

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE FAMILY ALLOWANCES (GUERNSEY) (AMENDMENT ETC.) ORDINANCE, 2021

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Family Allowances (Guernsey) (Amendment etc.) Ordinance, 2021", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

The Ordinance amends section 1 of the Family Allowances (Guernsey) Law, 1950 so that family allowance is only paid to families with a gross household income of less than £120,000 and in respect of children aged under 18.

Gross household income is defined as the income of both the claimant and their partner in the case of a married couple living together or a couple cohabiting as if married and of the claimant in the case of other families. The definition identifies a person's total income under the Income Tax (Guernsey) Law, 1975 i.e. from employment, land, property and other income before deductions for mortgage interest relief or pension contributions but net of other deductions such as those for business expenses.

Section 19(1) of the Law is also amended as the current wording is unclear as to what kind of agreement is required in order for a married couple to be deemed to be living apart. This is important in relation to the new definition of gross household income. The section is amended just to refer to a married couple being permanently separated which reflects the practice followed by the Committee.

The Ordinance also amends the rate of family allowance under the Family Allowances (Guernsey) Law, 1950 with effect from 3rd January, 2022. On and from that date the rate will be £14.80 a week. The rate is increased by 2.3% in line with the annual rate of inflation (RPIX) for the year to June, 2021.

The Ordinance comes into force on the 3rd January, 2022.

The Family Allowances (Guernsey) (Amendment etc.) Ordinance, 2021

THE STATES, in pursuance of their Resolutions of the 20th August, 2020^a and the ** November, 2021^b, and in exercise of the powers conferred on them by section 1(2), 3(2) of, and paragraph 1(1) of the Schedule to, the Family Allowances (Guernsey) Law, 1950^c, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Family Allowances Law.

1. The Family Allowances Law is amended as follows.
2. In section 1(1) (payment and amount of allowances) -
 - (a) after "every family" insert "with a gross household income of less than £120,000 per annum",
 - (b) after "a child or children" insert "aged under eighteen",

^a Article XIII of Billet d'État No. XVI of 2020.

^b Article II of Billet d'État No. XXI of 2021.

^c Ordres en Conseil Vol. XIV, p. 332; section 1 has been amended by Ordres en Conseil Vol. XXXIX, p. 107; the rates of family allowance in section 1(1) have been amended frequently, the most recent amendment being by Ordinance No. III of 2021; section 1 has also been amended by Recueil d'Ordonnances, Tome XXI, p. 460 and Ordinance No. IX of 2016; section 3 and the Schedule have been amended by Ordinance No. III of 2021; section 19 and the Schedule have been amended by Ordinance No. XIII of 2017 and Alderney Ordinance No. VIII of 2018; there are other amendments to the Law not relevant to this Ordinance.

(c) after "in the family" insert "aged under eighteen," and

(d) for "£14.50" substitute "£14.80".

3. After section 1(2) insert –

"(3) For the avoidance of doubt, as allowance is only paid in respect of a child aged under 18, it is only paid in accordance with this section and section 2(1) –

(a) during any period in which the child is under the upper limit of compulsory school age, and

(b) during any period before the child attains the age of 18 years whilst the child is receiving full-time education.

(4) In this section -

"**compulsory school age**" is construed in accordance with section 2(1)(a),

"**gross household income**" means the income for the year of charge comprising the same calendar year in which an allowance is to be paid –

(a) in the case of the family of a married couple who are living together, of the claimant and the claimant's spouse,

(b) in the case of the family of a couple cohabiting as if they were married, of the claimant and the claimant's cohabiting partner, or

(c) in the case of any other family, of the claimant,

"income" is construed in accordance with subsection (5),

"Income Tax Law" means the Income Tax (Guernsey) Law, 1975 and includes any enactment under it,

"receiving full-time education" means receiving full-time education by attendance at a recognised educational establishment, and

"year of charge" has the meaning given by section 1 of the Income Tax Law.

(5) For the purposes of this section, the income of an individual referred to in paragraph (a), (b) or (c) of the definition of **"gross household income"** in subsection (4) (individual "A"), is A's total assessable income, wherever arising or accruing, in the relevant year of charge, calculated before the application of any allowances, reliefs or withdrawable deductions that may be set off against A's income in that year under the Income Tax Law, but net of any other deductions (including, for the avoidance of doubt, deductions which may be made in computing the amount of the profits of a business) that may be set off against A's income in that year under the Income Tax Law; and in this subsection –

- (a) **"withdrawable deductions"** means deductions in respect of -
- (i) interest paid on borrowed money allowed by virtue of section 1 of the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007,
 - (ii) contributions made to a pension scheme which is, or which is deemed to be, an approved scheme within the meaning of section 150 of the Income Tax Law, or
 - (iii) premiums paid or contributions made to a retirement annuity scheme or retirement annuity trust scheme approved by the Director of the Revenue Service under section 157A(2) or (4) of the Income Tax Law, and
- (b) other expressions have the same meaning as in the Income Tax Law,

and the Committee may by regulations amend this subsection."

4. In section 19(1) (provisions as to certain special circumstances affecting the operation of s.3), for all the words from "permanently living in separation" until the end substitute "permanently separated".

Amount as to contribution to the cost of providing for a child.

5. (1) The rate of contribution to the cost of providing for a child, for the purposes of section 3(2) of the Family Allowance Law, is £14.80 per week or more.

(2) The rate of contribution to the cost of providing for a child, for the purposes of the proviso to paragraph 1(1) of the Schedule to the Family Allowances Law, is £14.80 per week.

Consequential repeal.

6. The Family Allowances Ordinance, 2021^d is repealed.

Interpretation.

7. In this Ordinance, unless the context requires otherwise, "**the Family Allowances Law**" means the Family Allowances (Guernsey) Law, 1950.

Extent.

8. This Ordinance shall have effect in the islands of Guernsey, Alderney, Herm and Jethou.

Citation.

9. This Ordinance may be cited as the Family Allowances (Guernsey) (Amendment etc.) Ordinance, 2021.

^d Ordinance No. III of 2021.

Commencement.

10. This Ordinance shall come into force on the 3rd January, 2022.