

ORDINANCE LAID BEFORE THE STATES

THE PUBLIC TRANSPORT (AMENDMENT) ORDINANCE, 2020

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Public Transport (Amendment) Ordinance, 2020", made by the Policy & Resources Committee on the 24th August, 2020, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Public Transport Ordinance, 1986 ("the 1986 Ordinance") so as to add a new category of public service vehicle licence to enable vehicles designed or adapted to carry eight or fewer passengers to be used for the purposes of a public excursion service, that is a road service for the carriage of passengers at separate fares on a journey commencing at one or more places and returning to those places; and stopping along the journey but not to take up or set down passengers.

The Ordinance was approved by the Legislation Review Panel on the 18th August, 2020 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE HEALTH AND SAFETY AT WORK (GENERAL) (GUERNSEY) (AMENDMENT) ORDINANCE, 2020

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2020", made by the Policy & Resources Committee on the 8th September, 2020, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance permits the Chief Health and Safety Officer ("Chief Officer", which includes any inspector acting under that Officer's authority) to grant certificates disapplying inspection and examination requirements under health and safety legislation, where it is appropriate to do so. The majority of the provisions set out in this Ordinance replicate those found in the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 6) Regulations, 2020 ("the Regulations") and previous iterations of the Regulations. These provisions were included in the Regulations on the basis that the required examinations and inspections of specified equipment could not be carried out by relevantly qualified engineers based off-island as a result of the travel restrictions in force due to the Covid-19 pandemic. The certificates disapplying the requirements are necessary, as the operators of that equipment would otherwise contravene the relevant legislation and therefore invalidate their insurance cover if they operated it. However, the Chief Officer can only

grant a certificate where doing so would not prejudice the safety of any operator or other person; in addition, the certificate cannot exempt a person from the requirement to keep the equipment in a safe condition and good working order.

It is now considered appropriate for this power to be inserted into the relevant health and safety legislation by Ordinance. The relevant provisions will therefore be put on a permanent basis in order to deal with any potential "second wave" of the Covid-19 pandemic (which might require the disapplication of additional provisions) and for any other appropriate reason, and to allow disapplication certificates to be granted for periods of up to 6 months. Accordingly, this Ordinance amends the Health and Safety at Work (General) (Guernsey) Ordinance, 1987 to allow certificates to be granted in relation to: (a) the legislative requirements set out in the most recent Regulations (or an earlier iteration of them), and (b) any requirement or prohibition relating to health and safety which the relevant Committee has prescribed by Regulations. The Ordinance also provides an indemnity for the Chief Officer, provided bad faith is not shown in the exercise of functions under this Ordinance. The relevant provisions in the Regulations will be revoked in due course, although any remaining certificates granted under the Regulations will be saved.

The Ordinance was approved by the Legislation Review Panel on the 7th September, 2020 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

No. 75 of 2020

THE SOCIAL INSURANCE (CONTRIBUTIONS) (AMENDMENT AND TRANSITIONAL PROVISIONS) REGULATIONS, 2020

In pursuance of sections 6, 8, 11, 15 and 116 of the Social Insurance (Guernsey) Law, 1978, "The Social Insurance (Contributions) (Amendment and Transitional Provisions) Regulations, 2020", made by the Committee *for* Employment & Social Security on 17th August, 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the Social Insurance (Contributions) Regulations, 2000 ("the 2000 Regulations") to provide for a change to the basis of assessment of income-related Class 2 (self-employed) and Class 3 (non-employed) contributions in relation to any contribution year beginning on or after 1st January 2021 so as to pay contributions based on actual income for that year. This is to align the basis of assessment for such social insurance contributions to be consistent with that for income tax.

The Regulations also allow for an election to be made in respect of the contribution year 2020 to pay self-employed or non-employed contributions on actual income for that year. The right to make an election is given because many self-employed and non-employed persons may have had a reduced income in 2020 due to coronavirus (regulations 2 and 7).

