

STATES OF JERSEY



SURVIVOR'S BENEFIT: REPEAL OF 2012 CHANGES

**Lodged au Greffe on 19th June 2014
by Deputy G.P. Southern of St. Helier**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to refer to their Act dated 6th December 2012 in which they approved the Social Security (Amendment of Law No. 4) (Jersey) Regulations 2012 and agreed, *inter alia*, to restrict access to survivor's benefit to those surviving spouses or civil partners who had the care of a child or who had attained the age of 55 before the commencement date of Part 5 of the Regulations, namely 1st January 2013; and

- (a) to agree that the measures relating to survivor's benefit approved in December 2012 should be repealed and that the benefit should be restored without conditions in the form previously set out in Article 24 of the Social Security (Jersey) Law 1974 pending a full consultation through a Green Paper process on the subject;
- (b) to request the Minister for Social Security to bring forward the necessary legislation to give effect to the proposal in paragraph (a) and to take the necessary steps to commence the required consultation process.

DEPUTY G.P. SOUTHERN OF ST. HELIER

Note: In accordance with the requirements of Standing Order 23 ('Additional requirement for proposition to rescind earlier decision') this proposition has been signed by the following 3 members in addition to the proposer. The reasons why the proposer considers that the proposition should be adopted are set out in the report below.

Senator A. Breckon

Deputy M. Tadier of St. Brelade

Deputy M.R. Higgins of St. Helier

REPORT

When the States accepted the Minister for Social Security's amendment to the Social Security Law to change the terms under which survivor's pension would be paid, the arguments put forward by the Minister revolved around 2 issues –

- The generous nature of the scheme, and the need to save money.
- The increasing participation of women in the workforce, making survivor's pension irrelevant.

The argument about the second point above was concentrated on the age below which it was **reasonable** to expect the survivor (usually the widow) to continue in or to find or return to work. The debate then largely centred on 3 amendments which proposed the ages of 50, 55 or 57. As members will recall, the middle or compromise proposal, as so often occurs, won the day.

Interestingly, in the original proposition, P.70/2011, brought by the current Minister as a backbencher, contained the suggestion that 45 was the appropriate age limit. This proposal was subsequently withdrawn. By the time he brought P.105/2011, Pensions: Survivor's Benefit – Review, this age limit had been removed as not producing sufficient savings.

What few noticed and, as a consequence, went largely ignored, was the contractual nature of the relationship between the States, acting through the Minister, and the contributors to the Survivor's benefit scheme. The relationship between current beneficiaries and the Minister was covered –

“These proposals will have no impact on the entitlement of existing claimant, who will all still continue to receive survivor's allowance or survivor's pension under the current rules”.

P.105/2011 concluded with the words of the former President of the Social Security Committee, our Chief Minister at the time (then Senator T.A. Le Sueur) –

“If the Jersey Social Security Scheme is to maintain its credibility, we must ensure that benefits accrued by those already in the scheme are honoured and, at the same time, introduce changes which will benefit our society in the future.”.

I read this statement about “*those already in the scheme*” to include all those who have already contributed to the Social Security Fund, either in their own right or through their husband's contributions, but have not had to claim, as well as those who are already beneficiaries. To put this in concrete terms, this means that some 15,000 female employees between the age of 18 and 54, who have paid contributions into the scheme, in some cases since the 1980s, will have lost the protection of survivor's pensions which they have paid for.

There has been little or no discussion in the debate then or since about whether the reduction of the benefits available to this significant proportion of the workforce, who have already paid significant sums into the Fund, is **reasonable**, moral or justified. In some ways, it could be seen as a breach of contract on the part of the government.

Research

The Minister, in P.105/2011, was requested to “**carry out a comprehensive review**”. This he singularly failed to do. To his credit, he admits as much on page 4 of his report, when he states –

“... it was not possible to undertake a complete review of survivor’s benefits within the timetable proposed by P.105”.

He was also asked “*to take account (in particular) of ... the schemes ... in Guernsey and the Isle of Man*”.

This he managed to do, which was hardly surprising, since it had already been done and produced in P.105/2011. It was reproduced as pages 18 to 20 of the report supporting the proposals for change in P.101/2012.

Of the 39 pages which constitute the amendment to the Social Security Law, just over 4 pages are concerned with the case for the changes to survivor’s benefits. This is far from a comprehensive review. The warning issued by the then Minister in his comments on P.105/2012 appears in this case to have been ignored –

“Social Security benefit legislation is complex. Changes to legislation must be carefully planned as they affect a large number of benefit claimants ... The suggestion in the report accompanying P.105/2011 that a Green Paper should be published on this single topic will need to be carefully considered. In order to provide the general public with a realistic range of options and sufficient background information to understand the finances of the Social Security Fund and the relative implications of different proposals, a comprehensive paper should be made available.”.

