

PROJET DE LOI

ENTITLED

The Social Insurance (Guernsey) Law, 1978 *

* Ordres en Conseil Vol. XXVI, p. 292; as amended by the Supplementary Family Allowances and Social Insurance (Guernsey) Law, 1980 (Ordres en Conseil Vol. XXVII, p. 238); the Social Insurance (Amendment) (Guernsey) Law, 1981 (Ordres en Conseil Vol. XXVII, p. 307); the Social Insurance (Amendment) (Guernsey) Law, 1982 (Ordres en Conseil Vol. XXVII, p. 392); the Social Insurance (Amendment) (Guernsey) Law, 1985 (Ordres en Conseil Vol. XXIX, p. 24); the Social Insurance (Amendment) (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 148); the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 422); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Right to Work (Limitation and Proof) (Guernsey) Law, 1990 (Ordres en Conseil Vol. XXXII, p. 59); the Social Insurance (Amendment) (Guernsey) Law, 1993 (No. XII of 1993, Ordres en Conseil Vol. XXXIV, p. 510); the Social Insurance (Permitted Investments Amendment) (Guernsey) Law, 1994 (No. V of 1994, Ordres en Conseil Vol. XXXV(1), p. 161); the Social Insurance (Amendment) (Guernsey) Law, 1995 (No. VI of 1995, Ordres en Conseil Vol. XXXVI, p. 123); the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1995 (No. XIII of 1995, Ordres en Conseil Vol. XXXVI, p. 343); the Still-Birth (Definition) (Bailiwick of Guernsey) Law, 1998 (No. I of 1998, Ordres en Conseil Vol. XXXVIII, p. 59); the Social Insurance (Guernsey) (Amendment) Law, 1999 (No. VI of 1999, Ordres en Conseil Vol. XXXIX, p. 107); the Social Insurance (Guernsey) (Amendment) Law, 2000 (No. X of 2000, Ordres en Conseil Vol. XL, p. 351); the Social Insurance (Guernsey) (Amendment) Law, 2001 (No. IX of 2001, Ordres en Conseil Vol. XLI, p. 267); the Long-term Care Insurance (Guernsey) Law, 2002 (No. XXIII of 2002, Ordres en Conseil Vol. XLII(2), p. 1230); the Social Insurance (Guernsey) (Amendment) Law, 2003 (No. XXIV of 2003, Ordres en Conseil Vol. XLIII(2), p. 813); the Social Insurance (Guernsey) (Amendment) Law, 2004 (No. XI of 2004, Ordres en Conseil Vol. XLIV(1), p. 262); the Social Insurance (Guernsey) (Amendment) Law, 2006 (No. XVIII of 2007); the Income Tax (Guernsey) (Amendment) Law, 2008 (No. V of 2012); the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013 (No. IV of 2014); the Social Insurance (Guernsey) (Amendment) Law, 2016 (No. III of 2016); the Right to Work (Limitation and Proof) (Modification and Commencement of Law) Ordinance, 1990 (Recueil d'Ordonnances Vol. XXV, p. 148); the Guernsey Social Security Authority (Transfer of Functions) Ordinance, 1993 (Recueil d'Ordonnances Vol. XXVI, p. 177); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007 (No. XLIV of 2007, Recueil d'Ordonnances Tome XXXII, p. 631); the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009 (No. VII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 472); the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2009 (No. XLII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 666); the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2011 (No. XVII of 2011); the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2012 (No. XXXVIII of 2012); the Electronic Census (Guernsey) Ordinance, 2013 (No. XXX of 2013); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Law is modified by the Social Insurance (Determination of Claims and Questions) (Guernsey) Regulations, 1978 (G.S.I. No. 20 of 1978); the Social Insurance (Residence and Persons

[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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Abroad) (Guernsey) Regulations, 1978 (G.S.I. No. 25 of 1978); the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978 (G.S.I. No. 31 of 1978); the Social Insurance (Classification) (Guernsey) Regulations, 1978 (G.S.I. No. 32 of 1978); the Carer's Allowance (Guernsey) Regulations, 1986 (G.S.I. No. 2 of 1986); the Social Insurance (Benefits) Regulations, 2003 (G.S.I. No. 37 of 2003); the Severe Disability Benefit (Guernsey) Regulations, 2003 (G.S.I. No. 43 of 2003); the Social Insurance (Benefits) (Transitional) Regulations, 2004 (G.S.I. No. 7 of 2004). See also the Appointments to the States Established Staff (Guernsey) Law, 1985 (Ordres en Conseil Vol. XXIX, p. 130); the Appointments Board (Repeal) (Guernsey) Law, 2000 (No. XIII of 2000); the Appointments to the States Established Staff (Guernsey) (Repeal) Law, 2004 (No. XI of 2004, Ordres en Conseil Vol. XLIV(1), p. 208); the Government of Alderney Law, 2004 (No. III of 2005); the Children (Guernsey and Alderney) Law, 2008 (No. XIV of 2009); the Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978 (*supra*); the Social Insurance (Classification) (Guernsey) Regulations, 1978 (*supra*); the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978 (*supra*); the Social Insurance (Benefits) Regulations, 2003 (*supra*). This Law is prospectively amended by the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2016 (No. ** of 2016).

PROJET DE LOI

ENTITLED

The Social Insurance (Guernsey) Law, 1978

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PROJET DE LOI

ENTITLED

The Social Insurance (Guernsey) Law, 1978

THE STATES, in pursuance of their Resolutions of the twenty-ninth day of September, nineteen hundred and seventy-six, and of the twenty-eighth day of September, nineteen hundred and seventy-seven, 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.

PART I

INSURED PERSONS AND CONTRIBUTIONS

Preliminary

Description and classification of insured persons.

1. (1) Subject to the provisions of this Law –
 - (a) every person who, immediately before the appointed day, was an insured person under the Law of 1964, and
 - (b) every other person who, on or after the appointed day being over school-leaving age [...], fulfils such conditions as to residence in Guernsey as may be prescribed,

shall become insured under this Law and thereafter continue throughout his life to be insured.

(2) For the purposes of this Law, insured persons shall be divided into the following three classes –

- (a) employed persons, that is to say, persons gainfully occupied in employment in Guernsey under a contract of service,
- (b) self-employed persons, that is to say, persons gainfully occupied in employment in Guernsey who are not employed persons, and
- (c) non-employed persons, that is to say, persons who are not employed or self-employed persons.

(3) In and for the purposes of this Law, any employment by virtue whereof an insured person is an employed person is referred to as an **"employed contributor's employment"**.

(4) Provision may be made by regulations for modifying the said classification of insured persons in relation to cases where it appears to [the Committee] desirable by reason of the nature or circumstances of a person's employment or otherwise.

(5) Subject to the provisions of this Law and except where regulations otherwise provide, an insured person shall be deemed for the purposes of the provisions of this Law relating to contributions to be –

- (a) an employed person –
 - (i) as respects any contribution week during any part of which he is an employed person if his earnings in respect of the employment in question are paid weekly,
 - (ii) as respects any contribution month during any part of which he is an employed person if his earnings in respect of the employment in question are paid otherwise than weekly,
- (b) a self-employed person as respects any contribution week during any part of which he is a self-employed person and is not an employed person,
- (c) a non-employed person as respects any contribution week during no part of which he is either an employed or a self-employed person.

NOTES

In section 1,

the words omitted in square brackets in paragraph (b) of subsection (1) were repealed by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1995, section 1(2), with effect from 12th December, 1995;

the words in square brackets in subsection (4) were 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.

The following Regulations have been made under section 1:

Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978;
Social Insurance (Classification) (Guernsey) Regulations, 1978;
Social Insurance (Classification) (Amendment) (Guernsey) Regulations, 1979;
Social Insurance (Classification) (Amendment) (No. 2) (Guernsey) Regulations, 1979;
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Social Insurance (Classification) (Amendment) Regulations, 2000;
Social Insurance (Increase of Benefit and Consequential Amendments) Regulations, 2000;
Social Insurance (Classification) (Amendment) Regulations, 2003;
Social Insurance (Classification) (Amendment) Regulations, 2004;
Social Insurance (Classification) (Amendment) (Guernsey) Regulations, 2005;
Social Insurance (Residence and Persons Abroad) (Amendment) (Guernsey) Regulations, 2006;
Social Insurance (Classification) (Amendment) Regulations, 2007;
Social Insurance (Residence and Persons Abroad) (Guernsey) (Amendment) Regulations, 2009;
Social Insurance (Classification) (Amendment) (Guernsey) Regulations, 2011;
Social Insurance (Classification) (Amendment) (Guernsey) Regulations, 2014.

The following cases have referred to this Law:

Law Officers of the Crown v. Diment (1993) 16.GLJ.86;
Law Officers of the Crown v. Rault (1995) 19.GLJ.75;
Law Officers of the Crown v. Young (1997) 23.GLJ.85;
Administrator to the Social Security Authority v. Beresford 2005–06 GLR N-5;
Buckley v. Ronez Ltd. (2009) (Unreported, Royal Court, 19th January) (Guernsey Judgment No 4/2009).

In accordance with the provisions of the Children (Guernsey and Alderney) Law, 2008, section 123, Schedule, paragraph 25 (shown, incorrectly, in the printed version of the 2008 Law as paragraph 24), with effect from 4th January, 2010, this Law is one of those specific enactments that the States may repeal, amend, extend, adapt, modify or disapply, and make transitional and savings provisions in relation to, by Ordinance made under the said section 123.

In accordance with the provisions of the Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978, regulation 2, with effect from 1st January, 1979 and subject to the Proviso therein, the condition as to residence in Guernsey shall be that a person must have been resident in Guernsey for a continuous period of twenty-six weeks terminating after the appointed day and on or after attaining school-leaving age.

In accordance with the provisions of the Social Insurance (Classification) (Guernsey) Regulations, 1978, regulation 2, with effect from 1st January, 1979 and for the purposes of this Law, the classification of insured persons shall be modified in the manner as set out therein.

In accordance with the provisions of the Social Insurance (Benefits) Regulations, 2003, regulation 27, with effect from 5th January 2004, the provisions of this Law and of the regulations made hereunder shall, so far as they are not inconsistent with the provisions of the 2003 Regulations, apply to mariners with the modification as contained in the aforesaid regulation 27.

Source of funds.

2. For the purpose of providing funds required for paying benefit and for making any other payments which under this Law are to be made out of the Guernsey Insurance Fund, contributions shall be payable by insured persons, by employers and out of moneys provided by the States in accordance with the provisions of this Part of this Law.

"Earnings".

3. (1) In this Law "earnings" includes any remuneration or profit derived from an employment.

(2) For the purposes of this Law, the amount of a person's earnings for any period, or the amount of his earnings to be treated as comprised in any payment made to him or for his benefit, shall be calculated or estimated in such a manner and on such basis as may be prescribed.

(3) Regulations made for the purposes of the last foregoing subsection may prescribe that payments of a particular class or description made or falling to be made to or by a person shall, to such extent as may be prescribed, be disregarded or, as the case may be, be deducted from the amount of that person's earnings.

NOTE

The following Regulations have been made under section 3:

*Social Insurance (Contributions) (Amendment) Regulations, 2006;
Social Insurance (Contributions) (Amendment) Regulations, 2007;
Social Insurance (Contributions) (Amendment) Regulations, 2008;
Social Insurance (Contributions) (Amendment) Regulations, 2009;
Social Insurance (Contributions) (Amendment) Regulations, 2012;
Social Insurance (Contributions) (Amendment) (No. 2) Regulations,
2012;
Social Insurance (Contributions) (Amendment) Regulations, 2014.*

Contributions

Three classes of contributions.

4. (1) Contributions under this Part of this Law shall be of the following three classes –

- (a) Class 1, payable under the next following section, being –
 - (i) primary Class 1 contributions from employed persons, and
 - (ii) secondary Class 1 contributions from employers,

- (b) Class 2, payable under section six of this Law by self-employed persons [...], and
 - (c) Class 3, payable under section eight of this Law by non-employed persons [...].
- (2) Subject to the provisions of this Law, no person shall –
- (a) be liable to pay contributions unless he fulfils prescribed conditions as to residence in Guernsey,
 - (b) be entitled to pay contributions other than those which he is liable to pay, except so far as he is permitted by regulations to pay them.

NOTES

In section 4,

the words omitted in square brackets in paragraph (b) of subsection (1) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2006, section 1(2), with effect from 24th December, 2007;

the words omitted in square brackets in paragraph (c) of subsection (1) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 2, with effect from 1st January, 2004.

Class 1 contributions.

5. (1) For the purposes of this Law, the States shall from time to time by Ordinance prescribe –

- (a) as respects employed persons paid weekly, an upper

weekly earnings limit, being the maximum amount of weekly earnings in respect of which Class 1 contributions shall be payable in respect of such employed persons, and

- (b) as respects other employed persons, an upper monthly earnings limit, being the maximum amount of monthly earnings in respect of which Class 1 contributions shall be payable in respect of such other employed persons.

[(1A) An Ordinance under subsection (1) may prescribe different relevant upper earnings limits for the purpose of primary and secondary Class 1 contributions.]

(2) Subject to the provisions of this Law, where in any contribution week earnings are paid to or for the benefit of an employed person in respect of any one employment of his, being employed contributor's employment, there shall be payable a primary and a secondary Class 1 contribution in accordance with this section without regard to any other payment of earnings to or for the benefit of that employed person in respect of any other employment.

(3) The primary contribution shall be payable by the employed person and the secondary contribution shall be payable by the employer.

(4) Subject to the provisions of this Law, the respective amounts of a primary Class 1 contribution and of a secondary Class 1 contribution shall be such percentage as the States shall from time to time by Ordinance determine of so much of the earnings paid in that week, in respect of the employment in question, as does not exceed the current relevant upper earnings limit; and different percentages

may be so determined in respect of primary Class 1 contributions and secondary Class 1 contributions.

(5) ...

NOTES

In section 5,

subsection (1A) was inserted by the Social Insurance (Guernsey) (Amendment) Law, 2006, section 1(3), with effect from 24th December, 2007;

subsection (5) was repealed by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1995, section 1(3), with effect from 12th December, 1995.

The following Ordinances have been made under section 5:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2015;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2016.

In accordance with the provisions of the Social Insurance (Classification) (Guernsey) Regulations, 1978, regulation 5, with effect from 1st January, 1979 and for the purposes of this section, in relation to any payment of earnings to or for the benefit of an employed person in any employment described in any paragraph in column (A) of the Third Schedule to the 1978 Regulations, the person specified in the corresponding paragraph in column (B) of that Schedule shall be treated as the employer in relation to that employed person.

Class 2 contributions payable by self-employed persons.

6. (1) For the purposes of this Law, the current upper annual

earnings limit for Class 2 contributions means an amount equal to the product of the current upper weekly earnings limit [for primary Class 1 contributions] and fifty-two.

(2) Subject to the provisions of this Law, an insured person who as respects any contribution week is a self-employed person shall be liable to pay a Class 2 contribution in respect of that week in an amount equal to such percentage as the States shall from time to time by Ordinance determine of one fifty-second of the current upper annual earnings limit.

[(3) Where any person who, but for this subsection, would be liable to pay Class 2 contributions under and in accordance with the last foregoing subsection as respects any contribution year or part of a contribution year has satisfied [the Committee] that his relevant earnings are below the current upper annual earnings limit for that year in respect of Class 2 contributions and has satisfied such other conditions as may be prescribed, then, subject to and in accordance with regulations, he shall be liable to pay a Class 2 contribution in respect of each contribution week in that year or part of that year, as the case may be, at such reduced rate as shall be prescribed.]

[(3A) Regulations made for the purposes of this section may provide –

- (a) for further reducing or increasing any reduced rate of Class 2 contribution paid or payable by virtue of subsection (3) of this section,
- (b) for the repayment of any amount of contributions paid which may be due to a person in consequence of any such further reduction,

- (c) for the payment by a person of any amount of contributions which has become payable for any period in consequence of any such increase,

in such circumstances and subject to such conditions as may be prescribed by such regulations.]

(4) For the purposes of this section, "**relevant earnings**", in relation to any contribution year or any part of a contribution year, means such earnings as may be prescribed.

NOTES

In section 6,

the words in square brackets in subsection (1) were inserted by the Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007, section 1(a), with effect from 7th January, 2008;

subsection (3) was substituted by the Social Insurance (Amendment) (Guernsey) Law, 1985, section 1, with effect from 20th August, 1985;

the words in square brackets within subsection (3) were 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;

subsection (3A) was inserted by the Social Insurance (Amendment) (Guernsey) Law, 1981, section 1, with effect from 9th June, 1981.

The following Ordinances have been made under section 6:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007;

Social Insurance (Rates of Contributions and Benefits, etc.)

Ordinance, 2015;

Social Insurance (Rates of Contributions and Benefits, etc.)

Ordinance, 2016.

The following Regulations have been made under section 6:

Social Insurance (Contributions) Regulations, 2000;

Social Insurance (Contributions) (Amendment) Regulations, 2001;

Social Insurance (Contributions) (Amendment) (No. 2) Regulations, 2001;

Social Insurance (Contributions) (Amendment) Regulations, 2005;

Social Insurance (Contributions) (Amendment) Regulations, 2006;

Social Insurance (Contributions) (Amendment) Regulations, 2007;

Social Insurance (Contributions) (Amendment) Regulations, 2008;

Social Insurance (Contributions) (Amendment) Regulations, 2009;

Social Insurance (Residence and Persons Abroad) (Guernsey) (Amendment) Regulations, 2009;

Social Insurance (Contributions) (Amendment) Regulations, 2012;

Social Insurance (Contributions) (Amendment) (No. 2) Regulations, 2012;

Social Insurance (Contributions) (Amendment) Regulations, 2014.

Class 2 contributions payable by employed persons in certain cases.

7. ...

NOTE

Section 7 was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2006, section 1(4), with effect from 24th December, 2007.

[Class 3 contributions payable by non-employed persons.

8. (1) For the purposes of this Law, the current upper annual income limit for Class 3 contributions means an amount equal to the product of the current upper weekly earnings limit [for primary Class 1 contributions] and fifty two.

[(2) Subject to the provisions of this Law, an insured person who

as respects any contribution week is a non-employed person shall be liable to pay in respect of that week a Class 3 contribution in an amount determined in accordance with the following formula:

$$A = \frac{(B - C) \times D}{52}$$

where –

"A" is the amount of the contribution,

"B" is the current upper annual income limit for Class 3 contributions,

"C" is such amount as the States shall from time to time by Ordinance determine (hereinafter called "**the Class 3 income allowance**"), and

"D" is such percentage as the States shall from time to time by Ordinance determine (hereinafter called "**the Class 3 rate**"); and for the avoidance of doubt, different percentages may be determined for different classes of non-employed persons.

(3) Subject to the following subsections, where any person who, but for this subsection, would be liable to pay Class 3 contributions in accordance with subsection (2) as respects any contribution year or part of a contribution year has satisfied [the Committee] that his relevant income is below the current upper annual income limit for that year in respect of Class 3 contributions and has satisfied such other conditions as may be prescribed, then, subject to and in accordance with regulations, he shall be liable to pay a Class 3 contribution in respect of each contribution week in that year or part of that year, as the case may be, in an amount determined in accordance with the following formula:

$$A = \frac{(I - C) \times D}{52}$$

where –

"A" is the amount of the contribution,

"I" is the person's relevant income,

"C" is the Class 3 income allowance, and

"D" is the Class 3 rate.]

[(4) Regulations may provide that a non-employed person of such description as may be prescribed who has been excepted by regulations from liability to pay a Class 3 contribution shall be entitled, subject to such conditions as may be prescribed, for any week in respect of which that exception is in force to pay a Class 3 contribution at a rate equal to one fifty-second of the product of the Class 3 rate and such lower income limit as the States shall from time to time by Ordinance determine (hereinafter called a "[**voluntary**] **Class 3 contribution**").

(5) Where, in respect of any week, a person who is normally in employed contributor's employment is non-employed and satisfies such additional conditions as may be prescribed by regulations, he shall be liable to pay a Class 3 contribution in respect of that week at such percentage rate of the [**voluntary**] Class 3 contribution as the States shall from time to time by Ordinance determine.]

(6) Regulations may provide –

- (a) for further reducing or increasing any reduced rate of Class 3 contribution paid or payable by virtue of subsection (3) of this section,
- (b) for the repayment of any amount of contributions paid which may be due to a person in consequence of any such further reduction,
- (c) for the payment by a person of any amount of contributions which has become payable for any period in consequence of any such increase,

in such circumstances and subject to such conditions as may be prescribed.

(7) For the purposes of this section "**relevant income**", in relation to any contribution year or any part of a contribution year, means such income as may be prescribed.]

NOTES

Section 8 was substituted by the Social Insurance (Amendment) (Guernsey) Law, 1995, section 1, with effect from 1st January, 1996.

In section 8,

the words in square brackets in subsection (1) were inserted by the Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007, section 1(b), with effect from 7th January, 2008;

subsection (2) and subsection (3) were substituted by the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2009, section 1, with effect from 4th January, 2010;

the words in square brackets within subsection (3) were 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;

subsection (4) and subsection (5) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2001, section 1(2), with effect from 19th June, 2001;

the words in square brackets in subsection (4) and subsection (5) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 3, with effect from 1st January, 2004.

The following Ordinances have been made under section 8:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Contributions) (Amendment) Regulations, 2006;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2015;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2016.

The following Regulations have been made under section 8:

Social Insurance (Contributions) (Amendment) Regulations, 2005;

Social Insurance (Contributions) (Amendment) Regulations, 2007;

Social Insurance (Contributions) (Amendment) Regulations, 2008;

Social Insurance (Contributions) (Amendment) Regulations, 2009;

Social Insurance (Residence and Persons Abroad) (Guernsey) (Amendment) Regulations, 2009;

Social Insurance (Contributions) (Amendment) Regulations, 2012;

Social Insurance (Contributions) (Amendment) (No. 2) Regulations, 2012;

Social Insurance (Contributions) (Amendment) Regulations, 2014.

Class 3 contributions payable by employed persons in certain cases.

9. ...

NOTE

Section 9 was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2001, section 1(3), with effect from 1st January, 2002.

Exception from liability to pay contributions.

10. (1) No primary Class 1 contributions shall be payable in respect of an employed person who is over pensionable age, and no Class 2 [...] contributions shall be payable by any person over that age.

(2) The provisions of subsection (1) of this section shall not affect any liability to pay secondary Class 1 contributions in respect of any person.

NOTE

In section 10, the words omitted in square brackets in subsection (1) were repealed by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1995, section 1(4), with effect from 12th December, 1995.

General power to regulate liability for contributions and for the crediting of contributions.

11. (1) Regulations may provide, in relation to insured persons otherwise liable for contributions of any class, for excepting them from the liability for such periods, and in such circumstances, as may be prescribed.

(2) Regulations may provide for the crediting of contributions of any class to an insured person for such periods, in such circumstances and for the purpose of entitling that person or any other person to such benefits as may be prescribed.

(3) Regulations may provide that the liability of an employed person for primary Class 1 contributions in any contribution year or in any other period as may be prescribed shall not exceed such amount as may be prescribed in relation to that year or that period, as the case may be; and regulations may provide

for contributions paid in excess of that amount in respect of that year or that other period, as the case may be, to be repaid at such times and in accordance with such conditions as may be prescribed.

NOTE

The following Regulations have been made under section 11:

*Social Insurance (Widow's Benefit and Old Age Pensions)
(Amendment) Regulations, 1999;
Social Insurance (Contributions) Regulations, 2000;
Social Insurance (Contributions) (Amendment) Regulations, 2002;
Social Insurance (Benefits) (Transitional) Regulations, 2003;
Social Insurance (Contributions) (Amendment) Regulations, 2003;
Social Insurance (Benefits) (Transitional) Regulations, 2004;
Social Insurance (Contributions) (Amendment) Regulations, 2005;
Social Insurance (Contributions) (Amendment) Regulations, 2006;
Social Insurance (Contributions) (Amendment) Regulations, 2007;
Social Insurance (Contributions) (Amendment) Regulations, 2008;
Social Insurance (Contributions) (Amendment) Regulations, 2009;
Social Insurance (Contributions) (Amendment) Regulations, 2012;
Social Insurance (Contributions) (Amendment) (No. 2) Regulations,
2012;
Social Insurance (Contributions) (Amendment) Regulations, 2014.*

[Power to determine amount of any contribution.]

11A. Any power under this Part enabling the States by Ordinance to determine a percentage for the purpose of calculating the amount of a contribution, includes the power to determine a sum of money.]

NOTE

Section 11A was inserted by the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2009, section 2, with effect from 4th January, 2010.

Computation, collection and recovery of contributions, etc.

Earnings not paid at normal intervals.

12. Regulations may, for the purposes of Class 1 contributions, make provisions as to the intervals at which payment of earnings are to be treated as made.

NOTE

The following Regulations have been made under section 12:

Social Insurance (Contributions) Regulations, 2000.

Method of paying Class 1 contributions.

13. (1) Where earnings are paid to an employed person and in respect of that payment liability arises for primary and secondary Class 1 contributions, the employer shall (except in prescribed circumstances), as well as being liable for his own secondary contribution, be liable in the first instance to pay also the employed person's primary contribution on behalf of and to the exclusion of the employed person; and for the purposes of this Law, contributions paid by the employer on behalf of the employed person shall be deemed to be contributions paid by the employed person.

(2) Notwithstanding any contract to the contrary, no employer shall be entitled to make, from earnings paid by him, any deduction in respect of his own or any other person's secondary Class 1 contributions, nor otherwise to recover such contributions from any employed person to whom he pays earnings; and an employer who deducts or attempts to deduct the whole or any part of such a contribution from earnings shall be liable, on summary conviction, to a fine not exceeding [level 4 on the uniform scale].

(3) An employer shall be entitled, subject to and in accordance with regulations, to recover from an employed person the amount of any primary Class 1 contribution paid or to be paid by him on behalf of the employed person; and regulations under this subsection shall provide for recovery to be made by deduction from the employed person's earnings, and for it not to be made in any other way.

NOTES

In section 13, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.¹

The following Regulations have been made under section 13:

Social Insurance (Contributions) Regulations, 2000.

General provisions as to Class 1 contributions.

14. Regulations may, in relation to Class 1 contributions, make provision –

- (a) for calculating the amounts payable according to a prescribed scale or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation,
- (b) for requiring that the liability in respect of a payment made in a contribution week, in so far as the liability depends on any conditions as to a person's age, shall be determined as at the beginning of the week or as at the end of it,

- (c) for securing that liability is not avoided or reduced by a person following in the payment of earnings any practice which is abnormal for the employment in respect of which the earnings are paid, and
- (d) without prejudice to the last foregoing paragraph, for enabling [the Committee], where it is satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of Class 1 contributions is avoided or reduced, to give directions for securing that such contributions are payable as if that practice were not followed.

NOTES

In section 14, the words in square brackets in paragraph (d) were 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.

The following Regulations have been made under section 14:

*Social Insurance (Classification) (Guernsey) Regulations, 1978;
Social Insurance (Contributions) Regulations, 2000;
Social Insurance (Classification) (Amendment) Regulations, 2003;
Social Insurance (Classification) (Amendment) Regulations, 2007.*

General regulation-making powers as to contributions.

- 15.** (1) Regulations may provide –
- (a) for any matters incidental to the payment, collection and return of contributions,

(b) for requiring persons to maintain and to furnish to [the Committee], in such form and manner and at such times as may be prescribed, records –

(i) of the earnings paid by them to and in respect of employed persons, and

(ii) of the contributions paid or payable in respect of earnings so paid,

for the purpose of enabling the incidence of liability for contributions of any class to be determined, and to retain the records for so long as may be prescribed,

(c) for treating contributions which are payable but have not been paid as paid; and in the case of contributions so treated, for treating them also as paid at a prescribed time or in respect of a prescribed period,

(d) for treating, for the purpose of any entitlement to benefit, contributions paid after the due dates as paid on those dates or on such later dates as may be prescribed or as not having been paid,

(e) for the collection or aggregation of Class 1 contributions where a person is employed in more than one employment,

(f) for treating contributions of the wrong class, or at the

wrong rate, or of the wrong amount, as paid on account of contributions properly payable,

- (g) without prejudice to the last foregoing paragraph, for enabling the whole or part of any payment of Class 2 contributions to be treated as a payment of secondary Class 1 contributions,
- (h) for the return of contributions paid in error or in such other circumstances as may be prescribed,
- (i) for treating a person as being an employed person, notwithstanding that his employment is outside Guernsey,
- (j) for treating a person's employment as continuing during periods of holiday, unemployment or incapacity for work and in such other circumstances as may be prescribed.

