

PROJET DE LOI

ENTITLED

The Social Insurance (Guernsey) (Amendment) Law, 1999 *

[CONSOLIDATED TEXT]

NOTE

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* No. VI of 1999 (Ordres en Conseil Vol. XXXIX, p. 107); as amended by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013 (No. IV of 2014); the Income Support (Guernsey) Law, 2017 (No. IV of 2018).

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The Social Insurance (Guernsey) (Amendment) Law, 1999

ARRANGEMENT OF SECTIONS

- 1-22. Amendment of Law of 1978.
- 23. Amendment of the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984.
- 24. Amendment of the Family Allowances Law.
- 25. Amendment of the Income Tax Law.
- 26. Amendment of the Income Support Law.
- 27. Citation.
- 28. Commencement.

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The Social Insurance (Guernsey) (Amendment) Law, 1999

THE STATES, in pursuance of their Resolution of the 1st October, 1998^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Alderney, Herm and Jethou.

Amendment of Law of 1978.

1. The Social Insurance (Guernsey) Law, 1978, as amended^b (the "**principal Law**") is further amended in accordance with the provisions of this Law.

2. In section 18(e) of the principal Law –

(a) for the words "widow's allowances" substitute "survivor's grant", and

(b) for the words "widowed mother's allowance" substitute "widowed parent's allowance".¹

3. For section 21(2) of the principal Law substitute the following subsection –

^a Article XXII of Billet d'État No. XXI of 1998.

^b Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; Vol. XXXII, p. 59; No. XII of 1993; Ordinance No. XIV of 1993 (Tome XXVI, p. 177); No. V of 1994; and Nos. VI and XIII of 1995.

" (2) Subject to such exceptions and conditions as may be prescribed, a person shall not be entitled to unemployment benefit or sickness benefit for the first three days of any period of interruption of employment or (as the case may be) any period of incapacity for work." ²

4. In section 22(1) of the principal Law –

- (a) after the words "industrial injury benefit" insert "or such other benefit, subject to such exceptions and conditions, as may be prescribed", and
- (b) the parentheses and words contained therein are repealed.

5. For section 23(1)(c) of the principal Law substitute the following paragraph –

- "(c) regulations may prescribe the number of days of unemployment or incapacity for work which are (subject to such exceptions and conditions as may be prescribed) to be treated as a period of interruption of employment or (as the case may be) as a period of incapacity for work,".

6. For section 24(3)(b) of the principal Law substitute the following paragraph –

- "(b) in each of those weeks, he has derived from the said employment such earnings as may be prescribed.".

7. For section 27 of the principal Law substitute the following section –

"Maternity grant.

27. (1) Subject to the provisions of this Law, a woman who is an insured person shall be entitled to a maternity grant if –

- (a) she is ordinarily resident in Guernsey,
 - (b) she –
 - (i) is pregnant and it has been certified in such manner as may be prescribed that it is expected that she will be confined within a period of 12 weeks, or
 - (ii) has been confined within such period as may be prescribed, and
 - (c) she is not entitled to a maternity allowance.
- (2) Regulations may provide that –
- (a) a woman confined of twins or a greater number of children shall, if the other conditions for the payment of a maternity grant are satisfied in respect of the confinement, be entitled to a maternity grant for each of them,
 - (b) subject to such exceptions and conditions as may be prescribed, a woman who is entitled to a

maternity allowance may, if she so wishes, withdraw her claim to that benefit in order to claim a maternity grant:

Provided always that no woman may receive both a maternity allowance and a maternity grant in relation to the same pregnancy or confinement."

8. For section 28 of the principal Law substitute the following section –

"Maternity allowance.

28. (1) Subject to the provisions of this Law, a woman shall be entitled to a maternity allowance if-

- (a) she –
 - (i) is pregnant and it has been certified in such manner as may be prescribed that it is expected that she will be confined within a period of 12 weeks, or
 - (ii) has been confined within such period as may be prescribed, and
- (b) she satisfies the relevant contribution conditions.

