

GUERNSEY STATUTORY INSTRUMENT

2014 No. 82

**The Supplementary Benefit (Guernsey)
Regulations, 2014**

Made 28th November, 2014
Coming into operation 1st December, 2014
Laid before the States , 2015

THE SOCIAL SECURITY DEPARTMENT, in exercise of the powers conferred on it by sections 1, 6A, 9(1) and 15B of the Supplementary Benefit (Guernsey) Law, 1971^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

PART I

MODIFICATIONS AND EXEMPTIONS

Persons exempt from section 1(1)(a)(i) of the Law.

1. (1) A person -
 - (a) who is under the age of 18 years, and
 - (b) who satisfies the requirements of paragraph (2),

^a Ordres en Conseil Vol. XXIII, p. 26; Vol. XXVI, p. 292; Vol. XXXIX, p. 107; the Supplementary Benefit (Guernsey) (Amendment) Law, 2014 and Supplementary Benefit (Guernsey) (Amendment) (No. 2) Law, 2014.

shall be exempt from section 1(1)(a)(i) (requirement to be over the age of 18 years) of the Law.

- (2) The requirements are that the person -
 - (a) has attained school leaving age,
 - (b) falls within a description set out in paragraph (3), and
 - (c) in the case of a person who falls within a description set out in subparagraph (a), (b) or (c) of paragraph (3), that person also meets -
 - (i) one of the criteria set out in the first column of the Table set out in the Schedule, and
 - (ii) one of the criteria set out in the second column of that Table.
- (3) The descriptions are -
 - (a) a person of no fixed abode,
 - (b) a person subject to temporary living arrangements,
 - (c) a person without dependant children who is living independently,
 - (d) a pregnant woman living alone or with parents and in respect of whom it is certified, in such manner as the

Administrator may determine, that it is expected that she will be confined within a period of 12 weeks from the date of any application for a supplementary benefit,

- (e) a person living alone or with a partner or parents, who is caring for a dependant child,
- (f) a person -
 - (i) who has a severe disability,
 - (ii) who is living alone or with parents, and
 - (iii) who is unable to work, and
- (g) a person who, immediately before the coming into force of this regulation, was in receipt of a supplementary benefit.

Persons exempt from section 1(1)(a)(ii) of the Law.

2. (1) A person -

- (a) who falls within a description set out in paragraph (2), and
- (b) who, with the approval of the Administrator, is engaged in or undertaking a qualifying course of education or training,

shall be exempt from section 1(1)(a)(ii) (requirement that no longer in full-time education) of the Law.

(2) The descriptions are -

- (a) a person who is exempt from section 1(1)(a)(i) (requirement to be over the age of 18 years) of the Law under regulation 1, and
- (b) a person over the age of 18 years.

(3) Unless the Administrator determines otherwise, an approval under paragraph (1)(b) given in respect of a person who falls within a description set out in paragraph (2)(a) shall remain valid -

- (a) in respect of a person who attains the age of 18 years at any time during the period commencing upon the day on which the school year commences and ending on the last Friday in June in that same school year, until the end of that last Friday in June, and
- (b) in respect of a person who attains the age of 18 years at any time during the period commencing upon the day after the last Friday in June in a school year and ending upon the day immediately preceding the day upon which the school year next following begins, until the end of that last Friday in June.

Persons deemed to be in full-time remunerative work for purposes of section 1(1)(b)(i) of the Law.

3. (1) A person who has not attained pensionable age ("person A"), or a relevant dependant of such a person ("the relevant dependant of person A"), is deemed to be in full-time remunerative work for the purposes of section 1(1)(b)(i) (requirement in case of person and relevant dependant, who has not attained pensionable age, to be in full-time remunerative work) of the Law if the conditions in paragraph (2) are satisfied in relation to person A, or the relevant dependant of person A, as the case may be.

(2) The conditions are that -

(a) the person

(i) is mainly responsible for the physical care of -

(A) a child, or

(B) an incapacitated person, or

(ii) has a physical, sensory or mental impairment, incapacity or other restriction which, in the opinion of the Administrator, following consultation with such health or social care professionals as the Administrator thinks fit, limits their capacity to undertake full-time remunerative work, and

(b) the person is engaged in remunerative work for such number of hours per week (if any) as the

Administrator considers appropriate in their particular circumstances.

(3) For the avoidance of doubt no more than one person shall be deemed to be in full-time remunerative work under paragraph (1) on the basis of care provided for the same child or incapacitated person, as the case may be.

(4) For the purposes of this regulation -

" **child**" means a child aged 7 years or over, who has not attained school leaving age and who is a member of the same household as person A, or the relevant dependant of person A, as the case may be, and

"**an incapacitated person**" means a person -

(a) with such degree of physical, sensory or mental impairment that, in the opinion of the Administrator, they require significant care to be provided for them by another person, and

(b) in respect of whom or whose circumstances the Administrator has not made a disqualifying determination under paragraph (5).

