

# ORDER IN COUNCIL

**XVI**

ratifying a Projet de Loi

**1972**

ENTITLED

## **The Health Service (Pharmaceutical) (Guernsey) Law, 1972**

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(Registered on the Records of the Island of Guernsey  
on the 26th day of September, 1972.)

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1972.

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 26th day of September, 1972, before John Henry Loveridge, Esquire, C.B.E., Deputy Bailiff; present:—Bertram Guy Blampied, Esquire, O.B.E., Stanley Walter Gavey, Esquire, Gilbert Carey de Jersey, Esquire, C.B., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Walter Francis Robin, Richard Alan Kimmersly, Esquires, and Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 14th day of August, 1972, ratifying a *Projet de Loi* entitled "The Health Service (Pharmaceutical) (Guernsey) Law, 1972", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

## At the Court at Balmoral

The 14th day of August 1972

PRESENT,

### The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 10th day of August 1972, in the words following, viz:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That, in pursuance of their Resolution of the 26th day of January, 1972, the States of Deliberation at a meeting held on the 31st day of May, 1972, approved a Bill or “Projet de Loi” entitled “The Health Service (Pharmaceutical) (Guernsey) Law, 1972” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Health Service (Pharmaceutical) (Guernsey) Law, 1972” and to order that the same shall have force of law in the Islands of Guernsey, Herm and Jethou.’

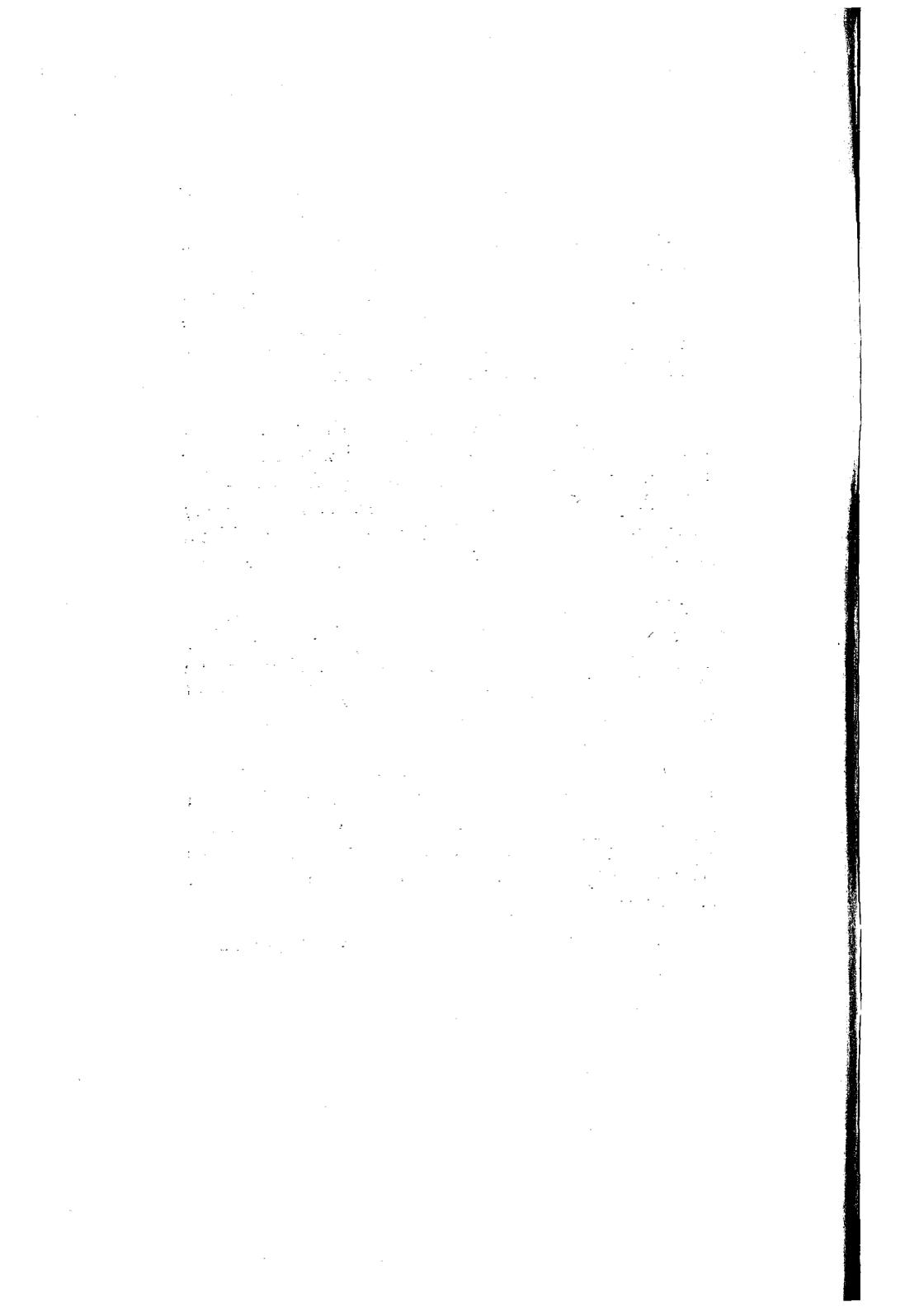
“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Herm and Jethou.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*W. G. Agnew.*



Projet de Loi referred to in the foregoing  
Order in Council

## PROJET DE LOI

ENTITLED

### **The Health Service (Pharmaceutical) (Guernsey) Law, 1972**

#### ARRANGEMENT OF SECTIONS

Section

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##### HEALTH SERVICE CONTRIBUTIONS

1. Source of funds.
2. Health service contributions.
3. States grant.
4. Application of certain provisions of the Social Insurance Law.

#### PART II

##### PHARMACEUTICAL BENEFIT

5. Right to pharmaceutical benefit.
6. Medical prescriptions.
7. Approved suppliers of pharmaceutical benefit.
8. Pharmaceutical List.
9. Supply of pharmaceutical benefit otherwise than on medical prescriptions.
10. Prescription charges.
11. Exception from liability to pay prescription charges.
12. Payment of approved suppliers.