(2) Regulations made under subsection (1) of this section providing for the payment of Class 3 contributions, at the option of the persons liable to pay, either –

- (a) by means of adhesive stamps, or
- (b) by some alternative method, the use of which involves greater expense in administration to [the Committee] than would be incurred if the contributions were paid by means of such stamps,

may include provision for the payment to [the Committee] by any person who adopts any alternative method, and for the recovery by [the Committee] of the prescribed fees in respect of any difference in the expenses in administration.

(3) Where under regulations made by virtue of subsection (1) of this section contributions are payable by means of adhesive stamps (hereafter in this Law referred to as "**insurance stamps**"), [the Committee] shall arrange for the preparation and sale of those stamps and may by regulations provide for applying, with the necessary modifications as respects those stamps, all or any of the provisions of the Stamp Duties Management Act 1891, section nine of the Stamp Act 1891 and section fifty-two of the Post Office (Guernsey) Law, 1969^a.

(4) Regulations may provide that, for the purpose of determining whether a contribution is payable in respect of any person, or for determining the amount or rate of any contribution –

- (a) he is to be treated as having attained at the beginning of a contribution week, or as not having attained until the end of a contribution week, any age which he attains during the course of that week, and
- (b) he is to be treated as having attained at the beginning of a contribution month, or as not having attained until the end of a contribution month, any age which he attains during the course of that month.

^a Ordres en Conseil Vol. XXII, p. 128.

NOTES

In section 15, the words "the Committee" in square brackets, wherever occurring, were 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.

The following Ordinance has effect as if made under section 15:

Social Insurance (Stamps) (Guernsey) Ordinance, 1964.

The following Regulations have been made under section 15:

*Social Insurance (Classification) (Guernsey) Regulations, 1978;
Social Insurance (Residence and Persons Abroad) (Amendment) (Guernsey) Regulations, 1995;
Social Insurance (Residence and Persons Abroad) (Amendment) (No. 2) (Guernsey) Regulations, 1995;
Social Insurance (Contributions) Regulations, 2000;
Social Insurance (Classification) (Amendment) Regulations, 2003;
Social Insurance (Contributions) (Amendment) Regulations, 2005;
Social Insurance (Contributions) (Amendment) Regulations, 2006;
Social Insurance (Classification) (Amendment) Regulations, 2007;
Social Insurance (Contributions) (Amendment) Regulations, 2007;
Social Insurance (Contributions) (Amendment) Regulations, 2008;
Social Insurance (Contributions) (Amendment) Regulations, 2009;
Social Insurance (Residence and Persons Abroad) (Guernsey) (Amendment) Regulations, 2009;
Social Insurance (Contributions) (Amendment) Regulations, 2012;
Social Insurance (Contributions) (Amendment) (No. 2) Regulations, 2012;
Social Insurance (Benefits) (Amendment) Regulations, 2013;
Social Insurance (Contributions) (Amendment) Regulations, 2014;
Social Insurance (Benefits) (Amendment) Regulations, 2015.*

In accordance with the provisions of the Social Insurance (Classification) (Guernsey) Regulations, 1978, regulation 3, with effect from 1st January, 1979 and for the purposes of this Law, the employment of a person shall be treated as continuing in the circumstances specified in the Second Schedule to the 1978 Regulations.

The Post Office (Guernsey) Law, 1969 has since been repealed by the Post Office (Bailiwick of Guernsey) Law, 2001, section 47, Schedule 2, Part I, paragraph 1, with effect from 1st October, 2001, subject to the transitional provisions in section 46 of, and Schedule 1 to, the 2001 Law.

Persons to be treated as employers.

16. In relation to persons who work under the general control or management of a person other than their immediate employer, and in relation to any other cases for which it appears to [the Committee] necessary or expedient, regulations may provide that for the purposes of this Law the prescribed person shall be treated as their employer.

NOTES

In section 16, the words in square brackets were 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.

The following Regulations have been made under section 16:

*Social Insurance (Classification) (Guernsey) Regulations, 1978;
Social Insurance (Classification) (Amendment) Regulations, 2003;
Social Insurance (Classification) (Amendment) (Guernsey)
Regulations, 2005;
Social Insurance (Classification) (Amendment) Regulations, 2007.*

[Anti-avoidance]

General provision against legal avoidance.

16A. (1) Where the effect of a transaction or series of transactions is the avoidance, reduction or deferral of the liability of any person ("**the person concerned**") to pay contributions, [the Committee] may, in its discretion, make such adjustments as respects the liability of the person concerned to pay such contributions as may in its opinion be appropriate to counteract the avoidance, reduction or deferral of liability which would otherwise be effected by or as a result of that transaction or series of transactions.

(2) For the purposes of this section, a transaction includes any

arrangement, agreement, operation, scheme or event, or any action, omission, decision or concurrence, whether or not –

- (a) enforceable by legal proceedings,
- (b) involving or dependent on any action by, or any omission, decision or concurrence of, the person concerned or any other person, or more than one person,
- (c) brought to a conclusion, and
- (d) involving or dependent on any other transaction.

(3) For the purposes of this section, and for the avoidance of doubt, it is immaterial –

- (a) when or where the transaction or series of transactions (or any of the series of transactions) occurs,
- (b) whether or not the transaction or series of transactions (or any of the series of transactions) –
 - (i) was undertaken by or on behalf of, or in conjunction with, the person concerned, or
 - (ii) was undertaken by or on behalf of, or in conjunction with, more than one person, and
- (c) whether or not the avoidance, reduction or deferral of

liability –

- (i) was an intended effect of the transaction or series of transactions, or any of the series of transactions, or
- (ii) was the only or principal effect.

(4) In this section the expression "**avoidance, reduction or deferral**" of liability to pay contributions includes (without limitation) an increase or enhancement in the entitlement of the person concerned to a repayment of any contributions.]

NOTES

Section 16A and the heading thereto were inserted by the Social Insurance (Guernsey) (Amendment) Law, 2006, section 1(5), with effect from 24th December, 2007.

In section 16A, the words in square brackets were 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.

The following Regulations have been made under section 16A:

*Social Insurance (Contributions) (Amendment) Regulations, 2008;
Social Insurance (Contributions) (Amendment) Regulations, 2009;
Social Insurance (Contributions) (Amendment) Regulations, 2012;
Social Insurance (Contributions) (Amendment) (No. 2) Regulations,
2012.*

[Contributions payable in proportion to total amount of income or earnings.]

16B. (1) Every person who is liable to pay a contribution under this Law shall contribute in proportion to the total amount of all income or earnings, as the case may be, relevant to the class of contribution determined by [the

Committee] to be appropriate in his circumstances.

(2) For the purpose of subsection (1), the total amount of all income or earnings, as the case may be, relevant to the class of contribution concerned, includes amounts which –

(a) are determined under, or

(b) derived from the application of,

the provisions of sections 16C or any other provision of this Law.]

NOTES

Section 16B was inserted by the Social Insurance (Guernsey) (Amendment) Law, 2006, section 1(5), with effect from 24th December, 2007.

In section 16B, the words in square brackets were 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.

[Power to make regulations, directions and orders concerning avoidance.]

16C. (1) Regulations may provide for such measures as appear reasonably necessary to [the Committee] to counter avoidance, or reduction, of any liability to pay contributions of any class, including (without limitation) assignment of a monetary value to any asset, right, benefit or other thing available for the enjoyment of a contributor (whether that enjoyment is taken or foregone), for the purposes of determining the total amount of income or earnings, as the case may be, relevant to any class of contribution.

(2) [The Committee] may, in any particular case, where it appears

to [the Committee] to be fair and reasonable with regard to the interests of the general body of insured persons –

(a) direct that –

(i) money, and

(ii) the monetary value (as determined by [the Committee]) of assets, goods, services or other things,

provided for, or made available to, a contributor by another person, shall be treated as the income or earnings, as the case may be, of that contributor, and

(b) order the substitution of such amount (as determined by [the Committee]) of income or earnings, as the case may be, which may be relevant to any class of contribution in place of the amount of income or earnings, as the case may be, declared by or on behalf of a contributor.]

NOTES

Section 16C was inserted by the Social Insurance (Guernsey) (Amendment) Law, 2006, section 1(5), with effect from 24th December, 2007.

In section 16C, the words "T/the Committee" in square brackets, wherever occurring, were 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.

[Provisions of section 16A to 16C without prejudice to other provisions of Law.]

16D. The provisions of sections 16A to 16C are without prejudice to the generality of any other provision of this Law under which [the Committee] has power to take measures for the purpose of –

- (a) countering avoidance, or reduction, of any liability to pay contributions of any class, or
- (b) ensuring fairness in relation to the general body of insured persons.]

NOTES

Section 16D was inserted by the Social Insurance (Guernsey) (Amendment) Law, 2006, section 1(5), with effect from 24th December, 2007.

In section 16D, the words in square brackets were 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.

The States' grant

The States' grant.

17. (1) There shall be paid into the Guernsey Insurance Fund out of moneys provided by the States, in respect of each contribution year and in such manner and at such times as the States [Policy & Resources Committee] shall determine, an annual grant (hereafter in this Law referred to as "**the States' grant**") of an amount equal to [fifteen per centum] of the amount certified by the auditors for the time being appointed by the States in pursuance of subsection (3) of section one hundred of this Law as being the balance of the aggregate amount of the contributions by insured persons and employers received by [the Committee] in

respect of that year after deducting from such aggregate amount the amount of the Guernsey Health Service Fund Allocation in respect of that year.

(2) The States may by Ordinance vary the provisions of subsection (1) of this section as to the percentage by reference to which the amount of the States' grant shall be calculated.

NOTES

In section 17,

the words in the first pair of square brackets in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 15(a), with effect from 1st May, 2016;²

the words in the second pair of square brackets in subsection (1) were substituted by the Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007, section 9, with effect from 7th January, 2008;³

the words in the third pair of square brackets were 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.

The functions, rights and liabilities of the Treasury and Resources Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 15(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁴

The following Ordinance has been made under section 17:

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007.

The following Ordinances have effect as if made under section 17:

Social Insurance (Increase of Contributions and Benefits and

*Miscellaneous Provisions) (Guernsey) Ordinance, 1973;
Social Insurance (Increase of Contributions and Benefits and
Miscellaneous Provisions) (Guernsey) Ordinance, 1974;
Social Insurance (Increase of Contributions and Benefits and
Miscellaneous Provisions) (Guernsey) Ordinance, 1975;
Social Insurance (Increase of Contributions and Benefits and
Miscellaneous Provisions) (Guernsey) Ordinance, 1976;
Social Insurance (Increase of Contributions and Benefits and
Miscellaneous Provisions) (No. 2) (Guernsey) Ordinance, 1976;
Social Insurance (Increase of Contributions and Benefits and
Miscellaneous Provisions) (Guernsey) Ordinance, 1977.*

PART II

BENEFIT (OTHER THAN BENEFIT FOR INDUSTRIAL INJURIES)

Preliminary

Descriptions of benefit under this Part of this Law.

18. Benefit under this Part of this Law shall be of the following descriptions –

- (a) unemployment benefit,
- (b) sickness benefit,
- (c) invalidity benefit,
- (d) maternity benefit, comprising maternity grant and maternity allowance,
- [(e) survivor's benefit, comprising bereavement payment, widowed parent's allowance and bereavement allowance,]

- (f) old age pension,
- (g) ...
- (h) ...
- (i) travelling allowance grant,
- (j) death grant, and
- (k) limited medical benefit.

NOTES

In section 18,

paragraph (e) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 4(1), with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law;⁵

paragraph (g) and paragraph (h) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 4(2), with effect from 1st January, 2004.

Rates and amounts of benefit under this Part of this Law.

19. (1) Subject to the provisions of this Law, the weekly rates of the several descriptions of benefit specified in the last foregoing section, other than maternity grant, travelling allowance grant, death grant and limited medical benefit, shall be such rates as the States shall from time to time by Ordinance determine.

(2) The amounts of maternity grant and death grant shall be such

amounts as the States shall from time to time by Ordinance determine.

NOTE

The following Ordinances have been made under section 19:

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 1993;
Social Insurance (Contributions) Regulations, 2000;
Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;
Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;
Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007;
Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2015;
Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2016.

The following Ordinances have effect as if made under section 19:

Social Insurance (Increase of Contributions and Benefits and Miscellaneous Provisions) (Guernsey) Ordinance, 1973;
Social Insurance (Increase of Contributions and Benefits and Miscellaneous Provisions) (Guernsey) Ordinance, 1974;
Social Insurance (Increase of Contributions and Benefits and Miscellaneous Provisions) (Guernsey) Ordinance, 1975;
Social Insurance (Increase of Contributions and Benefits and Miscellaneous Provisions) (Guernsey) Ordinance, 1976;
Social Insurance (Increase of Contributions and Benefits and Miscellaneous Provisions) (No. 2) (Guernsey) Ordinance, 1976;
Social Insurance (Increase of Contributions and Benefits and Miscellaneous Provisions) (Guernsey) Ordinance, 1977;
Social Insurance (Increase of Benefits and Miscellaneous Provisions) (Guernsey) Ordinance, 1978.

Contribution conditions for entitlement to benefit under this Part of this Law.

20. (1) The contribution conditions for the following descriptions of benefit, that is to say –

- (a) unemployment benefit,

- (b) sickness benefit,
- (c) invalidity benefit,
- (d) maternity benefit,
- (e) [survivor's] benefit,
- (f) old age pension,
- (g) [...], and
- (h) death grant,

shall be as set out in the First Schedule to this Law.

(2) For the purpose of establishing the entitlement of any person to any benefit by reference to satisfaction of contribution conditions, regulations shall make provision –

- (a) for the conversion of any contribution paid or credited into one or more reckonable contributions, being contributions which shall be treated as having been paid or credited in accordance with the regulations in respect of such contribution weeks as shall be determined in accordance with the regulations,
- (b) for the disregard of Class 1 contributions paid in respect of –

- (i) weekly earnings below such weekly amount as shall be specified in the regulations (to be called "**the lower weekly earnings limit**"), or
- (ii) monthly earnings below such monthly amount as shall be specified in the regulations (to be called "**the lower monthly earnings limit**"),
- (c) for the disregard of reckonable contributions in such cases as shall be prescribed.

(3) Subject to the provisions of this Law, references in this Law to reckonable contributions of the appropriate class shall be construed –

- (a) in relation to unemployment benefit, as references to reckonable Class 1 contributions,
- (b) in relation to sickness benefit, invalidity benefit and maternity allowance, as references to reckonable Class 1 or reckonable Class 2 contributions,
- (c) in relation to any other description of benefit under this Part of this Law, as references to reckonable Class 1, reckonable Class 2 or reckonable Class 3 contributions,

and for the purpose of any reference in this Law to reckonable contributions of the appropriate class or their equivalent, there shall be treated as equivalent to a reckonable contribution of the appropriate class such number of reckonable

contributions not of that class as may be prescribed.

(4) Subject to the provisions of this Law, any reference in this Law to the yearly average of the reckonable contributions paid by or credited to any person shall be construed as referring to reckonable contributions as an insured person and to that average, calculated in the prescribed manner, over the relevant period.

(5) In the last foregoing subsection "**relevant period**" means –

(a) in relation to a claim to [survivor's benefit and old age pension], the period –

(i) beginning at the commencement of the contribution year in which the insured person attained the age of [twenty] years, if he attained that age on or after the first day of January, nineteen hundred and fifty-two, or

(ii) beginning on the first day of January, nineteen hundred and fifty-two, if the insured person attained the age of [twenty] years before that day, and

(iii) ending on the thirty-first day of December next preceding the date as at which the yearly average is to be ascertained,

(b) in relation to a claim to death grant, the period –

- (i) beginning at the commencement of the contribution year in which the insured person attained the age of [twenty] years, if he attained that age on or after the seventh day of June, nineteen hundred and seventy-one, or
- (ii) beginning on the first day of January, nineteen hundred and seventy-one, if the insured person attained the age of [twenty] years before the seventh day of June, nineteen hundred and seventy-one, and
- (iii) ending on the thirty-first day of December next preceding the date as at which the yearly average is to be ascertained.

[Provided that, in relation to a claim to [survivor's] benefit, old age pension or death grant, where a person has died before the end of the contribution year in which he had, or would have, attained the age of twenty years and the contribution condition set out in paragraph 4(1)(a) or 5(1)(a), as the case may be, of the First Schedule to this Law has been satisfied in relation to him, the number of years in the relevant period shall be deemed to be one.]

NOTES

In section 20,

the word in square brackets in paragraph (e) of subsection (1) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 5(1), with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law;

the words omitted in the square brackets in paragraph (g) of

subsection (1) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 5(2), with effect from 1st January, 2004;

the words in the first pair of square brackets in paragraph (a) of subsection (5) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 5(3), with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law;

the words in square brackets in paragraph (a)(i), paragraph (a)(ii), paragraph (b)(i) and paragraph (b)(ii) of subsection (5) were substituted by the Social Insurance (Amendment) (Guernsey) Law, 1993, section 1(b)(i), with effect from 1st November, 1993;

the proviso to subsection (5) was inserted by the Social Insurance (Amendment) (Guernsey) Law, 1993, section 1(b)(ii), with effect from 1st November, 1993;

the word in square brackets in the proviso to subsection (5) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 5(4), with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

The following Regulations have been made under section 20:

Social Insurance (Unemployment, Sickness and Invalidity Benefit) (Amendment) (Guernsey) Regulations, 1979;

Social Insurance (General Benefit) (Amendment) (Guernsey) Regulations, 1997;

Social Insurance (General Benefit) (Amendment) (No. 2) (Guernsey) Regulations, 1997;

Social Insurance (Unemployment, Sickness and Invalidity Benefit) (Amendment) Regulations, 1999;

Social Insurance (Contributions) (Amendment) Regulations, 2002;

Social Insurance (Benefits) Regulations, 2003.

In accordance with the provisions of the Social Insurance (Benefits) Regulations, 2003, regulation 46, with effect from 5th January 2004 and for the purposes of subsection (4) of this section, the yearly average of reckonable contributions paid by or credited to any person in relation to death grant, an old age pension or survivor's benefit shall be as calculated therein.

Benefits for unemployment, sickness and invalidity

Unemployment benefit and sickness benefit.

21. (1) Subject to the provisions of this Law, a person shall be entitled to unemployment benefit in respect of any day of unemployment which forms part of a period of interruption of employment, and to sickness benefit in respect of any day of incapacity for work which forms part of [a period of incapacity for work] if –

- (a) he is under pensionable age on the day for which the benefit is claimed, and
- (b) he satisfies the relevant contribution conditions.

[(2) Regulations may prescribe exceptions from the entitlement created by subsection (1) for such period and subject to such conditions as may be prescribed by any such regulations.]

(3) The amount payable by way of benefit under this section for any day of unemployment or incapacity for work shall be [calculated in such manner (including, without limiting the generality of the same, a manner in which any day of the week is disregarded for the purposes of calculation) and subject to such exceptions and conditions as regulations may prescribe].

NOTES

In section 21,

the words in square brackets in subsection (1) and subsection (3) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, respectively paragraph 6(1) and paragraph 6(3), with effect from 1st January, 2004;

subsection (2) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 6(2), with effect from 1st January, 2004.⁶

The following Regulations have been made under section 21:

Social Insurance (Unemployment, Sickness and Invalidity Benefit) (Amendment) (No. 2) Regulations, 1999;

Social Insurance (Benefits) Regulations, 2003;

Social Insurance (Benefits) (Amendment) Regulations, 2006.

Invalidity benefit.

22. (1) Subject to the provisions of this Law, where in respect of any period of [incapacity for work] a person has been entitled to sickness benefit or industrial injury benefit [or such other benefit, subject to such exceptions and conditions, as may be prescribed] for [an aggregate period of 26 weeks] [...], then, if he is under pensionable age and satisfied the relevant contribution conditions, he shall be entitled to invalidity benefit for any subsequent day of incapacity for work which forms part of that period of interruption of employment.

(2) The amount payable by way of invalidity benefit for any day of incapacity for work shall be [calculated in such manner (including, without limiting the generality of the same, a manner in which any day of the week is disregarded for the purposes of calculation) and subject to such exceptions and conditions as regulations may prescribe].

NOTES

In section 22,

the words in the first and third pairs of square brackets in subsection (1) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, respectively paragraph 7(1)(a) and paragraph 7(1)(b), with effect from 1st January, 2004;

the words in the second pair of square brackets in subsection (1) were inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 4(a), with effect from 1st January 2000;

the words omitted in the fourth pair of square brackets in subsection (1) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 4(b), with effect from 1st January 2000;

the words in square brackets in subsection (2) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 7(2), with effect from 1st January, 2004.

The following Regulations have been made under section 22:

*Social Insurance (Benefits) Regulations, 2003;
Social Insurance (Benefits) (Amendment) Regulations, 2006.*

Determination of days for which unemployment benefit, sickness benefit and invalidity benefit are payable.

23. (1) For the purposes of any provisions of this Law relating to unemployment benefit, sickness benefit or invalidity benefit –

(a) subject to the provisions of this Law, a day shall not be treated in relation to any person –

(i) as a day of unemployment unless on that day he is capable of work and is, or is deemed in accordance with regulations to be, available for employment in an employed contributor's employment, or

(ii) as a day of incapacity for work unless on that day he is, or is deemed in accordance with regulations to be, incapable of work by reason of some specific disease or bodily or mental

disablement,

(b) the expression "**day of interruption of employment**" means a day which is a day of unemployment or of incapacity for work,

[(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,]

(d) ...

(2) Subject to subsection (1) of this section, regulations may make provision as to the days which are or are not to be treated for the purposes of unemployment benefit, sickness benefit, invalidity benefit and a maternity allowance as days of unemployment or of incapacity for work.

NOTES

In section 23,

paragraph (c) of subsection (1) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 5, with effect from 17th August, 1999;

paragraph (d) of subsection (1) was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 8, with effect from 1st January, 2004.

The following Regulations have been made under section 23:

Social Insurance (Unemployment, Sickness and Invalidity Benefit)
(Amendment) (Guernsey) Regulations, 1981;
Social Insurance (Unemployment, Sickness and Invalidity Benefit)
(Amendment) (No. 2) (Guernsey) Regulations, 1981;
Social Insurance (Unemployment, Sickness and Invalidity Benefit)
(Amendment) (Guernsey) Regulations, 1982;
Social Insurance (Unemployment, Sickness and Invalidity Benefit)
(Amendment) Regulations, 1996;
Social Insurance (Unemployment, Sickness and Invalidity Benefit)
(Amendment) Regulations, 1998;
Social Insurance (Unemployment, Sickness and Invalidity Benefit)
(Amendment) (No. 2) Regulations, 1999;
Social Insurance (Unemployment, Sickness and Invalidity Benefit)
(Amendment) (No. 3) Regulations, 1999;
Social Insurance (Benefits) Regulations, 2003;
Social Insurance (Benefits) (Amendment) Regulations, 2011.

Duration of unemployment benefit.

24. (1) Subject to the provisions of subsection (2) of this section, a person who, in respect of any period of interruption of employment, has been entitled to unemployment benefit for [an aggregate period of 30 weeks] shall not thereafter be entitled to that benefit for any day of unemployment, whether in the same or a subsequent period of interruption of employment, unless before that day he has re-qualified for benefit.

(2) Subsection (1) of this section shall apply with the substitution for the reference therein to [an aggregate period of 30 weeks] of a reference to such greater number of days as the States may by Ordinance from time to time determine in the case of a person who, before exhausting his right to unemployment benefit under that subsection, has qualified for additional days of unemployment benefit in accordance with the provisions of the Ordinance.

(3) A person who has exhausted his right to unemployment benefit re-qualifies for it when –

(a) he has again been in employment as an employed person and has been so employed in thirteen weeks since the last day for which he was entitled to that benefit, and

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

(4) Where a person re-qualifies for unemployment benefit, subsection (1) of this section shall again apply to him but, in a case where the period of interruption of employment in which he exhausted his right to that benefit continues after his re-qualification, as if the part before and the part after his re-qualification were distinct periods of interruption of employment.

NOTES

In section 24,

the words in square brackets in subsection (1) and subsection (2) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 9, with effect from 1st January, 2004;

paragraph (b) of subsection (3) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 6, with effect from 17th August, 1999.

The following Regulations have been made under section 24:

Social Insurance (Benefits) Regulations, 2003.

In accordance with the provisions of the Social Insurance (Benefits) Regulations, 2003, regulation 38, with effect from 5th January 2004, subject to the proviso thereto and notwithstanding anything contained in the 2003 Regulations, a person who, in respect of any period of interruption of employment, would have been entitled to unemployment benefit for any day but for any delay or failure to make or prosecute a claim, shall, for the purposes of this section be treated as having been entitled to benefit for that day.

In accordance with the provisions of the Social Insurance (Benefits) Regulations, 2003, regulation 40(1), with effect from 8th August, 2011 and subject to regulation 40(2), for the purposes of subsection (3) of this section the earnings which are prescribed are such earnings as are equal to or greater than 40 times the Young Persons' Minimum Wage Rate (meaning the rate prescribed from time to time under section 3(1) of the Minimum Wage (Guernsey) Law, 2009).

Loss of employment due to stoppage of work.

25. (1) A person who has lost employment in an employed contributor's employment by reason of a stoppage of work which was due to a trade dispute at his place of employment shall be disqualified for receiving unemployment benefit so long as the stoppage continues, except in a case where, during the stoppage, he has become *bona fide* employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation:

Provided that this subsection shall not apply to the case of a person who proves –

- (a) that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work, and
- (b) that he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at his place of employment any of whom are participating in or financing or directly interested in the dispute.

(2) In this Law –

- (a) "**place of employment**", in relation to any person,

means the factory, workshop, farm or other premises or place at which he was employed, so, however, that, where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall for the purposes of this paragraph be deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be,

- (b) "**trade dispute**" means any dispute between employers and employees or between employees and employees which is connected with the employment or non-employment, the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises or not.

Other disqualifications, etc.

26. (1) A person shall be disqualified for receiving unemployment benefit for such period not exceeding ten weeks as may be determined in such manner as may be prescribed by regulations relating to the determination of claims to benefit, if –

- (a) he has lost his employment in an employed contributor's employment through his misconduct, or has voluntarily left such employment without just cause,

- (b) after a situation in any suitable employment has been properly notified to him as vacant or about to become vacant, he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him,
- (c) he has neglected to avail himself of a reasonable opportunity of suitable employment,
- (d) he has without good cause refused or failed to carry out any official recommendations given to him with a view to assisting him to find suitable employment, being recommendations which were reasonable having regard to his circumstances, or
- (e) he has without good cause refused or failed to avail himself of a reasonable opportunity of receiving training approved by [the Committee] in his case for the purpose of becoming or keeping fit for entry into, or return to, regular employment.

(2) Regulations may provide for disqualifying a person for receiving sickness benefit or invalidity benefit for such period not exceeding ten weeks as may be determined in such manner as may be prescribed by regulations relating to the determination of claims to benefit, if –

- (a) he has become incapable of work through his own misconduct, or
- (b) he fails without good cause to attend for, or to submit

himself to, such medical or other examination or treatment as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.

(3) Regulations may also provide for imposing, in the case of any class of persons, additional conditions with respect to the receipt of unemployment benefit, sickness benefit or invalidity benefit, and restrictions on the rate and duration thereof, if, having regard to special circumstances, it appears to [the Committee] necessary so to do for the purpose of preventing inequalities, or injustice to the general body of employed persons or of employed and self-employed persons, as the case may be.

(4) For the purposes of this section –

- (a) employment shall not be deemed to be employment suitable in the case of any person if it is employment in a situation vacant in consequence of a stoppage of work due to a trade dispute, and
- (b) employment shall be deemed to be employment suitable in the case of any person if it is so determined by [the Committee].

(5) For the purposes of this section –

- (a) **"properly notified"** means notified by or on behalf of [the Committee], [...] or by an agency approved by [the Committee] for those purposes, or by or on behalf of an employer,

- (b) "official recommendations" means recommendations in writing made by or on behalf of [the Committee] [...], and
- (c) "weeks" means any period of seven consecutive days.

