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GUERNSEY STATUTORY INSTRUMENT

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1978 - No. 25

The Social Insurance (Residence and Persons Abroad) (Guernsey)  
Regulations, 1978

Made ... .. 4th December, 1978  
Laid before the States ... ..  
Coming into operation ... .. 1st January, 1979

THE STATES INSURANCE AUTHORITY, in exercise of the powers conferred upon it by section one, section twenty-seven, section thirty-seven, section sixty-seven and section ninety-eight of the Social Insurance (Guernsey) Law, 1978, and by Part II of the Fourth Schedule to that Law, and in exercise of all other powers enabling it in that behalf, hereby orders:-

Interpretation

1.(1) In these regulations, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:-

"contributions" has the same meaning as in the Law;

"the Contributory Pensions Laws" means the Contributory Pensions (Guernsey) Laws, 1935 to 1962;

"the Law" means the Social Insurance (Guernsey) Law, 1978;

"share fisherman" means any person who is a share fisherman within the meaning of the Social Insurance

(Classification)(Guernsey) Regulations, 1978;

"week" means a contribution week;

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

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be construed as including a reference to that enactment or those regulations, as the case may be, as amended, extended, repealed, replaced or revoked by or under any other enactment or by any other regulations.

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

Condition as to residence in Guernsey

2. For the purposes of paragraph (b) of subsection (1) of section one of the Law, the condition as to residence in Guernsey shall be that a person must have been resident in Guernsey for a continuous period of twenty-six weeks terminating after the appointed day and on or after attaining school-leaving age:

Provided that -

(a) this condition shall not apply to the following persons as from the respective dates mentioned below:-

(i) (subject to the provisions of paragraphs (b) and (c) of this proviso) in the case of a person who, but for the foregoing provision, would be an employed person, as from the date on which he becomes such a person;

- (ii) in the case of a person who, but for the said foregoing provision, would be a self-employed person or a non-employed person and who notifies the Authority that this condition shall not apply to him, as from the date of such notification;
  - (iii) in the case of a person over school-leaving age and under the age of eighteen who came to Guernsey for the purpose of receiving full-time education, as from the date of the commencement of such education, or, if the education commenced before, and was still existing on, the appointed day, as from that day;
- (b) where an employed person to whom the provisions of sub-paragraph (i) of paragraph (a) of this proviso would otherwise apply is not ordinarily resident in Guernsey and either the employer of that person is not so ordinarily resident or the employer's principal place of business is not in Guernsey, the foregoing condition shall apply with the substitution of fifty-two weeks or such longer period as the Authority may in any particular case think fit, (weeks commencing before the appointed day being disregarded) for twenty-six weeks, if, in the country in which the employed person is ordinarily resident, payments by the employer or the employed person in respect of the period of the employment are being made for the purpose of enabling him to qualify for benefits substantially similar to benefits provided under the Law;

- (c) where a person in relation to whom the provisions of the said sub-paragraph (i) would otherwise apply is not ordinarily resident in Guernsey, the foregoing condition shall apply if during a vacation occurring in a course of full-time studies which he is pursuing outside Guernsey, he is gainfully occupied under a contract of service in Guernsey in temporary employment of a nature similar or related to that course of studies.

Payment of contributions in respect of periods abroad

3.(1) Where a person employed in an employed contributor's employment ceases to be so employed in Guernsey but is employed (whether by the same or a different employer) outside Guernsey in continuation of an employed contributor's employment, that employment outside Guernsey shall be treated as an employed contributor's employment for the period mentioned in sub-paragraph (a) of paragraph (2) of this regulation, as being the period for which contributions are payable in respect of the earnings paid to that person in respect of that employment, provided the employer has a place of business in Guernsey, and the person concerned is ordinarily resident therein.

(2) Where under paragraph (1) of this regulation employment outside Guernsey is treated as an employed contributor's employment, the following provisions shall apply with respect to the payment of contributions:-

- (a) primary and secondary Class 1 contributions shall be payable in respect of any payment of earnings for the employment outside Guernsey during the period of fifty-two weeks from the beginning of the week on which that employment begins to the same extent as that to which such contributions would have been payable if the employment had been in Guernsey;

(b) after the completion of the period mentioned in sub-paragraph (a) of this paragraph, the insured person shall, for any week thereafter during the whole of which he is outside Guernsey be entitled to pay a Class 3 contribution if in that week he is under the age of sixty-five.

