

# STATES OF JERSEY



## **DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 2) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 4th January 2012  
by the Minister for Social Security**

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**STATES GREFFE**





Jersey

## **DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 2) (JERSEY) REGULATIONS 201-**

### **REPORT**

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On 20th July 2011 the States Assembly approved P.110/2011 – Draft Social Security (Amendment of Law No. 1) (Jersey) Regulations 201-. These Regulations introduced a new social security contribution rate above the current earnings ceiling, in line with the Fiscal Strategy Review. The new contribution rate of 2% is payable by employers and Class 2 individuals from 1st January 2012.

As noted in the report accompanying P.110/2011, additional legislative changes were required to fully implement the agreed policy. Since July, 6 ministerial Orders have been made by the Minister for Social Security to this end.

These new Orders have amended the following existing Orders –

- [Social Security \(Classification\) \(Jersey\) Order 1974](#)  
Amended by [R&O-123-2011](#) In Force 10.10.11
- [Social Security \(Collection of Contributions\) \(Jersey\) Order 2001](#)  
Amended by [R&O-123-2011](#) In Force 10.10.11  
Amended by [R&O-159-2011](#) In Force 1.1.12  
Amended by [R&O-175-2011](#) In Force 1.1.12
- [Social Security \(Contributions\) \(Jersey\) Order 1975](#)  
Amended by [R&O-123-2011](#) In Force 10.10.11  
Amended by [R&O-160-2011](#) In Force 1.1.12  
Amended by [R&O-176-2011](#) In Force 1.1.12
- [Social Security \(General Benefit\) \(Jersey\) Order 1975](#)  
Amended by [R&O-161-2011](#) In Force 1.1.12
- [Social Security \(Residence and Persons Abroad\) \(Jersey\) Order 1974](#)  
Amended by [R&O-123-2011](#) In Force 10.10.11.

In addition, one existing Order has been repealed –

- [Social Security \(Earnings Limit\) \(Jersey\) Order 2010](#)

Repealed by [R&O-123-2011](#) In Force 10.10.11.

The current Draft Regulations address various minor issues within the existing legislation to finalize the legislative framework for 2012 and the new contribution liability. In addition, the opportunity has been taken to “tidy up” some areas of existing legislation.

### **Timetable**

The existing Regulations and Orders will all come fully into effect on 1st January 2012 and will create a new liability for employers and Class 2 individuals. Contribution liability for the first quarter of 2012 will be determined after the end of the first quarter. These Regulations will come into force 7 days after they are approved and it is intended that they will be in place before the end of March 2012.

### **Details of Draft Regulations**

#### *Regulations 2, 3 and 4*

The changes made by Regulations 2, 3 and 4 create a new, single Article in the principal Law (Article 8A) that sets out the existing rules to define monthly, quarterly, annual and life average contribution factors. These factors are derived from the number of contributions made by an individual and are used to calculate entitlement to benefits and pensions.

#### *Regulation 5*

Regulation 5 amends Article 3 of the principal Law to clarify that, if an individual makes a partial contribution that is less than the total liability due, then the contributions that are received are allocated proportionately to the Social Security Fund and the Health Insurance Fund.

#### *Regulation 6*

Regulation 6 amends Schedule 1A of the principal Law. Schedule 1A was introduced by the first set of Regulations and it contains details in respect of Class 1 contributors. The revised Schedule provides a definition of the standard contribution for Class 1 employees. The standard contribution is used to calculate the amount of supplementation, if any, that the individual receives. It is also used to calculate the value of any contribution credits awarded to the individual.

#### *Regulation 7*

This Regulation amends Schedule 1B of the principal Law which provides contribution rates and various earnings limits in respect of Class 2 contributors. The Regulation provides separate definitions for the value of a standard contribution in respect of Class 2 individuals with earnings below the standard monthly earnings limit, those with earnings between the standard earnings limit and the upper earnings limit, and those with earnings at or above the upper earnings limit.

