

Orders of the Royal Court.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

V

1950

The 15th day of July, 1950, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present: Osmond Priaulx Gallienne, Esquire, Ernest de Garis, Esquire, O.B.E., Sir John Leale, James Frederick Carey, Arthur Falla, Quartier Le Pelley, Walter John Sarre, Esquires, Richard Henry Johns, Esquire, O.B.E., William Robert Freake Clark, Walter John Gavey and Ernest Francis Lainé, Esquires, Jurats.

**Orders of the Royal Court made in
pursuance of Article 64 of the Reform
(Guernsey) Law, 1948.**

No. 5 Order, 1950.

ENTITLED

“Procedure for the determination of appeals and references (including references for the reconsideration of a decision) to the Royal Court under section 5 of the Family Allowances (Guernsey) Law, 1950”

PART I.

References by the tribunal to the Court.

1. (1) If the tribunal is of opinion that a question of law has arisen, in connection with the determination of an appeal by it, which should be referred to the Court for decision under subsection (3) of section 5 of the Law, the Chairman shall, within 7 days of the deci-

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

sion 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.

(2) The Registrar shall as soon as practicable send the statement of the case duly signed by the Chairman to the Greffier who shall acknowledge in writing to the Registrar the receipt by him thereof.

(3) The Registrar 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 paragraph both to the Administrator and to the person concerned.

(4) The Greffier shall, within 48 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 Chairman to furnish to the 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 subparagraph (1) of paragraph 1 of this Order.

Determination by the Court without a hearing.

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 Chairman, under the last preceding paragraph, the Court may dispense with a hearing and may decide such question on the statement of the case and any further particulars so furnished.

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 the Greffier shall within 48 hours of that decision being made known to him, notify the Registrar thereof:

Notice of hearing by the Court.

PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than 14 clear days after the date of the receipt by the Greffier of the statement of the case referred to in subparagraph (2) of paragraph 1 of this Order.

(2) The Registrar shall, within 48 hours of the notification to him by the Greffier of the place, date and time of the hearing by the Court, notify the Chairman, the Administrator and the person concerned in writing of the place, date and time of the hearing.

PART II.

Appeals from the tribunal to the Court.

5. (1) Notice of appeal under subsection (4) of section 5 of the Law by any person who is aggrieved by a decision of the tribunal on a question of law shall be in writing in the form set out in the Schedule to this Order and shall contain a statement of the contentions of law on which the appellant relies.

Application for an appeal to the Court.

(2) Notice of appeal shall be sent to the Registrar within 28 days after the date of the notice of the decision of the tribunal.

(3) The Registrar 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.

6. (1) The Registrar shall as soon as practicable transmit a copy of the notice of appeal and of the documents attached thereto to the Greffier who shall acknowledge the receipt thereof.

Date of hearing to be decided by the Bailiff.

(2) The 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 14 clear days after the date of the receipt by the Greffier of the notice of appeal.

(3) The Greffier shall within 48 hours of the receipt of the Bailiff's decision notify the Registrar of the place, date and time of the hearing.

(4) The Registrar shall within 48 hours of such notification, notify the Administrator, the appellant and the person concerned of the place, date and time of the hearing.

PART III.

References by the Administrator to the Court for the reconsideration of a decision by the Court.

Application
for recon-
sideration of
a decision
by the Court.

7. (1) Where it appears to the Administrator that a decision of the Court should be referred to the Court for reconsideration under subsection (8) of section five of the Law, he shall make application to that effect in writing to the Registrar setting out the decision and the facts and considerations which appear to him to justify reconsideration of that decision.

(2) On receipt of such an application the Registrar shall forthwith send a copy thereof to the person concerned with the request that he shall within 14 days of the receipt thereof submit to the Registrar such observations (if any) for the consideration of the Court as he may think fit.

(3) The Registrar shall, not earlier than 16 days after he has sent a copy of the Administrator's application to the person concerned, send a copy of the application and of the observations of the person concerned (if any) to the Greffier.

(4) The Greffier shall, within 48 hours of the receipt thereof, send the copy of the application and of the observations of the person concerned (if any) to the Bailiff.

8. (1) If the Court is of opinion that an application for reconsideration by the Administrator can be determined without a hearing, the Court may dispense with a hearing and may so determine on the particulars before it.

Determination by the Court without a hearing.