(3) Where a person to whom sub-paragraph (b) of the last foregoing paragraph is applicable returns to Guernsey, becomes entitled to an old age pension or dies, any reckonable Class 3 contribution derived from a Class 3 contribution paid (whether before or after any such event) in accordance with the provisions of that sub-paragraph shall be treated as if it were a reckonable Class 1 contribution paid by him:

Provided that in respect of each contribution year commencing on or after the appointed day during the whole of which he was outside Guernsey not less than forty-five reckonable contributions of any class have been paid by or credited to him.

Class 2 and Class 3 contributions in respect of periods outside Guernsey

4.(1) Where an insured person is throughout any contribution week outside Guernsey and is not in that week an employed person, he shall not be liable to pay any Class 2 or Class 3 contributions for that week:

Provided that this paragraph shall not apply to a share fisherman as respects any week throughout which he is outside Guernsey in connection with his employment as a share fisherman.

(2) Subject to the condition specified in paragraph (3) of this regulation, an insured person shall, for any week during the whole of which he is outside Guernsey, and for which by virtue of paragraph (1) of this regulation he is not liable to pay a Class 2 or Class 3 contribution, be entitled to pay a Class 3 contribution or, if he so desires and is gainfully occupied in that week, a Class 2 contribution in accordance with subsection (2) of section six of the Law.

(3) The condition referred to in the last foregoing paragraph is that not less than one hundred and fifty-six reckonable contributions of any class

had been paid by him.

(4) Any contribution which a person is entitled to pay under paragraph (2) of this regulation may be paid not later than the end of the sixth contribution year following the contribution year which includes the contribution week in respect of which it is payable.

(5) This regulation shall not apply to a person to whom the provisions of sub-paragraph (b) of paragraph (2) of regulation three of these regulations are applicable.

Crediting of contributions in respect of periods outside Guernsey

5. Where a person is by virtue of the provisions of these regulations not liable to pay a contribution for any week during the whole of which he is absent from Guernsey and would but for those provisions have been excepted from liability for and credited with a contribution for that week under the provisions of regulation thirteen or regulation thirty-nine of the Social Insurance (Contributions)(Guernsey) Regulations, 1978, that person shall be entitled to be credited with such contribution as if those regulations applied to his case.

Modifications of the Law in relation to sickness benefit, invalidity benefit, maternity allowance and industrial injury benefit

6. A person shall not, during such period as may be allowed by or on behalf of the Authority, be disqualified for receiving sickness benefit, invalidity benefit, maternity allowance or industrial injury benefit by reason of being temporarily absent from Guernsey if -

- (a) the absence is for the specific purpose of being treated for incapacity which commenced before he left Guernsey;
- (b) on the day on which the absence began he was, and had for the past six months continuously been, incapable of work, and on the day for which benefit is claimed he has been continuously so incapable since the absence began.

Modifications of the Law in relation to widow's benefit, old age pension, guardian's allowance, child's special allowance and industrial disablement benefit

7. A person shall not be disqualified for receiving widow's benefit, an old age pension, guardian's allowance, child's special allowance or industrial disablement benefit by reason of being absent from Guernsey.

Modifications of the Law in relation to limited medical benefit and industrial medical benefit

8. A person shall not, during such period as may be allowed by or on behalf of the Authority, be disqualified for receiving limited medical benefit or industrial medical benefit by reason of being temporarily absent from Guernsey if -

- (a) the absence is for the specific purpose of being treated for the relevant injury and if the relevant accident occurred before he left Guernsey;
- (b) the relevant accident occurred during a period of absence from Guernsey in connection with his employment in a gainful occupation; or
- (c) as respects industrial medical benefit, he is a person to whom paragraph (2) of regulation three of these regulations apply.

Modifications of the Law in relation to maternity grant

9.(1) Subject to the provisions of this regulation, a woman shall not be disentitled to a maternity grant by reason of the fact that on the date of the confinement she is outside Guernsey if -

- (i) not less than forty-five reckonable contributions of any class have been paid by, or credited to, the relevant person in respect of the last complete contribution year before the relevant time; and

- (ii) before the week in which the confinement occurs not less than one hundred and fifty-six reckonable contributions of any class have been paid by the relevant person;

and any such woman shall, in addition, not be disqualified for receiving a maternity grant by reason of her being absent from Guernsey.

