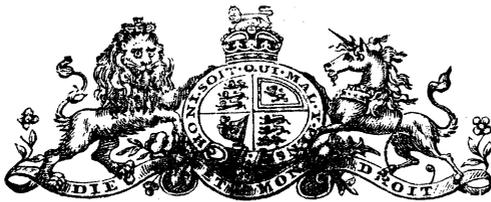


Orders of the Royal Court.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

I
1952

The 2nd day of February, 1952, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff ; present :— Ernest de Garis, Esquire, O.B.E., Sir John Leale, Arthur Falla, Walter John Sarre, Esquires, Richard Henry Johns, Esquire, O.B.E., William Robert Freake Clark, Walter John Gavey, Ernest Francis Lainé, Bertram Bartlett, Esquires, Donald Carey Brock, Esquire, C.B.E., Osmond Priaulx and Stephen James Falla, Esquires, Jurats.

ORDERS OF THE ROYAL COURT.

No. 1 Order, 1952.

ENTITLED

The National Insurance (Appeals and References) (Guernsey) Order, 1952, made in pursuance of section 39 of the National Insurance (Guernsey) Law, 1951.

PART I

References by the Authority to the Court.

1. (1) If the Authority is of opinion that a question of law has arisen, in connection with the determination of a question by it, which should be referred to the Court for decision under paragraph (a) of subsection

Statement of case to be submitted to the Court by the President.

(5) of section 39 of the Law, the President shall, within 7 days of the decision of the Authority so to refer such a question, prepare in writing under his hand a statement (hereafter in this Part of this Order referred to as a "statement of the case") setting out the question of law so to be referred and such particulars of the case as, in his opinion, are relevant to the determination of such question by the Court, and shall transmit it to the Registrar.

(2) The Registrar shall as soon as practicable send the statement of the case duly signed by the President to the Greffier who shall acknowledge in writing to the Registrar the receipt by him thereof.

(3) The Registrar shall as soon as practicable send a copy of the statement of the case and of any amendment made thereto under the provisions of the next succeeding paragraph to the person concerned.

(4) The Greffier shall, within 48 hours of the receipt by him of a statement of the case, inform the Bailiff thereof and transmit the statement of the case to him.

Further particulars to be furnished to the Court.

2. The Bailiff may at any time require the President to furnish to the Greffier further particulars in writing, within such time as he may direct, with regard to any question referred to the Court and may at any time prior to the fixing of the date of the hearing (if any) for the purpose of determining such question allow the amendment of any statement of the case by the President and may extend the time for the preparation of any statement of the case by the President laid down in subparagraph (1) of paragraph (1) of this Order.

Determination by the Court without a hearing.

3. If the Court is of opinion that the question of law can properly be determined on the statement of the case and any further particulars furnished by the President, under the last preceding paragraph, the

Court may dispense with a hearing and may decide such question on the statement of the case and any further particulars so furnished.

4. (1) If, in the opinion of the Court, a hearing is required, the Bailiff shall as soon as practicable decide on a date and a time for the hearing and the Greffier shall within 48 hours of that decision being made known to him, notify the Registrar thereof:

Notice of hearing by the Court.

PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than 14 clear days after the date of the receipt by the Greffier of the statement of the case referred to in subparagraph (2) of paragraph 1 of this Order.

(2) The Registrar shall, within 48 hours of the notification to him by the Greffier of the place, date and time of the hearing by the Court, notify the President and the person concerned in writing of the place, date and time of the hearing.

PART II

Appeals from the Authority to the Court.

5. (1) Notice of appeal under paragraph (b) of subsection (5) of section 39 of the Law by any person who is aggrieved by a decision of the Authority on a question of Law shall be in writing in the form set out in the First Schedule to this Order and shall contain a statement of the contentions of law on which the appellant relies.

Application for an appeal to the Court.

(2) Notice of appeal shall be sent to the Registrar within three months after the date of the notice of the decision of the Authority.

