STATES OF JERSEY

DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 5) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 5th February 2013
by the Minister for Social Security

STATES GREFFE

Jersey

DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 5) (JERSEY) REGULATIONS 201-

REPORT

Summary

These Regulations propose a new method for uprating old age pensions from October 2013. The new method will continue to peg the medium to long-term growth in pensions in line with the growth in average earnings, whilst guaranteeing a minimum rise in any one year in line with the increase in the cost of living for pensioners. This will ensure that future pension increases will always at least match the rise in prices during the year, whilst also allowing pensioners to enjoy increases that keep pace with the earnings index in the long term.

In contrast to the "triple lock" method rejected by the States in early 2012, the additional cost associated with this method is limited and does not build up from year to year. The proposal will protect pensioners from the impact of high prices without damaging the long-term sustainability of the Social Security Fund.

In line with a commitment made by the Minister for Social Security in November 2012, and supported by a States decision at the end of last year, these Regulations also provide for an adjustment in the value of the current old-age pension, to bring it in line with the increase in RPI (Pensioners) from June 2012. It is planned that pensioners will receive a lump sum amount in early May in respect of the difference in the value of the old age pension between October 2012 and May 2013, followed by an increase in the pension rate until the next uprate which is due in October 2013. The total cost of these adjustments is estimated at just over £2 million, which will be met from the Social Security Fund. Income support payments to pensioners will be amended in line with these increases, to ensure that low income pensioners receive the full value of the adjustment and the uplift in the pension rate.

Background

At present, the States of Jersey old age pension is increased each October by the percentage rise in the Jersey Index of Average Earnings. Historically the percentage increase in earnings has usually exceeded the increase in the cost of living, as measured by the Retail Price Index. Since 2001, the old age pension has been uprated in line with the increase in the earnings index. Between 2001 and 2007 the value of the old age pension grew by 28% and the improved spending power of the pension echoed the increasing prosperity of the general working population. However, the global downturn has disrupted this upward trend and in 4 of the last 5 years, prices have risen faster than wages, and both workers and pensioners have seen a fall in the real value of their incomes.

Following the most recent increase in the States old age pension of 1.5% in October 2012, Ministers made a commitment to review the mechanism for uprating the old age pension. The issue was investigated during the autumn of 2012, and the mechanism which these Regulations propose was first announced by the Minister for Social Security in November 2012.

Changes to future uprating methodology

It is vital that any changes made to pension uprating safeguard the future value of the pension and ensure that it remains affordable in the long term as pensioner numbers increase.

Any uprating methodology must remain mindful that pensioners can be particularly vulnerable in times of recession; equally in years where average earnings stagnate, it should acknowledge the financial pressure placed on the working population, who fund the pensions paid.

As previously announced, the new uprating methodology refers to both changes in RPI (Pensioners) and average earnings. It guarantees that pensioners will always receive an increase at least in line with the cost of living for pensioners, while also following the trend in average earnings, which are expected to rise faster than the cost of living in the long term.

In summary:

- In years where prices (RPI (Pensioners)) rise faster than average earnings, pensions will increase by the percentage increase in prices.
- In years where average earnings rise faster than prices (RPI (Pensioners)), the pension will increase by at least the midpoint between the average earnings increase and RPI (pensioners).
- If the midpoint increase would take the value of the old age pension below the long-term growth in earnings, then the old age pension will be increased so that it matches the long-term growth in earnings.

However, if in any year, the uprating process would result in a reduction in the value of the old age pension, then the old age pension will remain unchanged at its previous value.

The diagram below illustrates how the method will work. In this hypothetical example, in year 3 and year 8, prices grow faster than earnings and the old age pension increases above the level of the earnings index in each of those years. This protects pensioners whenever prices are rising faster than earnings. The method then continues to provide increases in the pension rate, but over one or two years the pension index is brought back in line with the earnings index. The fluctuations in the earnings index are smoothed out to protect pensioners from short-term changes in the economy.

The baseline for the growth in earnings will be measured from 2011. In that year, the index of average earnings stood at 267.3 and the weekly old age pension rate was set at £184.45. The adjustments that will be made to the current old age pension (see next section) are equivalent to the old age pension rate in 2012 being set at £189.84 per week. This provides a pension index for 2012 of 275.1, compared to the index of average earnings in 2012 of 271.4.

