

# Island of Guernsey



## Ordinance of the States XLV 1990

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Made	... ..	13th December, 1990.
Coming into Operation	... ..	1st January, 1991.

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### The Health Service (Benefit) Ordinance, 1990

THE STATES, in pursuance of their Resolutions of the 15th day of December, 1988 and 31st January, 1990, and in exercise of the powers conferred upon them by section 35 of the Health Service (Benefit) Law, 1990(a) and of all other powers enabling them in that behalf, hereby order:—

*Exclusions from the expression “consultation for a medical purpose”*

1. In section 6(1) of the Law the expression “consultation for a medical purpose” shall not include a consultation or treatment at any of the following locations:—

- (a) the Princess Elizabeth Hospital, Guernsey, unless the consultation or treatment—
  - (i) is given by an approved medical practitioner who is at the time participating in the provision of 24 hour emergency medical cover arranged by the Board of Health; and

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

- (ii) is provided to a patient of that practitioner's practice who, not being an in-patient of the Hospital or a patient attending at the receiving room thereof, would otherwise have consulted him at his surgery;
- (b) the Mignot Memorial Hospital, Alderney;
- (c) the Castel Hospital, Guernsey or the King Edward VII Hospital, Guernsey, unless the consultation or treatment—
  - (i) is given by an approved medical practitioner not employed by or contracted to the States; or
  - (ii) is given by an approved medical practitioner employed by or contracted to the States but is given otherwise than in the course of his employment or contract.

*Prescription charges*

2. (1) Subject to subsection (3), a person supplied with pharmaceutical benefit under the Law by an authorised supplier shall pay a prescription charge of the amount specified in Schedule I, unless he furnishes a declaration in the prescribed form to the effect that a certificate of exception is in force in respect of him.

(2) Subject to subsection (3), an authorised supplier is not obliged to supply pharmaceutical benefit under the Law unless—

- (a) he is paid the prescription charge payable therefor under this section; or
- (b) he is furnished with a declaration described in subsection (1).

(3) The Authority may direct that a prescription charge is not payable in respect of pharmaceutical benefit supplied, in accordance with regulations made under the Law, to two or more persons on the same medical prescription.

(4) For the purposes of this section, the supply of the same drug or medicine in more than one container on the same medical prescription shall be deemed to be the supply of one item of pharmaceutical benefit.

(5) A prescription charge payable to an authorised supplier may be recovered by him as a civil debt.

*Exception from liability to pay prescription charges*

3. (1) A person is not liable to pay a prescription charge under section 2 if a certificate of exception has been granted in respect of him and is in force.

(2) The Administrator shall grant a certificate of exception—

- (a) to a person (other than a person resident in Alderney) who has attained the age of 65 years; and in this case the certificate shall be valid only in respect of the supply of pharmaceutical benefit in Guernsey;
- (b) to any other person entitled to receive a supplementary benefit; and in this case the certificate shall—
  - (i) be granted in respect of that person and his dependants; and
  - (ii) remain in force while he is entitled to receive a supplementary benefit;

(c) to a person who applies to him in that behalf if satisfied (having regard to any special circumstances which, in his opinion, affect the applicant's financial position) that it is just and equitable to do so; and in this case the certificate shall—

(i) be granted in respect of the applicant or any of his dependants; and

(ii) subject to subsection (6), remain in force for the period specified therein.

(3) An application under subsection (2)(c) and certificate of exception shall be in the form approved by the Authority, and any such certificate shall specify the names and addresses of the persons in respect of whom it is granted.

(4) A person who applies for or is granted a certificate of exception under subsection (2)(c) shall—

(a) whenever so directed by the Administrator, furnish any information and evidence which the Administrator is empowered to demand under any Ordinance made under the Supplementary Benefit Law; and

(b) if such a certificate is granted to him, comply with any directions given by the Administrator as to reporting any change of circumstances which may, in the Administrator's opinion, affect his financial position, including any change in the means of any of his dependants.

(5) A person to whom a certificate of exception is granted shall, provided that the certificate is in force—

- (a) as soon as possible, notify the Administrator in writing of any change in the name or address of himself and (unless the certificate was granted under subsection (2)(a)) any of his dependants;
- (b) if so directed by the Administrator, return the certificate to him to enable him to vary it by deleting or inserting the name and address of any person who has ceased to be or has become a dependant or by altering the name or address of any person specified therein.

