

**DRAFT PARISH WELFARE (APPEALS) (JERSEY)
REGULATIONS 199**

**Lodged au Greffe on 30th November 1999
by the Connétable of St. Lawrence**



STATES OF JERSEY

STATES GREFFE

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Report

On 18th November 1997 the States, in adopting part of the Strategic Policy Review and Action Plan 1997, endorsed the action being taken to minimise material and social deprivation as set out in part of that review. This included an independent review of the Parish Welfare appeals procedure, which was carried out by a panel under the chairmanship of the former Bailiff, Sir Peter Crill.

The review recommended that a board consisting of two independent persons, one of whom would act as chairman, and one Connétable, should hear welfare appeals. This recommendation has been accepted by the Connétables and the draft Parish Welfare (Appeals) (Jersey) Regulations sets out details relating to the hearing of welfare appeals by a Parish Welfare Appeal Board.

The draft Regulations have been drawn up in consultation with, and have the full support of, the Employment and Social Security Committee, but, in accordance with Standing Orders, that Committee will be required to prepare a formal report on the draft. It is envisaged that the Registrar of Parish Welfare Appeal Boards will be the Secretary to the Comité des Connétables, and the Employment and Social Security Committee will keep a list of names of eight persons who will be available to hear welfare appeals. The draft Regulations detail certain procedures relating to the hearing of welfare appeals, but in other respects the Parish Welfare Appeal Board will determine its own proceedings.

Explanatory Note

The purpose of these Regulations is to give a resident of a Parish (which includes in appropriate cases a former resident of the Parish entitled to a welfare payment by the Parish) the right to appeal against a decision of the Connétable of the Parish not to pay the resident a welfare payment or a decision in respect of the amount of any such payment.

Article 1 provides the right of appeal.

Articles 2 and 3 provide that an appeal is made by serving a written notice of appeal on the person carrying out the functions of Registrar of Parish Welfare Appeal Boards who then appoints an appeal board consisting of a Connétable and two other independent people, one of whom will be the Chairman of the board.

Article 4 requires the Chairman to contact the resident and the Connétable to arrange a mutually convenient time and place for the appeal to be heard.

Article 5 provides that at the hearing both the Connétable and the resident may be heard, may call witnesses and may appoint someone to represent them. In other respect the board may determine how it will hear the appeal.

Article 6 provides that in determining the appeal the board is required to have regard to guidelines on the payment of welfare payments by Parishes (including the amount of such payments) issued by the Employment and Social Security Committee or by the Comité des Connétables.

Article 7 requires the board either to confirm the Connétable's decision or to make a different decision which the Connétable is required to implement (*Article 9*).

The intention is to make the procedure as open and as quick and easy as possible.

Accordingly a resident must be informed of his right to appeal (*Article 10*), costs will not be awarded (*Article 11*), so a resident need not be discouraged from appealing by the prospect of paying high legal costs if his appeal fails, and either side can be represented by non-lawyers if

they want to be (*Article 5(a)*). The board is also given the ability to make the procedure it adopts (with safeguards to ensure natural justice) as simple as possible (*Article 5(b)*).

Article 8 provides how the board is to give notice of its decision.

Article 9 requires a Connétable to comply with a decision of the board.

Article 10 requires a Connétable to inform a person of his or her right to appeal under these Regulations.

Article 11 maintains a resident's rights to a welfare benefit while his or her appeal is being heard.

Article 12 provides for certain costs to be borne by the States.

Article 13 provides that a person who appeals cannot be made to pay cost if his or appeal is not successful.

Article 14 applies the provisions of the Regulations to decisions made by Connétables after the Regulations have effect (that is, it does not apply to decisions already made at that time).

Article 15 provides for the citation and commencement of the Regulations.

These Regulations shall come into force on the 1st February 2000 and expire three years after that.

PARISH WELFARE (APPEALS) (JERSEY) REGULATIONS 1999

(Promulgated on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, by virtue of and in exercise of the powers conferred on them by Order in Council of the twenty-eighth day of March 1771,¹ have made the following Regulations -

1. A resident of a Parish (which term includes in relevant cases a former resident of a Parish) who is aggrieved by a decision of the Connétable of the Parish -

- (a) that the Parish will not pay the resident a welfare payment;
or
- (b) on the amount of a welfare payment that the Parish will pay,

may appeal against the decision to a Parish Welfare Appeal Board constituted for the purpose.

2.-(1) An appeal shall be made by way of written notice served on the person for the time being carrying out the functions of Registrar of Parish Welfare Appeal Boards ("the Registrar").

(2) The notice must be served within 14 days (or such longer period as the Registrar may, in special circumstances, allow) of receipt by the resident of a written notice informing the resident of the Connétable's decision.

¹ Recueil des Lois, Tomes I-III, page 1.

3. On receipt of a notice of appeal the Registrar shall as soon as practicable, but in any event within 14 days of the lodging of the appeal, constitute a Parish Welfare Appeal Board consisting of -

- (a) a Connétable, not being the Connétable whose decision is being appealed; and
- (b) two people chosen from a list of at least eight people kept for the purpose by the Employment and Social Security Committee, one of whom the Registrar shall appoint to be the Chairman of the Board.

4. The Chairman of the Board shall as soon as practicable arrange for the resident and the Connétable to be notified and arrange a mutually convenient time and place for the appeal to be heard.

5. At the hearing of the appeal -

- (a) both the resident and the Connétable shall be given an opportunity to be heard and to call witnesses and may be represented by any person; and
- (b) the Board shall otherwise determine its own proceedings.

6. To determine the appeal the Board shall take into account and apply any guidelines (including guidelines on the amount of welfare payments) on the payment of welfare payments by Parishes issued by the Employment and Social Security Committee or by the Comité des Connétables.

7. On the conclusion of an appeal the Board shall -

- (a) confirm the Connétable's decision; or
- (b) order the Connétable to ensure that there is paid to the resident by the Parish a welfare payment of such amount (if any) as the Board determines.

8. The Chairman of the Board must give written notice of the Board's decision in respect of the appeal to -

- (a) the Registrar;
- (b) the resident; and
- (c) the Connétable whose decision was appealed,

within 14 days.

9. A Connétable shall comply with any order of a Parish Welfare Appeals Board requiring him to ensure that there is paid to a resident a welfare payment of such amount (if any) as the Board determines.

10. When a Connétable of a Parish informs a resident of the Parish of a decision made by the Connétable -

- (a) that the Parish will not pay the resident a welfare payment;
or
- (b) on the amount of any welfare payment to be made to the resident by the Parish,

the Connétable shall also inform the resident of his right to appeal the decision in accordance with these Regulations.

11. If -

- (a) the Connétable of a Parish informs a resident of a decision to withdraw or reduce a welfare payment the Parish pays to the resident; and
- (b) the resident appeals the decision,

the Parish shall not vary the payment in accordance with that decision (unless the appeal is withdrawn) until the appeal has been determined when the variation (if any) shall be made in accordance with the determination of the Board that heard the appeal.

12. The costs and expenses of an appeal, except the costs of the parties (including their witnesses and persons who represented them), shall be defrayed out of the revenue of the States.

13. A Parish Welfare Appeal Board has no ability to award costs.

14. These Regulations apply in respect of decisions made by Connétables after the date these Regulations came into force.

15.-(1) These Regulations may be cited as the Parish Welfare (Appeals) (Jersey) Regulations 1999.

(2) These Regulations shall come into force on the first day of February 2000 and shall remain in force for three years from that date.