NOTES

In section 26,

the words "the Committee" in square brackets, wherever occurring, were 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;

the words omitted in the second pairs of square brackets in paragraph (a) and paragraph (b) of subsection (5) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2000, respectively section 1(1)(a) and section 1(1)(b), with effect from 31st October, 2000.

The following Regulations have been made under section 26:

*Social Insurance (Benefits) Regulations, 2003;
Social Insurance (Benefits) (Amendment) Regulations, 2006.*

The following case has referred to section 26:

*Administrator to the Social Security Authority v. Beresford 2005–06
GLR N-5.*

Maternity benefit

[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.]

NOTES

Section 27 was substituted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 7, with effect from 1st January 2000.

The following Regulations have been made under section 27:

Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978;

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1981;

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1984;

Social Insurance (Claims and Payments) (Amendment) Regulations, 1999;

Social Insurance (Increase of Benefit and Consequential Amendments) Regulations, 2000;

Social Insurance (Benefits) (Miscellaneous Provisions) (Amendment) Regulations, 2002;

Social Insurance (Increase of Benefits) Regulations, 2002;

Social Insurance (Benefits) Regulations, 2003.

The following Regulations have effect as if made under section 27:

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1979.

[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) Regulations may provide for the computation of a daily rate of maternity allowance in such manner (including, without limiting the generality of the same, a manner in which any day of the week is disregarded for the purposes of

calculation) and subject to such exceptions and conditions as regulations may prescribe.]]

NOTES

Section 28 was substituted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 8, with effect from 1st January 2000.

In section 28, subsection (6) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 10, with effect from 1st January, 2004.

The following Regulations have been made under section 28:

Social Insurance (Claims and Payments) (Amendment) Regulations, 1999;

Social Insurance (Benefits) (Miscellaneous Provisions) (Amendment) Regulations, 2002;

Social Insurance (Residence and Persons Abroad) (Guernsey) (Amendment) Regulations, 2002;

Social Insurance (Benefits) Regulations, 2003.

Supplementary provisions as to maternity benefit.

29. (1) In this Part of this Law –

- (a) "**confinement**" means the birth of a living child or the birth of a child, whether living or dead, after [twenty-four] weeks of pregnancy, and "**confined**" shall be construed accordingly, and
- (b) references to the date of the confinement shall be taken as referring, where labour begun on one day results in the issue of a child on another day, to the date of the issue of the child or, if the woman is confined of twins or a greater number of children, to the date of the

issue of the last of them.

(2) The fact that the mother of an illegitimate child is entitled to maternity benefit shall not be taken into consideration –

(a) by the Magistrate's Court in deciding whether or not to make an order under the Law entitled "Loi relative a l'Entretien des Enfants Illégitimes" registered on the fourth day of June, nineteen hundred and twenty-seven^b, or

(b) by the Court of Alderney in deciding whether or not to make an order under the Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964^c,

for the payment of the expenses incidental to the birth of the child.

NOTE

In section 29, the words in square brackets in paragraph (a) of subsection (1) were substituted by the Still-Birth (Definition) (Bailiwick of Guernsey) Law, 1998, section 2(2), with effect from 3rd March, 1998.

[Survivor's benefit]

[Bereavement Payment.]

30. Subject to the provisions of this Law, and subject to such further or

^b Ordres en Conseil Vol. VIII, p. 130.

^c Ordres en Conseil Vol. XIX, p. 241.

alternative exceptions and conditions as regulations may provide, a person shall be entitled to a bereavement payment if his deceased spouse satisfied the relevant contribution conditions:

Provided that he shall not be so entitled if, at the date of death of his deceased spouse, the Administrator is satisfied that he was cohabiting with another person as husband and wife.]

NOTES

The heading to section 30 was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 11, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

Section 30 was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 12, with effect from 1st January, 2004.⁷

The following Regulations have been made under section 30:

Social Insurance (Benefits) Regulations, 2003.

[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 [Administrator] is satisfied that the claimant and another person are co-habiting as husband and wife.]

NOTES

Section 31 was substituted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 10, with effect from 1st January 2000.

In section 31, the word in square brackets in paragraph (b) of subsection (3) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 13, with effect from 1st January, 2004.

The following Regulations have been made under section 31:

Social Insurance (Benefits) Regulations, 2003.

Bereavement Allowance.

32. (1) Subject to the provisions of this Law, and such further or alternative exceptions and conditions as regulations may provide, upon the death of his spouse, a qualifying surviving spouse shall be entitled to a bereavement allowance for the relevant period commencing upon the relevant day:

Provided that –

- (a) he remains a qualifying surviving spouse for the duration of the relevant period, and
- (b) his deceased spouse satisfied the relevant contribution conditions.

(2) Regulations may provide that a qualifying surviving spouse shall not be entitled to a bereavement allowance where his deceased spouse was over pensionable age at the date of their marriage and died within one year of that date, unless he satisfies such further conditions as may be prescribed.

(3) For the purposes of this section –

- (a) subject to any regulations made under this section, a **"qualifying surviving spouse"** means a person who –
 - (i) ...
 - (ii) is under pensionable age,

- (iii) is not entitled to a widowed parent's allowance,
 - (iv) is not married, and
 - (v) the Administrator is satisfied is not cohabiting with another person as husband and wife,
- (b) the "**relevant day**" means –
- (i) where the death referred to in subsection (1) occurred on a Monday, the day of that death, or
 - (ii) where the death referred to in subsection (1) occurred on a day other than a Monday, the first Monday after that death, and
- (c) the "**relevant period**" means –
- (i) the period of 52 weeks, or
 - (ii) such further or alternative period, in relation to such class or description of qualifying surviving spouses –
 - (aa) who are widows, and
 - (bb) who were married before 1st January 2004,

as regulations may prescribe.]

NOTES

Section 32 was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 14, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.⁸

In section 32, paragraph (a)(i) of subsection (3) was repealed by the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2012, section 1, with effect from 31st October, 2012.

The following Regulations have been made under section 32:

Social Insurance (Benefits) Regulations, 2003.

Old age pension

[Old age pension.]

33. (1) Subject to the provisions of this Law, a person shall be entitled to an old age pension if –

- (a) he is over pensionable age, and
- (b) he satisfies one of the conditions set out in subsection (2).

(2) The conditions referred to in subsection (1)(b) are that the person –

- (a) satisfies the relevant contribution conditions,
- (b) was married and the spouse to whom he was married

at the time when he attained pensionable age, or who he married after reaching pensionable age –

- (i) has died, and
- (ii) at the time of death satisfied the relevant contribution conditions, or
- (c) is a married woman born before 1st January 1949 who married, before 1st January 2004, a husband who –
 - (i) is over pensionable age, and
 - (ii) satisfies the relevant contribution conditions.

(3) Subject to the provisions of this Law, an old age pension shall commence on the day on which a person becomes entitled thereto and shall be payable for life.

(4) No person shall be entitled for the same period to more than one old age pension, but if he would be so entitled but for this provision he may, on such occasion and in such manner as may be prescribed, choose that to which he shall be entitled.]

NOTES

Section 33 was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 15, with effect from 1st January, 2004.⁹

The following Regulations have been made under section 33:

Social Insurance (Benefits) Regulations, 2003.

Other benefits

Guardian's allowance.

34. ...

NOTE

Section 34 was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2001, section 1(1), with effect from 1st January, 2002, subject to the savings provisions in section 2 of the 2001 Law, whereby section 34 shall continue to have effect in relation to any person who, by virtue of that section, was either in receipt of benefit on 31st December 2001 or would have been entitled to benefit in respect of a period commencing before 31st December 2001.

Child's special allowance.

35. ...

NOTE

Section 35 was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2001, section 1(1), with effect from 1st January, 2002, subject to the savings provisions in section 2 of the 2001 Law, whereby section 35 shall continue to have effect in relation to any person who, by virtue of that section, was either in receipt of benefit on 31st December 2001 or would have been entitled to benefit in respect of a period commencing before 31st December 2001.

Travelling allowance grant.

36. (1) Subject to the provisions of this Law and except where regulations otherwise provide, a travelling allowance grant (hereafter in this section referred to as "**a grant**") shall be awarded to, or in respect of, any person (hereafter

in this section referred to as "**the patient**") if –

- (a) the patient is an insured person at the relevant time or is a child of such a person,
- (b) a medical practitioner has recommended that it is necessary to enable the patient to receive medical treatment which is not available in Guernsey or in Alderney, as the case may be, that the patient be transported –
 - (i) from Guernsey or Alderney to the United Kingdom, Jersey or any other country in respect of which an Ordinance under section one hundred and thirteen of this Law is for the time being in force, or
 - (ii) from Alderney to Guernsey, and
- (c) the journey has been approved by or on behalf of [the Committee].

(2) The amount of a grant shall be such sum as is equal to the cost of transporting the patient to and from Guernsey or Alderney, as the case may be, and for this purpose the cost of transporting the patient shall be deemed to include such of the following expenses, or such part thereof, as may be approved by or on behalf of [the Committee] –

- (a) the travelling expenses of a medical or nursing escort, or more than one such escort, where a medical

practitioner has advised that such escort or escorts are necessary having regard to the patient's condition,

- (b) where the patient has not attained the age of eighteen years, the travelling expenses of –
 - (i) one parent of the patient, or
 - (ii) such other person as may be considered by or on behalf of [the Committee] to be a suitable person to accompany the patient,
- (c) without prejudice to the last foregoing paragraph, where the patient has not attained the age of six years, the travelling expenses of both parents of the patient,
- (d) the expenses incurred in bringing back to Guernsey or Alderney, as the case may be, the body of a patient who died –
 - (i) whilst being transported for the purpose of receiving medical treatment,
 - (ii) whilst undergoing medical treatment, or
 - (iii) after receiving medical treatment and before returning to Guernsey or Alderney,
- (e) any other expenses (other than professional fees) incurred in connection with the transportation of a

patient from Guernsey or Alderney, as the case may be, and his return thereto, including any such expenses incurred –

- (i) by any such escort as is mentioned in paragraph (a) of this subsection or by any such person as is mentioned in paragraph (b) of this subsection, or
- (ii) in bringing back to Guernsey or Alderney, as the case may be, the body of a patient who died in any of the circumstances set out in the last foregoing paragraph.

(3) In this section –

"child" means a person who, not being an insured person, is a child of an insured person,

"medical treatment" includes medical examination,

"medical or nursing escort" means a medical practitioner, nurse or a member of the St. John Ambulance Brigade, and

"relevant time" means the day on which the outward journey from Guernsey or Alderney, as the case may be, commenced.

(4) A recommendation by a medical practitioner for the purposes of subsection (1) of this section shall be treated as a claim for a grant by the patient to whom the recommendation relates.

(5) Before deciding any question as to whether a patient is entitled to a grant, the Administrator may make a provisional decision that the patient is entitled to a grant.

(6) Where the Administrator makes a provisional decision under the last foregoing subsection, he shall make a final decision in relation to the question to which the provisional decision relates on or before the expiration of the six weeks ("**week**" for this purpose meaning any period of seven consecutive days) commencing on the day next following the day on which that provisional decision was made.

(7) Where the Administrator makes a final decision under the last foregoing subsection that a patient is not entitled to a grant, the amount of any payment made to or in respect of that patient in pursuance of the provisional decision to which that final decision relates, whether before or after that final decision was made, shall be recoverable by [the Committee] as a civil debt from –

- (a) the patient,
- (b) the husband or wife of the patient, or
- (c) if the patient is a minor, from his parent or parents.

NOTES

In section 36, the words "the Committee" in square brackets, wherever occurring, were 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.

The following Regulations have been made under section 36:

*Social Insurance (Benefits) (Miscellaneous Provisions)
(Amendment) Regulations, 1997;
Social Insurance (Benefits) (Amendment) Regulations, 2007;
Social Insurance (Benefits) (Amendment) Regulations, 2013;
Social Insurance (Benefits) (Amendment) Regulations, 2015.*

In accordance with the provisions of the Social Insurance (Benefits) Regulations, 2003, regulation 50A, with effect from 7th January, 2008 and for the purposes of subsection (1)(b)(i) and subsection (1)(b)(ii) of this section, the destinations to which a Travelling Allowance Grant may be awarded are limited as follows –

- (a) from Guernsey or Alderney to the United Kingdom, Jersey or France,*
 - (b) from Alderney to Guernsey.*
-

Death grant.

37. (1) Subject to the provisions of this Law, a death grant shall be payable in respect of the death of any person (hereafter in this section referred to as "**the deceased**") if the deceased himself satisfied the relevant contribution conditions, was at death the husband, wife, widower, widow, or child of the family of a person satisfying those conditions, or was a child who –

- (a) had, immediately before the death of some other person satisfying those conditions, been a child of the family of that other person, or
- (b) was a posthumous son or daughter of a man satisfying those conditions.

(2) Where the deceased was at death a child but the requirements of subsection (1) of this section are not satisfied, regulations may provide for a death grant to be payable if the relevant contribution conditions were satisfied by such other person as may be prescribed.

[(2A) Where the deceased was not at death a child but had not attained the age of twenty three years and did not himself satisfy the relevant contribution conditions, he shall, for the purposes of this section, be deemed to be the child of the family of such other person satisfying those conditions as may be prescribed.]

(3) Except where regulations otherwise provide, a death grant shall not be payable in respect of a death occurring outside Guernsey.

(4) A death grant shall not be payable in respect of the death of any person who attained pensionable age before the seventh day of June, nineteen hundred and seventy-one.

(5) Except where regulations otherwise provide, for the purpose of determining whether the relevant contribution conditions are satisfied, no account shall be taken of reckonable contributions paid or credited in respect of weeks before the seventh day of June, nineteen hundred and seventy-one.

[(6) Any reference in this section to a person satisfying the relevant contribution conditions shall include a person deemed to have satisfied those conditions by virtue of section 53A of this Law.]

NOTES

In section 37, subsection (2A) and subsection (6) were inserted by the Social Insurance (Amendment) (Guernsey) Law, 1993, respectively section 1(c)(i) and section 1(c)(ii), with effect from 1st November, 1993.

The following Regulations have been made under section 37:

Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978;

Social Insurance (Benefits) Regulations, 2003.

*In accordance with the provisions of the Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978, regulation 11, with effect from 1st January, 1979, subject to the provisions of both the 1978 Regulations and this Law and for the purposes of paragraph (g) of the aforesaid regulation 11 (conditions when a death grant shall be payable in respect of a death occurring outside Guernsey), the expression "**child of the family**" contained in subsection (1) shall be deemed to include a child who would be included in that expression but for the provisions of subsection (3) of section 22 of the Family Allowances Law, 1950 (which provides that "[i]t shall be a condition of a child's being treated as a member of any family that the child is in Guernsey").*

Limited medical benefit.

38. (1) Subject to the provisions of this Law and except where regulations otherwise provide, an insured person who suffers personal injury caused by accident, other than accident arising out of and in the course of his employment, [shall, subject to such conditions (if any) as may be prescribed, be entitled] to limited medical benefit in respect of the injury, that is to say, the payment out of the Guernsey Insurance Fund of such amount as shall be determined by or on behalf of [the Committee] in respect of the cost of such medical or other treatment (including medical examination and hospital accommodation) as is recognised by or on behalf of [the Committee] to be necessary in consequence of the relevant injury.

(2) [The Committee] may, at the cost of the Guernsey Insurance Fund –

- (a) make arrangements to secure the provision, maintenance and renewal of equipment and appliances for an insured person who is entitled to limited medical benefit and who, by reason of the loss of a limb or otherwise is in need of them as the result of the relevant injury, and

- (b) pay any expenses incurred by or in respect of an insured person in obtaining the provision, maintenance or renewal of any equipment or appliances in pursuance of such arrangements.

(3) The provisions of section fifty-six of this Law and of any regulations made thereunder shall apply in relation to claimants for, and beneficiaries in receipt of, limited medical benefit as they apply in relation to claimants for, and beneficiaries in receipt of, industrial medical benefit except where regulations otherwise provide.

[(4) An insured person shall not be entitled to limited medical benefit in respect of any personal injury caused by accident occurring on or after such date as may be prescribed.]

NOTES

In section 38,

the words in square brackets in subsection (1) were substituted, and subsection (4) was inserted, by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1995, respectively section 1(5) and section 1(6), with effect from 12th December, 1995;

the words "T/the Committee" in square brackets, wherever occurring, were 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.

The following Ordinance has effect as if made under section 38:

Social Insurance (Limited Medical Benefit) (Guernsey) Ordinance, 1971.

The following Regulations have been made under section 38:

*Social Insurance (Benefits) (Miscellaneous Provisions)
(Amendment) (Guernsey) Regulations, 1995;
Social Insurance (Benefits) Regulations, 2003.*

In accordance with the provisions of the Social Insurance (Benefits) Regulations, 2003, regulation 10(1), with effect from 5th January 2004 and for the purposes of subsection (4) of this section, the prescribed date is 1st January 1996.

Supplementary

Partial satisfaction of contribution conditions.

39. (1) Subject to the provisions of this section, regulations may provide for entitling to unemployment benefit, sickness benefit, invalidity benefit, maternity allowance, [survivor's] benefit, an old age pension or a death grant, persons who would be entitled thereto but for the fact –

(a) ...

(b) [...] that the relevant contribution conditions, though satisfied as respects the twenty-six reckonable contributions required to have been paid, are not satisfied as respects the fifty reckonable contributions required to have been paid by or credited to the claimant.

(2) The reference in [...] subsection (1) of this section to the relevant contribution conditions includes a reference to those conditions as modified by regulations in relation to cases falling within subsection (7) of section twenty-eight of this Law.

(3) Regulations under this section shall provide that benefit

payable by virtue of any such regulations shall be payable at a rate, or shall be of an amount, less than that for the time being prescribed by the States by Ordinance under section nineteen of this Law, and the rate or amount prescribed by the regulations may vary with the extent to which the contribution conditions are satisfied[.] [...]

(4) ...

NOTES

In section 39,

the word in the first pair of square brackets in subsection (1) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 16(1), with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law;

paragraph (a) of subsection (1), and the words omitted in square brackets in paragraph (b) of subsection (1), were repealed by the Social Insurance (Guernsey) (Amendment) Law, 1999, respectively section 12(a) and section 12(b), with effect from 1st January 2000;

the words omitted in square brackets in subsection (2) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 16(2), with effect from 1st January, 2004;

the punctuation in square brackets in subsection (3) was substituted, and the words omitted in the square brackets immediately thereafter were repealed, by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 16(3), with effect from 1st January, 2004;

subsection (4) was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 16(4), with effect from 1st January, 2004.

The following Regulations have been made under section 39:

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1981;

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1984;

Social Insurance (Widow's Benefit and Old Age Pensions) (Amendment) Regulations, 1990;
Social Insurance (Widow's Benefit and Old Age Pensions) (Amendment) Regulations, 1999;
Social Insurance (Increase of Benefit and Consequential Amendments) Regulations, 2000;
Social Insurance (Increase of Benefits) Regulations, 2002;
Social Insurance (Benefits) Regulations, 2003;
Social Insurance (Benefits) (Amendment) Regulations, 2004;
Social Insurance (Benefits) (Amendment) Regulations, 2005;
Social Insurance (Benefits) (Amendment) (No. 2) Regulations, 2005;
Social Insurance (Benefits) (Amendment) (No. 2) Regulations, 2006;
Social Insurance (Benefits) (Amendment) Regulations, 2007;
Social Insurance (Benefits) (Amendment) Regulations, 2013;
Social Insurance (Benefits) (Amendment) Regulations, 2015.

The following Regulations have effect as if made under section 39:

Social Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations, 1976;
Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1979.

[Work rehabilitation

Work rehabilitation for persons entitled to benefit under this Part.

39A. (1) [The Committee] may, at the cost of the Guernsey Insurance Fund, make arrangements for securing that [insured persons] may take advantage of –

- (a) vocational training,
- (b) industrial rehabilitation courses,
- (c) facilities in connection with employment or work under special conditions, and

- (d) such other opportunities, having as their object the provision of skills and other matters designed to facilitate a return to employment or other gainful occupation, as [the Committee] sees fit.

(2) Regulations may prescribe all necessary matters in relation to arrangements under subsection (1) including, without limiting the generality of the foregoing, the deeming of continued incapacity or unemployment for persons taking advantage of such arrangements for such period or periods as may be prescribed.

(3) [The Committee] may make grants to such persons, subject to such exceptions, conditions and other matters as it may determine or regulations may prescribe –

- (a) as a general incentive to participate in arrangements under subsection (1), or
- (b) for the provision of tools, equipment, transport or other items required in order to facilitate a return to employment or other gainful occupation.

(4) The cost of any arrangement or grant made under or by virtue of this section shall, in cases of fraud, misrepresentation or other wilful misconduct by the beneficiary of any such arrangement or grant, be recoverable from the beneficiary –

- (a) as a civil debt, or
- (b) by way of deduction from any benefit payable under

or by virtue of –

- (i) this Law, or
- (ii) any other Law, under or by virtue of which, a benefit or payment, administered by [the Committee] is made or available.]

NOTES

Section 39A, and the heading thereto, were inserted by the Social Insurance (Guernsey) (Amendment) Law, 2004, section 2, with effect from 11th October, 2004.

In section 39A,

the words "T/the Committee" in square brackets, wherever occurring, were 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;

the words in the second pair of square brackets in subsection (1) were substituted by the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2011, section 1, with effect from 27th July 2011.

The following Regulations have been made under section 39A:

*Social Insurance (Back to Work Benefits) Regulations, 2004;
Social Insurance (Back to Work Benefits) (Amendment) Regulation,
2011;
Social Insurance (Back to Work Benefits) (Amendment) Regulations,
2014.*

PART III
BENEFIT FOR INDUSTRIAL INJURIES

General provisions

Interpretation of Part III.

40. (1) In this Part of this Law –

"employed person" shall be taken to include –

- (a) an employed person within the meaning of Part I of this Law, and
- (b) any other person who is gainfully occupied under a contract of service who is not a self-employed person, and

"insured person" means an employed person (within the meaning of this Part of this Law) or, except where regulations otherwise provide, a self-employed person.

(2) Regulations may provide for any prescribed employment not to be treated for the purposes of industrial injuries benefits as employment notwithstanding that it would be so treated apart from the regulations.

(3) For the purposes of this Part of this Law an employment shall, subject to the provisions of the last foregoing subsection, be an employment in relation to an accident if (and only if) it is, or is treated by regulations as being, such an employment when the accident occurs.

NOTES

The following Regulations have been made under section 40:

Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978.

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 10, with effect from 1st January, 1979 and for the purposes of this Part of this Law, each disease or injury set out in the first column of the Third Schedule to the 1978 Regulations is prescribed in relation to all insured persons to whom this Part of the Law applies and who have been employed on or after 4th January, 1965 in any occupation set against such disease or injury in the second column of the said Schedule.

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 11, with effect from 1st January, 1979, where a person (a) is an insured person to whom this Part of this Law applies, and (b) is suffering from a condition which, in his case, has resulted from a prescribed disease, the provisions of this Part of this Law and of Part III of the 1978 Regulations shall apply to him as if he were suffering from that disease, whether or not the condition from which he is suffering is itself a prescribed disease.

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 13, with effect from 1st January, 1979, if on a claim for benefit under this Part of this Law in respect of a prescribed disease, a person is found to be or have been suffering from the disease, or to have died as the result thereof, the disease shall, for the purposes of such claim, be treated as having developed on a date determined in accordance with the provisions of regulation 14 and regulation 15 of the 1978 Regulations.

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 16(1), with effect from 1st January, 1979, the provisions of this Part of this Law shall, in relation to prescribed diseases, be subject to the provisions of regulation 17, regulation 18 and regulation 19 of the 1978 Regulations, and, subject as aforesaid, to the modifications set out in regulation 16(2) thereof (whereby references in this Part of this Law to accidents, the relevant accident and the date of the relevant accident shall be construed as references to, respectively, prescribed diseases, the relevant disease and the date of development of the relevant disease).

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 20(1), with

effect from 1st January, 1979, the provisions of regulation 20 shall apply to all claims for benefit under this Part of the Law in respect of a prescribed disease and to all questions arising in connection with such claims or with any award of benefit thereon, but in their application in respect of pneumoconiosis shall be subject to the provisions of paragraph (2) and paragraph (3) of the aforesaid regulation 20.

General right to, and description of, industrial injuries benefits.

41. (1) Subject to the provisions of this Law, where an insured person suffers personal injury caused on or after the appointed day by accident arising out of and in the course of his employment he shall be entitled to –

- (a) industrial medical benefit, if he receives medical or other treatment (including medical examination and hospital accommodation) in respect of the injury,
- (b) industrial injury benefit, if, as the result of the injury, he is incapable of work,
- (c) industrial disablement benefit, if he suffers, as the result of the injury, from loss of physical or mental faculty.

(2) For the purposes of this Law, an accident arising in the course of a person's employment shall be deemed, in the absence of evidence to the contrary, also to have arisen out of that employment.

(3) Regulations may provide that an insured person or the widow of an insured person shall not be entitled to industrial injuries benefit in respect of an accident happening to the insured person while he is outside Guernsey.

Accidents happening while acting in breach of regulations, etc.

42. For the purposes of this Law, an accident shall be deemed to arise out of and in the course of an insured person's employment, notwithstanding that he is at the time of the accident acting in contravention of any statutory or other regulations applicable to his employment, or of any orders given by or on behalf of his employer, or that he is acting without instructions from his employers, if –

- (a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be, and
- (b) the act is done for the purposes of and in connection with the employer's trade or business.

Accidents happening while travelling in employer's transport.

43. (1) For the purposes of this Law, an accident happening while an insured person is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if –

- (a) the accident would have been deemed so to have arisen had he been under such an obligation, and
- (b) at the time of the accident, the vehicle –
 - (i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made

with his employer, and

- (ii) is not being operated in the ordinary course of a public transport service.

(2) In this section references to a vehicle include references to a ship, vessel, hovercraft or aircraft.

Accidents happening while meeting emergency.

44. An accident happening to an insured person in or about any premises at which he is for the time being employed for the purposes of his employer's trade or business shall, for the purposes of this Law, be deemed to arise out of and in the course of his employment if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons, who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

Extension of class of accidents treated as arising out of employment.

45. For the purposes of this Law, an accident shall be deemed (where it would not be apart from this section) as arising out of a person's employment if –

- (a) the accident arises in the course of the employment, and
- (b) the accident either is caused by another person's misconduct, skylarking or negligence, or by steps taken in consequence of any such misconduct, skylarking or negligence, or by the behaviour or presence of an animal (including a bird, fish or insect), or is caused by or consists in the insured

person being struck by any object or by lightning, and

- (c) the insured person did not directly or indirectly induce or contribute to the happening of the accident by his conduct outside the employment or by any act not incidental to the employment.

Accidents in course of illegal employment, etc.

46. (1) Where a claim for benefit is made under this Law in respect of any accident or of any prescribed disease or injury, [the Committee] may direct that, for the purposes of this Law, the relevant employment shall, in relation to that accident, disease or injury, be treated as having been lawful employment, notwithstanding that by reason of a contravention of, or non-compliance with some provision contained in or having effect under any enactment passed for the protection of employed persons or of any class of employed persons, the contract purporting to govern the employment was void or the employed person was not lawfully employed therein at the time when, or in the place where, the accident happened or the disease or injury was contracted or received.

(2) In this section the expression "**relevant employment**" means, in relation to an accident, the employment out of and in the course of which the accident arises and, in relation to a prescribed disease or injury, the employment to the nature of which the disease or injury is due.

NOTE

In section 46, the words in square brackets in subsection (1) were 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.

Industrial Injuries Benefits

Industrial medical benefit.

47. (1) Subject to the provisions of this Law, an insured person shall be entitled to industrial medical benefit in respect of the relevant injury, that is to say, the provision, at the cost of the Guernsey Insurance Fund and subject to such conditions as may be prescribed, of such medical or other treatment (including medical examination and hospital accommodation) as is recognised by or on behalf of [the Committee] to be necessary in consequence of the relevant injury.

