

1976 - NO. 71

The Supplementary Family Allowances (Qualifications) (Guernsey)
Regulations, 1976

Made 24th November, 1976
Laid before the States
Coming into operation 24th November, 1976

THE STATES INSURANCE AUTHORITY, in exercise of the powers conferred upon it by subsection (1) of section one, subsection (6) of section two, subsection (3) of section three, subsection (1) of section five and subsection (18) of section five of the Supplementary Family Allowances (Guernsey) Law, 1976, and of all other powers enabling it in that behalf, hereby orders:-

PART I

Interpretation

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:-

"allowance" means a supplementary family allowance under the Law;

"the Law" means the Supplementary Family Allowances (Guernsey) Law, 1976;

"a medical evacuation case" means a person who satisfies the Administrator that his absence from the Island is solely or mainly for the purpose of being treated, and that he is being treated, for a disease or disability which existed before he left the Island for that purpose;

"a member of the Forces", "a mariner" and "an airman" have the meanings respectively assigned to them in the Schedule hereto;

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shall be construed as including a reference to that enactment or those regulations as the case may be, as amended, repealed, replaced or revoked by or under any other enactment or by any other regulations.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

PART II

Presence in or absence from the Island

Interpretation

2. In this Part of these regulations, unless the context otherwise requires, "presence" and "absence" mean presence in and absence from the Island respectively.

Presence in or absence from the Island

3. For the purposes of subsection (5) of section two of the Law -

(a) the presence of a person at any date shall be treated as temporary unless -

(i) for at least twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has been present in the Island; or

(ii) that date has been immediately preceded by a period of absence which under the next following paragraph is treated as temporary;

(b) the absence of a person at any date shall be treated as temporary unless -

(i) the absence is for a purpose other than a temporary purpose; or

- (ii) the absence has lasted for a continuous period exceeding twenty-six weeks; or
- (iii) that date has been immediately preceded by a period of presence which under paragraph (a) of this regulation is treated as temporary;

PROVIDED that the absence of a person while he is a member of the Forces, a mariner, an airman or a medical evacuation case shall be treated as temporary.

Presence in or absence from the Island of a child

4. For the purposes of subsection (1) of section five of the Law -

- (a) the presence at any date of a child whose place of birth is not in Guernsey and who would, if his presence were treated other than as temporary, be included for the purposes of the Law in the family of any person other than a parent, shall be treated as temporary unless -

- (i) he has been present in Guernsey for the whole period of six months immediately preceding that date; or

- (ii) the period of that presence has been immediately preceded by a period of temporary absence;

- (b) the absence at any date of a child shall be treated as temporary if and so long as the period of absence is not intended to exceed, and has not exceeded, twenty-six weeks or such longer period as the Administrator may, in any particular case, allow.

PART III

Absence of a child from a person, and interruption or reduction of a person's contribution

Interpretation

5. In this Part of these regulations, unless the context otherwise requires -

"hospital" means any premises used for the reception and treatment of persons suffering from any illness or disease, including mental illness, or of persons suffering from physical disability or mental

defectiveness and any premises used for providing treatment during convalescence or for medical rehabilitation;

"parents" shall be construed in accordance with the provisions of subsections (13), (14), (15) and (16) of section five of the Law;

"providing for a child" has the meaning ascribed thereto in subsection (7) of section five of the Law.

Absence from a parent and interruption or reduction of a parent's contribution

6.(1) Subject to the provisions of regulation 8 of these regulations, for the purposes of subsection (18) of section five of the Law any absence of a child from a parent or any interruption or reduction of a parent's contribution to the cost of providing for a child shall be treated as temporary -

- (a) during such period as the child is undergoing treatment as an in-patient at a hospital;
- (b) during such period as the child is receiving full-time education by attendance at a recognised educational establishment;
- (c) during any other period not exceeding twelve weeks;

PROVIDED that the said period of twelve weeks shall not begin to run until after the termination of any such period falling within sub-paragraph (a) or (b) above.

(2) Notwithstanding the provisions of sub-paragraph (c) of paragraph (1) of this regulation, any absence from a parent and any interruption or reduction of a parent's contribution falling within that sub-paragraph shall cease to be treated as temporary if provision has been made for the child, other than by a person within the meaning of subsection (5) of section five of the Law, for a period of four weeks during which no such person other than that parent has been providing in his own home for the child or contributing to the cost of providing for the child elsewhere at a rate not less than the appropriate weekly rate referred to in subsection (6) of section five of the Law.

Absence of a child from a person other than a parent and interruption or reduction of such a person's contribution

7. Subject to the provisions of regulation 8 of these regulations, any absence (other than at a recognised educational establishment) of a child from a person other than a parent and any interruption or reduction of the contribution of a person other than a parent to the cost of providing for a child shall, for the purposes of subsection (18) of section five of the Law, be treated as temporary for the first four weeks thereof and no longer.

Further provisions relating to absence and to interruption or reduction of contributions

8. Notwithstanding anything contained in regulations 6 and 7 of these regulations no absence (other than at a recognised educational establishment) of a child from any person and no interruption or reduction of the contribution made by any person to the cost of providing for a child shall be treated as temporary for the purposes of subsection (18) of section five of the Law if -

- (1) the child is committed to the care, custody or control of a fit person (other than the Children Board) by virtue of an order made under the Children and Young Persons (Guernsey) Law, 1967, so however that this paragraph shall not apply to any absence from, or to any interruption or reduction of the contribution made by, such fit person;
- (2) the Administrator is satisfied either -
 - (a) that the absence, interruption or reduction is or is intended to be other than temporary; or
 - (b)(i) that, if the absence, interruption or reduction were treated as other than temporary, the child would fall to be treated as included in the family of some other person and that by reason of such inclusion there would come into existence

a right to an allowance or increase of allowance under the Law for such a family; and

- (ii) that it is more fitting that the child should be treated as included in such family than that the absence, interruption or reduction should be treated as temporary.