(3) The Registrar shall furnish the Authority with a copy of the notice of appeal and of the documents attached thereto.

Date of hearing to be decided by the Bailiff.

6. (1) The Registrar shall as soon as practicable transmit a copy of the notice of appeal and of the documents attached thereto to the Greffier who shall acknowledge the receipt thereof in writing.

(2) The Greffier shall as soon as practicable transmit the said notice and documents to the Bailiff and the Bailiff shall as soon as practicable decide upon a date and time for the hearing :

PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than 14 clear days after the date of the receipt by the Greffier of the notice of appeal.

(3) The Greffier shall within 48 hours of the receipt of the Bailiff's decision notify the Registrar of the place, date and time of the hearing.

(4) The Registrar shall within 48 hours of such notification, notify the Authority and the appellant of the place, date and time of the hearing.

PART III

Appeals from the tribunal to the Court.

Application for an appeal to the Court.

7. (1) Notice of appeal under subsection (4) of section 39 of the Law by any person who is aggrieved by a decision of the tribunal shall be in writing in the form set out in the Second Schedule to this Order and shall contain a statement of the contentions on which the appellant relies.

(2) Notice of appeal shall be sent to the Registrar within three months after the date of the notice of the decision of the tribunal.

(3) The Registrar shall furnish to the Administrator or to the person concerned, as the case may require, a copy of the notice of appeal and of the documents attached thereto.

8. (1) The Registrar shall as soon as practicable transmit a copy of the notice of appeal and of the documents attached thereto to the Greffier who shall acknowledge the receipt thereof in writing. Date of hearing to be decided by the Bailiff.

(2) The Greffier shall as soon as practicable transmit the said notice and documents to the Bailiff and the Bailiff shall as soon as practicable decide upon a date and time for the hearing :

PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than 14 clear days after the date of the receipt by the Greffier of the notice of appeal.

(3) The Greffier shall within 48 hours of the receipt of the Bailiff's decision notify the Registrar of the place, date and time of the hearing.

(4) The Registrar shall within 48 hours of such notification, notify the Administrator, the appellant and the person concerned of the place, date and time of the hearing.

PART IV

References by the Administrator to the Court for the reconsideration of a decision by the Court.

9. (1) Where it appears to the Administrator that a decision of the Court under Part III of this Order should be referred to the Court for reconsideration under subsection (7) of section thirty-nine of the Law, he shall make application to that effect in writing to the Registrar setting out the decision and the facts and considerations which appear to him to justify reconsideration of that decision. Application for reconsideration of a decision by the Court.

(2) On receipt of such an application the Registrar shall forthwith send a copy thereof to the person concerned with the request that he shall within 14 days of the receipt thereof submit to the Registrar such

observations (if any) for the consideration of the Court as he may think fit.

(3) The Registrar shall, not earlier than 16 days after he has sent a copy of the Administrator's application to the person concerned, send a copy of the application and of the observations of the person concerned (if any) to the Greffier.

(4) The Greffier shall, within 48 hours of the receipt thereof, send the copy of the application and of the observations of the person concerned (if any) to the Bailiff.

Determination by the Court without a hearing.

10. (1) If the Court is of opinion that an application for reconsideration by the Administrator can be determined without a hearing, the Court may dispense with a hearing and may so determine on the particulars before it.

(2) If, in the opinion of the Court, a hearing is required, the Bailiff shall as soon as practicable decide on a date and time for the hearing and the Greffier shall within 48 hours of that decision being made known to him, notify the Registrar thereof:

PROVIDED that the Bailiff shall not decide upon a date for the hearing which is less than 14 clear days after the receipt by the Greffier of the application referred to in subparagraph (3) of paragraph 9 of this Order.

(3) The Registrar shall within 48 hours of such notification, notify the Administrator and the person concerned of the place, date and time of the hearing.

PART V

General.

