

GUERNSEY
STATUTORY INSTRUMENT
1950 No. 64

SPENT

Guernsey Statutory Instrument 1950 No.

The Non-Contributory Old Age and Blindness Pensions
(Guernsey) Regulations, 1950.

Made on 28th April 1950.....

Coming into operation 28th April 1950.....

Laid before the States

The States Insurance Authority, in exercise of the powers conferred upon it by section 11 of the Old Age and Blindness Pensions (Guernsey) Law, 1950, and of all other powers enabling it in that behalf, hereby makes the following regulations:-

tation,
commencement
and inter-
pretation.

1. (1) These regulations may be cited as the Old Age and Blindness Pensions (Guernsey) Regulations, 1950, and shall come into operation on the 28th day of April, 1950.

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

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

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

"Chairman" means the Chairman of the tribunal;

"claim" means a claim for a pension;

"claimant" means a person who has made a claim for a pension;

"Court" means the Royal Court of the Island of Guernsey;

"hearing" means oral hearing;

"Law" means the Old Age and Blindness Pensions (Guernsey) Law, 1950;

"pension" means a pension under the Law;

"pensioner" means a person in receipt of a pension;

"Registrar" means the Registrar of Appeals appointed in accordance with these regulations; and

"tribunal" means a tribunal appointed under the

provisions of subsection (2) of section 8 of the Law;

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 or regulations as amended by any subsequent enactment or regulations.

(4) Any notice or other document required or authorised to be given or sent to any person or to the Authority or to the Administrator under the provisions of these regulations shall be deemed to have been given or sent if it was sent by post, in the case of any person, to that person at his ordinary or last known address, or, in the case of the Authority or the Administrator, to the office of the Authority.

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

Claims.

2. (1) Every claim for a pension shall be made in writing and sent or delivered to the office of the Authority on the form approved by the Authority, or in such other manner, being in writing, as the Administrator may accept as sufficient in the circumstances of any particular case.

(2) Printed forms of claim and such leaflets and other documents explanatory of the conditions of entitlement to a pension as may be issued by the Authority shall be supplied without charge by the Authority to any person who makes a request at the office of the Authority therefor.

(3) Where a claim is not duly made on the form or in a manner required by paragraph (1) of this regulation when received at the office of the Authority, it shall, if it is returned duly made within one month of the date on which it is delivered to the claimant for completion, be treated as if it had been duly made in the first instance.

(4) Where it appears that a person who has made a claim in accordance with regulations made under the provisions of the Contributory Pensions Laws, 1935 to 1949, or as they may be amended or modified from time to time, for an old age pension under those Laws, is not entitled thereto but may be entitled to a pension under the Law, any such claim may be treated as if it were a claim duly made in accordance with paragraph (1) of this regulation by such person.

Provisional claims.

3. (1) A claim for a pension may be made at any time not more than four months, or such other longer period as the Administrator may in any particular case allow, before the date on which it appears that the claimant will become entitled to a pension.

(2) Where the Administrator, or, in the case of an appeal from the Administrator to the tribunal, the tribunal, or, in the case of an appeal from the tribunal to the Court, the Court, is satisfied, that a claimant is likely at any time within four months from the date on which the claim is considered to be entitled to a pension, he or it may allow the claim provisionally so as to take effect on any future date not later than four months from the date of the decision.

Information on claiming and on change of circumstances.

4. (1) Every person who makes a claim for a pension shall furnish to the Administrator such certificates, documents, information and evidence for the purpose of determining the claim as he may require.

(2) Every pensioner shall comply with any directions which may be given by the Administrator as to reporting to him any change of circumstances affecting his right to pension, or the amount thereof.

(3) The Administrator may at any time demand for his inspection and information the production by a pensioner of all bank pass books, certificates, statements, books of account and other documents whatsoever in the

possession of or under the control of that pensioner containing or likely to contain evidence of the means of that pensioner.

(4) Every pensioner shall furnish to the Administrator at least once in every year and oftener if the Administrator requires, on the form approved by the Authority, or in such other manner, being in writing, as the Administrator may accept as sufficient in the circumstances of any particular case, a declaration of his means declaring in particular whether -

- (a) there has been any change in his means; and
- (b) if the spouse of that pensioner is alive and is living with him, whether that spouse is a pensioner and whether there has been any change in the means of that spouse;

since a pension was first granted to that pensioner or since a declaration was last made by him under this regulation, as the case may be.