These Regulations also amend the 2000 Regulations, to award contribution credits to those classified as employed contributors at 25th March 2020 who lack contributions on their record for the period of lockdown due to COVID-19 from 25th March to 19th June, 2020 (see regulation 6).

These Regulations also amend the 2000 Regulations to clarify that Class 2 or Class 3 contributions cards may be in electronic form and make other consequential amendments (regulations 3 to 5).

These Regulations came into force on the 18th August, 2020.

No. 85 of 2020

**THE INCOME TAX (SUBSTANCE REQUIREMENTS) (IMPLEMENTATION)
(AMENDMENT) REGULATIONS, 2020**

In pursuance of section 203A of the Income Tax (Guernsey) Law, 1975, as amended, “The Income Tax (Substance Requirements) (Implementation) (Amendment) Regulations, 2020” made by the Policy & Resources Committee on 10th September 2020, are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations amend the Income Tax (Substance Requirements) (Implementation) Regulations, 2018, which implement and enable the administration and enforcement in domestic law of substance requirements in respect of companies which are tax resident, by bringing self-managed collective investment vehicles within the scope of the regulations and various other consequential modifications.

No. 86 of 2020

THE AIRPORT FEES (GUERNSEY AND ALDERNEY) REGULATIONS, 2020

In pursuance of the powers conferred upon it by section 2(1) of the Airport Fees Ordinance, 1987, as amended, and as delegated to it by section 1(1)(d) of the Fees, Charges and Penalties (Guernsey) Law, 2007, made by the States Trading Supervisory Board on 10th September, 2020, is laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the fees for the use of Alderney Airport and Guernsey Airport. Under the terms of the Fees, Charges and Penalties (Guernsey) Law, 2007, these dues and charges may now be prescribed by regulations of the States’ Trading Supervisory Board.

These Regulations come into force on 1st April, 2021.

No. 87 of 2020

THE HARBOUR DUES AND FACILITIES CHARGES (GUERNSEY) REGULATIONS, 2020

In pursuance of the powers conferred upon it by sections 2 and 3 of the Harbour Dues (Saint Peter Port and Saint Sampson) Law, 1957, section 33 of the Harbours Ordinance, 1988, sections 1 and 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007, made by the States Trading Supervisory Board on 10th September, 2020, is laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the harbour dues payable under section 2 of the Harbour Dues (Saint Peter Port and Saint Sampson) Law, 1957, and the charges payable for the use of harbour facilities under section 33(1) of the Harbours Ordinance, 1988. Under the terms of the Fees, Charges and Penalties (Guernsey) Law, 2007, these dues and charges may now be prescribed by regulations of the States' Trading Supervisory Board.

These Regulations came into force on 1st January, 2021.

No. 88 of 2020

THE MOORING CHARGES (GUERNSEY) REGULATIONS, 2020

In pursuance of section 2 of the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972, sections 1 and 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007 made by the States Trading Supervisory Board on 10th September, 2020, is laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the mooring charges payable under section 2 of the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972 (the "**1972 Law**"). Under the terms of the Fees, Charges and Penalties (Guernsey) Law, 2007, these charges may now be prescribed by regulations of the States' Trading Supervisory Board.

These Regulations come into force on the 1st April, 2021.

No. 89 of 2020

THE PILOTAGE DUES (GUERNSEY) REGULATIONS, 2020

In pursuance of the powers conferred upon it by sections 1, 2, 3 and 8 of the Pilotage Dues and Fees Ordinance, 1987 and sections 1 and 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007, made by the States Trading Supervisory Board on 10th September, 2020, is laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the pilotage dues and related charges payable under the Pilotage Dues and Fees Ordinance, 1987. Under the terms of the Fees, Charges and Penalties (Guernsey) Law, 2007, these dues and charges may now be prescribed by regulations of the States' Trading Supervisory Board.

These Regulations came into force on 1st January, 2021.