(5) The Administrator may make a disqualifying determination in relation to an incapacitated person where, in the opinion of the Administrator -

(a) the care provided by person A, or the relevant dependant of person A, as the case may be, for the

incapacitated person in question is minimal or unsuitable, or

- (b) it is not appropriate for person A, or the relevant dependant of person A, as the case may be, to provide the care for the incapacitated person in question.

Persons deemed to be in full-time remunerative work for purposes of section 1(1)(c)(i) of the Law.

4. (1) A relevant dependant of a person who has attained pensionable age, is deemed to be in full-time remunerative work for the purposes of section 1(1)(c)(i) (requirement, in case of relevant dependant of person who has attained pensionable age, to be in full-time remunerative work) of the Law, if the conditions in paragraph (2) are satisfied in relation to the relevant dependant.

(2) The conditions are that -

(a) the relevant dependant -

(i) is mainly responsible for the physical care of -

(A) a child, or

(B) an incapacitated person, or

(ii) has a physical, sensory or mental impairment, incapacity or other restriction which, in the opinion of the Administrator, following consultation with such health or social care professionals as the Administrator thinks fit,

limits their capacity to undertake full-time remunerative work, and

- (b) the relevant dependant is engaged in remunerative work for such number of hours per week (if any) as the Administrator considers appropriate in their particular circumstances.

(3) For the avoidance of doubt no more than one relevant dependant shall be deemed to be in full-time remunerative work under paragraph (1) on the basis of care provided for the same child or incapacitated person, as the case may be.

(4) For the purposes of this regulation -

" **child**" means a child aged 7 years or over, who has not attained school leaving age and who is a member of the same household as the relevant dependant, and

"**an incapacitated person**" means a person -

- (a) with such degree of physical, sensory or mental impairment that, in the opinion of the Administrator, they require significant care to be provided for them by another person, and
- (b) in respect of whom or whose circumstances the Administrator has not made a disqualifying determination under paragraph (5).

(5) The Administrator may make a disqualifying determination in relation to an incapacitated person where, in the opinion of the Administrator -

- (a) the care provided by the relevant dependant for the incapacitated person in question is minimal or unsuitable, or
- (b) it is not appropriate for the relevant dependant to provide the care for the incapacitated person in question.

Persons deemed to be acting in compliance with work requirements for purposes of section 1(1)(b)(ii) of the Law.

5. (1) A person who has not attained pensionable age ("person A"), or a relevant dependant of such a person ("the relevant dependant of person A"), is deemed to be acting in compliance with any work requirements relating to them for the purposes of section 1(1)(b)(ii) (requirement in case of person and relevant dependant, who has not attained pensionable age, to be acting in compliance with work requirements) of the Law, if the conditions in paragraph (2) are satisfied in relation to person A, or the relevant dependant of person A, as the case may be.

(2) The conditions are -

- (a) that the person -
 - (i) is not in, or deemed to be in, full-time remunerative work,
 - (ii) is not exempt from the requirement -

(A) to be in full-time remunerative work, or

(B) to be acting in compliance with work requirements relating to them, and

(iii) is not acting in compliance with work requirements relating to them, and

(b) that the Administrator has made a determination in relation to the person that, in the circumstances of the particular case, it is appropriate that the person is deemed to be acting in compliance with any work requirements relating to them.

(3) When making a determination under paragraph (2)(b), the Administrator shall take the following matters into account, together with such other matters as the Administrator thinks fit -

(a) the degree to which the person has failed to act in compliance with work requirements relating to them,

(b) the duration of the period during which the person has failed to act in compliance with work requirements relating to them,

(c) whether the person has any dependants,

(d) the impact upon the person, and dependants of that person, of a failure to make a determination,

- (e) any advice or recommendation made by a health or social care professional, or other professional person or official, with knowledge of the particular circumstances of the person in relation to whom a determination is contemplated, and
- (f) any representations made by the person, or on the person's behalf.

Persons deemed to be acting in compliance with work requirements for purposes of section 1(1)(c)(ii) of the Law.

6. (1) A relevant dependant of a person who has attained pensionable age is deemed to be acting in compliance with any work requirements relating to them for the purposes of section 1(1)(c)(ii) (requirement, in case of relevant dependant of person who has attained pensionable age, to be acting in compliance with work requirements) of the Law, if the conditions in paragraph (2) are satisfied in relation to that relevant dependant.

