

STATES OF JERSEY



DRAFT INCOME SUPPORT (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 12th July 2007
by the Minister for Social Security**

STATES GREFFE



DRAFT INCOME SUPPORT (JERSEY) REGULATIONS 200-

REPORT

Introduction

The States are being asked to approve the Regulations to be made under the Draft Income Support (Jersey) Law 200-. The Regulations form part of the subordinate legislation that drives the new Income Support system and consists of 2 sets of Regulations and 2 Orders, and this report sets out an overview of how this subordinate legislation fits together with the principal Law to define the Income Support system.

The rates included in the Regulations are rates that would have been used if Income Support had become operational before benefit uprating on 1st October, 2007. Income Support will be operational in January 2008. An amendment to the Regulations will therefore be lodged in early September which will specify the actual uprated rates for 2008. It will be possible to calculate the actual rates when the Earnings and RPI indices on which the increases in the components are based are available at the beginning of September.

Background

On 10th October 2006, the States approved the Draft Income Support (Jersey) Law 200- which set out the legal framework for a single integrated means-tested benefit. This followed a previous decision of the States approving a proposition "Income Support System (P.86/2005)" of the Employment and Social Security Committee for the introduction of a new integrated income support benefit. In summary the States agreed that –

- The existing system of non-contributory benefits administered through the Social Security, Education and Housing Departments and the Parishes be discontinued;
- Most of these benefits be replaced by a single system based on a single and current evaluation of income;
- The new system be comprised of a series of components;
- The Health Insurance system be amended to target more help to individuals and thereby allow more flexibility in the delivery of benefit; and
- Special arrangements be made to deal with exceptional and one-off payments.

The States also agreed that the Minister for Social Security be politically accountable for the system, its development, co-ordination and administration and be charged with making arrangements to bring the system into effect. It was also agreed by the States that all the costs of development and administration of the system be funded from the general revenues of the States. The States also decided that financial protection be afforded from general revenues to those households who may be affected by the removal of existing benefits.

Reasons for change

Currently over *£60 million (2007)* is spent annually in Jersey on means-tested benefits to support over 20% of households (circa 8,000). Available research suggests that even though the total estimated sum spent on social protection in Jersey is less than the European average, the incidence of poverty is about the same but the severity or depth of poverty is less.

The existing benefit systems –

- are often not easy for residents in Jersey to understand;
- do not always target money to best effect;

- cause duplication of effort by officials and customers which leads to frustration amongst those trying to get support at difficult times of their lives.

The combined effect of the current benefits is an uneven distribution of assistance and, in some instances, the creation of disincentives conspiring to make people worse off as they earn more.

Redesigning the current systems to create one benefit with one consistent income assessment will create a fairer, more transparent and accessible system which will be a major step in the drive to minimize the impact of poverty in Jersey.

The new system will help and enable people to both avoid poverty and to take appropriate actions and life decisions to get out of poverty. The system will do this by effectively tackling real needs whilst promoting work and encouraging self-reliance. It will be equitable, consistent, sustainable, easily understood and accessible whilst taking account of the whole needs of the family.

The Law

The Law is essentially a short enabling piece of legislation that sets out a fundamental framework on which powers are given to the States and the Minister to develop the details of the system through Regulations and Orders. The basic criteria for eligibility are set out in Part 2 of the Law, which in simple terms confirms eligibility for income support on adults of households on relatively low income who are working or have a genuine reason why they are not working and have also satisfied the requirement for residency in the Island. The Law allows subordinate legislation to define ordinarily resident, and the constitution of a household, as well as definitions for full time work, remunerative work and the availability for and actively seeking work. This is a fundamental principle of the Law, which seeks to promote self-reliance through work.

Part 2 of the Law also describes the components and the difference between the basic components (relating to the constitution of the household) and special components which relate to housing cost, impairment, caring and child care. The States has the power to set the level of component rates by Regulations as well as the criteria to be used when determining the components. Finally, this part of the Law describes how the specific benefit rate for each household is to be calculated by comparison with the determined components and the income of the household, the assessment of which is to be defined by Order.

Part 3 of the Law is concerned with special payments which will cater for exceptional as well as one-off needs which will include those that are currently met by discretionary payments through the Parish Welfare system. This part of the Law is inherently more flexible than Part 2 of the Law which deals with the regular payments currently seen through benefits such as rent abatement/rebate, family allowance and disability allowances.

The requirement for a discretionary element to the Income Support System is to allow instances of exceptional need, which fall outside of the entitlements under Part 2 of the Law, to be addressed.

Part 4 of the Law relates to the determination of claims through “determining officers”, and appeals to Tribunals which are Human Rights compliant, which is not the case with certain of the existing benefits.

Amongst minor and other consequential matters addressed in the Schedule to the Law, an important change to the Health Insurance (Jersey) Law 1967 is made. The Health Insurance system will become a system based upon individual entitlement, allowing the focussing of benefits to individuals rather than heads of households and will allow further changes to be made to target the treatment of chronic illnesses. This change will be essential in subsequent changes that may follow from the development of the Island’s health care system in “New Directions”.

The Law and subordinate legislation will be backed up by accessible documentation including leaflets which will give a description of the system and importantly published guidelines which will explain to claimants and the public at large the interpretation of the system and what they might expect from the system in terms of rights and responsibilities.

Income Support (Jersey) Regulations 200-

One of the fundamental principles of the system is that those people who can work should work and be given every encouragement to work if their circumstances allow. Work is proven to be of benefit to individuals in creating physical and mental well-being, and gives an individual a sense of purpose when considering their place in society. A person with a genuine reason for not working will not be denied Income Support nor will a person whose circumstances dictate that they can only maintain part-time work. This principle is reflected in Article 2 of the principal Law which requires that all adult members in a household should be in full time remunerative work

unless exempted by Article 3 (Persons eligible despite not being engaged in full time remunerative work). The list of exemptions includes people over the age of 65, carers, people suffering from a physical or mental impairment, people with young children, people in training or people genuinely looking for a job.

