

GUERNSEY STATUTORY INSTRUMENT

1978 - No. 29

The Social Insurance (Unemployment, Sickness and Invalidity Benefit)(Guernsey)  
Regulations, 1978

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

THE STATES INSURANCE AUTHORITY, in exercise of the powers conferred upon it by section twenty, section twenty-three, section twenty-four, section twenty-six, section thirty-nine and section sixty of the Social Insurance (Guernsey) Law, 1978, and by Part II of the Fourth Schedule to that Law, and 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:-

"appointed day" means the first day of January, nineteen hundred and seventy-nine;

"the Benefit Transitional Regulations" means the Social Insurance (Benefit)(Transitional) Regulations, 1978;

"the determining authority" means the Administrator or the Tribunal, as the case may require;

"former contributor" means a person who was insured under the Law of 1964;

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

"relevant contribution year" means the last complete contribution year before the benefit year which includes the day

for which benefit is claimed;

"transitional benefit year" and "transitional contribution year"

have the same meanings respectively as they have in the

Benefits Transitional Regulations;

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shall be construed as including a reference to that enactment or those regulations, as the case may be, as amended, repealed, replaced or revoked by or under any other enactment or by any other regulations.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.

Reckonable contributions treated as equivalent to reckonable contributions of the appropriate class

2.(1) Subject to paragraph (2) of this regulation, where a person makes a claim for unemployment benefit, sickness benefit or invalidity benefit for a day which forms parts of a period of interruption of employment and there have been paid by or credited to the claimant not less than thirty-nine reckonable contributions of the appropriate class in respect of the relevant contribution year, every reckonable contribution which is not a reckonable contribution of the appropriate class and which has been paid by or credited to the claimant in respect of the relevant contribution year shall, for the purpose of his right to benefit claimed for the day in question, be treated as equivalent to a reckonable contribution of the appropriate class.

(2) Where a person who is a former contributor makes a claim as aforesaid for a day which forms part of a period of interruption of employment (within the meaning of that expression as modified by regulation four of the Benefits Transitional Regulations) and -

- (a) the day for which the benefit is claimed falls within the period beginning on the appointed day and ending

on the thirtieth day of June, nineteen hundred and seventy-nine, and within any transitional benefit year appropriate to the claimant, the reference in paragraph (1) of this regulation to the relevant contribution year shall be construed as a reference to the contribution year under the Law of 1964 specified in the second column of the First Schedule to the Benefit Transitional Regulations, against the reference to that transitional benefit year in the first column of that Schedule; or

- (b) the day for which the benefit is claimed falls within the period beginning on the first day of July, nineteen hundred and seventy-nine, and ending on the thirtieth day of June, nineteen hundred and eighty, the reference in paragraph (1) of this regulation to the relevant contribution year shall be construed as a reference to the transitional contribution year.

Persons deemed to be incapable of work

3.(1) A person who is not incapable of work may be deemed to be incapable of work by reason of some specific disease or bodily or mental disablement for any day on which -

- (a) he is under medical care in respect of a disease or disablement as aforesaid and -

(i) it is certified by a medical practitioner that by reason of such disease or disablement he should abstain from work; and

(ii) he does not work; or

- (b) he is excluded from work on the certificate of the States Medical Officer of Health and is under medical observation by reason of his being a carrier, or having been in contact with a case, of infectious disease.

(2) Where it has been certified in accordance with Part VII of the Social Insurance (Benefits)(Miscellaneous Provisions)(Guernsey) Regulations, 1978, that it is to be expected that a woman will be confined, she shall be deemed to be incapable of work on each day in the period between the beginning of the sixth week before the expected week of confinement and ending at the expiration of the second week after the date of the confinement:

Provided that this paragraph shall not apply to a woman in respect of any week in the said period during the whole or any part of which she does not abstain from work.

(3) A person who at the commencement of any day is, or thereafter on that day becomes, incapable of work by reason of some specific disease or bodily or mental disablement and does no work as an employed or self-employed person on that day shall be deemed to be so incapable of work throughout that day.

