

GUERNSEY STATUTORY INSTRUMENT

2017 No. 80



**The Control of Poisonous Substances (Guernsey)  
(Amendment) Regulations, 2017**

<i>Made</i>	<i>3rd October, 2017</i>
<i>Coming into operation</i>	<i>4th October, 2017</i>
<i>Laid before the States</i>	<i>, 2017</i>

THE COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY, in exercise of the powers conferred on it by sections 1, 3 and 4 of the Poisonous Substances (Guernsey) Law, 1994<sup>a</sup> and all other powers enabling it in that behalf, hereby makes the following Regulations:-

**Amendment of the Control of Poisonous Substances (Guernsey) Regulations, 2014.**

1. The Control of Poisonous Substances (Guernsey) Regulations, 2014<sup>b</sup> are amended as follows.
2. In regulation 9 of those Regulations –
  - (a) for paragraph (1)(b)(iii), substitute the following –

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<sup>a</sup> Ordres en Conseil Vol. XXXV(2), p. 388; as amended by Recueil d'Ordonnances Tome XXVII, p. 139; Tome XXIX, p. 406; Ordinance No. IX of 2016.

<sup>b</sup> G.S.I. No. 18 of 2014; as amended by G.S.I. No. 8 of 2016.

"(iii) in the case of regulated equipment, a record of each maintenance operation carried out on that equipment, including –

(A) the date of the operation,

(B) the name of the person who carried out the operation, and

(C) details of any defect identified by that person and the steps taken to fix or remedy that defect.",

and

(b) in paragraph (2)(c), for "10 years after the examination of the equipment by a competent person", substitute "7 years after the maintenance operation is carried out".

3. In regulation 19(1) of those Regulations, delete the definition of "**competent person**".

4. In Schedule 3 to those Regulations -

(a) for subparagraphs (d) and (e) of paragraph 2, substitute the following subparagraph –

"(d) hold a certificate of competence for the use of poisonous substances.", and

(b) for paragraphs 6 and 7, substitute the following paragraph –

"6. A professional user must not apply any poisonous substance using poisonous substances application equipment unless the equipment has been –

(a) calibrated in accordance with the manufacturer's instructions in the 12-month period preceding that application, and

(b) maintained in accordance with the manufacturer's instructions."

5. In Schedule 5 to those Regulations, for paragraphs 3A and 3B, substitute the following paragraph –

"3A. A certificate of competence in force immediately before the commencement of these Regulations continues to have effect as a certificate of competence until any expiry date specified on the certificate, unless earlier revoked by the body that issued that certificate in accordance with any applicable competence scheme."

**Revocation.**

6. The Control of Poisonous Substances (Guernsey) (Amendment) Regulations, 2016<sup>c</sup> are revoked.

**Interpretation.**

7. (1) In these Regulations, unless the context requires otherwise –

"enactment" includes a Law, an Ordinance and any subordinate

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<sup>c</sup> G.S.I. No. 8 of 2016.

legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation, and

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

(2) The Interpretation (Guernsey) Law, 1948<sup>d</sup> applies to the interpretation of these Regulations.

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

**Citation and commencement.**

8. These Regulations may be cited as the Control of Poisonous Substances (Guernsey) (Amendment) Regulations, 2017 and shall come into force on the 4<sup>th</sup> October, 2017.

Dated this 3<sup>rd</sup> day of October, 2017



M. LE CLERC

President of the States Committee for Employment & Social Security

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<sup>d</sup> Ordres en Conseil Vol. XIII, p. 355.

For and on behalf of the Committee

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Control of Poisonous Substances (Guernsey) Regulations, 2014 as amended ("the **principal Regulations**"), to remove the requirement for professional users to revalidate their certificate of competence, and have regulated equipment inspected by a competent person, every 5 years.

Regulation 2(a) replaces the requirement in regulation 9(1)(b)(iii) of the principal Regulations for professional users to keep records of examinations of regulated equipment by competent persons ("**examination records**") with a requirement to keep records of maintenance operations carried out on the equipment ("**maintenance records**").

Regulation 2(b) replaces the requirement in regulation 9(2)(c) of the principal Regulations to keep examination records for 10 years, with a requirement to keep maintenance records for 7 years after the maintenance operation is carried out (in line with regulation 9(2)(a) and (b)).

Regulation 3 deletes the definition of "**competent person**" in regulation 19(1) of the principal Regulations, as this expression would no longer occur in the principal Regulations after these Regulations come into force.

Regulation 4 amends paragraph 2 of Schedule 3 to the principal Regulations to remove the requirement for professional users to obtain or renew a certificate of competence every five years. It also substitutes paragraphs 6 and 7 of that schedule with a new paragraph 6 requiring professional users to have regulated equipment calibrated in the 12-month period before the application of poisonous substances, and maintained in accordance with the manufacturer's instructions.

Regulation 5 substitutes paragraphs 3A and 3B of Schedule 5 to the principal

Regulations with a new paragraph 3A that states that certificates of competence (including any deemed certificates of competence) continue to have effect until any expiry date specified on the certificate, unless revoked earlier.

Regulation 6 revokes the Control of Poisonous Substances (Guernsey) (Amendment) Regulations, 2016, as the amendments made by those regulations have been superseded by these Regulations.

Regulation 7 sets out the interpretation provisions. Regulation 8 sets out the citation and commencement provisions.

These Regulations come into force on the 4<sup>th</sup> October, 2017.