

Orders of the Royal Court.



IV
1964

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 15th day of December, 1964, before Sir William Arnold, Kt., C.B.E., C. St. J., Bailiff; present :— Sir John Leale, Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez, Bertram Guy Blampied, Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Carl Edward Blad, Albert Victor Dorey, Esquires, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier and William Burton Fox, Esquires, Jurats.

No. 4 Order, 1964.

ENTITLED

**The Social Insurance
(Appeals and References) (Guernsey)
Order, 1964**

THE ROYAL COURT, in exercise of the powers conferred upon it by subsection (7) of section forty-eight and subsections (1), (2), (3) and (5) of section fifty-three of the Social Insurance (Guernsey) Law, 1964, and of all other powers enabling it in that behalf, hereby orders:—

PART I

References by the Authority to the Court

Statement of case to be submitted to the Court by the President.

1. (1) If the Authority is of opinion that a question of law has arisen in connection with the determination of a question by it under the provisions of section forty-eight of the Law which should be referred to the Court for decision under subsection (2) of section fifty-three of the Law, the President shall, within seven days of the decision of the Authority so to refer such a question, prepare in writing under his hand a statement (hereafter in this Part of this Order referred to as a "statement of the case") setting out the question of law so to be referred and such particulars of the case as, in his opinion, are relevant to the determination of such question by the Court, and shall transmit it to the Clerk.

(2) The Clerk shall as soon as practicable send the statement of the case duly signed by the President to Her Majesty's Greffier who shall acknowledge in writing to the Clerk the receipt by him thereof.

(3) The Clerk shall as soon as practicable send a copy of the statement of the case and of any amendment made thereto under the provisions of the next succeeding section to the person concerned.

(4) Her Majesty's Greffier shall, within forty-eight hours of the receipt by him of a statement of the case, inform the Bailiff thereof and transmit the statement of the case to him.

Further particulars to be furnished to the Court.

2. The Bailiff may at any time require the President to furnish to Her Majesty's Greffier further particulars in writing, within such time as he may

direct, with regard to any question referred to the Court and may at any time prior to the fixing of the date of the hearing (if any) for the purpose of determining such question allow the amendment of any statement of the case by the President and may extend the time for the preparation of any statement of the case by the President laid down in subsection (1) of section one of this Order.

3. If the Court is of opinion that the question of law can properly be determined on the statement of the case and any further particulars furnished by the President under the last preceding section, the Court may dispense with a hearing and may decide such question on the statement of the case and any further particulars so furnished. Determination by the Court without a hearing.

4. (1) If, in the opinion of the Court, a hearing is required, the Bailiff shall as soon as practicable decide on a date and a time for the hearing and Her Majesty's Greffier shall within forty-eight hours of that decision being made known to him, notify the Clerk thereof: Notice of hearing by the Court.

PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than fourteen clear days after the date of the receipt by Her Majesty's Greffier of the statement of the case referred to in subsection (2) of section one of this Order.

(2) The Clerk shall, within forty-eight hours of the notification to him by Her Majesty's Greffier of the place, date and time of the hearing by the Court, notify the President and the person concerned in writing of the place, date and time of the hearing.

PART II

Appeals from the Authority to the Court

Application
for an
appeal to
the Court.

5. (1) Notice of appeal under subsection (3) of section fifty-three of the Law by any person who is aggrieved by a decision of the Authority on a question of law under the provisions of section forty-eight of the Law shall be in writing in the form set out in the First Schedule to this Order and shall contain a statement of the contentions of law on which the appellant relies.

(2) Notice of appeal shall be sent to the Clerk within three months after the date of the notice of the decision of the Authority.

(3) The Clerk shall furnish the Authority with a copy of the notice of appeal and of the documents attached thereto.

Date of hear-
ing to be
decided by
the Bailiff.

6. (1) The Clerk shall as soon as practicable transmit a copy of the notice of appeal and of the documents attached thereto to Her Majesty's Greffier who shall acknowledge the receipt thereof in writing.

(2) Her Majesty's Greffier shall as soon as practicable transmit the said notice and documents to the Bailiff and the Bailiff shall as soon as practicable decide upon a date and time for the hearing:

PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than fourteen clear days after the date of the receipt by Her Majesty's Greffier of the notice of appeal.

