

PROJET DE LOI

ENTITLED

The Family Allowances (Guernsey) Law, 1950 *

[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

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Ordres en Conseil Vol. XIV, p. 332; as amended (this Law has frequently been amended by since-repealed Family Allowances Ordinances, references for which are not reproduced here) by the Family Allowances (Guernsey) (Amendment) Law, 1951 (Ordres en Conseil Vol. XV, p. 212); the Family Allowances (Amendment) Law, 1955 (Ordres en Conseil Vol. XVI, p. 280); the Family Allowances (Amendment) Law, 1961 (Ordres en Conseil Vol. XVIII, p. 367); the Social Insurance (Guernsey) Law, 1964 (Ordres en Conseil Vol. XIX, p. 286); the Family Allowances (Amendment) Law, 1965 (Ordres en Conseil Vol. XX, p. 11); the Homicide (Guernsey) Law, 1965 (Ordres en Conseil Vol. XX, p. 59); the Family Allowances (Amendment) (No. 2) Law, 1965 (Ordres en Conseil Vol. XX, p. 63); the Children and Young Persons (Guernsey) Law, 1967 (Ordres en Conseil Vol. XXI, p. 34); the Education (Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 318); the Children and Young Persons (Amendment) (Guernsey) Law, 1971 (Ordres en Conseil Vol. XXIII, p. 3); the Child Protection (Guernsey) Law, 1972 (Ordres en Conseil Vol. XXIII, p. 238); the Family Allowances (Guernsey) (Amendment) Law, 1976 (Ordres en Conseil Vol. XXVI, p. 150); the Social Insurance (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 292); the Family Allowances (Guernsey) (Amendment) Law, 1984 (Ordres en Conseil Vol. XXVIII, p. 406); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Social Insurance (Guernsey) (Amendment) Law, 1999 (No. VI of 1999, Ordres en Conseil Vol. XXXIX, p. 107); the Children and Young Persons (Amendment) (Guernsey) Law, 2000 (No. III of 2001, Ordres en Conseil Vol. XLI, p. 151); the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013 (No. IV of 2014); the Family Allowances (Guernsey) Ordinance, 1980 (Recueil d'Ordonnances Tome XXI, p. 460); 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 Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010); the Family Allowances Ordinance, 2012 (No. XLII of 2012); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Family Allowances, Social Insurance and Non-Contributory Pensions (Decimalisation of the Currency) (Guernsey) Regulations, 1971 (G.S.I. No. 7 of 1971). See also the Children (Guernsey and Alderney) Law, 2008 (No. XIV of 2009). This Law is prospectively amended by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (*supra*). This Law is prospectively amended by the Family Allowances Ordinance, 2016 (No. ** of 2016).

Consolidated text

amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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The Family Allowances (Guernsey) Law, 1950

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The Family Allowances (Guernsey) Law, 1950

THE STATES, in pursuance of their resolution of the 22nd day of June, 1949, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey and in the Islands of Alderney, Herm and Jethou.

GRANT OF FAMILY ALLOWANCES

Payment and amount of allowances.

1. (1) Subject to the provisions of this Law, there shall be paid by the [Committee], out of monies provided by the States, for every family which includes [a child or children] and for the benefit of the family as a whole, an allowance in respect of each child in the family [...] at the rate of [£15.90] a week.

(2) Notwithstanding the provisions of the last preceding subsection, the States may by Ordinance preceded by a resolution vary any of those provisions as to –

- (a) the children in respect of whom an [allow-] is to be paid,
- (b) the families for which an allowance is to be paid,
- (c) the amount of any such allowance.

(3) ...

NOTES

In section 1,

the word in the first pair of square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016;

the words in the second pair of square brackets in subsection (1) were substituted, and the words omitted in the third pair of square brackets therein were repealed, by the Family Allowances (Guernsey) Ordinance, 1980, respectively section 1(a)(i) and section 1(a)(ii), with effect from 6th January, 1981;

the symbol and figures in the third pair of square brackets in subsection (1) were substituted in accordance with the provisions of the Family Allowances Ordinance, 2012, section 1, with effect from 7th January, 2013;¹

subsection (3) was repealed by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 24(a), with effect from 17th August, 1999.

The following Ordinances have been made under section 1:

Family Allowances Ordinance, 2012;
Family Allowances Ordinance, 2016.

In accordance with the provisions of the Children (Guernsey and Alderney) Law, 2008, section 123, Schedule, paragraph 14, with effect from 4th January, 2010, this Law is one of those specific enactments that the States may repeal, amend, extend, adapt, modify or disapply, and make transitional and savings provisions in relation to, by Ordinance made under the said section 123.

The word in square brackets in paragraph (a) of subsection (2) shown, incorrectly, in the printed version of this section as "allow-" should read "allowance".

Meaning of "child".

[2. (1) A person shall be treated for the purposes of this Law as a child –

- (a) during any period whilst he is under the upper limit of the compulsory school age within the meaning of the Education (Guernsey) Law, 1970^{*}, and
- (b) during any period before the first day of August next following the day on which he attains the age of nineteen years whilst he is receiving full-time education by attendance at a recognised educational establishment.

(2) For the purposes of this section, a person who at any time attains the upper limit of the compulsory school age as aforesaid shall not be treated as being under that limit at any time thereafter, notwithstanding any subsequent change in that limit.]

NOTE

Section 2 was substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(a), with effect from 12th January, 1977.²

Meaning of "family".

3. [(1) Subject to the provisions of this Law, for the purposes of this Law each of the following shall be treated as constituting a family, that is to say –

* Ordres en Conseil Vol. XXII, p. 318.

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- (a) a man and his wife living together, any child or children being issue of theirs, his or hers, and any child or children being maintained by them [or in respect of whom one of them has a residence order made under the Children (Guernsey and Alderney) Law, 2008 in his favour],
- (b) a man not having a wife or not living together with his wife (and not being a man cohabiting with a woman as mentioned in paragraph (d) of this subsection), any child or children being issue of his, and any child or children being maintained by him [or in respect of whom he has a residence order in his favour],
- (c) a woman not having a husband or not living together with her husband (and not being a woman cohabiting with a man as mentioned in the next succeeding paragraph), any child or children being issue of hers, and any child or children being maintained by her [or in respect of whom she has a residence order in her favour],
- (d) a man and a woman cohabiting as husband and wife, any child or children being issue of theirs, his or hers, and any child or children being maintained by them, him or her [or in respect of whom one of them has a residence order in his favour],

and the expression "**issue**" means issue of the first generation.]

(2) It shall be a condition of a child's being treated as included in a family as being issue of the man and his wife or one of them, [of the man and woman cohabiting as husband and wife or one of them,] of the man, or of the woman (according as the family falls within [paragraph (a), (b), (c) or (d) of subsection (1)] of this section) that the child is living with them, with him or with her, as the case may be, or, if not, that the cost of providing for the child is contributed to by them taken together, by him, or by her, as the case may be, at the rate of [[£15.90] per week or more or such other rate as the States may from time to time by Ordinance provide].

