

ORDER IN COUNCIL

VI
1999

ratifying a Projet de Loi

ENTITLED

The Social Insurance (Guernsey) (Amendment) Law, 1999

(Registered on the Records of the Island of Guernsey
on the 17th August, 1999.)



1999

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 17th day of August, 1999 before de Vic Graham Carey, Esquire, Bailiff; present:- Leonard Arthur Moss, Esquire, O.B.E., Lawrence Oscar Ozanne, John Richard Rowe Henry, David Charles Lowe, Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, O.B.E., Esquires, and The Reverend Peter Gerald Lane, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 22nd day of June, 1999 approving and ratifying a *Projet de Loi* entitled "The Social Insurance (Guernsey) (Amendment) Law, 1999", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ORDERED:-

1. That the said Order in Council be registered on the records of this Island; and
2. That an extract of this present Act, together with a copy of the said Order in Council be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island of which Order in Council the tenor followeth:-

At the Court at Windsor Castle

The 22nd day of June 1999

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 11th day of June 1999 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 1st day of October 1998, the States of Deliberation at a meeting held on the 27th day of January 1999 approved a Bill or "Projet de Loi" entitled "The Social Insurance (Guernsey) (Amendment) Law, 1999", 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 as 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 Social Insurance (Guernsey) (Amendment) Law, 1999", and to order that the same shall have force of law in the Islands of Guernsey, Alderney, 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, and it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Alderney, 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.

A. K. Galloway

The Social Insurance (Guernsey) (Amendment) Law, 1999

THE STATES, in pursuance of their Resolution of the 1st October, 1998^a, 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, Alderney, Herm and Jethou.

Amendment of Law of 1978.

1. The Social Insurance (Guernsey) Law, 1978, as amended^b (the "**principal Law**") is further amended in accordance with the provisions of this Law.

2. In section 18(e) of the principal Law-

(a) for the words "widow's allowances" substitute "survivor's grant"; and

(b) for the words "widowed mother's allowance" substitute "widowed parent's allowance".

3. For section 21(2) of the principal Law substitute the following subsection-

^a Article XXII of Billet d'État No. XXI of 1998.

^b Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; Vol. XXXII, p. 59; No. XII of 1993; Ordinance No. XIV of 1993 (Tome XXVI, p. 177); No. V of 1994; and No's. VI and XIII of 1995.

"(2) Subject to such exceptions and conditions as may be prescribed, a person shall not be entitled to unemployment benefit or sickness benefit for the first three days of any period of interruption of employment or (as the case may be) any period of incapacity for work."

4. In section 22(1) of the principal Law-

(a) after the words "industrial injury benefit" insert "or such other benefit, subject to such exceptions and conditions, as may be prescribed"; and

(b) the parentheses and words contained therein are repealed.

5. For section 23(1)(c) of the principal Law substitute the following paragraph-

"(c) regulations may prescribe the number of days of unemployment or incapacity for work which are (subject to such exceptions and conditions as may be prescribed) to be treated as a period of interruption of employment or (as the case may be) as a period of incapacity for work;"

6. For section 24(3)(b) of the principal Law substitute the following paragraph-

"(b) in each of those weeks, he has derived from the said employment such earnings as may be prescribed."

7. For section 27 of the principal Law substitute the following section-

"Maternity grant.

27. (1) Subject to the provisions of this Law, a woman who is an insured person shall be entitled to a maternity grant if-

- (a) she is ordinarily resident in Guernsey;
- (b) she-
 - (i) is pregnant and it has been certified in such manner as may be prescribed that it is expected that she will be confined within a period of 12 weeks; or
 - (ii) has been confined within such period as may be prescribed; and
- (c) she is not entitled to a maternity allowance.

(2) Regulations may provide that-

- (a) a woman confined of twins or a greater number of children shall, if the other conditions for the payment of a maternity grant are satisfied in respect of the confinement, be entitled to a maternity grant for each of them;
- (b) subject to such exceptions and conditions as may be prescribed, a woman who is entitled to a maternity

allowance may, if she so wishes, withdraw her claim to that benefit in order to claim a maternity grant:

Provided always that no woman may receive both a maternity allowance and a maternity grant in relation to the same pregnancy or confinement." .

8. For section 28 of the principal Law substitute the following section-

"Maternity allowance.

28. (1) Subject to the provisions of this Law, a woman shall be entitled to a maternity allowance if-

- (a) she-
 - (i) is pregnant and it has been certified in such manner as may be prescribed that it is expected that she will be confined within a period of 12 weeks; or
 - (ii) has been confined within such period as may be prescribed; and
- (b) she satisfies the relevant contribution conditions.

(2) Subject to the following provisions of this section, and subject to such further exceptions and conditions as may be prescribed, the period for which a maternity allowance is payable shall be any continuous period of not more than eighteen weeks in the period beginning with the

eleventh week before the expected week of confinement and ending with the seventeenth week after the week of confinement.

(3) A woman who has become entitled to a maternity allowance shall cease to be entitled thereto if she dies before the beginning of the period mentioned in subsection (2); and if such a woman dies after the beginning, but before the end, of that period the allowance shall not be payable for any week subsequent to that in which she dies.