Raising of questions.

5. If any pensioner desires to raise any question as to the weekly rate of his pension, or if any person whose claim has been provisionally allowed desires to make any application for the alteration of the provisional allowance, he may do so by giving to the Administrator notice in writing of the question or the application.

Notice of Administrator's decision.

6. The Administrator shall give notice in writing of his decision on any claim, application or question, made or raised in accordance with the provisions of the Law and of these regulations, to the claimant or to the person who has made the application or raised the question, as the case may be.

Appointment of Registrar

7. The Authority shall appoint a Registrar and one or more deputy Registrars from among the officers of the Authority who shall perform such duties in connection with appeals to which these regulations refer as the Authority

may direct subject to the provisions of these regulations.

Convening
of tribunal

8. (1) Where an application for an appeal has been made in accordance with these regulations, the Registrar shall, if a tribunal has been appointed by the Royal Court with authority to determine such appeal, convene that tribunal for the determination of that appeal; if there is no such tribunal, or if the tribunal is unwilling to determine such appeal, the Registrar shall so inform one of the Law Officers of the Crown, who shall apply to the Court to appoint a tribunal for the determination of that appeal, and on such appointment being made the Registrar shall convene that tribunal for the determination of that appeal.

(2) Different tribunals may be convened for deciding in accordance with the provisions of these regulations whether an application for appeal made after the expiration of the period prescribed by these regulations shall be entertained, and for determining the appeal.

Application
for an
appeal.

9. (1) An application for an appeal under subsection (2) of section 8 of the Law by any person who is aggrieved by a decision of the Administrator on any claim or question shall be in writing in the form set out in the Schedule to these regulations and shall contain a statement of the facts and contentions upon which the applicant relies in support of his application.

(2) The application shall be sent to the Registrar within 28 days after the date of the notice of the decision provided that an application made after the expiry of that period may, with the consent of the tribunal, be accepted.

(3) The Registrar shall furnish a copy of such application to the Administrator and within 7 days thereafter the Administrator shall send to the Registrar a statement setting out the facts and grounds on which he relies in support of the decision and a copy of such statement shall be sent by the Registrar to the applicant.

(4) An application may be withdrawn at any time by sending to the Registrar a notice of withdrawal in writing, and the Registrar shall thereupon send notice thereof to the Administrator.

Further particulars

10. The tribunal may at any time require the applicant or the Administrator to furnish it with further particulars in writing and within such time as it may direct with regard to any appeal, and may at any stage of the proceedings allow the amendment of any application for appeal, statement or particulars and extend the time for furnishing any statement or particulars.

Notice of hearing.

11. The Chairman shall as soon as may be practicable fix a date and place for the hearing, and the Registrar shall send not less than 7 days' notice thereof to the Administrator and to the applicant.

Procedure at hearing

12. (1) The Registrar or his deputy shall be present at all sittings of the tribunal and the applicant, who in the case of a woman may be accompanied by another woman, and the Administrator shall be entitled to be present during the hearing;

Provided that for the purpose of discussing its decision on any matter the tribunal may order all persons, not being members of the tribunal or the Registrar or his deputy, to withdraw from the sitting of the tribunal.

(2) The applicant shall be entitled to be heard at the hearing, either personally or through a member of his family, an advocate of the Court or, with the consent of the tribunal, any other person.

(3) The Administrator shall be entitled to be heard at the hearing, either personally or through a Law Officer of the Crown or such officer of the Authority as the Administrator may appoint for the purpose.

(4) The Administrator and the applicant shall, subject to any legal objection, submit to be examined

by the tribunal on oath or affirmation in relation to the matters in dispute and shall, subject as aforesaid, produce before the tribunal all books, deeds, papers, account, writing and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the appeal the tribunal may require.

(5) The tribunal may adjourn the hearing from time to time as it may think fit.

(6) The tribunal may, if it thinks fit, admit any duly authenticated written statement or other material as prima facie evidence of any fact or facts in any case in which it thinks it just and proper so to do.

(7) The tribunal may, if it thinks fit, call for such documents and examine such witnesses, on oath, affirmation or otherwise, as appear to it likely to afford evidence relevant and material to the issue although not tendered by either the applicant or the Administrator.