Section

### PART III

#### FINANCE, ADMINISTRATION AND LEGAL PROCEEDINGS

13. Guernsey Health Service Fund.
14. Reports of Actuary.
15. General administration.
16. Determination of questions as to right to pharmaceutical benefit.
17. Inspectors.
18. Health Service Advisory Committee.
19. Power of the Authority to make orders giving effect to recommendations of the Health Service Advisory Committee, etc.
20. General provisions as to offences and penalties.
21. Civil proceedings to recover sums due to the Guernsey Health Service Fund.

### PART IV

#### MISCELLANEOUS AND GENERAL

22. Crown servants.
23. Ordinances and regulations.
24. Reciprocal agreements with other countries.
25. Service of documents.
26. Consequential amendments.
27. Saving.
28. Definition of "drug" and "medicine".
29. Provision of prescribed appliances under this Law.
30. Interpretation.
31. Citation and commencement.

## SCHEDULES:

FIRST SCHEDULE —RATES OF HEALTH SERVICE CONTRIBUTIONS.

SECOND SCHEDULE —PROVISIONS OF THE SOCIAL INSURANCE LAW TO HAVE EFFECT FOR THE PURPOSES OF THAT LAW AND OF THIS LAW.

THIRD SCHEDULE —CONSTITUTION OF THE HEALTH SERVICE ADVISORY COMMITTEE.

# PROJET DE LOI

ENTITLED

## **The Health Service (Pharmaceutical) (Guernsey) Law, 1972**

THE STATES, in pursuance of their Resolution of the twenty-sixth day of January, nineteen hundred and seventy-two, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

### PART I

#### HEALTH SERVICE CONTRIBUTIONS

Source of  
funds.

1. For the purpose of providing the funds required for making such payments as are under this Law to be made out of the Guernsey Health Service Fund in respect of pharmaceutical benefit supplied under this Law and for making any other payments as are under this Law to be made out of that fund—

- (a) contributions (hereafter in this Law referred to as "health service contributions") shall be payable in accordance with the provisions of the next following section, and
- (b) an annual grant shall be payable out of moneys provided by the States in accordance with the provisions of section three of this Law.

Health  
service  
contribu-  
tions.

2. (1) Subject to the provisions of subsection (3) of this section, every person who, in respect of any contribution week beginning on or after the first appointed day—

- (a) pays or is liable to pay an insurance contribution as a person of any description specified in the first column of the First Schedule

to this Law, otherwise than in paragraph 3 of that Schedule, or

(b) would be liable to pay an insurance contribution as a person of any such description but for—

(i) the provisions of any regulations made under section one of the Social Insurance Law (which relates to the description and classification of insured persons) relating to an employed person who is not ordinarily resident in Guernsey,

(ii) the provisions of any Ordinance made under section sixty-eight of the Social Insurance Law (which relates to reciprocal agreements with Her Majesty's dominions and foreign countries),

shall, in respect of that week, be liable to pay a health service contribution at the rate specified in relation to that description in the second column of that Schedule.

(2) Every employer who, in respect of any contribution week beginning on or after the first appointed day—

(a) is liable to pay an insurance contribution in respect of any person, or

(b) would be liable to pay an insurance contribution in respect of any person if that person would be liable to pay an insurance contribution but for any of the provisions mentioned in paragraph (b) of subsection (1) of this section,

shall, in respect of that week, be liable to pay a health service contribution in respect of that person at the rate specified in the second column of paragraph 3 of the First Schedule to this Law:

Provided that an employer shall not be liable to pay a health service contribution in respect of any person who has attained the age of sixty-five years.

(3) Regulations may provide for excepting any person who would be liable to pay insurance contributions but for any of the provisions mentioned in paragraph (b) of subsection (1) of this section from liability to pay health service contributions for periods of incapacity for work and for such other periods as may be prescribed, and may make provision as to the days which are or are not to be treated for the purposes of those regulations as days of incapacity for work.

(4) The States may by Ordinance vary the provisions of this section as to the rates of health service contributions and as to the classes of persons liable to pay health service contributions.

States  
grant.

3. There shall be paid, in respect of each year, into the Guernsey Health Service Fund out of moneys provided by the States, in such manner and at such times as the States Advisory and Finance Committee shall determine, a grant equivalent to the aggregate of the following amounts, that is to say—

(a) the total amount of the health service contributions which have not been paid and which would have been payable during that year by persons insured under the Social Insurance Law if such persons had not been excepted from liability to pay insurance contributions for any period by virtue of any regulations made under section five of that Law (which relates to exception from liability for, and crediting of, contributions) by reason of the fact that they were not in receipt (or were deemed in accordance

with those regulations not to be in receipt) of an income exceeding the sum for the time being determined by Ordinance made under that section, and

- (b) the total amount of the prescription or other charges which, but for the remission of those charges under this Law, would have been payable under this Law in respect of pharmaceutical benefit supplied during that year.

4. Subject to such modifications, adaptations and exceptions as may be prescribed, the provisions of the Social Insurance Law specified in the Second Schedule to this Law, and any Ordinance and any regulations made under those provisions as may be prescribed, shall have effect for the purposes of those provisions as well as for the purposes of this Law—

Application  
of certain  
provisions  
of the  
Social  
Insurance  
Law.

- (a) in relation to a person who, in respect of any contribution week, is liable as an insured person to pay a health service contribution, as if that contribution and the insurance contribution paid or payable by him for that week together constituted one combined contribution payable by him under the Social Insurance Law for that week;
- (b) in relation to a person who, in respect of any contribution week, is liable to pay a health service contribution as a person who would be liable to pay an insurance contribution for that week but for any of the provisions mentioned in paragraph (b) of subsection (1) of section two of this Law, as if that health service contribution were an insurance contribution payable by him

for that week as an employed person, self-employed person or non-employed person, as the case may be, or as would be the case if he were an insured person;

(c) in relation to a person who, in respect of any contribution week, is liable as an employer to pay a health service contribution in respect of an insured person, as if that contribution and the insurance contribution payable by him for that week in respect of that insured person together constituted one combined contribution payable by him under the Social Insurance Law in respect of that insured person for that week;

(d) in relation to a person who, in respect of any contribution week, is liable as an employer to pay a health service contribution in respect of any person who would be liable to pay an insurance contribution for that week but for any of the provisions mentioned in paragraph (b) of subsection (1) of section two of this Law, as if that health service contribution were an insurance contribution payable by him as an employer in respect of that person for that week;

and shall have effect as aforesaid in relation to a person of the description specified in paragraph (b) of this section who is not an insured person and in relation to his employer as if that person were an insured person.