Special provisions relating to day substituted for Sunday

4.(1) In the case of a person who -

- (a) in any week in which, in the normal course, he would work as an employed person on not more than six days including the Sunday is unemployed on that Sunday; and
- (b) claims unemployment benefit for that Sunday;

the day of that week on which, in the normal course, he would not work as an employed person, or (if that week contains more than one day on which in the normal course he would not so work) the later or last of those days, shall be substituted for that Sunday as a day which, by virtue of paragraph (d) of subsection (1) of section twenty-three of the Law, is not to be treated as a day of unemployment or of incapacity for work for the purposes of any provision of the Law relating to unemployment, sickness or invalidity benefit and, for those purposes, is to be disregarded in computing any period of consecutive days.

(2) In the case of a person who -

- (a) in any week, in the normal course, would not work as an employed person on the Sunday;
- (b) objects on religious grounds to working on a specific day in each week other than Sunday, but does not so object to working on Sunday; and
- (c) in respect of that week is unemployed on and claims unemployment benefit for Sunday;

that specific day shall in that week be substituted for Sunday as a day which, by virtue of paragraph (d) of subsection (1) of section twenty-three of the Law, is not to be treated as a day of unemployment or of incapacity for work for the purposes of any provision of the Law relating to unemployment, sickness or invalidity benefit and, for those purposes, is to be disregarded in computing any period of consecutive days.

(3) In this regulation, the expression "week" means a period of seven days commencing with the midnight between Saturday and Sunday.

(4) In the application to a person of sub-paragraph (a) of paragraph (1) of this regulation, no account shall be taken of any period of short time working due to adverse industrial conditions in determining whether in any week, in the normal course, a person would work as an employed person on not more than six days including the Sunday.

#### Night workers

5.(1) For the purposes of unemployment, sickness and invalidity benefit, where a period of employment begun on any day extends over midnight into the following day, the person employed shall, in respect of such period -

- (a) be treated as having been employed on the first day only, if the employment before midnight is of longer duration than that after midnight, and, in that case, the first day shall not be treated as a day of interruption of employment; or

(b) be treated as having been employed on the second day only, if the employment after midnight is of longer duration than that before midnight, or if the employment before and after midnight is of equal duration, and, in either of these cases, the second day shall not be treated as a day of interruption of employment.

(2) Where a person -

(a) is, by virtue of paragraph (1) of this regulation, to be treated as having been employed on one day only of two days; and

(b) throughout that part of the other of those two days during which that person is not employed, is, or is deemed in accordance with regulations to be available for employment in an employed contributor's employment or incapable of work by reason of some specific disease or bodily or mental disablement,

that person shall, for the purposes of unemployment, sickness or invalidity benefit, be deemed to be so available for employment, or, as the case may be, to be so incapable of work, throughout that other of those two days.

(3) Where a person -

(a) is, by virtue of paragraph (1) of this regulation, to be treated as having been employed on the second day only of two days; and,

(b) throughout the day immediately preceding the first of those two days, is, or is deemed in accordance with regulations to be, incapable of work by reason of some specific disease or bodily or mental disablement,

that person shall, for the purposes of sickness or invalidity benefit, be deemed to be so incapable of work throughout the first of those two days.

Days not to be treated as days of unemployment or incapacity for work

- 6.(1) For the purposes of unemployment, sickness and invalidity benefit -
- (a) a day shall not be treated as a day of interruption of employment if it is a day in respect of which a person fails to prove, in such manner as the Authority shall require, that he is unemployed and capable of work and available for employment in an employed contributor's employment, or incapable of work, as the case may be;
  - (b) a day shall not be treated as a day of unemployment if it is a day in respect of which a person is disqualified for receiving unemployment benefit;
  - (c) a day shall not be treated as a day of incapacity for work if it is a day in respect of which a person is disqualified for receiving sickness or invalidity benefit;
  - (d) a day shall not be treated as a day of unemployment if it is a day in respect of which a person receives a payment (whether or not a payment made in pursuance of a legally enforceable obligation) in lieu either of notice or of the remuneration which he would have received for that day had his employment not been terminated;
  - (e) a day shall not be treated as a day of unemployment if on that day a person does no work; and -
    - (i) is on holiday; or
    - (ii) is a person who does not ordinarily work on every day in a week (exclusive of Sunday or the day substituted therefor by regulation four of these regulations) but

who has, in the week in which the said day occurs,  
been employed to the full extent normal in his case;