(3) The provisions of the Schedule to this Law shall have effect as to the circumstances in which a man and his wife living together, [a man and a woman cohabiting as husband and wife,] or such a man or woman as is mentioned in paragraph (b) or (c) of subsection (1) of this section, is to be treated as maintaining a child; and for determining as between parents and persons maintaining children, or as between one parent of a child and the other, in what family a child is to be treated as included.

NOTES

In section 3,

subsection (1) was substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(b), with effect from 12th January, 1977;

the words in the first, second, third and fourth pairs of square brackets within subsection (1) were inserted by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, respectively paragraph 10(a)(i), paragraph 10(a)(ii), paragraph 10(a)(iii) and paragraph 10(a)(iv), with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance;

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

inserted, and the words in the second pair of square brackets therein were substituted, by the Family Allowances (Guernsey) (Amendment) Law, 1976, respectively section 1(c)(i) and section 1(c)(ii), with effect from 12th January, 1977;

the words in the third pair square brackets in subsection (2) were substituted by the Family Allowances (Amendment) Law, 1955, section 1(a), with effect from 19th November, 1955;

the symbol and figures in square brackets within the third pair of square brackets in subsection (2) were substituted in accordance with the provisions of the Family Allowances Ordinance, 2012, section 2(a), with effect from 7th January, 2013;³

the words in square brackets in subsection (3) were inserted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(d), with effect from 12th January, 1977.

The following Ordinances have been made under section 3:

*Family Allowances (Guernsey) Ordinance, 1980;
Family Allowances Ordinance, 2012;
Family Allowances Ordinance, 2016.*

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 references 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.

Persons to whom allowances are to be paid.

4. [(1) Subject to the provisions of subsection (2) and subsection (3) of this section, allowances for any family shall belong –

- (a) in the case of the family of a man and his wife living together, to the wife,
- (b) in the case of the family of such a man as is mentioned in paragraph (b) of subsection (1) of the last preceding

section, to him,

(c) in the case of the family of such a woman as is mentioned in paragraph (c) of subsection (1) of the last preceding section, to her,

(d) in the case of the family of a man and woman cohabiting as husband and wife, to the woman.

(2) Sums to be paid on account of an allowance for the family of a man and his wife living together shall be receivable by the man or by the wife, and sums to be paid on account of an allowance for the family of a man and woman cohabiting as husband and wife shall be receivable by the man or by the woman.]

(3) If the Administrator is satisfied in the case of a man and his wife living together, [or of a man and woman cohabiting as husband and wife] that the recipient of the allowances is not a proper person as against the other to receive them, he may order that sums on account of allowances for their family becoming receivable after the expiration of fourteen days from the date of the order shall, notwithstanding anything in the last preceding subsection, be receivable, as between them, by the other only.

NOTES

In section 4,

subsection (1) and subsection (2) were substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(e), with effect from 12th January, 1977;

the words in square brackets in subsection (3) were inserted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(f), with effect from 12th January, 1977.

CLAIMS, DURATION OF ALLOWANCES, AND PAYMENT

Determination of questions as to right allowances.

5. (1) Subject to the provisions of this Law and in accordance with regulations made thereunder, all claims for or in respect of allowances shall be made to the Administrator, and any question as to the right to an allowance in respect of any person for any family shall be decided by him.

(2) Any person aggrieved by the award or decision of the Administrator in respect of an allowance (whether as made or given or as revised under subsection (6) of this section) may appeal from that award or decision to a tribunal (hereinafter referred to as "**the tribunal**"), which said tribunal shall be appointed by the Royal Court either generally or in respect of a particular appeal and shall consist of a Chairman and Deputy Chairman appointed by the Royal Court and such other members as the Royal Court may decide[.]

[...]

(3) The tribunal may refer to the Royal Court for decision any question of law arising in connection with the determination of an appeal to the tribunal under this section in such manner and within such period as shall be laid down by Order of the Royal Court.

(4) Any person aggrieved by a decision of the tribunal on any question of law may appeal from that decision to the Royal Court in such manner and within such period as shall be laid down by Order of the Royal Court.

(5) The decision of the Administrator or tribunal, as the case may

be, on any claim or question in respect of which there has been no appeal under this section within the time prescribed or laid down by Order of the Royal Court, as the case may be, shall be final.

(6) The Administrator may at any time and from time to time revise any award made or decision given by him under this Law, if it appears to him that the award or decision was erroneous either in view of further information which has been brought to his notice since the date on which it was made or given as to the circumstances existing at the time by reference to which it was made or given, or by reason of some mistake having been made with respect to those circumstances or to the law:

PROVIDED that this subsection shall not apply to an award or decision relating to a matter which is the subject of an appeal to the tribunal under this section, or until the time prescribed for bringing such an appeal under this Law has expired, unless the person who brought the appeal, or is entitled to bring the appeal, as the case may be, consents, and this subsection shall not apply to an award made by the Administrator for the purpose of giving effect to a decision given by the tribunal or by the Royal Court, as the case may be, unless the person to whom the allowance in question belongs consents.

(7) If in any case in which a decision has been given by the tribunal with respect to a matter which has formed the subject of an appeal to the tribunal under this section it appears to the Administrator that the decision might properly be reconsidered in view either of further information which has been brought to his notice since the date on which it was given as to the circumstances existing at the time by reference to which it was given, or of any apparent inconsistency between the decision and any other decision subsequently given either by the Royal Court or by the tribunal, he may cause the decision to be referred to

the tribunal for reconsideration and the tribunal may revise the decision.

(8) If in any case in which a decision has been given by the Royal Court with respect to a matter which has formed the subject of an appeal to the Royal Court under this section it appears to the Administrator that the decision might properly be reconsidered in view of further information which has been brought to his notice since the date on which it was given as to the circumstances existing at the time by reference to which it was given, he may cause the decision to be referred to the Royal Court for reconsideration and the Royal Court may revise the decision.

NOTES

In section 5, the punctuation in the first pair of square brackets in subsection (2) was substituted, and the proviso omitted in the second pair of square brackets therein was repealed, by the Family Allowances (Guernsey) (Amendment) Law, 1984, section 1, with effect from 27th March, 1984, subject to the saving in section 2 of the 1984 Law.

The following Order has been made by the Royal Court under section 5:

Family Allowances (Appeals and References) (Guernsey) Order, 1950.

The following Regulations have been made under section 5:

Family Allowances (Claims and Payments) (Guernsey) Regulations, 1977.

Period for which allowances are to accrue.

6. (1) An allowance shall be for a continuous period ascertained under the subsequent provisions of this section, and any award of an allowance shall be made accordingly.