PART IV

Full-time education by attendance at a recognised educational establishment

Circumstances in which a person is to be treated as receiving full-time education

9. A person shall be treated for the purposes of the Law as receiving full-time education by attendance at a recognised educational establishment if he is receiving full-time education by attendance at any recognised educational establishment:

Provided that:-

- (1) in determining whether a person's education shall be treated as full-time -
 - (a) any attendance at such an establishment after five o'clock in the afternoon shall be disregarded;
 - (b) any attendance at such an establishment where such attendance is, in the opinion of the Administrator, other than full-time shall be disregarded;
- (2) a person shall not cease to be treated as receiving full-time education during any period if he would have continued to attend that establishment but for the occurrence of

any of the following events -

- (a) holidays of that person which are recognised by the authority responsible for that establishment;
- (b) the temporary closure of that establishment by the authority responsible for it;
- (c) absence of that person from that establishment where such absence has been authorised by the authority responsible for the establishment and the absence is by reason of the contact of that person with infectious disease;
- (d) illness of that person, so however that any period of illness after that person has attained the upper limit of the compulsory school age shall not be treated as a period of full-time education unless that person attends that establishment some time between attaining the upper limit of the compulsory school age and the first day of August next following the day on which he attains the age of nineteen years;
- (e) absence from that establishment on not more than two occasions in any calendar year owing to illness (other than illness of that person) occurring at, or any absence from that establishment owing to death at, the home of that person, so however that any such absence after the first two weeks shall not be treated as a period of full-time education;
- (f) the temporary suspension of the ordinary means of transport of that person to that establishment where alternative means of reaching that establishment are not reasonably available;
- (g) absence from such an establishment owing to the removal of that person from one such establishment to another, so however that any such absence after the first four weeks shall not be treated as a period of full-time education.

PART V

Citation and Commencement

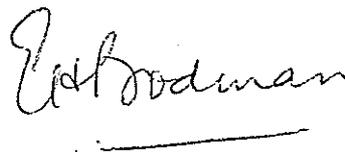
Citation

10. These regulations may be cited as the Supplementary Family Allowances (Qualifications)(Guernsey) Regulations 1976

Commencement

11. These regulations should come into operation on the twenty-fourth day of November , nineteen hundred and seventy-six.

Dated this twenty-fourth day of November ,
nineteen hundred and seventy-six.



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

Meaning of "a member of the Forces", "a mariner" and "an airman"

1. For the purpose of these regulations the expression "a member of the Forces" means any person who, being a member of the armed Forces of the Crown raised in the United Kingdom or the Island or a member of any nursing or other auxiliary service similarly raised and forming part of or attached to those Forces, is in receipt of service pay in respect of naval, military or air force service, and who immediately prior to becoming a member of the armed Forces or of such nursing or auxiliary service, as the case may be, was ordinarily resident in the Island.

2. For the purposes of these regulations the expression "a mariner" means any person who is or has been employed under a contract of service either as master or member of the crew of any vessel, or in any other capacity on board any ship or vessel where -

- (a) the employment in that other capacity is for the purpose of the ship or vessel or her crew or of any passengers or cargo or mails carried therein; and
- (b) the contract was entered into in the Island or being entered into elsewhere the person set out from the Island for the purpose of entering into such contract:

PROVIDED that -

- (i) a person shall not cease to be treated as a mariner by reason only of his having terminated one contract and entered into another without setting out from the Island for the purpose of entering into that other contract but only in so far as the period between the termination of one contract and entering into that other contract does not exceed four weeks;
- (ii) a person shall continue to be treated as a mariner during any period after the termination of any contract

and his return to the Island but only in so far as he proceeds to the Island as soon as reasonably practicable after the termination of such contract.

3. For the purposes of these regulations the expression "an airman" means any person who is or has been employed under a contract of service either as commander, pilot, navigator or member of the crew of any aircraft, or in any other capacity on board any aircraft where -

- (a) the employment in that capacity is for the purpose of the aircraft or its crew or of any passengers or cargo or mails carried therein; and
- (b) the contract was entered into in the Island or being entered into elsewhere the person set out from the Island for the purpose of entering into such contract:

PROVIDED that -

- (i) a person shall not cease to be treated as an airman by reason only of his having terminated one contract and entered into another without setting out from the Island for the purpose of entering into that other contract but only in so far as the period between the termination of one contract and entering into that other contract does not exceed four weeks;
- (ii) a person shall continue to be treated as an airman during any period after the termination of any contract and his return to the Island but only in so far as he returns to the Island as soon as reasonably practicable after the termination of such contract.

EXPLANATORY NOTE

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

The Regulations set out the rules for determining whether the conditions for entitlement to allowances under the Supplementary Family Allowances (Guernsey) Law, 1976 are satisfied. Part II of these Regulations sets out the rules for determining whether the presence in, or absence from, Guernsey, Alderney or Herm of any person is to be treated as temporary for the purposes of that Law. Part III sets out the rules for determining whether the absence of a child from a parent, and the interruption or reduction of a parent's contribution to the cost of providing for a child, is temporary for the purposes of that Law. Part IV sets out the interruptions which are to be disregarded in determining, for the purposes of that Law, whether or not a child is receiving full-time education at a recognised educational establishment.