

PROJET DE LOI

ENTITLED

The Health Service (Benefit) (Guernsey) Law, 1990 *

[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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* Ordres en Conseil Vol. XXXII, p. 192; as amended by the Health Service (Benefit) (Guernsey) (Amendment) Law, 2002 (No. IX of 2003, Ordres en Conseil Vol. XLIII(1), p. 246); the Health Service (Benefit) (Guernsey) (Amendment) Law, 2010 (No. II of 2011); the Guernsey Social Security Authority (Transfer of Functions) Ordinance, 1993 (Recueil d'Ordonnances Tome XXVI, p. 177); the Health Service (Benefit) (Amendment) Ordinance, 2002 (No. XXII of 2002, Recueil d'Ordonnances Tome XXIX, p. 182); the Health Service (Benefit) (Amendment) (No. 2) Ordinance, 2003 (No. XXI of 2003, Recueil d'Ordonnances Tome XXIX, p. 373); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Health Service (Benefit) (Annual Grant and Amendment) Ordinance, 2007 (No. XLIII of 2007, Recueil d'Ordonnances Tome XXXII, p. 628); the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015 (No. XXII of 2015); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). The Law is applied, with modifications: to the Island of Alderney by the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990 (Recueil d'Ordonnances Tome XXV, p. 204); to specialist medical benefit by the Health Service (Specialist Medical Benefit) Ordinance, 1995 (Recueil d'Ordonnances Tome XXVI, p. 484); to Alderney hospital benefit by the Health Service (Alderney Hospital Benefit) Ordinance, 1997 (No. XI of 1997, Recueil d'Ordonnances Tome XXVII, p. 200); and to physiotherapy benefit by the Health Service (Physiotherapy Benefit) Ordinance, 1997 (No. I of 1998, Recueil d'Ordonnances Tome XXVIII, p. 1). See also the Fees, Charges and Penalties (Guernsey) Law, 2007 (No. VII of 2008); the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010); the Health Service (Benefit) (Nurse Prescribers) Ordinance, 2013 (No. XXXIV of 2013).

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The Health Service (Benefit) (Guernsey) Law, 1990

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The Health Service (Benefit) (Guernsey) Law, 1990

THE STATES, in pursuance of their Resolutions of the 15th day of December, 1988 and the 31st day of January, 1990, 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, Herm and Jethou.

PART I

SOURCE OF FUNDS

Guernsey Health Service Fund.

1. (1) The Guernsey Health Service Fund established for the purposes of the Pharmaceutical Law ("**the Fund**") shall continue to be maintained under the control and management of [the Committee for Employment & Social Security].

(2) There shall be paid into the Fund –

- (a) the Guernsey Health Service Fund Allocation, in accordance with section 101 of the Social Insurance Law,
- (b) all monies provided by the States under section 2,
- (c) all monies accruing to [the Committee for

Employment & Social Security] under the provisions of this Law, and

- (d) all monies due to the Fund and remaining unpaid immediately before the commencement of this Law.

(3) There shall be paid out of the Fund –

[(a) all sums payable in respect of –

(i) benefit under the provisions of this Law, and

(ii) such research and development activities (including pilot programmes), as [the Committee for Employment & Social Security] may determine, for the purpose of establishing the need for, and most effective method of providing, any other benefit which may be specified under this Law,]

(b) all expenses incurred by [the Committee for Employment & Social Security] in carrying this Law into effect,

(c) all monies due to be paid from the Fund and remaining unpaid immediately before the commencement of this Law, and

(d) all monies payable by virtue of the provisions of Schedule 1 (transitional provisions and savings).

(4) Accounts of the Fund shall be prepared annually in such form and manner as [the Committee for Employment & Social Security] may direct.

(5) Auditors appointed annually by the States ("**the auditors**") shall examine certify and report to [the Committee for Employment & Social Security] upon the accounts.

(6) [The Committee for Employment & Social Security] shall, as soon as may be, lay copies of the accounts together with the report of the auditors thereon before the States.

(7) Monies forming part of the Fund may be invested by [the Committee for Employment & Social Security] in investments of the descriptions authorised by the States.

(8) The investment functions of [the Committee for Employment & Social Security] under subsection (7) may be delegated by [the Committee for Employment & Social Security] (in whole or in part) to professional fund or investment managers.

NOTES

In section 1,

the words "T/the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016;

paragraph (a) of subsection (3) was substituted by the Health Service (Benefit) (Guernsey) (Amendment) Law, 2010, section 2, with effect from 28th February, 2011.

The Law is applied to the Island of Alderney by the Alderney (Application of

Legislation) (Health Service) (Benefit) Ordinance, 1990, section 1, with effect from 1st January, 1991, subject to the exceptions, adaptations and modifications in the Schedule to the 1990 Ordinance.

The Law is applied in relation to (i) specialist medical benefit, (ii) Alderney hospital benefit and (iii) physiotherapy benefit by, respectively,

- (i) the Health Service (Specialist Medical Benefit) Ordinance, 1995, section 2, with effect from 1st January, 1996;*
- (ii) the Health Service (Alderney Hospital Benefit) Ordinance, 1997, section 2, with effect from 26th March, 1997; and*
- (iii) the Health Service (Physiotherapy Benefit) Ordinance, 1997, section 2, with effect from 1st January, 1998,*

subject, in each case, to the exceptions, adaptations and modifications set out in the Schedule to the relevant Ordinance.

In its application to (i) specialist medical benefit, (ii) Alderney hospital benefit and (iii) physiotherapy benefit, section 1 is modified in accordance with the provisions of, respectively,

- (i) the Health Service (Specialist Medical Benefit) Ordinance, 1995, section 2, Schedule, paragraph 1, with effect from 1st January, 1996;*
- (ii) the Health Service (Alderney Hospital Benefit) Ordinance, 1997, section 2, Schedule, paragraph 1, with effect from 26th March, 1997; and*
- (iii) the Health Service (Physiotherapy Benefit) Ordinance, 1997, section 2, Schedule, paragraph 1, with effect from 1st January, 1998.*

States Health Service Annual grant.

2. There shall, in respect of each year, be paid into the Fund out of monies provided by the States, in such manner and at such times as the States [Policy & Resources Committee] shall determine, a States Health Service Annual Grant of an amount equal to [12 per centum] (or such other percentage as the States may by Ordinance specify) of the amount certified by the auditors as being the amount of the Guernsey Health Service Fund Allocation in respect of that year.

NOTES

In section 2,

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

the words and figures in the second pair of square brackets were substituted by the Health Service (Benefit) (Annual Grant and Amendment) Ordinance, 2007, section 1, with effect from 1st January, 2008.

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.²

The following Ordinances have been made under section 2:

*Health Service (Benefit) (Annual Grant) Ordinance, 2002;
Health Service (Benefit) (Annual Grant and Amendment)
Ordinance, 2007.*

PART II

PERSONS ENTITLED TO BENEFIT UNDER THIS LAW

Persons entitled to benefit.

3. (1) Subject to the provisions of this Law, a person who –
- (a) is ordinarily resident in Guernsey and is –
- (i) an insured person, or

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- (ii) the child of an insured person, or
- (b) falls within such other description, class or category of persons as regulations made under this paragraph may provide,

is entitled to benefit under this Law.

(2) For the purposes of this Law a child who is not ordinarily resident in Guernsey shall be deemed to be ordinarily resident in Guernsey where that child is a child of the family of a person who is ordinarily resident in Guernsey.

- (3) For the purposes of this section an individual shall be treated –
 - (a) as a child, if he would or could be so treated for the purposes of the Family Allowances Law, and
 - (b) as a child of the family of a person, if –
 - (i) he is a child,
 - (ii) that person is not a child, and
 - (iii) he and that person would or could be treated as constituting a family for the purposes of the Family Allowances Law.]

NOTES

Section 3 was substituted by the Health Service (Benefit) (Guernsey)

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(Amendment) Law, 2002, section 1, Schedule, paragraph 1, with effect from 14th April, 2003, subject to the transitional and saving provision in section 3 of the 2002 Law.

In its application to the Island of Alderney, section 3 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990, section 1, Schedule, paragraph 1, with effect from 1st January, 1991.

The following Ordinance has been made under section 3:

Health Service (Benefit) (Qualification Period) Ordinance, 1995.

The following Regulations have been made under section 3:

*Health Service (Benefit) (General) Regulations, 1990;
Health Service (Benefit) (General) (Amendment) Regulations, 2003.*

PART III

BENEFIT AND HEALTH BENEFIT CARD

Categories of benefit.

4. Benefit under this Law shall be of the following categories –
- (a) medical benefit,
 - (b) pharmaceutical benefit,
 - (c) medical appliances,
 - (d) such other benefit as the States may by Ordinance specify; and an Ordinance under this paragraph may provide that any of the provisions of this Law shall (subject to any exceptions, adaptations or modifications specified in the Ordinance) apply in relation to such other benefit.