(2) Subject to the provisions of the next succeeding section, an

allowance awarded shall begin to accrue –

- (a) if the claim was made within three months from the date of entitlement, on the date of entitlement, or
- [(b) if the claim was not made within three months from the date of entitlement and the claimant shows to the satisfaction of the Administrator that he had good cause for the delay in making the claim, on the date of entitlement or at the beginning of the period of twelve months immediately preceding the date on which the claim was made, whichever is the later, or
- (c) in any other case, at the beginning of the period of three months immediately preceding the date on which the claim was made:]

PROVIDED that, if the award is a revised award made by the Administrator in view of further information brought to his notice or an award made for giving effect to a revised decision given by the tribunal in view of such information, or an award made for giving effect to a revised decision given by the Royal Court in view of such information, this subsection shall have effect as if the claim had been made on the date on which that information was brought to his notice, and the Administrator may for the purposes of this proviso certify the date on which information

was brought to his notice.

In this subsection the expression "**date of entitlement**" means, in relation to an allowance awarded in respect of any person as being a child included in any family, the date on which all the requirements of this Law and of any relevant regulations for the existence of a right to an allowance in respect of that person for that family became satisfied, or if when the award was made those requirements had become satisfied more than once, the date on which they last became satisfied.

(3) An allowance awarded in respect of any person as being a child included in the family of a man and his wife shall be awarded not only for their family but also, with effect after the death of either of them whilst they are living together, for any family for the time being of the survivor, or of the survivor and a spouse of his or hers.

(4) Subject to the provisions of the next succeeding section, an allowance awarded in respect of any person shall terminate when any of the requirements of this Law or of any relevant regulations for the existence of a right to an allowance in respect of that person ceases to be satisfied, or that person is no longer included in a family for which the allowance was awarded, or any of the requirements of this Law or of any relevant regulations for the existence of a right to an allowance for such a family in which that person is included ceases to be satisfied, whichever first occurs.

(5) When it appears to the Administrator that an allowance awarded is about to terminate, or has terminated, under this section, he shall take all necessary steps for stopping payments on account thereof on its termination or so soon as may be practicable thereafter, and the stopping of payments on account of an allowance under this subsection shall be treated for the purposes of the last preceding section as a decision of the Administrator that the allowance has

terminated.

NOTES

In section 6, paragraph (b) of subsection (2) was substituted, and paragraph (c) thereof was inserted, by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(g), with effect from 12th January, 1977.

The following Regulations have been made under section 6:

Family Allowances (Qualifications) (Amendment) (Guernsey) Regulations, 2008.

Method of payment, and time for obtaining payment.

7. (1) Allowances shall be payable by sums on account thereof receivable at such times, in such manner, and subject to such conditions as may be prescribed.

(2) The right to so much of an allowance as is payable by a sum on account thereof made receivable (whether unconditionally or subject to satisfaction of any prescribed conditions) on any day shall be extinguished at the expiration of [twelve months] from that day if payment thereof has not been obtained during that period.

(3) The regulations to be made for the purposes of this section may make provision for securing that the beginning of accruer of allowances shall coincide with a day in the week on which sums on account of allowances made receivable weekly are to become receivable, and that the termination of allowances shall coincide with a day next before such a day.

NOTES

In section 7, the words in square brackets in subsection (2) were substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(h), with effect from 12th January, 1977.

The following Regulations have been made under section 7:

Family Allowances (Claims and Payments) (Guernsey) Regulations, 1977;

Family Allowances (Claims and Payments) (Guernsey) (Amendment) Regulations, 2006;

Family Allowances (Qualifications) (Amendment) (Guernsey) Regulations, 2008.

Adjustment of overpayments.

8. (1) If it is found at any time that a sum has been paid as on account of an allowance being a sum which was not properly payable, the Administrator may require it to be repaid –

- (a) if it was paid to a person as in his own right, by that person, or
- (b) if it was paid to a person as on behalf of another, either by that person or by that other person:

PROVIDED that the Administrator shall not require repayment by a person who is shown to his satisfaction to have acted in good faith in all respects as to the obtaining and receipt of the sum in question.

(2) In the case of a sum paid as on account of an allowance for the family of a man and his wife living together which the wife could under the preceding subsection be required to repay, the husband may be required to repay it.

[(2A) In the case of a sum paid as on account of an allowance for the family of a man and woman cohabiting as husband and wife which the woman could under subsection (1) of this section be required to repay, the man may be required to repay it.]

(3) If it is found at any time that a sum properly payable on account of an allowance has been paid to a person not being a person by whom it was properly receivable, the Administrator may require it to be repaid by the person to whom it was paid:

PROVIDED that the Administrator shall not require repayment by a person who is shown to his satisfaction to have acted in good faith in all respects as to the obtaining and receipt of the sum in question.

(4) In case of the death of a person who could be required to repay a sum under this section, the Administrator may require it to be repaid by his personal representative.

(5) Any sum which a person is required under this section to repay to the Administrator may be recovered by the Administrator as a debt due to the States and proceedings for the recovery of any such sum may be brought at any time within twelve months from the time when that sum was paid, or, where the proceedings are for the recovery of a consecutive series of sums, within twelve months from the date on which the last sum of the series was paid.

(6) Any sum which a person is required under this section to repay to the Administrator may, without prejudice to any other remedy, be recovered by means of deductions from any other sum receivable on account of any allowance by the person to whom the sum was paid, unless it was paid to that person as on behalf of another, and in that case it may, without prejudice to any

other remedy, be recovered by means of deductions from any other sum receivable on account of any allowance by that other person.

(7) If, after an allowance in respect of a child has been awarded for one family, facts are brought to the Administrator's notice from which it appears that the child was in fact not included in that family, but was included in another family, during a period for which sums have been paid as on account of the allowance awarded, and a subsequent award is made of an allowance in respect of the child for that other family so as to accrue during that period or any part thereof, sums on account of the allowance awarded for that other family shall be payable only –

- (a) for the period after such date as may be certified by the Administrator as being the earliest reasonably practicable for taking the necessary action in view of the said facts for stopping payments as on account of the allowance for the first-mentioned family, and
- (b) for any period before that date in respect of which payment of sums as on account of the allowance for the first-mentioned family has not been made, or in respect of which payment has been so made but of sums which have been repaid or recovered under this section.

[(8) Where, in the case of any person, any sum may by virtue of any provision of the [Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984], the Social Insurance (Guernsey) Law, 1978 or the Supplementary Benefit (Guernsey) Law, 1971 (in each case as amended) be recovered by deduction from any payment under that Law, it may instead be recovered from him in whole

or in part by deduction from an allowance payable under this Law.]

NOTES

In section 8,

subsection (2A) was inserted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(i), with effect from 12th January, 1977;

subsection (8) was inserted by the Social Insurance (Guernsey) (Amendment) Law, 1999, section 24(b), with effect from 17th August, 1999;

the words in square brackets within subsection (8) were substituted by the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 2013, section 1(2), First Schedule, paragraph 1, with effect from 1st May, 2014;

Penalty for obtaining or receiving payment wrongfully.

9. If any person –
- (a) with intent to obtain any sum as on account of an allowance, either as in that person's own right or as on behalf of another, furnishes any information which he knows to be false in a material particular, or recklessly furnishes any information which is false in a material particular, or withholds any material information, or
 - (b) obtains or receives any sum as on account of an allowance, either as in that person's own right or as on behalf of another, knowing that it was not properly payable, or not properly receivable by him,

that person shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding [level 4 on the uniform scale] or to both

such imprisonment and such fine.

