

"Family Allowances (Guernsey) (Qualifications)
Regulations, 1950".

Made 4th. July, 1950.

REP. BY 1977/4

Coming into operation 4th. July, 1950.

Laid before the States

The States Insurance Authority in exercise of the powers conferred on it by the Family Allowances (Guernsey) Law, 1950, and of all other powers enabling it in that behalf, hereby makes the following regulations:-

PART I.

General.

Citation,
commencement
and inter-
pretation.

1. (1) These regulations may be cited as the Family Allowances (Guernsey) (Qualifications) Regulations, 1950, and shall come into force on the — 4th. — day of July, 1950.

(2) In these regulations, except as hereinafter provided and unless the context otherwise requires -

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

"allowance" means an allowance under the Law;

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

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

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

"the Law" means the Family Allowances (Guernsey) Law, 1950;

the expressions "a member of the Forces", "a merchant seaman" and "a medical evacuation case" have the meanings assigned to them in the Schedule hereto; and

"parent" means, in relation to any child, the person in whose family such child would, if living with such person, be treated as included for the purposes of the Law as being issue of that person or, in the case of a man and his wife living together, as being issue of either the man or his wife.

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

PART II.

Requirements as to Nationality,
Residence, etc.

Section 22
(1) of the
Law. Re-
quirements
for family
of a man and
his wife
living
together.

2. It shall be a condition of the right to any allowance at any date for the family of a man and his wife living together, if the man is not a British subject whose place of birth is in Guernsey, that one of the following requirements is satisfied, namely:-

- (1) that the wife is at that date a British subject whose place of birth is in Guernsey; or
- (2) that the man or the wife is a British subject who for at least fifty-two weeks in the aggregate out of the two years immediately preceding that date has either been present in Guernsey or, when not so present, been a member of the Forces, a merchant seaman or a medical evacuation case; or
- (3) that for at least one hundred and fifty-six weeks in the aggregate out of the four years immediately preceding that date the man or the wife has either been present in Guernsey or, when not so present, been a member of the Forces, a merchant seaman or a medical evacuation case; or

(4) *Inserted by S.I. 1962 No 17*

Requirements
for family
of a man not
having a
wife or not
living
together.
with his
wife

3. It shall be a condition of the right to any allowance at any date for the family of a man not having a wife or not living together with his wife, if he is not a British subject whose place of birth is in Guernsey, that one of the following requirements is satisfied, namely:-

(1) that he is at that date a British subject who for at least fifty-two weeks in the aggregate out of the two years immediately preceding that date has either been present in Guernsey or, when not so present, been a member of the Forces, a merchant seaman or a medical evacuation case; or

(2) that for at least one hundred and fifty-six weeks in the aggregate out of the four years immediately preceding that date he has either been present in Guernsey, or, when not so present, been a member of the Forces, a merchant seaman or a medical evacuation case.

Requirements for family of a woman not having a husband or not living together with her husband.

4. It shall be a condition of the right to any allowance at any date for the family of a woman not having a husband or not living together with her husband, if she is not a British subject whose place of birth is in Guernsey, that one of the following requirements is satisfied, namely:-

(1) that she is a British subject who for at least fifty-two weeks in the aggregate out of the two years immediately preceding that date has either been present in Guernsey or, when not so present, been a member of the Forces, a merchant seaman or a medical evacuation case; or

(2) that for at least one hundred and fifty-six weeks in the aggregate out of the four years immediately preceding that date she has either been present in Guernsey or, when not so present, been a member of the Forces, a merchant seaman or a medical evacuation case.

Aggregation of periods.

5. For the purposes of this Part of these regulations periods during which a person is present in Guernsey and periods during which, when not so present, he is a member of the Forces, a merchant seaman or a medical evacuation case shall be aggregated.

Effect of once satisfying requirements.

6. Notwithstanding anything contained in this Part of these regulations, where a person has once been a member, otherwise than as a child, of a family for which the right to an allowance existed at any time while he or she was such a member, he or she shall thenceforth be treated as having satisfied the conditions of subsection (1) of section 22 of the Law for the purposes of any allowances at any date for that family or for any other family of which he or she may subsequently become a member.

PART III.

Section 22 (4) of the Law.

Rules for determining whether presence in or absence from Guernsey is or is not to be treated as temporary.

Interpretation.

7. In this Part of these regulations, unless the context otherwise requires, "presence" and "absence" mean presence in and absence from Guernsey respectively.

An adult's presence in or absence from Guernsey.

8. (1) For the purposes of subsection (2) of section 22 of the Law -

(a) the presence of a person at any date shall be treated as temporary except in the following circumstances:-

(i) if for at least twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has either been present in Guernsey or, when not so present, been a member of the Forces, a merchant seaman or a medical evacuation case; or

(ii) if the period of that presence has been immediately preceded by a period of absence throughout which there was a right to an allowance for his family; or

(iii) *Inserted by S.I. 1962 No 17*
(b) the absence of a person at any date shall be treated as temporary unless it is for a purpose other than a temporary purpose or unless either -

- (i) the absence has lasted for a continuous period exceeding six months; or
- (ii) the person is a member of a family for which there was no right to an allowance in existence immediately prior to that date, and for more than twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has neither been present in Guernsey nor been a member of the Forces, a merchant seaman or a medical evacuation case:

PROVIDED that the absence of a person at any date while he is a member of the Forces, a merchant seaman or a medical evacuation case shall always be treated as temporary if for at least twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has either been present in Guernsey or, when not so present, been a member of the Forces, a merchant seaman or a medical evacuation case.