The principal Law gives the States the power to make Regulations to amend the list of exemptions and to prescribe what is meant by full time remunerative work and what is meant by available for, and actively seeking work. Regulations 2 to 5 of the Income Support (Jersey) Regulations 200- define these work requirement terms. The other main aspect of the Regulations is the Schedule, which defines the criteria and the rates for the components that make up the Income Support system.

Regulation 2 defines the term “full time” as a minimum of 35 hours a week. There was some debate about this figure, with suggestions that it should be lower, as well as higher. The Minister decided that the figure would be 35 hours, as being a generally widespread understanding of a full time working week. **This does not mean that a person working less than 35 hours a week will be denied Income Support.** It will mean that a person working under this 35 hour threshold will be interviewed to establish a reason why this may be the case. The Regulator also sets out what work absences are allowed without breaching the 35 hour rule. Finally, it makes provision for calculating weekly hours for those people who may have abnormal patterns of work.

Regulation 3 defines the term “remunerative work” in terms of the rate of the minimum wage with no lower limit on the number of hours worked. For self-employed people, it is recognised that remuneration is more difficult to determine accurately so special provisions are made to calculate the average hours worked and the equivalent wage net of reasonable and necessary business expenses. The Department has a wealth of experience in the determination of self-employed earnings but the principal Law does allow the determining officer to refer to experts for examination and report back to the determining officer on questions of special difficulty which would include problems in evaluating self-employed income.

Regulation 4 refers to a focus on working wherever possible, as a person should not be able to declare himself unavailable for work unreasonably. This regulation ensures that a person is willing and able to take up work immediately if it is suitable work and is available. The definition of suitable work is found in Regulation 1 which lists the definitions. In simple terms, a person who is seeking work should not turn down opportunities for work that match his skills, qualifications and abilities. However it is recognised that in some instances, a qualified and able person may be out of work for a period of time trying to match his skills based on his previous employment when other jobs, perhaps requiring lower qualifications are available. Whilst giving this person time to look for the higher opportunity, the Minister believes that this should be carefully monitored and after a reasonable length of time, the person should be expected to accept employment at a lower level.

Regulation 5 defines the term “actively seeking work” by referencing activities to the past 28 day period. This means that the person is currently seeking work and maintains a rolling period of qualification. During that period a person is expected not to turn down suitable work and to attend interviews with staff at the Department. They would also be required to take reasonable steps to find work (including training) which may or may not involve the Department. Some people find work without the intervention of the Department, but in difficult cases the officers would provide a plan, or “job seekers agreement” negotiated with the person in question as to the appropriate way to get back into work.

The new Income Support system will lead to more people using Employment services at the Social Security Department and the interactions will be monitored to provide more data on both the Income Support system and unemployment. Changes to the organisational structure and computer systems are being made to help meet these expected increases.

As Part 2 of the Regulations deals with work requirements, it is appropriate to mention **Regulation 7** there. During development of the subordinate legislation the position of people in custody was found to be unclear. Using the powers in the principal Law, this Regulation adds to the list of people exempt from full time remunerative work. Clearly people in custody cannot be in full time work but need to be maintained in the household definition for income and asset calculations as well as reflecting an appropriate size of accommodation for the housing component. This will ensure that payments can continue to be made to the rest of the family members in that household.

Regulation 6 merely refers to Schedule 1 of the Regulations which sets out the criteria and rates of the components of Income Support. The rates of the components are weekly rates except for the Child Day Care Component which relates to the hourly cost of child care and the number of hours of child care during the week. Standard weekly rates are a simplification on existing benefits which can be weekly, monthly, or variable

depending on the number of actual payment days in a month. The principal Law requires that the rates of the components be set by the States through Regulations.

The purposes of the specific components are set out below.

Schedule 1 Part 1: Basic components

The basic components are those amounts of benefit paid on behalf of each of the members of the household to meet their individual needs, such as food, clothing, travel, energy and basic medical costs. A specific household component is also paid to each separate household reflecting reasonable fixed costs in a household. There are therefore 4 rates:

- a rate for each adult in the household,
- a rate for each child in the household,
- a rate for the household,
- and an enhanced rate for a single parent in a household.

Research and experience suggests that single parents require more benefit than single householders without children and are generally the most vulnerable to issues of poverty.

The Law is permissive in that an eligible household is entitled to the appropriate basic components. Part 1 of the Schedule sets out the criteria which exclude a household to any basic component. In general terms a member of a household is not entitled to a basic component for periods where they are being maintained by another authority, at University, in custody, in hospital (but not in residential care) or indeed in the case of a foster child where a fostering allowance is paid. The Schedule (1.1.d.) also sets out that a member of the household would not continue to be entitled to any basic component whilst residing outside of Jersey for periods of longer than 4 weeks.

The basic household component is only paid to people who occupy property as the owner or under the terms of a lease.

Schedule 1 Part 2: Special Components A: Housing Component

Part 2 of the Schedule describes the components that are paid for specific reasons. The first is the housing component which covers rental costs for those living in rented accommodation. For owner/occupiers, a different rate of component covers the cost of foncier rates and building insurance. It does not cover the costs of having a mortgage but in exceptional circumstances the interest charges might be met through a special payment for a limited time through Ministerial discretion exercised under Article 8(2) of the Income Support Law. For those in rented accommodation, the component is different to the existing rent rebate/abatement system but does still refer to the fair rent set by the Minister for Housing. However, as the Housing Department (and Housing Trusts) effectively become like any other landlord, mechanisms will be agreed between the relevant Ministers to ensure co-ordination between the level of the Income Support Housing Component and the Housing Department's fair rent levels.

