

GUERNSEY STATUTORY INSTRUMENT

1964—No. 37

**The Social Insurance
(General Benefit) (Guernsey) Regulations,
1964**

Made 25th November, 1964
Coming into Operation .. . 4th January, 1965

THE STATES INSURANCE AUTHORITY, in exercise of the powers conferred upon it by subsection (5) of section eleven, section thirty-seven, section thirty-nine, section forty-two, section fifty-six and subsections (1) and (5) of section seventy-nine of the Social Insurance (Guernsey) Law, 1964, and of all other powers enabling it in that behalf, hereby orders:—

Interpretation

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

“contributions” has the same meaning as in the Law;

“the determining authority” means, as the case may require, the Administrator or the tribunal;

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

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

(2) Except where the context otherwise requires, any reference in these regulations to any enactment or regulations shall be construed as including a

reference to that enactment or those regulations, as the case may be, as amended, repealed, replaced or revoked by or under any other enactment or by any other regulations.

(3) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of these regulations as it applies to the interpretation of a Guernsey enactment.

Definition of "contribution year" and "benefit year"

2. (1) A contribution year in relation to any person shall be the period of fifty-two or fifty-three contribution weeks beginning in any year with the relevant contribution week and ending with the contribution week next preceding the relevant contribution week in the following year.

(2) In the last preceding paragraph the expression "relevant contribution week" means in relation to any person the first complete contribution week in the month of March, June, September or December as may be determined by the Authority to be applicable in his case.

(3) A benefit year in relation to any person shall be the period of fifty-two or fifty-three weeks beginning in any year with the first complete contribution week in the fifth month after the month in which the said relevant contribution week applicable to that person occurs, and ending with the last contribution week beginning in the fourth month after the last mentioned month in the following year.

Calculation of yearly average of contributions

3. For the purposes of subsection (5) of section eleven of the Law (which relates to descriptions and rates of benefit and contribution conditions), the yearly average of contributions paid by or credited to any person in relation to widow's benefit

or a retirement pension shall be calculated by dividing, by the number of years comprised in the period over which, under the said subsection, the average is to be calculated, the sum total of the contributions as an insured person paid by or credited to that person in respect of that period other than the following contributions:—

- (a) contributions which are not paid on their due dates and are not treated in accordance with regulations under the Law as so paid for the purposes of widow's benefit and retirement pension;
- (b) contributions credited under the Law only for purposes other than for the purposes of widow's benefit and retirement pension.

Computation of earnings.

4. (1) For the purposes of subsection (5) of section seventy-nine of the Law (which relates to interpretation) the following provisions shall apply:—

- (a) the earnings to be taken into account shall be limited to the net remuneration or profit derived by the person from any occupation or occupations (including any occupation in an employment which, in accordance with any provision of the Law and the regulations made thereunder relating to the classification of insured persons is to be disregarded) and, in particular, in so far as the earnings consist of salary or wages, no account shall be taken of—
 - (i) any sums the deduction of which from salary or wages is authorised by any enactment for the time being in force;
 - (ii) the reasonable expenses, if any, incurred by the person in connection with the employment;

(b) where the earnings of a person for any week are, by reason of the circumstances of the occupation in which he is engaged, not immediately ascertainable, the earnings for that week shall be calculated or estimated in such manner and on such basis as may be decided by the determining authority to be appropriate, having regard to all the circumstances of the case.

(2) For the purposes of subsection (1) of section twenty-two of the Law (which relates to increase of benefit for adult dependants), the weekly earnings of the wife shall, subject to the provisions of paragraph (1) of this regulation, be ascertained in the following manner—

(a) in the case of a retirement pension, if there are earnings by the wife in the calendar week ending last before the day in the week prescribed for the payment of the pension, by reference to those earnings:

(b) in the case of any other benefit—

(i) where the wife is employed in one employment only in respect of which she receives a regular weekly wage of a fixed amount, by reference to that wage; or

(ii) where the wife is not so employed or does not receive a regular weekly wage of a fixed amount, and a claim for the increase is made in respect of a period of seven days (including the Sunday), by reference to her earnings in that period;

(c) in any case not covered by either of the foregoing sub-paragraphs, in such manner as the determining authority may decide

to be appropriate, having regard to all the circumstances of the case.