The absence of a comprehensive Green Paper (as was suggested by the proposer of this change) in order to consult the public, including those who have experienced the loss of their partner, has led to mistaken judgements. These changes have been driven by politics: in this case, a promise to cut the cost of benefits at a time when needs were rising.

The only piece of consultation over this proposal has been with the Social Security Advisory Council, a group of volunteers with no particular experience of or expertise in the benefits system, who report their findings thus –

“Social Security Advisory Council Report: Survivor’s Allowance and Survivor’s Pension

Background

The Minister for Social Security has asked the Social Security Advisory Council to report on the Survivor’s Allowance and Survivor’s Pension, particularly:

- the qualifying conditions
- the treatment of existing claimants.

Council have discussed the above and agreed the following points.

Survivor's Pension

Council agreed that the Survivor's Pension should be discontinued and the benefit should be closed to new claimants. It was felt that this need not cause hardship as survivors would have access to Income Support.

Council discussed whether the department should keep the benefit in place for those currently receiving it, and thought that a phased approach should be adopted to withdraw it from existing recipients.

Council suggest that the Survivor's Pension should be phased out by either reducing payments by 20% per year for 5 years or 10% per year for 10 years."

This advice from a body with no professional expertise, after discussion but without research, was to phase out Survivor's Pension altogether, even from existing recipients. Survivors would then have to rely on Income Support (funded from taxation) which is capped for those who are homeowners or have a mortgage – currently at £155.54 per week, less than the current pension rate. It was hardly surprising that this suggestion was not adopted by the Minister.

So far this report has concentrated on the technical aspects of the manner in which the changes to survivor's pension were brought about, but as with all support systems one also needs to address the individual impact of changes. To repeat former Senator Le Sueur's warning –

"Changes to legislation must be carefully planned as they affect a large number of benefit claimants".

Here are the words of one survivor who has been caught by this change –

"Not such a Merry Widow – Goodbye Survivors pension!"

On Sunday 17th February 2013 at 5.30 pm the unthinkable happened. Nikki, at 53, found herself without her husband Jonathan. Together for 29 years, Jonathan died while standing in his kitchen doorway, from a massive heart attack and arteriosclerosis. He was 49 years old and had never been ill.

Nikki, accompanied by friends, went to find out how to survive this terrible life changing event and where to go for help. This is what happened ...

Told by social security she was not entitled to a Survivors Pension, because Jonathan died 6 weeks after the law changes to: the age related Survivors allowance and OAP benefits. She tried to find any other help and discovered:-

She cannot work or look for work as she's since been signed off sick, not surprising in the circumstances.

She's not entitled to short term sickness benefit as she was a Red card holder and hadn't paid contributions individually since 1991. Meaning there is a shortfall. Red cards rely on Husband contributions.

She's not entitled to Income Support as she owns a house with Natwest bank.

She cannot continue as a sole trader as she cannot afford the Social Security contributions quarterly.

She cannot get another long term mortgage as she doesn't have a job and told, she's too old at 54.

She cannot have a full OAP as she only paid 14 years contributions before going to a Red card (now abolished).

She cannot have the 23 years contributions her husband paid during married life added to her OAP to provide her with a full Old Age Pension. But she doesn't know why. They thought the Red card provided this.

She cannot get a Grant for short, work-related college courses, as there are none. Only Degree courses have grants.

So, just where did Jonathan's contribution go?

Why does Nikki have no allowance from it as it was a joint payment (they thought) on the previous Red card system? Why does she have no income support of any kind? And how is it possible that the people born with Jersey Lineage, living in their own country, can be so badly let down by their government system.

Just where does Nikki go now?

Left without income, without support, without any knowledge that the Red card was made obsolete or that she, like many others, was not informed that the law changes implemented on 31st December 2012 would be catching them in the Survivor benefit "Wrong Age- New laws for higher Age allowed" trap."

Nikki has since obtained Long-term incapacity benefit at 60%: this means that her total income is £114.60. Her impressive CV is attached as an **Appendix**. The response of one of our major employment agencies to her CV is as follows –

“Dear Nikki,

Thank you for your recent enquiry and for contacting us in your search for employment.

As you may be aware the global economic crisis has affected the local employment market meaning we have large amounts of candidates available with relevant experience, all going for limited roles.

Without having recent relevant financial services experience we are at present, unable to assist you in your search for employment.

Whilst this may be disappointing I feel it is better to be open and honest at this stage.