The criteria that attach to the housing component fall into 2 categories; those that attach to the claimant and those that attach to the household and its members. Obviously to qualify for this component, a member of the household is the owner of the dwelling or occupies the dwelling under the terms of a lease or licence and the dwelling must be the main residence. Income Support cannot be paid to support a second home. If the household is occupying a dwelling that is too large for the needs of the household, the housing component will be restricted to the level for a dwelling that would be appropriate.

In order to receive a housing component the claimant must be over the age of 25. However, support will be provided to claimants below 25 in some circumstances, for example young families with children, young people moving out on their own from Social Service Care or simply those young people who cannot reasonably be expected to live with parents or other family members. The latter group may simply be those that have lived away from their parents for a length of time, and having set up a home and then falling on difficult circumstances would not be able to move back to the family home because circumstances in the family home may have changed to prevent this.

Schedule 1 Part 2: Special Components B: Impairment Component

The impairment component replaces existing non-contributory disability benefits (such as Attendance Allowance and Disability Transport Allowance) but also brings in a component for the cost of visiting a general practitioner.

This not only replaces the Health Insurance Exemption scheme but also effectively widens it to more people on relatively low incomes who may have chronic health problems. The component acknowledges the extra costs of disability and long-term illness.

However, the fundamental principle in this benefit replacement is a move from effectively a “universal” system of benefits to a targeted “means-tested” system. The States agreed to this in P.178/2003. Current disability benefits are effectively universal in that the income limit is over £53,000 a year with no capital limit at all. This means for example that a household with an income of £50,000 a year and capital in excess of £100,000 would receive the same lump sum disability benefits as a household with income of £20,000 a year and no capital at all. In a means-tested system there are no lump sums paid regardless of income and instead benefit decreases from a maximum figure as income rises until no benefit is received at all.

The impairment component actually consists of 3 elements; a personal care element, a mobility element and a clinical cost element. As with other components the legislation is permissive but a person cannot qualify for any element of the impairment component unless his medical circumstances have lasted, or are likely to last for a period of not less than 6 months (unless the individual is terminally ill). Clearly the basic principle here is to ensure that the condition is not transient but likely to affect the person over a protracted period. The criteria also link back to the eligibility for basic components which relate to maintenance by another authority and presence on the Island. A child attending a school outside of Jersey catering for special needs would not be disqualified from being eligible for impairment component whereas a person in custody would be.

Assessments of existing non-contributory benefits have periodically been criticised as being secretive, inequitable and often subjective. The assessments of impairment components, and therefore the rates of the components have been devised to be transparent and more equitable. The Minister is grateful for the assistance of Dr. R. Thoma from the Department of Work and Pensions, local professionals and the officers of the Health and Social Services Department who have helped devise and test the mechanism for assessing the personal care and mobility elements of this component. A report is made by the person suffering from a chronic disability or illness by answering a series of statements about how their lives are affected by their condition. The statements are cross-checked against medical evidence from the person’s doctor and a set of standard guidelines. Valid statements are allocated a point’s score and from the accumulation of that score, 4 rates for the personal care element and 2 rates for the mobility component can be determined. The statements are set out in **Schedule 2** of the Regulations which fulfils one principle of transparency. However, it should be borne in mind that the statements are not benign but relate to medical conditions and symptomology that would be difficult to circumvent. Evidence from medical practitioners and other health workers would be invited to ensure that each person achieves the correct level of personal care and mobility component. In difficult cases the Department can also call in experts or consultants to assist in the determination.

The clinical cost element seeks to direct more money to those people on low income who have chronic medical conditions that warrant higher than average visits to a general practitioner. The basic adult and child components allow for the average number of visits to a doctor per year (4) but those people with a chronic or progressive condition will be paid enough to cover an extra 4 visits a year (8 in all). Those people who have conditions that clinical guidelines recognise need at least a further 4 consultations a year will be given enough benefit to cover 12 visits to the doctor a year (12 in all or one a month).

The current system of HIE has some perverse incentives for both patient and general practitioner. For some HIE patients there appear to be excessive visits, yet the general practitioner effectively subsidises the visit as the consultation fee is less than he could claim from a non-HIE patient. In discussing this and the new Income Support system with representatives of the general practitioners, both parties felt that all patients should pay a user charge of, say £5. The new Income Support system follows the principle of self-dependence where benefit is paid in advance including the clinical cost component. This could lead to a position where benefit had already been spent when it might be needed for a visit to a general practitioner. There could also be instances where different members of the household need to see a general practitioner in a short space of time and even if the benefit had been set aside, the cost could become a barrier to visiting a doctor. To avoid this scenario, the administration of this element will give the household the option of opening a Household Medical Account, through an agreed proportion of benefit being withheld and maintained for the purpose of meeting medical bills. The account will be allowed to go overdrawn to cater for incidences of chronic or family illnesses but this would be monitored and reviewed with the general practitioner and the family.

This means that a household on Income Support has 2 options to consider for meeting medical costs. It can receive the benefit and pay the general practitioner in the normal way or it could opt to open a Household Medical

Account, where the payment to the general practitioner would be £5 at the time of the consultation and the Household Medical Account would meet the difference. In both cases the Health Fund would release the same amount of Medical Benefit Refund (currently £15) to the general practitioner. There would be no more stigmas attached to those people who may be on low income visiting a general practitioner and the general practitioner would not be “subsidising” health care to those on low income.

For all its faults the system of HIE has been operational in Jersey since 1968. Many recipients and professionals are used to it and the change to the income support system will require changes in behaviour that may take some time. The use of the Household Medical Account may help in that change but during the transition careful monitoring will take place to ensure that those who genuinely need general practitioner services are not denied them purely because of cost. This may entail payments through the Income Support (Special Payments) (Jersey) Regulations 200-. On the other hand, those who might have made excessive and unnecessary claims to general practitioner services will be carefully reviewed.