### **Financial and manpower implications**

There are no additional financial or manpower implications for the States arising from the Draft Regulations.

The net impact of the increased contributions will be a reduction in the States Grant of approximately £6 million in 2012.

There will be a need for increased staffing of up to 5FTE in the short term, in respect of the additional administration of Class 2 contributors. The cost of these staff and other administration costs will be met from the Social Security Fund.

## Explanatory Note

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These Regulations amend the Social Security (Jersey) Law 1974 (the “Law”).

*Regulation 1* defines the Law.

*Regulation 2* deletes Article 1(7) of the Law. Article 1(7) provided that a contribution factor of 1.00 indicates a full contribution record and that other contribution factors were to be construed accordingly. The rule as to what constitutes a full contribution record is re-enacted as Article 8A(1), inserted by *Regulation 3*.

*Regulation 3* inserts Article 8A in the Law. In addition to stating what constitutes a full contribution record, this Article also specifies how a person’s monthly contribution factor, quarterly contribution factor, annual contribution factor and life average contribution factor are to be determined. Contribution factors are relevant to, amongst other things, determining a person’s entitlement to benefit, as described in Schedule 2 to the Law

*Regulation 4* deletes Article 14(4) of the Law. Article 14(4) defined what constitutes the life average of the annual contribution factors for a person and is therefore superseded by the new Article 8A.

*Regulation 5* amends Article 30 of the Law so as to make it clear that, where the contributions paid in respect of a person are less than the contributions due in respect of the person, the amounts paid into the Health Insurance Fund and Social Security Fund are reduced proportionally.

*Regulation 6* amends Schedule 1A to the Law, which specifies factors and contribution rates for a Class 1 insured person.

The amendment of paragraph 2 of the Schedule has the effect that the earnings limits set in it have effect for all the purposes of the Law.

Paragraph 3A, inserted in the Schedule, defines what is the standard contribution in the case of a Class 1 insured person. The standard contribution is the aggregate of the contributions that would be made by an employee and employer and payable into the Social Security Fund in respect of earnings equal to the standard monthly earnings limit.

The rule in paragraph 4 of the Schedule for supplementation of a Class 1 insured person’s earnings is re-enacted with the omission of the definition of what constitutes the standard contribution, having regard to the insertion of paragraph 3A.

*Regulation 7* amends Schedule 1B to the Law which specifies factors and contribution rates for a Class 2 insured person.

The amendment of paragraph 4 has the effect that, in the case of a Class 2 insured person who pays reduced rate contributions, the earnings by reference to which the amount of the person’s contributions is calculated are those specified in the Order which sets out the conditions for eligibility to pay reduced rate contributions. There are now 4 reduced rate contribution rules prescribed by Order. In one case, the person’s earnings are deemed to be equal to the standard earnings limit. In the other 3 cases, the person’s contribution liability in a year is calculated by reference to the

person's earnings from 2 years earlier (being a year for which the person, therefore, has final accounts and has been assessed to income tax).

The inserted paragraph 4A defines the standard contribution for a Class 2 insured person. There are 3 possible rules for calculating the standard contribution. If the person is liable for full rate Class 2 contributions, the standard contribution equals so much of the full rate contributions that would be payable into the Social Security Fund. If the person is liable for reduced rate Class 2 contributions and has earnings that do not exceed the standard monthly earnings limit, the standard contribution equals the amount of reduced rate contributions that would be payable into the Social Security Fund in respect of earnings equal to the standard monthly earnings limit. If the person is liable for reduced rate contributions but has earnings that exceed the standard monthly earnings limit, the standard contribution is, in the person's case, calculated by reference to his or her actual earnings and equals the amount of the contributions that would be due from the person and payable into the Social Security Fund in respect of those earnings.

The substituted paragraph 5 re-enacts the rule for supplementation of the earnings of a Class 2 insured person. The paragraph is revised to take account of the fact that the definition of the standard contribution is re-enacted in paragraph 4A and that only one of the rules in it is relevant to supplementation, being the rule applicable in the case of a person liable for reduced rate Class 2 contributions and having earnings that do not exceed the standard monthly earnings limit.

