

# STATES OF JERSEY



## COLD WEATHER BONUS: VARIATION OF CONDITIONS

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Lodged au Greffe on 24th September 2013  
by Deputy G.P. Southern of St. Helier

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STATES GREFFE

## **PROPOSITION**

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

- (a) to agree that the condition contained in Regulation 3(4) of the Cold Weather Bonus (Jersey) Regulations 2012 that currently provides that, to receive a bonus, a person must be aged 65 years or over and also receiving a Jersey Old Age Pension should be amended by deleting the requirement to be in receipt of a Jersey Old Age Pension;
- (b) to request the Minister for Social Security to bring forward for approval the necessary amendment to give effect to the proposal.

DEPUTY G.P. SOUTHERN OF ST. HELIER

## REPORT

This amendment has been brought to me by a constituent whose circumstances disallow him from receiving the cold weather bonus, despite being an 82 year-old Jersey resident. He is Jersey-born and was evacuated from the Island prior to the Occupation, returning to the Island to take up residence in his mother's house following her death. He was 66 at the time, but continued to work for a number of years, during which time he paid income tax; but being over retirement age, he was not allowed to make Social security contributions himself, although his employer did.

The constituent therefore receives a retirement pension from the UK, but he does not receive any Jersey Old Age Pension.

In July 2012 the constituent submitted a completed application form to the Social Security Department which covered both a Food Costs Bonus, payable under the Food Costs Bonus (Jersey) Regulations 2011, and the Cold Weather Bonus.

He was eligible to receive the Food Costs Bonus and that benefit was paid in October 2012.

The letter informing the applicant of the payment in full of the Food Costs Bonus also contained a provisional approval of the Cold Weather Bonus. However, the claim was eventually disallowed.

Of the 7 conditions that must be met in order to qualify for the Cold Weather Bonus, (*listed in the Appendices*) only Regulation 3(4), the requirement to be in receipt of a Jersey pension, had not been met.

The constituent has painstakingly and patiently been through the system of a second determination and appeal to the Social Security Tribunal, which came to its decision on 8th July 2013.

In his appeal the applicant made what the Tribunal described as a "coherent argument" which included the following –

1. He met all the conditions save one, that he was not in receipt of a Jersey Old Age pension
2. The Cold Weather Bonus should be based on need, not on the above condition. Cold weather and the additional heating bills associated with it are faced by all over-65 residents in hardship.
3. The bonus is not, in fact, funded by Social Security contributions, but from general income tax revenues and, until he ceased work, the applicant paid income tax. His income is now below the income tax threshold.
4. He would have expected some discretion for the payment of the bonus in cases of hardship.
5. It was not his fault that he had not contributed towards a Jersey Old Age pension. He was prevented from doing so by the legislation. He pointed out that he was in receipt of a UK pension but could not claim a bonus from the UK as he was not resident there. He was meeting his living expenses by the use of capital.

The Tribunal recognised that when the applicant's savings run out he will be obliged to sell his home in order to meet his living expenses. In arriving at its decision it expressed "some sympathy for the applicant's predicament", but that "the absence of any discretion in the department" meant that the appeal must fail.

Having exhausted the appeal mechanism to no avail, my constituent has requested that I bring this proposal to the States to remove this anomaly.

### **Financial and manpower statement**

I do not know how many over-65s fall into the category of not having any Jersey Old Age pension, despite being both a house-owner and below the income tax threshold, but it cannot be a great number. The Cold weather Bonus in June 2012 for the months January to April amounted to £156,000, made up of £170.61 paid to 918 households. I strongly suspect that this change may increase that number by one. There are no manpower costs.

**REGULATIONS 3 AND 4 OF THE  
COLD WEATHER BONUS (JERSEY) REGULATIONS 2012**

**3 Qualifying conditions**

- (1) A household qualifies for a cold weather bonus in respect of a cold weather month if it meets the conditions in paragraphs (2) to (5).
- (2) The first condition is that, on the date on which the application is made for a cold weather bonus under Regulation 4(1), the household meets the qualifying conditions in Regulation 3 of the Food Costs Bonus (Jersey) Regulations 2011 in respect of a food costs bonus under those Regulations.
- (3) The second condition is that throughout the cold weather month the household is occupying accommodation in respect of which at least one adult member of the household is the owner or is paying rent to occupy the dwelling under the terms of a lease or licence.
- (4) The third condition is that on the first day of the cold weather month at least one adult in the household is aged 65 years or over and is receiving a Jersey old-age pension.
- (5) The fourth condition is that no adult in the household has received (or has claimed and is entitled to receive) a payment under the Income Support (Special Payments) (Cold Weather Payments) (Jersey) Regulations 2008 in respect of the cold weather month.
- (6) The second condition is not satisfied where the dwelling being occupied is lodgings or a hostel.