Schedule 1 Part 2: Special Components C: Child Day Care Component

The child day care component again supports the concept of work by helping with the cost of childcare. It is paid to a household with a child under the age of 12 years who is receiving child care provided that the adult member responsible for the child has earnings greater than the cost of the day care. Unlike the existing childcare allowance however, it is widened to incorporate those people who cannot work full time because of some impairment and to those who are in education or training that is likely to lead to better earning opportunities. Foster children are exempt from this component because of the fostering allowance. The rate of the component is set at the lower of the average weekly cost of the day care or the combination of the appropriate hourly rate multiplied by the number of hours of care needed. The number of hours needed will be determined by reviewing alternative options for child care and the education or training commitments or the level of impairment of the adult responsible for the child.

During the development of the subordinate legislation, a view was expressed by certain childcare providers and others that the system should provide the child day care component to those residents in Jersey for less than 5 years. This is impossible within the framework of the system and the integrated calculation. It is felt economically that the provision of assistance for childcare is worthwhile for this group of residents so work is under way to introduce a small scheme at the same time as income support is introduced. Discussions with the Jersey Child Care Trust and the main providers will be undertaken.

Schedule 1 Part 2: Special Components D: Carer’s Component

The carer’s component is an additional benefit to the Invalid Care Allowance which has not been subsumed into the Income Support scheme. Invalid Care Allowance, which is subject to a separate Law, is paid to a person who cares for a very severely impaired person in the community and the carer’s component serves the same purpose. In order to qualify, the carer must be resident in Jersey and not severely impaired themselves. The person being cared for must be assessed under the criteria for impairment component and meet either of the top 2 tiers of assessment. As with the other components, the person being cared for should not be maintained by another authority, and must be present in Jersey unless absent for medical treatment.

Income Support (Special Payments) (Jersey) Regulations 200-

The components described in the Income Support (Jersey) Regulations 200- form the basis of regular payments to reasonably settled households which satisfy the work, income and residency criteria. In any income support system there is also a need to provide “one-off” payments to cover extraordinary expenses that might make the financial position of low income households worse or indeed push some households into poverty. The U.K. uses a system of crisis loans, community grants and emergency payments through the Social Fund and the existing Parish Welfare system operates a similar emergency payment system. Article 8 of the principal Law allows the States to make Regulations to provide for the Minister to make special payments to defray expenses to eligible households or people ordinarily resident in Jersey in exceptional circumstances. The Law also allows the Minister to provide assistance up to a specified limit to those temporarily in Jersey but not ordinarily resident (for example “the ship wrecked mariner”).

These powers are wide and discretionary. However, through the Regulations, and the published guidelines to be approved by the Minister, it should be reasonably clear to whom and for what purpose special payments can be claimed and paid.

Regulation 2 essentially defines that special payments are to defray expenses and then defines the households that may benefit from a special payment. These households are those that are already in receipt of income support,

those households who satisfy all other criteria (remunerative work and income) and who do not meet the 5 year residence condition but will do so in up to 6 months' time, and those households who meet the remunerative work and residence criteria and fail the income criteria but are within 10% of the sum of the components to which they would have been entitled. In summary the households covered are those on income support, those nearly qualified by residence and those who are just over the income assessment for income support.

Regulation 3 whilst this Regulation defines the expenses that can be met by special payments, it is qualified in terms of there being an "urgent need for the goods or services" and that there is "no other reasonable means of meeting the cost". The list of goods and services is fairly self-explanatory; furniture and household equipment; deposits and removal costs (but only where the dwelling is appropriate to the needs of the household), the essential costs in securing remunerative work and the exceptional costs of medical items and services. A special payment can also be made to protect a household from a serious risk to the health and safety of that household.

There are unfortunate occasions when the costs of funerals in Jersey cannot be met by the household, or indeed a body has to be moved into or out of Jersey and again the cost cannot be met. A special payment can be made in these circumstances and it can also be paid to repatriate a person from Jersey.

Regulation 4 the amount of the special payment is specified as the lower of the full cost or a reasonable price for the goods and services provided. In administrative terms, the Department will hold a list of preferred suppliers, as some Parishes do now, but will always allow the claimant to be self-sufficient provided the cost is not excessive. Certain items will have to be supplied new, particularly electrical goods, but with good quality second-hand purchases available in Jersey these may be supplied rather than new.

Regulation 5 this Regulation serves a specific purpose in the circumstances where an adult member of the household refuses to actively seek remunerative work. The Income Support (Jersey) Regulations 200- require that an adult member of a household must work if at all possible and must demonstrate that he has been actively seeking work in the past 28 days if he is not working. In cases where the person does not attempt to seek work the individual will be advised that the regular income support claim will be disallowed unless they demonstrate that they are actively seeking work. Disqualification of the regular claim could lead to greater hardship for other members of the household, so the regular Income Support payment is replaced by a special payment where the basic component of the adult member refusing to work is withdrawn at a rate of 25% a week over 4 weeks (the 28 day period). The rest of the components and thereby the support to the rest of the household remains intact.

Regulation 6 again this Regulation serves a specific purpose where an individual in a household has a chronic condition but prefers not to disclose this through the normal claim process. This Regulation allows the individual to make a claim in their own name without reference to others members of the household.

Regulation 7 this limits the amount that can be paid to a person temporarily resident but not ordinarily resident in Jersey to £500.

Special payments is an area that the Minister believes will need very careful monitoring and adjustment as experience is gained, recognising that there is a finite amount of money available. In many instances, whilst the need might be urgent it is not often immediate and it is likely that cases will be referred to determining officers as a "case conference" to ensure that consistency of approach and equity is paramount. There are likely to be issues that arise that will cause the guidelines and the Regulations to be amended over the coming years.