NOTE

In section 9, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.⁴

Allowances to be inalienable.

10. (1) Every assignment of, attachment of or charge on, and every agreement to assign or charge, an allowance or any part of an allowance or any sum to be paid on account of an allowance, shall be void, and on the bankruptcy of a person to whom an allowance belongs or by whom sums on account of an allowance are receivable, no rights in respect of the allowance or of any sum to be paid on account thereof shall pass to any trustee or other person acting on account of the creditors.

(2) Sums receivable by any person on account of an allowance shall not be included in calculating his means for the purpose of Article three of the Law entitled "Loi ayant rapport aux Débiteurs et à la Renonciation" registered on the Records of the Island of Guernsey on the 2nd day of August, 1929.

EXCLUSION AND ADJUSTMENTS IN CERTAIN CIRCUMSTANCES

Exclusion of children removed from control of parents.

[11. A child shall not, for the purposes of this Law, be treated as included in any family as respects any period during which he is –

- (a) detained in any place by virtue of an order made under the provisions of Article thirty-four or Article thirty-

five of the Law entitled "Loi ayant rapport à la Protection des Enfants et des Jeunes Personnes" registered on the tenth day of February, nineteen hundred and seventeen,

(b) detained by virtue of the provisions of the Law entitled "Loi ayant rapport à l'Asile des Enfants" registered on the twenty-fourth day of November, nineteen hundred and twenty-eight, in any institution and is not boarded-out by virtue of the provisions of the said Law,

(c) detained in any place by virtue of the provisions of section one of the Homicide (Guernsey) Law, 1965,

[(d) ...]

[(e) subject to any order by which he is placed out of the jurisdiction pursuant to Part XI of the Children (Guernsey and Alderney) Law, 2008, and]

[(f) subject to a community parenting order under the Children (Guernsey and Alderney) Law, 2008 and is placed other than with his parents].]

NOTES

Section 11 was substituted by the Children and Young Persons (Guernsey) Law, 1967, section 37, Second Schedule, Part I, with effect from 29th November, 1967.⁵

In section 11, first, paragraph (d) (which was originally substituted by the Children and Young Persons (Amendment) (Guernsey) Law, 1971, section

2, with effect from 1st May, 1971 which amendment, in accordance with the provisions of section 6(4) of that Law, had effect only in the Island of Guernsey and the Island of Alderney) was repealed, second, paragraph (e) was substituted and, third, paragraph (f)⁶ was substituted by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, respectively paragraph 10(b)(ii), paragraph 10(b)(iii) and paragraph 10(b)(iv), with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

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 references 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.

Paragraph (b) of section 11 is prospectively repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009.

[Section 11A.

11A. ...]

NOTE

Section 11A (which was originally inserted by the Child Protection (Guernsey) Law, 1972, section 33(1), Schedule, Part I, with effect from 1st May, 1972) was repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(3), with effect from 6th March, 2001.

Adjustment in case of children for whom equivalent benefits are provided under provisions relating to the services and to war injury in force in the United Kingdom.

12. (1) The following provision shall have effect as respects allowances under this Law which apart from such provision would accrue during any period before such date as may be certified by the Treasury in the United

Kingdom as the date on which a revision has taken effect of the scales of emoluments and other benefits to be paid in respect of the service of a member of the naval, military or air forces of the Crown (including such nursing or other auxiliary service as may be prescribed under this Law), that is to say, if the [Committee] is satisfied that provision has been made, by an authority in the United Kingdom by whom allowances or other additions to emoluments in respect of that period are payable in respect of any children by reference to such service as aforesaid, for the giving in respect of those children and of that period of benefits, in addition to those allowances or other additions to emoluments, equivalent to the benefits conferred by this Law in respect of those children and of that period, the [Committee] may make regulations for withholding the allowances under this Law which would otherwise accrue in respect of those children during that period.

(2) The preceding subsection shall apply in relation to a revision of the scales of benefit to be paid –

- (a) in respect of the disablement or death of persons who have served in any of the said forces, or
- (b) under any scheme made by virtue of the Injuries in War (Compensation) Act, 1914, the Injuries in War Compensation 1914, (Session 2), the Injuries in War (Compensation) Act, 1915, the Government War Obligations Acts, 1914 to 1916, the Personal Injuries (Emergency Provisions) Act, 1939, or the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, either as originally enacted or as amended by the Pensions (Mercantile Marine) Act, 1942,

with the substitution, for references to allowances or other additions to emoluments

payable by reference to such service as is mentioned in the preceding subsection, of references to allowances or other additions payable by reference to such disablement or death as aforesaid, or under any such scheme as aforesaid, as the case may be.

NOTE

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

Adjustments in respect of outdoor relief.

13. (1) Where –

- (a) outdoor relief under the Public Assistance Law, 1937, is granted to or on account of any person in respect of any period, and
- (b) that person subsequently becomes entitled to receive in respect of the same period sums on account of an allowance under this Law,

the [Committee] may in its discretion treat the said sums as reduced for the purposes of this Law by an amount not exceeding the amount of any reduction which the authority granting the relief under the said Law certify that they would have made in the relief if those sums had been receivable by that person during that period.

(2) Where under this section the [Committee] treats sums on account of an allowance as reduced in respect of outdoor relief, it may pay to the

authority granting the relief, out of the monies referred to in section one of this Law, an amount equal to that by which those sums are treated as reduced.

NOTE

In section 13, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

ADMINISTRATIVE PROVISIONS

Regulations of the [Committee].

14. (1) The [Committee] may make regulations for prescribing anything which under this Law is to be prescribed and generally for carrying this Law into effect, and in particular, but without prejudice to the generality of this subsection –

- (a) for prescribing the manner in which the Administrator shall be supplied by claimants with certificates of births, marriages, deaths and of copies of final decrees of dissolution of marriages, or shall be furnished with such information by His Majesty's Greffier as may be necessary, or shall be permitted to search the registers of births, marriages, deaths and the records of final decrees of dissolution of marriages maintained by His Majesty's Greffier,
- (b) for prescribing the manner in which claims to allowances may be made,

- (c) ...
- (d) for authorising in such cases as may be prescribed the payment of any sum as on account of an allowance during any period intervening between the making of any claim or the raising of any question and the final determination of the claim or question,
- (e) for enabling a person to be appointed to exercise, on behalf of a claimant, or of a person to or by whom an allowance belongs or is receivable, who may be or may become unable for the time being to act, any right or power which that claimant or person may be entitled to exercise under this Law and any amendment or modification thereof from time to time in force and for authorising a person so appointed to receive any sum on account of an allowance on behalf of that claimant or person,
- (f) for imposing upon persons to whom allowances belong or by whom or on whose behalf sums on account of allowances are receivable the duty to furnish to the Administrator information of facts affecting the right thereto,
- (g) for making provision, in connection with the death of persons who had made claims for allowances or to whom allowances belonged or by whom sums on account of allowances were receivable, for enabling such claims to be proceeded with, for extending the

period limited by section seven of this Law for obtaining payment of such sums, for authorising payment or distribution of such sums to or amongst persons claiming as personal representatives, legatees, next of kin or creditors of such persons (or, in cases of illegitimacy of deceased persons, to or amongst others), and for dispensing with strict proof of the title of persons so claiming,

- (h) for regulating the procedure to be followed in the case of any appeal under section five of this Law from the decision of the Administrator to the tribunal,
- (i) as to the time to be allowed for making an appeal to the tribunal, and
- (j) for regulating the procedure to be followed on any reference by the Administrator to the tribunal under section five of this Law.