(2) Where at any date there is already in existence a right to one or more allowances for the family of a man and his wife, that family shall, for the purposes of this regulation, be treated as continuing in existence despite the death of either of them occurring whilst they are living together.

Aggregation
of periods.

9. For the purposes of regulation 8 periods during which a person is present in Guernsey and periods during which, when not so present, he is a member of the Forces, a merchant seaman or a medical evacuation case, shall be aggregated.

A child's
presence in
or absence
from
Guernsey.

10. For the purposes of subsection (3) of section 22 of the Law the presence or absence of a child at any date shall not be treated as temporary except in the following circumstances:-

(1) the presence at any date of a child whose place of birth is not in Guernsey and who would, if his presence were treated as other than temporary, be included for the purposes of the Law in the family of any person other than a parent, shall be treated as temporary unless -

(a) he has been present in Guernsey for the whole period of six months immediately preceding that date; or

(b) the period of that presence has been immediately preceded by a period of temporary absence;

(2) The absence at any date of a child who is ordinarily resident in Guernsey shall be treated as temporary if and so long as the period of such absence is not intended to exceed and has not exceeded six months or such longer period as the Administrator may, in the special circumstances of any particular case, determine.

PART IV.

Rules for determining whether the absence of a child from a person or the interruption or reduction of a person's contribution is or is not to be treated as temporary.

Section 19 (7)
of the Law.

Interpre-
tation.

11. (1) In this part of these regulations unless the context otherwise requires -

"hospital" means any premises used for the reception and treatment of persons suffering from any illness including mental illness or of persons suffering from physical disability or mental defectiveness and any premises used for providing treatment during convalescence or for medical rehabilitation;

the expression "providing for a child" has the same meaning as in the Law.

(2) For the purposes of this Part of these regulations a man and his wife living together shall be treated as one person and references to a person (other than a fit person) shall be construed as references to such persons as are mentioned in paragraphs (a), (b) and (c) respectively of subsection (1) of section 3 of the Law, that is to say, a man and his wife living together, such a man as is mentioned in the said paragraph (b) and such a woman as is mentioned in the said paragraph (c).

Absence from a parent and interruption or reduction of parent's contribution.

12. (1) Subject to the provisions of regulation 14, in determining whether any absence (other than at a school) of a child from a parent or any interruption or reduction of a parent's contribution to the cost of providing for a child is or is not to be treated as temporary for the purposes of subsection (7) of section 19 of the Law the following rules shall apply:-

- (a) any such absence, interruption or reduction due to the child undergoing treatment as an in-patient at a hospital shall be treated as temporary while the child is undergoing such treatment;
- (b) any such interruption or reduction due to the child being at a school shall be treated as temporary while the child is at that school;
- (c) any such absence, interruption or reduction which does not fall within sub-paragraph (a) or (b) of this paragraph shall be treated as temporary for a period of twelve weeks and no longer;

PROVIDED that if the absence, interruption or reduction has been immediately preceded by an absence, interruption or reduction falling within sub-paragraph (a) or (b) of this paragraph, or by absence at a

school, the said period of twelve weeks shall not begin to run until after the termination of that immediately preceding absence,

interruption or reduction as the case may be.

(2) Notwithstanding the provisions of sub-paragraph (c) of paragraph (1) of this regulation, any absence from a parent and any interruption or reduction of a parent's contribution falling within that sub-paragraph shall cease to be treated as temporary if provision has been made for the child, other than by a person within the meaning of paragraph (2) of regulation 11, for a period of four weeks during which no such person other than that parent has

been providing in his own home for the child or contributing at the rate of ~~five~~ shillings a week or more to the cost of providing for the child elsewhere.

*7/18 Dec 1955 no 28
7/16 Dec 1957 no 31.*

Absence from a person other than a parent and interruption or reduction of such person's contribution.

13. Subject to the provisions of regulation 14, any absence (other than at a school) of a child from a person other than a parent and any interruption or reduction of the contribution of a person other than a parent to the cost of providing for a child shall, for the purposes of subsection (7) of section 19 of the Law, be treated as temporary for the first four weeks thereof and no longer.

Further provisions relating to absence and to interruption or reduction of contributions.

