

PROJET DE LOI

ENTITLED

The Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984 *

[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. XXVIII, p. 353; as amended by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 198); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1991 (No. XIV of 1991, Ordres en Conseil Vol. XXXIII, p. 238); the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1993 (No. X of 1993, Ordres en Conseil Vol. XXXIV, p. 458); the Social Insurance (Guernsey) (Amendment) Law, 1999 (No. VI of 1999, Ordres en Conseil Vol. XXXIX, p. 107); the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002 (No. X of 2003, Ordres en Conseil Vol. XLIII(1), p. 261); the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013 (No. IV of 2014); the Guernsey Social Security Authority (Transfer of Functions) Ordinance, 1993 (Recueil d'Ordonnances Tome XXVI, p. 177); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009 (No. VII of 2009, Recueil d'Ordonnances Tome XXXIII, p. 472); the Electronic Census (Guernsey) Ordinance, 2013 (No. XXX of 2013). The Law is modified by the Severe Disability Benefit (Guernsey) Regulations, 2003 (G.S.I. No. 43 of 2003). See also the Severe Disability Benefit and Carer's Allowance Ordinance, 2014 (No. L of 2014).

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The Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984

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ENTITLED

The [Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984]

THE STATES, in pursuance of their Resolution of the twenty-sixth day of January, nineteen hundred and eighty-three, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Alderney, Herm and Jethou.

PART I

[SEVERE DISABILITY BENEFIT] AND [CARER'S ALLOWANCE]

Entitlement to [severe disability benefit].

1. (1) Subject to the provisions of this Law, a person shall be entitled to an allowance (to be known as [...] "[**severe disability benefit**]") if he satisfies such conditions as to residence or presence in Guernsey as may be prescribed and if –

- (a) he is so severely disabled physically or mentally that, by day, he requires from another person –
 - (i) frequent attention throughout the day in connection with his bodily functions, or
 - (ii) continual supervision throughout the day in

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order to avoid substantial danger to himself or others, or

- (b) he is so severely disabled physically or mentally that, at night, he requires from another person –
 - (i) prolonged or repeated attention during the night in connection with his bodily functions, or
 - (ii) continual supervision throughout the night in order to avoid substantial danger to himself or others, [or
- (c) he is deemed in accordance with regulations made by [the Committee] to satisfy either, or both of, the conditions in paragraphs (a) and (b).]

[(2) Subject to the provisions of this Law, the period for which [...] [severe disability benefit] is payable to any person shall be –

- (a) a period throughout which he –
 - (i) has satisfied,
 - (ii) is deemed, in accordance with regulations made under paragraph (c) of subsection (1) to have satisfied, or
 - (iii) is likely to satisfy,

the conditions mentioned in paragraph (a) of subsection (1) of this section or that mentioned in paragraph (b) of that subsection or both, and

(b) except where otherwise prescribed by regulations made by [the Committee], a period immediately preceded by one of not less than three months throughout which he –

(i) satisfied,

(ii) is deemed, in accordance with regulations made under paragraph (c) of subsection (1) to have satisfied, or

(iii) is likely to satisfy,

one or both of those conditions.]

[(2A) ...]

(3) Subject to the provisions of this Law, except in so far as regulations otherwise provide –

(a) a claim for [...] [severe disability benefit] may be made during the period of three months mentioned in [subsection (2)], [or such other period as may be prescribed by [the Committee] in relation to sections 1(1)(c) or 1((2)(b),] and an award may be made in

pursuance of the claim subject to the condition that throughout that period the person to whom the claim relates satisfies the conditions there mentioned, and

- (b) an award so made may be reviewed if at any time it is found that during the period of the award or the interval between the making of the award and the beginning of that period the conditions so mentioned were at some time not both satisfied.

(4) [...] [Severe disability benefit] shall not be payable –

- (a) ...
- (b) in respect of any person whose current annual income exceeds such amount as the States shall from time to time by Ordinance determine.

(5) Regulations may provide that subsections (1) and (2) of this section, and any other provision of this Law so far as the provision relates to any of those subsections, shall have effect, in relation to any severely disabled person who has not attained school-leaving age, subject to such modifications as may be prescribed.