No. 90 of 2020

THE STATES HOUSING (TRIBUNAL AND APPEALS) (GUERNSEY) (AMENDMENT) REGULATIONS, 2020

In pursuance of sections 2 and 5 of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004, "The States Housing (Tribunal and Appeals) (Guernsey) (Amendment) Regulations, 2020", made by the Committee *for* Employment & Social Security on 15th September, 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations further amend the States Housing (Tribunal and Appeals) (Guernsey) Regulations, 2005, by providing for the resignation, and removal by the Royal Court in defined circumstances, of Housing Appeals Panel members, and by making further provision relating to the internal reviews of relevant decisions prior to an appeal to the Royal Court being made. These Regulations also prevent any person working in service of the Committee *for* Employment & Social Security from becoming a member of the Housing Appeals Panel.

These Regulations came into force on the 16th September, 2020.

No. 91 of 2020

THE EMPLOYMENT AND DISCRIMINATION TRIBUNAL (GUERNSEY) ORDER, 2020

In pursuance of sections 5 and 8 of, and paragraph 3 of the Schedule to, the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005, “The Employment and Discrimination Tribunal (Guernsey) Order, 2020”, made by the Committee *for* Employment & Social Security on 15th September, 2020, is laid before the States.

EXPLANATORY NOTE

This Order sets out the powers of the Employment and Discrimination Tribunal to dismiss or strike out a complaint or response.

Article 1 makes provision for the Tribunal to be able to dismiss a complaint or response, or part of either, where the complaint or response has no reasonable prospect of success. The Tribunal is also able to dismiss a complaint that it has no jurisdiction to consider.

Article 2 makes provision for the Tribunal to be able to strike out all or part of a complaint or response for, among other reasons, that the complaint or response is scandalous or vexatious or has no reasonable prospect of success.

Article 3 provides for the review of decisions to dismiss or strike out, and article 4 provides for the Chairman to be able to exercise powers to dismiss or strike out when sitting alone.

Article 5 amends the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005 to provide that the Chairman of the Tribunal may be appointed before the other members.

Article 7 is the application, citation and commencement provision. It makes clear that from 1st November 2020, the Order applies to all ongoing proceedings before the Tribunal, as well as new proceedings brought after that date.

This Order came into force on the 1st day of November, 2020.

No. 92 of 2020

**THE DATA PROTECTION (GENERAL PROVISIONS) (BAILIWICK OF GUERNSEY)
(AMENDMENT NO. 2) REGULATIONS, 2020**

In pursuance of sections 37(1), 39, 40, and 109 of, and paragraphs 1(2) and 2 of Schedule 4 to, the Data Protection (Bailiwick of Guernsey) Law, 2017, The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020, made by the Committee *for* Home Affairs on 14th September 2020, is laid before the States.

EXPLANATORY NOTE

These Regulations amend the Data Protection (General Provisions) (Bailiwick of Guernsey) Regulations, 2018 ("the principal Regulations").

These Regulations amend the principal Regulations to provide for certain registered controllers and processors to effectively act as levy collection agents for entities ("relevant entities") that are potentially eligible to be exempt from registration under the Data Protection (Bailiwick of Guernsey) Law, 2017 ("the Law").

A company, foundation, limited liability partnership or limited partnership qualifies as a relevant entity, unless it is a large organisation (50 or more full-time equivalent employees), a non profit organisation, a levy collection agent or is required to designate a data protection officer under the Law.

Any of these persons may act as a levy collection agent for relevant entities where duly authorised by those entities: a full fiduciary licensee under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000; a licensed institution under the Banking Supervision (Bailiwick of Guernsey) Law, 1994; a licensed insurer under the Insurance Business (Bailiwick of Guernsey) Law, 2002; a licensed insurance intermediary or licensed insurance manager under the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002; a person carrying on a financial services business registered under the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008; or a person licensed to carry on a controlled investment business under the Protection of Investors (Bailiwick of Guernsey) Law, 1987.