14. Notwithstanding anything contained in regulations 12 and 13 no absence (other than at a school) of a child from any person, and no interruption or reduction of the contribution made by any person to the cost of providing for a child shall be treated as temporary for the purposes of subsection (7) of section 19 of the Law if -

- (1) there is in force an order under the Law entitled "Loi ayant rapport à la protection des enfants et des jeunes personnes," registered on the Records of the Island of Guernsey on the 10th day of February, 1917, committing the child to the care of a fit person:

PROVIDED that this shall not apply to any absence from, or to any interruption or reduction of the contribution made by, such fit person; or

(2) the Administrator is satisfied either -

(a) that the absence, interruption or reduction is or is intended to be other than temporary; or

(b)(i) that, if the absence, interruption or reduction were treated as other than temporary, the child would fall to be treated as included in the family of some other person and that by reason of such inclusion there would come into existence a right to an allowance under the Law for such a family; and

(ii) that it is more fitting that the child should be treated as included in such family than that the absence, interruption or reduction should be treated as temporary.

PART V.

Section 14 (1)
(c) of the Law.

Full-time instruction
in a school.

Circumstances in which a person is to be treated as undergoing full-time instruction.

15. A person shall be treated for the purposes of the Law as undergoing full-time instruction in a school in the following circumstances, namely, if he is, in Guernsey, undergoing full-time instruction at any school which is maintained or grant aided by the States of Guernsey or at any establishment for further education, or at any educational, instructional, training or other establishment which, in the opinion of the Administrator, should be treated as a school;

PROVIDED that -

(1) in determining whether a person's instruction in a school shall be treated as full-time, any

instruction received by him after the hour of 5 p.m. shall be disregarded;

- (2) a person shall not cease to be treated as undergoing full-time instruction during any period during which he would have been undergoing such instruction but for the occurrence of any of the following events:-
- (a) holidays of that person which are recognised by the responsible school authority;
 - (b) the temporary closure by the responsible school authority during a school term of the school which that person normally attends;
 - (c) absence from school of that person authorised by the responsible school authority by reason of contact with infectious disease;
 - (d) illness of that person, so however that any period of illness after that person has attained the upper age limit below which education is compulsory by law shall not be treated as a period of full-time instruction unless that person attends school at some time between attaining the upper age limit below which education is compulsory by law and the first day of August next following the day on which he attains the age of sixteen years;
 - (e) absence from school on not more than two occasions in any calendar year owing to illness (other than illness of that person) occurring at, or any absence from school owing to death at, the home of that person, so however that any such absence after the first two weeks shall not be treated as a period of full-time instruction;

- (f) the temporary suspension of the ordinary means of transport of that person to school where alternative means of reaching school are not reasonably available;
- (g) absence from school owing to the removal of that person from one school to another, so however that any such ~~absences~~ after the first four weeks shall not be treated as a period of full-time instruction.

Dated this — 4th — day of July , 1950.

President, States Insurance
Authority, on behalf of that
Authority.

THE SCHEDULE.

Regulation 1.

Meaning of "a member of the Forces", "a merchant seaman" and "a medical evacuation case".

1. For the purposes of these regulations the expression "a member of the Forces" means any person who, being a member of the armed Forces of the Crown raised in the United Kingdom or ^{Guernsey} ~~the Channel Islands~~ or a member of any nursing or other auxiliary service similarly raised and forming part of or attached to those Forces, is in receipt of service pay in respect of naval, military or air force service, and who immediately prior to becoming a member of the armed Forces or of such nursing or other auxiliary service, as the case may be, was ordinarily resident in Guernsey.

2. For the purposes of these regulations the expression "a merchant seaman" means -

- (1) any person employed under a contract of service as master or a member of the crew of any of His Majesty's ships or of any other British ship, if either -
 - (a) the contract was entered into in Guernsey; or

(b) it was entered into outside Guernsey, and the person had set out from Guernsey for the purpose of entering into such contract:

PROVIDED that any such person as is referred to in sub-paragraph (1) (b) of this paragraph shall be treated as a merchant seaman for the purposes of these regulations during the period between his setting out from Guernsey and his entering into such contract;

(2) any person who, having been a person referred to in sub-paragraph (1) of this paragraph has not, since last being such a person, ceased to be employed under contracts of service as master or a member of the crew either of one of His Majesty's ships or of some other British ship:

PROVIDED that a person shall be deemed not to have ceased to be so employed during any period during which he is temporarily prevented from being so employed;

(3) any person who having been a person referred to in sub-paragraph (1) or (2) of this paragraph and having ceased so to be, is proceeding or intending to proceed to Guernsey:

PROVIDED that if he fails to proceed to Guernsey as soon as reasonably practicable after such cessation he shall not, after such failure, be treated as a merchant seaman by virtue of this sub-paragraph;

(4) any person who has set out from Guernsey for the purpose of entering into a contract of service as master or a member of the crew of any of His Majesty's ships or of any other British ship or who, having so set out, has failed to enter into such contract and is proceeding or intending to proceed to Guernsey:

PROVIDED that if, having so failed, he does not proceed to Guernsey as soon as reasonably practicable after such failure he shall no longer be treated as a merchant seaman by virtue of this sub- paragraph.

3. For the purposes of these regulations the expression "a medical evacuation case" means a person who satisfies the Administrator that his absence from Guernsey is solely or mainly in order to obtain elsewhere medical treatment and that such treatment is being obtained by him elsewhere.