NOTES

The following Ordinances have been made under section 4:

Health Service (Specialist Medical Benefit) Ordinance, 1995;
Health Service (Alderney Hospital Benefit) Ordinance, 1997;
Health Service (Physiotherapy Benefit) Ordinance, 1997;
Health Service (Alderney Hospital Benefit) (Amendment)
Ordinance, 2002;
Health Service (Ophthalmic Benefit) (Repeal) Ordinance, 2002;
Health Service (Physiotherapy Benefit) (Amendment) Ordinance,
2002;
Health Service (Specialist Medical Benefit) (Amendment)
Ordinance, 2002;
Health Service (Alderney Hospital Benefit) (Amendment)
Ordinance, 2008;
Health Service (Specialist Medical Benefit) (Amendment)
Ordinance, 2013;
Health Service (Specialist Medical Benefit) (Amendment)
Ordinance, 2014.

The following regulations have been made under Part IIIA of this Ordinance as modified by the Health Service (Alderney Hospital Benefit) Ordinance, 1997:

Health Service (Alderney Hospital Benefit) Regulations, 1997;
Health Service (Alderney Hospital Benefit) (Amendment)
Regulations, 2008.

Health Benefit Card.

5. (1) A person who satisfies the conditions as to [entitlement to benefit specified in section 3(1)] may apply to [the Committee for Employment & Social Security], in such manner as may be prescribed, for the issue of a health benefit card.

(2) A health benefit card shall contain such information as may be prescribed and shall be in such form and shall remain in force for such period as [the Committee for Employment & Social Security] may determine.

(3) Regulations may provide for different forms of health benefit cards to be used by different classes of persons or for the receipt of different categories of benefit.

(4) The classes of persons referred to in subsection (3) shall be such classes as the States may by Ordinance specify.

NOTES

In section 5,

the words in the first pair of square brackets in subsection (1) were substituted by the Health Service (Benefit) (Guernsey) (Amendment) Law, 2002, section 1, Schedule, paragraph 2, with effect from 14th April, 2003;

the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

In its application to (i) specialist medical benefit, (ii) Alderney hospital benefit and (iii) physiotherapy benefit, the Law is modified in accordance with the provisions of, respectively,

- (i) the Health Service (Specialist Medical Benefit) Ordinance, 1995, section 2, Schedule, paragraph 2, with effect from 1st January, 1996;*
- (ii) the Health Service (Alderney Hospital Benefit) Ordinance, 1997, section 2, Schedule, paragraph 2, with effect from 26th March, 1997; and*
- (iii) the Health Service (Physiotherapy Benefit) Ordinance, 1997, section 2, Schedule, paragraph 2, with effect from 1st January, 1998.*

The following Regulations have been made under section 5:

Health Service (Benefit) (General) Regulations, 1990;
Health Service (Benefit) (General) (Amendment) Regulations, 2003.

The following regulations have been made under Part III, as modified by the Health Service (Alderney Hospital Benefit) Ordinance, 1997:

Health Service (Alderney Hospital Benefit) Regulations, 1997.

PART IV
MEDICAL BENEFIT

Right to medical benefit.

6. (1) Subject to the provisions of this Law, medical benefit, being a grant of the amount specified in subsection (2), is payable to a person who satisfies the conditions as to [entitlement to benefit specified in section 3(1)] and who has a consultation for a medical purpose.

(2) The amount of the grant is –

(a) [£12], where the consultation was with a medical practitioner,

(b) [£6], where the consultation was with a nurse.

(3) The States may by Ordinance amend the amounts specified in subsection (2).

(4) In subsection (1) the expression "**consultation for a medical purpose**" means a consultation with or treatment by an approved medical practitioner or approved nurse for a medical purpose carried out in Guernsey but does not include a consultation or treatment –

(a) for a prescribed purpose,

(b) at a location specified by Ordinance of the States.

(5) The States may by Ordinance extend the meaning given by subsection (4) to the expression "consultation for a medical purpose" so as to include consultations with or treatment by any class or designation of person specified in the Ordinance; and an Ordinance under this subsection may provide that any of the provisions of this Law shall (subject to any exceptions, adaptations or modifications specified in the Ordinance) apply in relation to such consultations or treatment.

NOTES

In section 6,

the words in square brackets in subsection (1) were substituted by the Health Service (Benefit) (Guernsey) (Amendment) Law, 2002, section 1, Schedule, paragraph 2, with effect from 14th April, 2003;

the figures and symbols in square brackets in subsection (2) were substituted by the Health Service (Benefit) (Amendment) (No. 2) Ordinance, 2003, section 1, with effect from 1st January, 2004.

In its application to the Island of Alderney, section 6 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990, section 1, Schedule, paragraph 4, with effect from 1st January, 1991.

The following Ordinances have been made under section 6:

Health Service (Benefit) Ordinance, 1990;
Health Service (Benefit) (Amendment) (No. 2) Ordinance, 2003;
Health Service (Benefit) (Amendment) (No. 3) Ordinance, 2003;
Health Service (Benefit) (Rates of Medical Benefit) Ordinance, 2004;
Health Service (Benefit) (Amendment) Ordinance, 2005;
Health Service (Benefit) (Annual Grant and Amendment) Ordinance, 2007.

The following Regulations have been made under section 6:

Health Service (Medical Benefit) (Amendment) Regulations, 1995.

Claims for medical benefit.

7. (1) Subject to the provisions of this Law, and except where regulations otherwise provide, it is a condition of a person's right to medical benefit that he makes a claim therefore in the prescribed manner.

(2) Regulations may make provision for –

- (a) disqualifying a person from the receipt of medical benefit if he fails to make his claim therefor within the prescribed time (but such regulations shall make provision for extending, subject to any prescribed conditions, the time within which the claim may be made where good cause is shown for the delay),
- (b) requiring claimants to furnish to the Administrator any information required for the determination of the claim or of any question arising in connection therewith.

NOTE

The following Regulations have been made under section 7:

Health Service (Medical Benefit) Regulations, 1990.

Payment of medical benefit.

8. Regulations may make provision –

- (a) as to the time and manner of payment of medical benefit,

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- (b) as to the information and evidence to be furnished by persons entitled to receive payment to enable payment to be made,
- (c) for extinguishing the right to any amount payable in respect of medical benefit where payment thereof is not obtained within twelve months from the day upon which the amount becomes receivable in accordance with regulations,
- (d) for payments of medical benefit due to a child to be paid to his parent or guardian or any other person having care of him,
- (e) for enabling [the Committee for Employment & Social Security] in such circumstances as may be prescribed to appoint a person to receive payments of medical benefit for another person,
- (f) for enabling [the Committee for Employment & Social Security] to pay to the estate or personal or other representative of a deceased person any amounts due to the deceased in respect of medical benefit,
- (g) for enabling a person entitled to receive payments of medical benefit to nominate a person to whom he wishes [the Committee for Employment & Social Security] to make payment.

NOTES

In section 8, the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under section 8:

Health Service (Medical Benefit) Regulations, 1990.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 1, with effect from 4th January, 2010, the reference in this section to "parent" shall mean, in relation to a child and subject to the conditions in paragraph (a) and (b) of subsection (1) and the exceptions in paragraph (a) and (b) of subsection (2) of that section, a father or mother who has parental responsibility in respect of the child.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in subsection (1) or subsection (2) of that section are satisfied.

Repayment of medical benefit.

9. Regulations may make provision for –
- (a) treating medical benefit paid to any person, being benefit which, it is subsequently decided, was not due to him, as having been properly paid or as having been paid on account of other medical benefit properly due to him,
 - (b) the repayment of such benefit and the recovery thereof, by deduction from other medical benefit or otherwise.

NOTE

The following Regulations have been made under section 9:

Health Service (Medical Benefit) Regulations, 1990.

PART V
PHARMACEUTICAL BENEFIT

Right to pharmaceutical benefit.

10. (1) In this Law "**pharmaceutical benefit**" means, in relation to any person, the drugs and medicines requisite for his treatment.

(2) A person who satisfies the conditions as to [entitlement to benefit specified in section 3(1)] and who is being treated in Guernsey by an approved medical practitioner or approved dentist is (subject to the provisions of this Law) entitled to be supplied with pharmaceutical benefit upon the presentation of an order in that behalf in the prescribed form (a "**medical prescription**") issued by the medical practitioner or dentist.

(3) A person entitled under subsection (2) to be supplied with pharmaceutical benefit is entitled thereto free of charge, except for any prescription and other charges payable under the provisions of this Law.

(4) Pharmaceutical benefit shall not be supplied for the purposes of this Law except upon the presentation of a medical prescription issued on or after the day on which this section comes into force.

