

Orders of the Royal Court

I

1999



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 4th day of May, 1999 before de Vic Graham Carey, Esquire, Bailiff; present:- Leonard Arthur Moss, Lawrence Oscar Ozanne, John Richard Rowe Henry, David Charles Lowe, Esquires, Mrs. Eileen May Glass, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, and The Reverend Peter Gerald Lane, Jurats.

No. 1 Order, 1999

ENTITLED

The Employment Protection (Appeals and References) Order, 1999

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THE ROYAL COURT, in exercise of the powers conferred upon it by sections 23 and 24 of the Employment Protection (Guernsey) Law, 1998(a) and of all other powers enabling it in that behalf, hereby orders:-

PART I

APPEALS FROM ADJUDICATORS TO ROYAL COURT

Notice of appeal from adjudicator.

1. (1) Notice of an appeal under section 23(1) of the Law by a person aggrieved by a decision or award of an adjudicator on a question of law-

- (a) shall be in the form set out in the Schedule; and
- (b) shall contain a statement of the contentions of law on which the appellant relies.

(2) Notice of appeal shall be sent to the Secretary within a period of one month beginning on the date of the adjudicator's written decision.

(3) The Secretary shall transmit a copy of the notice of appeal and of the documents attached thereto-

- (a) to the adjudicator;
- (b) to all parties to the dispute (other than the appellant);
and

(a) Order in Council No. IX of 1998.

- (c) to the Greffier, who shall acknowledge receipt thereof in writing.

Date of hearing to be determined by Bailiff.

2. (1) The Greffier shall-

- (a) transmit a copy of the notice of appeal and of the documents attached thereto to the Bailiff, who shall determine, and inform the Greffier of, the date and time of the hearing of the appeal; and
- (c) upon being so informed, notify the Secretary of the place, date and time of the hearing.

(2) The Secretary shall give written notice of the place, date and time of the hearing to-

- (a) the adjudicator;
- (b) the appellant; and
- (c) all other parties to the dispute.

PART II

REFERENCE OF POINTS OF LAW TO ROYAL COURT

Statement of case to be submitted to Royal Court.

3. (1) If an adjudicator decides that-

- (a) a question of law has arisen in connection with the hearing and determination by him of a dispute; and
- (b) the question of law should be referred for decision to the Royal Court under section 24 of the Law;

the adjudicator shall, within 7 days of so deciding-

- (i) prepare and sign a statement (the "**statement of the case**") setting out the question of law and such particulars of the dispute as are, in his opinion, relevant to the determination of the question by the Royal Court; and
- (ii) transmit the statement of the case to the Secretary.

(2) The Secretary shall-

- (a) transmit a copy of the statement of the case to the Greffier, who shall give written acknowledgement of receipt; and
- (b) transmit a copy of the statement of the case and of any amendment made thereto under the provisions of article 4 to all parties to the dispute.

(3) The Greffier shall, upon receipt of the statement of the case, transmit the statement to the Bailiff.

Further particulars to be furnished to Royal Court.

4. The Bailiff may-

- (a) at any time, require the adjudicator to furnish to the Greffier further particulars in writing, within such time as he may direct, with regard to any question referred to the Royal Court under this Part of this Order;
- (b) at any time prior to the fixing of the date of the hearing (if any) of any such question-

- (i) allow the amendment of any statement of the case prepared by the adjudicator; and
- (ii) extend the time laid down in article 3(1) for the preparation of any statement of the case by the adjudicator.

Determination by Royal Court without a hearing.

5. If the Royal Court is of the opinion that a question of law referred to it under this Part of this Order can properly be determined on the basis of the statement of the case and any further particulars furnished under article 4(a), the Royal Court may dispense with a hearing and determine the question on that basis.

Notice of hearing by Royal Court.

6. (1) If the Royal Court is of the opinion that a hearing is required for the determination of a question of law referred to it under this Part of this Order, the Bailiff shall determine, and inform the Greffier of, the date and time of the hearing.

(2) The Greffier shall, upon being so informed, notify the Secretary of the place, date and time of the hearing.

(3) The Secretary shall give written notice of the place, date and time of the hearing to-

- (a) the adjudicator; and
- (b) all parties to the dispute.

PART III
GENERAL PROVISIONS

Representation before Royal Court.

7. (1) Any party to a dispute which is the subject of an appeal or reference under Part I or II of this Order-

- (a) may be present during the hearing before the Royal Court of the appeal or reference; and
- (b) may (provided that, in the case of a reference, he is called upon to do so by the Royal Court) address the Royal Court in person, by a friend or by an Advocate of the Royal Court.

(2) The adjudicator may be present during a hearing before the Royal Court of a reference under Part II of this Order and may, if called upon to do so by the Royal Court, address the Royal Court in person, by a Law Officer of the Crown or by an Advocate of the Royal Court.

Procedure before Royal Court.