(f) a day shall not be treated as a day of incapacity for work if a person does any work on that day other than -

(i) work which is undertaken under medical supervision as part of his treatment while he is a patient in, or of, a hospital or similar institution; or

(ii) work which is not so undertaken and which he has good cause for doing,

and from which, in the case of work of either description, his earnings, if any, are ordinarily less than ten pounds a week;

(g) (subject to regulation seven) a day shall not be treated as a day of unemployment if on that day an insured person is following any occupation unless the earnings derived from that occupation, in respect of that day, do not exceed seventy-five pence, or, where the earnings are earned in respect of a longer period than a day, the earnings do not on the daily average exceed that amount, and unless he is available on that day for full-time employment in some employer's employment and the occupation which he is following is consistent with that full-time employment, and, if he is following that occupation under a contract of service, it is not his usual main occupation,

(2) For the purposes of invalidity benefit, a day shall not be treated as a day of incapacity for work if it is a day following the day on which an insured person attained pensionable age:

Provided that this paragraph shall not apply in relation to -

(a) a person who is for the time being deemed by virtue of regulation thirty-three of the Benefit Transitional Regulations not to have attained pensionable age; or

- (b) a person who is for the time being treated as if he had not attained pensionable age by virtue of regulation thirty-four of those regulations.

Persons deemed to be available for employment in an employed contributor's employment

- 7. An insured person engaged in -
  - (a) the manning of a lifeboat; or
  - (b) the performance of duty as a part time fireman in a fire brigade maintained in pursuance of the provisions of the Law entitled "Loi relative au Service Public pour l'Extinction des Incendies" registered on the twentieth day of August, nineteen hundred and thirty-two, or maintained by or on behalf of the States of Alderney, as the case may be;

shall be deemed to be available for employment in an employed contributor's employment, and sub-paragraph (g) of paragraph (1) of the last foregoing regulation shall not apply to him.

Special provisions relating to delay or failure in claiming benefit

8. Notwithstanding anything contained in regulation six of these regulations, a person who, in respect of any period of interruption of employment, would have been entitled to unemployment benefit for any day but for any delay or failure to make or prosecute a claim, shall, for the purposes of section twenty-four of the Law be treated as having been entitled to benefit for that day:

Provided that a person shall not be so treated where he shows that he did not intend, by failing to acquire or establish a right to benefit for that day, to avoid the necessity of requalifying for benefit under that section.

Disqualification for sickness or invalidity benefit

9.(1) A person shall be disqualified for receiving sickness benefit or invalidity benefit for such period not exceeding ten weeks as may be determined in accordance with sections seventy-eight to eighty-five of the Law if -

- (a) he has become incapable of work through his own misconduct, except that this disqualification shall not apply where the incapacity is due to venereal disease or, in the case of a woman who is not a wife, or, being a wife, is separated from her husband, to pregnancy; or
- (b) he fails without good cause to comply with a notice in writing given by or on behalf of the Authority requiring him to do so, to attend for and to submit himself to medical or other examination on a date not earlier than the third day after the day on which the notice was sent and at a time and place specified in that notice; or
- (c) he fails without good cause to attend for, or to submit himself to, medical or other treatment: provided that this disqualification shall not apply to any failure to attend for, or to submit to, vaccination or inoculation of any kind or to a surgical operation of a minor character, and is considered by the determining authority to be unreasonable; or
- (d) he fails without good cause to observe any of the following rules of behaviour, namely:-
  - (i) to refrain from behaviour calculated to retard his recovery, and to answer any reasonable enquiries (not being enquiries relating to medical examination, treatment or advice) by or on behalf of the Authority directed to ascertaining whether he is doing so;
  - (ii) not to be absent from his place of residence without leaving word where he may be found;

(iii) to do no work for which remuneration is, or would ordinarily be, payable unless it is work which is described in paragraph (f) of regulation six of these regulations.