(2) [The Committee] may, at the cost of the Guernsey Insurance Fund –

- (a) make arrangements to secure the provision, maintenance and renewal of equipment and appliances for an insured person who, by reason of the loss of a limb or otherwise, is in need of them as the result of the relevant injury,
- (b) pay any expenses incurred by or in respect of an insured person in obtaining the provision, maintenance or renewal of any equipment or appliances in pursuance of such arrangements, and
- (c) pay any travelling and other expenses incurred by or in respect of an insured person who is not entitled to a travelling allowance grant for the purpose of enabling him to receive medical treatment, or to undergo medical examination, in consequence of the relevant injury, and any travelling and other expenses incurred

by or in respect of any person accompanying the insured person for any such purpose.

(3) A self-employed person shall not be entitled to industrial medical benefit in respect of the relevant accident where the accident happened on or after the day on which he attained pensionable age and arose otherwise than out of and in the course of employment under a contract of service.

NOTES

In section 47, the words in square brackets were 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.

The following Regulations have been made under section 47:

Social Insurance (Benefits) (Amendment) Regulations, 2016.

Industrial injury benefit.

48. (1) Subject to the provisions of this Law, an insured person shall be entitled to industrial injury benefit in respect of any day on which, as the result of the relevant injury, he is incapable of work.

(2) Industrial injury benefit shall be payable at such weekly rate as the States shall from time to time by Ordinance determine, and different weekly rates may be so determined in respect of such different descriptions of insured persons as may be prescribed by the Ordinance; and the amount payable for any day of incapacity shall be [calculated in such manner (including, without limiting the generality of the same, a manner in which any day of the week is disregarded for the purposes of calculation) and subject to such exceptions and conditions as regulations may prescribe].

[(3) Subject to the provisions of subsection (5), regulations may prescribe exceptions from the entitlement created by subsection (1) for such period and subject to such conditions as may be prescribed by any such regulations.]

(4) The provisions of section twenty-three of this Law and any regulations made under those provisions shall have effect for the purposes of industrial injury benefit as they have effect for the purposes of unemployment benefit or sickness benefit.

(5) An insured person shall not be entitled to injury benefit after attaining pensionable age.

NOTES

In section 48,

the words in square brackets in subsection (2) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 17(1), with effect from 1st January, 2004;

subsection (3) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 17(2), with effect from 1st January, 2004.¹⁰

The following Ordinances have been made under section 48:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2015;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2016.

The following Regulations have been made under section 48:

Social Insurance (Unemployment, Sickness and Invalidity Benefit)

(Amendment) (No. 2) Regulations, 1999.

Industrial disablement benefit.

49. (1) Subject to the provisions of this Law, an insured person shall be entitled to industrial disablement benefit if he suffers as the result of the relevant accident from loss of physical or mental faculty such that the extent of the resulting disablement assessed in accordance with the provisions of the Second Schedule to this Law amounts to not less than twenty per centum; and for the purposes of those provisions there shall be deemed not to be any relevant loss of faculty when the extent of the resulting disablement, if so assessed, would not amount to twenty per centum.

(2) In this Law, references to loss of physical faculty include disfigurement, whether or not accompanied by any actual loss of faculty.

(3) Industrial disablement benefit shall not be available to an insured person until after the third day of the period of [26 weeks] beginning with the day of the relevant accident nor until after the last day (if any) of that period on which he is incapable of work as the result of the relevant accident:

Provided that –

- (a) if he attains pensionable age on any day during that period, industrial disablement benefit shall be available to him on and after that day or after the third day of that period, whichever is the later,
- (b) where he makes a claim for industrial disablement benefit in respect of the accident before the end of that

period and before attaining pensionable age and does not withdraw it before it is finally determined, then if on any day of that period not earlier than the making of the claim he is not incapable of work as aforesaid, the fact that he is or may be so incapable on a subsequent day of the period shall be disregarded for the purposes of this subsection.

(4) Where the extent of the disablement is assessed for the period taken into account as amounting to twenty per centum or more, industrial disablement benefit shall be payable for that period at such weekly rate as the States shall from time to time by Ordinance determine, and different weekly rates may be so determined in relation to such different degrees of disablement as may be prescribed by the States from time to time by Ordinance:

Provided that where that period is limited by reference to a definite date, the benefit shall cease on the death of the beneficiary before that date.

(5) [The Committee] may make arrangements for securing that persons entitled to industrial disablement benefit may take full advantage of vocational training courses, industrial rehabilitation courses, and facilities in connection with employment or work under special conditions, and may make towards the cost of providing those courses and facilities such contributions out of the Guernsey Insurance Fund as it may determine.

(6) A self-employed person shall not be entitled to industrial disablement benefit in respect of the relevant accident where the accident happened on or after the day on which he attained pensionable age and arose otherwise than out of and in the course of employment under a contract of service.

NOTES

In section 49,

the figures and word in square brackets in subsection (3) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 18, with effect from 1st January, 2004;

the words in square brackets in subsection (5) were 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.

The following Ordinances have been made under section 49:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2015;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2016.

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 6(6), with effect from 1st January, 1979 and subject to the Proviso thereto, where the sole injury which a claimant suffers as a result of the relevant accident is one specified in the first column of the First Schedule to the 1978 Regulations, whether or not such injury incorporates one or more other injuries so specified, the loss of faculty suffered by the claimant as a result of that injury shall be treated for the purposes of this section of, and the Second Schedule to, this Law as resulting in the degree of disablement set against such injury in the second column of that Schedule to those Regulations subject to such increase or reduction of that degree of disablement as may be reasonable in the circumstances of the case where, having regard to the provisions of that Second Schedule to this Law and to the foregoing paragraphs of regulation 6 of the 1978 Regulations, that degree of disablement does not provide a reasonable assessment of the extent of disablement resulting from the relevant loss of faculty.

Increase of industrial disablement benefit where constant attendance needed.

50. ...

NOTES

Section 50 was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2001, section 1(1), with effect from 1st January, 2002, subject to the savings provisions in section 2 of the 2001 Law.

The following Ordinances have been made under section 50:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007.

The following Regulations were made under section 50:

Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978;

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1981;

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1984.

Increase of industrial disablement benefit during hospital treatment.

51. Where a person is awarded industrial disablement benefit but the extent of his disablement is assessed for the period taken into account by the assessment at less than one hundred per centum, it shall be treated as assessed at one hundred per centum for any part of that period, whether before or after the making of the assessment of the award of benefit, during which he receives, as an in-patient in a hospital or similar institution, medical treatment for the relevant injury or loss of faculty.

NOTE

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 8, with effect from 1st January, 1979 and for the purposes of this section, a person who receives medical treatment as an in-patient for two or more distinct periods separated by an interval of less than a week in each case shall be treated as receiving such treatment continuously from the beginning of the first period until the end of the last.

Adjustments for successive accidents.

52. Where a person suffers two or more successive accidents arising out of and in the course of his employment –

- (a) he shall not for the same period be entitled (apart from any increase of benefit such as is mentioned in the next following paragraph) to receive two or more industrial disablement benefits at an aggregate weekly rate exceeding the amount for the time being determined by the States by Ordinance under subsection (4) of section forty-nine of this Law in relation to a degree of disablement of one hundred per centum,
- (b) regulations may provide for adjusting any increase in the rate of industrial disablement benefit under section fifty of this Law or the conditions for its receipt.

NOTE

The following Regulations have been made under section 52:

Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978.

[Survivor's benefit in respect of industrial accidents.]

53. Subject to the provisions of this Law, the spouse of an insured person who dies as the result of the relevant injury and who, at the date of his death, had not satisfied the relevant contribution conditions for survivor's benefit or an old age pension shall be entitled to survivor's benefit or, if he is over pensionable age at the date of his death, to an old age pension under and in accordance with the provisions of Part II of this Law at the rate for the time being applicable in the case of a person who has satisfied the relevant contribution conditions for survivor's benefit or an old age pension, as the case may be.]

NOTE

Section 53 was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 19, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

[Death grant in respect of industrial accidents.]

53A. Subject to the provisions of this Law, an insured person who dies as the result of the relevant injury and who, at the date of his death, had not satisfied the relevant contribution conditions for a death grant shall be deemed to have satisfied those conditions for the purposes of section 37 of this Law.]

NOTE

Section 53A was inserted by the Social Insurance (Amendment) (Guernsey) Law, 1993, section 1(d), with effect from 1st November, 1993.

Industrial diseases, and industrial injuries not caused by accident

Benefit in respect of industrial diseases, etc.

54. (1) Subject to the provisions of this Part of this Law –

(a) an insured person shall be entitled to industrial injuries benefits in respect of any prescribed disease or personal injury (but not an injury caused by accident arising out of and in the course of his employment), being a disease or injury due to the nature of that employment and developed on or after the appointed day,

[(b) the spouse of an insured person who dies as the result of any such prescribed disease or injury and who, at the date of his death, had not satisfied the relevant contribution conditions for survivor's benefit or an old age pension shall be entitled –

(i) to survivor's benefit, or

(ii) if he is over pensionable age at the date of his death, to an old age pension,

under and in accordance with the provisions of Part II of this Law at the rate for the time being applicable in the case of a person who has satisfied the relevant contribution conditions for survivor's benefit or an old age pension, as the case may be.]

(2) A disease or injury may be prescribed for the purposes of this Part of this Law in relation to any persons, if [the Committee] is satisfied that –

- (a) the disease or injury ought to be treated, having regard to its causes and incidence and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons, and
- (b) it is such that in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.

(3) Regulations prescribing any disease or injury for the purposes of this Part of this Law may provide that a person who developed the disease or injury on or at any time after a date specified in the regulations, being a date before the regulations came into force, shall be treated for the purposes of this Part of this Law, subject to any prescribed modifications, as if the regulations had been in force when he developed the disease or injury.

(4) Provision may be made by regulations for determining the time at which a person is to be treated as having developed any prescribed disease or injury, and the circumstances in which any such disease or injury is, where the person in question has previously suffered from it, to be treated as having recrudesced or as having been contracted or received afresh.

(5) Nothing in this Part of this Law shall affect the right of any person to benefit in respect of a disease which is a personal injury caused by accident within the meaning of this Part of the Law, except that a person shall not be entitled to benefit in respect of a disease as being an injury caused by accident arising out of and in the course of any employment if at the time of the accident the disease is in relation to him a prescribed disease by virtue of the occupation in which he is engaged in that employment.

NOTES

In section 54,

paragraph (b) of subsection (1) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 20, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law;

the words in square brackets in subsection (2) were 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.

The following Regulations have been made under section 54:

Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978;

Social Insurance (Industrial Injuries Benefits) (Amendment) Regulations, 2002.

General provisions as to benefit under section fifty-four.

55. (1) Subject to the power to make different provision by regulations and to the following provisions of this section, the benefits payable under this Part of this Law in respect of a prescribed disease or injury, and the conditions for receipt of such benefit, shall be the same as in the case of personal injury caused by accident arising out of and in the course of employment.

(2) Regulations may provide, in relation to prescribed diseases and injuries, for modifying the provisions of this Part of this Law relating to benefit under this Part of this Law and for adapting references in the said provisions to accidents.

(3) Without prejudice to the generality of the last foregoing subsection, the said regulations may in particular include provision –

- (a) for presuming any prescribed disease or injury –
 - (i) to be due, unless the contrary is proved, to the nature of a person's employment where he was employed in any prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury,
 - (ii) not to be due to the nature of a person's employment unless he was employed in some prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury,
- (b) for such matters as appear to [the Committee] to be incidental to or consequential on provisions included in the regulations by virtue of the provisions of the last foregoing subsection and of paragraph (a) of this subsection.

NOTES

In section 55, the words in square brackets were 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.

The following Regulations have been made under section 55:

Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978;
Social Insurance (Industrial Injuries Benefits) (Amendment) Regulations, 2002.

Supplementary

Obligations of claimants.

56. (1) Regulations may provide for requiring the prescribed notice of an accident in respect of which any person may be entitled to benefit under this Part of this Law to be given within the prescribed time by the insured person or, where within that time he dies as a result of the accident, by such other person as may be prescribed, to the insured person's employer (if any) or other prescribed person.

(2) Regulations may further provide for requiring claimants for industrial medical benefit, industrial injury benefit or industrial disablement benefit –

- (a) to submit themselves from time to time to medical examination for the purpose of determining the effect of the relevant accident, or the treatment appropriate to the relevant injury or loss of faculty,
- (b) to submit themselves from time to time to appropriate medical treatment for the said injury or loss of faculty,
- (c) to attend any vocational training course or industrial rehabilitation course which in the opinion of [the Committee] is appropriate in their case.

(3) Regulations made under this section requiring persons to

submit themselves to medical examination or treatment may require those persons to attend at such places and at such times as may be required.

(4) Without prejudice to subsection (2) of this section, it shall be the duty of any person claiming or entitled to industrial medical benefit or industrial injury benefit in respect of any injury not to behave in any manner calculated to retard his recovery.

(5) Subject to the provisions of subsection (6) and subsection (7) of this section, regulations may provide for disqualifying a claimant for the receipt of industrial medical benefit or industrial injury benefit for failure without good cause to comply with the requirements of the last foregoing subsection in respect of the relevant injury, and may further provide for disqualifying a claimant for the receipt of benefit under the provisions of this Part of this Law –

- (a) for failure without good cause to comply with any requirement of regulations made under this section (including, in the case of a claim for [survivor's] benefit or old age pension by virtue of section fifty-three or section fifty-four of this Law, a failure on the part of some other person to give the prescribed notice of the relevant accident),
- (b) for wilful obstruction of, or other misconduct in connection with, any examination or treatment to which he is required under regulations so made to submit himself, any course which he is so required to attend, or any proceedings under this Law for the determination of his right to benefit under this Part of this Law or to the receipt thereof,

or for suspending proceedings on the claim or payment of any such benefit, as the case may be, in the case of any such failure, obstruction or misconduct.

(6) Regulations under this section providing for disqualification for the receipt of benefit, other than industrial medical benefit, for any of the following matters, that is to say –

- (a) for failure to comply with the requirements of subsection (4) of this section,
- (b) for failure to comply with the requirements of regulations under this section relating to medical examination or treatment,
- (c) for obstruction of, or misconduct in connection with, medical examination or treatment,

shall not be made so as to disentitle a claimant to benefit for a period exceeding ten weeks on any disqualification.

(7) Regulations under this section providing for disqualification for the receipt of industrial medical benefit for any of the matters set out in the last foregoing subsection shall not be made so as to disentitle a claimant to industrial medical benefit in respect of any liability incurred by him –

- (a) before the date of the decision to disqualify him, or
- (b) after the expiration of the ten weeks next following that date.

(8) For the purposes of this section, "**week**" means any period of seven consecutive days.

NOTES

In subsection 56,

the words in square brackets in paragraph (c) of subsection (2) were 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;

the word in square brackets in paragraph (a) of subsection (5) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 21, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

The following Regulations have been made under section 56:

Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978.

PART IV

INCREASES OF BENEFIT FOR DEPENDANTS

[...]

Beneficiary's dependent children.

57. ...

NOTES

Section 57, and the heading thereto, were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, respectively paragraph 23 and paragraph 22, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.¹¹

The following Ordinances have been made under section 57:

*Social Insurance (Rates of Contributions and Benefits, etc.)
Ordinance, 2003;
Social Insurance (Rates of Contributions and Benefits, etc.)
Ordinance, 2004;
Social Insurance (Rates of Contributions and Benefits, etc.)
(Amendment) Ordinance, 2007.*

Additional provisions as to increases under section fifty-seven.

58. ...

NOTE

Section 58 was 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.

Limits of increase for dependent children.

59. ...

NOTE

Section 59 was 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.

Adult dependants

Increase of short-term benefits and invalidity benefit for adult dependants.

60. ...

NOTES

Section 60 was 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.¹²

The following Ordinances have been made under section 60:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007.

[Increase of old age pension for wife.]

61. (1) Subject to the provisions of this Law, the weekly rate of an old age pension, when payable to a man born before 1st January, 1949, shall be increased by such amount as the States shall from time to time by Ordinance determine for any period during which the beneficiary is –

- (a) residing with his wife, or
- (b) contributing to the maintenance of his wife at a weekly rate not less than that amount:

Provided that in either case he married his wife before 1st January, 2004.

(2) Regulations may prescribe exceptions from the entitlement created by subsection (1) for such period and subject to such conditions as may be prescribed by any such regulations.]

NOTES

Section 61 was substituted by the Social Insurance (Guernsey) (Amendment)

Law, 2003, section 1, Schedule, paragraph 24, with effect from 1st January, 2004.

The following Ordinances have been made under section 61:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2015;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2016.

The following Regulations have been made under section 61:

Social Insurance (Benefits) Regulations, 2003.

In accordance with the provisions of the Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978, regulation 12, with effect from 1st January, 1979, a husband or wife shall not be disqualified for receiving any increase (where payable) of benefit in respect of his or her spouse by reason of the spouse's being absent from Guernsey, provided that the spouse is residing with the husband or wife, as the case may be.

In accordance with the provisions of the Social Insurance (Benefits) Regulations, 2003, regulation 48, with effect from 5th January 2004 and for the purposes of an increase an old age pension under this section, two spouses shall not be deemed to have ceased to reside together by reason of any absence of either or both of them while receiving medical or other treatment as an in-patient in a hospital or similar institution, notwithstanding that such absence is not temporary.

In accordance with the provisions of the Social Insurance (Benefits) Regulations, 2003, regulation 49, with effect from 5th January 2004 and for the purposes this section, a beneficiary shall not be deemed to be wholly or mainly maintaining his wife unless he contributes towards her maintenance an amount not less than the amount of the increase of benefit received in respect of her.

Increase of old age pension for female with care of children.

62. ...

NOTES

Section 62 was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 25, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

The following Ordinances have been made under section 62:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007.

PART V

ADMINISTRATION OF BENEFIT

Claims, payment, disqualifications, etc.

Claims and notices.

63. (1) Subject to the provisions of subsection (3) and subsection (4) of this section and except where regulations otherwise provide, it shall be a condition of any person's right to any benefit that he makes a claim therefor in the prescribed manner.

(2) Regulations may provide for disqualifying a person –

- (a) subject to the provisions of subsection (3) of this section, for the receipt of any benefit if he fails to make his claim therefor within the prescribed time, and
- (b) for the receipt of sickness benefit, invalidity benefit,

or industrial injury benefit if he fails, on becoming or again becoming incapable of work, to give the prescribed notice of that fact within the prescribed time,

but any such regulations shall provide for extending, subject to any prescribed conditions, the time within which the claim may be made or notice may be given in cases where good cause is shown for delay.

[(3) Nothing in the foregoing provisions of this section relating to the making of claims shall affect any right of a person to an old age pension by virtue of the insurance of his spouse in respect of whose death he was, immediately before attaining pensionable age, entitled to survivor's benefit.]

(4) Any claim for any benefit under this Law may be treated –

(a) for the purposes of this section as a claim, in the alternative, for such other benefit thereunder as may be prescribed, or

[(b) for the purposes of the Family Allowances Law (in any prescribed cases) as a claim, in the alternative, for a payment under that Law,]

and any claim for a payment under [that Law] may be treated for the purposes of this section as a claim, in the alternative, for such benefit under this Law as may be prescribed.

(5) Regulations may provide for requiring claimants to furnish to the prescribed person any information required for the determination of the claim or

of any question arising in connection with it.

(6) For the purposes of this Law any claim or notice made or sent by post shall be deemed to have been made or given on the day on which it was posted.

NOTES

In section 63,

subsection (3) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 26, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law;

paragraph (b) of subsection (4) was substituted by the Supplementary Family Allowances and Social Insurance (Guernsey) Law, 1980, section 2(a)(i), with effect from 6th January, 1981;

the words in square brackets immediately following paragraph (b) of subsection (4) were substituted by the Supplementary Family Allowances and Social Insurance (Guernsey) Law, 1980, section 2(a)(ii), with effect from 6th January, 1981.

The following Regulations have been made under section 63:

Social Insurance (Claims and Payments) (Amendment) Regulations, 2000;

Social Insurance (Benefits) Regulations, 2003;

Social Insurance (Benefits) (Amendment) Regulations, 2004;

Social Insurance (Benefits) (Amendment) Regulations, 2009.

Payment.

64. (1) Provision may be made by regulations as to the time and manner of payment of benefit and as to the information and evidence to be furnished by beneficiaries when applying for payment.

(2) Regulations made under this section as to the time of payment of benefit may provide –

- (a) notwithstanding anything in this Law, for adjusting the commencement and termination of benefit, or of changes in the rate of benefit, so that (except in the case of the benefits listed in the next following subsection) payments shall not be made in respect of periods of less than a week or at different rates for different parts of a week,
 - (b) for extinguishing the right to any sum payable by way of benefit where payment thereof is not obtained within twelve months or such shorter period as may be prescribed from the time at which that sum is receivable in accordance with the regulations.
- (3) The benefits excepted from paragraph (a) of the last foregoing subsection are –
 - (a) unemployment benefit,
 - (b) sickness benefit,
 - (c) invalidity benefit,
 - (d) maternity allowance, and
 - (e) industrial injury benefit.
- (4) Regulations may also provide –

- (a) for requiring beneficiaries –
 - (i) to furnish to the prescribed person any information required for the determination of a question arising in connection with the award,
 - (ii) to give notice to the prescribed person of any change of circumstances affecting the continuance of the right to benefit or its receipt,
- (b) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is a child or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Law, and for authorising a person so appointed to receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary,
- (c) in connection with the death of any person, for enabling a claim for benefit to be made or proceeded with in his name, for authorising payment or distribution of benefit to or amongst persons claiming as his personal representatives, legatees, next-of-kin or creditors (or, in cases of illegitimacy of deceased persons, to or amongst others) and for dispensing with strict proof of the title of persons so claiming,
- (d) for enabling [the Committee] to pay any sum payable

by way of limited medical benefit, travelling allowance grant or industrial medical benefit in respect of any liability incurred by the beneficiary or any other person to the person for the time being entitled to give a discharge in respect of such liability,

- (e) for enabling [the Committee], where it appears to it to be necessary for protecting the interests of the beneficiary or of his dependants that the whole or any part of any sum payable by way of benefit should be paid to some person other than the beneficiary, to pay the sum to such other person[,
- (f) for enabling [the Committee] to deduct, or to authorise the deduction, from any sum payable by way of benefit any fee, cost or charge (including any bank charge) incurred by [the Committee], or any other person or body, in connection with making payment of that sum.]

(5) Regulations under paragraph (c) of the last foregoing subsection may make provision with respect to claims for, and the payment of, death grant as if it were a benefit due to the deceased at his death and as if the reference in that paragraph to creditors included a reference to any person who gives an undertaking in writing to pay the whole or part of the deceased's funeral expenses; and for the purposes of the said paragraph (c), the expression "**next-of-kin**" shall be construed as referring to persons who would take personal estate beneficially on an intestacy.

- (6) For the purposes of this section, "**week**" means any period of

seven consecutive days.

- [(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 Committee].]

NOTES

In section 64,

the words "the Committee" in square brackets, wherever occurring, were 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;

paragraph (f) of subsection (4), and the punctuation in square brackets immediately after paragraph (e) thereof, were substituted by the Social Insurance (Guernsey) Law (Amendment) Ordinance, 2011, respectively section 2(b) and section 2(a), with effect from 27th July 2011;

subsection (7) was inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 16, with effect from 17th August, 1999.

The following Regulations have been made under section 64:

*Social Insurance (Duties of Appointees) Regulations, 2002;
Social Insurance (Benefits) Regulations, 2003;
Social Insurance (Benefits) (Amendment) Regulations, 2004;
Social Insurance (Benefits) (Amendment) Regulations, 2009;
Social Insurance (Benefits) (Amendment) Regulations, 2012.*

Interim payments, arrears and repayments.

65. (1) Regulations may make provision as respects matters arising –

- (a) pending the determination under this Law (whether in the first instance or on an appeal or reference, and whether originally or on review) of any claim for benefit or of any question affecting any person's right to benefit or to the receipt thereof, or any person's liability for contributions, or
- (b) out of the revision on appeal or review of any decision under this Law on any such claim or question.

(2) Without prejudice to the generality of subsection (1) of this section, regulations thereunder may include provision –

- (a) for the suspension of benefit where it appears to [the Committee] that there is or may be a question whether

the conditions for receipt thereof in accordance with an award are or were fulfilled, or whether the award ought to be revised,

- (b) as to the date from which any decision on a review is to have effect or to be deemed to have had effect,
- (c) for treating any benefit paid to any person under an award or by virtue of any provision of the regulations, which it is subsequently decided was not payable, as properly paid or as paid on account of any other benefit which it is decided was payable to him, or for the repayment of any such benefit and the recovery thereof by deduction from other benefit or otherwise.

NOTES

In section 65, the words in square brackets were 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.

The following Regulations have been made under section 65:

*Social Insurance (Benefits) Regulations, 2003;
Social Insurance (Benefits) (Amendment) Regulations, 2004.*

Recovery of sums by deduction from benefit.

66. Where, in the case of any person, any sum may by virtue of any provision of the Family Allowances Law[, the [Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984] or the Supplementary Benefit (Guernsey) Law, 1971] [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

benefit under this Law.

NOTES

In section 66,

the words in the first pair of square brackets were inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 17, with effect from 17th August, 1999;

the words in square brackets within 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, paragraph 1, with effect from 1st May, 2014;

the words in the second pair of square brackets were substituted by the Supplementary Family Allowances and Social Insurance (Guernsey) Law, 1980, section 2(b), with effect from 6th January, 1981.

Disqualification or suspension for absence abroad or imprisonment.

67. (1) Except where regulations otherwise provide, a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person –

- (a) is absent from Guernsey, or
- (b) is undergoing imprisonment or detention in legal custody.

(2) Regulations may provide for the suspension of payment to or in respect of any person, during any such period as aforesaid, of benefit which is excepted from the operation of subsection (1) of this section or which is payable otherwise than in respect of that period.

NOTES

The following Regulations have been made under section 67:

Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978;

Social Insurance (Residence and Persons Abroad) (Amendment) (Guernsey) Regulations, 1986;

Social Insurance (Residence and Persons Abroad) (Amendment) Regulations, 1999;

Social Insurance (Residence and Persons Abroad) (Guernsey) (Amendment) Regulations, 2002;

Social Insurance (Benefits) Regulations, 2003;

Social Insurance (Residence and Persons Abroad) (Amendment) Regulations, 2003.

The following Regulations have effect as if made under section 67

Social Insurance (Increase of Benefit and Miscellaneous Provisions) (Amendment) (Guernsey) Regulations, 1975;

Social Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations, 1976;

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1979.

In accordance with the provisions of the Social Insurance (Benefits) Regulations, 2003, regulation 25, with effect from 5th January 2004, this section shall not operate to disqualify a person for receiving industrial medical benefit, sickness benefit, invalidity benefit, industrial injury benefit, industrial disablement benefit, maternity allowance, widow's benefit, or old age pension (including an increase for a wife), for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought or intended to be brought against him in criminal proceedings or pursuant to any sentence or order for detention made by a court in such proceedings unless, in relation to him, a penalty is imposed at the conclusion of those proceedings.

Disqualifications, etc., to be disregarded for certain purposes.

68. (1) Subject to the provisions of the next following subsection, regulations may provide that a person who would be entitled to any benefit but for the operation of any provision of this Law disqualifying him for receipt of that benefit shall be treated as if entitled thereto for the purpose of any rights or

obligations under this Law (whether of himself or any other person) which depend on his being so entitled, other than the right to payment of that benefit.

(2) Regulations under this section shall not provide that a person disqualified for receiving unemployment benefit by reason only of a delay or failure to make a claim or give a notice shall be treated as having been entitled thereto for the purpose of ascertaining whether his right to that benefit has been exhausted.

Supplementary

Overlapping benefits, etc.

69. (1) Regulations may provide –

(a) for adjusting benefit payable to or in respect of any person, or the conditions for the receipt thereof, where –

(i) any pension or allowance payable out of public funds (excluding an allowance under the Family Allowances Law [...]), but including any other benefit under this Law whether of the same or a different description) is payable or has been paid to or in respect of that person or his wife or her husband, or

(ii) that person is undergoing medical or other treatment as an in-patient in a hospital or similar institution,

(b) for suspending payment of benefit to a person during

any period during which he is undergoing medical or other treatment as aforesaid.

(2) Where, but for regulations made by virtue of paragraph (a) of the last foregoing subsection, two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.