(8) The Chairman or any party to an appeal may cause a summons to be served on any person, in the same manner as a summons may be served upon any person in respect of an action in the Petty Debts Court of the Magistrate, summoning that person to attend any hearing by the tribunal for the purposes of giving evidence or of producing any document, and a person so summoned shall be under a like obligation as to the giving of any evidence and the production of any document as if he were so summoned in respect of an action before the said Petty Debts Court.

(9) If, after notice of the hearing has been duly given, the applicant or the Administrator fails to appear at the hearing, the tribunal may proceed to determine the matter as to which appeal is made

notwithstanding the absence of both or either of them, or may give such directions with a view to the determination of the appeal as it thinks just and proper.

~~(10) The consideration of any matter may, with the consent of the Administrator and the applicant, but not otherwise, be proceeded with in the absence of any member of the tribunal other than the Chairman.~~

Decision of
the tribunal.

13. The decision on any matter of the majority of the tribunal shall be the decision of the tribunal and the decision of the tribunal shall be in writing and signed by the Chairman^{or Deputy Chairman} and shall be sent by the Registrar as soon as may be practicable to the Administrator and to the applicant; the Chairman^{or Deputy Chairman} may correct in any decision of the tribunal any clerical error or mistake arising from any accidental slip or omission.

General
provisions as
to proceed-
ings before
the tribunal.

14. Subject to the provisions of the Law and of these regulations, the procedure on any matter shall be such as the Chairman of the tribunal may determine.

References
by tribunal
to the Court.

15. (1) If, at the hearing of any appeal under the provisions of subsection (2) of section 8 of the Law, the tribunal decide that a question of law has arisen in connection with the determination of such appeal which it ought properly to refer to the Court for decision under subsection (3) of that section, it may refer such question to the Court in the manner prescribed by Order of the Court and the Chairman shall announce such decision of the tribunal to the appellant and to the Administrator, if either of them is present at the hearing, whereupon he shall forthwith adjourn the hearing.

(2) In the case of a decision by the tribunal being made in respect of any appeal under the foregoing paragraph of this regulation, the Registrar shall in every case notify in writing the Administrator and the appellant of the decision.

(3) Where the tribunal has decided to refer a question of law to the Court, no further hearings of the appeal to which that question relates shall take place until the Court has notified the tribunal of its decision on that question, unless the Court shall request the tribunal to continue such hearing.

Reopening of hearing by the tribunal

16. The Chairman shall, as soon as may be after the receipt by him of the notification of a decision by the Court on a question of law referred to the Court, reopen the hearing of the appeal to which the decision relates, and the tribunal shall proceed to determine the appeal in accordance with these regulations.

Costs of proceedings.

17. The costs of any appeal shall be in the discretion of the tribunal, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may settle the amount of costs to be so paid or any part thereof.

Disqualification of persons sitting on the tribunal

18. No person shall sit as a member of the tribunal during the consideration of a matter -

- (a) in which he appears as a representative of or accompanies the appellant; or
- (b) by which he is or may be affected;

and it is hereby declared that should any person so sit, the proceedings of the tribunal on the consideration of that matter shall be null and void.

Persons unable to act.

19. (1) In the case of any person to whom a pension is payable or who is alleged to be entitled to a pension or by whom or on whose behalf a claim for a pension has been made, and who is, by reason of any mental or other incapacity, unable for the time being to act, where no Curateur-aux-Biens of his estate has been appointed by the Court sitting as an Ordinary Court the Administrator may, upon written application being made to him, appoint a person to exercise on behalf of the person who is

unable to act any right to which that person may be entitled under the Law and to receive and deal with any sum payable on account of a pension to that person:

PROVIDED THAT -

- (a) any such appointment by the Administrator shall terminate immediately on his being notified that a Curateur-aux-Biens has been so appointed;
- (b) a person who has not attained the age of eighteen shall not be capable of being appointed to act under this regulation;
- (c) the Administrator may at any time in his absolute discretion revoke any appointment made under this regulation; and
- (d) any person appointed under this regulation may, on giving the Administrator one month's notice of his intention to do so, resign his office.

(2) Anything required by these regulations to be done by or to any such person as aforesaid who is for the time being unable to act may be done by or to the Curateur-aux-Biens, if any, or by or to the person appointed under this regulation to act on his behalf, and the receipt of any person appointed under this regulation shall be a good discharge to the Authority for any sum paid, notwithstanding that such person has not attained the age of twenty.