Conclusion

The States over the past 10 years and over several debates has committed itself and the Social Security Department to the development of an integrated means-tested benefits system. This development would have been impossible without the time, knowledge and experience of the officers of the Health, Housing and Education Departments and especially without the comments and commitment of those people who took part in the various consultations that have taken place. The experience, knowledge and support of the Connétables and their Parish Officers has been crucial. The basic principles and key objectives of this change have been rehearsed on many occasions. There have been no fundamental disagreements to either the concept or the reasons for this change. In fact there has been a call to review benefits, to target them more accurately and above all to remove the inequity in some of the systems which promote a culture of dependence that in some instances gives less assistance to those who really need it. Disability Transport Allowance and Rent Rebate and Abatement are often cited as examples, with perhaps good reason. Disability Transport Allowance is currently paid to people in households with substantial capital assets. Rent Rebate and Abatement is obviously geared to rental costs and a single person obtains the same level of benefit as a couple within that system and subsidy is paid to those with above average incomes.

There has also been criticism from certain quarters of the current safety net system in Jersey; the Parish Welfare system. There is little doubt however, that the Parish welfare system has served the Island well and that the Parishes provide local communities a sense of identity and local knowledge, both geographically and figuratively. It would be a shame not to use these features in the Income Support system whilst always recognising the need for equity and fairness. The income support system will be driven by a central administration based on existing IT structures but local access through Parishes will be allowed subject to agreements being made between the Connétables and the Minister. However it should be absolutely clear to all that the responsibility for all aspects of the income support system rest with the Minister for Social Security and that any access to it has to be carefully controlled and monitored. The arguments for and against centralisation or de-centralisation often forget the customer. The customer needs easy access to the system without stigma or artificial barriers intervening. This can be provided by offering choice to the customer which is exactly the route that the administration of income support offers. The household can choose to visit either the Social Security offices, the Parish or indeed request a home visit by an officer.

Implementing a new integrated income support system in a green field situation would not be easy but implementing it from a position of existing well-established benefits simply adds to the difficulty. It was evident early in the development of the system that evolution from the existing benefit system was impossible and a single transition to the new system had to be undertaken. Because of the fragmented and perhaps generous nature of some existing benefits this raised the issue of those people who might experience a lower rate of income support compared to the total amount of existing benefits received. It was also evident with the income support budget being maintained at the same overall level as the total of existing benefits that increasing rates of benefit to those on very low incomes could not be achieved. The Minister believes that having highlighted circumstances where low income households require additional assistance, it would be unfair to deny them this help whilst perpetuating some of the inequities in the system by protecting those on higher incomes. Nevertheless the Minister also recognises that some households, especially pensioner households might find it difficult to adjust to a different income immediately. The remedy for this was found with the help of the Minister for Treasury and Resources, and has been approved by the States, who has earmarked £22 million to protect existing beneficiaries who would not see any extra benefit under the income support system. This protection will be phased out over time and is outlined in the description of the Income Support (Transitional Provisions) (Jersey) Order 200-.

The income support system provides financial support tailored to the needs, circumstances and income of individual households. In reality every family has different needs and circumstances so it is impossible to detail in a report the effect of income support in each family. The publication of the rates of the components does not show how families might be affected. However, during the data collection process, it has been possible to model the effect of the new benefit for average income beneficiaries in each family type from the information supplied. It has to be stressed that these examples are based on the average income of those existing beneficiaries and is not a measure of average income for the Island as a whole. This average figure is a good representation of the average household in each category who is currently receiving one or more of the existing benefits.

Household Type	Average Weekly Income Before Benefit	Income with Existing Benefit	Income with New Income Support Benefit	Weekly Difference
Single Pensioner	£173	£283.90	£288.25	+£4.35
Pensioner Couple	£300	£378.65	£383.92	+£5.27
Lone Parent – 1 Child	£224	£378.95	£415.90	+£36.95
Couple – 2 children	£484	£564.25	£574.82	+£10.57

The new income support system shows an increase in benefit for these categories of family at the relevant average income who currently receive existing benefits. Clearly therefore some families will see an increase in benefit from the new system. Other families might see a fall in benefit due to the income support system but will receive protection from the effects. A third category of family would not receive any benefit under the new system although they might be receiving existing benefits. These families will also receive protection if they make a claim to income support.

Research undertaken by the University of Nottingham (Stella Hart with Robert Walker – Social Protection in Jersey: a Comparative Study) suggested that the level of relative poverty in Jersey is on a par with the European

average but the severity of poverty is noticeably less. The report also suggests that the money spent on social protection in Jersey, whilst lower than European levels, performs well but this does not mean that it could not perform better. The income support system starts this process. It does not finish it. The system will be able to draw information from beneficiaries to better inform policy-makers on the social support framework that prevails in Jersey. It will have a unique place in highlighting issues and problems and allow better targeting of resources. In a similar vein, the information from beneficiaries will rest in one place rather than spread inconsistently across different Departments and agencies. This will make the development of strategies to monitor and combat benefit fraud that much more effective.

The development of the income support system has taken a good deal of time and effort. In more recent years it has been portrayed by some as a panacea, a system that will cure all difficulties such as childcare, residential care costs and the impact of GST for the whole community. It is not the absolute answer to all these issues. It is also not a perfect benefit system as such a system does not exist anywhere in the world. These proposals, whilst being a major change, are the first steps on the way to an improved, equitable and sustainable social support system. Further changes in the future to the structure, Law and administration will be required as experience is gained, time moves on and changes in society occur. Indeed there are parts that I, as Minister, would wish to see improved over time; particularly in the area of work incentives and pension premium disregards. Any change has to be carefully considered against the evidence and obviously against budgets, but the point to be made is that this system cannot stand still. It must not be allowed to stagnate. It must mature and grow to meet the needs of the people of Jersey.