(3) ...

NOTES

In section 69,

the words omitted in square brackets in sub-paragraph (i) of paragraph (a) of subsection (1) were repealed by the Supplementary Family Allowances and Social Insurance (Guernsey) Law, 1980, section 2(c), with effect from 6th January, 1981;

subsection (3) was repealed by the Social Insurance (Amendment) (Guernsey) Law, 1993, section 2, with effect from 1st November, 1993.

The following Regulations have been made under section 69:

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1981;

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1984;

Social Insurance (Benefits) Regulations, 2003.

Benefit to be inalienable.

70. Subject to the provisions of this Law, every assignment of, or charge on, benefit and every agreement to assign or charge benefit shall be void; and, on the insolvency of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.

Proceedings by employees for benefit lost by employer's default.

71. (1) Where an employer has failed or neglected –
- (a) to pay contributions which under this Law he is liable to pay on behalf of any employed person in his employment, or
 - (b) to comply, in relation to any such person, with the requirements of any regulations relating to the payment and collection of contributions,

and by reason thereof that person has lost, in whole or in part, any unemployment benefit, sickness benefit, invalidity benefit, or maternity benefit to which he would have been entitled, that person shall be entitled to recover from the employer as a civil debt a sum equal to the amount of the benefit so lost.

(2) ...

(3) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of this Law in respect of the same failure or neglect.

(4) Proceedings under this section shall be brought within one year after the date on which the employed person or his [spouse or surviving spouse] would, but for the failure or neglect of the employer, have been entitled to receive the benefit lost.

NOTES

In section 71,

subsection (2) was repealed by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 18, with effect from 1st January 2000;

the words in square brackets in subsection (4) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 27, with effect from 1st January, 2004.

Provisions as to maintenance.

72. ...

NOTE

Section 72 was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 28, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

Obligations of employers.

73. Regulations may provide for requiring employers –

- (a) to make reports, to such person, in such form and within such time as may be prescribed, of accidents in respect of which industrial medical benefit, industrial injury benefit, industrial disablement benefit, [survivor's] benefit or an old age pension by virtue of the provisions of section fifty-three or section fifty-four of this Law may be payable,

- (b) to furnish to the prescribed person any information required for the determination of claims or of questions arising in connection with claims or awards,

- (c) to take such other steps as may be prescribed to facilitate the giving of notice of accidents, the making of claims and the determination of claims and of questions arising as aforesaid.

NOTES

In section 73, the word in square brackets in paragraph (a) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 29, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

The following Regulations have been made under section 73:

Social Insurance (Benefits) Regulations, 2003.

PART VI

DETERMINATION OF CLAIMS AND QUESTIONS

Adjudication by [the Committee]

Principal questions for adjudication by [the Committee].

74. (1) Subject to the provisions of this Law, any of the following questions arising under this Law shall be determined by [the Committee] –

- (a) whether the contribution conditions for any benefit are satisfied, or otherwise relating to a person's contributions,
- (b) ...
- (c) as to the class of insured persons in which a person is

to be included and as to the liability of an insured person to pay contributions of any class,

but not any question within paragraph (c) of subsection (1) of section seventy-eight of this Law.

(2) [The Committee] may, if it thinks fit, before determining any question within subsection (1) of this section, appoint a person to hold an inquiry into the question, or any matters arising in connection therewith, and to report on the question or on those matters to [the Committee].

NOTES

In section 74,

the words "T/the Committee" in square brackets, wherever occurring (including in the heading thereto), were 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;

paragraph (b) of subsection (1) was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 30, with effect from 1st January, 2004.

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 20(4), with effect from 1st January, 1979, the provisions of this Part VI of the Law shall apply, as appropriate, to the determination of such claims and questions as are referred to in the aforesaid regulation 20, subject to the modifications set out in, first, regulation 20(5) of the 1978 Regulations and, second, regulation 20(6) thereof.

Questions relating to increase of industrial disablement benefit under section fifty.

75. ...

NOTE

Section 75 was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 31, with effect from 1st January, 2004.

Review of decisions under [section] seventy-four [...].

76. (1) Subject to subsection (2) of this section, [the Committee] may, on new facts being brought to its notice, or if it is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact, review any decision given by it on any question within subsection (1) of section seventy-four [...] of this Law.

(2) Such a decision shall not be reviewed while an appeal under the next following section is pending against the decision of [the Committee] on a question of law arising in connection therewith, or before the time for so appealing has expired; and that section shall apply with any necessary modifications to any case in which a question has been raised with a view to the review under this section of any such decision.

NOTES

In section 76,

the word in the first pair of square brackets in the heading thereto was substituted, and the words omitted in the second pair of square brackets therein were repealed, by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, respectively paragraph 32(1)(a) and paragraph 32(1)(b), with effect from 1st January, 2004;

the words "the Committee" in square brackets, wherever occurring (including in the heading thereto), were 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;

the words omitted in the second pair of square brackets in subsection (1) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 32(2), with effect from 1st January, 2004.

In accordance with the provisions of the Social Insurance (Determination of Claims and Questions) (Guernsey) Regulations, 1978, regulation 6, with effect from 1st January, 1979, regulation 5 of the 1978 Regulations shall apply with the necessary modifications to any case referred to in the aforesaid regulation 6.

In accordance with the provisions of the Social Insurance (Classification) (Guernsey) Regulations, 1978, regulation 4(4), with effect from 1st January, 2004, where the Committee for Employment & Social Security, on review under subsection (1) of this section, has revised a determination of a question previously given by it, the provisions of regulation 4 of the 1978 Regulation shall apply with the necessary modifications in the same manner as they apply where the Ordinary Court has given a decision inconsistent with a determination previously given by the Committee.

Appeals and references to the Ordinary Court respecting decisions of [the Committee].

77. (1) A question of law arising in connection with the determination by [the Committee] of any question within subsection (1) of section seventy-four of this Law may, if [the Committee] thinks fit, be referred for decision to the Ordinary Court in such manner and within such period as may be prescribed by Order of the Royal Court.

(2) If [the Committee] determines in accordance with subsection (1) of this section to refer any question of law to the Ordinary Court, [the Committee] shall give notice in writing of its intention to do so –

- (a) in a case where the question arises on an application made to [the Committee], to the applicant, and
- (b) in any case, to such persons as appear to [the

Committee] to be concerned with the question.

(3) Any person aggrieved by the decision of [the Committee] on any question of law within subsection (1) of this section which is not referred in accordance with that subsection may appeal from that decision to the Ordinary Court in such manner and within such period as may be prescribed by Order of the Royal Court.

(4) Notwithstanding anything in this Law, the decision of the Ordinary Court on a reference or appeal under this section shall be final.

(5) On any such reference or appeal the Ordinary Court may order [the Committee] to pay the costs of any person, whether or not the decision is in that person's favour.

NOTES

In section 77, the words "the Committee" in square brackets, wherever occurring, were 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.

The following Order has been made by the Royal Court under section 77:

Social Insurance (Appeals and References) (Guernsey) Order, 1979.

In accordance with the provisions of the Social Insurance (Classification) (Guernsey) Regulations, 1978, regulation 4(3), with effect from 1st January, 2004, where, under the provisions of this Law relating to references and appeals to the Ordinary Court, the Ordinary Court decides any question as to the class of insured persons in which a person is to be included, and that decision is inconsistent with some previous determination of a question by the Committee for Employment & Social Security, the Committee may if the conditions set out in that regulation are satisfied give such directions as are set out therein.

Adjudication by the Administrator and the Tribunal

Claims and questions to be submitted to the Administrator.

78. (1) There shall be submitted forthwith to the Administrator for determination in accordance with sections seventy-nine to eighty-six of this Law –

- (a) any claims for benefit,
- (b) subject to the next following subsection, any question arising in connection with a claim for, or award of benefit, and
- (c) any question whether a person would by reason of the provisions of, or of regulations under, subsection (1) or subsection (2) of section twenty-six of this Law have been disqualified for receiving unemployment benefit, sickness benefit or invalidity benefit if he had otherwise had a right thereto.

(2) Subsection (1) of this section shall not apply to a question for determination by or on behalf of [the Committee] under this Law or to the disablement questions in relation to industrial injuries benefit.

NOTE

In section 78, the words in square brackets in subsection (2) were 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.

Decision of the Administrator.

79. (1) The Administrator shall take into consideration any claim or question submitted to him under the last foregoing section and, so far as practicable, dispose of it in accordance with this section within fourteen days of its submission to him.

(2) Subject to section eighty-four of this Law, the Administrator may in the case of any claim or question so submitted to him –

- (a) decide it in favour of the claimant,
- (b) decide it adversely to the claimant, or
- (c) refer it to the Tribunal.

(3) Where the Administrator refers a case to the Tribunal under this section, notice in writing of the reference shall be given to the claimant.

Constitution of the Tribunal.

80. (1) There shall be a tribunal for the purposes of this Law (hereafter in this Law referred to as "**the Tribunal**") which shall consist of –

- (a) the chairman and the deputy chairman, both appointed by the Royal Court for such period as the Royal Court may from time to time determine, and one other member selected, in accordance with the provisions of the next following subsection, from a panel .composed of persons appointed thereto by the Royal Court, or
- (b) the chairman or deputy chairman and two other

members selected in accordance with the provisions of the next following subsection from the said panel.

(2) The chairman, or if he is unable so to do, the deputy chairman, shall select from the said panel the other member or members required for any particular sitting of the Tribunal.

(3) In the event of an equality of votes, the chairman or the deputy chairman, as the case may be, shall have the casting vote.

(4) A person shall not sit on the Tribunal during the consideration of a case –

(a) in which he appears as the representative of the claimant,

(b) by which he is, or may be, directly affected, or

(c) in which he has taken any part as an official of an association, as an employer or as a witness.

(5) In any case in which the claimant is a woman, at least one of the members to be selected from the said panel shall, if practicable, be a woman.

Appeals to the Tribunal.

81. (1) Subject to subsection (3) of this section, where the Administrator has decided a claim or question adversely to the claimant, the claimant may appeal to the Tribunal.

(2) The claimant shall be notified in writing of the

Administrator's decision and the reasons for it, and of his right of appeal under this section.

[(3) Where in connection with the decision of the Administrator there has arisen a question for determination by [the Committee] under section seventy-four of this Law and the question has been determined and the Administrator certifies that the decision on that question is the sole ground of his decision, no appeal shall lie under this section without leave of the chairman of the Tribunal.]

(4) An appeal under this section shall be brought by giving notice of appeal at [the Committee]'s office within twenty-eight days after the date of the decision or within such further time as the chairman of the Tribunal may for good cause allow.

(5) A notice of appeal under this section shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

(6) On any such appeal and on any reference made to it by the Administrator under subsection (2) of section seventy-nine of this Law the Tribunal, subject to and in accordance with regulations, may order [the Committee] to pay the costs of any person, whether or not the decision is in that person's favour.

NOTES

In section 81,

subsection (3) was substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 33, with effect from 1st January, 2004;

the words "the Committee" in square brackets, wherever occurring, were 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.

For the purposes of the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984, section 81 shall have effect subject to the modifications prescribed in, first, the Carer's Allowance (Guernsey) Regulations, 1986, regulation 17(1), with effect from 6th January, 1986 and, second, the Severe Disability Benefit (Guernsey) Regulations, 2003, regulation 23(1), with effect from 4th April, 2003.

Appeals and references to the Ordinary Court respecting decisions of the Tribunal.

82. (1) A question of law arising in connection with the determination by the Tribunal of any claim or question referred to it by the Administrator under subsection (2) of section seventy-nine of this Law or of an appeal under the last foregoing section may, if the Tribunal thinks fit, be referred for decision to the Ordinary Court in such manner and within such period as may be prescribed by Order of the Royal Court.

(2) If the Tribunal determines in accordance with subsection (1) of this section to refer any question of law to the Ordinary Court, the Tribunal shall give notice in writing of its intention so to do to the Administrator, the claimant and to such other persons as appear to the Tribunal to be concerned with the question.

(3) The Administrator or any other person aggrieved by the decision of the Tribunal on any question of law arising as aforesaid which is not referred for decision in accordance with subsection (1) of this section may appeal therefrom to the Ordinary Court in such manner and within such period as may be prescribed by Order of the Royal Court.

(4) Notwithstanding anything in this Law, the decision of the Ordinary Court on a reference or appeal under this section shall be final.

(5) On any such reference or appeal the Ordinary Court may order [the Committee] to pay the costs of any person, whether or not the decision is in that person's favour.

(6) Provision may be made by Order of the Royal Court, for the purposes of this section, as to the circumstances in which any official record or certificate is to be sufficient or conclusive evidence.

NOTES

In section 82, the words in square brackets in subsection (5) were 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.

The following Order has been made by the Royal Court under section 82:

Social Insurance (Appeals and References) (Guernsey) Order, 1979.

For the purposes of the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984, section 82 shall have effect subject to the modifications prescribed in, first, the Carer's Allowance (Guernsey) Regulations, 1986, regulation 17(2), with effect from 6th January, 1986 and, second, the Severe Disability Benefit (Guernsey) Regulations, 2003, regulation 23(2), with effect from 4th April, 2003.

Questions first arising on appeal.

83. (1) Where a question under this Law first arises in the course of an appeal to the Tribunal, the Tribunal may, if it thinks fit, proceed to determine the question notwithstanding that it has not been considered by the Administrator.

(2) This section does not apply to a question for determination by [the Committee] under section seventy-four [...] of this Law or to the disablement

questions in relation to industrial injuries benefit.

NOTES

In section 83,

the words in the first pair of square brackets in subsection (2) were 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;

the words omitted in the second pair of square brackets in subsection (2) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 34, with effect from 1st January, 2004.

For the purposes of the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984, section 83 shall have effect subject to the modifications prescribed in, first, the Carer's Allowance (Guernsey) Regulations, 1986, regulation 17(3), with effect from 6th January, 1986 and, second, the Severe Disability Benefit (Guernsey) Regulations, 2003, regulation 23(3), with effect from 4th April, 2003.

Reference of special questions.

84. (1) The following subsections apply if on consideration of any claim or question the Administrator is of opinion that there arises –

- (a) a question for determination by [the Committee] under section seventy-four [...] of this Law, or
- (b) either of the disablement questions in relation to industrial injuries benefit.

(2) Subject to the next following subsection, the Administrator shall –

- (a) refer the question so arising for determination by [the Committee] or in accordance with section eighty-six of this Law, as the case may require, and
 - (b) deal with any other questions as if the question so referred had not arisen.
- (3) The Administrator may –
 - (a) postpone the reference of, or dealing with, any question until other questions have been determined,
 - (b) in cases where the determination of any question disposes of a claim or any part of it, make an award or decide that an award cannot be made, as to the claim or that part of it without referring or dealing with, or before the determination of, any other question.
- (4) Subsections (2) and (3) of this section shall apply to the Tribunal as they apply to the Administrator, except that the Tribunal shall, instead of referring a question in accordance with paragraph (a) of the said subsection (2), direct it to be so referred by the Administrator.

NOTES

In section 84,

the words "the Committee" in square brackets, wherever occurring, were 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;

the words omitted in the second pair of square brackets in

paragraph (a) of subsection (1) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 34, with effect from 1st January, 2004.

Review of decisions.

85. (1) Any decision under this Law of the Administrator, the Tribunal or the Ordinary Court may be reviewed at any time by the Administrator or, on a reference from the Administrator, by the Tribunal, if –

- (a) the Administrator or the Tribunal is satisfied and, in the case of a decision of the Ordinary Court, satisfied by fresh evidence, that the decision was given in ignorance of, or was based on a mistake as to, some material fact, or
- (b) there has been any relevant change of circumstances since the decision was given, or
- (c) the decision was based on the decision of –
 - (i) a question for determination by [the Committee] under section seventy-four [...] of this Law, or
 - (ii) either of the disablement questions in relation to industrial injuries benefit,

and the decision of that question is revised under [...] section seventy-six or section eighty-eight of this Law.

(2) A question may be raised with a view to a review under this section by means of an application in writing to the Administrator, stating the grounds of the application.

(3) On receipt of any such application, the Administrator shall proceed to deal with or refer any question arising thereon in accordance with sections seventy-nine to eighty-two of this Law.

(4) A decision given on a review under this section, and a refusal to review a decision thereunder, shall be subject to appeal in like manner as an original decision, and sections seventy-nine to eighty-two of this Law shall, with the necessary modifications, apply in relation to a decision given on such a review as they apply to the original decision of a question.

NOTES

In section 85,

the words in the first pair of square brackets in paragraph (c) of subsection (1) were 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;

the words omitted in the second and third pairs of square brackets in paragraph (c) of subsection (1) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 35(1), with effect from 1st January, 2004.

Adjudication in relation to industrial injuries, etc.

Disablement questions.

86. (1) In relation to industrial injuries benefit, the "**disablement questions**" are the questions –

- (a) whether the relevant accident has resulted in a loss of faculty,
- (b) at what degree the extent of disablement resulting from a loss of faculty is to be assessed, and what period is to be taken into account by the assessment.

(2) The disablement questions shall be referred by the Administrator for determination to the Medical Board; and the decision of the Medical Board shall be [deemed to be that of the Administrator for the purposes of section 81 of the Law].

(3) Where the case of a claimant for disablement benefit has been referred by the Administrator to the Medical Board for determination of the disablement questions and, on that or any subsequent reference, the extent of the disablement is provisionally assessed, the case shall again be so referred not later than the end of the period taken into account by the provisional assessment.

NOTE

In section 86, the words in square brackets in subsection (2) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 36, with effect from 1st January, 2004.

Constitution of the Medical Board.

87. There shall be a board for the purposes of this Law to be styled the Medical Board, and the constitution of the Medical Board shall be determined by regulations.

NOTE

The following Regulations have been made under section 87:

*Social Insurance (Determination of Claims and Questions)
(Guernsey) Regulations, 1978.*

Review of decisions of the Medical Board.

88. (1) Any decision under this Part of this Law of the Medical Board may be reviewed at any time by the Medical Board if satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).

(2) Any assessment of the extent of the disablement resulting from the relevant loss of faculty may also be reviewed by the Medical Board if it is satisfied that since the making of the assessment there has been an unforeseen aggravation [or an unforeseen amelioration] of the results of the relevant injury.

(3) Where in connection with a claim for disablement benefit it is decided that the relevant accident has not resulted in a loss of faculty, the decision –

- (a) may be reviewed under the last foregoing subsection as if it were an assessment of the extent of disablement resulting from a relevant loss of faculty, but
- (b) subject to any further decision on review, shall be treated as deciding the question whether the relevant accident has so resulted both for the time about which the decision was given and for any subsequent time.

(4) For the purposes of the last foregoing subsection a final assessment of the extent of the disablement resulting from a loss of faculty made for a period limited by reference to a definite date shall be treated as deciding that at that date the relevant accident has not resulted in a loss of faculty.

(5) Subject to the foregoing provisions of this section, the Medical Board may deal with a case on a review in any manner in which [it] could deal with it on an original reference [...], and in particular may make a provisional assessment notwithstanding that the assessment under review was final.

NOTES

In section 88,

the words in square brackets in subsection (2) were inserted by the Social Insurance (Guernsey) (Amendment) Law, 2000, section 1(2), with effect from 31st October, 2000;

the word in the first pair of square brackets in subsection (5), and the words omitted in the second pair of square brackets therein, were, respectively, substituted and repealed by the Social Insurance (Guernsey) (Amendment) Law, 2006, respectively section 1(6)(a) and section 1(6)(b), with effect from 24th December, 2007.

Reference to single doctor.

89. ...

NOTES

Section 89 was repealed by the Social Insurance (Guernsey) (Amendment) Law, 2006, section 1(7), with effect from 24th December, 2007.

The following Regulations were made under section 89:

Social Insurance (Determination of Claims and Questions) (Guernsey) Regulations, 1978.

Adjudication generally

Procedure, etc.

90. Regulations may make any such provision as is specified in the Third Schedule to this Law as respects procedure, evidence, hearings, forms of documents and other matters relating to adjudication under this Law.

NOTES

The following Ordinances have effect as if made under section 90:

Social Insurance (Determination of Claims and Questions)
(Guernsey) Ordinance, 1964;

Social Insurance (Medical Certification) (Guernsey) Ordinance,
1968;

Social Insurance (Medical Certification) (Amendment) (Guernsey)
Ordinance, 1971;

Social Insurance (Medical Certification) (Amendment) (Guernsey)
Ordinance, 1972.

The following Regulations have been made under section 90:

Social Insurance (Determination of Claims and Questions)
(Guernsey) Regulations, 1978.

Questions as to child or family.

91. (1) The foregoing provisions of this Part of this Law shall not apply to any question –

- (a) whether any person is or was a child or is or was under school leaving age,
- (b) whether any person has or had a family including a

child or children, or is or was a child of some other person's family (not, however, including the question whether a person is to be treated for the purpose of any provision of this Law as having a family as aforesaid, or as being a child of some other person's family),

- (c) whether any person could have been treated under paragraph 3 of the Schedule to the Family Allowances Law, as, or but for certain facts would have been or could have been treated as aforesaid as, a child of any other person's family.

(2) Any such question as is referred to in subsection (1) of this section shall be determined in like manner, subject to any prescribed modifications and adaptations, as a corresponding question arising in respect of an allowance under the Family Allowances Law, and any decision of any such question, if given for the purposes of that Law, shall have effect also for the purposes of this Law or, if given for the purposes of this Law, shall have effect also for the purposes of that Law.

PART VII

GENERAL PROVISIONS AS TO OPERATION AND ADMINISTRATION OF THIS LAW

The [Guernsey [Committee for Employment & Social Security]]

Constitution of the [Guernsey [Committee for Employment & Social Security]].

92. (1) There shall be a committee which shall be styled the [Guernsey [Committee for Employment & Social Security]] with authority to

exercise the powers and perform the duties conferred and imposed upon it by or under this Law.

(2) [The Committee] shall consist of –

(a) a [President] who shall be a [sitting] member of the States, and

(b) six other members (hereafter in this section referred to as "**ordinary members**") –

(i) four of whom shall be [sitting] members of the States, and

(ii) two of whom shall not be required to be [sitting] members of the States,

which [President] and ordinary members shall be elected by the States.

[(3) Subject to subsection (3A), the [President] of [the Committee] shall hold office until 31st May in the third year following that of his election.

(3A) The [President] of [the Committee] elected to hold office as from 1st June, 1997 shall hold office until 31st May, 1998.]

(4) Subject to the provisions of the next following subsection, the ordinary members shall hold office for a period of six years.

[(5) An ordinary member of [the Committee] shall hold office until 31st May in the sixth year following that of his election.

(5A) One third of the ordinary members shall retire in each alternate year (the first such members having retired in 1981, 1983 and 1985) and the order of retirement shall be determined by [the Committee].]

[(6) [The Committee] shall elect a [Vice-President] from amongst those of its members who are sitting members of the States.

(6A) Subject to subsection (6B), the [Vice-President] shall be elected at [the Committee]'s first meeting after the election of its [President].

(6B) If, when the said meeting is held, there is a vacancy in [the Committee]'s membership, the [Vice-President] shall be elected at [the Committee]'s first meeting after the filling by the States of that vacancy.

(6C) Subject to subsections (6D) and (6E), the term of office of the [Vice-President] shall run concurrently with that of the [President].

(6D) If the [Vice-President] –

- (a) tenders his resignation from the office of [Vice-President], or
- (b) ceases to be a sitting member of the States or a member of [the Committee],

he shall thereupon cease to hold the office of [Vice-President] and his term of office shall be completed by a new [Vice-President] who shall be elected by [the Committee] from amongst those of its members who are sitting members of the States.

(6E) If the [President] ceases to hold the office of [President] prior to the expiration of his term of office, the [Vice-President] shall remain in office until the election by the States of a new [President] when the [Vice-President] shall cease to hold the office of [Vice-President] and his term of office shall be completed by a new [Vice-President] who shall be elected from amongst those of its members who are sitting members of the States.

(6F) A new [Vice-President] shall not be elected under subsection (6D) or (6E) until all vacancies in [the Committee]'s membership have been filled by the States.]

(7) A meeting of [the Committee] shall, in the absence of the [President] and [Vice-President], be presided over by one of the ordinary members appointed for that meeting by the ordinary members present thereat.

(8) Each member of [the Committee], other than the member presiding at a meeting, shall have one vote and the person so presiding shall, in the case of an equality of votes, have a casting vote.

(9) A decision of a majority of the members of [the Committee] present at a meeting shall be a decision of [the Committee].

(10) The quorum for a meeting of [the Committee] shall be four members of whom not less than three shall be [sitting] members of the States.

(11) Subject to the foregoing provisions of this section, [the Committee] shall regulate its own procedure.

NOTES

In section 92,

the words in square brackets in the heading and the marginal note thereto, and in subsection (1) thereof, were substituted by the Guernsey Social Security Authority (Transfer of Functions) Ordinance, 1993, section 3, Schedule 2, paragraph 3, with effect from 29th September, 1993;

the words in square brackets within the square brackets in the heading and the marginal note thereto, and in subsection (1) thereof, 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;¹³

the words, first, "T/the Committee" and, second, "President" and "Vice-President" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4 and section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016;¹⁴

the words in square brackets in paragraph (a), paragraph (b)(i) and paragraph (b)(ii) of subsection (2) were inserted by the Social Insurance (Amendment) (Guernsey) Law, 1993, section 1(e), with effect from 1st November, 1993;

subsection (3) was substituted, and subsection (3A) was inserted, by the Social Insurance (Amendment) (Guernsey) Law, 1995, section 2(1), with effect from 11th July, 1995;

subsection (5) was substituted, and subsection (5A) was inserted, by the Social Insurance (Amendment) (Guernsey) Law, 1995, section 2(2), with effect from 11th July, 1995;

subsection (6) was substituted, and subsection (6A), subsection (6B), subsection (6C), subsection (6D), subsection (6E) and subsection (6F) were inserted, by the Social Insurance (Amendment) (Guernsey) Law, 1993, section 1(g), with effect from 1st November, 1993;

the word in square brackets in subsection (10) was inserted by the Social Insurance (Amendment) (Guernsey) Law, 1993, section 1(h), with effect from 1st November, 1993.

Delegation of functions of [the Committee].

93. The functions conferred on [the Committee] by or under this Law,

other than any power to make regulations, may be exercised by the [President] or any other member of [the Committee] or by the Administrator, if authorised in that behalf by [the Committee].

NOTE

In section 93, the words, first, "the Committee" and, second, "President" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4 and section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016.¹⁵

Administrator to [the Committee]

Appointment of Administrator to [the Committee], etc.

94. (1) Subject to the next following subsection, there shall be appointed by the States [Policy & Resources Committee] a person to be the Administrator to [the Committee], who shall carry out such duties as are assigned to him by or under this Law and such other duties as shall be assigned to him from time to time by [the Committee].

(2) The person holding the office of Administrator, within the meaning of that expression in subsection (1) of section seventy-nine of the Law of 1964 immediately before the appointed day, shall be deemed, on and after the appointed day, to have been appointed to be the Administrator to [the Committee] by the States [Policy & Resources Committee] in pursuance of subsection (1) of this section.

(3) The functions conferred on the Administrator by or under this Law, other than any functions which he is authorised to exercise under the last foregoing section, may be exercised by any person authorised in that behalf by the

Administrator.

NOTES

In section 94, the words "the Committee" in square brackets, wherever occurring (including in the heading thereto), were 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.

In accordance with the provisions of the Appointments to the States Established Staff (Guernsey) Law, 1985, as first amended and subsequently repealed by, respectively, the Appointments Board (Repeal) (Guernsey) Law, 2000 and the Appointments to the States Established Staff (Guernsey) (Repeal) Law, 2004, the functions of the States Appointment Board in respect of all appointments to the Established Staff of the States (other than to the post of Senior Deputy Greffier) were transferred to the States Civil Service Board, the reference to which was first substituted by a reference to the States Policy Council by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 12(a), with effect from 6th May, 2004 and second substituted by a reference to the States Policy & Resources Committee by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹⁶

Special classes of persons

Crown servants.

95. This Law shall apply to persons employed by or under the Crown, subject to any special provisions made by or by virtue of any other section thereof, in like manner as if they were employed by a private person, with such modifications as may be prescribed for the purpose of adapting the provisions of this Law to the case of such persons.