Authentication
of copies of
Administrator's/
and tribunal's
decisions.

20. (1) A copy of a decision of the Administrator under section 8 of the Law shall be authenticated by the signature of an officer of the Authority, and a copy purporting to be signed by such officer shall, unless the contrary is proved, be deemed to be so signed.

(2) A copy of the decision of the tribunal on any appeal to it under section 8 of the Law shall be

authenticated by the signature of the Chairman^{or Deputy Chairman} and a copy purporting to be^{so} signed by the ~~Chairman~~ shall, unless the contrary is proved, be deemed to be so signed.

Pension order books.

21. (1) A book of orders issued by the Authority to enable a person to obtain payment of a pension shall remain the property of the President of the Authority.

(2) Any person having a book of orders or any unpaid order shall, on the termination of the pension to which such book or order relates or when requested by the Administrator, deliver such book or order to the Administrator or to such person as he may direct.

Repayment under section 10 (2) of the Law.

22. Where a person in receipt of a pension is liable to repay any sums under subsection (2) of section 10 of the Law, and the Authority under subsection (4) of that section direct those sums or any part of them to be deducted from the sums to which that person becomes entitled on account of a pension, the deduction shall be made by withholding either the whole or part of payments on account of the pension until the total of the sums withheld amounts to the total of the sums so directed to be deducted.

Value of accommodation provided by any body or institution

23. (1) Subject to the following provisions of this regulation, in calculating the means of any person for the purposes of the First Schedule to the Law no account shall be taken of the value of any accommodation provided by any body or institution, approved by the Authority for the purpose of this regulation, for the benefit of that person.

(2) The provision of the preceding paragraph of this regulation shall only apply if, and for so long as, -

- (a) the Authority is satisfied that the body or institution is not one which is conducted for the purpose of profit or gain; and
- (b) the Administrator is satisfied that during the period during which accommodation is provided as aforesaid any weekly sum by way of pension payable to such person, which but for the provisions of this regulation would not be so payable, is paid by that person to the body or institution in payment or part payment of the cost of that accommodation:

Provided that where such sum is at a weekly rate exceeding five shillings, that person shall not be required so to pay the whole of such sum, but shall be entitled to retain for his own use and benefit a sum of five shillings weekly.

Exceptions from disqualification for imprisonment etc.

24. For the purposes of section 3 of the Law (which section provides for disqualification for the receipt of a pension during periods of imprisonment or detention in legal custody) a person shall not, by reason of undergoing a period of imprisonment or detention in legal custody, be disqualified for receiving a pension if, being charged with a criminal offence, either such charge against him is withdrawn, or he is discharged by the Police Court Magistrate or the Court sitting as an Ordinary Court en Police Correctionnelle or (not being a criminal lunatic) is acquitted.

Suspension of
the payment
of a pension
for non-
compliance
with the
regulations

25. Where a pensioner refuses or neglects without reasonable cause to comply with any of the provisions of these regulations, the Administrator may suspend the payment of a pension to that pensioner during the continuance of such refusal or neglect and the decision of the Administrator to that effect shall be notified in writing by the Administrator to that pensioner.

Dated this 28th. day of April, 1950.

(Signed) E. T. WHEADON.

President, States Insurance Authority
on behalf of that Authority.

SCHEDULE.

Old Age and Blindness Pensions
(Guernsey) Law, 1950

Application for Appeal.

To the Registrar of Appeals,
States Insurance Department,
St. Peter Port,
Guernsey.

I, _____ of _____, being
aggrieved by a decision of the Administrator given on
the _____ day of _____, 19 _____, in respect of
the ^xclaim/pension of _____, under the Old Age
and Blindness Pensions (Guernsey) Law, 1950, hereby apply
for the question to be determined by the tribunal on appeal.
The facts and contentions upon which I rely in support of
my application are set forth in the particulars hereto
attached.

In support of this application the following
documents are sent herewith:-

(Insert list of all documents sent with application).

Dated this _____ day of _____, 19 _____.

Signature

^x Claimant
Pensioner
Person other than Claimant
or Pensioner

^x Strike out whichever
is or are inapplicable.

Applicant's Particulars.

N.B. The Particulars furnished on this form and all other information which may be sent to the tribunal by or on behalf of an applicant in connection with his or her application will be disclosed to the Administrator. A copy of the Administrator's decision must be furnished.