

Island of



Guernsey

Ordinance of the States

XLII
2014

Made 12th November, 2014

Coming into Operation 1st January, 2015

The Public Health (Amendment) Ordinance, 2014

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THE STATES, in pursuance of their Resolution of the 26th February, 2014^a and in exercise of the powers conferred on them by section 4 of the Law entitled "Loi relative à la Santé Publique, 1934"^b, section 1 of the Alderney (Application of Legislation) Law, 1948^c, Article 71 of the Reform (Guernsey) Law, 1948^d and all other powers enabling them in that behalf, hereby order:-

Amendment of principal Ordinance.

1. The principal Ordinance is amended as follows.

2. In the title of Part 3 of the principal Ordinance, immediately after "DISEASES", insert "AND CAUSATIVE AGENTS".

3. In the cross-heading of Article VI of the principal Ordinance, immediately after "DISEASE", insert "OR NOTIFIABLE AGENT".

^a Article IV of Billet d'État No. III of 2014.

^b Ordres en Conseil Vol. IX, p.386, as amended by Vol. XIX, p.213; Vol. XXIX, p.329; Vol. XXXIX, p. 64.

^c Ordres en Conseil Vol. XIII, p. 448; as amended by Vol. XXIV, p. 210; Vol. XXIX, p. 299; Vol. XXX, p. 224; Vol. XXXVII, p. 251.

^d Ordres en Conseil Vol. XIII, p. 288; Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, pp. 84 and 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXVIII, p. 581; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, pp. 58, 164 and 278; Vol. XXXII, p. 41; Vol. XXXIV, p. 397; Vol. XXXVI, p. 478; Vol. XXXVIII, pp. 150 and 295; Vol. XLIII(1), p. 387; Vol. XLIV(1), p. 29; Order in Council ; Nos. II and XX of 2007; Nos. XIII and XXII of 2008; No. VII of 2010; Nos. II and XIV of 2012; also amended by Recueil d'Ordonnances Tome XXIX, p. 406; Tome XXXIII, p. 126; and Ordinance No. XXXII of 2011.

4. In section 1 of Article VI of the principal Ordinance –

(a) for subsection (1), substitute the following subsection –

"(1) For the purposes of this Ordinance, the expression "**notifiable disease**" means any infectious or contagious disease which the Department may from time to time by order declare to be a notifiable disease within the meaning of this section, and the expression "**infectious or contagious**" shall be construed accordingly.", and

(b) in subsection (2), for "the last preceding paragraph", substitute "subsection (1)".

5. Between section 1 and section 2 of Article VI of the principal Ordinance, insert the following section –

"Meaning of notifiable agent.

1A. (1) For the purposes of this Ordinance, the expression "**notifiable agent**" means any causative agent which the Department may from time to time by order declare to be a notifiable agent within the meaning of this section.

(2) Any power conferred by subsection (1) to make any order shall be construed as a power exercisable in like manner to vary or repeal the order.

(3) In subsection (1), "**causative agent**" means any organism, substance or other agent, the presence of which in any person, or

on any premises, in the Bailiwick of Guernsey, the Department believes may pose a serious risk to public health."

6. In section 2 of Article VI of the principal Ordinance, for "the last preceding section", substitute "this article or Article VII".

7. In the cross-heading of Article VII of the principal Ordinance, immediately after "DISEASE", insert "OR NOTIFIABLE AGENT".

8. In section 1(1) of Article VII of the principal Ordinance –

(a) immediately after "certificate", insert "in the form and manner prescribed by order of the Department,", and

(b) for paragraphs (c) and (d), substitute the following paragraphs–

"(c) if the premises aforesaid are a hospital, the address of the premises from which the patient came to the hospital, and

(d) any other particulars prescribed by order of the Department."

9. For section 1(2) of Article VII of the principal Ordinance, substitute the following subsections –

"(1A) Subsection (1B) applies to the following persons –

- (a) a laboratory representative who becomes aware or has reasonable grounds to believe that –
 - (i) a sample has been taken from or provided by a person who is or was present in the Bailiwick of Guernsey,
 - (ii) the sample has been tested, examined or analysed by the laboratory representative or a laboratory of which the laboratory representative is in charge, or for which the laboratory representative acts as an agent, and
 - (iii) the person referred to in subparagraph (i) is suffering from a notifiable disease, and
- (b) any other person designated by order of the Department who becomes aware or has reasonable grounds to believe that a person is suffering from a notifiable disease in any circumstances prescribed by the order.

(1B) A person to whom this subsection applies shall, unless he believes on reasonable grounds that a medical practitioner has sent the certificate required to be sent by subsection (1) in respect of the person believed to be suffering from a notifiable disease ("**the sufferer**"), promptly send a written notice to the Medical Officer of Health, in the form and manner prescribed by order of the Department, stating (to the extent that this information is known to the person to whom this subsection applies) –

- (a) the name, age and sex of the sufferer and the address of the premises where the sufferer is believed to be staying or residing,
- (b) particulars of the notifiable disease from which the sufferer is, or is believed to be, suffering,
- (c) where applicable, the premises where the sufferer is or was present, and
- (d) any other particulars prescribed by order of the Department.