**4 Application for bonus**

- (1) An application for a cold weather bonus may be made to the Minister –
  - (a) on behalf of a household that meets the first condition on the date of the application;
  - (b) by a member of that household.
- (2) Subject to paragraph (5), an application for a cold weather bonus may be made in respect of January, February, March or April 2012 on or before 31st March 2012, and may be made in respect of those months only.
- (3) A household shall be treated as meeting the first condition on the date of the application for a cold weather bonus in respect of January, February, March or April 2012 if that household met the qualifying conditions in Regulation 3 of the Food Costs Bonus (Jersey) Regulations 2011 in respect of a food costs bonus under those Regulations between 1st July 2011 and 31st December 2011.
- (4) Subject to paragraph (5) an application for a cold weather bonus made in respect of any cold weather month falling after April 2012 may be made on or after 1st May 2012 and may be made in respect of the period of not

more than 12 consecutive calendar months, beginning with the 1st day of the month following the date of the application.

- (5) If in any case where the applicant proves that there was good cause for a failure to make the application before the date on which it was made, the Minister may treat the application as being in respect of a period beginning not more than 6 months earlier than the date it was in fact made.

**REGULATION 3 OF THE  
FOOD COSTS BONUS (JERSEY) REGULATIONS 2011**

**3 Qualifying conditions**

- (1) A household qualifies for a bonus in a year if it meets all of the conditions in paragraphs (2) to (5) in relation to that year.
- (2) The first condition is that no person has received on behalf of the household any payment which –
  - (a) relates to any of the 7 days preceding the day on which the application is made for the bonus;
  - (b) is made under the 2007 Law; and
  - (c) is not an exempt payment under paragraph (6).
- (3) The second condition is that, subject to paragraph (4) –
  - (a) where an application for a bonus is made on behalf of the household before 1st October in the year to which it relates, no member of the household was served with a notice of assessment under Article 25 of the Income Tax (Jersey) Law 1961 showing a liability to income tax for the year of assessment falling 2 years before the year to which the application relates;
  - (b) where an application for a bonus is made on behalf of the household on or after 1st October in the year to which it relates, no member of the household was served with a notice of assessment under Article 25 of the Income Tax (Jersey) Law 1961 showing a liability to income tax for the year of assessment preceding the year to which the application relates.
- (4) Where a household has qualified for a bonus in a year by meeting the second condition in the case described in paragraph (3)(b), the household cannot qualify for a bonus in the following year by meeting the second condition in the case described in paragraph (3)(a) and, accordingly, any application made on behalf of the household for the following year, if made before 1st October, shall be deemed to have been made on or after that date.
- (5) The third condition is that at least one member of the household –
  - (a) is an adult on the date on which the application for the bonus is made; and
  - (b) subject to paragraphs (7) to (9), has been ordinarily resident in Jersey for a continuous period of 5 years immediately preceding the date on which the application for the bonus is made.
- (6) A payment is exempt if it is made on behalf of a household that does not fall within Article 7 of the Income Support (Transitional Provisions) (Jersey) Order 2008, and –
  - (a) it is, or it includes, a protected payment under that Order; or
  - (b) it is a special payment under the 2007 Law.

- (7) A person resident outside Jersey is nevertheless to be treated as being ordinarily resident in Jersey for any part of the period specified in paragraph (5)(b) in which that person's principal residence is in Jersey.
- (8) A person detained by virtue of a sentence of imprisonment, youth detention or similar punishment (whether in Jersey or elsewhere) is not to be treated as ordinarily resident in Jersey for the period during which the person is so detained.
- (9) However, the period during which a person was ordinarily resident in Jersey immediately prior to such detention is to be treated as if it immediately preceded the person's release from that detention.