(3) Her Majesty's Greffier shall within forty-eight hours of the receipt of the Bailiff's decision notify the Clerk of the place, date and time of the hearing.

(4) The Clerk shall within forty-eight hours of such notification, notify the Authority and the appellant of the place, date and time of the hearing.

PART III

References by the tribunal to the Court

7. (1) If the tribunal is of opinion that a question of law has arisen, in connection with the determination of a question referred to it under the provisions of section forty-eight of the Law or in connection with the determination of an appeal in accordance with the provisions of an Ordinance made under that section which should be referred to the Court for decision under subsection (7) of section forty-eight of the Law, the chairman shall, within seven days of the decision of the tribunal so to refer such a question, prepare in writing under his hand a statement (hereafter in this Part of this Order referred to as a "statement of the case") setting out the question of law so to be referred and such particulars of the case as, in his opinion, are relevant to the determination of such question by the Court, and shall transmit it to the Clerk.

Statement of case to be submitted to the Court by the chairman.

(2) The Clerk shall as soon as practicable send the statement of the case duly signed by the chairman to Her Majesty's Greffier who shall acknowledge in writing to the Clerk the receipt by him thereof.

(3) The Clerk shall as soon as practicable send a copy of the statement of the case and of any amendment made thereto under the provisions of the next succeeding section to the person concerned.

(4) Her Majesty's Greffier shall, within forty-eight hours of the receipt by him of a statement of the case, inform the Bailiff thereof and transmit the statement of the case to him.

Further particulars to be furnished to the Court.

8. The Bailiff may at any time require the chairman to furnish to Her Majesty's Greffier further particulars in writing, within such time as he may direct, with regard to any question referred to the Court and may at any time prior to the fixing of the date of the hearing (if any) for the purpose of determining such question allow the amendment of any statement of the case by the chairman and may extend the time for the preparation of any statement of the case by the chairman laid down in subsection (1) of section seven of this Order.

Determination by the Court without a hearing.

9. If the Court is of opinion that the question of law can properly be determined on the statement of the case and any further particulars furnished by the chairman under the last preceding section, the Court may dispense with a hearing and may decide such question on the statement of the case and any further particulars so furnished.

Notice of hearing by the Court.

10. (1) If, in the opinion of the Court, a hearing is required, the Bailiff shall as soon as practicable decide on a date and a time for the hearing and Her Majesty's Greffier shall within forty-eight hours of that decision being made known to him, notify the Clerk thereof:

PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than fourteen clear days after the date of the receipt by Her Majesty's Greffier of the statement of the case referred to in subsection (2) of section seven of this Order.

(2) The Clerk shall, within forty-eight hours of the notification to him by Her Majesty's Greffier of the place, date and time of the hearing by the Court, notify the chairman and the person concerned in writing of the place, date and time of the hearing.

PART IV

Appeals from the tribunal to the Court

11. (1) Notice of appeal under subsection (1) of section fifty-three of the Law by any person who is aggrieved by a decision of the tribunal shall be in writing in the form set out in the Second Schedule to this Order and shall contain a statement of the contentions on which the appellant relies.

Application
for an appeal
to the Court.

(2) Notice of appeal shall be sent to the Clerk within three months after the date of the notice of the decision of the tribunal.

(3) The Clerk shall furnish to the Administrator or to the person concerned, as the case may require, a copy of the notice of appeal and of the documents attached thereto.

12. (1) The Clerk shall as soon as practicable transmit a copy of the notice of appeal and of the documents attached thereto to Her Majesty's Greffier who shall acknowledge the receipt thereof in writing.

Date of hear-
ing to be
decided by
the Bailiff.

(2) Her Majesty's Greffier shall as soon as practicable transmit the said notice and documents to the Bailiff and the Bailiff shall as soon as practicable decide upon a date and time for the hearing: PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than fourteen clear days after the date of the receipt by Her Majesty's Greffier of the notice of appeal.

(3) Her Majesty's Greffier shall within forty-eight hours of the receipt of the Bailiff's decision notify the Clerk of the place, date and time of the hearing.