## PART II

### PHARMACEUTICAL BENEFIT

5. (1) In this Law, the expression "pharmaceutical benefit" means, in relation to a person who is being treated by a medical practitioner or dentist,

Right to  
pharma-  
ceutical  
benefit.

such proper drugs and medicines as are requisite for the treatment of that person.

(2) Subject to the provisions of this Law, a person to whom the provisions of this section apply and who is being treated in Guernsey by a medical practitioner or dentist shall be entitled to be supplied with pharmaceutical benefit on an order in the prescribed form (hereafter in this Law referred to as "a medical prescription") issued by that medical practitioner or dentist, as the case may be.

(3) A person who is entitled to be supplied with pharmaceutical benefit under this Law shall be entitled thereto free of charge, except for such prescription and other charges as he is liable to pay under this Law.

(4) Subject to the provisions of section nine of this Law, pharmaceutical benefit shall not be supplied under this Law except on a medical prescription issued on or after the second appointed day.

(5) The provisions of this section shall apply to any person who is for the time being present in Guernsey and who—

(a) is ordinarily resident in Guernsey;

(b) is not ordinarily resident in Guernsey but is liable to pay health service contributions or would be so liable if he were not excepted from liability—

(i) to pay insurance contributions, or

(ii) to pay health service contributions by virtue of any regulations made under subsection (3) of section two of this Law; or

(c) is not ordinarily resident in Guernsey and is not liable to pay health service contributions, if that person—

- (i) is the child or the wife of any person to whom the provisions of paragraph (b) of this subsection apply, or
- (ii) is a person of such description as may be prescribed.

(6) For the purpose of the last foregoing subsection—

- (a) regulations may provide that a person who is periodically resident in Guernsey but is not ordinarily resident therein shall be treated as being ordinarily resident in Guernsey;
- (b) the expression “child” means a person who would be treated as a child for the purposes of the Family Allowances (Guernsey) Law, 1950.

(7) A medical practitioner or dentist shall not be entitled to be supplied with pharmaceutical benefit under this Law for his own treatment on a medical prescription issued by himself.

Medical  
prescriptions.

6. Regulations may make provision in relation to medical prescriptions, and, in particular, but without prejudice to the generality of the foregoing, may provide for—

- (a) the manner in which medical prescriptions shall be completed by medical practitioners and dentists;
- (b) the manner in which medical prescriptions shall be issued by medical practitioners and dentists;
- (c) prohibiting the issue of a medical prescription for ordering the supply of pharmaceutical benefit under this Law for more than one person;

- (d) authorising the supply of pharmaceutical benefit under this Law on the presentation of a copy of a medical prescription to an approved supplier;
- (e) regulating the quantity of pharmaceutical benefit which may be ordered on a medical prescription so as to prevent the supply of pharmaceutical benefit under this Law to any person on any one occasion in a quantity exceeding the quantity thereof requisite for the treatment of that person during such period as may be prescribed.

7. (1) Subject to the provisions of this Law, a person shall not be entitled to be supplied with pharmaceutical benefit under this Law except by a medical practitioner, dentist or pharmacist who has been approved by the Authority under the next following subsection as a supplier of pharmaceutical benefit for the purposes of this Law and whose name is for the time being included in the list required to be kept by the Authority under the next following section.

Approved suppliers of pharmaceutical benefit.

(2) Every medical practitioner, dentist or pharmacist shall be approved by the Authority as a supplier of pharmaceutical benefit for the purposes of this Law if he makes application in that behalf to the Authority in the prescribed form and, at the time of making such application, furnishes to the Authority an undertaking in the prescribed form to supply pharmaceutical benefit under this Law in accordance with such terms and conditions as may be prescribed from time to time.

(3) The Authority may from time to time prepare a scheme for securing that one or more places of business of approved suppliers who are pharmacists shall be open at such times as the Authority

deems necessary and any such scheme shall specify the days and hours during which such places shall be open.

(4) A person shall not be entitled to be supplied with pharmaceutical benefit under this Law by an approved supplier who is a medical practitioner unless the medical prescription on which such pharmaceutical benefit is ordered has been issued by that medical practitioner or by a medical practitioner who is an assistant of his or with whom he is carrying on practice in partnership.

(5) Pharmaceutical benefit intended to be supplied under this Law shall not be prepared or supplied otherwise than by or under the direct supervision of a medical practitioner, dentist or pharmacist.

Pharmaceutical List.

8. (1) The Authority shall keep a list (hereafter in this Law referred to as "the Pharmaceutical List") of all persons who are approved suppliers.

(2) The Pharmaceutical List shall contain, in addition to the names of approved suppliers—

(a) in the case of an approved supplier who is a medical practitioner or dentist, the address of any surgery at which he has undertaken for the time being to supply pharmaceutical benefit under this Law, and

(b) in the case of an approved supplier who is a pharmacist, the address of any place of business at which he has undertaken for the time being to supply pharmaceutical benefit under this Law and the days and hours during which that place of business shall be open for the supply of pharmaceutical benefit as aforesaid.

## (3) The Authority shall—

- (a) cause the cancellation to be made of the entry in the Pharmaceutical List relating to an approved supplier who has died or has ceased to practise in Guernsey as a medical practitioner, dentist or pharmacist, as the case may be;
- (b) cause the cancellation to be made of the entry in the Pharmaceutical List relating to an approved supplier where that approved supplier has by notice in writing served on the Authority requested the Authority to withdraw his approval as an approved supplier under subsection (2) of the last foregoing section;
- (c) cause the cancellation to be made of the entry in the Pharmaceutical List relating to an approved supplier whose approval under the said subsection (2) has been withdrawn or suspended by virtue of an order made under section nineteen of this Law;
- (d) where such order ceases to have effect by being revoked under the said section nineteen or by effluxion of time, as the case may be, cause the entry formerly included in the Pharmaceutical List relating to the person against whom the order was made to be restored.