Mariners and airmen.

96. (1) [The Committee] may make regulations modifying the provisions of this Law, in such manner as it thinks proper, in their application to persons who are or have been employed on board any ship, vessel, hovercraft or aircraft.

(2) Regulations under subsection (1) of this section may in particular provide –

- (a) for the insurance under this Law of persons who are or have been employed on or after the appointed day on board ships, vessels, hovercraft or aircraft, notwithstanding that they do not fulfil the conditions of section one of this Law,
- (b) for excepting from insurance by virtue of the said section one, or from liability to pay contributions as insured persons, any persons employed as aforesaid who neither are domiciled nor have a place of residence in Guernsey,
- (c) for requiring payment of employers' contributions in respect of persons employed as aforesaid, whether or not they are insured persons or employed persons,
- (d) for the taking of evidence, for the purpose of any claim to benefit, in a country or territory outside Guernsey, by such persons as may be prescribed or by a British consular official,

- (e) for enabling persons employed on board ships, vessels, hovercraft or aircraft to authorise the payment of the whole or any part of any benefit to which they are or may become entitled to such of their dependants as may be prescribed.

NOTES

In section 96, the words in square brackets in subsection (1) were 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.

The following Regulations have been made under section 96:

*Social Insurance (Classification) (Guernsey) Regulations, 1978;
Social Insurance (Benefits) Regulations, 2003;
Social Insurance (Classification) (Amendment) Regulations, 2003;
Social Insurance (Residence and Persons Abroad) (Amendment) Regulations, 2003.*

In accordance with the provisions of the Social Insurance (Classification) (Guernsey) Regulations, 1978, regulation 4(1), with effect from 1st January, 2004 and subject to the provisions of regulation 4(2) of the 1978 Regulations, where a mariner satisfies the conditions set out therein then, notwithstanding that he does not fulfil the conditions of section 1 of this Law, the mariner shall be insured under this Law and his employment shall be treated as an employed contributions employment.

Married women and widows.

97. (1) [The Committee] may by regulations make such provision as it may deem necessary or expedient in relation to the insurance under this Law of women who are or have been married and, without prejudice to the generality of the foregoing, [the Committee] may, in particular, make provision for all or any of the following matters, that is to say –

- (a) for modifying in such manner as it may think necessary or expedient the provisions of this Law in their application to women who are or have been married,
- (b) for making it a condition for the receipt of benefit by a woman, or in respect of her insurance, that she shall have been an insured person at such time, or during such period, as may be prescribed,
- (c) for determining the manner in which references to entry into insurance are to be construed in relation to a woman who has been an insured person for two or more distinct periods,
- (d) for modifying in relation to a widow, in such circumstances as may be prescribed, the provisions of this Law with respect to entitlement to unemployment benefit, sickness benefit and invalidity benefit.

(2) Save as expressly authorised by the provisions of the last foregoing subsection, regulations made thereunder shall not modify any provision of this Law which has any special application to a married woman or widow as such.

(3) Regulations under this section [may] provide, subject to any prescribed conditions and exceptions, for excepting a woman, if she so elects or if she does not elect otherwise (as may be provided by the regulations) from liability to pay contributions as an insured person for any period during which she is married.

NOTES

In section 97,

the words in square brackets in subsection (1) were 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;

the word in square brackets in subsection (3) was substituted by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1995, section 1(7), with effect from 12th December, 1995.

The following Regulations have been made under section 97:

Social Insurance (Married Women and Widows) (Amendment) Regulations, 1993;

Social Insurance (Married Women and Widows) (Amendment) Regulations, 1995;

Social Insurance (Married Women and Widows) (Amendment) Regulations, 1999 (No. 2);

Social Insurance (Married Women and Widows) (Amendment) Regulations, 1999 (No. 51);

Social Insurance (Married Women and Widows) (Guernsey) (Amendment) Regulations, 2003;

Social Insurance (Benefits) (Transitional) Regulations, 2003;

Social Insurance (Benefits) (Transitional) Regulations, 2004.

The following Regulations have effect as if made under section 97:

Social Insurance (Married Women) (Amendment) (Guernsey) Regulations, 1974;

Social Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations, 1976;

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1979.

Insured persons outside Guernsey.

98. [The Committee] may make regulations modifying in such manner as it thinks proper the provisions of this Law in their application to persons who are or have been outside Guernsey while insured under this Law at any prescribed time or in any prescribed circumstances.

NOTES

In section 98, the words in square brackets were 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.

The following Regulations have been made under section 98:

Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978;

Social Insurance (Residence and Persons Abroad) (Amendment) (Guernsey) Regulations, 1986;

Social Insurance (Benefits) Regulations, 2003;

Social Insurance (Residence and Persons Abroad) (Amendment) Regulations, 2003;

Social Insurance (Residence and Persons Abroad) (Amendment) (Guernsey) Regulations, 2006;

Social Insurance (Residence and Persons Abroad) (Guernsey) (Amendment) Regulations, 2009.

[Persons under twenty on entry into insurance.]

99. In relation to any person who on his entry into insurance is under the age of twenty, this Law shall apply subject to the following modifications –

- (a) he shall not be liable, but shall be entitled if he so desires, to pay a Class 3 contribution in respect of any contribution week comprised in the period between his entry into insurance and before the commencement of the contribution year in which he attains twenty years of age,
- (b) for the purpose of calculating the yearly average of the reckonable contributions paid by or credited to him there shall be taken into account any Class 1 or Class 2 contributions paid by or credited to him and any

Class 3 contributions paid by him for periods before the commencement of the contribution year in which he attains the age of twenty.]

NOTE

Section 99 was substituted by the Social Insurance (Amendment) (Guernsey) Law, 1993, section 1(i), with effect from 1st November, 1993.

Finance

Guernsey Insurance Fund.

100. (1) The Guernsey Insurance Fund established in pursuance of the Law of 1964 shall continue to be maintained under the control and management of [the Committee].

(2) There shall be paid into the Guernsey Insurance Fund all contributions payable under this Law, the States' grant and any monies accruing to [the Committee] under and by virtue of this Law, and there shall be paid out of the said Fund all claims for benefit, the appropriate Guernsey Health Service Fund Allocation, in accordance with the provisions of the next following section, and all expenses incurred in carrying this Law into effect [including the payment of salaries and the provision of equipment and accommodation in connection therewith].

(3) Accounts of the Guernsey Insurance Fund shall be prepared annually in such form and in such manner as [the Committee] may from time to time direct and auditors appointed annually by the States shall examine, certify and report to [the Committee] upon every account; and [the Committee] shall, as soon as may be thereafter, lay copies thereof together with the report of the auditors thereon, before the States.

(4) Any monies, forming part of the Guernsey Insurance Fund may, from time to time, be invested by [the Committee] in any [investments] which are for the time being authorised by the States.

[(5) The investment functions of [the Committee] under subsection (4) of this section may be delegated by [the Committee], in whole or in part, to professional fund or investment managers.]

NOTES

In section 100,

the words "the Committee" in square brackets, wherever occurring, were 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;

the words in square brackets in subsection (2) were inserted by the Social Insurance (Amendment) (Guernsey) Law, 1986, section 1, with effect from 7th April, 1986;

the word in square brackets in subsection (4) was substituted, and subsection (5) was inserted, by the Social Insurance (Permitted Investments Amendment) (Guernsey) Law, 1994, respectively section 1(1)(a) and section 1(1)(b), with effect from 15th July, 1993, subject to the provisions of section 1(2) of the 1994 Law, whereby the amendments effected by section 1 are for the removal of doubt and are not to be construed as impliedly invalidating anything done before the 1994 Law came into force.

Guernsey Health Service Fund Allocation.

101. There shall be paid out of the Guernsey Insurance Fund and into the Guernsey Health Service Fund maintained under the control and management of [the Committee] under section one of the Health Service (Pharmaceutical) (Amendment) (Guernsey) Law, 1978, in respect of each contribution year and at such times as [the Committee] shall determine the sum of the following amounts (to

be called "**the Guernsey Health Service Fund Allocation**"), that is to say –

(a) such percentage as the States shall by Ordinance from time to time determine of –

(i) the aggregate amount of Class 1 primary and secondary contributions (excluding Class 1 secondary contributions paid or payable in respect of employed persons who have attained pensionable age and who are not liable to pay Class 1 primary contributions) paid or payable in respect of that year,

(ii) the aggregate amount of Class 1 secondary contributions paid or payable in respect of such employed persons in respect of that year, and

(iii) the aggregate amount of Class 2 contributions paid or payable in respect of that year,

[(iv) the aggregate amount of Class 3 contributions paid or payable in respect of that year,]

and, for the purposes of sub-paragraph (i) [and subparagraph (iv)] of this paragraph, different percentages may be so determined in relation to the aggregate amount of Class 1 primary and secondary [and Class 3] contributions paid or payable in respect of that year in respect of such different classes of employed [and non-employed] persons as may be

prescribed by the Ordinance, and

(b) ...

NOTES

In section 101,

the words "the Committee" in square brackets, wherever occurring, were 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;

sub-paragraph (iv) of paragraph (a) was inserted by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1995, section 1(8)(a)(i), with effect from 12th December, 1995;

the words in the first, second and third pairs of square brackets in paragraph (a) immediately following subparagraph (iv) thereof were inserted by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1995, respectively section 1(8)(a)(ii), section 1(8)(a)(iii) and section 1(8)(a)(iv), with effect from 12th December, 1995;

paragraph (b) was repealed by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1995, section 1(8)(b), with effect from 12th December, 1995.

The following Ordinances have been made under section 101:

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2004;

Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2015;

Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2016.

The Health Service (Pharmaceutical) (Amendment) (Guernsey) Law, 1978 has since been repealed by the Health Service (Benefit) (Guernsey) Law, 1990, section 42, with effect from 1st January, 1991.

[Guernsey Long-term Care Insurance Fund Allocation.]

101A. There shall be paid out of the Guernsey Insurance Fund and into the Long-term Care Insurance Fund established under section 1 of the Long-term Care Insurance (Guernsey) Law, 2002, in respect of each contribution year and at such times as [the Committee] shall determine the sum of the following amounts (to be called the "**Long-term Care Insurance Fund Allocation**"), that is to say, such percentage as the States shall by Ordinance from time to time determine of –

- (a) the aggregate amount of Class 1 primary contributions paid or payable in respect of that year,
- (b) the aggregate amount of Class 2 contributions paid or payable in respect of that year, and
- (c) the aggregate amount of Class 3 contributions paid or payable in that year,

and different percentages may be determined in relation to the aggregate contributions paid or payable in respect of that year in respect of such different classes of persons as may be prescribed by the Ordinance.]

NOTES

Section 101A was inserted by the Long-term Care Insurance (Guernsey) Law, 2002, section 33, with effect from 1st January, 2003.

In section 101A, the words in square brackets were 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.

The following Ordinances have been made under section 101A:

*Social Insurance (Rates of Contributions and Benefits, etc.)
Ordinance, 2003;*
*Social Insurance (Rates of Contributions and Benefits, etc.)
Ordinance, 2004;*
*Social Insurance (Rates of Contributions and Benefits, etc.)
(Amendment) Ordinance, 2007;*
*Social Insurance (Rates of Contributions and Benefits, etc.)
Ordinance, 2015;*
*Social Insurance (Rates of Contributions and Benefits, etc.)
Ordinance, 2016.*

Reports by Actuary.

102. (1) [An actuary appointed by [the Committee]] shall review the operation of this Law –

- (a) not later than the expiration of the period of three years beginning on the first day of January in the year in which the appointed day occurs, and
- (b) following the expiration of the period to which the review of the operation of this Law in pursuance of paragraph (a) of this subsection relates, at intervals not exceeding five years,

and, on each such review, make a report to [the Committee] on the financial condition of the Guernsey Insurance Fund and the adequacy or otherwise of the contributions payable under this Law to support the benefits payable thereunder having regard to its liabilities under this Law.

[(1A) An actuary appointed by [the Committee] 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.]

(2) [The Committee] shall, as soon as is practicable, lay before the States a copy of every report made to it under this section.

NOTES

In section 102,

the words in square brackets in subsection (1) were substituted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 19(1), with effect from 17th August, 1999;

the words "T/the Committee" in square brackets, wherever occurring, were 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;

subsection (1A) was inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 19(2), with effect from 17th August, 1999.

The following Ordinances have effect as if made under section 102:

*Social Insurance (Reports by Actuary) (Guernsey) Ordinance, 1972;
Social Insurance (Reports by Actuary) (Guernsey) Ordinance, 1977.*

Enforcement

Appointment and powers of inspectors.

103. (1) For the purposes of this Law, the States [Policy & Resources Committee] may appoint such inspectors as it may determine.

(2) For the purposes of the execution of this Law, an inspector appointed under this Law shall have power to do all or any of the following things, that is to say –

- (a) to enter at all reasonable times any premises or place liable to inspection under this section,
- (b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Law are being or have been complied with in any such premises or place or for investigating the circumstances in which any injury or disease which has given or may give rise to a claim for benefit was or may have been received or contracted,
- (c) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Law on which he may reasonably require information, every person whom he finds in any such premises or place, or whom he has reasonable cause to believe to be or to have been an insured person or employed by the employer of an insured person, and to require every such person to be so examined,
- (d) to exercise such other powers as may be necessary for carrying this Law into effect.

(3) The occupier of any premises or place liable to inspection under this section, any person who is or has been employing any person, and the

servants and agents of any such occupier or other person, and any insured person, shall furnish to an inspector all such information and produce for inspection all such documents as the inspector may reasonably require for the purpose of ascertaining whether contributions are or have been payable, or have been duly paid, by or in respect of any person, or whether benefit is or was payable to or in respect of any person.

(4) If any person –

- (a) wilfully delays or obstructs an inspector in the exercise of any power under this section, or
- (b) refuses or neglects to answer any question, to furnish any information or to produce any documents when required so to do under this section,

he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 4 on the uniform scale].

(5) Where a person is convicted of an offence under paragraph (b) of the last foregoing subsection and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable, on summary conviction, to a fine not exceeding [twenty pounds] for each day on which it is so continued.

(6) A person shall not be required under this section to answer any question or to give any evidence tending to incriminate himself.

(7) Every inspector shall be furnished by the [Administrator] with a certificate of his appointment, and on applying for admission to any premises or

place for the purposes of this Law shall, if so required, produce the said certificate.

(8) The premises and places liable to inspection under this section are any premises or places where an inspector appointed under this Law has reasonable ground for supposing that –

- (a) any persons are employed or any injury or disease which has given or may give rise to a claim for benefit has been or may have been received or contracted, or
- (b) there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or perform services,

except that they do not include any private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.

NOTES

In section 103,

the words in square brackets in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016;¹⁷

the words and figure in square brackets in subsection (4) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;¹⁸

the words in square brackets in subsection (5) were substituted by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986, section 1(c), with effect from 17th February, 1987;

the word in square brackets in subsection (7) was substituted by the

Social Insurance (Guernsey) (Amendment) Law, 1999, section 20, with effect from 17th August, 1999.

The functions, rights and liabilities of the Policy Council and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹⁹

The following case has referred to section 103:

Law Officers of the Crown v. Rault (1995) 19.GLJ.75.

Offences and penalties.

104. (1) If any employer or insured person fails to pay any contribution which he is liable under this Law to pay, he shall be liable, on summary conviction, to a fine not exceeding [level 5 on the uniform scale].

[(1A) Where any primary Class 1 or secondary Class 1 contribution, or any part thereof, payable by an employer to [the Committee] under this Law in respect of a person employed by him (in this subsection referred to as "**the outstanding contribution**") is not paid to [the Committee] on or before the prescribed date (in this subsection referred to as "**the due date**"), there shall be payable by such employer to [the Committee] in addition to the outstanding contribution –

- (a) a penalty equivalent to the sum of two and a half per centum of the outstanding contribution, and
- (b) interest on the outstanding contribution calculated at the rate of two and a half per centum per month from the due date until the outstanding contribution shall be

paid,

and any such penalty and interest may be recovered by [the Committee] as part of the outstanding contribution.]

(2) If any person –

- (a) buys, sells or offers for sale, takes or gives in exchange, or pawns or takes in pawn any insurance card or any used insurance stamp, or
- (b) affixes any used insurance stamp to any insurance card, or
- (c) for the purpose of obtaining any benefit or other payment under this Law, whether for himself or some other person, or for any other purpose connected with this Law –
 - (i) knowingly makes any false statement or false representation, or
 - (ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [two thousand pounds] or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(3) Subject to the provisions of this Law, regulations may provide for the recovery, on summary conviction, of penalties for offences under this Law of contravening or failure to comply with regulations; so, however, that penalties so provided shall not exceed –

- (a) for any one offence, [level 4 on the uniform scale], or
- (b) for an offence of continuing any such contravention or failure after conviction, [twenty pounds] for each day on which it is so continued.

(4) The provisions of the last foregoing subsection shall not apply to a contravention of, or failure to, comply with regulations requiring a person to submit himself to medical treatment.

(5) Where an offence under this Law which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) In any proceedings for an offence under this Law, the wife or husband of the accused shall be competent to give evidence, whether for or against the accused:

Provided that the wife or husband shall not be compellable either to give evidence or, in giving evidence, to disclose any communication, made to her or him during the marriage by the accused.

(7) In this section the expression "**insurance card**" means any card issued under regulations for the purpose of the payment of contributions by affixing insurance stamps thereto; and in any proceedings under subsection (2) of this section with respect to used stamps, a stamp shall be deemed to have been used if it has been affixed to an insurance card or cancelled or defaced in any way whatsoever and whether it has actually been used for the purpose of payment of a contribution or not.

(8) Nothing in this section shall be construed as preventing [the Committee] from recovering by means of civil proceedings any sums due to the Guernsey Insurance Fund.

NOTES

In section 104,

the words and figure in square brackets in subsection (1) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;²⁰

subsection (1A) was inserted by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986, section 1(e), with effect from 17th February, 1987;

the words "the Committee" in square brackets, wherever occurring, were 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;

the words in square brackets in subsection (2) were substituted by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986, section 1(f), with effect from 17th February, 1987;

the words and figure in square brackets in paragraph (a) of subsection (3) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;²¹

the words in square brackets in paragraph (b) of subsection (3)

were substituted by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986, section 1(h), with effect from 17th February, 1987.

The following Regulations have been made under section 104:

Social Insurance (Benefits) (Amendment) Regulations, 2004.

The following cases have referred to section 104:

Law Officers of the Crown v. Diment (1993) 16.GLJ.86;

Law Officers of the Crown v. Rault (1995) 19.GLJ.75;

Law Officers of the Crown v. Young (1997) 23.GLJ.85.

Questions arising in proceedings.

105. (1) Where in any proceedings –

- (a) for an offence under this Law,
- (b) involving any question as to the payment of contributions, or
- (c) for the recovery of any sums due to the Guernsey Insurance Fund,

any question arises as is mentioned in subsection (1) of section seventy-four of this Law, the decision of [the Committee] shall be conclusive for the purpose of the proceedings.

(2) If a decision of any such question is necessary for the determination of proceedings, and the decision of [the Committee] has not been obtained or a question has been raised with a view to review of the decision obtained, the question shall be referred to [the Committee] for determination or review in accordance (subject to any necessary modifications) with Part VI of this Law.

(3) Subsection (1) of this section shall not apply if an appeal under section seventy-seven of this Law is pending, the time for appealing has not expired, or a question has been raised with a view to a review of [the Committee]'s decision; and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

NOTES

In section 105, the words "the Committee" in square brackets, wherever occurring, were 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.

The following Ordinance has effect as if made under section 105:

*Social Insurance (Determination of Claims and Questions)
(Guernsey) Ordinance, 1964.*

Recovery on prosecution.

106. (1) Where a person has been convicted of the offence under subsection (1) of section one hundred and four of this Law of failing to pay a contribution and the contribution remains unpaid at the date of the conviction, he shall be liable to pay to the Guernsey Insurance Fund a sum equal to the amount which he failed to pay.

(2) Where –

- (a) a person is convicted of an offence under subsection (2) of section one hundred and four of this Law, of an offence under section thirteen of the Stamp Duties Management Act 1891, as applied by regulations made under subsection (3) of section fifteen of this Law, or

of an offence of contravening or failing to comply with regulations, and

- (b) the evidence on which he is convicted shows that he, for the purpose of paying any contribution which he was liable or entitled to pay, has affixed to any insurance card any used insurance stamp, and
- (c) the contribution in respect of which the stamp was affixed remains unpaid at the date of the conviction,

he shall be liable to pay to the Guernsey Insurance Fund a sum equal to the amount of the contribution.

Proof of previous convictions.

107. (1) Subject to and in accordance with the following subsections, where a person is convicted of an offence mentioned in subsection (1) or paragraph (a) of subsection (2) of the last foregoing section, evidence may be given of any previous failure by him to pay contributions under this Law; and in those subsections "**the conviction**" and "**the offence**" mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.

(2) Such evidence may be given only if notice of intention to give it is served with the summons on which the person appeared before the court which convicted him.

(3) If the offence is one of failure to pay a Class 1 contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person) such contributions on the date of the offence or during the two years preceding that date.

(4) If the offence is one of failure to pay Class 2 or Class 3 contributions or is one of those mentioned in paragraph (a) of subsection (2) of the last foregoing section, evidence may be given of his failure to pay such contributions during those two years.

(5) On proof of any matter of which evidence may be given under subsection (3) or subsection (4) of this section, the person convicted shall be liable to pay to the Guernsey Insurance Fund a sum equal to the total of all amounts which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

Provisions supplementary to sections one hundred and six and one hundred and seven.

108. (1) Where a person is convicted of an offence to which subsection (1) or paragraph (a) of subsection (2) of section one-hundred and six of this Law applies and an order is made under the Law entitled "Loi relative à la Probation de Délinquants" registered on the twenty-third day of November, nineteen hundred and twenty-nine^d, placing the offender on probation or discharging him absolutely or conditionally, sections one-hundred and six and one-hundred and seven of this Law shall apply as if it were a conviction for all purposes.

(2) Where a body corporate fails to pay any sum which it is liable to pay under section one-hundred and six or section one-hundred and seven of this Law, that sum (or such part thereof as remains unpaid) shall be a debt due to the Guernsey Insurance Fund jointly and severally from any directors of the body corporate who knew, or could reasonably be expected to have known, of the failure to pay the contributions in question.

^d Ordres en Conseil Vol. VIII, p. 363.

Committal to prison for default in payment of sums due to Guernsey Insurance Fund, attachment of wages, etc.

109. (1) Subject to the provisions of this section, where it is proved to the satisfaction of the appropriate court, on oath or affirmation, that default has been made in the payment of the whole or any part of any sum liable to be paid to the Guernsey Insurance Fund under section one-hundred and six or section one-hundred and seven of this Law, the court may –

- (a) issue a summons against the person liable to make such payment requiring him to attend before the court on such day and at such time as shall be specified in the summons to show cause why he should not be committed to prison under this section,
- (b) whether or not a summons has previously been issued, issue a warrant authorising an officer of police to arrest that person and bring him before the court.

(2) A warrant shall not be issued by the appropriate court under subsection (1) of this section against a person in respect of whom a summons has previously been issued under that subsection unless he has failed to appear before the court on the day and at the time specified in the summons and it is proved to the satisfaction of the court, on oath or affirmation, that the summons has been served personally on that person.

(3) A warrant issued under subsection (1) of this section –

- (a) may include a direction that the person against whom it is issued shall be detained in such place as shall be

specified in the warrant until he can be brought before the appropriate court,

- (b) may be executed by an officer of police notwithstanding that it is not in his possession at the time; but the warrant shall, on the demand of the person arrested, be shown to him as soon as possible.

(4) Subject to the next following subsection, where a person appears before the appropriate court in answer to a summons issued under subsection (1) of this section or is brought before the appropriate court under a warrant issued under that subsection, the court shall inquire in the presence of that person whether the default in respect of which such summons or warrant was issued was due to his wilful refusal or culpable neglect; and if it is satisfied that the default was so due, may order that person to be committed to prison for a period not exceeding one month.

(5) The appropriate court shall not make an order under the last foregoing subsection committing any person to prison in any case where the court is of the opinion, having regard to all the circumstances of the case, including the means of that person, that it is more appropriate to enforce the payment of the sum in respect of which that person is in default –

- (a) by an order of the court attaching not more than one-half of the wages, salary or pension of that person, and directing the amount attached to be paid to the appropriate officer of the court specified in the order, or
- (b) by an order of the court empowering the appropriate

officer of the court to arrest and sell so much of the goods (including money) and chattels of that person as shall be sufficient to satisfy that sum and any expenses incurred by the appropriate officer of the court in carrying out the arrest and sale of such goods and chattels,

and in any case where the appropriate court is of that opinion, the court shall make such order as is mentioned in paragraph (a) or paragraph (b) of this subsection, as the court thinks fit.

(6) An order such as is mentioned in paragraph (a) of the last foregoing subsection shall have effect in respect of any wages, salary or pension falling to be paid from time to time to the person against whom such order is made until such time as the sum in respect of which that person is in default has been satisfied; and such order shall be an authority to the person by whom any such wages, salary or pension are payable to make payments in accordance with the order until such time aforesaid, and the receipt of the appropriate officer of the court shall be a good discharge to the payer.

(7) For the purpose of the making of an order such as is mentioned in paragraph (a) of subsection (5) of this section, the appropriate court may order any person appearing to the court to be the employer of the person against whom the order so mentioned is intended to be made to give to the court, within such period as may be specified by the order under this subsection, a statement signed by him or on his behalf of such particulars as may be so specified of the wages or salary of the said person against whom such order so mentioned is intended to be made; and a document purporting to be such a statement shall be received in evidence and be deemed to be such a statement without further proof, unless the contrary is proved.

- (8) A person who –
- (a) fails to comply with an order under the last foregoing subsection,
 - (b) gives a statement in pursuance of such an order which he knows to be false in a material particular,
 - (c) recklessly gives such a statement which is false in a material particular,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 2 on the uniform scale].

(9) Where a person has been imprisoned by virtue of an order made under subsection (4) of this section in respect of his failure to pay any sum –

- (a) the imprisonment shall not operate to discharge him from his liability to pay that sum,
- (b) notwithstanding anything in this section, no such order shall thereafter be made in respect of that sum or any part thereof.

(10) Subject to the next following subsection, where a person is imprisoned by virtue of an order under subsection (4) of this section in respect of his failure to pay any sum –

- (a) on the payment of that sum, he shall be released from

prison unless he is in prison for some other cause,

- (b) on the payment of part of that sum, the period for which he is so imprisoned shall be reduced by such number of days as bears to the total number of days in that period, less one day, the same proportion as the amount so paid bears to so much of that sum; and in calculating the reduction required under this paragraph any fraction of a day shall be left out of account.

(11) No payment shall entitle any person to be released from prison or to the reduction of the period of his imprisonment under the last foregoing subsection unless it is received by the appropriate officer of the court.

(12) An appeal may lie to the Royal Court from the making of any order under this section or from the refusal of the appropriate court to make any such order.

(13) In this section –

(a) **"appropriate court"** means –

- (i) in relation to the Islands of Guernsey, Herm and Jethou, the Magistrate's Court,
- (ii) in relation to the Island of Alderney, the Court of Alderney,

(b) **"appropriate officer of the court"** means –

- (i) in relation to the Magistrate's Court, Her Majesty's Sheriff,
- (ii) in relation to the Court of Alderney, the Clerk of the Court of Alderney.

NOTES

In section 109, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

In accordance with the provisions of the Government of Alderney Law, 2004, section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(e), with effect from that same date, the functions of the Greffier include the functions assigned by law to the Clerk of the Court.

Civil proceedings to recover sums due to Guernsey Insurance Fund.

110. (1) All sums due to the Guernsey Insurance Fund shall be recoverable as debts due to [the Committee], and, without prejudice to any other remedy, may be recovered by [the Committee] as a civil debt.

(2) Proceedings for the recovery as civil debts of sums due to the Guernsey Insurance Fund shall be brought within the six years next following the day on which the cause of action accrued.

(3) Nothing in the foregoing sections of this Part of this Law shall be construed as preventing the recovery of any sums due to the Guernsey Insurance Fund by means of such proceedings.

NOTE

In section 110, the words "the Committee" in square brackets, wherever occurring, were 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.