(4) The Clerk shall, within forty-eight hours of such notification, notify the Administrator, the appellant and the person concerned of the place, date and time of the hearing.

PART V

General.

Representa-
tion before
the Court.

13. (1) The person concerned shall be entitled to be present during any hearing before the Court of any reference and may, if called upon to do so by the Court, address the Court in person or by an Advocate of the Royal Court.

(2) The Administrator shall be entitled to be present during any hearing before the Court of any reference and shall be represented by a Law Officer of the Crown.

(3) The appellant, being a person other than the Administrator, shall be entitled to be present during any hearing before the Court of an appeal and to address the Court in person or by an Advocate of the Royal Court.

(4) The person concerned, in the case of an appeal by the Administrator, shall be entitled to be present during any hearing before the Court of an appeal and to address the Court in person or by an Advocate of the Royal Court.

(5) The Administrator, whether as the appellant or otherwise, shall be entitled to be present during any hearing before the Court of any appeal and shall be represented by a Law Officer of the Crown.

Procedure
before the
Court.

14. (1) The Court may if it thinks fit call for such documents and examine any person on oath, affirma-

tion or otherwise as appear likely to afford evidence relevant and material to any question of law to be determined by the Court.

(2) Any party to a reference who is authorised to do so by the Court, and any party to an appeal, may cause a summons to be served on any person, in the same manner as a summons may be served on any person in respect of a civil action before the Court summoning that person to attend any hearing of that Court for the purpose of giving evidence or producing any document likely to assist the Court in determining the question which is the subject of such reference, or appeal, and a person so summoned shall be under a like obligation as to the giving of any evidence and the production of any document as if he were so summoned in respect of such an action.

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

(4) If after it has been proved to the satisfaction of the Court that both of the parties to a reference or appeal, as the case may be, have been notified of the place, date and time of the hearing of the reference or appeal and one or both of the parties fails to appear at that hearing, the Court may proceed to determine the reference or appeal, as the case may be, in the absence of both or either of them.

(5) Save as otherwise expressly provided in this Order, the procedure at the hearing of any reference or appeal shall be such as the Court may from time to time determine.

15. (1) The decision of the Court on any question of law referred to it by the President or chairman, as the case may be, shall be in writing, signed and

Notification
of decision
of the Court.

sealed by Her Majesty's Greffier and shall, forthwith upon the making thereof, be transmitted by him to the Clerk.

(2) The Clerk shall notify the President or chairman, as the case may be, forthwith of the receipt by him of a decision of the Court on any question of law referred to it by the President or chairman and shall send him a copy of that decision.

(3) The decision of the Court on any appeal to it from the tribunal, or the Authority, shall be in writing, signed and sealed by Her Majesty's Greffier and shall, forthwith upon the making thereof, be transmitted by him to the Clerk.

(4) The Clerk shall, as soon as practicable, send both to the Administrator and the appellant or to the person concerned, as the case may be, a copy of the decision of the Court on any appeal to it from the tribunal or the Authority.

Notice by
post.

16. Any notice or other document required to be given or sent to the Authority, to any person, to the Clerk, to the Administrator or to Her Majesty's Greffier under the provisions of this Order shall be deemed to have been given or sent if it were sent by post, in the case of any person, to that person at his ordinary or last known address, or, in the case of the Authority or the Clerk or the Administrator, to the office of the Authority or, in the case of Her Majesty's Greffier, to the Greffe.

Costs.

17. (1) The costs of any reference shall be paid by the Authority.

(2) The costs of any appeal shall be in the discretion of the Court, who may direct to and by whom and in what manner those costs or any part

thereof shall be paid and may settle the amount of costs to be so paid or any part thereof.

18. (1) In this Order, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation.