(4) Copies of the Pharmaceutical List shall be made available by the Authority for inspection during normal office hours at the office for the time being of the Authority and at such other places as appear to the Authority to be convenient for informing all persons interested.

Supply of pharmaceutical benefit otherwise than on medical prescriptions.

9. Regulations may provide for—

- (a) authorising an approved supplier to supply pharmaceutical benefit under this Law otherwise than on a medical prescription;
- (b) authorising a medical practitioner or dentist who is not an approved supplier to supply pharmaceutical benefit under this Law, whether on a medical prescription or otherwise, at the cost, in whole or in part, of the Guernsey Health Service Fund.

Prescription charges.

10. (1) Subject to the provisions of subsection (3) of this section, a person supplied with pharmaceutical benefit under this Law by an approved supplier shall be liable to pay to that approved supplier a charge (hereafter in this Law referred to as "a prescription charge") in the sum of twenty-five pence, or such other sum as the States may by Ordinance from time to time determine, in respect of each item of pharmaceutical benefit so supplied, unless there is furnished to that approved supplier a declaration in such form as shall be prescribed to the effect that such person is a person in respect of whom a certificate of exception for the time being in force has been granted.

(2) Subject to the provisions of the next following subsection, an approved supplier shall not be under any obligation to supply pharmaceutical benefit under this Law unless—

- (a) he has been paid the prescription charge or charges payable therefor under this section, or
- (b) he has been furnished with such declaration as aforesaid in respect of the person for whom the pharmaceutical benefit is to be supplied.

(3) Regulations may provide that a prescription charge shall not be payable in respect of pharmaceutical benefit ordered to be supplied under this Law to two or more persons on the same medical prescription, being a medical prescription authorised to be issued under this Law, and that an approved supplier shall accordingly be under an obligation to supply such pharmaceutical benefit without payment of a prescription charge.

(4) For the purpose of this section, the supply of quantities of the same drug or medicine in more than one container on an order 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 approved supplier may be recovered by him as a civil debt.

11. (1) A person shall not be liable to pay a prescription charge in respect of any item of pharmaceutical benefit supplied to him under this Law if he is a person in respect of whom a certificate of exception for the time being in force has been granted.

Exception  
from  
liability  
to pay  
prescription  
charges.

(2) The Authority shall grant a certificate of exception to a person in respect of himself and of his dependants if he is entitled to receive supplementary benefit, and such certificate shall remain in force for so long as he is entitled to receive such benefit.

(3) The Authority shall, upon application being made to it in that behalf by any other person, grant a certificate of exception to the applicant in respect of himself and of his dependants if the Authority is satisfied, having regard to any special circumstances and considerations which, in the opinion of the Authority, affect the financial position of the

applicant, that it is just and equitable so to do; and, subject to the provisions of subsection (7) of this section, such certificate shall remain in force during the period which shall be specified therein by the Authority.

(4) Any such application and certificate of exception shall be in such form as may for the time being be approved by the Authority, and any such certificate shall specify the names and addresses of the persons in respect of whom it is granted.

(5) A person making an application for a certificate of exception under subsection (3) of this section shall, if directed so to do by the Authority, furnish to the Authority any such information and evidence as the Administrator is empowered to demand under the provisions of any Ordinance made under the Supplementary Benefit Law and shall, if a certificate of exception is granted to him under that subsection,—

- (a) furnish to the Authority any such information and evidence as aforesaid whenever directed so to do by the Authority;
- (b) comply with any directions which may be given by the Authority as to the reporting to the Authority any change of circumstances which may, in the opinion of the Authority, affect his financial position, including any change in the means of any of his dependants.

(6) A person to whom a certificate of exception has been granted and which is for the time being in force shall—

- (a) as soon as may be, notify the Authority in writing of any change in his name or

address or in the name or address of any of his dependants;

- (b) if directed so to do by the Authority, return such certificate to the Authority to enable the Authority to vary the same by deleting therefrom the name and address of any person who has ceased to be a dependant of his, by inserting therein the name and address of any person who has become a dependant of his, or by making such alteration as may be necessary with respect to the name or address of any person specified therein.

(7) The Authority may at any time revoke a certificate of exception granted to any person under subsection (3) of this section—

- (a) if the Authority is satisfied, having regard to any change of circumstances which, in the opinion of the Authority, affects his financial position, that he is no longer in need of a certificate of exception, or
- (b) if he fails to comply with any direction given under subsection (5) or subsection (6) of this section, or fails to comply with the provisions of the said subsection (6).

and where a certificate of exception granted to any person is revoked under this subsection, he shall, upon being directed so to do by a notice in writing served on him by the Administrator notifying him of such revocation, return that certificate to the Authority.

(8) For the purpose of this section, the expression "dependants"—

(a) in relation to a person who is entitled to receive supplementary benefit, has the meaning assigned thereto by section four 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 such other person were entitled to receive supplementary benefit.

(9) The States may by Ordinance vary the provisions of this section as to the persons in respect of whom a certificate of exception may be granted.

Payment of approved suppliers.

12. (1) Regulations shall provide for—

(a) the payment of approved suppliers in respect of pharmaceutical benefit supplied by them under and in accordance with the provisions of this Law,

(b) the manner in which such payment shall be calculated, and

(c) the terms and conditions subject to which such payment shall be made.

(2) Regulations made under subsection (1) of this section may provide for—

(a) requiring an approved supplier who is a pharmacist to furnish to the Authority, or to such person as the Authority may direct, any information required for the purpose of enabling the Authority to determine the amount which shall be payable under the regulations to approved suppliers in respect of pharmaceutical benefit supplied by them; and

(b) requiring an approved supplier who is a pharmacist to permit any person authorised

in writing by the Authority in that behalf to carry out such inspection and examination for such purpose as aforesaid at any place of business at or from which such approved supplier supplies pharmaceutical benefit under this Law.