NOTES

The title in square brackets of this Law was substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 1(1), First Schedule, paragraph 1, with effect from 1st May, 2014.¹

The words in the first and second pairs of square brackets in the Heading to Part I of this Law were substituted by the Severe Disability Benefit and

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Carer's Allowance (Guernsey) Law, 2013, respectively section 3(a)(i) and section 3(a)(ii), with effect from 1st May, 2014.

In accordance with the provisions of the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1986, section 3, with effect from 6th January, 1986, this Law, when cited together with the 1986 Law, may be cited as the Severe Disability Benefit and Carer's Allowance (Guernsey) Laws, 1984 and 1986.

In section 1,

the words in square brackets in the marginal note thereto were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 3(a)(i), with effect from 1st May, 2014;

the words omitted in the first pair of square brackets in subsection (1), subsection (2), subsection (3) and subsection (4) were revoked and the words in the second pair of square brackets in those subsections were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 3, respectively paragraph (b) and paragraph (a)(i), with effect from 1st May, 2014;

paragraph (c) of subsection (1), and the word immediately after sub-paragraph (ii) of paragraph (b) thereof, were inserted by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, respectively paragraph 1(1)(b) and paragraph 1(1)(a), with effect from 28th April, 2003;

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

subsection (2) was substituted by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 1(2), with effect from 28th April, 2003;²

subsection (2A) (which was previously inserted by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1993, section 1(b), with effect from 24th August, 1993) was repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 1(3), with effect from 28th April, 2003;

the word, figure and parentheses in the third pair of square brackets in subsection (3) were substituted by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1993, section 1(c), with effect from 24th August, 1993;

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the words in the fourth pair of square brackets in subsection (3) were inserted by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 1(4), with effect from 28th April, 2003;

paragraph (a) of subsection (4) was repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1991, section 1, with effect from 5th November, 1990.

The following case has referred to this Law:

Roussel v. Administrator, States Insurance Authority (1987-88) 6.GLJ.216.

In accordance with the provisions of the Severe Disability Benefit and Carer's Allowance (Appeals and References) (Guernsey) Order, 1985, paragraph 1, with effect from 6th January, 1986, the provisions of the Social Insurance (Appeals and References) (Guernsey) Order, 1979, (other than Part I and Part II, paragraph 18 and the First Schedule), relating to references and appeals to the Court respecting decisions of the Tribunal shall have effect for the purposes of this Law as they have effect for the purposes of the Social Insurance (Guernsey) Law, 1978 subject to the modifications set out in the Schedule to the 1985 Order.

The following Ordinances have been made under section 1:

Severe Disability Benefit and Carer's Allowance (Guernsey) Ordinance, 1986;

Severe Disability Benefit and Carer's Allowance Ordinance, 2015.

The following Regulations have been made under section 1:

Severe Disability Benefit (Guernsey) Regulations, 2003.

In accordance with the provisions of the Severe Disability Benefit (Guernsey) Regulations, 2003, regulation 3, with effect from 4th April, 2003, subsection (1) of this section shall have effect in relation to a person who has not attained school-leaving age subject to the modification that in addition to the conditions provided in paragraphs (a) and (b) of subsection (1) there shall be applied a further condition that the attention or supervision shall be substantially in excess of that normally required by a person who has not attained school-leaving age of the same age and sex.

In accordance with the provisions of the Severe Disability Benefit and Carer's Allowance Ordinance, 2015, section 1, with effect from 4th January, 2016, the amount determined for the purposes of section 1(4) is £93,000.

Entitlement to [carer's allowance].

2. (1) Subject to the provisions of this Law, a person shall be entitled to an allowance (to be known as [...] "[carer's allowance]") for any day on which he is engaged in caring for a severely disabled person if he satisfies such conditions as to residence or presence in Guernsey as may be prescribed and if –

(a) he is regularly and substantially engaged in caring for that person,

[(b) he satisfies such conditions as may be specified by [the Authority] under subsection (7).]