Disclosure of information

Prohibition against disclosure of information obtained by virtue of this Law.

111. (1) [Subject to sections 111A and 111B of this Law, information] which is disclosed to any person in connection with the operation of this Law or any regulations shall not be further disclosed, except –

- (a) to any person for the time being authorised to carry out any duties in connection with the operation of this Law,
- (b) for the purposes of civil [...] proceedings in connection with the operation of this Law,
- (c) for any of the purposes of Part VI of this Law,
- [(d) for the purposes of criminal proceedings or the investigation of crime, or
- (e) with the consent of the person to whom it relates,]

so, however, that the Administrator or any person authorised by him in that behalf may disclose such information, not being information as to the income of any person, for any purpose approved by [the Committee].

(2) If any person discloses any information in contravention of the provisions of subsection (1) of this section he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the uniform scale] or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

(3) Nothing in this section shall be taken to prohibit the Administrator or any person authorised by him in that behalf from disclosing the address at which a man or woman is recorded by him as residing, where the address is required for the purpose of taking or carrying on legal proceedings to obtain or enforce an order for the making by the man or woman of payments –

- (a) for the maintenance of the man's wife or former wife, or the woman's husband or former husband, or
- (b) for the maintenance or education of any person as being the son or daughter (including the son or daughter by adoption and an illegitimate son or daughter) of the man or of his wife or former wife, or of the woman or her husband or former husband.

[(4) Nothing in this section shall be taken to prohibit the Administrator or any person authorised by him in that behalf from disclosing to –

- (a) the electronic census supervisor, or
- (b) any census officer,

appointed under the Electronic Census (Guernsey) Ordinance, 2013, for the

purposes of enabling them to discharge their functions under that Ordinance, information relating to the income of any person.

(5) Information disclosed to the electronic census supervisor or any census officer under subsection (4) may, without prejudice to the provisions of the Electronic Census (Guernsey) Ordinance, 2013 restricting or authorising the disclosure and use of information, be used by them for the purposes mentioned in subsection (4).]

NOTES

In section 111,

the words in the first pair of square brackets in subsection (1) were substituted by the Right to Work (Limitation and Proof) (Guernsey) Law, 1990, section 6(1)(a), with effect from 1st August, 1990;

the words omitted in square brackets in paragraph (b) of subsection (1) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2000, section 1(3)(a), with effect from 31st October, 2000;

paragraph (d) and paragraph (e) of subsection (1) were inserted by the Social Insurance (Guernsey) (Amendment) Law, 2000, section 1(3)(b), with effect from 31st October, 2000;

the words "the Committee" in square brackets, wherever occurring, were 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;

the words and figure in square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;

subsection (4) and subsection (5) were inserted by the Electronic Census (Guernsey) Ordinance, 2013, section 17, with effect from 30th October, 2013.

[Disclosure of information to [Committee for Employment & Social Security]

[...].

111A. (1) The Administrator shall disclose or cause to be disclosed to any member or servant of [...] the States [Committee for Employment & Social Security] who is authorised in that behalf by [...] the said [Committee for Employment & Social Security], [...] the following information in respect of every newly insured person and every re-insured person –

- (a) the name and address of such person,
- (b) the name and address of any employer of any such person,
- (c) the nature of the employment, if any, of such person,
- (d) the country in which such person was last resident before becoming newly insured or re-insured,
- (e) the date upon which such person became an insured person and any date upon which he became a re-insured person.

(2) Where a person authorised in that behalf in accordance with the provisions of the last preceding subsection has received information on behalf of [...] the States [Committee for Employment & Social Security] he shall not disclose such information except –

- (a) to any member or servant of [...] the said [Committee for Employment & Social Security], who shall not further disclose the information to any person who is not a member or servant of [...] the said [Committee

for Employment & Social Security], or

(b) to a Law Officer of the Crown.

(3) If any person discloses any information in contravention of the provisions of subsection (2) of this section he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the uniform scale] or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

(4) In this section the following expressions shall have the meanings hereby respectively assigned to them, that is to say –

"the appointed day" means the day upon which the Social Insurance (Amendment) (Guernsey) Law, 1982, is registered upon the Records of this Island,

"newly insured person" means a person who has become insured under this Law after the appointed day,

"re-insured person" means a person who, having become insured under this Law and having ceased to be liable to pay contributions thereunder by reason of his absence from Guernsey, has, after the appointed day, again become liable to pay such contributions by reason of his return to Guernsey.]

NOTES

Section 111A was inserted by the Social Insurance (Amendment) (Guernsey) Law, 1982, section 1(b), with effect from 23rd February, 1982.

In section 111A,

the words, first, "Committee for Employment & Social Security" in square brackets, where first, second and fourth occurring and, second "Committee for Employment & Social Security" in square brackets, where third, fifth and sixth occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 7(a) and section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016;²²

the words omitted in the second pair of square brackets in the marginal note thereto were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2000, section 1(4)(a), with effect from 31st October, 2000;

the words omitted in the first, third and fifth pairs of square brackets in subsection (1) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2000, respectively section 1(4)(b)(i), section 1(4)(b)(ii) and section 1(4)(b)(iii), with effect from 31st October, 2000;

the words omitted in the first pair of square brackets in subsection (2) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2000, section 1(4)(c), with effect from 31st October, 2000;

the words omitted in the first and third pairs of square brackets in paragraph (a) of subsection (2) were repealed by the Social Insurance (Guernsey) (Amendment) Law, 2000, section 1(4)(d), with effect from 31st October, 2000;

the words and figure in square brackets in subsection (3) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

The functions, rights and liabilities of the Housing Department and of its Minister or Deputy Minister arising under or by virtue of this Law 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 7(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²³

The Social Insurance (Amendment) (Guernsey) Law, 1982 was registered on the Records of the Island of Guernsey on 23rd February, 1982.

[Further information.]

111B. The Administrator shall, if and to the extent that he is requested to do

so by a person authorised in that behalf by the States [Committee for Employment & Social Security], disclose as soon as practicable to that person (for use in connection with the performance by that [Committee for Employment & Social Security] of its functions under the Right to Work (Limitation and Proof) (Guernsey) Law, 1990 and the Housing (Control of Occupation) (Guernsey) Law, 1982) –

- (a) the following information in respect of every insured person in respect of whom there has been paid a secondary Class 1 or a Class 2, contribution, or who has been credited with a Class 1 or Class 2 contribution credit, during any contribution quarter –
 - (i) his name, address and social insurance number,
 - (ii) the name and address of any person who was his employer during that contribution quarter,
 - (iii) if he commenced or ceased any employment or self employment, or if he ceased to fulfil such conditions as to residence in Guernsey as were for the time being prescribed, that fact and the date on which he did so,
- (b) the name and address of every employer of a person employed in Guernsey,
- (c) the name, address, social insurance number, economic sector of employment (if any) and name and address of employer (if any) of everyone who was an insured

person on, and who paid, or was credited with, a contribution in respect of the contribution week which included, [1st December, 1989], as at that date.]

NOTES

Section 111B was inserted by the Right to Work (Limitation and Proof) (Guernsey) Law, 1990, section 6(1)(b), with effect from 1st August, 1990.

In section 111B,

the words in the first and second pairs of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 7(a) and section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016;²⁴

the date in square brackets in paragraph (c) was substituted by the Right to Work (Limitation and Proof) (Modification and Commencement of Law) Ordinance, 1990, section 3(b), with effect from 1st August, 1990.

The functions, rights and liabilities of the Housing Department and of its Minister or Deputy Minister arising under or by virtue of this Law 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 7(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²⁵

The Housing (Control of Occupation) (Guernsey) Law, 1982 has since been repealed by the Housing (Control of Occupation) (Guernsey) Law, 1994, section 73, Schedule, with effect from 1st July, 1994, subject to the savings in section 68, section 69 and section 70 of the 1994 Law.

Disclosure of information by [Director of Income Tax].

112. No obligation as to secrecy imposed by the Income Tax (Guernsey) Law, 1975^e, shall prevent information obtained for the purposes of that Law with respect to any person or the amount of the income of any person from being

^e Ordres en Conseil No. X of 1975.

disclosed by the [Director of Income Tax] appointed under that Law or any person authorised by the [Director of Income Tax] to disclose such information, to the Administrator or to any person authorised by the Administrator to receive such information in connection with the operation of this Law if that person, or any other person acting on behalf of that person, has authorised the [Director of Income Tax] in writing to disclose such information to the Administrator in that connection; and accordingly a person shall not be guilty of an offence under that Law by reason of the disclosure by him of any such information in pursuance of any such authorisation.

NOTE

In section 112, and the marginal note thereto, the words in square brackets were substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

[Exchange of information with [Director of Income Tax].

112A. (1) Nothing in sections 111 to 112 precludes the Administrator or [the Committee] from disclosing to the [Director of Income Tax] or [Deputy Director of Income Tax], for the purposes of enabling them to perform their respective functions under the Income Tax (Guernsey) Law, 1975 (or any other enactment conferring functions on them) –

- (a) the name and address of any person,
- (b) information relating to the income of any person, and
- (c) information relevant to –

- (i) any liability to income tax, or contributions under this Law, to which any person is or may be subject, or
- (ii) the amount of any such liability.

(2) Information disclosed to the [Director of Income Tax] or [Deputy Director of Income Tax] under subsection (1) may, without prejudice to the provisions of the Income Tax (Guernsey) Law, 1975 (or any other enactment conferring functions on them) authorising the disclosure and use of information, be used by them for the purposes mentioned in subsection (1).]

NOTES

Section 112A was inserted by the Income Tax (Guernsey) (Amendment) Law, 2008, section 9, with effect from 31st May, 2012.

In section 112A,

the words "the Committee" in square brackets, wherever occurring, were 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;

the words "Director of Income Tax" and "Deputy Director of Income Tax" in square brackets, wherever occurring, were substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 31st May, 2012, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

[Power to amend sections relating to disclosure of information.]

112B. (1) The States may by Ordinance amend any provision of sections 111 to 112A.

(2) The provisions of subsection (1) are without prejudice to any

other provision of this Law conferring power to enact Ordinances or regulations (and vice versa).

(3) The powers in section 115A(1)(b) and (2) apply to an Ordinance under this section as they apply to an Ordinance under that section.]

NOTES

Section 112B was inserted by the Income Tax (Guernsey) (Amendment) Law, 2008, section 9, with effect from 31st May, 2012.

The following Ordinances have been made under section 112B:

*Electronic Census (Guernsey) Ordinance, 2013;
Social Insurance (Guernsey) Law (Amendment) Ordinance, 2016.*

Social insurance systems outside Guernsey

Reciprocity with other countries.

113. (1) For the purpose of giving effect to any agreement with the government of any country outside Guernsey providing for –

- (a) reciprocity in matters relating to payments in respect of interruption of employment by unemployment, sickness or otherwise or payments in respect of the confinement of women, widowhood, orphanhood, old age, or death, or
- (b) reciprocity in matters relating to the payment of compensation or benefit in respect of industrial or similar injuries,

the States may by Ordinance make provision for modifying or adapting this Law in its application to cases affected by the agreement.

(2) The modifications of this Law which may be made by virtue of subsection (1) of this section shall include provision –

- (a) for securing that acts, omissions and events having any effect for the purposes of the Law of the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Law,
- (b) for determining, in cases where rights accrue both under this Law and under the Law of the said country, which of those rights shall be available to the person concerned,
- (c) for making any provisions as to administration and enforcement contained in this Law or in any regulations applicable also for the purposes of the Law of the said country,
- (d) for making any necessary financial adjustments by payments into or out of the Guernsey Insurance Fund.

NOTES

The following Ordinances have been made under section 113:

Social Insurance and Family Allowances (Reciprocal Agreement with Portugal) (Guernsey) Ordinance, 1979;

Social Insurance and Family Allowances (Reciprocal Agreement with Austria) (Guernsey) Ordinance, 1981;

Social Insurance (Reciprocal Agreement with the Republic of Cyprus) (Guernsey) Ordinance, 1985;

Social Insurance (Reciprocal Agreement with Sweden) (Guernsey) Ordinance, 1988;

Social Insurance and Family Allowances (Reciprocal Agreement with Austria) (Amendment) Ordinance, 1991;

Social Insurance and Family Allowances (Reciprocal Agreement with Portugal) (Amendment) Ordinance, 1991;

Social Insurance (Reciprocal Agreement with Barbados) Ordinance, 1992;

Social Insurance (Reciprocal Agreement with Canada) Ordinance, 1993;

Social Insurance (Reciprocal Agreement with Great Britain, Northern Ireland, the Isle of Man and Jersey) (Guernsey) Ordinance, 1994;

Social Insurance (Reciprocal Agreement with the Republic of Cyprus) (Amendment) (Guernsey) Ordinance, 1994;

Social Insurance (Reciprocal Agreement with New Zealand) (Guernsey) Ordinance, 1995;

Social Security (Reciprocal Agreement with Malta) Ordinance, 1996;

Social Security (Reciprocal Agreement with Jamaica) Ordinance, 1997;

Social Security (Reciprocal Agreement with the United States of America) Ordinance, 1997;

Social Security (Reciprocal Convention with Republic of Korea) Ordinance, 2000;

Social Insurance (Reciprocal Agreement with Australia) Ordinance, 2001;

Social Security (Reciprocal Agreement with Japan) Ordinance, 2001;

Social Security (Reciprocal Agreement with Ireland) Ordinance, 2007;

Social Security (Reciprocal Agreement with Ireland) (Amendment) Ordinance, 2007;

Social Security (Reciprocal Agreement with The Netherlands) Ordinance, 2007;

Social Security (Reciprocal Agreement with the Republic of Chile) Ordinance, 2015.

The following Ordinances shall have effect as if made under section 113:

Social Insurance (Reciprocal Agreement with France) (Guernsey) Ordinance, 1966;

Social Insurance (Reciprocal Agreement with Italy) (Guernsey) Ordinance, 1968;

Social Insurance (Reciprocal Agreement with Bermuda) (Guernsey) Ordinance, 1970;

Social Insurance (Reciprocal Agreement with Spain) (Guernsey)

Ordinance, 1975;

Social Insurance (Reciprocal Agreement with Spain) (Amendment)
(Guernsey) Ordinance, 1977;

Social Insurance (Reciprocal Agreement with Switzerland)
(Guernsey) Ordinance, 1969.

PART VIII

GENERAL AND MISCELLANEOUS

Measure of damages for personal injuries, etc.

Measure of damages for personal injury or death.

114. (1) In an action for damages for personal injuries (including any such action arising out of contract), whether or not the cause of action accrues on or after the appointed day, there shall in assessing those damages be taken into account, against any loss of earnings or profits which has accrued or probably will accrue to the injured person from the injuries, one half of the value of any rights which have accrued or probably will accrue to him therefrom in respect of sickness benefit, invalidity benefit, industrial injury benefit or industrial disablement benefit for the five years beginning with the time when the cause of action accrued.

(2) The provisions of subsection (1) of this section shall not be taken as requiring both the gross amount of the damages before taking into account the said rights and the net amount after taking them into account to be found separately.

(3) The references in subsection (1) of this section to assessing damages for personal injuries shall, in cases where the damages otherwise recoverable are subject to reduction by reason of the fact that the damage suffered by the injured person was contributed to by his own negligence or are limited by or under any enactment or by contract, be taken as referring to the total damages

which would have been recoverable apart from the reduction or limitation.

(4) For the purposes of this section the expression "**personal injury**" includes any disease and any impairment of a person's physical or mental condition, and the expression "**injured**" shall be construed accordingly.

NOTE

The following case has referred to section 114:

Buckley v. Ronez Ltd. (2009) (Unreported, Royal Court, 19th January) (Guernsey Judgment No 4/2009).

Contracts excluding or limiting employer's liability by reason of fellow-employee's negligence.

115. (1) Any provision contained in a contract of service or in an agreement collateral thereto (including a contract or agreement entered into before the appointed day) shall, in relation to any cause of action accruing on or after the appointed day, be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injury caused to the person employed or apprenticed by the negligence of persons in common employment with him.

(2) For the purposes of this section the expression "**personal injury**" includes any disease and any impairment of a person's physical or mental condition.

Ordinances, orders and regulations

[Power to amend Law by Ordinance.

115A. (1) The States may by Ordinance amend –

- (a) Part I, II, V or VI, and
 - (b) any other Part where, in the case of that other Part, the amendment is –
 - (i) necessary to give full effect to, or
 - (ii) consequential upon, any amendment made under paragraph (a).
- (2) An Ordinance under subsection (1) may, for the avoidance of doubt –
- (a) create new offences, and
 - (b) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law.]

NOTES

Section 115A was inserted by the Social Insurance (Guernsey) (Amendment) Law, 2006, section 1(8), with effect from 24th December, 2007.

The following Ordinances have been made under section 115A:

*Social Insurance (Guernsey) Law (Amendment) Ordinance, 2009;
Social Insurance (Guernsey) Law (Amendment) Ordinance, 2011;
Social Insurance (Guernsey) Law (Amendment) Ordinance, 2012;
Social Insurance (Guernsey) Law (Amendment) Ordinance, 2016.*

General provisions as to Ordinances, orders and regulations.

116. (1) Except in so far as this Law otherwise provides, any power conferred thereby to make an Ordinance or regulations may be exercised –

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases, and

(b) so as to make, as respects the cases in relation to which it is exercised –

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),

(ii) the same provision for all cases in relation to which the power is exercised or different provision for different cases or classes of cases or different provision as respects the same case or class of case for different purposes of this Law,

(iii) any such provision either unconditionally or subject to any specified condition.

(2) Without prejudice to any specific provision in this Law, any Ordinance or regulations under this Law may contain such incidental or supplementary provisions as appear to the States or [the Committee], as the case may be, to be expedient for the purposes of the Ordinance or regulations.

(3) Any power conferred by this Law to make an Ordinance, an Order or regulations shall include power to vary or revoke any Ordinance, Order or regulations so made by a subsequent Ordinance, Order or regulations, as the case may be.

NOTES

In section 116, the words in square brackets were 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.

The following Regulations have been made under section 116:

Social Insurance (Determination of Claims and Questions) (Amendment) Regulations, 2003;

Social Insurance (Special Cases) (Repeal) Regulations, 2003;

Social Insurance (Benefits) (Transitional) (Amendment) Regulations, 2005.

The following Regulations have effect as if made under section 116:

Social Insurance (Collection of Contributions) (Amendment) (Guernsey) Regulations, 1973.

Regulations to be laid before the States.

117. Any regulations made by [the Committee] shall be laid before a meeting of the States as soon as may be after the making thereof and, if at that meeting or at the next subsequent meeting, the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making by [the Committee] of any new regulations.

NOTE

In section 117, the words in square brackets were 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.

Repeals, transitional provisions and savings, consequential amendments, etc.

Repeals.

118. The enactments specified in Part I of the Fourth Schedule to this Law are hereby repealed.

Transitional provisions and savings.

119. The provisions of Part II of the Fourth Schedule to this Law shall have effect with respect to the transition from the operation of the Law of 1964 to the operation of this Law.

Consequential amendments.

120. The enactments set out in the first column of the Fifth Schedule to this Law shall be amended to the extent set out in the second column of that Schedule.

Interpretation.

121. (1) In this Law, except where the context otherwise requires, any expression for which there is an entry in the first column of the Sixth Schedule to this Law has the meaning given against it in the second column of that Schedule or shall be construed in accordance with directions given against it in that column (references therein to any section being to the applicable section of this Law).

(2) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment including this Law.

(3) The Interpretation (Guernsey) Law, 1948^f, shall apply to the interpretation of this Law throughout the Islands of Guernsey, Alderney, Herm and Jethou.

Citation.

122. This Law may be cited as the Social Insurance (Guernsey) Law, 1978.

Commencement.

123. This Law shall come into force on such day as shall be appointed in that behalf by Ordinance of the States, and different dates may be so appointed under this section for different purposes.

NOTE

The Law was brought into force on 1st January, 1979 by the Social Insurance (Guernsey) Law, 1978 (Commencement) Ordinance, 1978, section 1(1), save for, first,

section 5(1), section 5(4), section 6(2) (insofar as it empowers the States of Guernsey to make Ordinances for the purposes of that subsection), section 8 (insofar as it empowers the States of Guernsey to make Ordinances for the purposes of that section), section 17, section 19, section 48(2), section 49(4), section 50(1), section 57, section 60, section 61, section 62, and section 101,

all of which were brought into force on 27th September, 1978 by section 1(2) of the same Ordinance; and, second,

section 92,

brought into force on 30th November, 1978 by the Social Insurance (Guernsey) Law, 1978 (Commencement) (No. 2) Ordinance, 1978, section 1.

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

FIRST SCHEDULE
CONTRIBUTION CONDITIONS

Section twenty

*Unemployment benefit, sickness benefit[, maternity allowance]
and invalidity benefit*

1. The contribution conditions for unemployment benefit, sickness benefit[, maternity allowance] or invalidity benefit are that –

- (a) not less than twenty-six reckonable contributions of the appropriate class have been paid by the claimant in respect of the period between his entry into insurance and the day for which the benefit is claimed, and
- (b) not less than fifty reckonable contributions of the appropriate class or their equivalent have been paid by or credited to him in respect of the last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed.

...

2. ...

...

3. ...

[Survivor's benefit and old age pension]

4. (1) The contribution conditions for [survivor's benefit or an old age pension] are that –

- (a) not less than one hundred and fifty-six reckonable contributions of the appropriate class have been paid by the relevant person in respect of the period between that person's entry into insurance and the relevant time, and
- (b) the yearly average of the reckonable contributions paid by, or credited to, that person (ascertained as at the relevant time) is not less than fifty.

(2) In this paragraph –

- (a) "**relevant person**" means the person by whom the conditions are to be satisfied,
- (b) "**relevant time**" means the date of the relevant person attaining pensionable age or dying under that age.

Death grant

5. (1) The contribution conditions for death grant are that –

- (a) not less than twenty-six reckonable contributions of the appropriate class have been paid by, or credited to, the relevant person in respect of the period between that person's entry into insurance and the relevant

time, and

(b) either –

(i) not less than forty-five such contributions have been paid by, or credited to, that person in respect of the last complete contribution year before the relevant time, or

(ii) the yearly average of the reckonable contributions paid by, or credited to, that person (ascertained as at the relevant time) is not less than forty-five.

(2) For the purpose of this paragraph, except where regulations otherwise provide, no account shall be taken of any reckonable contributions paid by, or credited to, the relevant person for any period before the seventh day of June, nineteen hundred and seventy-one.

(3) In this paragraph –

(a) **"relevant person"** means the person by whom the conditions are to be satisfied,

(b) **"relevant time"** means the date of the deceased's death or, where immediately before that date the relevant person was dead or over pensionable age, the date of that person attaining pensionable age or dying under that age.

NOTES

In the First Schedule,

the words in square brackets in paragraph 1 and in the heading thereto were inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 21(a), with effect from 1st January 2000;

paragraph 2 and paragraph 3 were repealed by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 21(b), with effect from 1st January 2000;

the words in square brackets in paragraph 4, and in the heading thereto, were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2003, section 1, Schedule, respectively paragraph 37(b) and paragraph 37(a), with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law.

In accordance with the provisions of the Social Insurance (Benefits) (Transitional) Regulations, 2004, regulation 4, with effect from 1st January 2004 and for the purpose of establishing the entitlement of any person to widow's benefit or an old age pension in any case where the relevant person is a former contributor who was an existing contributor within the meaning of the Social Insurance (Guernsey) Law, 1964, the reference to "entry into insurance" in sub-paragraph (1) of paragraph 4 of this Schedule is modified in accordance with the provisions of the aforesaid regulation 4.

SECOND SCHEDULE Section forty-nine
ASSESSMENT OF EXTENT OF DISABLEMENT

1. For the purposes of section forty-nine of this Law, the extent of disablement shall be assessed, by reference to the disabilities incurred by the claimant as a result of the relevant loss of faculty, in accordance with the following general principles –

- (a) save as hereafter provided in this paragraph, the disabilities to be taken into account shall be all disabilities so incurred (whether or not involving loss of earning power or additional expense) to which the claimant may be expected, having regard to his physical or mental condition at the date of the assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal,
- (b) regulations may make provision as to the extent (if any) to which disabilities are to be taken into account where they are disabilities which, though resulting from the relevant loss of faculty, also result, or without the relevant accident might have been expected to result, from a cause other than the relevant accident,
- (c) the assessment shall be made without reference to the particular circumstances of the claimant other than age, sex, and physical and mental condition,

- (d) the disabilities resulting from such loss of faculty as may be prescribed shall be taken as amounting to one hundred per centum disablement and other disabilities shall be assessed accordingly.

2. Provision may be made by regulations for further defining the principles on which the extent of disablement is to be assessed and such regulations may in particular direct that a prescribed loss of faculty shall be treated as resulting in a prescribed degree of disablement; and, in connection with any such direction, nothing in sub-paragraph (c) of paragraph 1 of this Schedule shall be taken to prevent the making of different provision, in the case of loss of faculty in or affecting hand or arm, for right-handed and for left-handed persons.

3. Regulations under sub-paragraph (d) of paragraph 1 or paragraph 2 of this Schedule may include provision –

- (a) for adjusting or reviewing an assessment made before the date of the coming into force of those regulations,
- (b) for any resulting alteration of that assessment to have effect as from that date,

so, however, that no assessment shall be reduced by virtue of this paragraph.

4. The period to be taken into account by an assessment of the extent of a claimant's disablement shall be the period (beginning not earlier than the first day on which industrial disablement benefit is available to the claimant under the provisions of subsection (3) of section forty-nine of this Law, and limited by reference either to the claimant's life or to a definite date) during which the

claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty:

Provided that if on any assessment the condition of the claimant is not such, having regard to the possibility of changes therein (whether predictable or not), as to allow of a final assessment being made up to the end of the said period –

- (a) a provisional assessment shall be made, taking into account such shorter period only as seems reasonable having regard to his condition and the possibility aforesaid, and
- (b) on the next assessment the period to be taken into account shall begin with the end of the period taken into account by the provisional assessment.

5. An assessment shall state the degree of disablement in the form of a percentage and shall also specify the period taken into account thereby and where that period is limited by reference to a definite date, whether the assessment is provisional or final:

Provided that –

- (a) the said percentage and period shall not be specified more particularly than is necessary for the purposes of determining in accordance with section forty-nine of this Law the claimant's rights as to disablement benefit, and
- (b) a percentage between twenty and one hundred which is

not a multiple of ten shall be treated –

- (i) if it is a multiple of five, as being the next higher percentage which is a multiple of ten,
- (ii) if it is not a multiple of five, as being the nearest percentage which is a multiple of ten.

NOTES

The following Regulations have been made under the Second Schedule:

Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978.

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 6, with effect from 1st January, 1979, this Schedule shall have effect subject to the provisions of that regulation.

In accordance with the provisions of the Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978, regulation 6(6), with effect from 1st January, 1979 and subject to the Proviso thereto, where the sole injury which a claimant suffers as a result of the relevant accident is one specified in the first column of the First Schedule to the 1978 Regulations, whether or not such injury incorporates one or more other injuries so specified, the loss of faculty suffered by the claimant as a result of that injury shall be treated for the purposes of this Schedule to, and section 49 of, this Law as resulting in the degree of disablement set against such injury in the second column of that Schedule to those Regulations subject to such increase or reduction of that degree of disablement as may be reasonable in the circumstances of the case where, having regard to the provisions of this Schedule and to the foregoing paragraphs of regulation 6 of the 1978 Regulations, that degree of disablement does not provide a reasonable assessment of the extent of disablement resulting from the relevant loss of faculty.

THIRD SCHEDULE

Section ninety

PROVISIONS WHICH MAY BE MADE BY REGULATIONS AS RESPECTS
MATTERS RELATING TO ADJUDICATION UNDER THIS LAW

1. Provision prescribing the procedure to be followed in connection with the consideration of claims and questions by [the Committee] and the Tribunal, or in connection with the withdrawal of a claim.

2. Provision as to the form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence.

3. Provision as to the time to be allowed for producing any evidence, or for making an appeal to the Tribunal.

4. Provision as to the manner in which, and the time within which, a question may be raised with a view to its decision by [the Committee] or with a view to the review of a decision.