These Regulations amend the principal Regulations to require levy collection agents to give the Data Protection Authority annual returns, and exempt from registration relevant entities that have authorised these levy collection agents to act as such agents. Levy collection agents will have to pay a registration fee and an annual levy that would vary according to the number of relevant entities that have authorised them to act as levy collection agents.

These Regulations also amend the principal Regulations to exempt from registration controllers and processors that only cause or permit personal data to be processed where the processing is occasional, does not include any large scale or systematic processing and is not high-risk.

These Regulations also require all controllers and processors registered before the 31st December 2020 to give the Data Protection Authority an annual return in 2021.

Finally these Regulations amend the principal Regulations to prescribe revised registration fees and annual levies payable for registration. A consolidated registration fee and annual levy is payable for public entities linked to the States of Guernsey, the States of Alderney and the Chief Pleas of Sark respectively. Large organisations will have to pay a higher registration fee and annual levy than persons that are not large organisations.

As part of the transition to the new fees and levies regime commencing in 2021, no registration fee or annual levy would be payable between the 1st October and 31st December 2020.

Other than the transitional provision, these Regulations will come into force on the 1st January 2021. The transitional provision will come into force on the 1st October, 2020.

No. 96 of 2020

**THE CUSTOMS AND EXCISE (SAFETY AND SECURITY)
(BAILIWICK OF GUERNSEY) REGULATIONS, 2020**

In pursuance of sections 14B and 79 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, The Customs and Excise (Safety and Security) (Bailiwick of Guernsey) Regulations, 2020, made by the Committee *for* Home Affairs on 28th September 2020, is laid before the States.

EXPLANATORY NOTE

These Regulations impose a requirement to submit safety and security entry summary declarations and exit summary declarations in respect of goods being imported into the Bailiwick from outside the United Kingdom, Jersey and the Isle of Man (together with the Bailiwick comprising the "Customs Territory"), and goods exported from the Bailiwick to outside the Customs Territory. They provide for some goods to be exempt from this requirement, and introduce a civil penalty regime for breaches of the regulations.

These Regulations come into force on 1st July, 2021.

No. 97 of 2020

THE EUROPEAN UNION (COPYRIGHT) (MARRAKESH TREATY) (BREXIT) (BAILIWICK OF GUERNSEY) REGULATIONS, 2020

In pursuance of section 11(10) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, “The European Union (Copyright) (Marrakesh Treaty) (Brexit) (Bailiwick of Guernsey) Regulations, 2020” made by the Policy & Resources Committee on 29th September 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations amend the Copyright (Bailiwick of Guernsey) Ordinance, 2005 in order to implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled of 27 June 2013 as a consequence of the UK withdrawal from the EU.

These Regulations came into force on 29th September 2020.

No. 98 of 2020

THE PERFORMERS’ RIGHTS (RECIPROCAL PROTECTION) (BAILIWICK OF GUERNSEY) REGULATIONS, 2020

In pursuance of section 51(3) of the Performers’ Rights (Bailiwick of Guernsey) Ordinance, 2005, “The Performers’ Rights (Reciprocal Protection) (Bailiwick of Guernsey) Regulations, 2020” made by the Committee *for* Economic Development on 29th September 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations extend the protections afforded under the Performers' Rights (Bailiwick of Guernsey) Ordinance, 2005 to certain countries.

These Regulations came into force on 29th September 2020.

No. 99 of 2020

THE COPYRIGHT (APPLICATION TO ROME CONVENTION COUNTRIES) (BAILIWICK OF GUERNSEY) REGULATIONS, 2020

In pursuance of section 221(3) of the Copyright (Bailiwick of Guernsey) Ordinance, 2005, “The Copyright (Application to Rome Convention Countries) (Bailiwick of Guernsey) Regulations, 2020” made by the Committee *for* Economic Development on 29th September 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations extend the protections afforded under the Copyright (Bailiwick of Guernsey) Ordinance, 2005 to Rome Convention Countries.

These Regulations came into force on 29th September 2020.

The full text of the legislation can be found at: <http://www.guernseylegalresources.gg>