We wish you all the best with your search for employment.”

This response clearly illustrates the problems involved in removing survivor's pension: whilst it might be true to state that society has changed significantly over the past 4 decades, attitudes to the over-50s in the employment sector are little changed. It is extremely difficult to enter, or re-enter, the workplace. No-one wants you.

Summary

This report contains the grounds for a rescindment. It clearly demonstrates that the impact of the removal of survivor's pension was only partially researched, and that there was no consultation on the Minister's proposal and little or no examination of the principle or of alternative approaches. The case history of one survivor in her 50s demonstrates clearly how those who have worked and contributed to the Social Security Fund (in some cases for up to 38 years) can find themselves left without the support they could have reasonably expected from the system. There were 74 claimants for survivor's allowance in 2012. We do not know what their circumstances were and how many were placed in hardship; perhaps we should. In any case, the fundamental case for extending the protection of this benefit to all those who have paid in on the expectation of support, and not just those in receipt of the benefit, has not been examined.

Financial and manpower implications

Without knowledge of the age profile and circumstances of survivors, it is difficult to estimate costs. However, if 2012 was a typical year, then the total annual cost of the 928 individuals on survivor's pension was £4.3 million. The cost of the 74 people in receipt of survivor's allowance was just £558,000. Acceptance of this proposition would mean that the maximum that would not be saved annually by disallowing the transition to survivor's pension would be just over half a million pounds. In reality, however, the savings would be far less, since a substantial proportion of these survivors would still qualify as over-55s, or having school-age children. The cost of this must be met by the Social Security Fund. The alternative strategy for cutting costs which respects the position of all those who are in the current scheme, both recipients and potential recipients, would be to remove the survivor's pension from those joining the scheme after a certain date. Eventually, savings will be made in the number of claimants, but will be end-loaded over a 47 year working life.

Curriculum Vitae

[Mrs. G.]

PERSONAL PROFILE – as at 21 May 2013

A motivated, energetic, resourceful and creative person, with good organizational skills and 14 years of experience in the Finance industry and 18 years self-employed as a Complementary Therapist.

Enjoys communicating with people, and is empathic and caring towards others, able to adapt to clients' needs instantly.

Date of birth is 25/01/60

I am a widow with 1 adult son

Career and achievements to date

A self-employed Holistic Therapist specialising in reflexology for 18 years.

Seven years of part-time teaching as a City & Guilds qualified Adult Educator/ Tutor at Highlands College night classes for adults.

NVQ Assessor in Reflexology.

NVQ Assessor in Indian Head Massage (IHM).

BTEC and NVQ course modules for full-time students.

First to bring and teach Indian head massage in Jersey.

Current therapy work entails home visits to clients, with a particular interest in Multiple Sclerosis sufferers.

Ran a successful clinic for several years.

Writing two world premiere musicals, both staged at the Jersey Opera House.

Creating a singing club for charity fundraising “The Vocal Factor”.

(Prior to self-employment, I worked in the Finance industry for 14 years in IT, client administration and accounting to final accounts.)

Achievements in entertainment:

- Completing my second world premiere musical “What Next? All my life, here, now” at the Jersey Opera House 1 to 6 July 2013.
- Running my “Vocal Factor Singing Club” from 2009 to date.

- Running the entertainment/compering for the Variety Club of Jersey on alternate Wednesday afternoons at The Mayfair Hotel during the summer of 2011.
- Organised and compared 3 charity concert nights at Reg's Garden 1 – 3 July 2010.
- Compared and organised 5 charity concert nights at Reg's Garden 1 – 5 July 2009.
- Compared and organised Live Gig and auction at The Royal Yacht Hotel on 26th February 2008.
- The production of my own musical **“NEXT! So you want the part?”** 9 – 13 June 2008 at the Jersey Opera House.
- Reading one of my poems on the radio.
- Hotel De France singing contract for the summer season 2007.
- Sourcing backing tracks/writing to and organising own auditions with hotels.