Financial and manpower implications

Other than the transfer of budgets and manpower from other Departments identified in the States Business Plan, there are no financial or manpower implications for the States arising from the adoption of these Draft Regulations.

Material relating to the Draft Orders is attached for ease of reference. They are still subject to final revision.

Income Support (General Provisions) (Jersey) Order 200-

The Income Support (Jersey) Law 200- provides that Orders be made to provide the mechanism of making claims to the benefit, how the claims are to be determined and the process for dealing with disputes about the determination of any claim. The provision also extends to certain definitions and eligibility criteria which are important features of the income support system.

Part 2 of the Order describes residence conditions applicable to income support as well as defining those people who are to be treated as being members of a household.

Article 2: the simple residence criterion for income support is 5 years immediately prior to the application for income support or 10 years continuous residence at any time. Whilst simplicity and ease of understanding is a key objective of the new system, equity and lack of discrimination were also basic principles on which the scheme was built and debated in the *in principle* decisions made by the States. In developing the system, the situation of a person who satisfies the 5 year condition of residence in Jersey who then leaves for a relatively short period of time was considered and it was felt that 5 years might be a harsh condition to apply. The Article therefore contains a provision that where a person who satisfies the 5 year condition leaves Jersey and resides abroad, the residence condition should be the same period as the absence from Jersey, or 5 years, whichever is the shorter.

Article 3 sets out the position of a person currently resident outside of Jersey when the principal or main residence continues to be in Jersey. Such periods would count as ordinarily resident periods.

Article 4 describes 2 situations where periods of residence do not count towards the qualifying criteria for income support. The first is where a person is detained in custody under a sentence of imprisonment where the length of the sentence does not count as a period of ordinarily residence but time resident in Jersey immediately prior to the sentence would count. The second circumstance is the relatively rare situation of a “detached worker” or somebody working in Jersey in continuation of employment with an employer outside of Jersey. These situations are covered in the various reciprocal agreements between Jersey and other countries.

Article 5: the basic unit in the income support system is the household. Experience with other benefits over recent years has proved that this is not always easy to determine in particular circumstances. The examples of co-habitation and same sex relationships may be obvious but legally separated people living in the same dwelling and adults with disabilities living with siblings, or other relatives are not uncommon. Article 5, after a great deal of deliberation, sets out a simple set of rules for determining which people should be regarded as belonging to a household. The test is that the people in question occupy the same dwelling as the main residence and they are married or are in a marriage like relationship together in a family unit, or have parental responsibilities over a child as part of the family unit. This basic rule is qualified by 2 further provisions which provide that a person exempt from remunerative work because they are in education or training will be part of the household unless that person has an impairment component when they will be treated as a separate household. Paragraph (3) of the Article describes how the shared care arrangements for a child will be determined. A single person may also constitute a household.

Part 3 of the Order describes the manner in which a claim shall be made. Income support is a strict means-tested benefit, and as such requires detailed sensitive information to be supplied by a claimant in order for the benefit to be paid. This may be seen as intrusive by some people but directing financial benefits to those in need and to meet their specific needs requires the disclosure of information in respect of those needs. The administration of the income support system has not been built, therefore, on impersonal forms that are passed through various offices. It is built on the basic premise that sensitive information is best collected face-to-face at interview. New claimants will be interviewed, and the details collected and input directly onto the computer system and on completion a declaration of information that has been supplied will be generated for the claimant to check and sign, along with other adult members of the household. The form that has been used prior to the implementation of income support was based on the annual rent rebate/abatement review form and was used to target recipients of existing benefits that will be replaced by income support. This was done to avoid the administrative difficulties of over 7,000 claims for income support (with transition payment arrangements) being received from existing beneficiaries on implementation which would have resulted in known claimants in need of financial assistance not

being paid. In simple terms the exercise should transfer existing beneficiaries to the new benefit without the need for interview or the completion of further forms. With that in mind it is pleasing to note that over 6,000 forms have been returned from over 7,000 that will have been sent out before implementation.

Article 6: this Article sets out the time that a claim is made and in particular the date of the claim if there is a problem with the claim or there is an amendment to the claim prior to any determination. The information necessary for the claim is set out in Part 1 of Schedule 1.

Article 7: the determining officer as defined in the principal Law may require evidence to support a claim for income support and this Article requires such evidence to be supplied which may also involve the claimant attending the office. In the case of an impairment component, the person whose condition is being determined may be required to furnish the information and this can be done without the involvement of any other member of the household. **Article 8** relates to supplying information when a household is receiving income support and the household circumstances change. The Article provides that such changes must be notified.

Article 9 allows a person to act on behalf of another person, but only if the request is in writing and that there is no other guardian or curator in place.

Part 4 of the Order refers to Schedule 2 of the Order which defines how income shall be determined, whilst Part applies the previous administration Articles to special payments including a separate schedule which sets out the information necessary for a claim.

Part 6 of the Order describes the functions of the Determining Officers which principally are to decide on any claim or question arising from a claim for income support. The functions of a determining officer are a little different from those under existing benefits. Income Support is the safety net for financial social assistance. Other than a charitable fund, a person cannot be referred to any other local source of financial assistance. Determinations of benefit need to be quick and accurate given that the case in front of the determining officer may be a case of immediate need. By their very nature, formal benefit appeals take time to set up, so as to ensure that errors are limited and decision-making is quicker, every adult of the household has a right to a second determination by a different determining officer, and if still unhappy with that decision has the right of appeal to a Tribunal. This may however take some time, but with this system of referral and the ability to award "interim" payments for a limited period, the determining officers have several tools to ensure that decisions are correct whilst balancing the need for immediate or emergency payments.

Article 12: every claim shall be decided upon by a determining officer who will allow payment if all criteria are met and inform all adult members of the household of the decision whether payment is made or disallowed, as well as informing them of their right to a second determination. This notification must be in writing.