Representation before the Court.

11. (1) The person concerned shall be entitled to be present during any hearing before the Court of any reference (which expression includes for the pur-

poses of this Part of this Order a reference by the Administrator to the Court under paragraph 9 of this Order) and may, if called upon to do so by the Court, address the Court in person, by a friend or by an Advocate of the Court.

(2) The Administrator shall be entitled to be present during any hearing before the Court of any reference and may, if called upon to do so by the Court, address the Court in person, by a Law Officer of the Crown or by such officer of the Authority as he may appoint for the purpose.

(3) The appellant, being a person other than the Administrator, shall be entitled to be present during any hearing before the Court of an appeal and to address the Court in person, by a friend or by an Advocate of the Court.

(4) The person concerned, in the case of an appeal by the Administrator, shall be entitled to be present during any hearing before the Court of an appeal and to address the Court in person, by a friend or by an Advocate of the Court.

(5) The Administrator, whether as the appellant or otherwise, shall be entitled to be present during any hearing before the Court of any appeal and to address the Court in person, by a Law Officer of the Crown or by such officer of the Authority as he may appoint for the purpose.

12. (1) The Court may if it thinks fit call for such documents and examine such persons (including the President) on oath, affirmation or otherwise as appear likely to afford evidence relevant and material to any question of law to be determined by the Court.

Procedure
before the
Court.

(2) Any party to a reference who is authorised to do so by the Court, and 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 on any person in respect of a civil action before the Court

sitting as an Ordinary Court summoning that person to attend any hearing of that Court for the purpose of giving evidence or producing any document likely to assist the Court in determining the question which is the subject of such reference, or appeal, 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 such an action.

(3) The Court may adjourn the hearing of any reference or appeal from time to time as it may think fit.

(4) If after it has been proved to the satisfaction of the Court that both of the parties to a reference or appeal, as the case may be, have been notified of the place, date and time of the hearing of the reference or appeal and one or both of the parties fails to appear at that hearing, the Court may proceed to determine the reference or appeal, as the case may be, in the absence of both or either of them.

(5) Save as otherwise expressly provided in this Order, the procedure at the hearing of any reference or appeal shall be such as the Court may from time to time determine.

Notification
of decision of
the Court.

13. (1) The decision of the Court on any question of law referred to it by the President shall be in writing, signed and sealed by the Greffier and shall, forthwith upon the making thereof, be transmitted by him to the Registrar.

(2) The Registrar shall notify the President forthwith of the receipt by him of a decision of the Court on any question of law referred to it by the President, and shall send him a copy of that decision.

(3) The decision of the Court on any appeal to it from the tribunal, or the Authority, shall be in writing, signed and sealed by the Greffier and shall,

forthwith upon the making thereof, be transmitted by him to the Registrar.

(4) The Registrar shall, as soon as practicable, send both to the Administrator and the appellant or to the person concerned, as the case may be, a copy of the decision of the Court on any appeal to it from the tribunal or the Authority.

(5) The decision of the Court on a reference by the Administrator for the reconsideration of a previous decision by it shall be in writing, signed and sealed by the Greffier and shall forthwith upon the making thereof, be transmitted by him to the Registrar.

(6) The Registrar shall notify the Administrator and the person concerned forthwith of the receipt by him of a decision of the Court on the reconsideration of a previous decision by it, and shall send to each of them a copy of that decision.

14. Any notice or other document require to be given or sent to the Authority, to any person, to the Registrar, to the Administrator or to the Greffier under the provisions of this Order shall be deemed to have been given or sent if it were 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 Registrar or the Administrator, to the office of the Authority or, in the case of the Greffier, to the Greffe. Notice by post.

15. (1) The costs of any reference shall be paid by the Authority. Costs.

(2) The costs of any appeal shall be in the discretion of the Court, 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.

Interpreta-
tion.