(5) The States may by Ordinance –

- (a) extend the application of subsection (2) so as to enable any class or designation of persons specified in the Ordinance to issue, for the purposes of this Law, medical prescriptions for the supply of pharmaceutical benefit; and an Ordinance under this paragraph may provide that any of the provisions of this Law shall (subject to any exceptions adaptations or modifications specified in the Ordinance) apply in relation to such class or designation of persons and to prescriptions issued by them,

- (b) empower [the Committee for Employment & Social Security] to restrict, by regulation, the description, nature and quantity of pharmaceutical benefit which medical prescriptions issued by any class or designation of persons specified in the Ordinance may order to be supplied.

NOTES

In section 10,

the words in square brackets in subsection (2) were substituted by the Health Service (Benefit) (Guernsey) (Amendment) Law, 2002, section 1, Schedule, paragraph 2, with effect from 14th April, 2003;

the words in square brackets in subsection (5) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 10 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990, section 1, Schedule, paragraph

4, with effect from 1st January, 1991.

In accordance with the provisions of the Health Service (Benefit) (Nurse Prescribers) Ordinance, 2013, section 1(1), with effect from 1st January, 2014, the application of subsection (2) of this section is extended to authorise any nurse prescriber to issue medical prescriptions for the supply of pharmaceutical benefit for the purposes of this Law.

The following Ordinance has been made under section 10:

*Health Service (Benefit) (Limited Lists) Ordinance, 2004;
Health Service (Benefit) (Nurse Prescribers) Ordinance, 2013.*

The following Regulations have been made under section 10:

*Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) Regulations, 2004;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations, 2004;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations, 2005;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 2) (Regulations), 2005;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 3) (Regulations), 2005;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations, 2006;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 2) (Regulations), 2006;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 3) (Regulations), 2006;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 4) (Regulations), 2006;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 5) (Regulations), 2006;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) (Regulations), 2007;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 2) (Regulations), 2007;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 3) (Regulations), 2007;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 4) (Regulations), 2007;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 5) (Regulations), 2007;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 6) (Regulations), 2007;
Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*

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- (Amendment) Regulations, 2008;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 2) (Regulations), 2008;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 3) (Regulations), 2008;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 4) (Regulations), 2008;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 5) (Regulations), 2008;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 6) (Regulations), 2008;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 7) (Regulations), 2008;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment) Regulations, 2009;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 2) Regulations, 2009;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 3) Regulations, 2009;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 4) Regulations, 2009;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 5) Regulations, 2009;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment) Regulations, 2010;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 2) Regulations, 2010;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 3) Regulations, 2010;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 4) Regulations, 2010;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 5) Regulations, 2010;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 6) Regulations, 2010;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment) Regulations, 2011;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 2) Regulations, 2011;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 3) Regulations, 2011;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 4) Regulations, 2011;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 5) Regulations, 2011;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*
- (Amendment No. 6) Regulations, 2011;*
 - Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)*

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- (Amendment) Regulation 2012;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 2) Regulations, 2012;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 3) Regulations, 2012;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 4) Regulations, 2012;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) Regulations, 2013;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 2) Regulations, 2013;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 3) Regulations, 2013;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 4) Regulations, 2013;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 5) Regulations, 2013;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 5) Regulations, 2013 (the citation, shown, incorrectly, as "... (No. 5) ..." should read "... (No. 6) ...");
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 7) Regulations, 2013;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) Regulations, 2014;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 2) Regulations, 2014;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 3) Regulations, 2014;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 4) Regulations, 2014;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 5) Regulations, 2014;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 6) Regulations, 2014;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 7) Regulations, 2014;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) Regulations, 2015
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 2) Regulations, 2015;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 3) Regulations, 2015;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) Regulations, 2016;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 2) Regulations, 2016;
 Health Service (Benefit) (Limited List) (Pharmaceutical Benefit)
- (Amendment) (No. 3) Regulations, 2016;

Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) (No. 4) Regulations, 2016;

Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) (No. 5) Regulations, 2016.

The following Regulations have effect as if made under section 10:

Health Service (Pharmaceutical) (General) (Amendment) (Guernsey) Regulations, 1987.

Medical prescriptions.

11. Regulations may make provision in relation to medical prescriptions and in particular, but without prejudice to the generality of the foregoing, may provide for –

- (a) the manner in which medical prescriptions shall be completed and issued by approved medical practitioners and approved dentists,
- (b) prohibiting the issue of medical prescriptions which order the supply of pharmaceutical benefit for the treatment of more than one person,
- (c) authorising the supply of pharmaceutical benefit upon the presentation of a copy of a medical prescription to an authorised supplier,
- (d) regulating the quantity of pharmaceutical benefit which a medical prescription may order to be supplied, so as to prevent the quantity of pharmaceutical benefit supplied to any person on any one occasion exceeding the quantity requisite for his treatment during such

period as may be prescribed,

- (e) prohibiting the issue by an approved medical practitioner or approved dentist of medical prescriptions which order the supply of pharmaceutical benefit for his own treatment.

NOTES

In accordance with the provisions of the Health Service (Benefit) (Nurse Prescribers) Ordinance, 2013, section 1(2), with effect from 1st January, 2014, paragraph (a) and paragraph (e) of this section apply in relation to nurse prescribers and medical prescriptions issued by nurse prescribers, as if a reference in these provisions to one or more approved medical practitioners includes a reference to one or more nurse prescribers.

The following Regulations have been made under section 11:

Health Service (Pharmaceutical Benefit) Regulations, 1990;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 1991;
Health Service (Pharmaceutical Benefit) (Amendment) (No. 2) Regulations, 1995;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 1996;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 1999;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 2000;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 2005;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 2009;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 2013;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 2016.

Authorised suppliers of pharmaceutical benefit.

12. (1) Subject to the provisions of this Law, pharmaceutical benefit shall not be supplied for the purposes of this Law except by a person authorised in

that behalf by [the Committee for Employment & Social Security] under subsection (2) (an "**authorised supplier**").

(2) A person shall be authorised by [the Committee for Employment & Social Security] to supply pharmaceutical benefit if –

- (a) he is an approved medical practitioner, approved dentist or approved pharmacist, or is a pharmacist who falls within paragraph (b) of the definition of "pharmacist" in section 47(1), and
- (b) he furnishes to [the Committee for Employment & Social Security] an undertaking in the prescribed form to supply pharmaceutical benefit in accordance with prescribed terms and conditions.

(3) Regulations may make provision in relation to the authorisation of persons under subsection (2) and in relation to authorised suppliers, including (without prejudice to the generality of the foregoing) provision in relation to –

- (a) the form and manner in which persons shall apply for authorisation,
- (b) the terms and conditions subject to which pharmaceutical benefit is, pursuant to the undertaking referred to in subsection (2)(b), to be supplied,
- (c) the preparation and maintenance of a list (to be known as the "**Pharmaceutical List**") of all persons who are

authorised suppliers,

- (d) the preparation by [the Committee for Employment & Social Security] of a scheme for securing that places of business of authorised suppliers who are pharmacists are open on the days and at the hours specified in the scheme,
- (e) the circumstances in which persons shall cease to be authorised suppliers, and
- (f) the restriction of the description, nature and quantity of pharmaceutical benefit which may, for the purposes of this Law be supplied by any class or designation of authorised supplier specified in the regulations.

NOTES

In section 12, the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under section 12:

*Health Service (Authorised Suppliers) Regulations, 1990;
Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2016.*

Supply of pharmaceutical benefit.

13. (1) Pharmaceutical benefit shall not be supplied for the purposes of this Law by an authorised supplier who is –

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- (a) a medical practitioner or dentist, unless the medical prescription authorising the supply of the pharmaceutical benefit was issued by the medical practitioner or dentist himself or by another approved medical practitioner or approved dentist who is his assistant or with whom he is carrying on practice in partnership,
- (b) a pharmacist employed by a medical practice, unless the medical prescription authorising the supply of the pharmaceutical benefit was issued by an approved medical practitioner of the practice.

(2) Pharmaceutical benefit shall not be prepared or supplied except by, or under the direct supervision of, an approved medical practitioner, approved dentist or approved pharmacist or other person of a class or designation specified by Ordinance of the States.

(3) Regulations may make provision –

- (a) permitting an authorised supplier to supply pharmaceutical benefit otherwise than upon the presentation of a medical prescription,
- (b) permitting an approved medical practitioner or approved dentist who is not an authorised supplier to supply pharmaceutical benefit (whether upon the presentation of a medical prescription or otherwise) at the cost, in whole or in part, of the Fund.

Consolidated text

(4) The States may by Ordinance specify terms and conditions subject to which pharmaceutical benefit is to be supplied to persons entitled thereto.

(5) An Ordinance under subsection (4) may, without prejudice to the generality of that subsection, make provision as to –

- (a) the payment of charges ("**prescription charges**") in respect of the supply of pharmaceutical benefit,
- (b) the exception of prescribed classes of person from the obligation to pay such charges,
- (c) the payment of different rates of prescription charge –
 - (i) for the supply of different categories of pharmaceutical benefit,
 - (ii) by different classes of person.