(6) The Administrator may at any time revoke a certificate of exception granted to any person under subsection (2)(c)—

- (a) if satisfied (having regard to any change of circumstances which, in the Administrator's opinion, affects his financial position) that he is no longer in need of a certificate of exception; or
- (b) if he fails to comply with subsection (5) or with any direction given under subsection (4) or (5).

(7) For the purposes of this section, the expression “dependants”—

- (a) in relation to a person entitled to receive a supplementary benefit, has the meaning given by section 4 of the Supplementary Benefit Law;
- (b) in relation to any other person, means the persons who would be dependants within the meaning of that Law if he were entitled to receive a supplementary benefit.

*Validity of medical prescriptions*

4. Subject to section 12 of the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1976(b), an authorised supplier shall not supply pharmaceutical benefit on a medical prescription later than 13 weeks after the date specified in the prescription.

*Health Service Advisory Committee*

5. (1) The Health Service Advisory Committee (“the Committee”) shall be constituted in accordance with Schedule II and shall exercise the functions conferred by this section.

(2) Where it appears to the Authority, after due enquiry, that—

- (a) by reason of the character or quantity of pharmaceutical benefit or medical appliances supplied or ordered to be supplied to any person under the Law, the cost thereof to the Fund is in excess of what was reasonably necessary for his proper treatment;
- (b) any substance supplied or ordered to be supplied to any person under the Law is not a drug or medicine within the meaning of the Law;
- (c) any appliance supplied or ordered to be supplied to any person under the Law is not a medical appliance within the meaning of the Law;
- (d) an authorised supplier or authorised appliance supplier—
  - (i) has contravened any provision of the Law or any term or condition of the undertaking furnished by him to the Authority in pursuance of section 12(2)(b) or 17(2)(b) of the Law;

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(b) Recueil d’Ordonnances Tome XX, p. 272.

- (ii) has ceased to supply pharmaceutical benefit or medical appliances under the Law otherwise than by reason of a direction served under section 6;
  - (iii) has, by his conduct, prejudiced the efficient administration of the Law; or
  - (iv) has, by his conduct, created an unreasonable charge on the Fund; or
- (e) an approved medical practitioner, approved dentist, approved pharmacist or approved nurse has, by his conduct—
- (i) prejudiced the efficient administration of the Law; or
  - (ii) created an unreasonable charge on the Fund;

the Authority may refer the case to the Committee for its consideration and, in that event, shall give to the person concerned notice in writing of the fact.

(3) In this Ordinance the expression “the person concerned” means the medical practitioner, pharmacist, dentist, nurse, authorised supplier or authorised appliance supplier in respect of whom the reference under subsection (2) is made.

(4) Where a reference is made to the Committee under subsection (2)—

- (a) the Committee shall furnish the person concerned with a statement in writing indicating the matters on which an explanation is required and shall afford him a reasonable opportunity of appearing before and being heard by the Committee, or, if he prefers, of submitting to the Committee a statement in writing;

- (b) the Committee shall consider any representations made to it by the Authority and, where the person concerned appears before and is heard by the Committee, shall afford a reasonable opportunity to a representative of the Authority of appearing before and being heard by the Committee; and
- (c) in relation to medical prescriptions or appliance prescriptions issued by a medical practitioner or dentist as a deputy for another medical practitioner or dentist, the Committee may, to such extent as is considered material, require information concerning those prescriptions from the medical practitioner or dentist for whom he was deputising.

(5) The Committee shall, as soon as possible after considering any case referred to it under subsection (2), furnish the Authority with a statement in writing of its findings and the reasons therefor, and the Committee may, where in its opinion the case is well-founded, include in that statement any one or more of the following recommendations—

- (a) where the case was referred to the Committee under subsection (2)(a), that the person concerned be required to pay to the Fund such sum as, in the Committee's opinion, is a reasonable estimate of the cost to the Fund incurred in excess of what was reasonably necessary for the proper treatment of the patient by or on behalf of the person concerned;
- (b) where the case was referred to the Committee under subsection (2)(b) or (c), and a payment has been made out of the Fund in respect of the supply of the substance or medical appliance in question, that the person concerned be required to pay to the Fund a sum equal to the amount of that payment;