(2) If any person contravenes or fails to comply with any requirement of regulations made under this Law, he shall be liable on conviction to a fine not exceeding [level 1 on the uniform scale].

NOTES

In section 14,

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

paragraph (c) of subsection (1) was repealed by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(k)(i), with effect from 12th January, 1977;

the words and figure in square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.⁷

The following Regulations have been made under section 14:

Family Allowances (Claims and Payments) (Guernsey) Regulations, 1977;

Family Allowances (Appeals and References) (Guernsey) Regulations, 1977;

Family Allowances (Qualifications) (Amendment) (Guernsey) Regulations, 2008.

Regulations to be laid before the States.

15. (1) Subject to the next succeeding subsection, all regulations made by the [Committee] under this Law shall be laid before the States forthwith after the making thereof in such manner as the States may by general resolution from time to time direct and if, at the meeting of the States in the course of which any regulations so made are laid before them or at the next subsequent meeting, the States resolve that the regulations be annulled, the regulations shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of any new regulations.

(2) No regulations, shall be made under section twelve [...] of this Law unless a draft of such regulations has been laid before the States and has been approved by a resolution of the States.

NOTE

In section 15,

the word in square brackets in subsection (1) was substituted by the

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

the words omitted in square brackets in subsection (2) (which words were previously inserted by the Family Allowances (Amendment) (No. 2) Law, 1965, section 1(a), with effect from 24th August, 1965) were repealed by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(l), with effect from 12th January, 1977.

Administrative and other expenses.

16. The [Committee] may pay out of monies provided by the States –
- (a) any expenses incurred by the [Committee] in carrying this Law into effect,
 - (b) to any person charged under this Law with the duty of hearing appeals or references from the Administrator to the tribunal under this Law, such sums by way of recompense for such duty in accordance with the rate and under the conditions from time to time laid down by resolution of the States,
 - (c) to any person required to attend at any proceedings on any award, decision or appeal under this Law, such travelling and other allowances as the [Committee] may determine, and
 - (d) such other expenses incurred in connection with the work of any person referred to in the last but one preceding paragraph.
-

NOTE

In section 16, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Provisions as to legal proceedings.

17. (1) Proceedings for an offence under this Law shall not be instituted except with the consent of the [Committee] or of the Administrator authorised in that behalf by special or general directions of the [Committee].

(2) Notwithstanding any provision in any Law prescribing the period within which proceedings may be commenced, proceedings for an offence under this Law may be commenced at any time within the period of three months from the date on which evidence, sufficient in the opinion of the [Committee] to justify a prosecution for the offence, comes to the knowledge, or within the period of twelve months from the date on which the offence was committed, whichever period last expires, and for the purposes of this subsection a certificate purporting to be signed by or on behalf of the [Committee] as to the date on which such evidence as aforesaid came to its knowledge, shall be conclusive evidence thereof.

NOTE

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

Exemption from stamp duty.

18. Stamp duty shall not be chargeable upon a draft or order for the payment of a sum on account of an allowance, or upon a receipt given for, or on the

payment of, any such sum.

INTERPRETATION

Provisions as to certain special circumstances affecting the operation of s. 3.

19. (1) A man and his wife shall not be deemed for the purposes of this Law to be living otherwise than together unless they are permanently living in separation either by agreement or under an order of a court, or one of them has deserted the other and the separation which is incident to the desertion has not come to an end.

(2) For the purposes of this Law, a child being legitimate issue of a deceased spouse of any person by an earlier marriage of the deceased spouse to another shall be treated as issue of that person, and a child being illegitimate issue of a deceased spouse of any person shall be treated as issue of that person so far as regards any period during which the child is living with that person:

PROVIDED that the preceding provisions of this subsection shall not have effect in a case in which the marriage between the person in question and his or her deceased spouse was terminated otherwise than by the deceased spouse's death.

(3) Where a child born before the marriage of the child's parents has been legitimated by virtue of the subsequent marriage of the parents, the child shall, for the purposes of this Law, be deemed to be issue of the marriage.

(4) For the purposes of this Law, an adopted child shall be treated as if the child were legitimate issue of the adopter, or, if the child was adopted by two spouses jointly, or by one of two spouses after their marriage, as if the child were legitimate issue of their marriage, and shall not be treated as being

issue of any other person.

(5) An illegitimate child shall not be treated for the purposes of this Law as being issue of the child's father [except where the child's father and mother are cohabiting as husband and wife].

(6) References in this Law to the parents, a parent, the father, or the mother of a child, or to an illegitimate child, shall be construed in accordance with the provisions of the four last preceding subsections.

(7) Subject to the provisions of section eleven of this Law, a child shall not be deemed for the purposes of this Law to have ceased to live with a person by reason of any temporary absence, and in particular by reason of absence at any [recognised educational establishment], and a person who has been contributing at any rate to the cost of providing for a child, or has been maintaining a child, shall not be treated as having ceased so to contribute, or to maintain the child, by reason of any temporary interruption or reduction of his contribution to the cost of providing for the child, and the question whether any such absence (other than at a [recognised educational establishment]), interruption or reduction is or is not to be treated as temporary for the said purposes shall be determined by reference to such rules as may be prescribed.

(8) For the purposes of this Law, a person shall be deemed not to have attained the age of [nineteen] until the commencement of the [nineteenth] anniversary of the day of his birth, and similarly with respect to other ages.

NOTES

In section 19, first, the words in square brackets in subsection (5) were inserted, second, the words in square brackets in subsection (7) were substituted and, third, the words in square brackets in subsection (8) were

substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, respectively section 1(m)(i), section 1(m)(ii) and section 1(m)(iii), with effect from 12th January, 1977.

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 references 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.

The following Regulations have been made under section 19:

Family Allowances (Qualifications) (Guernsey) Regulations, 1977.

Meaning of "providing for" a child.

20. (1) In this Law the expression "**providing for**" a child means making available for the child food, clothing, lodging, education and all other thing reasonably required for the child's benefit having regard to all the circumstances [and, for the avoidance of doubt, a person provides for a child where he has a residence order, made under the Children (Guernsey and Alderney) Law, 2008, in his favour in respect of that child].

(2) For the purposes of this Law –

- (a) the making available in kind of anything used for providing for a child shall be treated as a contribution to the cost of providing for the child of an amount equal to the value thereof,
- (b) money paid or a thing made available in kind shall be treated as contributed by any person so far, and so far only, as it is paid or made available at that person's own expense or out of property belonging to that

person beneficially.