### PART III

#### FINANCE, ADMINISTRATION AND LEGAL PROCEEDINGS

13. (1) For the purposes of this Law, there shall be established, under the control and management of the Authority, a fund called "the Guernsey Health Service Fund" into which shall be paid all health service contributions, all moneys provided by the States under this Law and any moneys accruing to the Authority under and by virtue of this Law, and out of which Fund shall be paid all sums payable in respect of pharmaceutical benefit supplied under this Law and all expenses incurred by the Authority in carrying this Law into effect.

(2) Accounts of the Guernsey Health Service Fund shall be prepared annually in such form and in such manner as the Authority may from time to time direct and auditors appointed annually by the States shall examine, certify and report to the Authority upon every account and the Authority shall, as soon as may be thereafter, lay copies thereof together with the report of the auditors thereon, before the States.

(3) Any moneys forming part of the Guernsey Health Service Fund may, from time to time, be invested by the Authority in any securities which are for the time being authorised by the States.

Reports of  
Actuary.

14. (1) The Government Actuary of Great Britain, if he be willing, or an actuary nominated by him, or, if the said Government Actuary be unwilling so to act or to nominate, an actuary appointed by the States, shall review the operation of this Law at least once in every period of five years and, on each such review, make a report to the Authority on the financial condition of the Guernsey Health Service Fund and the adequacy or otherwise of the contributions payable under this Law to support such payments as are under this Law to be made out of that Fund in respect of pharmaceutical benefit supplied under this Law and any other liabilities under this Law.

(2) The Authority shall, as soon as is practicable, lay before the States a copy of every report made to it under this section.

General  
administra-  
tion.

15. (1) The administration of this Law shall be vested in the Authority.

(2) The functions conferred on the Authority by or under this Law, other than any power to make regulations, may be exercised by the President or any other member of the Authority or by the Administrator if authorised in that behalf by the Authority.

Determina-  
tion of  
questions  
as to  
right to  
pharma-  
ceutical  
benefit.

16. Any question arising under this Law as to the right of any person to pharmaceutical benefit shall, subject to such modifications and adaptations as may be prescribed, be determined in like manner as any question arising under the Social Insurance Law as to the right to benefit under that Law:

Provided that where, in pursuance of the provisions of this section, any question is determined by the tribunal appointed or constituted in accordance with the provisions of an Ordinance made under subsec-

tion (1) of section forty-eight of that Law (which relates to the determination of claims and questions) or by the tribunal appointed in accordance with the provisions of section five of the Family Allowances (Guernsey) Law, 1950 (which relates to the determination of questions as to right of allowances), no appeal shall lie from the decision of the tribunal.

17. The provisions of section fifty-eight of the Inspectors.  
Social Insurance Law (which relates to inspectors), other than any such provisions relating to the investigation of the circumstances in which, and the premises and places where, an injury or disease was or may have been received or contracted, shall have effect for the purposes of this Law as well as for the purposes of the Social Insurance Law; and an inspector appointed under that section for the purposes of that Law shall be deemed to have also been appointed for the purposes of this Law.

18. (1) There shall be constituted in accordance with the provisions of the Third Schedule to this Law a committee which shall be called "the Health Service Advisory Committee" (hereafter in this section and the next following section referred to as "the Committee") with authority to exercise the powers and perform the duties conferred and imposed upon it by this section. Health  
Service  
Advisory  
Committee.

(2) Where it appears to the Authority, after due enquiry, that there is a prima facie case for considering that—

(a) by reason of the character or quantity of pharmaceutical benefit supplied or ordered to be supplied to any person under this Law the cost thereof to the Guernsey Health Service Fund is in excess of what was reasonably necessary for the proper treatment of that person;

- (b) any substance supplied under this Law is not a substance falling within the meaning of a drug or medicine for the purposes of this Law;
- (c) an approved supplier has contravened or failed to comply with the provisions of this Law or of any regulations made thereunder relating to approved suppliers, or has failed to observe or perform any of the terms or conditions of the undertaking furnished by him to the Authority in pursuance of the provisions of subsection (2) of section seven of this Law;
- (d) an approved supplier has ceased to supply pharmaceutical benefit under this Law otherwise than by reason of an order made under the next following section; or
- (e) the conduct of any medical practitioner, dentist or pharmacist has been such as to be prejudicial to the efficient administration of this Law;

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 informing him that the case has been referred to the Committee.

(3) In this section, the expression "the person concerned" means, in relation to any reference made under the last foregoing subsection—

- (a) on the ground specified in paragraph (a) or paragraph (b) of that subsection, the medical practitioner or dentist by or on behalf of whom the pharmaceutical benefit or substance in question, as the case may be, was ordered to be supplied;

(b) on the ground specified in paragraph (c), paragraph (d) or paragraph (e) of that subsection, the medical practitioner, dentist or pharmacist in respect of whom the reference has been made.

(4) Where any reference has been made to the Committee under subsection (2) of this section—

(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 reasonable opportunity of appearing before and being heard by the Committee, or, if he thinks fit, 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 reasonable opportunity to a representative or representatives of the Authority of appearing before and being heard by the Committee, and

(c) in relation to medical prescriptions issued by a medical practitioner as a deputy for another medical practitioner, the Committee may, to such extent as is considered material, require information concerning those prescriptions from the medical practitioner for whom he was deputising.

