

GUERNSEY STATUTORY INSTRUMENT

ENTITLED

The Social Insurance (Back to Work Benefits) Regulations, 2004 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* G.S.I. No. 46 of 2004; as amended by the Income Support (Guernsey) Law, 2017 (No. IV of 2018); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Social Insurance (Back to Work Benefits) (Amendment) Regulation 2011 (G.S.I. No. 44 of 2011); the Social Insurance (Back to Work Benefits) (Amendment) Regulations, 2014 (G.S.I. No. 58 of 2014). See also the Social Insurance (Collection of Contributions) (Transfer of Functions) Regulations, 2018 (G.S.I. No. 45 of 2018).

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ARRANGEMENT OF SECTIONS

1. Persons eligible for benefit.
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Explanatory Note.

(Made on 24th November, 2004.)

The Social Insurance (Back to Work Benefits) Regulations, 2004

THE SOCIAL SECURITY DEPARTMENT, in exercise of the powers conferred upon it by sections 39A and 116 of the Social Insurance (Guernsey) Law, 1978, as amended^a and of all other powers enabling it in that behalf, hereby orders:

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Persons eligible for benefit.

1. (1) Back to work benefits may be provided at the discretion of the [Committee for Employment & Social Security] on the recommendation of the Administrator for the purpose of enabling any [insured person] to return to work after a period of incapacity, unemployment or after any other interruption in gainful occupation.

(2) The Administrator may, at his discretion, offer the opportunity of assistance in the form of back to work benefits to selected claimants who have received a benefit [under the Social Insurance (Guernsey) Law, 1978, as amended ("**the Social Insurance Law**") or under the [Income Support (Guernsey) Law, 1971], as amended ("**the [Income Support] Law**") for 8 or more weeks, or before the expiry of such a period where there appear to him to be special reasons in relation to any particular claimant.

(3) The benefit or benefits offered to any individual claimant shall

^a Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; No. V of 1990; Nos. V and XII of 1993; Ordinance No. XIV of 1993; Ordres en Conseil No. V of 1994, Nos. VI and XIII of 1995; No. I of 1998; No. VI of 1999; No. X of 2000; No. IX of 2001; No XXIV of 2003; No. XI of 2004.

be such as the Administrator may, at his discretion, determine to be appropriate to that person, taking into account –

- (a) his skills and attainments, and
- (b) his mental and physical abilities, and
- (c) his personal financial resources.

NOTES

In regulation 1,

the words in the first pair of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 13 and section 4, with effect from 1st May, 2016;

the words in the second and third pairs of square brackets were substituted by the Social Insurance (Back to Work Benefits) (Amendment) Regulation 2011, respectively regulation 1 and regulation 2, with effect from 16th November, 2011 (and not, as shown, incorrectly, in the printed version of regulation 7(1) of the 2011 Regulations, "16th November, 2001");

the words in the first and second pairs of square brackets within the third pair of square brackets were substituted by the Income Support (Guernsey) Law, 2017, respectively section 1(2), Schedule 1, paragraph 1 and section 3(a), with effect from 6th July, 2018.

The functions, rights and liabilities of the Social Security Department and of its Minister or Deputy Minister arising under or by virtue of these Regulations were transferred to and vested in, respectively, the Committee for Employment & Social Security and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 13 and section 4, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

In accordance with the provisions of the Social Insurance (Collection of Contributions) (Transfer of Functions) Regulations, 2018, regulation 1, with effect from 22nd October, 2018 and subject to the savings and transitional provisions in regulation 3, the functions, rights and liabilities of the Committee for Employment & Social Security and of its President and members relating to the collection of social insurance contributions arising

under or by virtue of these Regulations were transferred to and vested in, respectively, the Policy & Resources Committee and its President and members; and, in accordance with regulation 2 of the 2018 Regulations, for any reference herein to the Committee for Employment & Social Security or its President or members, however expressed, there was substituted, to the extent that the reference related to the collection of social insurance contributions, a reference to the Policy & Resources Committee or (as the case may be) its President or members.

Training.

2. (1) The [Committee] may, at the expense of the Guernsey Insurance Fund, arrange for training courses to enable individuals to acquire or improve –

- (a) basic literacy, numeracy or information technology skills, or
- (b) interpersonal or social skills, with a view to improving the employment prospects of claimants in general.

(2) In relation to any individual unable, for whatever reason, to continue in his former employment, the [Committee] may, at the expense of the Guernsey Insurance Fund arrange for, or make partial payments or grants towards the cost of instruction or re-training to enable him to undertake more suitable employment, having due regard to the likely cost to the Fund in relation to –

- (a) the suitability of any training proposal in relation to the person, and
- (b) the prospects for future employment in the context of the local economy.

NOTE

In regulation 2, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Supported return to work.