(3) The provisions of this regulation shall not apply for the purpose of the classification of insured persons.

Increase of benefit for wife

5. For the purposes of an increase of unemployment benefit, sickness benefit or a retirement pension under section twenty-two of the Law (which relates to increase of benefit for adult dependants) two spouses shall not be deemed to have ceased to reside together by reason of any absence of either or both of them while receiving medical or other treatment as an in-patient in a hospital or similar institution, notwithstanding that such absence is not temporary.

Increase of benefit for female person having care of child

6. For the purposes of paragraph (c) of subsection (2) of section twenty-two of the Law (which relates to increase of benefit for adult dependants) and of subsection (3) of the said section twenty-two, the following further conditions shall apply in relation to any such female person:—

- (1) a beneficiary shall not be entitled to an increase of benefit under the said subsection (2) or (3) in respect of any such female person unless—
 - (a) she is residing with the beneficiary; or
 - (b) she is employed by the beneficiary in an employment from which her weekly earnings (calculated or estimated in such manner and on such

basis as is prescribed for the purposes of the said subsection (1) of section twenty-two are not less than the amount set out in the fifth column of the Second Schedule to the Law, and was so employed by him before he became unemployed or incapable of work or retired from regular employment, as the case may be, subject to the qualification that the condition of employment before that event shall not apply in a case where the necessity for her employment first arose thereafter; or

- (c) the beneficiary is contributing to her maintenance at a weekly rate of not less than the amount set out in the fifth column of the Second Schedule to the Law.
- (2) a beneficiary shall not be entitled to an increase of benefit under the said subsection (2) or (3) in respect of any such female person for any period during which that female person—
- (a) is undergoing imprisonment or detention in legal custody; or
 - (b) (not being a person who is employed by, but is not residing with, the beneficiary) is engaged in any gainful occupation or occupations (other than her employment by the beneficiary in caring for a child or children of the beneficiary's family) from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed for the purposes of the said subsection (1) of section twenty-two ex-

ceed the amount of the increase specified in the fifth column of the Second Schedule to the Law; or

(c) is absent from Guernsey, except in the case of sickness benefit or a retirement pension for any period during which she is residing with the beneficiary outside Guernsey and for which, by virtue of the provisions of regulation seven or regulation eight of the Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1964, the beneficiary is not disqualified for receiving that benefit.

(3) A beneficiary shall not be entitled to an increase of benefit under the said subsection (2) or (3) in respect of any such female person unless the beneficiary is entitled to an increase of benefit in respect of a child of his family as specified in paragraph (c) of the said subsection (2), or would be so entitled but for the provisions of any regulations for the time being in force under the Law relating to overlapping benefits.

Provisions as to maintenance

7. (1) For the purposes of the provisions of Part II and Part III of the Law (which relate to benefit), a beneficiary shall not be deemed to be wholly or mainly maintaining another person unless the beneficiary—

(a) when unemployed, or incapable of work, or, as the case may be, retired from regular employment, contributes towards the maintenance of that person an amount not less than the amount of the increase of benefit received in respect of that person; and

- (b) when in employment, or not incapable of work, or, as the case may be, not so retired (except in a case where the dependency did not arise until after that time) contributed more than one half of the actual cost of maintenance of that person:

Provided that where—

- (i) a person is partly maintained by each of two or more other persons (being persons entitled to benefit under the Law, of whom at least one is entitled to benefit under the Law), each of whom would be entitled to an increase of benefit under the Law in respect of that person if he were wholly or mainly maintaining that person; and
- (ii) the contributions made by those other persons towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of them, be sufficient to satisfy the requirements of this regulation;

that person shall be deemed to be wholly or mainly maintained by that one of the said other persons who makes the largest contribution or, if there is no such person, by the elder or eldest of the said other persons, or (if a majority thereof by notice in writing signed by them and addressed to the Authority designate any one of their number) by that one designated so long as the person deemed to be so maintaining that person continues to be entitled to benefit under the Law and to satisfy the condition contained in sub-paragraph (a) of this paragraph.