Subject to the approval of these regulations, the next uprate will take place on 1st October 2013 using the new method and based on the RPI (Pensioners) and the average earning index figures for June 2013. The new uprating method will only be applied to old age pensions. All other contributory benefits will continue to be linked directly to the index of average earnings.

Adjustments

In line with the commitment made by the Minister in November 2012, and the subsequent States decision in December 2012 (P.97 Old-age pension: increase for 2012, as amended), these Regulations also provide for an increase in the current rate of old age pension and a lump sum payment in respect of the difference between the current value of the pension and the increase in prices as at June 2012.

The Regulations will create a new benefit, in the form of a single payment, the "2013 old age pension adjustment", calculated as the additional amount that pensioners would have received since October 2012 if the pension had been increased by 2.9% at that time. The lump sum will be paid to all pensioners who are eligible for a pension on a specific day and it will be added to their usual pension payment for that week.

This lump sum will be followed the next week with a mid-year uprate, calculated to raise the value of the old age pension to the same level as would have been achieved had an uprate of 2.9% been applied in October 2012. This will increase the full rate single old age pension from £187.25 per week to £189.84 per week.

As set out in the comments to P.97 Amd., providing these backdated payments represents a major administrative task. The timetable to implement the proposed solution currently provides for the lump sum payments to be made on 2nd May 2013 and for the revised old age pension rate to be payable from 9th May 2013. As payments are made in advance and operational changes need to be made some time before the planned payment dates, the exact date and the value of the lump sum payment will be confirmed by a Ministerial Order, to be made by the Minister for Social Security, in early April.

Based on a payment date of 2nd May 2013, the maximum value of the 2013 old age pension adjustment for a single pensioner with a full contribution record is £80.29. The value of the adjustment will vary according to the value of the weekly pension rate for each individual pensioner. Thus –

- The lump sum will be paid proportionate to the contribution record of the pensioner. For example, a single pensioner with an 80% record will receive £64.23.
- The lump sum will be reduced accordingly for pensioners who have opted to take a reduced pension at age 63 or 64.
- A dependency increase of 66% will be paid to husbands who receive a pension in respect of a dependent wife.

Pensioners and income support

Just over 2,000 local pensioners claim income support. The income support system includes a pension income disregard which ensures that people aged 65 and above receive up to an additional £45.08 per week (single pensioner), or up to £74.13 per week for a pensioner couple.

In the week in which the 2013 old age pension adjustment is made, the IS pension disregards will be increased in line with the maximum value of the lump sum payment. As with previous annual uprates, this will ensure that all low-income pensioners benefit from the full value of the 2013 old age pension adjustment.

In the following week, the pension disregards will be adjusted in line with the maximum value of the revised pension rate. These changes will be made by Ministerial Order at the beginning of April.

Administration of the 2013 old age pension adjustment

As set out in the comments to P97 Amd., the calculation and payment of backdated amounts across 28,000 pensioners represents a substantial administrative task. The Regulations reflect a pragmatic solution to this problem. In particular, the 2013 old age pension adjustment will be paid to all pensioners who are eligible to receive an old age pension in a specific week (planned to be the week of 2nd May 2013). All eligible pensioners in that week will receive a payment based on the total number of weeks since the October 2012 uprate, and their contribution record. This will include some pensioners who have reached pension age after October 2012 and before May 2013.

Even with this simplification, substantial administrative effort will be required to ensure that –

- Pensioners are fully informed as to the payments that they will receive,
- Income support claimants receive the full value of the additional amount,
- Local pensioners can be advised of their income tax liability for 2013,
- Payments can be made efficiently throughout the world,
- Backdated claims received later in 2013 can be dealt with fairly.

Financial and manpower implications

The proposed uprate methodology ensures that the increase in pensions in a particular year cannot fall below RPI (Pensioners) but can, on occasion, rise above the increase in the Index of Average Earnings. In these years, the cost to the Fund will be greater than under the current method. The additional cost will depend on the difference between the increase in prices and the increase in earnings in that year.