- (2) For the purposes of paragraph (1) of this regulation -
- (a) "week" means any period of seven consecutive days; and
  - (b) in computing the period of notice required to be given by sub-paragraph (b) of that paragraph, Sunday shall not be disregarded.

Requalification for unemployment benefit

10. For the purposes of subsection (3) of section twenty-four of the Law, the number of hours required to be worked in any week by any person in order to requalify for unemployment benefit shall be twenty.

Increase of benefit for dependent relative and further conditions applicable

11.(1) For the purposes of paragraph (b) of sub-section (4) of section sixty of the Law and in relation to unemployment benefit, sickness benefit and invalidity benefit, the relatives shall be the persons who bear any such relationship to the beneficiary as is specified in the First Schedule to these regulations, and shall include any person who is any such relative by adoption and any person who would be such a relative if some person born illegitimate had been born legitimate.

(2) The following further conditions shall apply in relation to any such relative as is mentioned in the last preceding paragraph:-

- (a) a beneficiary shall not be entitled to an increase of benefit under the said subsection (4) in respect of any such relative for any period during which that relative -
  - (i) is undergoing imprisonment or detention in legal custody; or
  - (ii) is absent from Guernsey, except in the case of sickness benefit or invalidity benefit for any period during which that relative is residing with the beneficiary outside Guernsey and for which, by

virtue of the provisions of paragraph (2) of regulation seven of the Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978, the beneficiary is not disqualified for receiving that benefit.

- (b) where any such relative is a man, the increase shall not be payable for any period other than a period during which he is incapable of self-support;
- (c) where any such relative is a married woman, the increase shall not be payable for any period other than a period during which -
  - (i) she is not residing with and is unable to obtain any financial assistance from her husband; or
  - (ii) her husband is incapable of self-support.

Partial satisfaction of contribution conditions and reduced rates of benefit

12.(1) Subject to paragraph (3) of this regulation, where a person would be entitled to unemployment, sickness or invalidity benefit but for the fact that the relevant contribution conditions are not satisfied as respects the number of reckonable contributions paid or credited in respect of the relevant contribution year, he shall nevertheless be entitled to benefit in accordance with the next two following paragraphs, if not less than twenty-six reckonable contributions of the appropriate class or their equivalent have been paid or credited in respect of the relevant contribution year.

(2) Where the full weekly rate of unemployment and sickness benefit, or increase of any such benefit for an adult dependant, under the Ordinance specified in the Second Schedule to these regulations is at one of the rates set out at the head of columns (2) and (3) of that Schedule then unemployment and sickness benefit or increase of any such benefit for an adult dependant, shall be payable at the reduced rate specified in the appropriate column of that Schedule which corresponds with the number of reckonable contributions paid or credited in the relevant contribution year as shown in column (1) of that Schedule.

(3) Where the full weekly rate of invalidity benefit, or increase of such benefit for an adult dependant, under the Ordinance specified in the Third Schedule to these regulations is at one of the rates set out at the head of columns (2) and (3) of that Schedule, then invalidity benefit, or increase of such benefit for an adult dependant, shall be payable at the reduced rate specified in the appropriate column of that Schedule which corresponds with the number of reckonable contributions paid or credited in the relevant contribution year as shown in column (1) of that Schedule.