(5) The Committee shall, as soon as may be after considering any case referred to it under subsection (2) of this section, furnish the Authority with a statement in writing setting out the finding of the Committee together with the reasons therefor, and the Committee may, where it is of the opinion

that the case is well-founded, include in that statement a recommendation to the Authority—

- (a) where the case has been so referred to the Committee on the ground specified in paragraph (a) of the said subsection (2), that the person concerned be required to pay to the Guernsey Health Service Fund such sum as, in the opinion of the Committee, is a reasonable estimate of the cost to the Fund which has been incurred in excess of what was reasonably necessary for the proper treatment of the person treated by or on behalf of the person concerned;
- (b) where the case has been so referred to the Committee on the ground specified in paragraph (b) of the said subsection (2) and any payment has been made out of the Guernsey Health Service Fund in respect of the supply of the substance 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 has been so referred to the Committee on the ground specified in paragraph (a), paragraph (b) or paragraph (e) of the said subsection (2), that (whether in addition to or instead of a recommendation under paragraph (a) or paragraph (b) of this subsection or otherwise) the person concerned, being a medical practitioner or dentist, be prohibited from ordering the supply of pharmaceutical benefit under this Law indefinitely or during such period as shall be specified by the Committee;
- (d) where the case has been so referred to the Committee on the ground specified in para-

graph (c) or paragraph (d) of the said subsection (2) or, in relation to any approved supplier, on the ground specified in paragraph (e) of that subsection, that the approval of the person concerned under subsection (2) of section seven of this Law as an approved supplier be withdrawn or be suspended for such period as shall be specified by the Committee.

(6) The Authority shall, as soon as may be, give to the person concerned a copy of the statement furnished to the Authority by the Committee in accordance with the provisions of the last foregoing subsection, and if he is dissatisfied with the finding of the Committee or with any recommendation made by the Committee under that subsection, he may give notice of appeal therefrom to the Authority within one month from the date on which he received a copy of the said statement; and thereupon the Authority shall refer the case to three referees appointed by the States Advisory and Finance Committee in accordance with the provisions of subsection (11) of this section to hear and determine the case.

(7) If the Authority is dissatisfied with any finding or recommendation of the Committee as aforesaid, the Authority may, within one month from the date on which the person concerned received a copy of the statement furnished to the Authority by the Committee under subsection (5) of this section, refer the case to three referees appointed as aforesaid to hear and determine the case; and in that event the Authority shall give to the person concerned notice in writing informing him that it has so referred the case.

(8) Where a case has been referred to such referees as aforesaid under subsection (6) or subsection (7) of this section, they shall review the finding

of the Committee and any recommendation made by the Committee under subsection (5) of this section and may—

- (a) quash, confirm or vary the finding of the Committee;
- (b) reject or confirm any such recommendation;
- (c) where they have rejected any such recommendation or where no such recommendation has been made, make any such recommendation to the Authority as the Committee is empowered to make under the said subsection (5) and as may be appropriate to the case;

and the referees shall, as soon as may be, furnish the Authority and the person concerned with a statement in writing setting out their finding together with the reasons therefor and shall include in that statement any recommendations as aforesaid made or confirmed by them.

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

(10) Subject to the provisions of the last foregoing subsection, the said referees shall regulate their own procedure.

(11) The States Advisory and Finance Committee shall appoint as referees for the purpose of determining any reference made under subsection (6) or subsection (7) of this section at least three persons (not being members of the States, medical practitioners, dentists, pharmacists or persons holding any paid office under the States) of whom one shall be—

- (a) in the case 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) in the case where the person concerned is a dentist, a person registered in the dentists register under the Dentists Act 1957;
- (c) in the case 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;

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

19. (1) The Authority may accept—

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

Power of the Authority to make orders giving effect to recommendations of the Health Service Advisory Committee, etc.

and may accept any such recommendation, or accept any such recommendation subject to such modifications as the Authority deems fit; and in that event the Authority shall give effect to its decision accepting such recommendation, with such modifications, if any, by order served on the medical practitioner, dentist or pharmacist concerned.

(2) An order made under subsection (1) of this section shall specify the terms of the decision of the Authority under that subsection and the date on which the order shall commence to have effect.

(3) The Authority may, upon the application of a medical practitioner, dentist or pharmacist against

whom an order has been made under subsection (1) of this section, or at any time at its discretion, by order served on that medical practitioner, dentist or pharmacist, revoke the original order or vary the original order so as to modify the terms thereof.

(4) Where the approval of a medical practitioner, dentist or pharmacist by the Authority under subsection (2) of section seven of this Law as an approved supplier has been withdrawn or suspended by virtue of an order made under subsection (1) of this section, then—

- (a) he shall be disqualified for applying for such approval at any time while the order remains in force, and,
- (b) in the case where such approval has been withdrawn by virtue of the order, such approval shall be revived upon the revocation of the order by virtue of an order made under the last foregoing subsection.

(5) Where an order is made under subsection (1) of this section prohibiting a medical practitioner or dentist from ordering the supply of pharmaceutical benefit under this Law, the Authority shall, by notice in writing, inform all approved suppliers of the prohibition, specifying in the notice the period during which the prohibition shall have effect and where the order has been varied shall, by notice in writing, inform all approved suppliers of the variation or revocation, as the case may be, specifying in the notice, in the case where the period of the prohibition has been varied, the period during which the prohibition shall have effect under the original order as varied.

(6) No approved supplier shall supply pharmaceutical benefit under this Law on a medical prescription issued by a medical practitioner or dentist during the period during which that medical practitioner or dentist, as the case may be, is prohibited from ordering the supply of pharmaceutical benefit by virtue of an order made under subsection (1) of this section or by virtue of an order so made as varied by an order made under subsection (3) of this section, as the case may be.

(7) The Authority may withhold the payment of any sum payable under this Law to an approved supplier in respect of pharmaceutical benefit which has been supplied by that approved supplier in contravention of the provisions of the last foregoing subsection.

(8) Any sum which a medical practitioner, dentist or pharmacist is required to pay to the Guernsey Health Service Fund by virtue of an order made under subsection (1) of this section may be deducted from any sum payable to him under this Law.

20. (1) If any person for the purpose of obtaining pharmaceutical benefit or any payment under this Law, whether for himself or some other person, or for the purpose of evading the payment of any prescription or other charge payable under this Law or for any other purpose connected with this Law—

- (a) knowingly makes any false statement or false representation, or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred pounds

General provisions as to offences and penalties.

or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(2) Where a person has committed any offence under subsection (1) of this section for the purpose of evading the payment of prescription or other charges payable under this Law, then, whether or not he is convicted of the offence, such prescription or other charges may be recovered from him as a civil debt by the person who supplied the pharmaceutical benefit in question.