Adjusting the 2012/2013 pension rates in line with the 2.9% increase in RPI (Pensioners) as at June 2012 will introduce an additional cost of approximately £2.04 million. Based on a payment date of 2nd May 2013, the 2013 old age pension adjustment will be paid to just over 28,000 pensioners, cover 31 weeks from 4th October 2012 to 8th May 2013 and cost approximately £1.21 million. The pension uprate, to run from 9th May 2013 to 30th September 2013 will cost approximately £0.83 million. These costs will be met from the Social Security Fund.

Increasing the value of the pension disregard within the income support calculation will create additional cost within the income support budget. However, this cost forms part of the normal uprating process and is included within the cash limit for 2013.

There are no ongoing manpower implications. However, considerable temporary resources will be needed to ensure the smooth payment of the 2013 old age pension adjustment. Existing departmental resources will need to be reallocated from other operational areas to administer this project.

Explanatory Note

These Regulations amend the Social Security (Jersey) Law 1974 so as to provide for a single payment (the "2013 old age pension adjustment") to persons entitled to an old age pension on a date that will be prescribed in an Order made by the Minister for Social Security; to alter, from one week after that date, the rate of old age pension; and, from 1st October 2013, to alter the way in which the rate of old age pension is calculated.

Regulation 1 provides for references in these Regulations to Articles and other provisions of a Law to be construed as references to such Articles and other provisions in the Social Security (Jersey) Law 1974 (the "Law").

Regulation 2 amends Article 1 of the Law. The definition "standard rate of benefit" is substituted consequentially upon the introduction, by these Regulations, of a different standard rate of benefit for the old age pension.

Regulation 3 amends Article 12 of the Law. Article 12 lists the descriptions of benefit payable under the Law. The amendment adds the 2013 old age pension adjustment to the list.

Regulation 4 amends Article 13 of the Law. Article 13(1)(a) gives effect to Schedule 1 to the Law, in which the various weekly rates of benefits are set out. Article 13(1)(a) is simplified having regard to the amendments to Schedule 1 that are made by Regulation 7. Article 13(2) is amended so that the standard rate described in it no longer applies to the old age pension.

Regulation 5 amends Article 14 of the Law. Paragraph (1) of that Article gives effect to Schedule 2 to the Law, in which the contribution conditions for all the various kinds of benefit are set out. There is already an exception for insolvency benefit, because the contribution conditions for that benefit are set out in Article 26A of the Law rather than in Schedule 2. This amendment adds an exception for the 2013 old age pension adjustment, because that payment does not directly have contribution conditions attached to it. Instead entitlement to the payment will be determined by reference to a person's entitlement to the old age pension and therefore, indirectly, according to the contribution conditions for the old age pension.

Regulation 6 inserts Article 25A in the Law. Article 25A describes the circumstances in which a person is entitled to the 2013 old age pension adjustment. To qualify, the person must be entitled to receive an old age pension (including a reduced pension) on the prescribed date. The Minister for Social Security must also prescribe, by Order, the amount of the 2013 old age pension adjustment.

Regulation 7 amends Schedule 1 to the Law. Currently, Schedule 1 is in 2 Parts. Part 1 sets out rates of benefit, including the rate for the old age pension. Part 2 sets out amounts of benefits which are a single payment.

Paragraph (1) of Regulation 7 deletes from Part 1 of Schedule 1 the 3 provisions that currently set the weekly rate of old age pension, the weekly rate of reduced old age pension and the weekly rate of old age pension payable in respect of a dependent wife. All of these rates are currently set by reference to the standard rate of benefit, which is set in accordance with Article 13(2) of the Law. The provisions are deleted as new provision is made to set these rates in the new Part 1A of Schedule 1.

Paragraph (2) of Regulation 7 inserts a new Part 1A in Schedule 1. This new Part contains new rules for setting a standard rate for the purposes of the old age pension only. The calculation of the standard rate for other benefits is unchanged.