(2) A notice and the designation contained therein given under the Proviso to the foregoing paragraph may be revoked at any time by a fresh

notice signed by a majority of such persons, and another one of their number may be designated therein, and accordingly the provisions of that Proviso shall apply to the one so last designated.

Contribution to maintenance of adult dependant

8. For the purposes of subsection (1) of section twenty-two of the Law (which relates to increase of benefit for adult dependants) or of sub-paragraph (c) of paragraph (1) of regulation six of these regulations—

- (a) a beneficiary shall not be deemed to satisfy the requirement contained in the said subsection (1) or sub-paragraph (c) that he is contributing to the maintenance of the wife or female person, as the case may be, at a weekly rate of not less than the amount set out in the fifth column of the Second Schedule to the Law, unless when in employment, or not incapable of work, or not retired from regular employment, as the case may be (except in a case where the dependency did not arise until after that time) he contributed to her maintenance at a weekly rate of not less than that amount; and
- (b) in a case where an increase of benefit is, apart from the said requirement, payable at a weekly rate less than that specified in the Second Schedule to the Law, a beneficiary shall, subject to the foregoing paragraph, be deemed to satisfy the said requirement, if he is contributing to the maintenance of the wife or female person as the case may be, at a weekly rate of not less than that of the increase.

Exceptions from disqualification for imprisonment, etc.

9. (1) The following provisions of this regulation shall have effect to except benefit from the operation of those provisions of subsection (1) of section thirty-seven of the Law which provide that (except where regulations otherwise provide) a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband for any period during which that person is undergoing imprisonment or detention in legal custody (hereafter in this regulation referred to as "the said provisions").

(2) The said provisions shall not operate to disqualify a person for receiving a guardian's allowance.

(3) The said provisions shall not operate to disqualify a person for receiving industrial medical benefit, sickness benefit, widow's benefit or retirement pension, or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought or intended to be brought against him in criminal proceedings or pursuant to any sentence or order for detention made by a court in such proceedings unless, in relation to him, a penalty is imposed at the conclusion of those proceedings.

Suspension of payment of benefit during imprisonment, etc.

10. (1) The payment to any person of any benefit—

(a) which is excepted from the operation of subsection (1) of the said section thirty-

seven by virtue of the provisions of paragraph (2) or paragraph (3) of the last preceding regulation; or

- (b) which is payable otherwise than in respect of a period during which he is undergoing imprisonment or detention in legal custody:

shall be suspended while that person is undergoing imprisonment or detention in legal custody:

Provided that a guardian's allowance or any benefit to which sub-paragraph (b) of this paragraph applies may nevertheless be paid while the beneficiary is undergoing imprisonment or detention in legal custody to any person appointed for the purpose by the Authority to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Authority and the Guernsey Insurance Fund for any sum so paid.

(2) Where, by virtue of the last preceding paragraph, payment of benefit is suspended for any period, the period of suspension shall not be taken into account in calculating the period of six months referred to in paragraph (1) of regulation ten of the Social Insurance (Claims and Payments) (Guernsey) Regulations, 1964 (which regulation relates to the extinguishment of the right to sums payable by way of benefit which are not obtained within the prescribed time) for the purpose of the application of that regulation in relation to that benefit.

Interim payments, arrears and repayments

11. (1) Subject to the provisions of this regulation, benefit shall be payable in accordance with an award, notwithstanding that an appeal against the award

is pending, and, subject as aforesaid and to the provisions of regulation three of the Social Insurance (Determination of Claims and Questions) (Guernsey) Regulations, 1964, shall be treated as having been duly paid and shall not be recoverable under the provisions of the Law or otherwise.