8. (1) The Royal Court may call for such documents and examine such persons on oath, affirmation or otherwise as appear likely to afford evidence relevant and material to any question of law to be determined by it on an appeal or reference under Part I or II of this Order.

(2) Any party to a dispute which is the subject of an appeal or reference under Part I or II of this Order may (provided that, in the case of a reference, he is authorised to do so by the Royal Court) cause a summons to be served on any person, in the same manner as a summons may be served in respect of a civil action before the Royal Court, summoning that person to attend a hearing of the Royal Court for the purpose of giving evidence or producing any document likely to assist the Royal Court in determining the question of law which is the subject of the appeal or reference.

(3) A person summoned in accordance with paragraph (2) shall be under a like obligation as to the giving of evidence and the production of documents as if he were summoned in respect of a civil action before the Royal Court.

(4) The Royal Court may adjourn the hearing of any appeal or reference from time to time as it may think fit.

(5) If the Royal Court is satisfied that all parties to a dispute which is the subject of an appeal or reference under Part I or II of this Order have been notified of the place, date and time of the hearing thereof, and any of the parties fails to appear, the Royal Court may proceed to determine the appeal or reference, as the case may be, in the absence of that party.

(6) Save as otherwise expressly provided in this Order, the procedure at the hearing of an appeal or reference under Part I or II of this Order shall be such as the Royal Court may from time to time determine.

Notification of decision of Royal Court.

9. (1) The decision of the Royal Court on an appeal to it under Part I of this Order shall be in writing, signed and sealed by the Greffier and transmitted by him to the Secretary.

(2) The Secretary shall send to the adjudicator and all parties to the dispute a copy of the decision.

(3) The decision of the Royal Court on a question of law referred to it under Part II of this Order shall be in writing, signed and sealed by the Greffier and transmitted by him to the Secretary.

(4) The Secretary shall send to the adjudicator and all parties to the dispute a copy of the decision.

Notice by post.

10. A document to be transmitted or notified under this Order-

- (a) to the Secretary or the Greffier, may be left at or sent by post to the principal offices of the Board in Guernsey or, as the case may be, the Greffe;
- (b) to any other person, may be served in accordance with section 37 of the Law.

Interpretation.

11. (1) In this Order, except where the context otherwise requires-

"**adjudicator**" means a person appointed to the Adjudicators' Panel drawn up and maintained by the Board under section 16 of the Law;

"**Board**" means the States of Guernsey Board of Industry;

"**dispute**" means the complaint under section 17(1)(a) or (b) of the Law which is the subject of the appeal or reference under Part I or II of this Order;

"**Greffier**" means Her Majesty's Greffier;

"**hearing**" means an oral hearing;

"**Law**" means the Employment Protection (Guernsey) Law, 1998;

"**Royal Court**" means the Royal Court sitting as an Ordinary Court;

"**Secretary**" means the person appointed by the Board as Secretary to the adjudicators under section 26 of the Law;

"**statement of the case**" has the meaning given by article 3(1)(i);

and any other expressions have the same meaning as in the Law.

(2) Any provision of this Order imposing a duty upon the Greffier or the Secretary to perform any act shall (except where a specific time limit is imposed) be construed as requiring the performance of the act as soon as is reasonably practicable.

(3) The Interpretation (Guernsey) Law, 1948(b) shall apply to the interpretation of this Order as it applies to the interpretation of a Guernsey enactment.

(4) Except where the context otherwise requires, any reference in this Order to an enactment is a reference thereto as amended, extended, repealed, replaced or revoked.

Citation.

12. This Order may be cited as the Employment Protection (Appeals and References) Order, 1999.

A. E. BOHAN,
Her Majesty's Deputy Greffier.

(b) Ordres en Conseil Vol. XIII, p. 355.

SCHEDULE

The Employment Protection (Guernsey) Law, 1998

Notice of Appeal to the Royal Court.

To the Secretary to the Adjudicators,
States Board of Industry,
Raymond Falla House,
P. O. Box 459,
Longue Rue,
St Martins,
Guernsey GY4 6HG.

I [*insert full name*]
of [*insert full address*]

being aggrieved by a decision or award of the adjudicator on a question of law given on the day of , 19 [*insert date of decision appealed against*], in respect of a dispute concerning [*give brief description of dispute and names of all other parties*]

under the Employment Protection (Guernsey) Law, 1998, hereby give notice of appeal against the said decision or award.

The contentions of law upon which I rely in support of my appeal are set forth below.

In support of this appeal the following documents are attached hereto [*insert list of all documents sent with this application*].

Dated this day of, 19.....

Signature
(Appellant)

Contentions of law

[N.B. The particulars furnished on this form and all other information and documents sent to the Secretary by or on behalf of an appellant in connection with his or her appeal will be disclosed to all other parties to the dispute.]

**Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey.**

PRICE £2.50