*Regulation 8* provides for the citation of the Regulations and, if made by the States, their commencement 7 days later.







Jersey

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### **Arrangement**

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#### **Regulation**

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Jersey

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*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Articles 50 and 51 of the Social Security (Jersey) Law 1974<sup>1</sup>, have made the following Regulations –

### **1 Interpretation**

In these Regulations “Law” means the Social Security (Jersey) Law 1974<sup>2</sup>.

### **2 Article 1 amended**

Article 1(7) of the Law shall be deleted.

### **3 Article 8A inserted**

After Article 8 of the Law there shall be inserted the following Article –

#### **“8A Full contribution record and contribution factors**

- (1) For the purposes of this Law, a contribution factor of 1.00 in relation to any period shall indicate a full contribution record for that period.
- (2) For the purposes of this Law, subject to paragraph (3) and any Order, the monthly contribution factor for a person is the sum of the contributions paid into, credited to and supplemented from the Social Security Fund in respect of the person for the month, divided by the standard contribution for the month that applies in the person’s case.
- (3) The monthly contribution factor for a person shall not exceed 1.00.
- (4) For the purposes of this Law, subject to any Order, the quarterly contribution factor for a person is the sum of the monthly

contribution factors for the person for each month in the quarter, divided by 3.

- (5) For the purposes of this Law, subject to any Order, the annual contribution factor for a person is the sum of the quarterly contribution factors for the person for each quarter in the year, divided by 4.
- (6) For the purposes of this Law, subject to any Order, the life average contribution factor for a person is the sum of the annual contribution factors for the person for the period described in paragraph (7), divided by 45.
- (7) The period referred to in paragraph (6) is the period or periods in the aggregate, not exceeding 45 years, for which contributions have been paid into, credited to or supplemented from the Social Security Fund in respect of the person and which –
  - (a) begins on or after the first day of the month in which the person attains the age of 18 years; and
  - (b) ends on or before the last day of the month before the one in which the person attains pensionable age.
- (8) Where contribution factors are calculated under this Article for the purposes of determining a contribution factor for a person, the following contributions shall be disregarded –
  - (a) contributions which are not paid on their due dates and are not treated in accordance with any Order as so paid for the purposes of survivor's benefit, incapacity pension and old age pension;
  - (b) contributions credited only for purposes other than the purposes of survivor's benefit, incapacity pension and old age pension; and
  - (c) any other prescribed contribution, in the case prescribed.
- (9) The product of the calculation specified in paragraph (2), (4), (5) or (6) shall be rounded up to the third decimal place.”.

#### **4 Article 14 amended**

Article 14(4) of the Law shall be deleted.

#### **5 Article 30 amended**

In Article 30 of the Law –

- (a) at the beginning of paragraphs (2) and (3) there shall be inserted the words “Subject to paragraph (3A),”;
- (b) after paragraph (3) there shall be inserted the following paragraph –

“(3A) Where the contributions paid in respect of a person are less than the contributions due in respect of the person, the amount to be paid into the Health Insurance Fund and the balance to be paid into the Social Security Fund shall be reduced proportionally.”.

**6 Schedule 1A amended**

In Schedule 1A to the Law –

- (a) in paragraph 2(1) for the words “In this Schedule,” there shall be substituted the words “For the purposes of this Law,”;
- (b) after paragraph 3 there shall be inserted the following paragraph –

**“3A Class 1 – standard contribution**

The standard contribution for a month is, in the case of a Class 1 insured person, the sum of –

- (a) the maximum amount payable under paragraph 3(1)(b) for the month; and
- (b) the maximum amount payable under paragraph 3(2)(b) for the month.”;
- (c) for paragraph 4 there shall be substituted the following paragraph –

**“4 Class 1 – supplementation**

(1) Where –

- (a) contributions have been paid in respect of a Class 1 insured person for a month; and
- (b) the sum of the social security contributions paid and credited in respect of the Class 1 insured person for the month exceed the contribution threshold but are less than the standard contribution,

the social security contributions shall be supplemented for the month by an amount sufficient to cause those contributions in respect of the person for the month to equal the standard contribution.