(2) Where an appeal to the Ordinary Court from an award of the tribunal is made within twenty-one days of the date on which an award was given, payment of the benefit (or that part of the benefit) to which the appeal relates shall, in the case of any of the following benefits, be suspended until the appeal has been determined:—

- (a) unemployment benefit, provided the ground of the appeal is that the claimant ought to be disqualified for receiving benefit by reason of the provisions of subsection (1) of section fourteen of the Law (which relates to disqualifications and special conditions); and
- (b) widow's benefit, a guardian's allowance, or a retirement pension.

(3) Where it appears to the Authority that a question has arisen whether—

- (a) the conditions for the receipt of benefit payable under an award are or were fulfilled; or
- (b) an award of benefit ought to be revised in accordance with the Social Insurance (Determination of Claims and Questions) (Guernsey) Ordinance, 1964:

it may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined:

Provided that this paragraph shall not apply in any case where the question which has arisen is

whether the claimant has ceased to be entitled to receive unemployment benefit by reason of any of the provisions of paragraphs (b) to (e) of subsection (2) of section fourteen of the Law (which relates to disqualifications and special conditions).

(4) Where two or more claims are made for unemployment benefit or for sickness benefit by an insured person in respect of different periods in the same period of interruption of employment, and (at the date when a claim in respect of any such first mentioned period is determined, or the decision in respect thereof is revised, in favour of that person by the determining authority) benefit of the same description has been received by him in respect of any days in the said period of interruption of employment subsequent to the days to which that determination or the said revised decision relates, then, if it is shown that by reason of subsection (1), or, as the case may be, subsection (2) of section thirteen of the Law (which relates to exhaustion of and requalification for benefit) benefit would be overpaid if the benefit payable under the said determination or the said revised decision were paid, the following provisions shall apply:—

- (a) any such benefit so subsequently paid which on the foregoing basis would have been overpaid shall be treated as having been paid on account of the benefit payable under the said determination or the said revised decision, and the amount due under that determination or decision shall be reduced accordingly; and
- (b) for the purposes of requalification for unemployment or sickness benefit under subsection (3) of the said section thirteen, the last day for which the insured person was entitled to any such benefit shall be taken

to be the day on which, having regard to the said determination or the said revised decision and the provisions of this regulation, his right to the appropriate benefit is exhausted under that section.

(5) Where on appeal or review a decision is reversed or varied or revised and by reason thereof, any sum on account of unemployment benefit or sickness benefit, as the case may be, is shown to have been paid to any person for days for which he was not entitled thereto, then, in determining for the purposes of the said section thirteen whether that person has exhausted his right to the appropriate benefit and what is the last day for which he was entitled thereto, any days for which any such sum has been so paid in pursuance of the original decision shall be treated as if they were days for which that person was entitled to that benefit notwithstanding the provisions of sub-paragraphs (b) and (c) of paragraph (1) of regulation seven of the Social Insurance (Unemployment and Sickness Benefit) (Guernsey) Regulations, 1964:

Provided that—

- (a) if any sum was so paid to such a person and that sum or any part thereof is recovered, then there shall be excluded for the purposes of the said determination under the said section thirteen a number of days (to the nearest whole number) equal to the number to be obtained by dividing the amount recovered by the daily rate at which the benefit was paid; and
- (b) for the purposes of requalification for unemployment or sickness benefit under the said subsection (3) of the said section thirteen, the provisions of sub-paragraph (b) of the last preceding paragraph shall apply.

(6) Where—

- (a) on appeal against an award of benefit, a decision is reversed or varied, so that such benefit is not payable or is payable at a less rate; and
- (b) on review, the decision on that appeal is revised so as to make such benefit payable, or payable at a higher rate, from a date before the decision on appeal;

any benefit paid in pursuance of the award before the decision on appeal shall, to the extent to which it would not have been payable if the decision on appeal had been given in the first instance, be treated as having been paid on account of any benefit made payable for the same period by the decision on review, except in so far as it has, in pursuance of the decision on appeal, been repaid or treated as paid on account of the benefit awarded by that decision.

(7) Where, in accordance with a decision given on a review or appeal, any benefit is required to be repaid to the Guernsey Insurance Fund, then, without prejudice to any other method of recovery, such benefit shall be recoverable by deduction from any benefit then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.