(2) For the purposes of paragraph (1) of this regulation "relevant person" means the person by whom the contribution conditions are to be satisfied; and the expression "relevant time" means the date of the confinement, or where the relevant person is the husband and he was dead or over pensionable age on that date, the date of his attaining pensionable age or dying under that age.

(3) The provision of paragraph (1) of this regulation shall not apply -

- (a) to a maternity grant payable to a woman by virtue only of her husband's insurance, unless at the time of the confinement she is residing with her husband, or, if he is dead, unless she was residing with him at the time of his death; or
- (b) to a maternity grant in respect of expectation of a woman's confinement.

Modifications of the Law in relation to travelling allowance grant

10. A person shall not be disqualified for receiving travelling allowance grant by reason of his absence from Guernsey.

Modifications of the Law in relation to death grant

11. Subject to the provisions of the Law and of these regulations, a death grant shall be payable in respect of a death occurring outside Guernsey if the conditions contained in any one of the following paragraphs are satisfied, namely:-

- (a) that the deceased immediately before death was, or but for any failure to make a claim would have been, entitled to sickness benefit, invalidity benefit or industrial injury benefit;
- (b) that the deceased immediately before death was, or but for any failure to make a claim would have been, entitled to widow's benefit or an old age pension, or was a child in respect of whom a child's special allowance or a guardian's allowance was payable;
- (c) that the deceased was immediately before death a person who was treated as if he had not attained pensionable age by virtue of paragraph (1) of regulation thirty-five of the Social Insurance (Benefits)(Transitional Provisions)(Guernsey) Law, 1978;
- (d) that the deceased immediately before death was entitled to industrial disablement benefit under the Law;
- (e) that the deceased immediately before death was liable or entitled, as the case may be, to pay contributions under the provisions of paragraph (2) of regulation three of these regulations or paragraph (2) of regulation four of these regulations and not less than forty-five reckonable contributions of any class were paid by or credited to him in respect of a contribution year, being either the last complete contribution year before his death or the contribution year immediately preceding that year;
- (f) that the deceased immediately before death was employed as a mariner within the meaning of paragraph (1) of regulation one of the Social Insurance (Mariners)(Guernsey) Regulations, 1978, (other than a mariner excepted from insurance by paragraph (2) of regulation two of those

regulations), or was a person who (then being otherwise entitled to unemployment benefit, or then being so entitled but for any failure to make a claim) by virtue of the provisions of the said regulation was not disqualified for receiving any such benefit by reason of his absence from Guernsey;

- (g) that the deceased immediately before death was the wife, husband or child (to whom the provisions of subsection (1) of section thirty-seven of the Law are applicable) of a person who, had he then died, would have satisfied the conditions contained in any one of the foregoing paragraphs, and such wife, husband or child, as the case may be, was then resident with that person and for this purpose the expression "child of the family" contained in the said subsection (1) shall be deemed to include a child who would be included in that expression but for the provisions of subsection (3) of section twenty-two of the Family Allowances Law;
- (h) that the deceased immediately before death was ordinarily resident in Guernsey, and the death occurred within a period of thirteen weeks from the date when he last left Guernsey;
- (i) that the deceased was a woman who immediately before death was living with her husband and both of them were ordinarily resident in Guernsey;
- (j) that the deceased was a child who immediately before death was the child of the family of an insured person who was ordinarily resident in Guernsey; or
- (k) that the deceased died during or as the result of a confinement in respect of which she was not, or but for any failure to make a claim would not have been,

disqualified for receiving maternity benefit (to which she was otherwise entitled) by reason of her absence from Guernsey.

Modification of the Law in relation to a dependant

12. A husband or wife shall not be disqualified for receiving any increase (where payable) of benefit in respect of his or her spouse by reason of the spouse's being absent from Guernsey, provided that the spouse is residing with the husband or wife, as the case may be.

Application of disqualification in respect of additional benefit

13.(1) Where regulations made in consequence of an Ordinance under subsection (1) of section nineteen or subsection (4) of section forty-nine of the Law provide for the application of this regulation to any additional benefit becoming payable by virtue of that Ordinance or those regulations, the following provisions of this regulation shall, subject to the provisions of those regulations, have effect in relation to the entitlement to that benefit of persons absent from Guernsey.

(2) In this regulation -

- (a) references to additional benefit of any description are to be construed as referring to additional benefit of that description which is, or but for this regulation would be, payable by virtue of such Ordinance as mentioned in paragraph (1) of this regulation or any regulations made in consequence of such Ordinance;
- (b) "the relevant day" means the day appointed for the coming into force of such Ordinance; and
- (c) "old age pension" includes a contributory old age pension.