(2) Subject to the following provisions of this section, and subject to such further exceptions and conditions as may be prescribed, the period for which a maternity allowance is payable shall be any continuous

period of not more than eighteen weeks in the period beginning with the eleventh week before the expected week of confinement and ending with the seventeenth week after the week of confinement.

(3) A woman who has become entitled to a maternity allowance shall cease to be entitled thereto if she dies before the beginning of the period mentioned in subsection (2); and if such a woman dies after the beginning, but before the end, of that period the allowance shall not be payable for any week subsequent to that in which she dies.

(4) Regulations may provide that a woman who has become entitled to a maternity allowance shall cease to be entitled thereto if her pregnancy is terminated otherwise than by confinement.

(5) Regulations may provide for disqualifying a woman from receiving a maternity allowance if, during the period for which the allowance is payable, she does any work as an employed or self-employed person.

(6) Where for the purposes of this Part of this Law or of regulations it is necessary to calculate the daily rate of a maternity allowance

—

- (a) Sunday or such other day in each week as may be prescribed shall be disregarded, and
- (b) the amount payable by way of that allowance for any other day shall be taken to be one sixth of the weekly rate of the allowance." ³

9. For section 30 of the principal Law substitute the following section —

"Survivor's grant.

30. (1) Subject to the provisions of this Law, and subject to such further exceptions and conditions as may be prescribed, a person ("**the claimant**") shall be entitled to a survivor's grant if –

- (a) the claimant is –
 - (i) a widow, or
 - (ii) a man who is entitled to receive a widowed parent's allowance, and
- (b) the claimant's late spouse –
 - (i) was, at the date of death, under pensionable age, and
 - (ii) satisfied the relevant contribution conditions.

(2) A survivor's grant shall not be payable if, at the date of death of the late spouse, the Authority is satisfied that the claimant and another person were co-habiting as husband and wife."⁴

10. For section 31 of the principal Law substitute the following section –

"Widowed parent's allowance.

31. (1) Subject to the provisions of this Law, and subject to such further exceptions and conditions as may be prescribed, a person ("**the claimant**") shall be entitled to a widowed parent's allowance if the claimant's

late spouse satisfied the relevant contribution conditions and –

- (a) the claimant has a family which satisfies such conditions as may be prescribed, or
- (b) subject to such exceptions and conditions as may be prescribed –
 - (i) the claimant has residing with him or her a person who is under the age of eighteen years and who is or has been or would have been a child of his or her family, or
 - (ii) the claimant is a woman who is pregnant by her late husband.

(2) The period for which a widowed parent's allowance is payable shall be any period during which the claimant satisfies the requirements of subsection (1).

- (3) A widowed parent's allowance shall not be payable –
 - (a) for any period after the claimant's remarriage, or
 - (b) for any period during which the Authority is satisfied that the claimant and another person are co-habiting as husband and wife."⁵

11. In section 32(5) of the principal Law –

- (a) the words "a widow's allowance or" are repealed, and
- (b) for the word "mother's" substitute "parent's".⁶

12. In section 39(1) of the principal Law –

- (a) paragraph (a) is repealed, and
- (b) in paragraph (b) the words "in the case of maternity allowance," are repealed.

13. For section 48(3) of the principal Law substitute the following subsection –

" (3) Subject to the provisions of subsection (5), and subject to such exceptions and conditions as may be prescribed, an insured person shall not be entitled to industrial injury benefit for the first three days of any period of incapacity for work."⁷

14. In section 57 of the principal Law –

- (a) subsections (2)(d), (2)(e), (3) and (6) are repealed, and
- (b) in subsection (4) –
 - (i) for the word "mother's" substitute "parent's", and
 - (ii) for the word "she" substitute "he or she".

NOTE

Section 57 of the principal Law has since been repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 23, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

- 15.** Section 60(3)(b) of the principal Law is repealed.