NOTES

The following Ordinances have been made under section 13:

Health Service (Benefit) Ordinance, 1990;
Health Service (Benefit) (Amendment) Ordinance, 1997;
Health Service (Benefit) (Amendment) (No. 2) Ordinance, 2003;
Health Service (Benefit) (Limited Lists) Ordinance, 2004;
Health Service (Benefit) (Annual Grant and Amendment)
Ordinance, 2007;
Health Service (Benefit) (Amendment) (No. 2) Ordinance, 2011;
;
Health Service (Benefit) (Amendment) Ordinance, 2015;
Health Service (Benefit) (Amendment) Ordinance, 2016.

The following Regulations have been made under section 13:

Health Service (Pharmaceutical Benefit) Regulations, 1990;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations,
1996;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations,
2000;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations,
2005;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations,
2009;
Health Service (Pharmaceutical Benefit) (Amendment) Regulations,
2016.

In accordance with the provisions of the Fees, Charges and Penalties (Guernsey) Law, 2007, section 1, Schedule, with effect from 19th May, 2008, the power to prescribe by Ordinance the fees therein referred to and payable under this Law may be exercised by Regulation.

Payment of authorised suppliers.

14. (1) Regulations shall make provision as to –

- (a) the payment of authorised suppliers for pharmaceutical benefit supplied by them under and in accordance with the provisions of this Law, and for that purpose regulations may provide for different rates of payment to be made to different classes or designations of authorised suppliers,
- (b) the manner in which payment shall be calculated, and
- (c) the terms and conditions subject to which payment shall be made.

(2) Regulations under subsection (1) may make provision for requiring an authorised supplier –

Consolidated text

- (a) to furnish to [the Committee for Employment & Social Security], or to such person as [the Committee for Employment & Social Security] may direct, any information required by [the Committee for Employment & Social Security] for the purpose of enabling it –
 - (i) to determine the amount payable under the regulations to authorised suppliers for pharmaceutical benefit supplied by them,
 - (ii) to ascertain that pharmaceutical benefit is being prepared and supplied in accordance with the provisions of this Law, and
- (b) to permit any person authorised in writing by [the Committee for Employment & Social Security] in that behalf to carry out any inspection and examination for such purpose as aforesaid at any place of business at or from which the authorised supplier supplies pharmaceutical benefit.

NOTES

In section 14, the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under section 14:

Health Service (Payment of Authorised Suppliers) (Supplemental Payment) Regulations, 1992;

Health Service (Payment of Authorised Suppliers) Regulations, 2003;
Health Service (Payment of Authorised Suppliers) (Amendment No. 2) Regulations, 2007;
Health Service (Payment of Authorised Suppliers) (Amendment No. 2) Regulations, 2012;
Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2015;
Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2016.

The following Regulations have effect as if made under section 14:

Health Service (Pharmaceutical) (Payment of Approved Suppliers) (Guernsey) Regulations, 1983;
Health Service (Pharmaceutical) (Payment of Approved Suppliers) (Amendment) (Guernsey) Regulations, 1986;
Health Service (Pharmaceutical) (Payment of Approved Suppliers) (Amendment) (Guernsey) Regulations, 1988.

PART VI

MEDICAL APPLIANCES

Right to Medical appliances.

15. (1) In this Law "**medical appliance**" means, in relation to any person, an appliance prescribed by regulations of [the Committee for Employment & Social Security] which is requisite for the treatment, management or control of a disease from which that person is suffering.

(2) A person who satisfies the conditions as to [entitlement to benefit specified in section 3(1)] and who is being treated in Guernsey by an approved medical practitioner or approved dentist is (subject to the provisions of this Law) entitled to be supplied with medical appliances –

(a) upon the presentation of an order in that behalf in the prescribed form (an "**appliance prescription**") issued

by the medical practitioner or dentist, or

- (b) in the case of medical appliances of a class or description which, pursuant to regulations under this paragraph, may be supplied for the purposes of this Law otherwise than upon the presentation of an appliance prescription, whether or not he presents an appliance prescription in respect thereof.

(3) A person entitled under subsection (2) to be supplied with medical appliances is entitled thereto free of charge, except for such charges as may be payable under the provisions of this Law.

(4) Medical appliances (other than those mentioned in subsection (2)(b)) shall not be supplied for the purposes of this Law except upon the presentation of an appliance prescription issued on or after the day on which this section comes into force.

(5) The States may by Ordinance –

- (a) extend the application of subsection (2) so as to enable any class or designation of persons specified in the Ordinance to issue, for the purposes of this Law, appliance prescriptions for the supply of medical appliances; and an Ordinance under this paragraph may provide that any of the provisions of this Law shall (subject to any exceptions, adaptations or modifications specified in the Ordinance) apply in relation to such class or designation of persons and to appliance prescriptions issued by them,

- (b) empower [the Committee for Employment & Social Security] to restrict, by regulation, the description and quantity of medical appliances which appliance prescriptions issued by any class or designation of persons specified in the Ordinance may order to be supplied.

(6) Regulations may provide that a medical appliance of a class or description prescribed by the regulations may be supplied only for the treatment, management or control of a disease prescribed in relation to that class or description of appliance.

NOTES

In section 15,

the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016;

the words in square brackets in subsection (2) were substituted by the Health Service (Benefit) (Guernsey) (Amendment) Law, 2002, section 1, Schedule, paragraph 2, with effect from 14th April, 2003.

In its application to the Island of Alderney, section 15 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990, section 1, Schedule, paragraph 4, with effect from 1st January, 1991.

The following Ordinance has been made under section 15:

Health Service (Benefit) (Limited Lists) Ordinance, 2004.

The following Regulations have been made under section 15:

*Health Service (Medical Appliances) Regulations, 1990;
Health Service (Medical Appliances) (Amendment) Regulations,*

1993;
Health Service (Medical Appliances) (Amendment) (No. 2) Regulations, 1993;
Health Service (Medical Appliances) (Amendment) Regulations, 1995;
Health Service (Medical Appliances) (Amendment) Regulations, 1997;
Health Service (Medical Appliances) (Amendment) (No. 2) Regulations, 1999;
Health Service (Medical Appliances) (Amendment) Regulations, 2000;
Health Service (Medical Appliances) (Amendment) Regulations, 2001;
Health Service (Medical Appliances) (Amendment) Regulations, 2005;
Health Service (Medical Appliances) (Amendment) (No. 2) Regulations, 2005;
Health Service (Medical Appliances) (Amendment) Regulations, 2006;
Health Service (Medical Appliances) (Amendment) Regulations, 2015.

The following Regulations have effect as if made under section 15:

Health Service (Pharmaceutical) (Prescribed Appliances) (Amendment) (Guernsey) Regulations, 1986;
Health Service (Pharmaceutical) (Prescribed Appliances) (Amendment) (Guernsey) Regulations, 1988.

Appliance prescriptions.

16. Regulations may make provision in relation to appliance prescriptions and in particular, but without prejudice to the generality of the foregoing, may provide for –

- (a) the manner in which appliance prescriptions shall be completed and issued by approved medical practitioners and approved dentists,
- (b) prohibiting the issue of appliance prescriptions which order the supply of medical appliances for the

treatment of more than one person,

- (c) authorising the supply of medical appliances upon the presentation of a copy of an appliance prescription to an authorised appliance supplier,
- (d) regulating the quantity of medical appliances which an appliance prescription may order to be supplied, so as to prevent the quantity of medical appliances supplied to any person on any one occasion exceeding the quantity requisite for the treatment, management or control of the disease from which he is suffering during such period as may be prescribed,
- (e) prohibiting the issue by an approved medical practitioner or approved dentist of appliance prescriptions which order the supply of medical appliances for his own treatment.

NOTE

The following Regulations have been made under section 16:

Health Service (Medical Appliances) Regulations, 1990;
Health Service (Medical Appliances) (Amendment) Regulations, 1991;
Health Service (Medical Appliances) (Amendment) Regulations, 1995;
Health Service (Medical Appliances) (Amendment) Regulations, 1997;
Health Service (Medical Appliances) (Amendment) (No. 2) Regulations, 1999;
Health Service (Medical Appliances) (Amendment) Regulations, 2000;
Health Service (Medical Appliances) (Amendment) (No. 2)

Regulations, 2005;
Health Service (Medical Appliances) (Amendment) Regulations,
2015.

Authorised appliance suppliers.

17. (1) Subject to the provisions of this Law, medical appliances shall not be supplied for the purposes of this Law except by a person authorised in that behalf by [the Committee for Employment & Social Security] under subsection (2) (an "**authorised appliance supplier**").