- (c) where the case was referred to the Committee under subsection (2)(a), (b) or (c), that the person concerned, being a medical practitioner or dentist, be prohibited from issuing medical prescriptions or appliance prescriptions under the Law indefinitely or for a specified period;
  
- (d) where the case was referred to the Committee under subsection (2)(d), that the authorisation of the person concerned under section 12(2) or 17(2) of the Law be withdrawn or suspended for a specified period and (where the case was referred under subsection (2)(d)(iv)) that he be required to pay to the Fund such sum as, in the Committee's opinion, is appropriate;
  
- (e) where the case was referred to the Committee under subsection (2)(e), that the person concerned shall cease to be approved for the purposes of sections 6(4), 10(2) and 15(2) of the Law indefinitely or for a specified period and (where the case was referred under subsection (2)(e)(ii)) that he be required to pay to the Fund such sum as, in the Committee's opinion, is appropriate.

(6) The Authority shall, as soon as possible, send to the person concerned by recorded delivery service a copy of the statement furnished to it by the Committee under subsection (5) and, if he is dissatisfied with any finding or recommendation of the Committee under that subsection, he may give notice of appeal therefrom to the Authority within 28 days from the date on which he received the copy of the statement; and thereupon the Authority shall refer the case to referees appointed under subsection (11) to hear and determine the case.

(7) If the authority is dissatisfied with any finding or recommendation of the Committee under subsection (5), it may, within 28 days from the date specified in subsection (6), refer the case to referees appointed under subsection (11) to hear and determine the case; and in that event the Authority shall give to the person concerned notice in writing that it has so referred the case.

(8) Where a case is referred to referees under subsection (6) or (7), they shall review the findings and recommendations of the Committee under subsection (5) and may—

- (a) quash, confirm or vary any finding;
- (b) quash or confirm any recommendation;
- (c) where they quash a recommendation or where no recommendation was made, make any recommendation which the Committee could have made under subsection (5) and which is appropriate to the case;

and the referees shall, as soon as possible, furnish the Authority and the person concerned with a statement in writing of their decision and of the reasons therefor and of any recommendations made or confirmed by them.

(9) The referees may determine any case referred to them by a majority.

(10) Subject to subsection (9), the referees shall regulate their own procedure.

(11) The States Advisory and Finance Committee shall appoint as referees, for the purpose of determining any reference under subsection (6) or (7), at least three persons (not being members, officers, or servants of the States) one of whom shall be—

- (a) where the person concerned is a medical practitioner, a person who is a fully registered person within the meaning of the Medical Act 1956;
- (b) where the person concerned is a dentist, a person registered in the Dentists Register under the Dentists Act 1957;
- (c) where the person concerned is a pharmacist, a person registered in the register of pharmaceutical chemists established in pursuance of the Pharmacy Act 1852 and maintained in pursuance of section 2(1) of the Pharmacy Act 1954;
- (d) where the person concerned is a nurse, a person whose name is inscribed on the Register of Nurses, Midwives and Health Visitors maintained under section 10(1) of the Nurses, Midwives and Health Visitors Act 1979,

and the Advisory and Finance Committee shall designate one appointee to act as chairman.

*Power of Authority to give effect to recommendations, etc.*

6. (1) The Authority may accept (in full or subject to such modifications as it thinks fit)—

- (a) any recommendation of the Committee under section 5(5), unless the recommendation has been referred to referees under section 5(6) or (7);
- (b) any recommendation made or confirmed by referees under section 5(8);

and the Authority shall give effect to the recommendation by means of a direction served on the person concerned.

(2) A direction under subsection (1) shall state the decision of the Authority and the date on which the recommendation is to have effect.

(3) The Authority may, upon the application of the person concerned or of its own motion, by notice served on the person concerned, revoke or vary a direction under subsection (1).

(4) Where a person's authorisation under section 12(2) or 17(2) of the Law is withdrawn or suspended by a direction under subsection (1)—

(a) he may not apply for such authorisation while the direction is in force; and

(b) the authorisation is revived if the direction is revoked under subsection (3).

(5) Where, pursuant to a recommendation under section 5(5)(c) or (e), a direction under subsection (1) prohibits a medical practitioner or dentist from issuing medical prescriptions or appliance prescriptions under the Law, the Authority shall, by notice in writing, inform all authorised suppliers or authorised appliance suppliers (as the case may be) of the direction and its duration and of any subsequent variation or revocation thereof.