(2) If, in the opinion of the Court, a hearing is required, the Bailiff shall as soon as practicable decide on a date and time for the hearing and the Greffier shall within 48 hours of that decision being made known to him, notify the Registrar thereof:

PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than 14 clear days after the receipt by the Greffier of the application referred to in subparagraph (3) of paragraph 7 of this Order.

(3) The Registrar shall within 48 hours of such notification, notify the Administrator and the person concerned of the place, date and time of the hearing.

PART IV.

General.

9. (1) The person concerned shall be entitled to be present during any hearing before the Court of any reference (which expression includes for the purposes of this Part of this Order a reference by the Administrator to the Court under subsection (8) of section 5 of the Law) and may, if called upon to do so by the Court, address the Court in person, by a friend or by an Advocate of the Court.

Representation before the Court.

(2) The Administrator 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, by a Law Officer of the Crown or by such officer of the Authority as he may appoint for the purpose.

(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, by a friend or by an Advocate of the 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, by a friend or by an Advocate of the 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 to address the Court in person, by a Law Officer of the Crown or by such officer of the Authority as he may appoint for the purpose.

Procedure
before the
Court.

10. (1) The Court may if it thinks fit call for such documents and examine such persons (including the Chairman) on oath, affirmation 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 sitting as an Ordinary 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 of law 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.

11. (1) The decision of the Court on any question of the law referred to is by the tribunal shall be in writing, signed and sealed by the Greffier and shall, forthwith upon the making thereof, be transmitted by him to the Registrar. Notification of decision of the Court.

(2) The Registrar shall notify the Chairman forthwith of the receipt by him of a decision of the Court on any question of law referred to it by the tribunal, and shall send him a copy of that decision.

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

(4) The Registrar 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.

(5) The decision of the Court on a reference by the Administrator for the reconsideration of a previous decision by it shall be in writing, signed and sealed by the Greffier and shall forthwith upon the

making thereof, be transmitted by him to the Registrar.

(6) The Registrar shall notify the Administrator and the person concerned forthwith of the receipt by him of a decision of the Court on the reconsideration of a previous decision by it, and shall send to each of them a copy of that decision.

Notice by
post.

12. Any notice or other document required to be given or sent to any person, to the Registrar, to the Administrator or to the 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 Registrar or the Administrator, to the office of the Authority or, in the case of the Greffier, to the Greffe.

Costs.

13. (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.

Interpreta-
tion.

14. (1) In this Order unless the context otherwise requires—

“ 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;

“ Court ” means the Royal Court of the Island of Guernsey;

“ hearing ” means an oral hearing;

“ Law ” means “ The Family Allowances (Guernsey) Law, 1950 ”;

“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, in relation to any reference under subsection (3) of section five of the Law and to any appeal by the Administrator, the person who has appealed to the tribunal against the decision of the Administrator under subsection (2) of section 5 of the Law and, in relation to any reference under subsection (8) of section 5 of the Law, the person (other than the Administrator) who was a party to an appeal to the Court when the decision, due for reconsideration, was made;

“Registrar” means the Registrar or a deputy Registrar of Appeals appointed by the Authority under the Family Allowances (Guernsey) (Appeals and References) Regulations, 1950, 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;

“tribunal” means a tribunal appointed by the Court under subsection (2) of section 5 of the Law;

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

(3) References in this Order to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment or regulations.

15. This Order may be cited as the Family Allowances (Appeals and References) (Guernsey) Order, 1950, and shall come into force on the 15th day of July, 1950. Short title and commencement.

SCHEDULE.

Family Allowances (Guernsey) Law, 1950.
Notice of Appeal to the Royal Court.

To the Registrar of Appeals,
States Insurance Department,
St. Peter Port,
Guernsey.

I, _____ of _____ being
aggrieved by a decision of a tribunal on a question of
law given on _____ the _____ day
of _____, 19____, in respect of the
*claim/allowance of _____, under
the Family Allowances (Guernsey) Law, 1950, hereby
give notice of appeal against the said decision.

The contentions of law 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

*Strike out whichever is inapplicable.

Particulars in support of Appeal.

N.B.—The particulars furnished on this form and all
other information which may be sent to the
Registrar of Appeals by or on behalf of an
appellant in connection with his or her appeal
will be disclosed to the Administrator. A copy
of the tribunal's decision must be furnished.

JAMES E. LE PAGE,
H.M. Greffier.