(2) In this section, "**severely disabled person**" means a person in respect of whom there is payable [...] [severe disability benefit], an increase of industrial disablement benefit for constant attendance under the Social Insurance Law or such other payment out of public funds on account of his need for attendance as may be prescribed.

(3) A person shall not be entitled to [...] [carer's allowance] –

(a) if he is under the age of eighteen years or receiving full-time education,

(b) ...

[(b)] if his current annual income exceeds such amount as the States shall from time to time by Ordinance determine,

[(c)] for any period in respect of which he receives any periodic payment[, other than an old age pension[, widow's benefit or industrial disablement benefit],] by way of benefit under the Social Insurance Law.

(4) A person shall not be entitled for the same day to more than one [carer's allowance].

(5) Where apart from this subsection, two or more persons would be entitled for the same day to [...] [carer's allowance] in respect of the same severely disabled person, one of them only shall be entitled, being such one of them as they may jointly elect in the prescribed manner or as may, in default of such election, be determined by [the Committee].

(6) Regulations may prescribe the circumstances in which a person is or is not to be treated for the purposes of this section as engaged, or regularly and substantially engaged, in caring for a severely disabled person[...] or as receiving full-time education.

[(7) [The Authority] may, by written determination, specify such conditions relating to entitlement to carer's allowance, either generally or in relation to any specific case, as it deems reasonably necessary in order to ensure that any severely disabled person, for whom the person in receipt of carer's allowance is regularly and substantially engaged in caring, receives appropriate medical, or other professional, attention and care.]

NOTES

In section 2,

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the words in square brackets in the marginal note thereto and in square brackets in subsection (4) were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 3, paragraph (a)(ii), with effect from 1st May, 2014;

the words omitted in the first pair of square brackets in subsection (1), subsection (3) and subsection (5) were revoked and the words in the second pair of square brackets in each of those subsections were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 3, respectively paragraph (b) and paragraph (a)(ii), with effect from 1st May, 2014;

paragraph (b) of subsection (1) was substituted, the words omitted in square brackets in subsection (6) were repealed and subsection (7) was inserted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 4, respectively paragraph (a)(i), paragraph (a)(ii) and paragraph (a)(iii), with effect from 1st May, 2014;

the word omitted in the first pair of square brackets in subsection (2) was revoked and the words in the second pair of square brackets therein were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 3, respectively paragraph (b) and paragraph (a)(i), with effect from 1st May, 2014;

first, paragraph (b) of subsection (3) was repealed and, second, paragraph (c) and paragraph (d) thereof were re-lettered as, respectively, "(b)" and "(c)" by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1986, respectively section 1(a) and section 1(c), with effect from 6th January, 1986;

the words in square brackets in paragraph (c) of subsection (3) were inserted by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1986, section 1(b), with effect from 6th January, 1986;

the words in square brackets within the square brackets in paragraph (c) of subsection (3) were inserted by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1993, section 1(d), with effect from 24th August, 1993;

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

The following Ordinances have been made under section 2:

Severe Disability Benefit and Carer's Allowance (Guernsey) Ordinance, 1986;

Severe Disability Benefit and Carer's Allowance Ordinance, 2015.

The following Regulations have been made under section 2:

Carer's Allowance (Guernsey) Regulations, 1986;

Carer's Allowance (Amendment) Regulations, 1995;

Carer's Allowance (Guernsey) (Amendment) Regulations, 2014.

In accordance with the provisions of the Severe Disability Benefit and Carer's Allowance Ordinance, 2015, section 2, with effect from 4th January, 2016, the amount determined for the purposes of section 2(3)(b) is £93,000.

In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 26, with effect from 6th May, 2004, the Social Security Authority ("the Authority") has been replaced by the Social Security Department; and the functions, rights and liabilities of the Authority and of its President arising under or by virtue of this Law were transferred to and vested in, respectively, the Social Security Department and its Minister 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. In accordance with the provisions of the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016, the Social Security Department has since been replaced by the Committee for Employment & Social Security; and 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.

Rates of allowances.

3. The weekly rate of [...] [severe disability benefit] or [...] [carer's allowance] shall be such rate as the States may from time to time by Ordinance determine in respect of each such allowance, and different rates may be so determined in respect of different cases or classes of cases.