(2) The conditions are -

(a) that the relevant dependant -

(i) is not in, or deemed to be in, full-time remunerative work,

(ii) is not exempt from the requirement -

(A) to be in full-time remunerative work, or

(B) to be acting in compliance with work requirements relating to him, and

(iii) is not acting in compliance with work requirements relating to him, and

(b) that the Administrator has made a determination in relation to the relevant dependant that, in the circumstances of the particular case, it is appropriate that the relevant dependant is deemed to be acting in compliance with any work requirements relating to him.

(3) When making a determination under paragraph (2)(b), the Administrator shall take the following matters into account, together with such other matters as the Administrator thinks fit -

- (a) the degree to which the relevant dependant has failed to act in compliance with work requirements relating to him,
- (b) the duration of the period during which the relevant dependant has failed to act in compliance with work requirements relating to him,
- (c) whether the claimant has any dependants other than the relevant dependant,

- (d) the impact upon the claimant, and any other dependants of the claimant, of a failure to make a determination,
- (e) any advice or recommendation made by a health or social care professional, or other professional person or official, with knowledge of the particular circumstances of the relevant dependant in relation to whom a determination is contemplated, and
- (f) any representations made by the claimant or relevant dependant, or on their behalf.

(4) For the purposes of paragraph (3), "claimant" means the person ("person A") to whom a supplementary benefit, or any part of a supplementary benefit, is payable because the relevant dependant is, or is deemed to be -

- (a) a person whose requirements and resources are aggregated with those of person A, or
- (b) a dependant of person A,

under section 4 of the Law.

PART II
FULL-TIME REMUNERATIVE WORK

Full-time remunerative work.

7. (1) For the purposes of the Law and any enactment made under the Law, the phrase "**full-time remunerative work**" shall be interpreted in accordance with this regulation.

(2) A person is engaged in full-time work if the person works for a minimum of 35 hours a week.

(3) A person who normally works for a minimum of 35 hours a week shall be treated as being engaged in full-time work for any week, or part of a week, during which the person -

- (a) is on paid leave of absence from work, or
- (b) is absent from work for some other reason which, in the opinion of the Administrator, in the circumstances of the particular case, would justify disregarding the absence.

(4) Where a person does not work for the same number of hours each week, the person shall be treated as being engaged in full-time work if the average number of hours worked by that person in any week in question is 35 or more when calculated over any period of time not exceeding 12 months.

(5) A person is engaged in remunerative work if -

- (a) in the case of an employee, the person is remunerated at a rate that is at least equal to the minimum wage, or
- (b) in the case of a self-employed person, the person's average weekly rate of remuneration (net only of any expenses necessarily incurred) is at least equal to the minimum wage, calculated on the basis of -
 - (i) the average hours worked during a week, or
 - (ii) if the average hours worked exceed 35 a week, a 35-hour week.

(6) For the purposes of this Regulation a person's remuneration, or a relevant dependant's remuneration, shall be calculated by reference to criteria used for the purpose of calculating the minimum wage under the Minimum Wage (Guernsey) Law, 2009^b.

PART III MEDICAL EXPENSES

Persons prescribed under section 6A(1)(b) of the Law.

8. The following categories of person are prescribed for the purposes of section 6A(1)(b) (medical expenses payments) of the Law -

- (a) a person whose weekly income exceeds his weekly requirements, as ascertained under paragraph 5(2) of

^b Order in Council No. I of 2010.

the First Schedule to the Supplementary Benefit (Implementation) Ordinance 1971^c -

- (i) by less than £50, or
 - (ii) where the Administrator thinks fit having regard to the circumstances of the particular case, by less than £100, or such higher amount as the Administrator may determine in the circumstances of the particular case,
- (b) a person who, at any time during the period of six months immediately prior to the day upon which any claim for payment of medical expenses incurred in respect of the person is made, was a person to whom the Law applied, and
- (c) a dependant of any person who falls within the category prescribed under subparagraph (a) or (b).

Categories of medical expenses.

9. (1) Medical expenses incurred for the following consultations, treatments and items are prescribed for the purposes of section 6A(2) (medical expenses payments) of the Law -

- (a) primary care consultations and treatments provided by-
 - (i) an approved medical practitioner,

^c Recueil d'Ordonnances Tome XVII, p. 139.

- (ii) an approved dentist,
 - (iii) an approved nurse,
 - (iv) an approved physiotherapist,
 - (v) an approved chiropodist;
 - (vi) an approved osteopath,
 - (vii) an approved chiropractor,
 - (viii) an approved acupuncturist,
- (b) approved secondary care consultations and treatments,
 - (c) consultations, eye tests and spectacles provided by an approved optician,
 - (d) consultations, hearing tests and hearing aids provided by an approved hearing aid supplier,
 - (e) approved contraception devices and treatments,
 - (f) approved lymphoedema treatment,
 - (g) approved orthotic treatment and orthoses, and
 - (h) such other consultations, treatments and items as the

Administrator may determine in the circumstances of the case.