The Law Officers have advised that every adult member of the household must be informed of the determining officer's decision. If this is not done an adult member might be considered to be treated differently from the claimant with regard to fair treatment or hearing in determination of a civil right (Article 6 of the European Convention of Human Rights). This will mean that copies of the same letter will be sent to the same address for each adult of the household informing them individually of the decision and the right of re-determination and appeal.

Article 13 describes what must be contained in the notification of the determining officer's decision which includes the reason for any disallowance and the right of re-determination and appeal.

Part 7 of the Order describes how reviews and appeals of decisions made by determining officers will be administered. The Social Security Department has always had a system of benefit appeals, including those of a medical nature and has used this experience to set out how they will work in the income support system. Essentially there are 2 types of appeal; those against a "lay" condition which will go to the existing Social Security Tribunal and those of a clinical nature that will rest with the Medical Appeal Tribunal. The constitution and procedure of the Medical Appeal Tribunal is set out in the Order.

Article 14: this Article gives the claimant or adult member the right to apply to appeal a decision of a determining officer to the Medical Appeal Tribunal within 14 days of receiving notification of the decision increasing to 28 days with the consent of the Chairman or Deputy Chairman of the Tribunal. This application has to be made in writing.

Article 15 sets out the constitution of the Medical Appeal Tribunal with a legally qualified Chairman (or Deputy Chairman) and membership drawn from a panel of medical practitioners and a separate panel made of people who have experience of disability issues. The members can only be appointed after consultation with the

Appointments Commission and are appointed by the States. Each Tribunal will consist of a legally qualified person, a medical practitioner and a person experienced in disability, including mental health issues. The Article also sets out clearly the reasons why a Tribunal member may cease to hold office and cases on which a member shall not sit.

Article 16 describes the procedures to be adopted by the Medical Appeal Tribunal. In other benefit legislation the Tribunal determines its own procedures but within the income support system the basic principles are set out in this Order.

Article 17 refers lay condition appeals to the Social Security Tribunal.

Schedule 2: Calculated Income

Income support is a strict means-tested benefit and as such the determination of income is important. Unlike non-contributory disability benefits currently in place, it also looks at capital within a household and how it should be treated. The interplay between capital and income can be difficult. Throughout the development of the system over the past 10 years, the idea of treating capital as income (which is common in other meanstested systems) has been advocated rather than the simple capital bar or threshold. Paragraphs 1 and 2 of the Schedule set this out with a basic rule which deems a weekly income from a capital sum but provides a disregard of capital so that only sums above this level are deemed to provide a weekly income. The disregard figures are higher than current welfare figures and are weighted in favour of pensioners and those people with disabilities who may not have the ability to add to their savings. Certain assets are also disregarded; the value of the principal residence, the value of business assets during a period of illness (for a period of 6 months) and the value of furniture and basic effects.

A special disregard is also given to any capital that has been accumulated for the future care of a severely disabled person.

Paragraph 3 of the Schedule allows divested income or capital to be included in the income support calculation. This is an extremely difficult and sensitive area particularly when property is involved, but evidence from the welfare authorities suggest that this is rare but does occur in a minority of residential care cases.

Definitions of earnings and income are to be found in paragraph 6. However, the basic formula for determining income is that all income will be included unless there are specific disregards. Paragraph 4 lays out how weekly income will be determined, using averages for earnings where appropriate, adding derived income from capital but deducting any social security contributions to be paid and any qualifying child maintenance. The difficulty with using all income revolves around disincentives, especially disincentives to take up work or do better-paid work, as well as disincentives to save for the future. Paragraph 5 seeks to provide incentives for certain households through disregards of earnings, pensions and annuities. The Minister is keen to see this area develop as experience with the benefit grows. As a deemed income is assessed on some capital assets, any actual income from capital is disregarded.

Income Support (Transitional Provisions) (Jersey) Order 200-

Article 19 of the Income Support (Jersey) Law 200 allows Orders to be made to facilitate the transition from existing benefits to the new benefit system. The Income Support (Transitional Provisions) (Jersey) Order 200 does this in 2 ways. Firstly it provides for those with existing benefits at a higher rate than the new income support system to be protected for a period of time; and secondly it provides a mechanism for those on existing disability benefits to be transferred to the appropriate level of impairment component without undergoing a new medical assessment. This could not be accomplished without the data collection exercise undertaken in 2006/7.

Where a person or household is receiving an existing benefit immediately before the day income support is implemented, and claims income support, then provided they continue to satisfy the criteria (except for any income conditions), they can receive income support or the equivalent of the old benefit, whichever is the higher rate. This protected payment would apply even to those who would not be eligible for income support.

Having set up the protected payment, the Order describes how this protection will be reduced over a period of time. Some £22 million has been targeted to this phased protection. The rates of phasing out the protection are slower for pensioners and those with disabilities than those under the age of 65, as generally those on pensions or with disabilities have a reasonably static income and have little opportunity to increase it.

Special provision has been made for those people in residential homes who are currently being supported. There are many and different rates being applied by the various homes with "spot" purchasing of beds also apparent. These are effectively being handled on a contractual basis with providers, and opportunities to standardise and streamline payments will only become apparent as the new system of placement takes effect. The Minister has

therefore decided to maintain existing arrangements whilst monitoring the situation, which will also feed into any research on new systems of funding residential and nursing care including any insurance based mechanism.

The Order will also provide for the transfer of existing beneficiaries to the new impairment component. This transfer would remain in place until the household was reviewed under the income support system.



Jersey

DRAFT INCOME SUPPORT (GENERAL PROVISIONS) (JERSEY) ORDER 200-

Note: This draft Order is being published so Members have a comprehensive overview of the proposed income support scheme. Though not intended to change, it cannot be taken as authoritative of the final version of the Order that will be made by the Minister for Social Security.