(3) Where a person is not ordinarily resident in Guernsey immediately before the relevant day, the provisions of these regulations (except this regulation) shall not, unless and until he becomes ordinarily resident in Guernsey or is present in Guernsey, affect his disqualification while he is absent from Guernsey for receiving -

- (a) in the case where that person was, immediately before the relevant day, entitled to an old age pension, any additional old age pension;
- (b) in the case where that person is a married woman who, immediately before the relevant day, was not entitled to an old age pension and whose husband was then entitled to an old age pension and not ordinarily resident in Guernsey, any additional widow's benefit or additional old age pension by virtue of her husband's insurance;
- (c) in the case of a married woman who, immediately before the relevant day, was entitled to widow's benefit or an old age pension by virtue of her husband's insurance, any additional widow's benefit or additional old age pension by virtue of her husband's insurance;
- (d) in the case where that person was, immediately before the relevant day, entitled to industrial disablement benefit, any additional industrial disablement benefit.

(4) Where a person is not ordinarily resident in Guernsey immediately before the relevant day and is entitled to a guardian's allowance or child's special allowance in respect of any child immediately before that day, the provisions of these regulations (except this regulation) shall not affect the disqualification of any person who would otherwise be entitled to additional guardian's allowance or child's special allowance in respect of that child

for receiving such additional benefit unless and until that child becomes (or is) included in the family of a person who is ordinarily resident in Guernsey.

(5) This regulation shall not apply in relation to a woman who, immediately before the relevant day, is entitled to an old age pension by virtue of her own insurance or to an old age pension by virtue of her husband's insurance, as respects an old age pension by virtue of her husband's insurance, or to an old age pension by virtue of her own insurance, as the case may be, to which she thereafter becomes entitled.

(6) For the purpose of this regulation, a person shall be treated as entitled to any benefit immediately before the relevant day if he would then have been so entitled but for any one or more of the following causes, namely -

- (a) any delay or failure to make a claim;
- (b) any disqualification for the receipt of benefit;
- (c) the cohabitation of a widow with a man as his wife;
- (d) the absence of any child from Guernsey;
- (e) the provision of subsection (6) of section thirty-three of the Law.

(7) For the purposes of this regulation, an old age pension by virtue of a widow's own insurance to which she becomes entitled by virtue of subsection (3) of section thirty-three of the Law shall be treated as if it were an old age pension by virtue of her husband's insurance.

(8) For the purposes of this regulation, any reference to "Guernsey" shall be deemed to include a reference to the Island of Sark.

Administrative arrangements as to contributions and benefits in respect of persons absent from Guernsey

14.(1) Contributions and benefit which are payable by virtue of these regulations in respect of a person who is not present in Guernsey shall be paid and collected, or, as the case may be, paid, at such times and in such

manner and subject to the furnishing of such information and evidence as may be determined by or on behalf of the Authority from time to time.

(2) Any option which may be exercised by virtue of regulation three or regulation four of these regulations shall be made in writing and addressed to the Authority.

Repeals

15. The Social Insurance (Residence and Persons Abroad)(Guernsey) Regulations, 1964, the Social Insurance (Residence and Persons Abroad) (Amendment)(Guernsey) Regulations, 1971, the Social Insurance (Residence and Persons Abroad)(Amendment)(Guernsey) Regulations, 1975, and the Social Insurance (Residence and Persons Abroad)(Amendment)(Guernsey) Regulations, 1976, are hereby repealed.

Citation

16. These regulations may be cited as the Social Insurance (Residence and Persons Abroad)(Guernsey) Regulations, 1978.

Commencement

17. These regulations shall come into operation on the first day of January, nineteen hundred and seventy-nine.

Dated this       fourth                   day of       December               , nineteen  
hundred and seventy-eight.

E.H. BODMAN

President of the States Insurance Authority,  
for and on behalf of the Authority.

## EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport).

These regulations deal with three main subjects, namely, (1) the condition as to residence in Guernsey which must ordinarily be complied with before a person can become insured under the Social Insurance (Guernsey) Law, 1978 (regulation two); (2) payment of and crediting of contributions in respect of periods abroad (regulations three to five); and (3) the removal in some cases of the disqualification under section sixty-seven of the said Law for the receipt of benefit and increase of benefit for periods of absence from Guernsey (regulations six to thirteen).