NOTES

In section 3,

the word omitted in the first pair of square brackets was revoked and the words in the second pair of square brackets were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 3, respectively paragraph (b) and paragraph (a)(i), with effect from 1st May, 2014;

the words omitted in the third pair of square brackets were revoked and the words in the fourth pair of square brackets were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 3, respectively paragraph (b) and paragraph (a)(ii), with effect from 1st May, 2014.

The following Ordinances have been made under section 3:

Severe Disability Benefit and Carer's Allowance (Guernsey) Ordinance, 1986;

Severe Disability Benefit and Carer's Allowance Ordinance, 2015.

In accordance with the provisions of the Severe Disability Benefit and Carer's Allowance Ordinance, 2015, section 3(1), with effect from 4th January, 2016, the weekly rate of severe disability benefit determined for the purposes of section 3 is £100.45.

In accordance with the provisions of the Severe Disability Benefit and Carer's Allowance Ordinance, 2015, section 3(2), with effect from 4th January, 2016, the weekly rate of carer's allowance determined for the purposes of section 3 is £81.28.

PART II

CLAIMS AND PAYMENTS, ETC.

Claims for allowances.

4. (1) Subject to subsection (2) of this section, it shall be a condition of any person's right to an allowance that he makes a claim for it in the prescribed manner.

(2) Regulations may provide for requiring claimants to furnish to the prescribed person any information required for the determination of the claim or of any question arising in connection with it.

NOTE

The following Regulations have been made under section 4:

Carer's Allowance (Guernsey) Regulations, 1986;
Severe Disability Benefit (Guernsey) Regulations, 2003.

Payment of allowances.

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

(2) Regulations may provide –

(a) for requiring beneficiaries –

(i) to furnish to the prescribed person any information required for the determination of a question arising in connection with the award,

(ii) to give notice to the prescribed person of any change of circumstances affecting the continuance of the right to an allowance,

(b) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is a child or

who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Law, and for authorising a person so appointed to receive and deal with any sum payable by way of an allowance on behalf of the claimant or beneficiary,

(c) in connection with the death of any person, for authorising payment or distribution of an allowance payable to him at the time of his death to or amongst persons claiming as his personal representatives, legatees, next-of-kin (being the persons who would take his personal estate beneficially on an intestacy) or creditors (or, in the case of illegitimacy of deceased persons, to or amongst others) and for dispensing with strict proof of the title of persons so claiming,

(d) for enabling [the Committee], where it appears to it to be necessary for protecting the interests of the beneficiary or of his dependants that the whole or any part of any sum payable by way of an allowance should be paid to some person other than the beneficiary, to pay the sum to such other person.

(3) Regulations may provide that an allowance shall not be payable to a person for any period preceding the date on which a claim for it is made.

[(4) Regulations may also provide for –

- (a) the duties and obligations to be imposed upon and observed by individuals who are authorised to receive and deal with an allowance on behalf of another person or who are otherwise appointed to act in relation thereto under regulations made under subsection (2)(b) or (2)(d),
- (b) the penalties to be incurred on summary conviction by individuals described in paragraph (a) who misuse, misappropriate or fail to account for an allowance or who otherwise fail to comply with the duties and obligations imposed upon them by regulations made under paragraph (a),
- (c) the repayment of any allowance which has been misused or misappropriated, or which has not been accounted for, by an individual described in paragraph (a) and its recovery, together with interest thereon, as a debt due to [the Committee].]

NOTES

In section 5,

subsection (4) was inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 23(a), with effect from 17th August, 1999;

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

The following Regulations have been made under section 5:

Carer's Allowance (Guernsey) Regulations, 1986;
Severe Disability Benefit (Guernsey) Regulations, 2003;
Severe Disability Benefit (Duties of Appointees) Regulations, 2002;
Carer's Allowance (Guernsey) (Amendment) Regulations, 2014.

Interim payments, arrears and repayments.