(4) The foregoing provisions of this regulation shall have effect in relation to a former contributor -

- (a) in the case where the day for which the benefit is claimed falls within the period beginning on the appointed day and ending on the thirtieth day of June, nineteen hundred and seventy-nine, and within any transitional benefit year appropriate to the claimant, as if the reference in paragraph (1) of this regulation to the relevant contribution year were a reference to the contribution year under the Law of 1964 specified in the second column of the First Schedule to the Benefits Transitional Regulations, against the reference to that transitional benefit year in the first column of that Schedule; or
- (b) in the case where the day for which the benefit is claimed falls within the period beginning on the first day of July, nineteen hundred and seventy-nine, and ending on the thirtieth day of June, nineteen hundred and eighty, the reference in paragraph (1) of this regulation to the relevant contribution year shall be construed as a reference to the transitional contribution year.

Additional conditions with respect to the receipt of unemployment benefit  
by seasonal workers

- 13.(1) In this regulation -
- (a) "employment" means employment in an employed contributor's employment, and "employer" shall be construed accordingly;
  - (b) "off-season" means, in relation to a seasonal worker, that period of the year (or, if more than one period, the aggregate of those periods) during which he is normally not employed, and for this purpose the expression "period" shall not include any period of less than seven consecutive days;
  - (c) "seasonal worker" means an insured person whose normal employment is for a part or parts only of a year in an occupation or occupations at which the availability or extent varies at approximately the same time or times in successive years; or any other insured person who normally restricts his employment to the same, or substantially the same, part or parts only of the year; and for the purpose of this definition the following provisions shall apply:-
    - (i) the expression "part or parts only of a year" shall include any period of time (or, if more than one period, the aggregate of those periods whether in the same or different occupations) whatever the duration of that period; but where any period or periods of a year during which a person is normally not

employed is not, or if more than one period (whatever the duration of any such period) do not amount in the aggregate to, more than seven weeks, that person shall not be treated as a seasonal worker;

(ii) in construing the expression "normal employment", regard shall be had to factors inherent in the nature or conditions of the occupation or occupations in which that person is engaged, and not to factors abnormal to that occupation or occupations, notwithstanding that those factors persist for a prolonged period;

(d) "a substantial amount of employment" means employment which is equal in duration to not less than one-fourth (or such other fractional part as the determining authority may, in the circumstances of any particular case, consider reasonable) of the current off-season, but does not include employment by the States in accordance with arrangements made by the States Labour and Welfare Committee for providing relief work for persons who would otherwise be unemployed;

(e) "year" (where used in this regulation) means the period of twelve months commencing with the first day in the calendar year on which the person concerned begins a period of normal employment.

(2) The following shall be additional conditions with respect to the receipt of unemployment benefit by a seasonal worker in respect of any day during his off-season -

(a) that he has been registered for employment at the Authority's office or at such other place as the Authority may direct throughout the period of two years immediately preceding that

day or, if he became a seasonal worker after the commencement of that period, from the day on which he became a seasonal worker until that day, other than (in either case) during any of the following periods, namely:-

- (i) any period during which he was employed or was incapable of work;
- (ii) any inconsiderable period;
- (iii) any temporary period throughout which he was not available for employment by reason only of domestic necessity or compulsion of law, or by reason of any other circumstances which, in the opinion of the determining authority, are of an exceptional character; and

(c) that either -

- (i) in his current off-season he has had a substantial amount of employment before that day; or
- (ii) (having regard to all the circumstances of his case, including the nature and extent of his employment (if any) in any past off-seasons and the industrial or other relevant conditions normally obtaining in whichever island or islands in which he is available for employment) he can or could reasonably expect to obtain, after that day in his current off-season, employment which, together with his employment (if any) before that day in that off-season, constitutes a substantial amount of employment.

(3) Where not less than thirteen reckonable Class 1 contributions have been paid by or credited to a seasonal worker in any contribution year, any reckonable Class 2 or Class 3 contribution paid by or credited to him in respect of that contribution year shall be treated as equivalent to a reckonable contribution of the appropriate class for the purpose of his satisfying the contribution

conditions for unemployment benefit for any day, occurring during the benefit year next following that contribution year, on which he would normally have been employed.