NOTE

In section 20, the words in square brackets in subsection (1) were inserted by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 10(c), with effect from 4th January, 2010.

Definitions.

21. (1) In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"**Administrator**" means the Administrator to the [Committee] appointed, or deemed to have been appointed, under section ninety-four of the Social Insurance (Guernsey) Law, 1978,]

"**allowance**" means an allowance under this Law,

[...]

"**[Committee]**" means the [Guernsey [Committee for Employment & Social Security]] constituted under section ninety-two of the Social Insurance (Guernsey) Law, 1978], and

"**Guernsey**" includes the Islands of Alderney, Herm and Jethou[,

"**recognised educational establishment**" means an establishment recognised by the Administrator as being or as comparable to, a university, college or school, and regulations may prescribe the circumstances in which

a person is or is not to be treated for the purposes of this Law as receiving full-time education by attendance at such an establishment.]

(2) This Law shall be interpreted in the Islands of Alderney and Jethou as if the Interpretation (Guernsey) Law, 1948, applied to those Islands.

NOTES

In section 21,

the definition of the expression "Administrator" in subsection (1) was substituted by the Social Insurance (Guernsey) Law, 1978, section 120, Fifth Schedule, with effect from 1st January, 1979;⁸

the words omitted in the second pair of square brackets in subsection (1) were repealed by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(n)(i), with effect from 12th January, 1977;⁹

the words in the third pair of square brackets in subsection (1) were substituted by the Social Insurance (Guernsey) Law, 1978, section 120, Fifth Schedule, with effect from 1st January, 1979;¹⁰

the words in, first, the first and, second, the second pairs of square brackets in the definition of the expression "Committee" in subsection (1) and, third, the word "Committee" in square brackets wherever else occurring were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4, section 2, Schedule 1, paragraph 13 and section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016;¹¹

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

the definition of the expression "recognised educational establishment" in subsection (1) was inserted and the punctuation immediately after the definition of the expression "Guernsey" was substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(n)(ii), with effect from 12th January, 1977.

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.¹²

The following Regulations have been made under section 21:

*Family Allowances (Qualifications) (Guernsey) Regulations, 1977;
Family Allowances (Qualifications) (Amendment) (Guernsey)
Regulations, 1983;
Family Allowances (Qualifications) (Amendment) Regulations,
1992.*

EXTENT, REPEALS AND COMMENCEMENT

Limitation of extent of application of Law.

22. (1) [It shall be a condition of the right to any allowance for the family of a man and his wife living together, or of a man and woman cohabiting as husband and wife, that –

- (a) the man or his wife, or the man or woman cohabiting as aforesaid, as the case may be, was born in Guernsey, or
- (b) such requirements as to residence, place of birth or other matters as may be prescribed are satisfied as respects the man or his wife or the man or woman cohabiting as aforesaid, as the case may be, according to such rules as may be prescribed.]

(2) It shall be a condition of the right to any allowance for the family of a man and his wife living together that each or one of them is in

Guernsey, and the like condition shall apply in the case of the family of such a man as is mentioned in paragraph (b) of subsection (1) of section three of this Law as respects the man, and in the case of the family of such a woman as is mentioned in paragraph (c) of that subsection as respects the woman.

[(2A) It shall be a condition of the right to any allowance for the family of a man and woman cohabiting as husband and wife that each or one of them is in Guernsey.]

(3) It shall be a condition of a child's being treated as a member of any family that the child is in Guernsey.

(4) For the purposes of the [three last preceding subsections] the temporary presence of a person in Guernsey or the temporary absence of a person therefrom shall be disregarded, and the question whether the presence or absence of a person is or is not to be treated as temporary for the said purposes shall be determined by reference to such rules as may be prescribed.

(5) Sums to be paid on account of allowances shall be payable only in Guernsey.

NOTES

In section 22,

subsection (1) was substituted, and subsection (2A) was inserted, by the Family Allowances (Guernsey) (Amendment) Law, 1976, respectively section 1(o)(i) and section 1(o)(ii), with effect from 12th January, 1977;

the words in square brackets in subsection (4) were substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(o)(iii), with effect from 12th January, 1977.

The following Regulations have been made under section 22:

[Reciprocal agreements with United Kingdom, Her Majesty's dominions and foreign countries.]

[23. (1) For the purpose of giving effect to any agreement with the government of the United Kingdom, the government of Northern Ireland or of any part of Her Majesty's dominions or the government of any foreign country (including any agreement between the government of the United Kingdom and the government of any part of Her Majesty's dominions or of any foreign country which has been extended or applies to Guernsey) providing for reciprocity in matters relating to payments for purposes similar to or comparable with the purposes of this Law, [the States of Guernsey may by Ordinance] make provision for modifying or adapting this Law in its application to cases affected by the agreement.

(2) The modifications of this Law which may be made by virtue of subsection (1) of this section shall include provision –

- (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made shall have a corresponding effect for the purposes of this Law (but not so as to confer a right to double benefit),
- (b) for determining, in cases where rights accrue both under this Law and under the law of the said country, which of those rights shall be available to the person concerned,

- (c) for making any provisions as to administration and enforcement contained in this Law, or in any regulations thereunder, applicable also for the purposes of the law of the said country,
- (d) for making any necessary financial adjustments.

(3) For the purposes of this section the expression "**Her Majesty's dominions**" includes British protectorates and protected states and any United Kingdom trust territory.]

NOTES

Section 23, and the marginal note thereto, were substituted by the Family Allowances (Amendment) (No. 2) Law, 1965, respectively section 1(b) and section 1(c), with effect from 24th August, 1965, subject to the savings in section 2 of the 1965 Law.

In section 23, the words in square brackets in subsection (1) were substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(p), with effect from 12th January, 1977, subject to the saving in section 2 of the 1976 Law.

The following Ordinances have been made under section 23:

Social Insurance and Family Allowances (Reciprocal Agreement with Portugal) (Guernsey) Ordinance, 1979;

Social Insurance and Family Allowances (Reciprocal Agreement with Austria) (Guernsey) Ordinance, 1981.

The following Regulations have been made under section 23:

Family Allowances (Reciprocal Agreement with France) (Guernsey) Regulations, 1966;

Family Allowances (Reciprocal Agreement with Switzerland) (Guernsey) Regulations, 1969;

Family Allowances (Reciprocal Agreement with Spain) (Guernsey) Regulations, 1975.

Instruments made or issued by the [Committee].

24. (1) Every document purporting to be an instrument made or issued by the [Committee] and to be signed by any person authorised by the [Committee] shall be received in evidence and be deemed to be so made or issued without further proof unless the contrary is shown.

(2) A certificate signed by the [President] of the [Committee] on behalf of that [Committee] that any instrument purporting to be made or issued by it was so made or issued shall be conclusive evidence of that fact.

NOTE

In section 24, the words "Committee" and "President" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4 and section 2, Schedule 1, paragraph 13, with effect from 1st May, 2016.¹³

Repeals and savings.

