

Island of



Guernsey

Ordinance of the States

XXXVII

2020

Made 8th September, 2020
Laid before the States 4th November, 2020
Coming into Operation 9th September, 2020

The Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2020

The Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2020

THE STATES POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred upon the States by section 3(1) of the Health and Safety at Work etc. (Guernsey) Law, 1979^a, and section 2 of the Health, Safety and Welfare of Employees Law, 1950^b, and all other powers enabling them in that behalf, and in exercise of the powers conferred on the Committee by article 66A(1) of the Reform (Guernsey) Law, 1948^c, hereby order:-

Amendment of Ordinance.

1. The Health and Safety at Work (General) (Guernsey) Ordinance, 1987^d as amended, is further amended as follows.

2. Immediately after section 29, insert the following Part -

^a Ordres en Conseil Vol. XXVII, p. 155; amended by Order in Council No. XIV of 1993, Ordres en Conseil Vol. XXXIV, p. 586; Recueil d'Ordonnances Tome XXV, p. 328; Ordinance No. XXXI of 1996, Recueil d'Ordonnances Tome XXVII, p. 139; No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406; and No. IX of 2016.

^b Ordres en Conseil Vol. XIV, p. 312; as amended by Recueil d'Ordonnances Tome XXV, p. 328; Ordinance No. XXXI of 1996, Recueil d'Ordonnances Tome XXVII, p. 139; No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406; No. IX of 2016; the Organisation of States' Affairs (Transfer of Functions and Consequential Matters) Ordinance, 2019 (No. XXXVI of 2019).

^c Ordres en Conseil Vol. XIII, p. 288; amended by Order in Council No. XVII of 2015; there are other amendments not relevant to this Ordinance.

^d Recueil d'Ordonnances Tome XXIV, p. 162; there are amendments which are not relevant to this Ordinance.

"PART IVA

Disapplication of requirement to thoroughly examine etc.

29A. (1) Where a provision of the Safety of Employees (Miscellaneous Provisions) Ordinance, 1952^e set out in Schedule 6 to this Ordinance requires any type of equipment to be –

- (a) thoroughly examined at least once in a specified period,
- (b) tested and examined in a specified manner before being taken into use,
- (c) inspected at least once in a specified period, within a specified period of use or in specified conditions,

(as the case may be) a person who owns or operates such equipment may apply to the Chief Officer to disapply the requirement in relation to that equipment.

(2) Where section 18(1) of the Safety of Employees (Electricity) Ordinance, 1956^f requires an occupier's installation to be tested at least once in every period of 12 months, the occupier, or a person who owns, controls or operates such an

^e Recueil d'Ordonnances Tome X, p. 194.

^f Recueil d'Ordonnances Tome XI, p. 201; as amended by Ordres en Conseil Vol. XXXI, p. 278; Order in Council No. XIII of 2001; Recueil d'Ordonnances Tome XXIV, p. 162; Tome XXV, p. 328; Tome XXVII, p. 139; Ordinance No. XXXIII of 2003; and No. IX of 2016.

installation, may apply to the Chief Officer to disapply the requirement in relation to that installation.

(3) Where section 36(3) of the Health and Safety (Gas) (Guernsey) Ordinance, 2006^g requires a gas appliance and flue to be checked for safety at least once in any 12 month period, the landlord or any agent of the landlord may apply to the Chief Officer to disapply the requirement in relation to that gas appliance and flue.

(4) Where a provision -

- (a) makes a requirement or imposes a prohibition related to health and safety on a person or a class of person (whether in relation to any type of equipment or otherwise), and
- (b) has been prescribed for the purposes of this subsection by Regulations of the Committee,

the relevant person may apply to the Chief Officer to disapply that requirement or prohibition.

(5) An application under subsection (1), (2), (3) or (4) may be made in writing and, for the avoidance of doubt, this includes by electronic means.

(6) On an application made under subsection (1), (2), (3) or (4), the

^g Ordinance No. XIV of 2006; as amended by No. IX of 2016.

Chief Officer may disapply a requirement or prohibition by granting a certificate to that person, where the Chief Officer is of the opinion that the disapplication will not prejudice the safety of -

- (a) any person operating the equipment, occupier's installation or gas appliance and flue (as the case may be), and
- (b) any other person likely to be affected by the operation of the equipment, occupier's installation or gas appliance and flue (as the case may be).

(7) A certificate granted under subsection (6) shall be in writing (which, for the avoidance of doubt, includes by electronic means) and –

- (a) may only disapply the requirement or prohibition for the period stated in the certificate which may not exceed the period of 6 months, and
- (b) may be revoked by the Chief Officer prior to the expiry of the certificate where that Officer is satisfied that it is no longer necessary.

(8) For the avoidance of doubt, where a certificate has been granted under subsection (6), no criminal or civil proceedings may be instituted for contravention of any requirement or prohibition set out in or under any enactment set out in subsection (1), (2), (3) or (4) against any person in relation to the equipment, occupier's installation or gas appliance and flue (as the case may be) subject to the certificate.

(9) Nothing in this section exempts the person subject to any requirement or prohibition set out in or under any enactment set out in subsection (1), (2), (3) or (4) from any other health and safety requirement or prohibition, and especially (but not limited to) the requirement to keep the equipment, occupier's installation or gas appliance and flue (as the case may be) in a safe condition and good working order.

Indemnity for inspectors.

29B. No liability shall be incurred by the Chief Officer in respect of any thing done or omitted to be done after the commencement of this Part in the discharge or purported discharge of the Chief Officer's functions, unless the thing was done or omitted to be done in bad faith.

Interpretation of this Part.

29C. In this Part, "**the Chief Officer**" -

- (a) means the inspector appointed under section 15 of this Ordinance for the time being holding the title "the Chief Health and Safety Officer", and
- (b) includes any inspector acting by or under the authority of the inspector mentioned in paragraph (a)."

3. Immediately after Schedule 5, insert the Schedule to this Ordinance.

Citation.

4. This Ordinance may be cited as the Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2020.

Commencement.

5. This Ordinance shall come into force on the 9th September 2020.

SCHEDULE

Section 4

"SCHEDULE 6

Section 29A

PROVISIONS OF THE SAFETY OF EMPLOYEES (MISCELLANEOUS
PROVISIONS) ORDINANCE, 1952

1. Section 8(2).
2. Section 15(6).
3. Section 16(4).
4. Section 17(4).
5. Section 19(2).
6. Section 24(2)(a).
7. Section 24(2)(b).
8. Section 38."