6. (1) Regulations may make provision as respects matters arising –
- (a) pending the determination under this Law (whether in the first instance or on an appeal or reference, and whether originally or on review) of any claim for an allowance or of any question affecting any person's right to an allowance or to the receipt thereof, or
 - (b) out of the revision on appeal or review of any decision under this Law on any such claim or question.
- (2) Without prejudice to the generality of subsection (1) of this section, regulations under that subsection may include provision –
- (a) for the suspension of an allowance where it appears to [the Committee] that there is or may be a question whether the conditions for receipt of the allowance in accordance with an award are or were fulfilled, or whether the award ought to be revised,
 - (b) as to the date from which any decision on a review is to have effect or to be deemed to have had effect,
 - (c) for treating any allowance paid to any person under an award or by virtue of any provision of the regulations,

which it is subsequently decided was not payable, as properly paid or as paid on account of any other allowance which it is decided was payable to him, or for the repayment of any such allowance and the recovery thereof by deduction from another allowance or otherwise.

NOTES

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

The following Regulations have been made under section 6:

*Carer's Allowance (Guernsey) Regulations, 1986;
Severe Disability Benefit (Guernsey) Regulations, 2003.*

Recovery of sums by deduction from allowances, etc.

7. Where, in the case of any person, any sum may by virtue of the Social Insurance Law[, the Supplementary Benefit (Guernsey) Law, 1971] or the Family Allowances Law be recovered by deduction from any payment under [either] of those Laws, it may instead be recovered from him in whole or in part by deduction from an allowance.

NOTES

In section 7, the words and figures in the first pair of square brackets were inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 23(b), with effect from 17th August, 1999.

The word in the second pair of square brackets shown, incorrectly, in the printed version of this section as "either" should read "any".

Allowances to be inalienable.

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

Disqualification as respects persons in hospital etc.

9. Regulations may provide that an allowance shall not be payable in respect of a person for any period when he is a person for whom accommodation is provided in a hospital or elsewhere wholly or partly out of public funds.

NOTE

The following Regulations have been made under section 9:

Carer's Allowance (Guernsey) Regulations, 1986;
Severe Disability Benefit (Guernsey) Regulations, 2003.

Calculation of income.

10. (1) Regulations shall prescribe the manner in which a person's current annual income for the purposes of this Law shall be determined.

(2) Without prejudice to the generality of subsection (1) of this section, regulations under that subsection may provide that, in determining the income of any person, the income of his wife, husband, parent or any other person shall be taken into account as if it were the income of that person.

NOTE

The following Regulations have been made under section 10:

Carer's Allowance (Guernsey) Regulations, 1986;
Carer's Allowance (Amendment) Regulations, 1997;
Severe Disability Benefit (Guernsey) Regulations, 2003.

PART III
DETERMINATION OF CLAIMS AND QUESTIONS

Adjudication by Administrator.

11. There shall be submitted forthwith to the Administrator for determination in accordance with the provisions of this Part of this Law –

- (a) any claim for an allowance, and
- (b) any question arising in connection with a claim for, or award of, an allowance [...].

NOTE

In section 11, the words omitted in square brackets in paragraph (b) were repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 2, with effect from 28th April, 2003.

Decision of Administrator.

12. (1) The Administrator shall take into consideration any claim or question submitted to him under the last foregoing section and dispose of it in accordance with this section as soon as may be reasonably practicable after its submission to him.

(2) [...] The Administrator may in the case of any claim or question so submitted to him –

- (a) decide it in favour of the claimant,
- (b) decide it adversely to the claimant, [...]
- (c) refer it to the Tribunal[...]
- [(d) refer it to [the Authority] in order that [the Authority] may consider the exercise of its powers under subsection (7) of section 2.]

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

NOTES

In section 12,

the words omitted in the first pair of square brackets in subsection (2) were repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 3, with effect from 28th April, 2003;

first, the word and, second, the punctuation omitted in the second and third pairs of square brackets in subsection (2) and, third, paragraph (d) thereof were, respectively, repealed, repealed and inserted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 4(b)(i), section 4(b)(ii) and section 4(b)(iii), with effect from 1st May, 2014.