25. The Family Allowances Law, 1947, is hereby repealed on and after a day to be appointed by the [Committee] under the next succeeding section, and no person shall, whether on his own behalf or on behalf of another, on and after that day be treated as receiving or claiming any allowance under the said Law:

PROVIDED that, without prejudice to the provisions of section nineteen of the Interpretation (Guernsey) Law, 1948 –

- (a) nothing in this repeal shall affect any decision given or thing done under the said Law and every such decision shall remain in force and shall, so far as it could have been given under this Law, have effect as if made or

given under the corresponding enactment of this Law,

- (b) any document referring to the enactment repealed by this Law shall be construed as referring to the corresponding enactment of this Law,
- (c) references in this Law to persons claiming or in receipt of allowances shall, so far as necessary for the purpose of preserving any accruing right, be construed as including references to persons so claiming or in receipt of allowances under the enactment repealed by this Law.

NOTE

In section 25, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Commencement.

26. This Law shall come into force on such day as may be appointed by Ordinance and different days may be appointed for different purposes and for different provisions of this Law.

NOTES

The Law, other than section 25 thereof, was brought into force on 4th July, 1950 by the Family Allowances (Guernsey) Law, 1950, (Commencement) Ordinance, 1950, section 2.

Section 25 was brought into force on 28th June, 1950 by the Family Allowances (Guernsey) Law, 1950, (Commencement) Ordinance, 1950, section 1.

SCHEDULE

Section 3

CIRCUMSTANCES IN WHICH A PERSON IS TO BE TREATED AS
MAINTAINING A CHILD

1. (1) A person shall be treated for the purposes of this Law as maintaining a child –

- (a) if that person is the only person who contributes to the cost of providing for the child, or if that person contributes to the said cost an amount greater than any other one person contributes thereto,
- (b) if two or more persons of whom that person is one each of them contribute to the said cost an equal amount that is greater than any other one person contributes thereto, and it is agreed between the said two or more persons, or in default of agreement the Administrator in his discretion decides, that, as between them, that person is to be preferred,

and not otherwise:

PROVIDED that a person who under the preceding provisions would be treated as maintaining a child shall not be so treated if his contribution to the cost of providing for the child is at a rate less than [[£15.90] a week or such other rate as the States may from time to time by Ordinance provide], unless the child is living with that person.

[(2) For the purposes of this paragraph, a man and his wife living

together or a man and woman cohabiting as husband and wife shall be treated as one person and amounts contributed by them respectively shall be aggregated accordingly, and references to a person shall be construed as references to such persons as are mentioned in paragraphs (a), (b), (c) or (d) respectively of subsection (1) of section three of this Law, that is to say, a man and his wife living together, such a man as is mentioned in the said paragraph (b), such a woman as is mentioned in the said paragraph (c), and a man and a woman cohabiting as husband and wife.]

**DETERMINATION OF THE FAMILY IN WHICH A CHILD CAPABLE OF
BEING TREATED AS INCLUDED IN MORE THAN ONE FAMILY IS TO BE
INCLUDED**

2. Where a child could otherwise be treated under section three of this Law as included at the same time in one family as being issue of his parents or either of them, and in another family as being maintained by a person other than his parents or either of them, the child shall be treated as then included in that family only in which he can be treated as included as being issue of the parents or parent.

3. Where a child could otherwise be treated under section three of this Law as included at the same time in one family on the ground of the child's being issue of his father, and in another family on the ground of the child's being issue of his mother, the child shall be treated as then included in one of those families to the exclusion of the other as may be agreed between the father and the mother, or in default of agreement as the Administrator may in his discretion decide.

NOTES

In the Schedule,

the words in square brackets in the proviso to sub-paragraph (1) of paragraph 1 were substituted by the Family Allowances (Amendment) Law,

Consolidated text

1955, section 1(b), with effect from 19th November, 1955;

the symbol and figures in square brackets within the square brackets in the proviso to sub-paragraph (1) of paragraph 1 were substituted in accordance with the provisions of the Family Allowances Ordinance, 2012, section 2(b), with effect from 7th January, 2013;¹⁴

sub-paragraph (2) of paragraph 1 was substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(q), with effect from 12th January, 1977.

The following Ordinances have been made under the Schedule:

*Family Allowances (Guernsey) Ordinance, 1980;
Family Allowances Ordinance, 2012;
Family Allowances Ordinance, 2016.*

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 references in this Schedule 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.

¹ These figures and symbol were previously substituted by the Family Allowances (Increase of Allowances) Ordinance, 1955, section 1, with effect from 1st November, 1955; the Family Allowances (Increase of Allowances) Ordinance, 1957, section 1(a), with effect from 27th November, 1957; the Family Allowances, Social Insurance and Non-Contributory Pensions (Decimalisation of the Currency) (Guernsey) Regulations, 1971, regulation 3(1), with effect from 15th February, 1971; the Family Allowances (Guernsey) Ordinance, 1980, section 1(a)(iii), with effect from 6th January, 1981; the Family Allowances (Guernsey) Ordinance, 1981, section 1(a), with effect from 30th March, 1982; the Family Allowances (Guernsey) Ordinance, 1983, section 1(a), with effect from 21st June, 1983; the Family Allowances (Guernsey) Ordinance, 1984, section 1, with effect from 31st July, 1984; the Family Allowances (Guernsey) Ordinance, 1986, section 1, with effect from 11th November, 1986; the Family Allowances (Guernsey) Ordinance, 1988, section 1, with effect from 8th November, 1988; the Family Allowances (No. 2) (Guernsey) Ordinance, 1988, section 1, with effect from 14th March, 1989; the

Family Allowances (Guernsey) Ordinance, 1991, section 1, with effect from 5th November, 1991; the Family Allowances (Guernsey) Ordinance, 1993, section 1, with effect from 4th January, 1994; the Family Allowances (Guernsey) Ordinance, 1995, section 1, with effect from 2nd January, 1996; the Family Allowances (Guernsey) Ordinance, 1997, section 1, with effect from 6th January, 1998; the Family Allowances (Guernsey) Ordinance, 1999, section 1, with effect from 4th January, 2000; the Family Allowances Ordinance, 2000, section 1, with effect from 2nd January, 2001; the Family Allowances Ordinance, 2001, section 1, with effect from 8th January, 2002; the Family Allowances Ordinance, 2002, section 1, with effect from 7th January, 2003; the Family Allowances Ordinance, 2003, section 1, with effect from 6th January, 2004; the Family Allowances Ordinance, 2004, section 1, with effect from 4th January, 2005; the Family Allowances Ordinance, 2005, section 1, with effect from 3rd January, 2006; the Family Allowances Ordinance, 2006, section 1, with effect from 1st January, 2007; the Family Allowances Ordinance, 2007, section 1, with effect from 7th January, 2008; the Family Allowances Ordinance, 2008, section 1, with effect from 5th January, 2009; the Family Allowances Ordinance, 2010, section 1, with effect from 3rd January, 2011; the Family Allowances Ordinance, 2011, section 1, with effect from 2nd January, 2012.

