

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE SOCIAL INSURANCE (GUERNSEY) LAW (AMENDMENT) ORDINANCE, 2023

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Social Insurance (Guernsey) Law (Amendment) Ordinance, 2023", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

The Ordinance amends section 39A of the Social Insurance (Guernsey) Law, 1978 ("the Law") to widen existing powers of the Committee for Employment & Social Security ("the Committee") to make arrangements to secure that insured persons take advantage of opportunities offered to facilitate a return to work and related grant making powers. The purpose of the amendments is to give the Committee the necessary powers to provide an Access to Work Scheme to fund certain reasonable adjustments, which remove disadvantages or barriers that prevent disabled persons from participating in employment, where the cost of the adjustments would otherwise be a disproportionate burden for employers.

Section 1(4) adds a power for the Committee to make arrangements to secure that insured persons who have a disability are provided with aids, specified occupational health services, transport, assistance with transport costs or other support or assistance the object of which is to facilitate access to work for such persons. The amendments define access to work widely to cover entering, returning to or retaining employment or other gainful occupation (section 1(7)). Section 1(6) makes a related amendment to the grant power in section 39(3) of the Law to fund the provision of aids, specified occupational health services, transport, assistance with transport costs or other support or assistance.

The Committee's powers to make arrangements and grants in respect of aids, alterations or adaptations to the same or specified occupational health services, as defined in the Ordinance, will apply on commencement but their powers to make arrangements and grants in respect of transport, assistance with transport or other support or assistance not otherwise specifically mentioned, will take effect from a day appointed by regulations of the Committee. This reflects the Policy Letter which states that initially the Access to Work Scheme should focus on funding the provision of necessary aids and equipment and occupational health advice.

Amendments are also made to other parts of section 39A of the Law to widen Regulation making powers, amend headings and insert related definitions (which have

been drafted to be consistent with relevant provisions of the Prevention of Discrimination (Guernsey) Ordinance, 2022. A consequential amendment is also made to the Sixth Schedule to the Law which lists all defined expressions. Provision will be made as to conditions, limits and exceptions in relation to grants and the application process for grants under the Regulation making powers.

The Ordinance will come into force on a date to be appointed by Order of the Committee.

The Social Insurance (Guernsey) Law (Amendment)

Ordinance, 2023

THE STATES, in pursuance of their Resolutions of the 27th April, 2023^a, and in exercise of the powers conferred on them by sections 115A and 116 of the Social Insurance (Guernsey) Law, 1978^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Social Insurance Law.

1. (1) The Social Insurance (Guernsey) Law, 1978 is amended as follows.

(2) For the cross-heading immediately before section 39A substitute -

"Work rehabilitation and access to work".

(3) For the heading to section 39A substitute -

"Work rehabilitation and access to work arrangements and grants."

(4) After section 39A(1) insert -

^a Article VII of Billet d'État No. VI of 2023.

^b Ordres en Conseil Vol. XXVI, p. 292; this enactment has been amended.

"(1A) The Committee may, at the cost of the Guernsey Insurance Fund, make arrangements for securing that insured persons who have a disability are provided with any of the following -

- (a) auxiliary aids, or alterations or adaptations to the same or specified occupational health services,
- (b) with effect from a day appointed by regulations of the Committee, transport or assistance with transport costs or other support or assistance (however named) not otherwise falling within this subsection,

where the object of such provision is to facilitate access to work for insured persons who have a disability.

(1B) The power in subsection (1A) is without prejudice to the Committee's power to make arrangements under subsection (1).".

(5) For subsection (2) substitute -

"(2) The Committee may prescribe, by regulations, such matters as it thinks fit, in relation to arrangements under subsections (1) or (1A), including, without limitation, provision for -

- (a) exceptions, conditions, limitations or restrictions in relation to such arrangements, or

(b) in relation to arrangements under subsection (1), the deeming of continued incapacity or unemployment for persons taking advantage of such arrangements for such periods as may be prescribed."

(6) In subsection (3) -

(a) after "The Committee may" insert ", at the cost of the Guernsey Insurance Fund,"

(b) after "such exceptions, conditions" insert ", limitations or restrictions",

(c) in paragraph (a), for "subsection (1)" substitute "subsection (1) or (1A)",

(d) after paragraph (a), delete "or" and after paragraph (b) insert "or", and

(e) after paragraph (b) insert -

"(c) without prejudice to paragraph (b), for the provision of -

(i) auxiliary aids or alterations or adaptations to the same or specified occupational health services, or

(ii) with effect from a day appointed by regulations of the Committee, transport or assistance with transport costs or other support or assistance (however named) not otherwise falling within this paragraph,

the object of which is to facilitate access to work for insured persons who have a disability."

(7) After subsection (4), insert -

"(5) In addition to the matters which may be prescribed by regulations under subsection (3), the Committee may prescribe by regulations such other matters as it thinks fit in relation to grants made under subsection (3), including, without limitation, provision in relation to applications for such grants.

(6) In this section, unless the context requires otherwise -

"**access to work**" means entering, returning to or retaining employment or other gainful occupation,

"**auxiliary aid**", in relation to an insured person who has a disability, has the same meaning as that given, in relation to a disabled person, in section 32(4) of the Discrimination Ordinance, except that it excludes a service, other than a service comprising the setting up of, or initial training for the use of, equipment falling within that section,

"**Discrimination Ordinance**" means the Prevention of Discrimination (Guernsey) Ordinance, 2022,

"**long term impairment**" has the meaning given in section 1(3) of the Discrimination Ordinance, and

"**specified occupational health services**" means, in relation to an insured person who has a disability -

- (a) the assessment of a long term impairment of the person which -
 - (i) identifies the ways in which the impairment is putting that person at a substantial disadvantage in relation to access to work, in comparison with persons who are not disabled,
 - (ii) identifies the reasonable adjustments, suitable for the person who has the long term impairment and their workplace, that could be made to avoid the substantial disadvantage, and
 - (iii) is carried out to ensure compliance with the law, and
- (b) the setting up of, or initial training for the use of, an auxiliary aid,

(7) In this section -

- (a) whether or not a person has a disability is to be construed in accordance with section 1 of the Discrimination Ordinance, and
- (b) "**reasonable adjustments**" is to be construed in accordance with section 32 of the Discrimination Ordinance except that it only includes such adjustments comprising the taking of steps to provide an auxiliary aid.

(8) The Committee may by regulations amend the definition of "**specified occupational health services**" in subsection (6)."

(8) In the table in the Sixth Schedule (glossary of expressions), insert the following in the appropriate places -

" access to work "	See section 39A(6)."
" auxiliary aid "	See section 39A(6)."
" Discrimination Ordinance "	See section 39(A)(6)."
" long term impairment "	See section 39A(6). "
" specified occupational health services "	See section 39A(6). "

""reasonable adjustments"	See section 39(A)(7). "
""person who has a disability"	See section 39A(7). "

Extent.

2. This Ordinance has effect in the islands of Guernsey, Alderney, Herm and Jethou.

Citation.

3. This Ordinance may be cited as the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2023.

Commencement.

4. This Ordinance shall come into force on the day appointed by Order of the Committee for Employment & Social Security.