Disqualifications to be disregarded for certain purposes

12. (1) Where a person of any class mentioned in the first column of the Schedule to these regulations would be entitled to the benefit set opposite to that class in the second column of that Schedule but for the operation of any provision of the Law disqualifying him for the receipt of that benefit, that person shall be treated as if entitled to that benefit for the purpose of the provisions of the Law set opposite

thereto in the third column of the said Schedule and of any regulations made thereunder:

Provided that a person shall not be so treated for the purpose of the provisions of subsection (4) of section twenty-one of the Law (which relates to increase of benefit for children) if that person is disqualified for receiving such increase by reason of the provisions of paragraph (b) of subsection (1) of section thirty-seven of the Law.

(2) In determining whether the condition contained in subsection (1) of section forty-four of the Law (which relates to claims and notices) is satisfied, a person who would be entitled to any benefit but for the operation of any provision of the Law disqualifying him for the receipt thereof, and who ceases to be so disqualified within a period of three months from the commencement of the disqualification, shall be treated as if entitled thereto.

Citation and commencement

13. These regulations may be cited as the Social Insurance (General Benefit) (Guernsey) Regulations, 1964, and shall come into operation on the fourth day of January, nineteen hundred and sixty-five.

Dated this twenty-fifth day of November, nineteen hundred and sixty-four.

A. QUEVATRE,

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

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of provisions for the purpose of which disqualifications under the Law are to be disregarded.

Class of persons (1)	Benefit for which person is disqualified (2)	Section of the Law for the purpose of which disqualification is to be disregarded (3)	Subject matter (4)
A widow	Widow's benefit.	17(2)	Widow's pensions for widows under pensionable age who on ceasing to be entitled to widow's benefit are incapable of self-support.
		20(7)	Calculation of yearly average of contributions for retirement pensions for widows by virtue of their own insurance, who are not entitled to widow's benefit immediately before attaining pensionable age.
	Widow's allowance.	16(3)	Period for which a widowed mother's allowance is payable (being a period for which she is not entitled to a widow's allowance).
	Widow's allowance or widowed mother's allowance.	16(3)(c)	Period for which a widow's pension is payable (being a period for which she is not entitled to a widow's allowance or a widowed mother's allowance).
	Widowed mother's allowance.	17(1)	Widows' pensions for certain widows ceasing to be entitled to widowed mother's allowances when over the age of fifty but under pensionable age.
	Widow's pension under section 17(2).	17(3)	Widow's pensions for certain widows ceasing to be entitled to widows' pensions under section 17(2) at a time when they are over the age of fifty but under pensionable age.

Class of persons	Benefit for which person is disqualified	Section of the Law for the purpose of which disqualification is to be disregarded	Subject matter
(1)	(2)	(3)	(4)
The husband of a widow.	Retirement pension.	16(1)(a)	Widow's allowance for widow of husband who at the date of his death was not entitled to a retirement pension.
One of two spouses.	Increase of retirement pension for a child.	21(4)	Priority of title between husband and wife to increase of retirement pension for a child.

EXPLANATORY NOTE

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

These regulations contain miscellaneous provisions of a general character affecting benefits under the Social Insurance (Guernsey) Law, 1964, and relate to definitions of "contribution year" and "benefit year" for the purposes of that Law (regulation 2); the calculation of the yearly average of contributions for the purposes of widow's benefit and retirement pension (regulation 3); the basis for the computation of earnings in relation to benefit (regulation 4); conditions relating to increase of benefit for a wife or female person having care of a child (regulations 5 and 6); the circumstances in which a person shall be deemed to be wholly or mainly maintaining another person (regulations 7 and 8); exceptions from disqualification for receipt of benefit during period of penal servitude, imprisonment or detention in legal custody (regulation 9); the suspension of payment of benefit during imprisonment and such detention (regulation 10); special provisions relating to the interim payment of benefits, arrears and repayment of benefit (regulation 11); and the disregarding of disqualifications for benefit for the purposes of certain provisions of the Social Insurance (Guernsey) Law, 1964 (regulation 12).