16. (1) In this Order unless the context otherwise requires—

“Administrator” has the same meaning as in the Law ;

“Authority” has the same meaning as in the Law ;

“President” means the President of the Authority ;

“Court” means the Royal Court sitting as an Ordinary Court ;

“hearing” means an oral hearing ;

“Law” means “The National Insurance (Guernsey) Law, 1951” ;

“parties to an appeal” means the Administrator and the appellant or the person concerned, as the case may be, and “parties to a reference” means the Administrator and the person concerned ;

“person concerned” means :—

- (i) in relation to any reference under paragraph (a) of subsection (5) of section 39 of the Law,—the person (other than the Administrator) who has made application to the Authority for the determination of a question in accordance with the National Insurance (Guernsey) (Determination of Claims and Questions) Regulations, 1952 ; or
- (ii) in relation to any reference under paragraph 9 of this Order,—the person (other than the Administrator) who was a party to an appeal to the Court when the decision, due for reconsideration, was made ; or
- (iii) in relation to any appeal by the Administrator under paragraph (a) of subsection (4) of section 39 of the Law,—the person who has appealed to the tribunal against the decision of the Administrator under paragraph (b) of subsection (3) of the said section ; or

(iv) in relation to any appeal under paragraph (b) of subsection (5) of section 39 of the Law,—the person aggrieved by the decision of the Authority ;

“Registrar” means the Registrar or a deputy Registrar of Appeals appointed by the Authority under the National Insurance (Guernsey) (Determination of Claims and Questions) Regulations, 1952, who shall perform such duties in connection with references and appeals to which this Order refers as the Authority may direct subject to the provisions of this Order ;

“tribunal” means a tribunal appointed by the Royal Court under subsection (3) of section 39 of the Law.

(2) The Interpretation (Guernsey) Law, 1948, applies to the interpretation of this Order as it applies to the interpretation of an enactment.

(3) References in this Order to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment or regulations.

17. This Order may be cited as the National Insurance (Appeals and References) (Guernsey) Order, 1952, and shall come into force on the 9th day of February, 1952.

Short title
and com-
mencement.

FIRST SCHEDULE

National Insurance (Guernsey) Law, 1951.

Notice of Appeal to the Royal Court.

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

I, _____ of _____ being
aggrieved by a decision of the Authority on a question
of law given on _____ the _____ day
of _____, 19 _____, in respect of *

under the National Insurance (Guernsey) Law, 1951,
hereby give notice of appeal against the said
decision.

The contentions of law upon which I rely in support
of my appeal are set forth in the particulars hereto
attached.

In support of this appeal the following documents
are attached hereto.

(Insert list of all documents sent with application).

Dated this _____ day of _____, 19 _____.

Signature.....

* Give brief description of issue involved and the name
of the person concerned.

Particulars in support of Appeal

N.B.—The particulars furnished on this form and
all other information which may be sent to
the Registrar of Appeals by or on behalf of an
appellant in connection with his or her appeal
will be disclosed to the Authority.

SECOND SCHEDULE

National Insurance (Guernsey) Law, 1951.
Notice of Appeal to the Royal Court.

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

I, _____ of _____ being
aggrieved by a decision of a tribunal given on _____
the _____ day of _____, 19 _____,
in respect of the claim to *
on behalf of § _____,
under the National Insurance (Guernsey) Law, 1951,
hereby give notice of appeal against the said
decision.

The contentions upon which I rely in support
of my appeal are set forth in the particulars hereto
attached.

In support of this appeal the following documents
are attached hereto.

(Insert list of all documents sent with application).

Dated this _____ day of _____, 19 _____.

Signature.....

* Insert description of benefit.

§ Insert name of claimant.

Particulars in support of Appeal

N.B.—The particulars furnished on this form and
all other information which may be sent to
the Registrar of Appeals by or on behalf of an
appellant in connection with his or her appeal
will be disclosed to the Administrator.

JAMES E. LE PAGE,
H.M. Greffier.