(2) A person shall be authorised by [the Committee for Employment & Social Security] to supply medical appliances –

- (a) if he is an authorised supplier within the meaning of section 12(1) or if [the Committee for Employment & Social Security] is satisfied that he will supply only such medical appliances as are mentioned in section 15(2)(b), and
- (b) if he furnishes to [the Committee for Employment & Social Security] an undertaking in the prescribed form to supply medical appliances in accordance with prescribed terms and conditions.

(3) Regulations may make provision in relation to the authorisation of persons under subsection (2) and in relation to authorised appliance suppliers, including (without prejudice to the generality of the foregoing) provision in relation to –

- (a) the form and manner in which persons shall apply for

authorisation,

- (b) the terms and conditions subject to which medical appliances are, pursuant to the undertaking referred to in subsection (2)(b), to be supplied,
- (c) the preparation and maintenance of a list (to be known as the "**Medical Appliance List**") of all persons who are authorised appliance suppliers,
- (d) the circumstances in which persons shall cease to be authorised appliance suppliers, and
- (e) the restriction of the description and quantity of medical appliances which may, for the purposes of this Law, be supplied by any class or designation of authorised appliance supplier specified in the regulations.

NOTES

In section 17, the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under section 17:

*Health Service (Authorised Appliance Suppliers) Regulations, 1990;
Health Service (Medical Appliances) Regulations, 1990.*

Supply of medical appliances.

- 18.** (1) Medical appliances (other than those mentioned in section

15(2)(b)) shall not be supplied for the purposes of this Law by an authorised appliance supplier who is –

- (a) a medical practitioner or dentist, unless the appliance prescription authorising the supply of the medical appliances was issued by the medical practitioner or dentist himself or by another approved medical practitioner or approved dentist who is his assistant or with whom he is carrying on practice in partnership,
- (b) a pharmacist employed by a medical practice, unless the appliance prescription authorising the supply of the medical appliances was issued by an approved medical practitioner of the practice.

(2) Medical appliances mentioned in section 15(2)(b) shall not be supplied for the purposes of this Law by an authorised appliance supplier who is –

- (a) a medical practitioner or dentist, except to his patients or to patients of the medical practice in which he is a partner or by which he is employed,
- (b) a pharmacist employed by a medical practice, except to patients of that practice.

(3) Regulations may make provision –

- (a) permitting an authorised appliance supplier to supply medical appliances otherwise than upon the presentation of an appliance prescription,

- (b) permitting an approved medical practitioner or approved dentist who is not an authorised appliance supplier to supply medical appliances (whether upon the presentation of an appliance prescription or otherwise) at the cost, in whole or in part, of the Fund.

(4) The States may by Ordinance specify terms and conditions subject to which medical appliances are to be supplied to persons entitled thereto.

(5) [The Committee for Employment & Social Security] may by regulation make provision as to –

- (a) the payment of charges in respect of the supply of medical appliances,
- (b) the exception of prescribed classes of person from the obligation to pay such charges,
- (c) the payment of different rates of charge –
 - (i) for the supply of different classes or descriptions of medical appliance,
 - (ii) by different classes of person.

NOTES

In section 18, the words in square brackets were substituted by the

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

The following Ordinance has been made under section 18:

Health Service (Benefit) (Limited Lists) Ordinance, 2004.

The following Regulations have been made under section 18:

Health Service (Medical Appliances) Regulations, 1990;
Health Service (Medical Appliances) (Amendment) Regulations, 1991;
Health Service (Medical Appliances) (Amendment) (No. 2) Regulations, 1991;
Health Service (Medical Appliances) (Amendment) Regulations, 1993;
Health Service (Medical Appliances) (Amendment) (No. 2) Regulations, 1993;
Health Service (Medical Appliances) (Amendment) Regulations, 1995;
Health Service (Medical Appliances) (Amendment) Regulations, 1997;
Health Service (Medical Appliances) (Amendment) (No. 2) Regulations, 1999;
Health Service (Medical Appliances) (Amendment) Regulations, 2000;
Health Service (Medical Appliances) (Amendment) (No. 2) Regulations, 2005;
Health Service (Medical Appliances) (Amendment) Regulations, 2015.

Payment of authorised appliance suppliers.

- 19.** (1) Regulations may make provision as to –
- (a) the payment of authorised appliance suppliers for medical appliances supplied by them under and in accordance with the provisions of this Law, and for that purpose regulations may provide for different rates of payment to be made to different classes or designations of authorised appliance suppliers,

- (b) the manner in which payment shall be calculated, and
- (c) the terms and conditions subject to which payment shall be made.

(2) Regulations under subsection (1) may make provision for requiring an authorised appliance supplier –

- (a) to furnish to [the Committee for Employment & Social Security], or to such person as [the Committee for Employment & Social Security] may direct, any information required by [the Committee for Employment & Social Security] for the purpose of enabling it –
 - (i) to determine the amount payable under the regulations to authorised appliance suppliers for medical appliances supplied by them,
 - (ii) to ascertain that medical appliances are being supplied in accordance with the provisions of this Law, and
- (b) to permit any person authorised in writing by [the Committee for Employment & Social Security] in that behalf to carry out any inspection and examination for such purpose as aforesaid at any place of business at or from which the authorised appliance supplier supplies medical appliances.

NOTES

In section 19, the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under section 19:

Health Service (Payment of Authorised Appliance Suppliers) Regulations, 2003;

Health Service (Payment of Authorised Appliance Suppliers) (Amendment) Regulations, 2015.

PART VII

FINANCE, ADMINISTRATION AND LEGAL PROCEEDINGS

Reports of Actuary.

20. (1) [An actuary appointed by [the Committee for Employment & Social Security]] shall review the operation of this Law –

(a) within a period of three years beginning on the 1st January in the year in which this section comes into force, and

(b) thereafter, at intervals not exceeding five years,

and shall, on each such review, report to [the Committee for Employment & Social Security] on the financial condition of the Fund, and on the adequacy or otherwise of the Guernsey Health Service Fund Allocation payable into the Fund under section 101 of the Social Insurance Law and the States Health Service Annual Grant payable into the Fund under section 2 to support payments to be made out of the Fund under the provisions of this Law.

(2) [The Committee for Employment & Social Security] shall, as soon as may be, lay before the States a copy of every report made to it under this section.

NOTES

In section 20,

the words in square brackets in subsection (1) were substituted by the Health Service (Benefit) (Guernsey) (Amendment) Law, 2010, section 3, with effect from 28th February, 2011;

the words "T/the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

General administration.

21. (1) [The Committee for Employment & Social Security] shall administer this Law.

(2) The functions conferred on [the Committee for Employment & Social Security] 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 for Employment & Social Security], or by the Administrator if authorised in that behalf by [the Committee for Employment & Social Security].

(3) The functions conferred on the Administrator by or under this Law, other than any function which he is authorised to exercise under subsection (2), may be exercised by any person authorised by him in that behalf.

NOTE

In section 21, the words "T/the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

General provisions as to offences and penalties.

22. (1) A person who, for the purpose of obtaining any benefit or payment under any provision of this Law, whether for himself or some other person, or for the purpose of evading payment of any charge payable under any such provision, or for any other purpose connected with this Law –

- (a) knowingly makes a false statement or false representation, or
- (b) 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,

is guilty of an offence and liable on summary conviction to a fine not exceeding twice level 5 on the uniform scale, to imprisonment for a term not exceeding 3 months or to both.

(2) Where a person commits an offence under subsection (1) for the purpose of evading payment of any charge, then, whether or not he is convicted of the offence, the charge is recoverable from him as a civil debt by the person to whom payment was due.

(3) A person who contravenes or attempts to contravene any

regulation under this Law is guilty of an offence and liable on summary conviction to such penalty as may be prescribed: provided that the penalty in respect of such an offence shall not exceed a fine of level 4 on the uniform scale or, in the case of a person's second or subsequent conviction of such an offence, level 5 on the uniform scale.

(4) Regulations may provide that the proviso to subsection (3) shall not apply to a contravention or attempted contravention of any of those regulations.

(5) Where an offence under this Law committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and punishable accordingly.

(6) Nothing in this section prevents [the Committee for Employment & Social Security] from recovering by civil proceedings any sums due to the Fund.

NOTES

In section 22, the words in square brackets in subsection (6) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 22 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990, section 1, Schedule, paragraphs 5 and 6, with effect from 1st January, 1991.

Civil proceedings to recover sums due to the Fund.

23. (1) Any sum due to the Fund is (without prejudice to any other remedy) recoverable by [the Committee for Employment & Social Security] as a civil debt.

(2) Proceedings for the recovery as civil debts of sums due to the Fund shall be brought within a period of six years immediately following the day on which the cause of action accrued.

NOTE

In section 23, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

PART VIII

DETERMINATION OF CLAIMS AND QUESTIONS

Claims to be determined by Administrator.

24. The Administrator shall determine –

- (a) any claim for benefit under this Law,
- (b) any question arising in connection with a claim for or award of benefit.

Decision of Administrator.

