

Island of  Guernsey

**Ordinance of the States**

**XII  
2000**

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Made ..... 29th November, 2000  
Came into operation ..... 29th November, 2000

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**The Supplementary Benefit  
(Duties of Appointees) Ordinance, 2000**

**The Supplementary Benefit (Duties of Appointees)**  
**Ordinance, 2000**

THE STATES, in pursuance of their Resolution of the 1st October, 1998<sup>a</sup>, and in exercise of the powers conferred upon them by section 15 of the Supplementary Benefit (Guernsey) Law, 1971<sup>b</sup>, as amended, hereby order:-

**Duties of appointees.**

1. (1) Where a supplementary benefit is payable by the Guernsey Social Security Authority for the benefit of any person (a "**beneficiary**"), and another person (an "**appointee**")-

- (a) is authorised to receive the supplementary benefit on behalf of the beneficiary;
- (b) receives payments of the supplementary benefit under section 5(2) of the Law; or
- (c) is otherwise appointed to act in relation to the beneficiary or the supplementary benefit under an Ordinance made under section 15(1)(e) of the Law;

the appointee shall observe the utmost good faith and shall apply the supplementary benefit well and prudently in the best interests of the beneficiary.

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<sup>a</sup> Article XXII of Billet d'État No. XXI of 1998.

<sup>b</sup> Ordres en Conseil Vol. XXIII, p. 26; Vol. XXXI, p. 278; No. XIV of 1993; and No. VI of 1999; and Recueils d'Ordonnances Tome XXIV, p. 468 and Tome XXVI, p. 177.

(2) For the avoidance of doubt, any payment made by an appointee to a residential home, a nursing home or the Guernsey Cheshire Home on behalf of a beneficiary residing in the home in respect of the home's fees shall be deemed for the purposes of subsection (1) to have been made well and prudently in the best interests of the beneficiary.

(3) An appointee shall keep accurate records-

(a) of all supplementary benefit received by him for a beneficiary; and

(b) of the application of such benefit.

**Penalties for breach of duty by appointees.**

2. (1) An appointee who, without reasonable cause, proof whereof shall lie on him, fails to comply with any duty imposed upon him by section 1 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(2) In proceedings against a person for an offence under subsection (1) it shall be a defence for him to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(3) Where in any such proceedings the defence provided for by subsection (2) involves an allegation that the commission of the offence was due to the act or default of another person, the accused may not, without the leave of the court, rely on the defence unless, not less than 7 clear days before the day of the hearing of the proceedings, he serves notice on Her Majesty's Procureur

giving such information identifying or assisting in the identification of that other person as is in his possession when he serves the notice.

**Repayment by appointees of supplementary benefit.**

3. (1) Where, in relation to a supplementary benefit, an appointee fails to comply with any duty imposed upon him by section 1, the amount of supplementary benefit misapplied or not accounted for, together with interest thereon, shall be recoverable by the Guernsey Social Security Authority as a civil debt.

(2) For the purposes of subsection (1), interest shall run at the rate for the time being prescribed under section 2 of the Judgments (Interest) (Bailiwick of Guernsey) Law, 1985<sup>c</sup> from the date of the misapplication or failure to account (or whichever is the earliest) until the debt is satisfied.

**Application of Trusts Law.**

4. The provisions of this Ordinance are in addition to and not in derogation from the provisions of the Trusts (Guernsey) Law, 1989, as amended<sup>d</sup>.

**Interpretation.**

5. (1) In this Ordinance, unless the context requires otherwise-

**"appointee"** means a person-

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<sup>c</sup> Ordres en Conseil Vol. XXIX, p. 135; amended by Order of the Royal Court No. I of 1996.

<sup>d</sup> Ordres en Conseil Vol. XXXI, p. 217; and Vol. XXXII, p. 385.

- (a) who is authorised to receive a supplementary benefit on behalf of a beneficiary;
- (b) who receives payments of a supplementary benefit under section 5(2) of the Law; or
- (c) who is otherwise appointed to act in relation to a beneficiary or a supplementary benefit under an Ordinance made under section 15(1)(e) of the Law;

**"beneficiary"** means a person for whose benefit a supplementary benefit is payable by the Guernsey Social Security Authority;

**"the Law"** means the Supplementary Benefit (Guernsey) Law, 1971, as amended;

**"nursing home"** has the meaning given by section 18(1) of the Nursing Homes and Residential Homes (Guernsey) Law, 1976<sup>e</sup>;

**"residential home"** has the meaning given by section 18(1) of the Nursing Homes and Residential Homes (Guernsey) Law, 1976;

**"supplementary benefit"** includes any special payments, payments in kind and any other description of benefit under the Law;

and other expressions have the meanings given by the Law.

(2) The provisions of the Interpretation (Guernsey) Law, 1948<sup>f</sup> shall apply to the interpretation of this Ordinance.

**Extent.**

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

**Citation.**

7. This Ordinance may be cited as the Supplementary Benefit (Duties of Appointees) Ordinance, 2000.

**Commencement.**

8. This Ordinance shall come into force on the 1st January 2001.

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<sup>e</sup> Ordres en Conseil Vol. XXVI, p. 71.

<sup>f</sup> Ordres en Conseil Vol. XIII, p. 355.