

NOTES

In section 1,

paragraph (a) of subsection (2) was repealed by the Smoking (Prohibition in Public Places and Workplaces) (Exemptions and Notices) (Amendment) (Guernsey) Ordinance, 2013, section 1, with effect from 1st March, 2013;

the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer

of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In accordance with the provisions of the Tobacco Products (Enabling Provisions) (Guernsey) Law, 2010, section 3, Schedule 2, with effect from 1st December, 2015, this Ordinance is one of those enactments which may be amended, repealed or revoked by ordinance under the 2014 Law.

Requirement to display notices.

2. (1) The licensee of any licensed premises to which section 1 of the Law applies must ensure the display, in such manner as to be easily read by the public, at all times in those parts of the premises referred to in subsection (2), of a combined sign and notice in the form and lay-out, and of the type and description, indicated in the Schedule to this Ordinance.

(2) The parts of the premises for the purposes of subsection (1) are –

- (a) any public entrance,
- (b) any bar counter,
- (c) any toilet facilities, and
- (d) any staff rooms.

Contravention of section 2 to be an offence.

3. (1) A licensee who contravenes section 2 shall be guilty of an offence and liable, on summary conviction –

- (a) for a first offence, to a fine not exceeding level 1 on the uniform scale, and
- (b) for a second or subsequent offence, to a fine not exceeding level 3 on the uniform scale.

(2) Where an offence under subsection (1) is committed by a body corporate and is proved to have been committed with the consent or

connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Interpretation.

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

"acute psychiatric ward" means a hospital ward that provides in-patient treatment to individuals suffering from mental illness and related conditions, on either a voluntary or involuntary basis,

"bar counter" has the meaning given by section 101(1) of the Liquor Licensing Ordinance, 2006^b,

"[the Committee]" means the States [Committee for Health & Social Care] or, for the purpose of the designation of any area of a residential home under section 1(2)(e)(iii)(bb) which is administered by the [Committee for Employment & Social Security], the States [Committee for Employment & Social Security],

"designated" means designated in writing,

"hotel" has the meaning given by section 37 of the Open Market Housing Register (Guernsey) Law, 2016,]

"hotel manager" means the manager of the hotel, or his authorised representative,

"the Law" means the Smoking (Prohibition in Public Places and Workplaces) (Guernsey) Law, 2005,

"licensed premises" has the meaning given by section 101(1) of the

^b Ordinance No. V of 2006.

Liquor Licensing Ordinance, 2006,

"licensee" means a person who holds a liquor licence under the Liquor Licensing Ordinance, 2006,

"nursing home" includes any nursing home managed by or on behalf of the States and otherwise has the meaning given by section 18(1) of the Nursing Homes and Residential Homes (Guernsey) Law, 1976^d,

"persons in need of long-term care" has the meaning given by section 9 of the Long-term Care Insurance (Guernsey) Law, 2002^e,

"residential home" includes any residential home managed by or on behalf of the States and otherwise has the meaning given by section 18(1) of the Nursing Homes and Residential Homes (Guernsey) Law, 1976,

"uniform scale" means the uniform scale of fines as from time to time specified under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^f,

and other expressions have the same meanings as in the Law.

(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.

NOTES

In section 4,

the words in the first and second pairs of square brackets in the definition of the expression "the Committee" in subsection (1) were

^d Ordres en Conseil Vol. XXVI, p. 71.

^e Order in Council No. XXIII of 2002.

^f Ordres en Conseil Vol. XXXI, p. 278 (Amended by Recueil d'Ordonnances Tome XXV, p. 344 and Ordinance No. XXII of 1998).

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

the words "Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 7(a), with effect from 1st May, 2016;

the definition of the expression "hotel" in subsection (1) was substituted by the Population Management (Guernsey) Law, 2016, section 86, Schedule 4, paragraph 4, with effect from 3rd April, 2017.

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 Ordinance 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 Housing Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Employment & Social Security and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 7(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Power of [Committee] to amend Schedule by order.

5. (1) [The Committee] may by order made under this section amend the Schedule to this Ordinance.

(2) Any order made under subsection (1) –

(a) may be amended or revoked by a subsequent order so made, and

(b) may include incidental, consequential, supplementary and transitional provisions.

(3) Any order made under subsection (1) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul the order, cease to have effect, but without prejudice to anything done under the order or to the making of a new order.

NOTE

In section 5, the words "Committee" and "The Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Extent.

6. This Ordinance has effect in the Islands of Guernsey and Herm.

Citation.

7. This Ordinance may be cited as the Smoking (Prohibition in Public Places and Workplaces) (Exemptions and Notices) (Guernsey) Ordinance, 2006.

SCHEDULE
SIGN AND NOTICE

Section 2(1)

Form and lay-out of sign and notice.

1. The general form and lay-out of the sign and notice should be as indicated below –

Notice

NO SMOKING

**Under the Smoking (Prohibition in Public Places and Workplaces) (Guernsey)
Law, 2005**

it is illegal to smoke in these premises

Maximum Fine Level 3 (£1,000)

Please notify complaints to

Minimum diameter of sign and size of combined sign and notice.

2. (1) The minimum diameter of the sign is 85 millimetres.

(2) The minimum size of the combined sign and notice is 230 millimetres by 160 millimetres.

Lettering.

3. Letters comprising the notice shall be clear and legible black letters, of not less than 5 millimetres in height on a white background.