In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 26, with effect from 6th May, 2004, the Social Security Authority ("the Authority") has been replaced by the Social Security Department; and the functions, rights and liabilities of the Authority and of its President arising under or by virtue of this Law were transferred to and vested in, respectively, the Social Security Department and its Minister 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. In accordance with the provisions of the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016, the Social Security Department has since been replaced by the Committee for Employment & Social Security; and 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.

Appeals to Tribunal from decisions of Administrator, and appeals and references to Ordinary Court respecting decisions of Tribunal, etc.

13. The provisions of sections eighty-one, eighty-two, eighty-three, ninety and ninety-one of the Social Insurance Law and the provisions or any regulations or Order of the Royal Court made under any of those sections shall have effect for the purposes of this Law as they have effect for the purposes of that Law subject to such modifications as may be prescribed –

- (a) as respects any of the provisions of those sections or of those regulations, by regulations,
- (b) as respects any of the provisions of such Order of the Royal Court, by Order of the Royal Court.

NOTES

The following Regulations have been made under section 13:

*Carer's Allowance (Guernsey) Regulations, 1986;
Severe Disability Benefit (Guernsey) Regulations, 2003.*

The following Order has been made by the Royal Court under section 13:

Severe Disability Benefit and Carer's Allowance (Appeals and References) (Guernsey) Order, 1985.

Reference of special questions to Attendance Allowance Board.

14. ...

NOTE

Section 14 was repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 4, with effect from 28th April, 2003.

The Attendance Allowance Board.

15. ...

NOTE

Section 15 was repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 4, with effect from 28th April, 2003, subject to the savings in section 3(a) of the 2002 Law.

Review of decisions of Attendance Allowance Board.

16. ...

NOTE

Section 16 was repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 4, with effect from 28th April, 2003.

Appeals and references to Ordinary Court on questions of law in connection with decisions of Attendance Allowance Board.

17. ...

NOTE

Section 17 was repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 4, with effect from 28th April, 2003, subject to the savings in section 3(b) of the 2002 Law.

PART IV

GENERAL AND MISCELLANEOUS

Delegation of functions of Administrator.

18. The functions conferred on the Administrator by or under this Law may be exercised by any person authorised in that behalf by the Administrator.

Offences and penalties.

19. (1) If any person, for the purpose of obtaining an allowance, whether for himself or some other person, or for any other purpose connected with this Law –

- (a) knowingly makes any 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,

he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 4 on the uniform scale] or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

(2) Subject to the provisions of this Law, regulations may provide for the recovery, on summary conviction, of penalties for offences under this Law of contravening or failing to comply with regulations; so, however, that penalties so provided shall not exceed –

- (a) for any offence, [level 2 on the uniform scale], or
- (b) for an offence of continuing any such contravention or failure after conviction, ten pounds for each day on which it is so continued.

(3) In any proceedings for an offence under this Law, the wife or husband of the accused shall be competent to give evidence, whether for or against the accused; but the wife or husband shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or to him during the marriage by the accused.

NOTES

In section 19, the words in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

The following Regulations have been made under section 19:

*Carer's Allowance (Guernsey) Regulations, 1986;
Severe Disability Benefit (Guernsey) Regulations, 2003.*

Prohibition against disclosure of information.

20. (1) Information which is disclosed to any person in connection with the operation of this Law or any regulations shall not be further disclosed, except –

- (a) to any person for the time being authorised to carry out any duties in connection with the operation of this Law,
- (b) for the purposes of civil or criminal proceedings in connection with the operation of this Law,
- (c) for any of the purposes of Part III of this Law,

so, however, that the Administrator or any person authorised by him in that behalf may disclose such information, not being information as to the income of any person, for any purpose approved by [the Committee].

(2) If any person discloses any information in contravention of subsection (1) of this section, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the uniform scale] or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

[(3) Nothing in this section shall be taken to prohibit the Administrator or any person authorised by him in that behalf from disclosing to –

- (a) the electronic census supervisor, or
- (b) any census officer,

appointed under the Electronic Census (Guernsey) Ordinance, 2013, for the purposes of enabling them to discharge their functions under that Ordinance, information relating to the income of any person.