(3) Subject to the provisions of the next following subsection, any person who contravenes or attempts to contravene or fails to comply with the provisions of any regulations made under the provisions of this Law shall be guilty of an offence under this Law and liable, on conviction, to such penalties as may be prescribed in the regulations so, however, that such penalties shall not exceed ten pounds for each offence or, where the offence consists of continuing any such contravention or failure after conviction thereof, ten pounds together with a further ten pounds for each day on which it is so continued.

(4) Regulations may provide that the provisions of the last foregoing subsection shall not apply to a contravention of, or a failure to comply with, any of the provisions of those regulations.

(5) Where an offence under this Law which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) Nothing in this section shall be construed as preventing the Authority from recovering by means of civil proceedings any sums due to the Guernsey Health Service Fund.

21. (1) All sums due to the Guernsey Health Service Fund, including any sum required to be paid into the Fund by virtue of an order made under section nineteen of this Law, shall be recoverable as debts due to the Authority, and without prejudice to any other remedy may be recovered by the Authority as a civil debt.

Civil proceedings to recover sums due to the Guernsey Health Service Fund.

(2) Proceedings for the recovery as civil debts of sums due to the Guernsey Health Service Fund shall be brought within the three years next following the day on which the cause of action accrued.

#### PART IV

#### MISCELLANEOUS AND GENERAL

22. The provisions of section sixty-three of the Social Insurance Law (which relates to Crown servants) shall have effect as if any reference therein to that Law included a reference to this Law and any regulations made under that section shall have effect accordingly.

Crown Servants.

23. (1) Except in so far as this Law otherwise provides, any power conferred thereby to make an Ordinance or regulations may be exercised—

Ordinances and regulations.

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases; and

(b) so as to make, as respects the cases in relation to which it is exercised—

- (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
- (ii) the same provision for all cases in relation to which the power is exercised or different provision for different cases or classes of cases or different provision as respects the same case or class of case for different purposes of this Law;
- (iii) any such provision either unconditionally or subject to any specified condition.

(2) Without prejudice to any specific provision in this Law, any Ordinance or regulations under this Law may contain such incidental or supplementary provisions as appear to the States or the Authority, as the case may be, to be expedient for the purposes of the Ordinance or regulations.

(3) Any power conferred by this Law to make an Ordinance or regulations shall include power to vary or revoke any Ordinance or regulations so made by a subsequent Ordinance or regulations, as the case may be.

(4) Regulations shall be laid before a meeting of the States as soon as may be after the making thereof, and if at that meeting or at the next subsequent meeting the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making by the Authority of any new regulations:

Provided that the provisions of this subsection shall not apply in relation to regulations made under subsection (3) of section twenty-eight of this Law.

24. For the purpose of giving effect to any agreement with the government of any part of Her Majesty's dominions or the government of any foreign country providing for reciprocity in matters relating to the provision of pharmaceutical benefit, the States may by Ordinance make provision for modifying or adapting this Law in its application to cases affected by the agreement.

Reciprocal agreements with other countries.

25. (1) Any notice or other document authorised or required under this Law to be given to or served on the Authority may be given or served by sending it by post addressed to the Authority at the office for the time being of the Authority.

Service of documents.

(2) Any notice or other document authorised or required under this Law to be given to or served on any person may be given or served by delivering it to that person, or by leaving it at his usual or last known place of residence, or by sending it by post addressed to him at that place.

26. On the second appointed day, the words "medical, surgical and pharmaceutical aid" in subsection (3) of section fifteen and in subsection (2) of section thirty-two of the Social Insurance Law shall be repealed and the words "medical and surgical aid" shall be substituted therefor.

Consequential amendments.

27. Nothing in this Law shall be construed as affecting any restriction or prohibition imposed by or under the provisions of any other enactment.

Saving.

28. (1) Subject to the provisions of subsection (5) of this section, for the purposes of this Law, the expression "drug" and the expression "medicine" include any substance intended for use by being administered or applied to a human being for a

Definition of "drug" and "medicine".

medicinal purpose and such chemical reagent as may be prescribed, but shall not include any prescribed substance unless such substance is intended to be used for the prevention or treatment of such disease as may be prescribed.

(2) Subject to the provisions of subsection (5) of this section, the expression "medicinal purpose" in subsection (1) of this section means any one or more of the following purposes, that is to say—

- (i) treating or preventing disease;
- (ii) diagnosing disease or ascertaining the existence, degree or extent of a physiological condition;
- (iii) otherwise preventing or interfering with the normal operation of a physiological function, whether permanently or temporarily, and whether by way of terminating, reducing or postponing, or increasing or accelerating the operation of that function or in any other way;

unless provision is made to the contrary by regulations.

(3) Subject to the provisions of the next following subsection, regulations may provide that, for the purposes of this Law, the expression "drug" and the expression "medicine" shall mean any substance as may be prescribed; and such regulations may provide that any substance so prescribed shall not be deemed to be a drug or medicine for the purposes of this Law unless it is intended to be used for the prevention or treatment of such disease as may be prescribed.

(4) No regulations shall be made under the last foregoing subsection unless a draft of such regulations has been laid before the States and has been approved by a resolution of the States.

(5) The provisions of sub-section (1) and sub-section (2) of this section shall cease to have effect upon the coming into operation of regulations made under subsection (3) of this section subject to such savings as may be prescribed.

(6) Regulations made under subsection (1) or subsection (3) of this section may provide that the Authority may, if it is satisfied that any substance, which, by virtue of those regulations, falls to be excluded from the definition of the expression "drug" and the expression "medicine" in this Law, is required in any particular case for the prevention or treatment of a disease, direct that such substance shall, in relation to that case, be deemed to fall within that definition.

29. (1) The States may by Ordinance make provision for extending the meaning assigned to the expression "pharmaceutical benefit" by subsection (1) of section five of this Law so as to include such appliances as may be prescribed by regulations and which are requisite for the treatment of any person.

Provision of prescribed appliances under this Law.

(2) An Ordinance made under subsection (1) of this section may make provision for modifying or adapting this Law in its application in relation to appliances prescribed as aforesaid.

30. (1) In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation.