5. Provision for summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses.

6. Provision for empowering [the Committee], the Tribunal or the Administrator to refer to a medical practitioner for examination and report any question arising from their or his decision.

7. Provision for the non-disclosure to a person of the particulars of any medical advice or medical evidence given or submitted for the purposes of the determination of, or of any question arising on, any claim if, in the opinion of [the Committee], the Tribunal or the Administrator, as the case may be, disclosure of

those particulars to that person would be undesirable in his interests.

NOTES

In the Third Schedule, the words "the Committee" in square brackets, wherever occurring, were 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.

The following Ordinances have effect as if made under the Third Schedule:

Social Insurance (Determination of Claims and Questions) (Guernsey) Ordinance, 1964;

Social Insurance (Medical Certification) (Guernsey) Ordinance, 1968;

Social Insurance (Medical Certification) (Amendment) (Guernsey) Ordinance, 1971;

Social Insurance (Medical Certification) (Amendment) (Guernsey) Ordinance, 1972.

The following Regulations have been made under the Third Schedule:

Social Insurance (Determination of Claims and Questions) (Guernsey) Regulations, 1978.

FOURTH SCHEDULE Sections one hundred and
eighteen and one hundred
and nineteen

REPEALS, TRANSITIONAL PROVISIONS AND SAVINGS

PART I
ENACTMENTS REPEALED

The Social Insurance (Guernsey) Law, 1964^g.

The Social Insurance (Amendment) (Guernsey) Law, 1965^h.

The Social Insurance (Amendment) (Guernsey) Law, 1967ⁱ.

The Social Insurance (Amendment) (Guernsey) Law, 1971^j.

The Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1971^k.

The Social Insurance (Amendment) (No. 3) (Guernsey) Law, 1971^l.

The Social Insurance (Amendment) (Guernsey) Law, 1973^m.

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|--------------|---------------------------------------|
| ^g | Ordres en Conseil Vol. XIX, p. 286. |
| ^h | Ordres en Conseil Vol. XX, p. 126. |
| ⁱ | Ordres en Conseil Vol. XXI, p. 143. |
| ^j | Ordres en Conseil Vol. XXIII, p. 54. |
| ^k | Ordres en Conseil Vol. XXIII, p. 143. |
| ^l | Ordres en Conseil Vol. XXIII, p. 222. |
| ^m | Ordres en Conseil Vol. XXIV, p. 175. |

The Social Insurance (Amendment) (Guernsey) Law, 1974ⁿ.

PART II
TRANSITIONAL PROVISIONS AND SAVINGS

1. Subject to the following provisions of this Part of this Schedule, on and after the appointed day no person shall be insured under the Law of 1964 or entitled to benefit under that Law.

2. Regulations may provide that, in relation to –

- (a) persons who cease by virtue of paragraph 1 of this Part of this Schedule to be insured under the Law of 1964,
- (b) persons to or in respect of whom benefit under that Law was, or but for a disqualification or forfeiture would have been payable immediately before the appointed day, and
- (c) persons who had a prospective right to, or expectation of, any benefit under that Law immediately before that day,

the provisions of this Law shall have effect subject to such modifications as may be prescribed with a view to securing continuity between this Law and the Law of 1964.

ⁿ Ordres en Conseil Vol. XXIV, p. 363.

3. Without prejudice to the generality of the powers conferred by the last foregoing paragraph, regulations under that paragraph may in particular provide for the taking into account, for such purposes and in such manner and subject to such conditions as may be prescribed, of contributions paid or credited or deemed to be, or treated as, paid or credited under the Law of 1964 or any enactment repealed by the Law of 1964.

4. Regulations may provide that this Law and this Part of this Schedule (except this paragraph) shall have effect subject to prescribed modifications in relation to persons who were over school-leaving ages before the appointed day and who, immediately before that day, were not insured under the Law of 1964.

5. Regulations may make such provision as [the Committee] thinks appropriate for enabling unpaid contributions under the Law of 1964 to be recovered and disposed of under section one hundred and seven, section one hundred and eight and section one hundred and nine of this Law (applying those sections by analogy and with the necessary modifications) in the case of a person being convicted of such an offence as is mentioned in subsection (1) or paragraph (a) of subsection (2) of section one hundred and six of this Law.

6. Notwithstanding any repeal, effected by this Law, provision may be made by regulations for continuing in force, with or without prescribed modifications, such provisions of the Law of 1964 as [the Committee] considers appropriate for the purpose of preserving rights to benefit under that Law in those cases (if any) in which in [the Committee]'s opinion adequate alternative rights to benefit under this Law are not conferred in pursuance of paragraph 2 of this Schedule or for temporarily retaining the effect of those provisions for transitional purposes.

7. In the foregoing provisions of this Schedule, any reference to benefit under the Law of 1964 includes a reference to such other benefit, pension or allowance as is mentioned in sub-paragraph (i) of paragraph (b) of subsection (3) of section seventy-two of the Law of 1964.

8. Without prejudice to the powers conferred by any other provision of this Law, regulations may make such provision as [the Committee] thinks expedient for facilitating the operation or introduction of the system of insurance established by this Law, including in particular regulations providing for making any savings or additional savings from the effect of any repeal or amendment; and for modifying the system of insurance contained in the Law of 1964, so far as it shall continue in force after the appointed day so as to bring it into conformity with that system.

9. (1) In so far as any Ordinance, order, regulation, appointment or other thing made or done under an enactment repealed by this Law could have been made or done under a corresponding provision of this Law, it shall not be invalidated by the repeal but shall have effect as if made, given or done under that corresponding provision.

(2) Anything begun under an enactment repealed by this Law may be continued under this Law as if begun thereunder.

(3) References in this Law to things done, suffered or occurring in the past shall, so far as the context requires for the purpose of continuity of operation between enactments repealed by this Law and this Law be construed as including references to things done, suffered or occurring before the appointed day.

(4) So much of any document as refers expressly or by implication to an enactment of which the effect is reproduced by this Law shall, if and so far as the context permits, be construed as referring to this Law.

10. (1) The last foregoing paragraph applies in particular to any claim for, or award of, benefit before the appointed day and to anything done or occurring in or for the purposes of adjudication proceedings before that day.

(2) A question whether a person became or ceased to be entitled to benefit before the appointed day, and any other question with respect to benefit in respect of a period before that day, is to be determined in accordance with provisions with respect to those matters in force during that period.

NOTES

In the Fourth Schedule, the words "the Committee" in square brackets, wherever occurring, were 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.

The following Regulations have been made under the Fourth Schedule:

Social Insurance (Determination of Claims and Questions) (Guernsey) Regulations, 1978;

Social Insurance (Residence and Persons Abroad) (Guernsey) Regulations, 1978;

Social Insurance (Industrial Injuries Benefits) (Guernsey) Regulations, 1978;

Social Insurance (Benefits) (Transitional Provisions) (Amendment) (Guernsey) Regulations, 1979;

Social Insurance (Increase of Benefit) (Guernsey) Regulations, 1981;

Social Insurance (Benefits) (Transitional Provisions) (Amendment) Regulations, 1991;

Social Insurance (Contributions) Regulations, 2000;

Social Insurance (Benefits) (Transitional) Regulations, 2003;

Social Insurance (Benefits) (Transitional) Regulations, 2004.

The following Regulations have effect as if made under the Fourth Schedule:

Social Insurance (Pensions, Existing Beneficiaries and Other Persons) (Transitional) (Guernsey) Regulations, 1971;

Social Insurance (Pensions, Existing Contributors) (Transitional)

(Amendment) (Guernsey) Regulations, 1974;
Social Insurance (New Entrants) (Transitional) (Amendment)
(Guernsey) Regulations, 1974;
Social Insurance (Increase of Benefit and Miscellaneous Provisions)
Regulations, 1976;
Social Insurance (Increase of Benefit) (Guernsey) Regulations,
1979.

FIFTH SCHEDULE

Section one hundred
and twenty

CONSEQUENTIAL AMENDMENTS

| Enactment (1) | Amendment (2) |
|---|--|
| The Family Allowances Law. | <p>In subsection (1) of section twenty-one, for the definitions of the expressions "Administrator" and "Authority" there are hereby substituted respectively the following definitions –</p> <p>""Administrator" means the Administrator to the Authority appointed, or deemed to have been appointed, under section ninety-four of the Social Insurance (Guernsey) Law, 1978,"</p> <p>""Authority" means the States Insurance Authority constituted under section ninety-two of the Social Insurance (Guernsey) Law, 1978,".²⁶</p> |
| The Fatal Accidents (Guernsey) Law, 1960 ^o . | <p>In subsection (1) of section one, for the words, figures and commas "under the Contributory Pensions Law, 1935, or under the Social Insurance (Guernsey) Law, 1964" there are hereby substituted the words, figures and</p> |

^o Ordres en Conseil Vol. XVIII, p. 279.

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|--|---|
| <p>The Supplementary Benefit (Guernsey) Law, 1971^P.</p> | <p>comma "under or by virtue of the Social Insurance (Guernsey) Law, 1978".</p> <p>In subsection (1) of section nine –</p> <ul style="list-style-type: none"> (a) immediately after the word and comma "sickness," there are hereby inserted the word and comma "invalidity," (b) immediately after the word and comma "maternity," there are hereby inserted the word and comma "industrial injury," (c) for the words, figures and comma "under the Social Insurance (Guernsey) Law, 1964 (hereinafter referred to as "the Law of 1964")" there are hereby substituted the words, figures and comma "under or by virtue of the Social Insurance (Guernsey) Law, 1978 (hereinafter referred to as "the Law of 1978")". <p>In subsection (2) of section nine, for the words and figures "established under the provisions of the provisions of the Law of 1964" there are hereby substituted the words and figures "maintained by the Authority under the Law of 1978".</p> <p>In the First Schedule, the reference to</p> |
|--|---|

^P Ordres en Conseil Vol. XXIII, p. 26.

| | |
|---|--|
| | <p>the Law of 1964 in the first column and the entry against that reference in the second column are hereby repealed.</p> |
| <p>The Employment of Immigrants (Control) (Guernsey) Law, 1974^q.</p> | <p>In subsection (1) of section one, for the reference to the Social Insurance (Guernsey) Law, 1964, there is hereby substituted a reference to this Law.</p> |
| <p>The Income Tax (Guernsey) Law, 1975.</p> | <p>In section twenty-seven –</p> <p>(a) immediately after the words and comma "sickness benefit," there are hereby inserted the words and comma "invalidity benefit,"</p> <p>(b) for the words "death benefit" there are hereby substituted the words and commas "death grant, industrial injury benefit,".²⁷</p> <p>In subsection (1) and subsection (2) of section twenty-eight, the words "or the Pharmaceutical Law" are hereby repealed.</p> <p>In section twenty-nine –</p> <p>(a) the definition of the expression "the Pharmaceutical Law" is hereby repealed,</p> <p>(b) for the definition of the expression "the Social Insurance Law" there is hereby substituted</p> |

^q Ordres en Conseil Vol. XXIV, p. 335.

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|--|--|
| <p style="text-align: center;">[...]</p> <p>The Income Tax (Amendment) (Guernsey) Law, 1976^r.</p> | <p style="text-align: center;">the following definition –</p> <p style="text-align: center;">"the Social Insurance Law" means the Social Insurance (Guernsey) Law, 1978." ²⁸</p> <p style="text-align: center;">[...]</p> <p>Paragraph (b) and sub-paragraph (ii) of paragraph (c) of section one are hereby repealed.</p> |
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NOTES

In the Fifth Schedule, the words omitted in square brackets were repealed by the Supplementary Family Allowances and Social Insurance (Guernsey) Law, 1980, section 2(d), with effect from 6th January, 1981.

The Fifth Schedule amends the enactments mentioned in column (1) thereof.

^r Ordres en Conseil No. X of 1976.

SIXTH SCHEDULE

Section one hundred and
twenty-one

GLOSSARY OF EXPRESSIONS

| Expression | Meaning |
|-------------------------------|--|
| [" Accident ".] | <p>[In Part III of this Law –</p> <p>(a) a specific and undesigned or unforeseen event causing, but being separate and distinct from, personal injury, or</p> <p>(b) a specific instance of unusual physical exertion causing personal injury,</p> <p>excluding (for the removal of doubt) any case where –</p> <p>(i) [an illness or pathological change] is caused otherwise than by any such event or exertion, or</p> <p>(ii) the only specific and undesigned or unforeseen event is the personal injury itself.]</p> |
| " The Administrator ". | <p>The Administrator to [the Committee] appointed, or deemed to have been appointed, under section ninety-four.</p> |

"Age".

For the purposes of this Law –

- (a) a person shall be deemed to be over or under any age therein mentioned if he has or has not attained that age,
- (b) a person shall be deemed to be between two ages therein mentioned if he has attained the first-mentioned age but has not attained the second-mentioned age,
- (c) a person shall be deemed not to have attained the age of eighteen years until the commencement of the eighteenth anniversary of the day of his birth, and similarly with respect to any other age.

"Appointed day".

In relation to any provision of this Law, the day appointed for the coming into force of that provision by an Ordinance under section one hundred and twenty-three.

**"Appropriate court",
"appropriate officer of the
court".**

See subsection (13) of section one hundred and nine.

"Assessed" (in relation to extent of disablement).

Assessed in accordance with the Second Schedule to this Law.

"[The Committee]".

The [Guernsey [Committee for Employment & Social Security]] constituted under section ninety-

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| | two. |
| "[The Committee]'s office". | As respects the Islands of Guernsey, Herm and Jethou, the office for the time being of [the Committee] in Guernsey, and as respects the Island of Alderney, the States Office, Alderney. |
| "Beneficiary". | In relation to any benefit, the person entitled to that benefit. |
| "Benefit". | Benefit under this Law or (as respects any period before the day appointed for the coming into force of section eighteen and section forty-one by an Ordinance under section one hundred and twenty-three) of the Law of 1964. |
| "Benefit year". | The period commencing on the first day of July in any year and ending on the thirtieth day of June in the next succeeding year. |
| "Child"; "child of family". | <p>"Child" means a person who would be treated as a child for the purposes of the Family Allowances Law.</p> <p>A person shall be deemed to have a family which includes a child or children if that person (not being a child) and a child or children (with or without a wife or husband of that person) would be treated for the purposes of the Family Allowances Law as</p> |

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| | constituting a family; and references to a child of a person's family shall be construed accordingly. |
| "Claim". | Construe in accordance with "claimant". |
| "Claimant" (in relation to contributions under Part I of this Law and to benefit under Part II or Part III of this Law). | <p>A person whose right to be excepted from liability to pay, or to be credited with, a contribution, is in question; a person who has claimed benefit.</p> <p>The expression includes, in relation to an award or decision, a beneficiary under the award or affected by the decision.</p> |
| "Confinement". | See subsection (1) of section twenty-nine. |
| "Contract of service". | Any contract of service or apprenticeship, whether written or oral and whether expressed or implied. |
| "Contribution month". | One of the successive periods in a contribution year beginning on the first day of any calendar month and ending on the last day of that calendar month. |
| "Contribution quarter". | One of the successive periods in a contribution year comprising three consecutive contribution months and beginning on the first day of January, the first day of April, the first day of July and the first day of October in that year. |
| "Contribution week". | One of the successive periods in a contribution year beginning with the first day of that year and every |

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| | seventh day thereafter; the last eight days of a contribution year (or in the case of a contribution year which is a leap year, the last nine days) to be treated accordingly as a separate contribution week. |
| "Contribution year". | The period beginning on the first day of January in any year and ending on the following thirty-first day of December. |
| "Current". | For the time being in force. |
| "Day". | The period of twenty-four hours from midnight to midnight or such other period of twenty-four hours as may be prescribed. |
| "Day of incapacity for work". | See section twenty-three. |
| "Day of interruption of employment". | See section twenty-three. |
| "Disablement questions". | See section eighty-six. |
| "Earnings". | See section three. |
| "Employed". | Construe in accordance with "employment" (except in the expression "employed person"). |
| "Employed person". | Except in Part III, construe in accordance with |

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| | section one and regulations under that section; and in Part III, construe in accordance with section forty. |
| "Employed contributor's employment" . | See subsection (3) of section one. |
| "Employment" . | Includes any trade, business, profession, office or vocation. |
| "Entry into insurance" . | In relation to any person, the date on which he becomes an insured person. |
| "The Family Allowances Law" . | The Family Allowances (Guernsey) Law, 1950 ^s . |
| "Guernsey" . | Includes the Islands of Alderney, Herm and Jethou. |
| "The Guernsey Health Service Fund Allocation" . | See section one hundred and one. |
| "The Guernsey Insurance Fund" . | The fund established under the provisions of section forty-five of the Law of 1964. |
| "Hovercraft" . | A vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle. |

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| "Incapable of self-support". | In relation to any person, that he is incapable of supporting himself by reason of physical or mental infirmity and is likely to remain so incapable for a prolonged period. |
| "Incapable of work". | Incapable of work by reason of some specific disease or bodily or mental disablement or deemed in accordance with regulations, to be so incapable. |
| "Industrial injuries benefit". | Benefit under Part III, including [survivor's] benefit and old age pension by virtue of section fifty-three or section fifty-four. |
| "Insurance card". | See subsection (7) of section one hundred and four. |
| "Insurance stamp". | See subsection (3) of section fifteen. |
| "Late husband". | A reference to a woman's late husband, in relation to a woman who has been more than once married, is to her last husband. |
| "The Law of 1964". | The Social Insurance (Guernsey) Law, 1964. |
| "Lower weekly earnings limit". | See subsection (2) of section twenty. |
| "Lower monthly earnings limit". | See subsection (2) of section twenty. |

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| "The Medical Board". | See section eighty-seven. |
| "Medical examination". | Includes bacteriological and radiographical tests and similar investigations; and "medically examined" shall be construed accordingly. |
| "Medical practitioner". | A medical practitioner authorised to practice in Guernsey according to the law for the time being in force. |
| "Medical treatment". | Medical, surgical or rehabilitative treatment (including any course of diet or other regimen); and references to a person receiving or submitting himself to medical treatment shall be construed accordingly. |
| "Non-employed person". | Construe in accordance with section one and regulations under that section. |
| "Ordinary Court". | The Royal Court sitting as an Ordinary Court. |
| "Pensionable age". | [The age specified in column 2 of the table at the end of this Schedule opposite the age category specified in column 1 of the table in which the person's date of birth falls.] |
| "Prescribed". | Prescribed by regulations. |

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| "Regulations". | Regulations made by [the Committee] under this Law. |
| "Relevant accident". | In relation to any benefit, the accident in respect of which that benefit is claimed as payable. |
| "Relevant contribution conditions". | In relation to any benefit, the contribution conditions in respect of that benefit. |
| "Relevant earnings". | See subsection (4) of section six. |
| "Relevant injury". | In relation to any benefit, the injury in respect of which that benefit is claimed or payable. |
| "Relevant loss of faculty". | The loss of faculty resulting from the relevant injury. |
| "Relevant lower earnings limit". | The lower weekly earnings limit or the lower monthly earnings limit, as the case may be. |
| "Relevant upper earnings limit". | The upper weekly earnings limit or the upper monthly earnings limit, as the case may be. |
| "The Royal Court". | The Royal Court sitting as a Full Court. |
| "School-leaving age". | For the purposes of this Law, a person shall be deemed to have attained (or not to have attained) school-leaving age if he would be treated as being over (or under) the upper limit of the compulsory |

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| | school-age for the purposes of the Family Allowances Law. |
| "Self-employed person". | Construe in accordance with section one and regulations under that section. |
| "The States". | The States of Guernsey. |
| "The States' grant". | See subsection (1) of section seventeen. |
| ... | ... |
| "The Tribunal". | See subsection (1) of section eighty. |
| "Upper annual earnings limit (in relation to Class 2 contributions)". | See subsection (1) of section six. |
| "Upper weekly earnings limit". | See subsection (1) [and (1A)] of section five. |
| "Upper monthly earnings limit". | See subsection (1) [and (1A)] of section five. |
| "Week". | A period of seven days beginning with midnight between Sunday and Monday, except where the expression is otherwise defined. |

[Table for purposes of establishing pensionable age]

| Age categories | Pensionable age |
|---|------------------------|
| Person born before 1 st January, 1955 | 65 years |
| Person born on or after 1 st January, 1955 and before 1 st November, 1955 | 65 years and 2 months |
| Person born on or after 1 st November, 1955 and before 1 st September, 1956 | 65 years and 4 months |
| Person born on or after 1 st September, 1956 and before 1 st July, 1957 | 65 years and 6 months |
| Person born on or after 1 st July, 1957 and before 1 st May, 1958 | 65 years and 8 months |
| Person born on or after 1 st May, 1958 and before 1 st March, 1959 | 65 years and 10 months |
| Person born on or after 1 st March, 1959 and before 1 st January, 1960 | 66 years |
| Person born on or after 1 st January, 1960 and before 1 st November, 1960 | 66 years and 2 months |
| Person born on or after 1 st November, 1960 and before 1 st September, 1961 | 66 years and 4 months |
| Person born on or after 1 st September, 1961 and before 1 st July, 1962 | 66 years and 6 months |
| Person born on or after 1 st July, 1962 and before 1 st May, 1963 | 66 years and 8 months |
| Person born on or after 1 st May, 1963 and before 1 st March, 1964 | 66 years and 10 months |
| Person born on or after 1 st March, 1964 | 67 years |

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|---|------------------------|
| and before 1 st January, 1965 | |
| Person born on or after 1 st January, 1965 and before 1 st November, 1965 | 67 years and 2 months |
| Person born on or after 1 st November, 1965 and before 1 st September, 1966 | 67 years and 4 months |
| Person born on or after 1 st September, 1966 and before 1 st July, 1967 | 67 years and 6 months |
| Person born on or after 1 st July, 1967 and before 1 st May, 1968 | 67 years and 8 months |
| Person born on or after 1 st May, 1968 and before 1 st March, 1969 | 67 years and 10 months |
| Person born on or after 1 st March, 1969 and before 1 st January, 1970 | 68 years |
| Person born on or after 1 st January, 1970 and before 1 st November, 1970 | 68 years and 2 months |
| Person born on or after 1 st November, 1970 and before 1 st September, 1971 | 68 years and 4 months |
| Person born on or after 1 st September, 1971 and before 1 st July, 1972 | 68 years and 6 months |
| Person born on or after 1 st July, 1972 and before 1 st May, 1973 | 68 years and 8 months |
| Person born on or after 1 st May, 1973 and before 1 st March, 1974 | 68 years and 10 months |
| Person born on or after 1 st March, 1974 and before 1 st January, 1975 | 69 years |
| Person born on or after 1 st January 1975 and before 1 st November 1975 | 69 years and 2 months |
| Person born on or after 1 st November, 1975 and before 1 st September, 1976 | 69 years and 4 months |

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|---|------------------------|
| Person born on or after 1 st September, 1976 and before 1 st July, 1977 | 69 years and 6 months |
| Person born on or after 1 st July, 1977 and before 1 st May, 1978 | 69 years and 8 months |
| Person born on or after 1 st May, 1978 and before 1 st March, 1979 | 69 years and 10 months |
| Person born on or after 1 st March, 1979 | 70 years |

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NOTES

In the Sixth Schedule,

the expression "Accident" and the definition thereof in the square brackets in the first and second columns were inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, respectively section 22(a) and section 22(b), with effect from 17th August, 1999;

the words in square brackets in sub-paragraph (i) of paragraph (b) of the definition of the expression "Accident" were substituted by the Social Insurance (Guernsey) (Amendment) Law, 2000, section 1(5), with effect from 31st October, 2000;

the words "T/the Committee" in square brackets, wherever occurring, were 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;

the word in square brackets in the second column of the definition of the expression "The Committee" was substituted by the Guernsey Social Security Authority (Transfer of Functions) Ordinance, 1993, section 3, Schedule 2, paragraph 3, with effect from 29th September, 1993;

the words in square brackets within the square brackets in the second column of the definition of the expression "The Committee" 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;²⁹

the word in square brackets in the definition of the expression "Industrial injuries benefits" was substituted by the Social Insurance

(Guernsey) (Amendment) Law, 2003, section 1, Schedule, paragraph 38, with effect from 1st January, 2004, subject to the savings in section 2 of the 2003 Law;

first, the words in square brackets in the second column of the definition of the expression "Pensionable age" and, second, the Table at the end of this Schedule were, respectively, substituted and inserted by the Social Insurance (Guernsey) (Amendment) Law, 2016, section 1(2)(a) and section 1(2)(b), with effect from 4th April, 2016;

the words omitted in square brackets in the first and second columns were repealed by the Supplementary Family Allowances and Social Insurance (Guernsey) Law, 1980, section 2(e), with effect from 6th January, 1981;

the words, parentheses, figures and letters in square brackets in the definitions of the expressions "Upper weekly earnings limit" and "Upper monthly earnings limit" were inserted by the Social Insurance (Rates of Contributions and Benefits, etc.) (Amendment) Ordinance, 2007, section 1(c), with effect from 7th January, 2008.

The functions, rights and liabilities of the Social Security Department and of its Minister or Deputy Minister arising under or by virtue of this Law 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.³⁰

¹ Prior to their substitution, these words and figure were amended by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986, section 1(a), with

effect from 17th February, 1987.

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

³ These words were previously substituted by: the Social Insurance (Rates of Contributions and Benefits, etc.) (Guernsey) Ordinance, 1978, section 6, with effect from 27th September, 1978; the Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2003, section 7, with effect from 1st January, 2004; the Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2006, section 8, with effect from 1st January, 2007.

⁴ The functions, rights and liabilities of the Treasury and Resources Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Advisory and Finance Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 1(b), Schedule 2, paragraph 1(b), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁵ Prior to its substitution, paragraph (e) was amended by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 2, with effect from 1st January 2000.

⁶ Prior to its substitution, subsection (2) was previously amended by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 3, with effect from 17th August, 1999.

⁷ Section 30 was previously substituted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 9, with effect from 1st January 2000.

⁸ Prior to its substitution, section 32 was amended by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 11, with effect from 1st January 2000.

⁹ Prior to its substitution, section 33 was amended by the Social Insurance (Amendment) (Guernsey) Law, 1993, section 2, with effect from 1st November, 1993.

¹⁰ Subsection (3) was previously substituted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 13, with effect from 17th August, 1999.

¹¹ Prior to its repeal, section 57 was amended by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 14, with effect from 1st January 2000.

¹² Prior to its repeal, section 60 was amended by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 15, with effect from 1st January 2000.

¹³ 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.

¹⁴ The words "President" and "Vice-President" 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.

¹⁵ The word "President" was 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.

¹⁶ The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Civil Service Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 12(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

¹⁷ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 12(a), with effect from 6th May, 2004.

¹⁸ Prior to their substitution, these words and figure were amended by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986, section 1(b), with effect from 17th February, 1987.

¹⁹ The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Civil Service Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 12(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

²⁰ Prior to their substitution, these words and figure were amended by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986, section 1(d), with effect from 17th February, 1987.

²¹ Prior to their substitution, these words and figure were amended by the Social Insurance (Amendment) (No. 2) (Guernsey) Law, 1986, section 1(g), with effect from 17th February, 1987.

²² The words "Committee for Employment & Social Security", where first, second and fourth occurring, were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 17, with effect from 6th May, 2004.

²³ The functions, rights and liabilities of the Housing Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Housing Authority and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003,

section 1, Schedule 1, paragraph 17, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

²⁴ The words "Committee for Employment & Social Security", where first occurring, were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 17, with effect from 6th May, 2004.

²⁵ The functions, rights and liabilities of the Housing Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Housing Authority and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 17, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

²⁶ For subsequent amendments, see the consolidated text of the Family Allowances (Guernsey) Law, 1950.

²⁷ For subsequent amendments, see the consolidated text of the Income Tax (Guernsey) Law, 1975.

²⁸ For subsequent amendments, see the consolidated text of the Income Tax (Guernsey) Law, 1975.

^s Ordres en Conseil Vol. XIV, p. 332.

²⁹ 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.

³⁰ The functions, rights and liabilities of the Social Security Department and its Minister arising under or by virtue of this Law 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; the functions of the Guernsey Social Security Authority under this Law were previously transferred to it from the States Insurance Authority by the Guernsey Social Security Authority (Transfer of Functions) Ordinance, 1993, section 1, Schedule 1, paragraph 3, with effect from 29th September, 1993, subject to the savings in section 2 of the 1993 Ordinance.