25. (1) The Administrator shall, so far as practicable dispose of any claim or question mentioned in section 24 within 14 days of its submission to him in one of the following manners –

- (a) he shall decide the claim or question in favour of or adversely to the claimant and give the claimant written notice of the decision and (where the decision is adverse) of the right of appeal under section 26, or
- (b) he shall refer the claim or question to the Tribunal and give the claimant written notice of the reference.

(2) The claimant may demand a written statement of the reasons for a decision of the Administrator under subsection (1)(a).

Appeals to Tribunal.

26. (1) Where the Administrator decides a claim or question adversely to the claimant, the claimant may appeal to the Tribunal.

(2) An appeal under this section shall be brought by giving notice of appeal at the office of the Clerk to the Tribunal within 28 days of the date of the decision, or within such further time as the chairman of the Tribunal may for good cause allow.

(3) 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.

(4) On an appeal, and on a reference under section 25(1)(b), the Tribunal, subject to and in accordance with regulations, may order [the Committee for Employment & Social Security] to pay the costs of any person, whether or not the decision is in his favour.

NOTES

In section 26, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under section 26:

Health Service (Determination of Claims) Regulations, 1990.

Submissions to Ordinary Court.

27. (1) A question of law arising in connection with the determination of an appeal under section 26 or a reference under section 25(1)(b) may, if the Tribunal thinks fit, be submitted for decision to the Ordinary Court in such manner and within such period as may be prescribed by Order of the Royal Court.

(2) The Tribunal shall, if it decides to submit a question of law to the Ordinary Court, give written notice of its intention to do so to the Administrator, to the claimant and to such other persons as appear to the Tribunal to be concerned with the question.

NOTE

The following Order has been made by the Royal Court under section 27:

Health Service (Appeals, etc.) Rules, 1990.

Appeals to Ordinary Court.

28. The Administrator or any other person aggrieved by a decision of the Tribunal on a question of law mentioned in section 27(1) which is not submitted to the Ordinary Court under that section may appeal against that decision to the Ordinary Court in such manner and within such period as may be prescribed by Order of the Royal Court.

NOTE

The following Order has been made by the Royal Court under section 28:

Health Service (Appeals, etc.) Rules, 1990.

Submissions and appeals (general).

29. (1) The decision of the Ordinary Court on a submission or appeal under section 27 or 28 is final.

(2) On a submission or appeal the Ordinary Court may order [the Committee for Employment & Social Security] to pay the costs of any person, whether or not the decision is in his favour.

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

NOTES

In section 29, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Order has been made by the Royal Court under section 29:

Health Service (Appeals, etc.) Rules, 1990.

Questions first arising on appeal.

30. Where a question under this Law first arises in the course of an appeal to the Tribunal, the Tribunal may, if it thinks fit, determine the question

notwithstanding that it has not been considered by the Administrator.

Review of decisions.

31. (1) A decision under this Law of the Administrator, Tribunal or 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 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.

(2) An application for a review under this section shall be made in writing to the Administrator and shall state the grounds of the application.

(3) The Administrator shall, so far as practicable, dispose of the application within 14 days of its submission to him in one of the following manners –

- (a) he shall determine the claim or question to which the decision to be reviewed relates in favour of or adversely to the applicant and give the applicant written notice of the determination and (where the determination is adverse) of the right of appeal under section 26,
- (b) if he is not satisfied that any of the grounds for review

under subsection 1(a) or (b) exists, he shall refuse to review the decision, or

(c) he shall refer the claim or question to the Tribunal and give the applicant written notice of the reference.

(4) The applicant may demand a written statement of the reasons for a determination of the Administrator under subsection (3)(a).

(5) Sections 26 to 30 apply in relation to –

(a) a determination or refusal of the Administrator under subsection (3)(a) or (b) as they apply in relation to a decision under section 25(1)(a),

(b) a reference to the Tribunal under subsection (3)(c) as they apply in relation to a reference under section 25(1)(b).

Adjudication procedure.

32. Regulations may make provision as to the following matters relating to adjudication under this Law –

(a) the procedure to be followed in connection with the consideration of appeals, claims and questions by the Tribunal, or in connection with the withdrawal thereof,

(b) the form which a decision of the Tribunal is to take, and the consequences of any defect in form,

- (c) the form to be used for any document, the evidence to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence,
- (d) the time to be allowed for producing any evidence to the Tribunal,
- (e) the manner in which, and the time within which, an application for a review of a decision is to be made,
- (f) summoning persons to attend, give evidence or produce documents, and authorising the administration of oaths to witnesses,
- (g) empowering the Tribunal or Administrator to refer to a medical practitioner, for examination and report, any question arising from its or his decision.

NOTE

The following Regulations have been made under section 32:

Health Service (Determination of Claims) Regulations, 1990.

Questions as to child or family.

33. (1) This Part of this Law does not apply to any question as to whether at any particular time –

- (a) a person is or was a child,
- (b) a 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 of whether a person is to be treated for the purposes of this Law as having a family as aforesaid, or as being a child of some other person's family),
- (c) 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) A question referred to in subsection (1) 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 IX

HEALTH SERVICE ADVISORY COMMITTEE

Health Service Advisory Committee.

34. (1) There shall be constituted by Ordinance of the States a Committee to be known as the "**Health Service Advisory Committee**" which shall exercise the functions conferred upon it by Ordinance in relation to –

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- (a) medical benefit, pharmaceutical benefit and medical appliances, and
- (b) persons who are approved for the purposes of sections 6(4), 10(2) or 15(2) or who are authorised to supply pharmaceutical benefit or medical appliances.

(2) An Ordinance under subsection (1) may (without prejudice to the generality of that subsection) make provision as to the following matters –

- (a) the composition, membership, powers and procedures of the Health Service Advisory Committee ("**the Committee**"),
- (b) the cases which may be referred by [the Committee for Employment & Social Security] to the Committee for its consideration,
- (c) the consideration by the Committee of cases referred to it and the conduct by the Committee of hearings and enquiries into such cases,
- (d) the obtaining of information for the purposes of the consideration of such cases,
- (e) the making of findings and recommendations by the Committee in consequence of the consideration of such cases, including findings and recommendations that, in cases specified in the Ordinance, persons mentioned in subsection (1) –

- (i) shall make payments into the Fund,
 - (ii) shall, for the purposes of this Law, cease to be authorised to supply pharmaceutical benefit or medical appliances, or
 - (iii) shall cease to be approved for the purposes of section 6(4), 10(2) or 15(2) (with the consequence that their patients shall not, for the purposes of this Law, be entitled to medical benefit in respect of consultations with or treatment by them or to pharmaceutical benefit or medical appliances upon the presentation of prescriptions issued by them),
- (f) the form, content, implementation and enforcement of such findings and recommendations,
- (g) appeals to [the Committee for Employment & Social Security] against such findings and recommendations, and the referral by [the Committee for Employment & Social Security] of such appeals (and other cases specified in the Ordinance) to referees,
- (h) the appointment, powers and procedures of such referees, and the form, content, implementation and enforcement of their decisions.

NOTES

In section 34, the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Ordinance has been made under section 34:

Health Service (Benefit) Ordinance, 1990.

PART X

MISCELLANEOUS AND GENERAL

Ordinances and regulations.

35. (1) Except in so far as this Law otherwise provides, any power conferred thereby to make an Ordinance or regulations may be exercised –

- (a) 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, or different provisions for different cases or classes of cases (including different provision for

different Boards of the Bailiwick), 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 of this Law, an Ordinance or regulation under this Law may contain such consequential, incidental, supplemental or transitional provision as appears to the States or [the Committee for Employment & Social Security] (as the case may be) to be expedient.

(3) An Ordinance or regulation under any provision of this Law may be amended or revoked by a subsequent Ordinance or regulation (as the case may be) thereunder.

(4) Regulations shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

NOTES

In section 35, the words in square brackets in subsection (2) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Ordinance has been made under section 35:

Health Service (Benefit) (Amendment) Ordinance, 1991.

The following Regulations have been made under section 35:

Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 1994;
Health Service (Alderney Hospital Benefit) Regulations, 1997;
Health Service (Physiotherapy Benefit) Regulations, 2002;
Health Service (Physiotherapy Benefit) (Amendment) Regulations, 2005;
Health Service (Alderney Hospital Benefit) (Amendment) Regulations, 2008.

Reciprocal agreements with other countries.

36. For the purpose of giving effect to any agreement with the government of any part of Her Majesty's dominions or the government of any foreign country providing for reciprocity in matters relating to the provision of benefit, the States may by Ordinance modify or adapt this Law in its application to cases affected by the agreement.

Service of documents.

37. A notice or document which, under this Law, is to be given to or served on –

- (a) [the Committee for Employment & Social Security], may be given or served by leaving it at, or by sending it by post addressed to [the Committee for Employment & Social Security] at, [the Committee for Employment & Social Security]'s office,
 - (b) any person, may be given or served by delivering it to him, or by leaving it at, or by sending it by post addressed to him at, his usual or last known place of work or residence.
-

NOTE

In section 37, the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Meaning of "drug" and "medicine".