(2) No supplementation shall be awarded in respect of –

- (a) secondary Class 1 contributions alone; or
- (b) social security contributions paid and credited in respect of a person which exceed the contribution threshold but are less than the standard contribution but which would not have been less than the standard contribution had contribution liability been discharged in full.

(3) For the purposes of this paragraph –

- (a) the contribution threshold is the sum of –
  - (i) 5.2% of the lower monthly earnings limit, and
  - (ii) 5.3% of the lower monthly earnings limit;
- (b) ‘social security contributions’ means so much of the contributions paid or credited in respect of a Class 1 insured person as are to be paid into the Social Security Fund.”.

**7 Schedule 1B amended**

In Schedule 1B to the Law –

- (a) at the beginning of paragraph 4 there shall be inserted the sub-paragraph number (1);
- (b) in paragraph 4(1)(a) and (b) the words “for the month” shall be deleted;
- (c) after paragraph 4(1) there shall be added the following sub-paragraph –
  - “(2) The references in sub-paragraph (1) to a person’s earnings shall be construed in accordance with the provisions of an Order made under Articles 1(5) and 8 by virtue of which the person is permitted to pay reduced rate Class 2 contributions for the period in which the month for which the contributions are payable falls.”;
- (d) after paragraph 4 there shall be inserted the following paragraph –

**“4A Class 2 – standard contribution**

- (1) The standard contribution for a month is, in the case of a Class 2 insured person liable to pay full rate Class 2 contributions, the sum of –
  - (a) the maximum amount payable under paragraph 3(b) for the month; and
  - (b) the maximum amount payable under paragraph 3(c) for the month.
- (2) The standard contribution for a month is, in the case of a Class 2 insured person liable to pay reduced rate Class 2 contributions whose earnings do not exceed the standard monthly earnings limit, the maximum amount payable under paragraph 4(1)(b) for the month.
- (3) The standard contribution for a month is, in the case of a Class 2 insured person liable to pay reduced rate Class 2 contributions whose earnings exceed the standard monthly earnings limit, the sum of –
  - (a) the maximum amount payable under paragraph 4(1)(b) for the month; and
  - (b) the actual amount payable by the person under paragraph 4(1)(c) for the month.
- (4) The references in sub-paragraphs (2) and (3) to a person’s earnings shall be construed as described in paragraph 4(2).”;
- (e) for paragraph 5 there shall be substituted the following paragraph –

**“5 Class 2 supplementation**

- (1) No supplementation shall be awarded for a month –
  - (a) in respect of full rate Class 2 contributions; or

(b) in respect of reduced rate Class 2 contributions, in a case where the Class 2 insured person's earnings are equal to or exceed the standard monthly earnings limit.

(2) Where –

(a) a Class 2 insured person is liable to pay reduced rate contributions for a month;

(b) the person's earnings are less than the standard monthly earnings limit; and

(c) the sum of the social security contributions paid and credited in respect of the person for the month is –

(i) at least equal to the amount of the social security contributions payable for the month in respect of the person by virtue of paragraph 4(1)(b), but

(ii) less than the standard contribution applicable in his or her case, described in paragraph 4A(2),

the social security contributions shall be supplemented for the month by an amount sufficient to cause them to equal that standard contribution.

(3) In this paragraph –

(a) the references in sub-paragraphs (1)(b) and (2)(b) to a person's earnings shall be construed as described in paragraph 4(2);

(b) 'social security contributions' means so much of the contributions paid or credited in respect of a Class 2 insured person as are to be paid into the Social Security Fund."

## 8 Citation and commencement

These Regulations may be cited as the Social Security (Amendment of Law No. 2) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

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- <sup>1</sup> *chapter 26.900*  
<sup>2</sup> *chapter 26.900*