(4) Information disclosed to the electronic census supervisor or any census officer under subsection (3) may, without prejudice to the provisions of the Electronic Census (Guernsey) Ordinance, 2013 restricting or authorising the disclosure and use of information, be used by them for the purposes mentioned in subsection (3).]

NOTES

In section 20,

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

the words in square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;

subsection (3) and subsection (4) were inserted by the Electronic Census (Guernsey) Ordinance, 2013, section 18, with effect from 30th October, 2013.

Disclosure of information by [Director of Income Tax].

21. No obligation as to secrecy imposed by the Income Tax (Guernsey) Law, 1975^a, shall prevent information obtained for the purposes of that Law with respect to any person or the amount of the income of any person from being disclosed by the [Director of Income Tax] appointed under that Law, or any person

^a Ordres en Conseil Vol. XXV, p. 124.

authorised by the [Director of Income Tax] to disclose such information, to the Administrator or to any person authorised by the Administrator to receive such information in connection with the operation of this Law if that person, or any other person acting on behalf of that person, has authorised the [Director of Income Tax] in writing to disclose such information to the Administrator in that connection; and accordingly a person shall not be guilty of an offence under that Law by reason of the disclosure by him of any such information in pursuance of any such authorisation.

NOTE

In section 21, and the marginal note thereto, the words in square brackets were substituted by the Administrator of Income Tax (Guernsey) (Transfer of Functions) Ordinance, 2009, section 1, with effect from 25th February, 2009, subject to the savings and transitional provisions in section 2 of the 2009 Ordinance.

Reciprocity with other countries.

22. For the purpose of giving effect to any agreement with the government of any country outside Guernsey providing for reciprocity in matters relating to payments for purposes corresponding to the purposes of this Law, the States may by Ordinance make provision for modifying or adapting this Law in its application to cases affected by the agreement.

General provisions as to Ordinances, Orders and regulations.

23. (1) Without prejudice to any specific provision of this Law –
- (a) any Ordinance or regulations under this Law may contain such incidental or supplementary provisions as appear to the States or [the Committee], as the case may be, to be expedient for the purposes of the

Ordinance or regulations,

- (b) regulations under this Law may provide that any regulations made under the Social Insurance Law shall apply for the purposes of this Law as well as for the purposes of that Law, subject to such modifications as may be prescribed.

(2) Any power conferred by this Law to make an Ordinance, an Order or regulations shall include power to vary or revoke the Ordinance, Order or regulations so made by a subsequent Ordinance, Order or regulations, as the case may be.

NOTE

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

Regulations to be laid before the States.

24. Any regulations made by [the Committee] shall be laid before a meeting of the States as soon as may be after the making thereof and, if at that meeting or at the next subsequent meeting, the States resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making by [the Committee] of any new regulations.

NOTE

In section 24, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with

effect from 1st May, 2016.

Amendment of Income Tax Law.

25. In section forty of the Income Tax (Guernsey) Law, 1975 –

(a) a semi-colon is hereby substituted for the full stop at the end of paragraph (cc), and

(b) the following paragraph is hereby inserted immediately after paragraph (cc) –

"(dd) any allowance payable under the Attendance and Invalid Care Allowances (Guernsey) Law, 1984.".

Interpretation.

26. (1) In this Law, except where the context otherwise requires, any expression for which there is an entry in the first column of the Second Schedule to this Law has the meaning given against it in the second column of that Schedule or shall be construed in accordance with directions given against it in that column (references therein to any section being to the applicable section of this Law).

(2) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment including this Law.

(3) The Interpretation (Guernsey) Law, 1948^b, shall apply to the interpretation of this Law throughout the Islands of Guernsey, Alderney, Herm and Jethou.

[Citation.]

27. This Law may be cited as the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984.]

NOTE

Section 27 was substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 2, Second Schedule, paragraph 1, with effect from 1st May, 2014.³

Commencement.

28. This Law shall come into force on such day as shall be appointed in that behalf by Ordinance of the States.

NOTE

The Law was brought into force on 6th January, 1986 by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984 (Commencement) Ordinance, 1985, section 1.

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

FIRST SCHEDULE

Section 15(1)

CONSTITUTION OF ATTENDANCE ALLOWANCE BOARD

...

