

Orders of the Royal Court

IV
1990



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 11th day of December, 1990 before Graham Martyn Dorey, Esquire, Deputy Bailiff; present:—Harry Wilson Bisson, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Raymond Arthur Heaume, Esquires. Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley, Kenneth John Rowe and Lawrence Oscar Ozanne, Esquires, Jurats.

No. 4 Order, 1990

ENTITLED

The Health Service (Appeals, etc.) Rules, 1990

THE ROYAL COURT, in exercise of the powers conferred upon it by sections 27, 28 and 29 of the Health Service (Benefit) (Guernsey) Law, 1990(a), and of all other powers enabling it in that behalf, hereby orders:—

(a) Ordre en Conseil No. XXIV of 1990.

PART 1

Submission by Tribunal to Court

Statement of case to be submitted

1. (1) If the Tribunal decides that a question of law described in section 27(1) of the Law should be submitted for decision to the Court, the Chairman shall, within seven days of the Tribunal so deciding or such other period as the Bailiff may direct, prepare and transmit to the Clerk a written statement (a “statement of the case”) setting out the question of law and such particulars of the case as, in his opinion, are material.

(2) The statement of the case shall be signed by the Chairman.

(3) The Clerk shall as soon as practicable—

- (a) send the statement of the case to the Greffier, who shall acknowledge receipt thereof in writing;
- (b) send a copy of the statement of the case, and of any amendment made thereto under Rule 2, to the Administrator and the claimant.

(4) The Greffier shall as soon as practicable transmit the statement of the case to the Bailiff.

Further particulars to be furnished

2. The Bailiff may require the Chairman to give further particulars of the case within such time as he may direct and may, prior to fixing the date of the hearing (if any), allow the amendment of the statement of the case.

Determination by Court without a hearing

3. The Court may dispense with a hearing if of the opinion that the question of law can properly be decided solely by reference to the statement of the case and any further particulars given under Rule 2.

Notice of hearing

4. If in the Court's opinion a hearing is required—
- (a) the Bailiff shall fix a time, date and place for the hearing;
 - (b) the Greffier shall, as soon as practicable, notify the Clerk thereof; and
 - (c) the Clerk shall, within 48 hours, inform the Chairman, Administrator and claimant in writing accordingly.

PART II

Appeals from Tribunal to Court

Notice of appeal from Tribunal

5. (1) Notice of appeal under section 28 of the Law by the Administrator or person aggrieved ("the appellant") shall be in the form set out in the Schedule 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 Tribunal.

(3) The Clerk shall as soon as practicable—

- (a) send the notice of appeal and all documents attached thereto to the Greffier, who shall acknowledge receipt thereof in writing;

- (b) send a copy of the said notice and documents to the opposite party to the appeal, being the claimant or Administrator (“the respondent”).

(4) The Greffier shall as soon as practicable transmit the said notice and documents to the Bailiff and thereupon—

- (a) the Bailiff shall fix a time, date and place for the hearing;
- (b) the Greffier shall, as soon as practicable, notify the Clerk thereof; and
- (c) the Clerk shall, within 48 hours, inform the Appellant and Respondent in writing accordingly.

PART III

General

Representation before Court

6. (1) The claimant may be present during any hearing and may, if called upon by the Court, address the Court in person, by a friend or by an Advocate of the Royal Court.

(2) The Administrator may be present during any hearing and may, if called upon by the Court, address the Court in person or by a Law Officer of the Crown.

Procedure before Court

7. (1) The Court may if it thinks fit call for such documents and examine (on oath, affirmation or otherwise) such persons as appear likely to afford evidence relevant and material to any question of law to be determined.

(2) Either party may, if authorised to do so by the Court, cause a summons to be served on any person, in the same manner as if the hearing were a civil action before the Court, summoning that person to give any evidence or produce any document likely to assist the Court in deciding any question of law to be determined.

(3) The Court may if it thinks fit adjourn a hearing.

(4) If a party fails to appear and the Court is satisfied that he has been notified of the time, date and place of the hearing, the Court may proceed in his absence.

(5) Save as otherwise expressly provided in these Rules, the procedure at a hearing shall be determined by the Court.

Notification of decision of Court

8. (1) The decision of the Court in respect of a submission or appeal under section 27 or 28 of the Law shall be in writing, signed and sealed by the Greffier and transmitted by him to the Clerk.

(2) The Clerk shall inform the Chairman, Administrator and claimant forthwith of the Court's decision.

Service of documents

9. Any notice or document to be served, given or sent under these Rules may be served, given or sent in accordance with section 37 of the Law.

Interpretation

10. (1) In these Rules, unless the context excludes—

“the Authority” means the States Insurance Authority;

“the Administrator” means the Administrator to the Authority;

“the Chairman” means the Chairman or Deputy Chairman of the Tribunal;

“the Clerk” means the person appointed by the Authority to the office of Clerk to the Tribunal;

“the claimant” means the person in relation to whose claim for benefit under the Law the submission or appeal under section 27 or 28 of the Law is made;

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

“hearing” means the hearing by the Court of a submission under section 27 of the Law or an appeal under section 28 thereof;

“the Law” means the Health Service (Benefit) (Guernsey) Law, 1990;

“party” means a party to the hearing, being the Administrator or claimant;

“statement of the case” has the meaning given by Rule 1(1);

“the Tribunal” means the Tribunal constituted under section 80 of the Social Insurance (Guernsey) Law, 1978(b);

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

(2) The Interpretation (Guernsey) Law, 1948(c) applies to the interpretation of these Rules as it applies to the interpretation of an enactment.

(b) Ordres en Conseil Vol. XXVI, p. 292.

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

(3) Except where the context excludes, any reference in these Rules to an enactment or rule are references thereto as amended, replaced, applied or extended.

Citation

11. These Rules may be cited as the Health Service (Appeals, etc.) Rules, 1990.

Commencement

12. These Rules shall come into force on 1st January, 1991.

SCHEDULE

The Health Service (Benefit) (Guernsey) Law, 1990

Notice of Appeal to the Royal Court

To: The Clerk to the Tribunal
P.O. Box 43,
States Office,
North Esplanade,
St. Peter Port,
Guernsey.

I, _____ of _____
being aggrieved by a decision of the Tribunal given on the
day of _____, 19____, in respect of a claim for*
_____ on behalf of#
under the Health Service (Benefit) (Guernsey) Law, 1990,
hereby give notice of appeal against the said decision.

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