Repeals

14. The regulations specified in the Fourth Schedule to these regulations are hereby repealed.

Citation

15. These regulations may be cited as the Social Insurance (Unemployment, Sickness and Invalidity Benefit) (Guernsey) Regulations, 1978.

Commencement

16. These regulations shall come into force 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.

## Prescribed Relationships

- (a) Lineal descendant or ascendant in a direct line, and
- (b) Stepfather, stepmother, stepson, step-daughter, brother, sister, half-brother, half-sister, stepbrother, stepsister, and
- (c) Where the beneficiary is a man, the father or mother of any woman who is, or was at her death, the wife of the beneficiary, and
- (d) Where the beneficiary is a woman, the father or mother of any man who is, or was at his death, the husband of the beneficiary.

## SECOND SCHEDULE

Regulation twelve

Showing reduced rates of unemployment and sickness benefit and of increase of benefit in respect of adult dependants

(1)	(2)	(3)
Number of reckonable contributions paid or credited in the relevant contribution year.	Full weekly rate of benefit applicable under the Social Insurance (Rates of Contributions and Benefits etc.)(Guernsey) Ordinance, 1978	
	£17.00	£10.50
	Reduced rate at which benefit is payable	
48 - 49	£16.50	£10.20
46 - 47	£15.80	£9.75
43 - 45	£14.95	£9.25
40 - 42	£13.95	£8.60
37 - 39	£12.90	£8.00
34 - 36	£11.90	£7.35
30 - 33	£10.70	£6.60
26 - 29	£9.35	£5.80

## THIRD SCHEDULE

## Regulation twelve

Showing reduced rates of invalidity benefit and of increase of benefit in respect of adult dependants

(1)	(2)	(3)
Number of reckonable contributions paid or credited in the relevant contribution year.	Full weekly rate of benefit applicable under the Social Insurance (Rates of Contributions and Benefits etc.) (Guernsey) Ordinance, 1978	
	£20.00	£12.00
	Reduced rate at which benefit is payable	
48 - 49	£19.40	£11.65
46 - 47	£18.60	£11.15
43 - 45	£17.60	£10.55
40 - 42	£16.40	£9.85
37 - 39	£15.20	£9.10
34 - 36	£14.00	£8.40
30 - 33	£12.60	£7.55
26 - 29	£11.00	£6.60

## REGULATIONS REPEALED

The Social Insurance (Unemployment and Sickness Benefit) (Guernsey) Regulations, 1964

The Social Insurance (Unemployment and Sickness Benefit) (Guernsey) Regulations, 1966

The Social Insurance (Unemployment and Sickness Benefit) (Amendment) (Guernsey) Regulations, 1971

The Social Insurance (Unemployment and Sickness Benefit) (Amendment) (No.2) (Guernsey) Regulations, 1971

The Social Insurance (Unemployment and Sickness Benefit) (Amendment) (No.3) (Guernsey) Regulations, 1971

The Social Insurance (Unemployment and Sickness Benefit) (Amendment) (Guernsey) Regulations, 1973

The Social Insurance (Seasonal Workers) (Guernsey) Regulations, 1966

## EXPLANATORY NOTE

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

These regulations contain various provisions relating to the payment of unemployment, sickness and invalidity benefit.

The principal matters dealt with are the counting of reckonable contributions (other than those of the appropriate class) for the purposes of unemployment, sickness benefit and invalidity benefit (regulation 2); the deeming of persons to be incapable of work (regulation 3); the substitution of another day for Sunday as the day of the week to be disregarded (regulation 4); the position of night workers (regulation 5); the days which are or are not to be treated as days of unemployment or incapacity for work (regulation 6); the position of lifeboatman and part time firemen (regulation 7); delay or failure in claiming benefit in order to avoid the necessity for requalification (regulation 8); disqualification for sickness and invalidity benefit (regulation 9); requalification for unemployment benefit (regulation 10); the position in relation to adult dependants (regulation 11); the payment of benefit at reduced rates in the case of deficient contribution records (regulation 12); and the addition of conditions with respect to the receipt of unemployment benefit by seasonal workers (regulation 13).