

GUERNSEY

STATUTORY INSTRUMENT

1952 No. 42

Law not brought into force

Repeated by the Social Insurance

NATIONAL INSURANCE

(Guernsey) Law, 1964

THE NATIONAL INSURANCE (GUERNSEY) (GENERAL
BENEFIT) REGULATIONS, 1952

Made 6th. February, 1952
Laid before the States
Coming into Operation 6th. February, 1952

The States Insurance Authority, in exercise of the powers conferred by sections 9(4), 29, 31, 34, 42, 68(1) and 68(5) of the National Insurance (Guernsey) Law, 1951, and of all other powers enabling it in that behalf, hereby makes the following regulations:-

Citation,
commence-
ment and
interpre-
tation.

1. - (1) These regulations may be cited as the National Insurance (Guernsey) (General Benefit) Regulations, 1952, and shall come into operation on the 6th. February, 1952.

(2) In these regulations, unless the context otherwise requires -

"the Law" means the National Insurance (Guernsey) Law, 1951;

"the Authority" has the same meaning as in the Law;

"the Determination of Claims and Questions Regulations" means the National Insurance (Guernsey) (Determination of Claims and Questions) Regulations, 1952 (a);

"the determining authority" means, as the case may require, the Administrator, the tribunal or the Court within the meaning of the Determination of Claims and Questions Regulations;

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

(3) References in these regulations to any enactment or regulations shall include references to such enactment

(a) G.S.I. 1952 No. 18.

or regulations as amended by any subsequent enactment, order or regulations.

(4) The Interpretation (Guernsey) Law, 1948, applies to the interpretation of these regulations as it applies to the interpretation of an enactment.

Definitions of "contribution year" and "benefit year".

2. - (1) (a) 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 (b) and ending with the contribution week next preceding the relevant contribution week in the following year.

(b) In this 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.

(2) A benefit year in relation to any person shall be the period of fifty-two or fifty-three contribution 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 (4) of section 9 of the Law (which subsection relates to the calculation of the yearly average of contributions), 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:-

(b) See s. 68 (1), National Insurance (Guernsey) Law, 1951.

- (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 68 of the Law (which subsection empowers the Authority to prescribe the basis on which the amount of a person's earnings for any period shall be calculated or estimated for the purposes of the Law) 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 statute;
 - (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.
- (c) Where under the provisions of the Law the rate of a pension or allowance for any week is to be determined by reference to the earnings of a person in the preceding week, the word "week", wherever it occurs in the Law in connection therewith, shall mean the period of seven days preceding the day of the week prescribed (c) for the payment of the pension or allowance.

(2) For the purposes of subsection (1) of section 24 of the Law (which subsection provides for an increase of unemployment benefit, sickness benefit or retirement pension in respect of the wife of a beneficiary if her weekly earnings from any gainful occupation or occupations do not exceed twenty shillings), 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 period of seven days immediately preceding the day in the week prescribed for the payment of the pension, by

(c) See reg. 9(4), National Insurance (Guernsey) (Claims and Payments) Regulations, 1952. (G.S.I. 1952 No. 2.)

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.

Provisions
as to
main-
tenance.

5. - (1) For the purposes of the provisions of Part II of the Law (which relates 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 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.

Except-
ions from
disqualif-
ication
for
imprison-
ment, etc.

6. - (1) The provisions of subsection (1) of section 29 of the Law (which subsection provides for disqualification for the receipt of benefit during periods of imprisonment or detention in legal custody) shall have effect subject to the exceptions contained in the next following paragraph.

(2) A person shall not, by reason of undergoing a period of imprisonment or detention in legal custody, be disqualified -

- (a) for receiving a maternity grant or a guardian's allowance;

(b) for receiving sickness benefit, widow's benefit or retirement pension, if, being charged with a criminal offence, either such charge against him is withdrawn, or he is discharged by the Court before which he appears or (not being a criminal lunatic) is acquitted:

Provided that in the case of sickness benefit this exception shall only apply if that person was entitled thereto immediately before the commencement of any such period, or would but for the proviso to subsection (1) of section 10 of the Law (which proviso relates to waiting days) have been so entitled.

7.-(1) The payment to any person of any benefit -

- (a) which is excepted from the operation of subsection (1) of the said section 29 by virtue of the provisions 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 maternity grant or a guardian's allowance to which this paragraph applies and any other benefit to which sub-paragraph (b) of this paragraph applies may nevertheless be paid during any such period 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

Suspension
of payment
of benefit
during im-
prisonment,
etc.

any period under the provisions of regulation 11 of the National Insurance (Guernsey) (Claims and Payments) Regulations, 1952 (d) (which regulation relates to the extinguishment of the right to sums payable by way of benefit which are not obtained within the prescribed time).

Interim
payments,
arrears
and
repay-
ments.

8.-(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 regulations 19 and 20 of the Determination of Claims and Questions Regulations 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 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 12 of the Law (which subsection relates to disqualification for unemployment benefit in respect of unemployment due to a trade dispute); and

(b) maternity benefit, 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 Determination of Claims and Questions Regulations;

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 12 of the Law (which provisions relate to disqualification for receiving unemployment benefit).

(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 11 of the Law (which subsections relate respectively to exhaustion of unemployment benefit and sickness 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 11, 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 11 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 5 of the National Insurance (Guernsey) (Unemployment and Sickness Benefit) Regulations, ^{1952 (e)} ~~1951 (f)~~:

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 11 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 11, the provisions of sub-paragraph (b) of the immediately 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.

(8) If the Authority pays to any married woman who has failed to give notice of her marriage in accordance with the regulations for the time being in force under section 53 of the Law any sum by way of benefit not

properly payable to her, or in excess of the amount properly payable to her, the Authority shall, if it was not aware of the marriage, without prejudice to any other method of recovery, be entitled to deduct the amount so paid or paid in excess from the amount of any benefit subsequently payable to her.

Disqualifi-
cations to
be dis-
regarded
for
certain
purposes.

9. - (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 23 of the Law (which subsection relates to priority of title between husband and wife in relation to an increase of retirement pension for a child) if that person is disqualified for receiving such increase by reason of the provisions of paragraph (b) of subsection (1) of section 29 of the Law.

(2) In determining whether the condition contained in subsection (1) of section 28 of the Law (which subsection makes a claim a condition of right to benefit) 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.

Dated this

6th day of February, 1952.

(Signed) Wilfred J. Lovel, *Wilfred J. Lovel*

President,
States Insurance Authority
on behalf of that Authority.

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...	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 forty but under pensionable age.
A widow...	Widow's pension under section 17 (3).	17 (4)	Widows' pensions for certain widows ceasing to be entitled to widows' pensions under section 17 (3) at a time when they are over the age of fifty but under pensionable age.
The husband of a widow.		16(1) (a)	Widow's allowance for widow of husband who at the date of his death was not entitled to a retirement pension.
A widow...	Retirement pension.	20 (2) proviso.	Cessation on remarriage of a retirement pension to which a widow is entitled immediately before remarriage by virtue of husband's insurance.
One of two spouses.	Increase of retirement pension for a child.	23 (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 National Insurance (Guernsey) Law, 1951, 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); the circumstances in which a person shall be deemed to be wholly or mainly maintaining another person (regulation 5); exceptions from disqualification for receipt of benefit during periods of imprisonment or detention in legal custody (regulation 6); the suspension of payment of benefit during imprisonment and such detention (regulation 7); special provisions relating to the interim payment of benefits, arrears and repayment of benefit (regulation 8); and the disregarding of disqualifications for benefit for the purposes of certain provisions of the National Insurance (Guernsey) Law, 1951 (regulation 9).