Education/Qualifications:

2007 – Private tuition for Grade 3 singing certificate

2006 – Private tuition for Grade 2 singing certificate

2006 – Association of Reflexologists (AOR) special bridging course and confirmation of teaching status

2005/6 – Process Acupressure part 1 and part 2

2005 – Somato Emotional release part 1

2004/5 – Cranial Sacral therapy Certificates 1, 2

2001 – NVQ assessor award

2001 – City & Guilds Adult Educator part 2

1999 – Advanced reflexology VTCT – Highlands College

1999 – Advanced Reflexology techniques – London (Anthony Porter)

1996 – City & Guilds Adult Educator part 1

1996 – Diploma in Indian Head Massage VTC

1995 – ‘O’ Level in Psychology A*

1995 – Diploma in Reflexology VTCT

1985 – ‘O’ Level Accounts C

1985 – BTEC National Award in Business studies (equivalent to Economics ‘A’ Level, Accounts ‘A’ Level plus 1 year of Corporate law, IT and Office administration)

1976 – GCSEs in Human Biology, Art, English Language, Maths, French Language, Craft

Memberships

AoR full tutor membership No. 20568 (Association of Reflexologists)

FHT full member since 1995 (Federation of Holistic Therapists)

Tutor Member

Actors’ Centre London

Employment History to date

Self-employed Therapist

Reflexologist – 1995 to date

Indian Head Masseur – 1996 to date

Cranio-Sacral Therapy – 2004

Process Acupressure – 2005

Tutor part-time during the period from 1996 to 2004 Highlands College

Workshops in advanced reflexology techniques and Indian head massage for home use.

Lecturer at the General Hospital, Les Quennevais School, Jersey Multiple Sclerosis Society, the Women’s Institute and Island Health fairs.

January 1992 until June 1995 I stayed at home to look after my Son.

Employment History in Finance

Edsaco (Jersey) Ltd. – 3rd October 1991 to 20th December 1991

Position – Senior Book-keeper
(Fell Pregnant)

ANZ Grindlay's Trust Corporation – March 1990 to October 1991

Positions – Assistant Manager Client Accounting
Accounts Preparation Clerk

Arthur Young Chartered Accountants – 3rd January 1989 to 16th March 1990

Position – Accounting Assistant

Bank America Trust – May 1988 to 31st December 1988

Position – Accounts Preparation Clerk

Chase Bank & Trust Co. – March 1987 to May 1988

Position – Senior Accounts Preparation Clerk

Cavendish Securities

Position – Book-keeper/accounts prep.

OSL (CITS) – Tour Operators/Airport, St. Peter

Position – Accounts Supervisor

S.G. Warburg & Co (J) Ltd. – 1983 to 1985

Position – Operations Supervisor/trainer

Lazard Brothers – July 1980 to July 1983

Positions – Deputy Operations Manager and Securities Clerk/Finance Clerk

References can be obtained from [Mrs. YK] of Rawlinson & Hunter.

[SH], head of Hair & Beauty, Highlands College, St. Saviour

Key skills/abilities

- Creative writing and adaption of storyline and script to suit actors
- Support – to actors’ ideas and issues arising from directions
- Communication – constant at all levels, teaching, technical and directional
- Teaching – within self-employment lectures, Highlands College 7 years, directing
- Production – all decisions were made instantly and adapted where necessary
- Directed 22 actors
- Selection ability – Cast selection x 2 musicals
- Auditions for both musicals – 47 auditioned
- Advertised – Radio interviews/ programmes/ leaflets/ JEP articles/ posters/ Facebook
- Designs – programmes/ leaflets/ musical set/ wardrobe/lighting
- Marketing – selling advertising space to cover programme costs/ Posters, banners
- Budgeting – with funds raised from Raffle and Gig against estimated costs
- Equipment resourcing – props/ costumes/ musical and electronic equipment
- Copyrighting – UK lawyers/ USA lawyers
- Trade mark – legislation/ searches
- Co-ordinating – all rehearsals for actors/singers and dancers

- Audition scouting – leaflet drop/ radio/ JEP/ approaching people
- Distribution – leaflet drops – sourcing companies, cast members
- Fund-raising – Gig and Auction/ Raffle (2,000 tickets)
- Regulatory compliance – re raffle and charities donations/ bank accounts/ insurance
- Legal requirements – Club entity set up of legal requirements for the bank
- Location sourcing – schools/ club rooms/ home/ event at Royal Yacht Hotel
- People management – inc. selling raffle tickets/ Opera House staff/ cast and crew
- Cash-flow control – raffle/ door ticket sales/ banking and reconciliations
- Sourcing specialist items – 5 composers with some 23 songs
- Decision-making, continuously with an organic changing product
- Public speaking – with lectures, workshops, teaching, directing, coaching (singers)
- Directing – cast, crew and technical team
- Health and Safety – adhering to all Opera House rules and regulations
- Application of the rules with cast members
- Deployment – Technical – use of equipment/ microphones, amps, etc.
- Compered many events, including the Fun Day for Jersey Multiple Sclerosis 2012
- Sponsorship – constant communication with companies to find funds
- Final accounts – bookings, function design
- Event setting – VIP nights – the listing /invitations and looking after VIPs
- Dealing with all levels of professionals within: education, finance and theatrical production