NOTE

The First Schedule was repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 5, with effect from 28th April, 2003.

SECOND SCHEDULE

Section 26

GLOSSARY OF EXPRESSIONS

Expression (1)	Meaning (2)
"The Administrator" .	The Administrator to [the Committee] appointed under section ninety-four of the Social Insurance Law.
"Age" .	<p>For the purposes of this Law –</p> <p>(a) a person shall be deemed to be over or under any age mentioned in this Law if he has or has not attained that age,</p> <p>(b) a person shall be deemed not to have attained the age of eighteen years until the commencement of the eighteenth anniversary of the day of his birth, and similarly with respect to any age.</p>
"Allowance" .	[...] [Severe disability benefit] or [...] [carer's allowance].
"[Severe disability benefit]" . [...]	See subsection (1) of section one. [...]
"[The Committee]" .	<p>The [Guernsey [Committee for Employment & Social Security]] constituted under section ninety-two of the Social Insurance Law.</p> <p>In relation to any allowance, the person entitled to</p>

"Beneficiary" .	that allowance.
"Child" .	A person who could be treated as a child for the purposes of the Family Allowances Law.
"Claim" .	Construe in accordance with "claimant" .
"Claimant" .	A person who has claimed an allowance.
"Current" .	The expression includes, in relation to an award or decision, a beneficiary under the award or affected by the decision. For the time being in force.
"Functions" .	Powers and duties.
"Family Allowances Law" .	The Family Allowances (Guernsey) Law, 1950 ^c . Includes the Islands of Alderney, Herm and Jethou.
"Guernsey" .	See subsection (1) of section two.
"[Carer's allowance]" .	A medical practitioner authorised to practice in Guernsey according to the law for the time being in force.
"Medical practitioner" .	Includes adaptations, additions and exceptions.
"Modifications" .	The Royal Court sitting as an Ordinary Court.
"Ordinary Court" .	Prescribed by regulations.
"Prescribed" .	Regulations made by [the Committee] under this Law.
"Regulations" .	The Royal Court sitting as a Full Court.

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

"The Royal Court" .	For the purposes of this Law, a person shall be deemed to have attained (or not to have attained) school-leaving age if he would be treated as being over (or under) the upper limit of the compulsory school-age for the purposes of the Family Allowances Law.
"School-leaving age" .	
"Social Insurance Law" .	The Social Insurance (Guernsey) Law, 1978 ^d .
"The States" .	The States of Guernsey.
"The Tribunal" .	The tribunal constituted under section eighty of the Social Insurance Law.

NOTES

In the Second Schedule,

the words in the first and fourth pairs of square brackets in column (1) were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 3, respectively paragraph (a)(i) and paragraph (a)(ii), with effect from 1st May, 2014;

the words omitted in the second pair of square brackets in column (1) and the sixth pair of square brackets in column (2) were repealed by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 2002, section 1, Schedule, paragraph 6, with effect from 20th March, 2003;

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

^d Ordres en Conseil Vol. XXVI, p. 292.

the words omitted in, first, the second and, second, the fourth pairs of square brackets in column (2) of the definition of the expression "Allowance" and the words in, third, the third and, fourth, the fifth pairs of square brackets therein were, respectively, revoked, revoked, substituted and substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 3, paragraph (b), paragraph (b), paragraph (a)(i) and paragraph (a)(ii), with effect from 1st May, 2014;

the word in the seventh pair of square brackets in column (2) was substituted by the Guernsey Social Security Authority (Transfer of Functions) Ordinance, 1993, section 3, Schedule 2, paragraph 4, with effect from 29th September, 1993..

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.⁵

¹ Prior to this substitution, the Law was titled the "Attendance and Invalid Care Allowances (Guernsey) Law, 1984".

² Prior to its substitution, subsection 2 was amended by the Severe Disability Benefit and Carer's Allowance (Amendment) (Guernsey) Law, 1993, section 1(a), with effect from 24th August, 1993.

³ Prior to this substitution, the Law was cited as the Attendance and Invalid Care Allowances (Guernsey) Law, 1984.

⁴ 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.

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