

ORDINANCE
OF THE STATES OF DELIBERATION

ENTITLED

The Income Support (Duties of Appointees) Ordinance,
2000 *

[CONSOLIDATED TEXT]

NOTE

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* No. XII of 2000 (Recueil d'Ordonnances Tome XXVIII, p. 324); as amended by the Income Support (Guernsey) Law, 2017 (No. IV of 2018); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

Consolidated text

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**The Income Support (Duties of Appointees) Ordinance,
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ARRANGEMENT OF SECTIONS

1. Duties of appointees.
2. Penalties for breach of duty by appointees.
3. Repayment by appointees of income support.
4. Application of Trusts Law.
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(Made on 29th November, 2000.)

The [Income Support (Duties of Appointees) Ordinance, 2000]

THE STATES, in pursuance of their Resolution of the 1st October, 1998^a, and in exercise of the powers conferred upon them by section 15 of the [Income Support (Guernsey) Law, 1971]^b, as amended, hereby order: –

Duties of appointees.

1. (1) Where [...] [income support] is payable by the Guernsey [Committee for Employment & Social Security] for the benefit of any person (a "**beneficiary**"), and another person (an "**appointee**") –

- (a) is authorised to receive the [income support] on behalf of the beneficiary,
- (b) receives payments of the [income support] under section 5(2) of the Law, or
- (c) is otherwise appointed to act in relation to the beneficiary or the [income support] under an Ordinance made under section 15(1)(e) of the Law,

the appointee shall observe the utmost good faith and shall apply the [income

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

^b Ordres en Conseil Vol. XXIII, p. 26; Vol. XXXI, p. 278; No. XIV of 1993; and No. VI of 1999; and Recueils d'Ordonnances Tome XXIV, p. 468 and Tome XXVI, p. 177.

support] well and prudently in the best interests of the beneficiary.

(2) For the avoidance of doubt, any payment made by an appointee to a residential home, a nursing home or the Guernsey Cheshire Home on behalf of a beneficiary residing in the home in respect of the home's fees shall be deemed for the purposes of subsection (1) to have been made well and prudently in the best interests of the beneficiary.

(3) An appointee shall keep accurate records –

(a) of all [income support] received by him for a beneficiary, and

(b) of the application of such benefit.

NOTES

The title in square brackets of this Ordinance was substituted by the Income Support (Guernsey) Law, 2017, section 1(1), Schedule 1, paragraph 12, with effect from 6th July, 2018.¹

The words in square brackets in the Preamble to this Ordinance were substituted by the Income Support (Guernsey) Law, 2017, section 1(2), Schedule 1, paragraph 1, with effect from 6th July, 2018.

In section 1,

the word omitted in the first pair of square brackets, and the words "income support" in square brackets, wherever occurring, were, respectively, repealed and substituted by the Income Support (Guernsey) Law, 2017, section 3, paragraph (b) and paragraph (a), with effect from 6th July, 2018;

the words "Committee for Employment & Social Security" in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016.²

The functions, rights and liabilities of the Social Security Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance 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, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.³

Penalties for breach of duty by appointees.

2. (1) An appointee who, without reasonable cause, proof whereof shall lie on him, fails to comply with any duty imposed upon him by section 1 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

(2) In proceedings against a person for an offence under subsection (1) it shall be a defence for him to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(3) Where in any such proceedings the defence provided for by subsection (2) involves an allegation that the commission of the offence was due to the act or default of another person, the accused may not, without the leave of the court, rely on the defence unless, not less than 7 clear days before the day of the hearing of the proceedings, he serves notice on Her Majesty's Procureur giving such information identifying or assisting in the identification of that other person as is in his possession when he serves the notice.

Repayment by appointees of [income support].

3. (1) Where, in relation to [...] [income support], an appointee fails to comply with any duty imposed upon him by section 1, the amount of [income support] misapplied or not accounted for, together with interest thereon, shall be recoverable by the Guernsey [Committee for Employment & Social Security] as a

civil debt.