3. (1) The Administrator may make arrangements whereby –
- (a) a claimant [receiving a benefit under the Social Insurance Law or under the [Income Support] Law] may continue to receive benefit for a period not exceeding [four weeks] whilst undertaking an unpaid work trial for a prospective employer, or
 - (b) a claimant whose incapacity has been prolonged may embark upon a phased return to employment comprising part-time working by means of reduced hours, a shortened week or such other combination of hours and days as may, in any individual case, be approved.

NOTES

In regulation 3,

the words in the first and second pairs of square brackets were substituted by the Social Insurance (Back to Work Benefits) (Amendment) Regulation 2011, respectively regulation 3(a) and regulation 3(b), with effect from 16th November, 2011 (and not, as shown, incorrectly, in the printed version of regulation 7(1) of the 2011 Regulations, "16th November, 2001");

the words in square brackets within the first pair of square brackets were substituted by the Income Support (Guernsey) Law, 2017, section 3(a), with effect from 6th July, 2018.

Grants to claimants or employers.

[4A. The [Committee] may, on the recommendation of the Administrator, make grants out of the Guernsey Insurance Fund on such terms and conditions as the [Committee] may determine, to persons, bodies or institutions approved by the Administrator, for the purpose of funding schemes or initiatives which have as their objective the facilitating of the employment, or return to employment, of insured persons or acquisition of a gainful occupation, by insured persons.]

4. The [Committee] may, on the recommendation of the Administrator, make grants –

- (a) to individuals for the provision of tools, equipment, transport or other items required to enable them to become gainfully occupied,
- (b) as an inducement after a successful return to work, or
- (c) to employers –
 - (i) as a general inducement, or
 - (ii) to reflect additional costs incurred in the provision of access, equipment or other costs in the provision of employment in any particular case.

NOTES

Regulation 4A was inserted by the Social Insurance (Back to Work Benefits) (Amendment) Regulations, 2014, regulation 1, with effect from 16th September, 2014.

In regulation 4A and regulation 4, the word "Committee" in square brackets,

wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Deemed incapacity or unemployment.

5. A claimant attending a course of training provided, or participating in any phased return to work arranged, in accordance with these regulations shall, if appropriate to the nature of the benefit provided [under the Social Insurance Law or under the [Income Support] Law], be deemed to continue to be incapable of work or unemployed, as the case may be, so long as his participation in such a course or activity is in accordance with such further conditions as the Administrator may impose in his case.

NOTES

In regulation 5,

the words in square brackets were inserted by the Social Insurance (Back to Work Benefits) (Amendment) Regulation 2011, regulation 4, with effect from 16th November, 2011 (and not, as shown, incorrectly in the printed version of regulation 7(1) of the 2011 Regulations, "16th November, 2001");

the words in square brackets within the square brackets were substituted by the Income Support (Guernsey) Law, 2017, section 3(a), with effect from 6th July, 2018.

Non-cooperation and misconduct.

6. Nothing in these regulations shall prevent the Administrator from taking into account a claimant's refusal of an opportunity to return to work, or his misconduct during any training or work-trial, in determining whether he should be disqualified for receiving benefit in accordance with the provisions of the [Social Insurance Law or the [Income Support] Law].

NOTES

In regulation 6,

the words in square brackets were inserted by the Social Insurance (Back to Work Benefits) (Amendment) Regulation 2011, regulation 5, with effect from 16th November, 2011 (and not, as shown, incorrectly in the printed version of regulation 7(1) of the 2011 Regulations, "16th November, 2001");

the words in square brackets within the square brackets were substituted by the Income Support (Guernsey) Law, 2017, section 3(a), with effect from 6th July, 2018.

Interpretation.

7. The provisions of the Interpretation (Guernsey) Law, 1948^b apply to the interpretation of these regulations –

- (a) throughout the Islands of Guernsey, Alderney, Herm and Jethou, and
- (b) as they apply to the interpretation of a Guernsey enactment.

NOTE

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Citation.

8. These regulations may be cited as the Social Insurance (Back to Work Benefits) Regulations, 2004.

Commencement.

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

9. These regulations shall come into force on 3rd January 2005.

EXPLANATORY NOTE

*(This Note is not part of the Regulations, but is intended to indicate their general purport)^{**}*

These regulations are made under the provisions of a new section (39A) added to the Social Insurance Law by the Social Insurance (Guernsey) (Amendment) Law, 2004. They enable the Department to offer assistance to claimants seeking to return to work at the cost of the Guernsey Insurance Fund.

The regulations are widely drafted to enable the setting up of pilot schemes in order to gain experience and discover what will prove to be effective both for the Department as well as individuals.

^{**} The text of this Explanatory Note is as it was when the Statutory Instrument was first made – that is to say that the Explanatory Note has not been updated to take account of any changes made by subsequent amending Statutory Instruments with their own Explanatory Notes, which latter should thus be, if necessary, consulted in the original.