38. (1) Subject to subsections (3) and (4), in this Law the expressions "**drug**" and "**medicine**" mean –

- (a) any substance intended for use by being administered or applied to a human being for a medicinal purpose, other than –
 - (i) a substance included in Schedule 3A to the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974^a (drugs and other substances not to be prescribed under the National Health Service Pharmaceutical Services),
 - (ii) a substance included in Schedule 3B to those Regulations (drugs to be prescribed under certain circumstances under the National Health Service Pharmaceutical Services), unless prescribed in accordance with the conditions set out in the said Schedule 3B in respect of that substance,

^a United Kingdom Statutory Instrument 1974/160.

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- (iii) a substance included in Part XV of the Drug Tariff ("Borderline Substances"), unless prescribed for the treatment or prevention of the disease set out in the said Part XV in respect of that substance,
- (iv) a prescribed substance, unless intended to be used for the prevention or treatment of a disease prescribed in relation to that substance,
- (b) a chemical reagent, diagnostic preparation, or process included in Part IX R of the Drug Tariff ("Approved list of Chemical reagents") or prescribed by regulations of [the Committee for Employment & Social Security].

(2) In subsection (1), "**medicinal purpose**" means (subject to provision to the contrary made by regulation) any of the following purposes –

- (i) treating or preventing disease,
- (ii) diagnosing disease or ascertaining the existence, degree or extent of a physiological condition,
- (iii) otherwise preventing or interfering with the normal operation of a physiological function, whether permanently or temporarily, and whether by way of terminating, reducing, postponing, increasing or accelerating the

operation of that function or in any other way.

(3) Regulations may provide that, for the purposes of this Law, the definition in subsection (1) of the expressions "drug" and "medicine" shall include any prescribed substance, notwithstanding that the substance would otherwise be excluded from the definition by virtue of subsection (1)(a)(i), (ii) or (iii); and the regulations may provide that any substance so prescribed shall not be included in the definition unless it is intended to be used for the prevention or treatment of a disease prescribed in relation to that substance.

(4) [The Committee for Employment & Social Security] may, if satisfied that any substance excluded from the definition in subsection (1) of the expressions "drug" and "medicine" is required in any particular case for the prevention or treatment of a disease, direct that the substance shall, in relation to that case, be deemed to be included in the definition.

(5) Without prejudice to the power of [the Committee for Employment & Social Security] to make regulations under this section, the States may amend the provisions of this section by Ordinance.

NOTES

In section 38, the words "T/the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under section 38:

Health Service (Pharmaceutical Benefit) (Amendment) Regulations, 1995;

Health Service (Pharmaceutical Benefit) (Amendment) (No. 2) Regulations, 1995;

Health Service (Pharmaceutical Benefit) (Restricted Substances)

Regulations, 1998;

Health Service (Pharmaceutical Benefit) (Restricted Substances) (Amendment) Regulations, 1999;

Health Service (Pharmaceutical Benefit) (Restricted Substances) (Amendment) Regulations, 2001;

Health Service (Pharmaceutical Benefit) (Restricted Substances) (Amendment) Regulations, 2003;

Health Service (Pharmaceutical Benefit) (Restricted Substances) (Amendment No. 2) Regulations, 2003;

Health Service (Pharmaceutical Benefit) (Restricted Substances) (Amendment) Regulations, 2004.

The following Regulations have effect as if made under section 38:

Health Service (Pharmaceutical) (General) (Amendment) (Guernsey) Regulations, 1987.

In accordance with the provisions of the Health Service (Pharmaceutical Benefit) (Restricted Substances) Regulations, 1998, regulation 2, and for the purposes of subsection (1)(a) of this section, the expressions "drug" and "medicine" in this Law shall not include the drugs and medicines specified in the Schedule to the 1998 Regulations (which shall accordingly be prescribed substances for the purposes of paragraph (a)(iv) of subsection (1) of this section), other than in the cases stated and subject to the conditions contained therein, with effect from 16th September, 1998.

Interpretation.

39. (1) In this Law unless the context otherwise requires –

"Administrator" means the Administrator to [the Committee for Employment & Social Security] appointed under section 94 of the Social Insurance Law,

"appliance" includes any apparatus, equipment or utensil,

"appliance prescription" has the meaning given by section 15(2)(a),

"approved dentist" means a dentist whose name is included in either of the lists of dentists maintained by the States [Committee for Health &

Social Care] pursuant to paragraph 1(1) of the Resolution of the States of 31st January, 1990^b], but excludes a dentist whose access to the Board's radiology or pathology services is restricted to an exclusively private basis],

"approved medical practitioner" means a medical practitioner who

–

- (a) has been approved by the [Committee for Health & Social Care] for the purposes of determining eligibility for benefits under this Law, and
- (b) whose entry in the Register maintained under the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015 has been annotated to reflect such approval,]

"approved nurse" means a nurse –

- (a) whose name is included in the list of nurses maintained by the States [Committee for Health & Social Care] pursuant to paragraph 4 of the said Resolution, and
- (b) who is employed by an approved medical practitioner or by a medical practice of which an approved medical practitioner is a member,

"approved pharmacist" means a pharmacist falling within paragraph

^b Resolution XI of 31st January, 1990.

(a) of the definition of "pharmacist" in this section whose name is included in the list of approved pharmacists maintained by the States [Committee for Health & Social Care] pursuant to paragraph 3 of the said Resolution,

"the auditors" has the meaning given by section 1(5),

"authorised appliance supplier" means a person authorised to supply medical appliances by [the Committee for Employment & Social Security] under section 17(2),

"authorised supplier" means a person authorised to supply pharmaceutical benefit by [the Committee for Employment & Social Security] under section 12(2),

"[the Committee for Employment & Social Security]" means the [Guernsey [Committee for Employment & Social Security]] constituted under section 92 of the Social Insurance Law,

"benefit" means any of the categories of benefit specified in section 4,

"the Clerk to the Tribunal" means the person appointed to that office by [the Committee for Employment & Social Security],

"the Committee" has the meaning given by section 34(2)(a),

"contravention" includes failure to comply, and cognate expressions shall be construed accordingly,

"dentist" means a recognised dentist within the meaning of the

Doctors, Dentists and Pharmacists Ordinance, 1987^c,

"**disease**" includes any injury, ailment or adverse condition of body or mind,

"**drug**" has the meaning given by section 38,

"**Drug Tariff**" means the Drug Tariff published under the authority of Her Majesty's Secretary of State for Health pursuant to the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974,

"**the Family Allowances Law**" means the Family Allowances (Guernsey) Law, 1950^d,

"**the Fund**" has the meaning given by section 1(1),

"**Guernsey**" means any of the Islands of Guernsey, Herm and Jethou and includes the islets, rocks and territorial waters adjacent thereto,

"**health benefit card**" means a health benefit card issued by [the Committee for Employment & Social Security] under section 5,

["**insured person**" means a person who is an insured person under the provisions of the Social Insurance Law,]

"**item of pharmaceutical benefit**" means each quantity of drugs or

^c Ordinance No. XVII of 1987.

^d Ordres en Conseil Vol. XIV, p. 332.

medicines ordered on a medical prescription,

"medical appliance" has the meaning given by section 15(1),

"medical benefit" has the meaning given by section 6(1),

"medical practitioner" means a registered practitioner within the meaning given by section 26(1) of the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015,]

"medical prescription" has the meaning given by section 10(2),

"medicine" has the meaning given by section 38,

"nurse" includes midwife,

"Ordinary Court" means the Royal Court sitting as an Ordinary Court,

"pharmaceutical benefit" has the meaning given by section 10(1),

"the Pharmaceutical Law" means the Health Service (Pharmaceutical) (Guernsey) Law, 1972^e,

"Pharmaceutical List" has the meaning given by section 12(3)(c),

"pharmacist" means –

^e Ordres en Conseil Vol. XXIII, p. 428; Vol. XXVI, p. 472; No. XXI of 1984.

- (a) an individual who is a recognised pharmacist within the meaning of the Doctors, Dentists and Pharmacists Ordinance, 1987, or
- (b) an individual or body corporate entitled under the Poisons and Pharmacy Ordinance, 1970^f to carry on a business which consists of or includes the preparation and sale of poisons or medicines within the meaning of that Ordinance,

"prescribed" means prescribed by regulations of [the Committee for Employment & Social Security] under this Law,

"prescription charge" has the meaning given by section 13(5)(a),

"regulations" means regulations of [the Committee for Employment & Social Security] under this Law,

"the Social Insurance Law" means the Social Insurance (Guernsey) Law, 1978^g,

"the States" means the States of Guernsey,

"the States Health Service Annual Grant" has the meaning given by section 2,

^f Recueil d'Ordonnances Tome XVI, p. 236.