- (2) In this regulation -
- (a) the expressions "**approved dentist**", "**approved medical practitioner**" and "**approved nurse**" have the meanings given by section 39(1) of the Health Service (Benefit) (Guernsey) Law, 1990^d, and
 - (b) in other expressions "**approved**" means approved by the Department or the States Health and Social Services Department.

Amount of medical expenses.

10. The amounts of medical expenses for which payment may be made in respect of any prescribed consultation, treatment or item are -

- (a) those amounts determined from time to time by the Department for the purposes of these Regulations, or
- (b) in the absence of any such determination, such amounts as the Administrator considers reasonable in the circumstances of the particular case.

^d Odres en Conseil Vol. XXXII, p. 192.

PART IV
PRESCRIBED BENEFITS, ALLOWANCES AND PENSIONS

Prescribed benefits, allowances and pensions.

11. The following are prescribed for the purposes of section 9(1) of the Law -

- (a) unemployment benefit,
- (b) sickness benefit,
- (c) invalidity benefit,
- (d) maternity allowance,
- (e) industrial injury benefit,
- (f) industrial disablement benefit,
- (g) bereavement allowance,
- (h) widowed parent's allowance, and
- (i) old age pension.

PART V
GENERAL PROVISIONS

Interpretation.

12. (1) In these Regulations, unless the context requires otherwise -

"enactment" includes an Ordinance and subordinate legislation,

"the Law" means the Supplementary Benefit (Guernsey) Law, 1971,

"qualifying course of education or training" means a course of education or training which is approved for the purposes of these regulations by the Administrator, and

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

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

(2) The Interpretation (Guernsey) Law, 1948^e applies to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

^e Ordres en Conseil Vol. XIII, p. 355.

Extent.

13. These Regulations shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

Citation and commencement.

14. These Regulations may be cited as the Supplementary Benefit (Guernsey) Regulations, 2014 and shall come into force on the 1st December, 2014.

SCHEDULE

Regulation 1(2).

Criteria for purposes of exemption from section 1(1)(a)(i) of the Law for persons under the age of 18 years who have attained school leaving age –

1. Parental support criteria	2. Other criteria
Administrator is satisfied (and States Health and Social Services Department or other body confirms) that parental support is absent.	Person is, in opinion of States Health and Social Services Department, a child at risk for purposes of Part V of the Children (Guernsey and Alderney) Law, 2008 ^f .
Administrator is satisfied that parents are unable to provide support due to changes in their own circumstances.	Person is, in opinion of States Health and Social Services Department, a child in need for purposes of Part V of the Children (Guernsey and Alderney) Law, 2008.
Administrator is satisfied that the person is part of an independent family unit.	Person is leaving care with the assistance of States Health and Social Services Department.
Administrator is satisfied that parents are unwilling to provide support, due to a child returning to education who has formerly supported himself through employment.	The Department, the States Health and Social Services Department and the States Education Department together agree that the circumstances of the person are such that they should fall within the exemption under this regulation.

Dated this 28th day of November, 2014



A. LANGLOIS

Minister of the States Social Security Department

For and on behalf of the Department

^f Order in Council No. XIV of 2009.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Supplementary Benefit (Guernsey) Law, 1971 ("the principal Law") as recently amended by the Supplementary Benefit (Guernsey) (Amendment) Law, 2014. They make modifications to and exemptions from the provisions of the principal Law.

Regulation 1 exempts certain young persons under the age of 18 years from the requirement to be over the age of 18 years for the purposes of eligibility for a supplementary benefit.

Regulation 2 creates exemptions for certain individuals, who are engaged in or undertaking a qualifying course of education or training, from the requirement to be no longer in full-time education for the purposes of eligibility for a supplementary benefit.

Regulations 3, 4, 5 and 6 are deeming provisions which have the effect of prescribing, or providing for, the circumstances in which individuals are deemed to be in full-time remunerative work or acting in compliance with work requirements relating to them for the purposes of eligibility for a supplementary benefit.

Regulation 7 defines how the phrase "full-time remunerative work" is to be interpreted for the purposes of the principal Law. In summary, a person is engaged in full-time remunerative work if the person works for a minimum of 35 hours a week and remunerated at a rate that is at least equal to the minimum wage.

Regulations 8, 9 and 10 prescribe the types and amounts of medical expenses that may be paid under the principal Law.

Regulation 11 prescribes the benefits, allowances and pensions payable under the Social Insurance (Guernsey) Law, 1978 that can be abated under the principal Law, at the discretion of the Social Security Department, in respect of supplementary benefit payable under the principal Law.

Regulations 12, 13 and 14 deal respectively with interpretation, extent and citation and commencement.

These Regulations come into force on the 1st day of December, 2014.