In the new Part 1A –

- The standard rate for the purposes of the old age pension (the "standard rate") is fixed at £189.84 from 7 days after the date prescribed under the new Article 25A of the Law until the end of September (*paragraph 2(1)*).
- From 1st October 2013, the standard rate is adjusted having regard to the relative values of the Retail Prices Index (Pensioners) the Jersey Index of Earnings and the Pensions Index, in the following way –
    - On the 1st October, the standard rate is recalculated by reference to changes in the various indices (*paragraph 2(2)*).
    - If the Retail Prices Index (Pensioners) increases by a percentage that equals or is greater than the percentage increase (if any) in the Jersey Index of Earnings, the standard rate is changed by the same percentage as the change in the Retail Prices Index (Pensioners) (*paragraph 2(3)*).
    - There are 2 different rules if the Retail Prices Index (Pensioners) does not increase by a percentage that is more than the percentage change in the Jersey Index of Earnings.
    - The default rule is that the standard rate is changed by the percentage that is halfway between the percentage change in the Retail Prices Index (Pensioners) and the percentage change in the Jersey Index of Earnings (*paragraph 2(4)*).
    - However, if the result of applying that rule would be that the Pensions Index falls below the Jersey Index of Earnings, the standard rate is changed by the percentage necessary to ensure that the Pensions Index is the same as the Jersey Index of Earnings (*paragraph 2(5)*).
    - A Pensions Index is created which is simply increased annually in accordance with the annual change in the standard rate. The baseline for the Pensions Index is, for 2012, a value of 275.1. This represents the Jersey Index of Earnings for 2011 (267.3), uplifted by the pension increase on 1st October 2012 (1.5%) plus the notional uplift in the pension effected by the 2013 old age pension adjustment (1.4%) (*paragraph (2)(6)*).
    - If neither the Retail Prices Index (Pensioners) nor the Jersey Index of Earnings increases, the standard rate shall instead remain unchanged (*paragraph 2(7)*).
- The weekly rates for the old age pension, the reduced old age pension and the old age pension payable in respect of a dependent wife that formerly appeared as paragraphs 8, 8A and 9 of Part 1 of Schedule 1 are now set out in paragraph 3 of Part 1A of Schedule 1. The only change to these rates is to link them to the new standard rate described above, instead of to the existing standard rate in Article 13(2) of the Law.

Paragraph (3) of Regulation 7 amends the heading to Part 2 of Schedule 1. Currently, that heading refers to all benefits that are one-off payments as "grants". The addition of the 2013 old age pension adjustment makes it appropriate to widen the description in the heading.

Paragraph (4) of Regulation 7 amends Part 2 of Schedule 1 so as to add the amount for the 2013 old age pension adjustment. The basic amount will be prescribed by Order of the Minister for Social Security. The basic amount is the amount which will be received by a person who is entitled to a full old age pension. However, if a person is entitled to less or more than the full old age pension, the basic amount is pro-rated in accordance with existing provisions of the Law and Orders made under it.

Regulation 8 provides for the citation and commencement of these Regulations.

DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 5) (JERSEY) REGULATIONS 201-

Arrangement

Regulation

Jersey

DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 5) (JERSEY) REGULATIONS 201-

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[1], have made the following Regulations –

1 Interpretation

In these Regulations a reference to an Article, Schedule or Part of a Schedule by number only is a reference to the Article, Schedule or Part of a Schedule of that number in the Social Security (Jersey) Law 1974[2].

2 Article 1 amended

In Article 1(1) for the definition "standard rate of benefit" there shall be substituted the following definition –

" 'standard rate of benefit' –

(a) for the purposes of the old age pension, has the meaning given in Part 1A of Schedule 1;

(b) for the purposes of any other benefit, has the meaning given in Article 13(2).".

3 Article 12 amended

In Article 12, after paragraph (e) there shall be inserted the following paragraph –

"(ea) 2013 old age pension adjustment;".

4 Article 13 amended

In Article 13 –

(a) for paragraph (1)(a) there shall be substituted the following sub-paragraph –

"(a) the weekly rates of benefits and the amounts of any single payment benefits (apart from long term incapacity allowance and insolvency benefit) are the amounts set out in Schedule 1;";

(b) in paragraph (2) after the words "for the purposes of this Law" there shall be inserted the words "(except for the purposes of the old age pension)".

5 Article 14 amended

In Article 14(1) for the words "(other than insolvency benefit)" there shall be substituted the words "(other than insolvency benefit or the 2013 old age pension adjustment)".

6 Article 25A inserted

After Article 25 there shall be inserted the following Article –

"25A 2013 old age pension adjustment

(1) A person shall be entitled to the 2013 old age pension adjustment if –

(a) on the prescribed date, the person is eligible for an old age pension or reduced old age pension; and

(b) in accordance with the Law and any Order made under it, has applied for and, in the case of a reduced old age pension, elected to take, such pension.