(6) No authorised supplier shall supply pharmaceutical benefit under the Law on a medical prescription issued by a medical practitioner or dentist prohibited from issuing medical prescriptions by a direction under subsection (1).

(7) No authorised appliance supplier shall supply medical appliances under the Law on an appliance prescription issued by a medical practitioner or dentist prohibited from issuing appliance prescriptions by a direction under subsection (1).

(8) The Authority may withhold the payment of any sum payable under the Law to an authorised supplier or authorised appliance supplier in respect of pharmaceutical benefit or medical appliances supplied in contravention of subsection (6) or (7).

(9) Any sum which a person is required to pay to the Fund by a direction under subsection (1) may be deducted from any sum payable to him under the Law.

(10) Where a person's approval for the purposes of section 6(4), 10(2) or 15(2) of the Law is withdrawn or suspended by a direction under subsection (1)—

- (a) the Board of Health shall take any action necessary to implement the direction; and
- (b) the approval is revived if the direction is revoked under subsection (3).

*Supply of benefit in relation to Alderney*

7. For the purposes of Parts V and VI of the Law, no pharmaceutical benefit or medical appliances shall be supplied—

- (a) to persons resident in Alderney; or
- (b) on a medical prescription or appliance prescription issued in Alderney,

except in Alderney.

*Service of Documents*

8. Any document to be given or served under this Ordinance may (unless required by any provision of this Ordinance to be given or served in any other manner) be given or served in accordance with section 37 of the Law and, if sent by

post, shall be deemed to have been received on the third day after the date of posting (excluding any day on which mail is not delivered in Guernsey or Aldernney, as the case may be, in the ordinary course of business of the States Post Office).

*Interpretation*

9. (1) In this Ordinance—

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

“the person concerned” has the meaning given by section 5(3);

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

(2) Any reference in this Ordinance to an enactment is, except where the context excludes, a reference thereto as amended, replaced, extended or applied.

(3) The Interpretation (Guernsey) Law, 1948(d) shall apply to the interpretation of this Ordinance throughout the Islands of Guernsey, Alderney, Herm and Jethou.

*Extent*

10. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

*Citation*

11. This Ordinance may be cited as the Health Service (Benefit) Ordinance, 1990.

*Commencement*

12. This Ordinance shall come into force on the 1st January, 1991.

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(c) Ordres en Conseil No. XXIV of 1990.

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

## SCHEDULE I

Section 2(1)

## PRESCRIPTION CHARGES

With effect from	Per item of pharmaceutical benefit supplied in Guernsey £	Per item of pharmaceutical benefit supplied in Alderney £
1st January, 1991	0.80	1.60

## SCHEDULE II

Section 5(1)

CONSTITUTION OF THE HEALTH SERVICE  
ADVISORY COMMITTEE

1. The States Advisory and Finance Committee shall appoint panels (to be known as the Medical, Dental, Pharmaceutical and Nursing Panels) of not less than, respectively, five medical practitioners, five dentists, five pharmacists and five nurses, selected in each case by the said Committee after consultation with organisations recognised by it as being representative of medical practitioners, dentists, pharmacists or nurses, as the case may be.

2. The composition of each panel shall be reviewed from time to time by the Advisory and Finance Committee, which may make additional appointments thereto and remove any person therefrom after consultation with the appropriate organisation.

3. The Health Service Advisory Committee shall, for the purpose of considering any case referred to it under section 5(2), consist of three persons selected by the Advisory and Finance Committee—

- (a) where the person concerned is a medical practitioner, from the Medical Panel;
- (b) where the person concerned is a dentist, from the Dental Panel;
- (c) where the person concerned is a pharmacist, from the Pharmaceutical Panel;
- (d) where the person concerned is a nurse, from the Nursing Panel (from which two members shall be selected) and from the Medical Panel (from which the third member shall be selected);

and the Advisory and Finance Committee shall designate one of them to act as chairman.

4. The Health Service Advisory Committee may determine any case referred to it by a majority.

5. Subject to paragraph 4, the Health Service Advisory Committee shall regulate its own procedure.

K. H. TOUGH,  
Her Majesty's Greffier

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