(4) Regulations may provide that a woman who has become entitled to a maternity allowance shall cease to be entitled thereto if her pregnancy is terminated otherwise than by confinement.

(5) Regulations may provide for disqualifying a woman from receiving a maternity allowance if, during the period for which the allowance is payable, she does any work as an employed or self-employed person.

(6) Where for the purposes of this Part of this Law or of regulations it is necessary to calculate the daily rate of a maternity allowance-

- (a) Sunday or such other day in each week as may be prescribed shall be disregarded; and
- (b) the amount payable by way of that allowance for any other day shall be taken to be one sixth of the weekly rate of the allowance. "

9. For section 30 of the principal Law substitute the following section-

"Survivor's grant.

30. (1) Subject to the provisions of this Law, and subject to such further exceptions and conditions as may be prescribed, a person ("**the claimant**") shall be entitled to a survivor's grant if-

- (a) the claimant is-
 - (i) a widow; or
 - (ii) a man who is entitled to receive a widowed parent's allowance; and
- (b) the claimant's late spouse-
 - (i) was, at the date of death, under pensionable age; and
 - (ii) satisfied the relevant contribution conditions.

(2) A survivor's grant shall not be payable if, at the date of death of the late spouse, the Authority is satisfied that the claimant and another person were co-habiting as husband and wife."

10. For section 31 of the principal Law substitute the following section-

"Widowed parent's allowance.

31. (1) Subject to the provisions of this Law, and subject to such further exceptions and conditions as may be prescribed, a person ("**the claimant**") shall be entitled to a widowed parent's allowance if the claimant's late spouse satisfied the relevant contribution conditions and-

- (a) the claimant has a family which satisfies such conditions as may be prescribed; or
- (b) subject to such exceptions and conditions as may be prescribed-
 - (i) the claimant has residing with him or her a person who is under the age of eighteen years and who is or has been or would have been a child of his or her family; or
 - (ii) the claimant is a woman who is pregnant by her late husband.

(2) The period for which a widowed parent's allowance is payable shall be any period during which the claimant satisfies the requirements of subsection (1).

- (3) A widowed parent's allowance shall not be payable-
 - (a) for any period after the claimant's remarriage; or
 - (b) for any period during which the Authority is satisfied that the claimant and another person are co-habiting as husband and wife."

11. In section 32(5) of the principal Law-

- (a) the words "a widow's allowance or" are repealed; and

- (b) for the word "mother's" substitute "parent's".

12. In section 39(1) of the principal Law-

- (a) paragraph (a) is repealed; and
- (b) in paragraph (b) the words "in the case of maternity allowance," are repealed.

13. For section 48(3) of the principal Law substitute the following subsection-

"(3) Subject to the provisions of subsection (5), and subject to such exceptions and conditions as may be prescribed, an insured person shall not be entitled to industrial injury benefit for the first three days of any period of incapacity for work."

14. In section 57 of the principal Law-

- (a) subsections (2)(d), (2)(e), (3) and (6) are repealed; and
- (b) in subsection (4)-
 - (i) for the word "mother's" substitute "parent's"; and
 - (ii) for the word "she" substitute "he or she".

15. Section 60(3)(b) of the principal Law is repealed.

16. After section 64(6) of the principal Law add the following subsection-

"(7) Regulations may also provide for-

- (a) the duties and obligations to be imposed upon and observed by individuals who are authorised to receive and deal with benefit on behalf of another person or who are otherwise appointed to act in relation thereto under regulations made under subsection (4)(b) or (4)(e);
- (b) the penalties to be incurred on summary conviction by individuals described in paragraph (a) who misuse, misappropriate or fail to account for benefit or who otherwise fail to comply with the duties and obligations imposed upon them by regulations made under paragraph (a);
- (c) the repayment of any benefit which has been misused or misappropriated, or which has not been accounted for, by an individual described in paragraph (a) and its recovery, together with interest thereon, as a debt due to the Authority."

17. In section 66 of the principal Law^c after the words "the Family Allowances Law" insert ", the Attendance and Invalid Care Allowances (Guernsey) Law, 1984 or the Supplementary Benefit (Guernsey) Law, 1971".

^c Section 66 was amended by Orders in Council Vol. XXVII, p. 238.

18. Section 71(2) of the principal Law is repealed.

19. (1) In section 102(1) of the principal Law, for the words beginning with "The Government Actuary of Great Britain" up to and including "an actuary appointed by the States," substitute "An actuary appointed by the Authority".

(2) After section 102(1) of the principal Law, insert the following subsection-

"(1A) An actuary appointed by the Authority pursuant to subsection (1) shall be-

- (a) a Fellow of the Institute of Actuaries;
- (b) a Fellow of the Faculty of Actuaries; or
- (c) a member of such other body or the holder of such other qualifications as may be prescribed."