^g Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; No. IV of 1985; Nos. III and XXXI of 1986.

"**substance**" means any natural or artificial substance, whether in solid, liquid, gaseous or vaporous form,

"**supplementary benefit**" means supplementary benefit under the Supplementary Benefit Law,

"**the Supplementary Benefit Law**" means the Supplementary Benefit (Guernsey) Law, 1971^h,

"**treatment**", as regards pharmaceutical benefit, means medical treatment or dental treatment, and cognate expressions shall be construed accordingly,

"**the Tribunal**" means the Tribunal constituted under section 80 of the Social Insurance Law.

(2) The States may by Ordinance amend the definitions in subsection (1) of approved dentist, approved medical practitioner, approved nurse and approved pharmacist.

(3) References in this Law to an enactment or statutory instrument (including an enactment or statutory instrument of the United Kingdom) or to the Drug Tariff are, except where the context excludes, references thereto as amended, repealed, replaced, extended or applied from time to time.

(4) Except where the context excludes, references in this Law (howsoever expressed) to the provisions of this Law include references to the

^h Ordres en Conseil Vol. XXIII, p. 26.

provisions of Ordinances and regulations made or having effect as if made under this Law.

NOTES

In section 39,

the words, first, "the Committee for Employment & Social Security" in square brackets, wherever occurring and, second, "Committee for Employment & Social Security" within the second pair of square brackets in the definition of the expression "the Committee for Employment & Social Security" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(3), Schedule 3, paragraph 4 and section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016;³

the words "Committee for Health & Social Care" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016;⁴

the words in the second pair of square brackets in the definition of the expression "approved dentist" were inserted by the Health Service (Benefit) (Amendment) Ordinance, 2002, section 2(a), with effect from 1st January, 2003;

the definitions of the expressions "approved medical practitioner" and "medical practitioner" were substituted by the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015, section 20, with effect from 3rd December, 2015, subject to the transitional and savings provisions in section 28 of and Schedule 7 to the 2015 Ordinance;⁵

the word in the second pair of square brackets in the definition of the expression "the Committee for Employment & Social Security" in subsection (1) was substituted by the Guernsey Social Security Authority (Transfer of Functions) Ordinance, 1993, section 3, Schedule 2, paragraph 5, with effect from 29th September, 1993;

the definition of the expression "insured person" in subsection (1) was inserted by the Health Service (Benefit) (Guernsey) (Amendment) Law, 2002, section 1, Schedule, paragraph 3, with effect from 14th April, 2003.

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.*⁶

*The functions, rights and liabilities of the Health and Social Services 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 Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*⁷

In its application to the Island of Alderney, section 39 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Health Service) (Benefit) Ordinance, 1990, section 1, Schedule, paragraphs 7 and 8, with effect from 1st January, 1991.

In its application to (i) specialist medical benefit, (ii) Alderney hospital benefit, and (iii) physiotherapy benefit, section 39 is modified in accordance with the provisions of, respectively,

- (i) the Health Service (Specialist Medical Benefit) Ordinance, 1995, section 2, Schedule, paragraph 3, with effect from 1st January, 1996;*
- (ii) the Health Service (Alderney Hospital Benefit) Ordinance, 1997, section 2, Schedule, paragraph 3, with effect from 26th March, 1997; and*
- (iii) the Health Service (Physiotherapy Benefit) Ordinance, 1997, section 2, Schedule, paragraph 3, with effect from 1st January, 1998.*

The following Ordinances have been made under section 39:

*Health Service (Benefit) (Amendment) Ordinance, 2003;
Health Service (Benefit) (Amendment) (No. 2) Ordinance, 2003;
Health Service (Benefit) (Amendment) Ordinance, 2005;
Health Service (Benefit) (Annual Grant and Amendment)
Ordinance, 2007.*

Saving for other enactments.

40. Nothing in this Law affects any restriction or prohibition imposed by

or under any other enactment.

Transitional provisions.

41. Schedule 1 (transitional provisions and savings) shall have effect.

Repeals.

42. The Health Service (Pharmaceutical) (Guernsey) Law, 1972ⁱ, the Health Service (Pharmaceutical) (Amendment) (Guernsey) Law, 1978^j, and the Health Service (Pharmaceutical) (Amendment) (Guernsey) Law, 1984^k are repealed.

Citation.

43. This Law may be cited as the Health Service (Benefit) (Guernsey) Law, 1990.

Commencement.

44. (1) This Law shall come into force on the day appointed by Ordinance of the States, and different days may be appointed for different provisions or different purposes.

(2) Any power conferred by a provision of this Law to make an Ordinance or regulation may be exercised at any time after the registration of this Law and before the commencement of that provision; but the Ordinance or regulation shall not come into force until that provision comes into force.

i Ordres en Conseil Vol. XXIII, p. 428.

j Ordres en Conseil Vol. XXVI, p. 472.

k No. XXI of 1984.

NOTE

The Law was brought into force on 1st January, 1991 by the Health Service (Benefit) (Guernsey) Law, 1990 (Commencement) Ordinance, 1990, section 1.

SCHEDULE 1

Section 41

TRANSITIONAL PROVISIONS AND SAVINGS

1. Subject to the provisions of this Schedule, on and after the commencement of this Schedule no person is entitled to pharmaceutical benefit under the Pharmaceutical Law.

2. Regulations may provide that, in relation to –

- (a) persons who cease by virtue of paragraph 1 to be entitled to pharmaceutical benefit under the Pharmaceutical Law,
- (b) persons to or in respect of whom pharmaceutical benefit under that Law was, or but for a disqualification or forfeiture would have been, due immediately before the commencement of this Schedule, and
- (c) persons who had a prospective right to or expectation of pharmaceutical benefit under that Law immediately before such commencement,

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 Pharmaceutical Law.

3. Notwithstanding any repeal effected by this Law, regulations may provide –

- (a) for continuing in force, with or without prescribed modifications, such provisions of the Pharmaceutical Law as considers appropriate for the purpose of [the Committee for Employment & Social Security] preserving rights to pharmaceutical benefit under that Law in those cases (if any) in which in [the Committee for Employment & Social Security]'s opinion adequate alternative rights to pharmaceutical benefit under this Law are not conferred under paragraph 2 of this Schedule,
- (b) for temporarily retaining the effect of those provisions for transitional purposes.

4. Without prejudice to the powers conferred by any other provision of this Law, regulations may make such provision as [the Committee for Employment & Social Security] thinks expedient for facilitating the operation or introduction of pharmaceutical benefit under this Law and the transition to such benefit from the corresponding benefit under the Pharmaceutical Law so far as it continues in force after the commencement of this Schedule.

5. (1) An Ordinance, order, regulation, scheme, appointment or other thing made or done under an enactment repealed by this Law which could have been made or done under a provision of this Law shall have effect as if made or done under that provision.

(2) Anything begun under an enactment repealed by this Law which could be done under a provision of this Law may be continued under that provision 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 commencement of this Schedule.

(4) References (express or implied) in a document to an enactment the effect of which is reproduced by this Law shall if and so far as the context permits, be construed as references to this Law.

(5) For the removal of doubt it is hereby declared that this paragraph applies to any claim for, or award of, benefit before the commencement of this Schedule and to anything done or occurring in or for the purposes of adjudication proceedings before such commencement.

6. A question of whether a person became or ceased to be entitled to benefit at a time before the commencement of this Schedule, and any other question as to benefit in respect of a time before such commencement, is to be determined in accordance with the provisions of law in force at that time in respect of those matters.

7. A medical practitioner or dentist –

(a) who, immediately before the date of the commencement of section 10, was entitled to issue medical prescriptions ordering the supply of pharmaceutical benefit for the purposes of section 5 of the Pharmaceutical Law,

(b) but who, immediately after that date, was not an

approved medical practitioner or approved dentist,

shall be deemed to be an approved medical practitioner or, as the case may be, an approved dentist for the purposes of sections 10(2) and 12(2)(a) of this Law.

NOTES

In Schedule 1, the words "the Committee for Employment & Social Security" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under Schedule 1:

*Health Service (Benefit) (General) Regulations, 1990;
Health Service (Benefit) (General) (Amendment) Regulations, 2003.*

¹ 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.

² 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.

³ The words "Committee for Employment & Social Security" 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.

⁴ These words (save for those in the definition of the expression "approved medical practitioner") were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

⁵ Prior to its substitution, the definition of the expression "approved medical practitioner" was amended by the Health Service (Benefit) (Amendment) Ordinance, 2002, section 2(b) (as itself amended by the Health Service (Benefit) (Amendment) Ordinance, 2003, section 1, with effect from 30th April, 2003), with effect from 1st January, 2003; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

⁶ 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 ("the 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 5, with effect from 29th September, 1993, subject to the savings in section 2 of the 1993 Ordinance.

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