(2) For the purposes of subsection (1), interest shall run at the rate for the time being prescribed under section 2 of the Judgments (Interest) (Bailiwick of Guernsey) Law, 1985^c from the date of the misapplication or failure to account (or whichever is the earliest) until the debt is satisfied.

NOTES

In section 3,

the word omitted in square brackets, wherever occurring, and the words "income support" in square brackets, wherever occurring (including in the marginal note thereto), were, respectively, repealed and substituted by the Income Support (Guernsey) Law, 2017, section 3, paragraph (b) and paragraph (a), with effect from 6th July, 2018;

the words "Committee for Employment & Social Security" in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016.⁴

The functions, rights and liabilities of the Social Security Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance 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, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁵

Application of Trusts Law.

4. The provisions of this Ordinance are in addition to and not in

^c Ordres en Conseil Vol. XXIX, p. 135; amended by Order of the Royal Court No. I of 1996.

derogation from the provisions of the Trusts (Guernsey) Law, 1989, as amended^d.

NOTE

The Trusts (Guernsey) Law, 1989 has since been repealed by the Trusts (Guernsey) Law, 2007, section 83(1)(a), with effect from 17th March, 2008, subject to the transitional provisions and savings in, respectively, subsections (2)-(4) of section 83 and section 84 of the 2007 Law.

Interpretation.

5. (1) In this Ordinance, unless the context requires otherwise –

"appointee" means a person –

- (a) who is authorised to receive [...] [income support] on behalf of a beneficiary,
- (b) who receives payments of [...] [income support] under section 5(2) of the Law, or
- (c) who is otherwise appointed to act in relation to a beneficiary or [...] [income support] under an Ordinance made under section 15(1)(e) of the Law,

"beneficiary" means a person for whose benefit [...] [income support] is payable by the Guernsey [Committee for Employment & Social Security],

"the Law" means the [Income Support (Guernsey) Law, 1971], as

^d Ordres en Conseil Vol. XXXI, p. 217; and Vol. XXXII, p. 385.

amended,

"nursing home" has the meaning given by section 18(1) of the Nursing Homes and Residential Homes (Guernsey) Law, 1976^e,

"residential home" has the meaning given by section 18(1) of the Nursing Homes and Residential Homes (Guernsey) Law, 1976,

"[income support]" includes any special payments, payments in kind and any other description of benefit under the Law,

and other expressions have the meanings given by the Law.

(2) The provisions of the Interpretation (Guernsey) Law, 1948^f shall apply to the interpretation of this Ordinance.

NOTES

In section 5,

the word omitted in square brackets, wherever occurring, and the words "income support" in square brackets, wherever occurring, were, respectively, repealed and substituted by the Income Support (Guernsey) Law, 2017, section 3, paragraph (b) and paragraph (a), with effect from 6th July, 2018;

the words in the third pair of square brackets in the definition of the expression "beneficiary" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016;⁶

the words in square brackets in the definition of the expression "the

^e Ordres en Conseil Vol. XXVI, p. 71.

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

Law" were substituted by the Income Support (Guernsey) Law, 2017, section 1(2), Schedule 1, paragraph 1, 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 this Ordinance 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, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁷

Extent.

6. This Ordinance shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

[Citation.

7. This Ordinance may be cited as the Income Support (Duties of Appointees) Ordinance, 2000.]

NOTE

Section 7 was substituted by the Income Support (Guernsey) Law, 2017, section 2, Schedule 2, paragraph 12, with effect from 6th July, 2018.⁸

Commencement.

8. This Ordinance shall come into force on the 1st January 2001.

¹ Prior to this substitution, the Ordinance was titled the "Supplementary Benefit (Duties of Appointees) Ordinance, 2000".

² These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 26, with effect from 6th May, 2004.

³ The functions, rights and liabilities of the Social Security Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Social Security Authority and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 26, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁴ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 26, with effect from 6th May, 2004.

⁵ The functions, rights and liabilities of the Social Security Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Social Security Authority and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 26, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁶ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 26, with effect from 6th May, 2004.

⁷ The functions, rights and liabilities of the Social Security Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Social Security Authority and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 26, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁸ Prior to this substitution, the Ordinance was cited as the Supplementary Benefit (Duties of Appointees) Ordinance, 2000.