20. In section 103(7) of the principal Law for the words "States Civil Service Board" substitute "Administrator".

21. In the First Schedule to the principal Law-

- (a) in paragraph 1 and in the heading thereto after the words "sickness benefit" insert ", maternity allowance";
- (b) paragraphs 2 and 3 are repealed.

22. In the Sixth Schedule to the principal Law, immediately before the entries relating to the expression "The Administrator"-

- (a) in the first column insert the expression "'Accident'"; and
- (b) opposite thereto in the second column insert the following text-

"In Part III of this Law-

- (a) a specific and undesigned or unforeseen event causing, but being separate and distinct from, personal injury; or
- (b) a specific instance of unusual physical exertion causing personal injury;

excluding (for the removal of doubt) any case where-

- (i) a physiological illness or change is caused otherwise than by any such event or exertion; or
- (ii) the only specific and undesigned or unforeseen event is the personal injury itself."

Amendment of the Attendance and Invalid Care Allowances Law.

23. The Attendance and Invalid Care Allowances (Guernsey) Law, 1984, as amended^d, is further amended as follows-

(a) after section 5(3) add the following subsection-

"(4) Regulations may also provide for-

- (a) the duties and obligations to be imposed upon and observed by individuals who are authorised to receive and deal with an allowance on behalf of another person or who are otherwise appointed to act in relation thereto under regulations made under subsection (2)(b) or (2)(d);
- (b) the penalties to be incurred on summary conviction by individuals described in paragraph (a) who misuse, misappropriate or fail to account for an allowance or who otherwise fail to comply with the duties and obligations imposed upon them by regulations made under paragraph (a);
- (c) the repayment of any allowance which has been misused or misappropriated, or which has not been accounted for, by an individual described in paragraph (a) and its recovery,

^d Ordres en Conseil Vol. XXVIII, p. 353; Vol. XXIX, p. 198; No. XIV of 1991; No. X of 1993; and Ordinance

together with interest thereon, as a debt due to the Authority.";

- (b) in section 7 after the words "the Social Insurance Law" insert ", the Supplementary Benefit (Guernsey) Law, 1971".

Amendment of the Family Allowances Law.

24. The Family Allowances (Guernsey) Law, 1950, as amended^e, is further amended as follows-

- (a) section 1(3) is repealed;
- (b) after section 8(7) add the following subsection-

"(8) Where, in the case of any person, any sum may by virtue of any provision of the Attendance and Invalid Care Allowances (Guernsey) Law, 1984, the Social Insurance (Guernsey) Law, 1978 or the Supplementary Benefit (Guernsey) Law, 1971 (in each case as amended) be recovered by deduction from any payment under that Law, it may instead be recovered from him in whole or in part by deduction from an allowance payable under this Law."

Amendment of the Income Tax Law.

25. In section 27(2)(m) of the Income Tax (Guernsey) Law, 1975, as amended^f after the expression "1st January 1990" insert "or any survivor's grant

^e Ordres en Conseil Vol. XIV, p. 332; Vol. XVI, p. 280; Vol. XX, p. 63; Vol. XXI, p. 34; Vol. XXIII, pp. 3 and 238; Tome XXI, p. 460; Tome XXII, p. 452; Tome XXVI, p. 177; and Ordinance No. XXVII of 1997.

payable on or after the date of commencement of section 9 of the Social Insurance (Guernsey) (Amendment) Law, 1999".

Amendment of the Supplementary Benefit Law.

26. After section 15(1)(h) of the Supplementary Benefit (Guernsey) Law, 1971, as amended^g, add the following paragraphs-

- "(i) for the duties and obligations to be imposed upon and observed by individuals who are authorised to receive, on behalf of another person, supplementary benefit or who are otherwise appointed to act in relation thereto under section 5(2) or under an Ordinance made under paragraph (e);
- (j) for the penalties to be incurred on summary conviction by individuals described in paragraph (i) who misuse, misappropriate or fail to account for supplementary benefit or who otherwise fail to comply with the duties and obligations imposed upon them by Ordinance made under paragraph (i);
- (k) for the repayment of any supplementary benefit which has been misused or misappropriated, or which has not been accounted for, by an individual

^f Ordres en Conseil Vol. XXV, p. 124; Vol. pp. 146, 200 and 292; Vol. XXVII pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; No's. IV and VIII of 1993; No. XXV of 1994; No's. III and VII of 1995; No. V of 1996; No's. IV and XXII of 1997.

described in paragraph (i) and for its recovery, together with interest thereon, as a debt due to the Authority."

Citation.

27. This Law may be cited as the Social Insurance (Guernsey) (Amendment) Law, 1999.

Commencement.

28. This Law shall come into force as follows-

- (a) sections 2, 4, 7 to 12, 14, 15, 18, 21 and 25 shall come into force on the day appointed by Ordinance of the States; and
- (b) the remainder of this Law shall come into force on the day of registration of this Law on the records of the Island of Guernsey.

^g Ordres en Conseil Vol. XXIII, p. 26; Vol. XXXI, p. 278; No. XIV of 1993; Recueil d'Ordonnances, Tome XXIV, p. 468 and Tome XXVI, p. 177.