"Administrator" has the meaning assigned to it by subsection (1) of section seventy-nine of the Social Insurance Law;

"approved supplier" means a person approved by the Authority under subsection (2) of section seven of this Law;

“the Authority” means the States Insurance Authority constituted in accordance with the provisions of section forty-seven of the Social Insurance Law;

“certificate of exception” means a certificate of exception granted by the Authority under subsection (2) or subsection (3) of section eleven of this Law;

“contribution week” means a period of seven days commencing at midnight ending Sunday;

“disease” includes any injury, ailment or adverse condition, whether of body or mind;

“first appointed day” means the day appointed by the States by Ordinance made under subsection (2) of the next following section as the day on which the provisions of this Law, other than the provisions thereof to which subsection (3) of that section applies, shall come into force;

“Guernsey” includes the Islands of Alderney, Herm and Jethou;

“the Guernsey Health Service Fund” means the fund established under the provisions of section thirteen of this Law;

“the Health Service Advisory Committee” means the committee constituted in accordance with the Third Schedule to this Law;

“health service contribution” has the meaning assigned to it by section one of this Law;

“insurance contribution” means a contribution payable under the Social Insurance Law;

“insured person” means a person insured under the Social Insurance Law;

“item of pharmaceutical benefit” means each quantity of the drugs or medicines ordered to be supplied under this Law;

“medical practitioner” and “dentist” mean respectively a person authorised to practise in Guernsey as a medical practitioner or dentist according to the law for the time being in force;

“medical prescription” has the meaning assigned to it by subsection (2) of section five of this Law;

“pharmaceutical benefit” has the meaning assigned to it by subsection (1) of section five of this Law;

“Pharmaceutical List” has the meaning assigned to it by subsection (1) of section eight of this Law;

“pharmacist” means—

(a) a person authorised to practise in Guernsey as a pharmacist according to the law for the time being in force, or

(b) a person or body corporate authorised under any enactment for the time being in force in Guernsey to carry on a business which consists of or includes the preparation and sale of poisons or medicines within the meaning of that enactment;

“prescribed” means prescribed by regulations made by the Authority under this Law;

“prescription charge” has the meaning assigned to it by subsection (1) of section ten of this Law;

“second appointed day” means the day on which Part II (other than subsection (2) of section seven and section eight) and section twenty-six of this Law shall come into force in pursuance of the provisions of subsection (3) of the next following section;

“the Social Insurance Law” means the Social Insurance (Guernsey) Law, 1964;

“the States” means the States of Guernsey;

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

“supplementary benefit” means supplementary benefit under the Supplementary Benefit Law;

“the Supplementary Benefit Law” means the Supplementary Benefit (Guernsey) Law, 1971;

“treatment” means medical treatment or dental treatment; and “treated” shall be construed accordingly.

(2) For the purposes of this Law, a person shall be deemed not to have attained the age of sixty-five years until the commencement of the sixty-fifth anniversary of the day of his birth.

(3) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment including this Law.

Citation  
and com-  
mencement.

31. (1) This Law may be cited as the Health Service (Pharmaceutical) (Guernsey) Law, 1972.

(2) Subject to the provisions of subsection (4) of this section, this Law, other than the provisions thereof to which the next following subsection applies, shall come into force on such day as shall be appointed by Ordinance of the States.

(3) Subject to the provisions of the next following subsection, Part II (other than subsection (2) of section seven and section eight) and section twenty-six of this Law shall come into force on the expira-

tion of the period of twenty-six weeks commencing on the day appointed by Ordinance of the States under the last foregoing subsection.

(4) Any powers conferred by any provisions of this Law to make any Ordinance or regulations may be exercised at any time after the registration of this Law and before the day on which the provisions under which such Ordinance or regulations, as the case may be, are made shall come into force:

Provided that such Ordinance or regulations shall not come into force until the respective provisions of this Law under which they are made shall come into force.

## SCHEDULES

## FIRST SCHEDULE

Section two

## RATES OF HEALTH SERVICE CONTRIBUTIONS

(1) <i>Description of person</i>	(2) <i>Weekly rate of contribution</i>
1. Employed persons, other than married women, widows and persons who have attained the age of sixty-five years.	10p
2. Self-employed and non-employed persons, other than married women, widows and persons who have attained the age of sixty-five years.	19p
3. Employers.	9p

## SECOND SCHEDULE

Section four

## PROVISIONS OF THE SOCIAL INSURANCE LAW TO HAVE EFFECT FOR THE PURPOSES OF THAT LAW AND OF THIS LAW.

Subsection (7) of section two

Subsection (2) and subsection (3) of section four

Section six

Section seven, other than paragraph (b) of subsection (1) thereof

Section eight

Subsection (1) and subsection (6) of section forty-eight

Section fifty-three, other than subsection (1) thereof

Section fifty-four

Subsection (1) (other than paragraph (c) thereof), subsection (5) and subsection (6) of section sixty

THIRD SCHEDULE    Section eighteen  
CONSTITUTION OF THE HEALTH SERVICE  
ADVISORY COMMITTEE

1. The States Advisory and Finance Committee shall appoint—

- (a) a panel (hereafter in this Schedule referred to as “the Medical Panel”) of not less than five medical practitioners selected by the said Committee after consultation with such organisation as it may recognise as representative of medical practitioners;
- (b) a panel (hereafter in this Schedule referred to as “the Dental Panel”) of not less than five dentists selected by the said Committee after consultation with such organisation as it may recognise as representative of dentists;
- (c) a panel (hereafter in this Schedule referred to as “the Pharmaceutical Panel”) of not less than five pharmacists selected by the said Committee after consultation with such organisation as it may recognise as representative of pharmacists.

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

3. The Health Service Advisory Committee shall, for the purpose of considering any case referred to it under subsection (2) of section eighteen of this Law, consist of three persons selected by the States 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;

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

4. A decision of a majority of the members of the Health Service Advisory Committee shall be a decision of the Committee.

5. Subject to the provisions of the last foregoing paragraph and of subsection (4) of section eighteen of this Law, the Health Service Advisory Committee shall regulate its own procedure.

R. H. VIDELO,

Her Majesty's Greffier.