NOTE

Section 60 of the principal Law has since been repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 23, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

- 16.** After section 64(6) of the principal Law add the following subsection

" (7) Regulations may also provide for –

- (a) the duties and obligations to be imposed upon and observed by individuals who are authorised to receive and deal with benefit on behalf of another person or who are otherwise appointed to act in relation thereto under regulations made under subsection (4)(b) or (4)(e),
- (b) the penalties to be incurred on summary conviction by individuals described in paragraph (a) who misuse, misappropriate or fail to account for benefit or who otherwise fail to comply with the duties and obligations

imposed upon them by regulations made under paragraph (a),

- (c) the repayment of any benefit which has been misused or misappropriated, or which has not been accounted for, by an individual described in paragraph (a) and its recovery, together with interest thereon, as a debt due to the Authority."

17. In section 66 of the principal Law^c after the words "the Family Allowances Law" insert ", the [Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984] or the [Income Support (Guernsey) Law, 1971]".

NOTES

In section 17,

the words in the first pair of square brackets were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 1(2), First Schedule, with effect from 1st May, 2014;

the words in the second pair of square brackets were substituted by the Income Support (Guernsey) Law, 2017, section 1(2), Schedule 1, paragraph 1, with effect from 6th July, 2018.

18. Section 71(2) of the principal Law is repealed.

19. (1) In section 102(1) of the principal Law, for the words beginning with "The Government Actuary of Great Britain" up to and including "an actuary appointed by the States," substitute "An actuary appointed by the Authority".⁸

(2) After section 102(1) of the principal Law, insert the following

^c Section 66 was amended by Orders in Council Vol. XXVII, p. 238.

subsection –

" (1A) An actuary appointed by the Authority pursuant to subsection (1) shall be –

- (a) a Fellow of the Institute of Actuaries,
- (b) a Fellow of the Faculty of Actuaries, or
- (c) a member of such other body or the holder of such other qualifications as may be prescribed."⁹

20. In section 103(7) of the principal Law for the words "States Civil Service Board" substitute "Administrator".

21. In the First Schedule to the principal Law –

- (a) in paragraph 1 and in the heading thereto after the words "sickness benefit" insert ", maternity allowance",
- (b) paragraphs 2 and 3 are repealed.

22. In the Sixth Schedule to the principal Law, immediately before the entries relating to the expression "The Administrator" –

- (a) in the first column insert the expression "'Accident'",
and
- (b) opposite thereto in the second column insert the following text –

"In Part III of this Law –

- (a) a specific and undesigned or unforeseen event causing, but being separate and distinct from, personal injury, or
- (b) a specific instance of unusual physical exertion causing personal injury,

excluding (for the removal of doubt) any case where –

- (i) a physiological illness or change is caused otherwise than by any such event or exertion, or
- (ii) the only specific and undesigned or unforeseen event is the personal injury itself."¹⁰

Amendment of the [Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984].

23. The [Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984], as amended^d, is further amended as follows –

- (a) after section 5(3) add the following subsection –

" (4) Regulations may also provide for –

^d Ordres en Conseil Vol. XXVIII, p. 353; Vol. XXIX, p. 198; No. XIV of 1991; No. X of 1993; and Ordinance No. XIV of 1993 (Tome XXVI, p. 177).

- (a) the duties and obligations to be imposed upon and observed by individuals who are authorised to receive and deal with an allowance on behalf of another person or who are otherwise appointed to act in relation thereto under regulations made under subsection (2)(b) or (2)(d),
 - (b) the penalties to be incurred on summary conviction by individuals described in paragraph (a) who misuse, misappropriate or fail to account for an allowance or who otherwise fail to comply with the duties and obligations imposed upon them by regulations made under paragraph (a),
 - (c) the repayment of any allowance which has been misused or misappropriated, or which has not been accounted for, by an individual described in paragraph (a) and its recovery, together with interest thereon, as a debt due to the Authority.",
- (b) in section 7 after the words "the Social Insurance Law" insert ", the [Income Support (Guernsey) Law, 1971]".

NOTES

In section 23,

the words in the first pair of square brackets, and in square brackets in the marginal note thereto, were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 1(2), First Schedule, paragraph 1, with effect from 1st May, 2014;

the words in the second pair of square brackets were substituted by the Income Support (Guernsey) Law, 2017, section 1(2), Schedule 1, paragraph 1, with effect from 6th July, 2018.