(2) The Minister shall by Order prescribe –

(a) a date for the purposes of paragraph (1)(a); and

(b) an amount for the purposes of paragraph 3 of Part 2 of Schedule 1.".

7 Schedule 1 amended

(1) In Part 1 of Schedule 1, paragraphs 8, 8A and 9 shall be deleted.

(2) After Part 1 of Schedule 1 there shall be inserted the following Part –

"PART 1A – RATES OF OLD AGE PENSION

1 Interpretation of Part 1A

(1) For the purposes of this Part of this Schedule –

'standard rate' shall be construed in accordance with paragraph 2;

'RPI (Pensioners)' means the Jersey Retail Prices Index (Pensioners) produced by the States of Jersey Statistics Unit.

(2) For the purposes of this Part of this Schedule –

(a) a reference to the RPI (Pensioners) for a year or to the Jersey Index of Earnings for a year is a reference to that index after the percentage increase or decrease in the index for the year has been applied; and

(b) the percentage increase or decrease in the RPI (Pensioners) or the Jersey Index of Earnings for a year is the percentage increase or decrease in that index during the 12 months commencing July of the preceding year.

2 Standard rate

(1) The standard rate for the period beginning 7 days after the date prescribed for the purposes of Article 25A(1)(a) and ending with 30th September 2013 shall be £189.84.

(2) The standard rate shall be recalculated on 1st October 2013 and on each anniversary of that date, in accordance with the following provisions of this paragraph.

(3) If, for a year, the RPI (Pensioners) increases and the Jersey Index of Earnings either does not increase or increases by a percentage that is less than the percentage increase in the RPI (Pensioners), the standard rate shall be increased by the same percentage as the percentage increase in the RPI (Pensioners) for the year.

(4) Subject to sub-paragraph (5) if, for a year –

(a) the RPI (Pensioners) increases but the increase is by a percentage that is less than the percentage increase in the Jersey Index of Earnings;

(b) the RPI (Pensioners) stays the same but the Jersey Index of Earnings increases; or

(c) the RPI (Pensioners) decreases and the Jersey Index of Earnings for the year increases or remains the same,

the standard rate shall be adjusted by the percentage change that is the arithmetic mean of the percentage change in the RPI (Pensioners) for the year and the percentage change in the Jersey Index of Earnings for the year.

(5) If, for a year, the application of the rule in sub-paragraph (4) would result in the Pension Index for the year being less than the Jersey Index of Earnings for the year, the standard rate shall instead be increased by the percentage required to increase the Pension Index for the year so as to equal the Jersey Index of Earnings for the year.

(6) For the purposes of sub-paragraph (5) –

(a) the Pension Index for 2012 is 275.1;

(b) the Pension Index for each subsequent year is the amount that is the Pension Index for the preceding year increased by the same percentage as the percentage increase (if any) in the standard rate on 1st October in that subsequent year.

(7) If, for a year, there is no increase in either the RPI (Pensioners) or the Jersey Index of Earnings, the standard rate shall remain unchanged.

3 Rates of old age pension

(1) The weekly rate for the old age pension is the standard rate.

(2) The weekly rate for a reduced old age pension taken in accordance with Article 25(1A) is the rate of old age pension payable to the person, reduced by 0.58% for each month from the month in which the person becomes entitled to receive the reduced old age pension until the month in which the person attains pensionable age (both months inclusive).

(3) The weekly rate payable for an old age pension where the pension is payable to a woman by virtue of her husband's insurance, and the woman's husband is alive, is 66% of the rate of old age pension payable to her husband.".

(3) For the heading to Part 2 of Schedule 1 there shall be substituted the heading "PART 2 – AMOUNTS OF SINGLE PAYMENT BENEFITS".

(4) In Part 2 of Schedule 1, after paragraph 2 there shall be added the following paragraph –

"3.	2013 old age pension adjustment	A lump sum that is the relevant percentage of the prescribed amount – where the relevant percentage is the percentage of the old age pension that, on the date prescribed for the purposes of Article 25A(1)(a), the person is, in accordance with this Law and any Order made under it, eligible to receive.".

8 Citation and commencement

These Regulations may be cited as the Social Security (Amendment of Law No. 5) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

[1] *chapter 26.900*
[2] *chapter 26.900*