“ Administrator ” has the same meaning as in the Law;

“ Authority ” has the same meaning as in the Law;

“ chairman ” means the chairman of the tribunal and includes the deputy chairman, as the case may require;

“ Clerk ” means the person appointed as Clerk to the tribunal under the provisions of subsection (4) of section eleven of the Social Insurance (Determination of Claims and Questions) (Guernsey) Ordinance, 1964, who shall perform such duties in connection with references and appeals to which this Order refers as the Authority may direct subject to the provisions of this Order;

“ Court ” means the Royal Court sitting as an Ordinary Court;

“ hearing ” means an oral hearing;

“ the Law ” means the Social Insurance (Guernsey) Law, 1964;

“ parties to an appeal ” means the Administrator and the appellant or the person concerned, as the case may be, and “ parties to a reference ” means the Administrator and the person concerned;

“ person concerned ” means:—

(i) in relation to any reference under subsection (2) of section fifty-three of the Law,

the person (other than the Administrator) who has made application to the Authority for the determination of a question in accordance with the Social Insurance (Determination of Claims and Questions) (Guernsey) Ordinance, 1964;

- (ii) in relation to any appeal by the Administrator under subsection (1) of section fifty-three of the Law, the person who has appealed to the tribunal against the decision of the Administrator under paragraph (b) of subsection (5) of section forty-eight of the Law;
- (iii) in relation to any reference under subsection (7) of section forty-eight of the Law, the person who has made application to the Administrator for the determination of a question in accordance with the Social Insurance (Determination of Claims and Questions) (Guernsey) Ordinance, 1964, or has appealed in accordance with the provisions of section nine of that Ordinance; or
- (iv) in relation to any appeal under subsection (3) of section fifty-three of the Law, the person aggrieved by the decision of the Authority;

“President” means the President of the Authority;

“tribunal” means a tribunal constituted in accordance with section seven of the Social Insurance (Determination of Claims and Questions) (Guernsey) Ordinance, 1964.

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

(3) Except where the context otherwise requires, any reference in this Order to any enactment or regulations shall be construed as including a reference to that enactment or those regulations as amended, extended, repealed, replaced or revoked by or under any other enactment or by any other regulations.

19. This Order may be cited as the Social Insurance (Appeals and References) (Guernsey) Order, 1964, and shall come into force on the fourth day of January, nineteen hundred and sixty-five. Short title and commencement.

FIRST SCHEDULE

The Social Insurance (Guernsey) Law, 1964.

Notice of Appeal to the Royal Court.

To the Clerk of Appeals,
States Insurance Authority,
P.O. Box No. 39,
St. Peter Port,
Guernsey.

I, _____ of _____ being
aggrieved by a decision of the Authority on a ques-
tion of law given on _____ the
_____ day of _____,
19 _____, in respect of* _____,
under the Social Insurance (Guernsey) Law, 1964,
hereby give notice of appeal against the said decision.

The contentions of law upon which I rely in sup-
port of my appeal are set forth in the particulars
hereto attached.

In support of this appeal the following documents
are attached hereto.

(Insert list of all documents sent with application).

Dated this _____ day of _____,
19 _____.

Signature

* Give brief description of issue involved and the name of the
person concerned.

Particulars in support of appeal

N.B.—The particulars furnished on this form and
all other information which may be sent to
the Clerk of Appeals by or on behalf of an
appellant in connection with his or her appeal
will be disclosed to the Authority.

SECOND SCHEDULE

The Social Insurance (Guernsey) Law, 1964.

Notice of Appeal to the Royal Court.

To the Clerk of Appeals,
States Insurance Authority,
P.O. Box No. 39,
St. Peter Port,
Guernsey.

I, _____ of _____ being
aggrieved by a decision of a tribunal given on
the _____ day of _____
, 19 _____, in respect of the

claim to*

on behalf of†

under the Social Insurance (Guernsey) Law, 1964,
hereby give notice of appeal against the said decision.

The contentions upon which I rely in support of
my appeal are set forth in the particulars hereto
attached.

In support of this appeal the following documents
are attached hereto.

(Insert list of all documents sent with application).

Dated this _____ day of _____,
19 _____.

Signature

* Insert description of benefit.

† Insert name of claimant.

Particulars in support of appeal

N.B.—The particulars furnished on this form and
all other information which may be sent to
the Clerk of Appeals by or on behalf of an
appellant in connection with his or her appeal
will be disclosed to the Authority.

R. H. VIDELO,
Her Majesty's Greffier.