Amendment of the Family Allowances Law.

24. The Family Allowances (Guernsey) Law, 1950, as amended^e, is further amended as follows –

(a) section 1(3) is repealed,

(b) after section 8(7) add the following subsection –

" (8) Where, in the case of any person, any sum may by virtue of any provision of the [Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984], the Social Insurance (Guernsey) Law, 1978 or the [Income Support (Guernsey) Law, 1971] (in each case as amended) be recovered by deduction from any payment under that Law, it may instead be recovered from him in whole or in part by deduction from an allowance payable under this Law."

NOTES

In section 24,

the words in the first pair of square brackets were substituted by the

^e Ordres en Conseil Vol. XIV, p. 332; Vol. XVI, p. 280; Vol. XX, p. 63; Vol. XXI, p. 34; Vol. XXIII, pp. 3 and 238; Tome XXI, p. 460; Tome XXII, p. 452; Tome XXVI, p. 177; and Ordinance No. XXVII of 1997.

Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 1(2), First Schedule, paragraph 1, with effect from 1st May, 2014;

the words in the second pair of square brackets were substituted by the Income Support (Guernsey) Law, 2017, section 1(2), Schedule 1, paragraph 1, with effect from 6th July, 2018.

Amendment of the Income Tax Law.

25. In section 27(2)(m) of the Income Tax (Guernsey) Law, 1975, as amended^f after the expression "1st January 1990" insert "or any survivor's grant payable on or after the date of commencement of section 9 of the Social Insurance (Guernsey) (Amendment) Law, 1999".

Amendment of the [Income Support] Law.

26. After section 15(1)(h) of the [Income Support (Guernsey) Law, 1971], as amended , add the following paragraphs –

"(i) for the duties and obligations to be imposed upon and observed by individuals who are authorised to receive, on behalf of another person, [income support] or who are otherwise appointed to act in relation thereto under section 5(2) or under an Ordinance made under paragraph (e),

(j) for the penalties to be incurred on summary conviction by individuals described in paragraph (i) who misuse, misappropriate or fail

^f Ordres en Conseil Vol. XXV, p. 124; Vol. pp. 146, 200 and 292; Vol. XXVII pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p. 214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; Nos. IV and VIII of 1993; No. XXV of 1994; Nos. III and VII of 1995; No. V of 1996; Nos. IV and XXII of 1997.

to account for [income support] or who otherwise fail to comply with the duties and obligations imposed upon them by Ordinance made under paragraph (i),

- (k) for the repayment of any [income support] which has been misused or misappropriated, or which has not been accounted for, by an individual described in paragraph (i) and for its recovery, together with interest thereon, as a debt due to the Authority."

NOTE

In section 26, first, the words "I/income S/support" in square brackets, wherever occurring (including in the marginal note thereto), and, second, the words "Income Support (Guernsey) Law, 1971" in square brackets were substituted by the Income Support (Guernsey) Law, 2017, respectively section 3(a) and section 1(2), Schedule 1, paragraph 1, with effect from 6th July, 2018.

Citation.

27. This Law may be cited as the Social Insurance (Guernsey) (Amendment) Law, 1999.

Commencement.

28. This Law shall come into force as follows –

- (a) sections 2, 4, 7 to 12, 14, 15, 18, 21 and 25 shall come into force on the day appointed by Ordinance of the States, and
- (b) the remainder of this Law shall come into force on the

day of registration of this Law on the records of the
Island of Guernsey.

NOTES

Sections 2, 4, 7 to 12, 14, 15, 18, 21 and 25 of the Law were brought into force on 1st January, 2000 by the Social Insurance (Guernsey) (Amendment) Law, 1999 (Commencement) Ordinance, 1999, section 1.

The Law was registered on the Records of the Island of Guernsey on 17th August, 1999.

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- 1** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.
 - 2** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.
 - 3** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.
 - 4** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.
 - 5** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.
 - 6** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.
 - 7** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.
 - 8** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.
 - 9** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.
 - 10** For subsequent amendments, see the consolidated text of the Social Insurance (Guernsey) Law, 1978.