(2) In this section and section 1A of this Article –

"hospital" means any institution for the reception and treatment of persons suffering from illness, any maternity home and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation,

"illness" includes mental disorder and any injury or disability requiring medical, surgical or dental treatment or nursing,

"laboratory representative" means –

- (a) the States Analyst,

- (b) any person managing, or in charge of the day-to-day operations of, a laboratory (whether or not the laboratory is located in this Island), or
- (c) any person acting as an agent for a laboratory (whether or not the laboratory is located in this Island), and

"the States Analyst" means the States Analyst for the time being appointed by the States of Guernsey Policy Council and includes, where such person is appointed in writing by the Policy Council to discharge all or any relevant functions of the States Analyst, a person who is a public analyst or a food examiner for the purposes of the Food Safety Act 1990 (Chapter 16 of 1990).".

10. Between section 1 and section 2 of Article VII of the principal Ordinance, insert the following sections –

"Cases of notifiable agent to be notified.

- 1A. (1) This section applies to the following persons –
- (a) a medical practitioner who becomes aware or has reasonable grounds to believe that a notifiable agent is or was present in any patient whom the medical practitioner is attending,
 - (b) a laboratory representative who becomes aware or has reasonable grounds to believe that –

- (i) a sample taken from or provided by a person who is or was present in the Bailiwick of Guernsey, or taken or provided from any premises in the Bailiwick of Guernsey, has been tested, examined or analysed by the laboratory representative or a laboratory of which the laboratory representative is in charge, or for which the laboratory representative acts as an agent, and
 - (ii) the testing, examination or analysis indicates that a notifiable agent is or was present on the person or premises concerned, and
- (c) any other person designated by an order of the Department who becomes aware or has reasonable grounds to believe that a notifiable agent is or was present in any person or on any premises in any circumstances prescribed by the order.

(2) A person to whom this section applies ("A") shall, unless A believes on reasonable grounds that any other person has sent the notice required to be sent by this subsection in respect of the person or premises in or on which the notifiable agent is believed to be or have been present, promptly send a written notice to the Medical Officer of Health, in the form and manner prescribed by order of the Department, stating (to the

extent that this information is known to A) –

- (a) the name, address and sex of the person, or the address of the premises, in or on which the notifiable agent is believed to be or have been present,
- (b) particulars of the notifiable agent concerned, and the date on which that notifiable agent is believed to have been so present, and
- (c) any other particulars prescribed by order of the Department.

Department may order exemptions.

1B. The Department may from time to time make an order to exempt any person from an obligation imposed on the person under the provisions of section 1 or 1A of this Article."

11. In section 2 of Article VII of the principal Ordinance –

- (a) for "medical practitioner", substitute "person", and
- (b) for "the last preceding section", substitute "section 1 or 1A of this Article".

12. Immediately after section 8 of Article XI of the principal Ordinance, insert the following section –

"Confidentiality.

9. (1) This section applies to any information from which an individual or body may be identified and which is acquired by a person in carrying out the person's functions under this Ordinance or the Law.

(2) A person mentioned in subsection (1) shall not disclose any information to which this section applies without the consent of every individual who, and every body which, can be identified from that information, except to the extent that its disclosure –

(a) is expressly authorised or required by or under this Ordinance, the Law or any other enactment, or

(b) appears to that person to be necessary –

(i) to enable functions under this Ordinance or the Law to be carried out,

(ii) in the interests of –

(A) the investigation, detection or prevention of offences, or

(B) the apprehension or prosecution of offenders, or

(iii) to comply with an order of a court of this Island.

(3) A person who fails to comply with or contravenes subsection (2) shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 1 on the uniform scale."

Interpretation.

13. (1) In this Ordinance, "**the principal Ordinance**" means the Public Health Ordinance, 1936^e.

(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.

Extent.

14. (1) This Ordinance has effect –

- (a) in Guernsey, Herm and Jethou, and
- (b) subject to subsection (2), in Alderney.

(2) The principal Ordinance (as amended by this Ordinance) has effect in Alderney –

- (a) subject to the modifications set out in Part VII of the First Schedule to the Alderney (Application of

^e Recueil d'Ordonnances Tome VIII, p. 316; as amended by Tome X, pp. 35 and 61; Tome XIII, p. 264; Tome XV, pp. 239 and 387; Tome XIX, p. 91; Tome XX, p. 163; Tome XXIII, p. 427; Tome XXVIII, p. 80; Tome XXIX, p. 406; Tome XXXI, p. 618; Ordinance No. XLI of 2010. See also Ordres en Conseil Vol. XXXI, p. 278.

Legislation) Ordinance, 1948^f in relation to the principal Ordinance, and

- (b) as if any reference to this Island is a reference to the island of Alderney.

Citation.

15. This Ordinance may be cited as the Public Health (Amendment) Ordinance, 2014.

Commencement.

16. This Ordinance comes into force on the 1st January, 2015.

^f Recueil d'Ordonnances Tome IX, p. 280; as amended by Tome XI, pp. 105 and 106; Tome XII, pp 185 and 196; Tome XIV, p. 37; Tome XV, p. 237; Tome XVI, p. 495; Tome XVIII, pp. 10 and 111; Tome XIX, p. 111; Tome XXXII, p. 1.

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Printed by Colour Monster Printshop, Lowlands Building, Lowlands Industrial Estate, Guernsey GY3 5XH.