² Prior to its substitution, section 2 was amended by the Family Allowances (Amendment) Law, 1961, section 1, with effect from 21st November, 1961; the Education (Guernsey) Law, 1970, section 60, Schedule, with effect from 28th October, 1970.

³ These figures and symbol were previously substituted by the Family Allowances (Increase of Allowances) Ordinance, 1957, section 1(b), with effect from 27th November, 1957; the Family Allowances, Social Insurance and Non-Contributory Pensions (Decimalisation of the Currency) (Guernsey) Regulations, 1971, regulation 3(2), with effect from 15th February, 1971; the Family Allowances (Guernsey) Ordinance, 1980, section 1(b), with effect from 6th January, 1981; the Family Allowances (Guernsey) Ordinance, 1981, section 1(b), with effect from 30th March, 1982; the Family Allowances (Guernsey) Ordinance, 1983, section 1(b), with effect from 21st June, 1983; the Family Allowances (Guernsey) Ordinance, 1984, section 2, with effect from 31st July, 1984; the Family Allowances (Guernsey) Ordinance, 1986, section 2, with effect from 11th November, 1986; the Family Allowances (Guernsey) Ordinance, 1988, section 2, with effect from 8th November, 1988; the Family Allowances (No. 2) (Guernsey) Ordinance, 1988, section 2, with effect from 14th March, 1989; the Family Allowances (Guernsey) Ordinance, 1991, section 2(a), with effect from 5th November, 1991; the Family Allowances (Guernsey) Ordinance, 1993, section 2(a), with effect from 4th January, 1994; the Family Allowances (Guernsey) Ordinance, 1995, section 2(a), with effect from 2nd January, 1996; the Family Allowances (Guernsey) Ordinance, 1997, section 2(a), with effect from 6th January, 1998; the Family Allowances (Guernsey) Ordinance, 1999, section 2(a), with effect from 4th

January, 2000; the Family Allowances Ordinance, 2000, section 2(a), with effect from 2nd January, 2001; the Family Allowances Ordinance, 2001, section 2(a), with effect from 8th January, 2002; the Family Allowances Ordinance, 2002, section 2(a), with effect from 7th January, 2003; the Family Allowances Ordinance, 2003, section 2(a), with effect from 6th January, 2004; the Family Allowances Ordinance, 2004, section 2(a), with effect from 4th January, 2005; the Family Allowances Ordinance, 2005, section 2(a), with effect from 3rd January, 2006; the Family Allowances Ordinance, 2006, section 2(a), with effect from 1st January, 2007; the Family Allowances Ordinance, 2007, section 2(a), with effect from 7th January, 2008; the Family Allowances Ordinance, 2008, section 2(a), with effect from 5th January, 2009; the Family Allowances Ordinance, 2010, section 2(a), with effect from 3rd January, 2011; the Family Allowances Ordinance, 2011, section 2(a), with effect from 2nd January, 2012.

⁴ These words and figure were previously substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(j), with effect from 12th January, 1977.

⁵ Prior to its substitution, section 11 was amended by the Homicide (Guernsey) Law, 1965, section 2, with effect from 24th August, 1965.

⁶ Prior to its substitution, paragraph (f) was amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

⁷ These words were previously substituted by the Family Allowances (Guernsey) (Amendment) Law, 1976, section 1(k)(ii), with effect from 12th January, 1977.

⁸ This definition was previously amended by the Social Insurance (Guernsey) Law, 1964, section 74, Sixth Schedule, with effect from 4th January, 1965.

⁹ The words omitted were previously amended by the Family Allowances (Guernsey) (Amendment) Law, 1951, section 1, with effect from 1st December, 1951; the Family Allowances (Amendment) Law, 1965, section 1, with effect from 2nd March, 1965.

¹⁰ These words were previously amended by the Social Insurance (Guernsey) Law, 1964, section 74, Sixth Schedule, with effect from 4th January, 1965.

¹¹ 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.

¹² The functions, rights and liabilities of the Social Security Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Social Security Authority and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003,

section 1, Schedule 1, paragraph 26, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions of the Guernsey Social Security Authority under this Law were previously transferred to it from the States Insurance Authority by the Guernsey Social Security Authority (Transfer of Functions) Ordinance, 1993, section 1, Schedule 1, paragraph 1, with effect from 29th September, 1993, subject to the savings in section 2 of the 1993 Ordinance.

¹³ The word "President" was previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 26, with effect from 6th May, 2004.

¹⁴ These figures and symbol were previously substituted by the Family Allowances (Increase of Allowances) Ordinance, 1957, section 1(c), with effect from 27th November, 1957; the Family Allowances, Social Insurance and Non-Contributory Pensions (Decimalisation of the Currency) (Guernsey) Regulations, 1971, regulation 3(3), with effect from 15th February, 1971; the Family Allowances (Guernsey) Ordinance, 1980, section 1(c), with effect from 6th January, 1981; the Family Allowances (Guernsey) Ordinance, 1981, section 1(c), with effect from 30th March, 1982; the Family Allowances (Guernsey) Ordinance, 1983, section 1(c), with effect from 21st June, 1983; the Family Allowances (Guernsey) Ordinance, 1984, section 3, with effect from 31st July, 1984; the Family Allowances (Guernsey) Ordinance, 1986, section 3, with effect from 11th November, 1986; the Family Allowances (Guernsey) Ordinance, 1988, section 3, with effect from 8th November, 1988; the Family Allowances (No. 2) (Guernsey) Ordinance, 1988, section 3, with effect from 14th March, 1989; the Family Allowances (Guernsey) Ordinance, 1991, section 2(b), with effect from 5th November, 1991; the Family Allowances (Guernsey) Ordinance, 1993, section 2(b), with effect from 4th January, 1994; the Family Allowances (Guernsey) Ordinance, 1995, section 2(b), with effect from 2nd January, 1996; the Family Allowances (Guernsey) Ordinance, 1997, section 2(b), with effect from 6th January, 1998; the Family Allowances (Guernsey) Ordinance, 1999, section 2(b), with effect from 4th January, 2000; the Family Allowances Ordinance, 2000, section 2(b), with effect from 2nd January, 2001; the Family Allowances Ordinance, 2001, section 2(b), with effect from 8th January, 2002; the Family Allowances Ordinance, 2002, section 2(b), with effect from 7th January, 2003; the Family Allowances Ordinance, 2003, section 2(b), with effect from 6th January, 2004; the Family Allowances Ordinance, 2004, section 2(b), with effect from 4th January, 2005; the Family Allowances Ordinance, 2005, section 2(b), with effect from 3rd January, 2006; the Family Allowances Ordinance, 2006, section 2(b), with effect from 1st January, 2007; the Family Allowances Ordinance, 2007, section 2(b), with effect from 7th January, 2008; the Family Allowances Ordinance, 2008, section 2(b), with effect from 5th January, 2009; the Family Allowances Ordinance, 2010, section 2(b), with effect from 3rd January, 2011; the Family Allowances Ordinance, 2011, section 2(b), with effect from 2nd January, 2012.