Explanatory Note

This Order makes certain provision concerning eligibility for income support and provides the mechanism for making claims for income support and special payments, for their determination and for appeals against determinations.

Part 1 and *Article 1* contain interpretation provisions.

Part 2 is concerned with residence and membership of a household. *Article 2* prescribes 5 years as the period of ordinary residence necessary for a person to be eligible for income support. This period must be continuous and must immediately precede the application for income support unless the person has been ordinarily resident in Jersey for a continuous period of at least 10 years. However, a person who has previously been ordinarily resident for a continuous period of 5 years but less than 10 years need only to be ordinary resident immediately prior to the application for a period equal to the total time he or she was not ordinarily resident in Jersey since the period of 5 years, less any time he or she was ordinarily residence in Jersey since the 5 years.

Article 3 treats persons currently resident outside Jersey who have their principal residence in Jersey as being ordinary resident here. However, under *Article 4*, persons serving a custodial sentence are not treated as ordinarily resident in Jersey (though the period of residence immediately prior to incarceration is treated as immediately preceding release) and detached workers (those employed by a non-resident employer and covered by another territory's social security provisions) are also not treated as being ordinarily resident here for the period of that employment.

Under *Article 5* people who are married or in a marriage-like relationship and parents and children are treated as being members of the same household. Adult children still in full-time education (unless impaired to a certain degree) are also treated as being in the household.

Part 3 deals with claims and payments. *Article 6* sets out how to make a claim for income support and circumstances in which it may be backdated. The information to be included in the claim is set out in *Part 1 of Schedule 1*. *Article 7* is about information and evidence to be provided in support of a claim and in the case of possible entitlement to the impairment component, the determining officer may require an assessment by a health care professional. *Article 8* imposes a duty on adult members of a household to notify the Minister of a change of circumstances. *Article 9* enables the appointment of another person to act on behalf of the claimant in the event of the claimant's incapacity in the absence of any other formal arrangement.

Part 4, *Article 10* and *Schedule 2* are concerned with assessing the income of a household in respect of which income support is claimed.

Part 5 and *Article 11* apply Articles 6, 7, and 9 to special payments. However the information to be included is that set out in *Schedule 1*, unless the person is part of a household receiving income support in which case it is that set out in *Part 2* of that Schedule.

Part 6 covers determination of claims. *Article 12* sets out the role of the determining officer in determining awards, notifying persons of the award and the reasons for the determination. In the case of a first determination

the notification has to inform adult persons in the household of the right to have the matter redetermined within 21 days of the determination and the fact that if it is not exercised there is no further right of appeal. In the case of a second determination they have to be informed of their further rights of appeal. *Article 13* deals with the right of person to have a matter reconsidered by a second determining officer.

Part 7 covers reviews and appeals. *Article 14* sets out the procedure for appealing to a Medical Appeal Tribunal on medical grounds and *Article 15* establishes the Tribunal and provides for the appointment and terms of service of its members. *Article 16* is concerned with Tribunal procedure. *Article 17* provides for appeals on non-medical grounds to go to the Social Security Tribunal and *Article 18* provides for further appeals from either Tribunal to go to the Royal Court and for points of law to be referred to the Royal Court.

Part 8 and *Article 19* name the Order and provide for it to come into force when the Income Support (Jersey) Law 2007 comes into force.



Jersey

DRAFT INCOME SUPPORT (GENERAL PROVISIONS) (JERSEY) ORDER 200-

Arrangement

Article

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- 5 Child Care.....
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Jersey

DRAFT INCOME SUPPORT (GENERAL PROVISIONS) (JERSEY) ORDER 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE MINISTER FOR SOCIAL SECURITY, in pursuance of Articles 2, 4, 7, 8, 9 and 18 of the Income Support (Jersey) Law 2007, orders as follows –

PART 1

INTRODUCTORY PROVISIONS

1 Interpretation

In this Order, unless the context otherwise requires –

“1974 Order” means the Social Security (Determination of Claims and Questions) (Jersey) Order 1974

“appellant” means the person who applies for a review under Article 14(1);

“Law” means the Income Support (Jersey) Law 2007;

“medical grounds” means grounds connected with a physical, sensory or mental impairment of a person;

“medical practitioner” means a doctor and any person who is a fully registered person within the meaning of section 55 of the Medical Act 1983 of the United Kingdom;

“parental responsibility” has the same meaning as in the Children (Jersey) Law 2002;

“Registrar” means a person appointed under Article 4 of the 1974 Order;

“Regulations” means the Income Support (Jersey) Regulations 200-;

“Royal Court” means the Inferior Number of the Royal Court.

PART 2

RESIDENCE AND MEMBERSHIP OF HOUSEHOLD

2 Period of ordinary residence in Jersey

- (1) The period of ordinary residence in Jersey for the purposes of Article 2(1)(b) of the Law is 5 years.
- (2) The period of 5 years mentioned in paragraph (1) must be continuous.

- (3) The period of 5 years mentioned in paragraph (1) must immediately precede the application for income support unless –
 - (a) the person has been ordinarily resident in Jersey at any time for a continuous period of at least 10 years; or
 - (b) paragraph (4) applies.
- (4) This paragraph applies where a person –
 - (a) had been ordinarily resident in Jersey for a continuous period of at least 5 years but less than 10 years; and
 - (b) had since that period ceased to be ordinarily resident in Jersey for periods totalling less than 5 years.
- (5) Where paragraph (4) applies, the period of ordinary residence in Jersey that must immediately precede the application for income support is –
 - (a) the total of the periods during which the person ceased to be ordinarily resident in Jersey since the continuous period of at least 5 years;
 - (b) less any periods of ordinary residence in Jersey since the continuous period of at least 5 years.

3 Persons treated as ordinarily resident in Jersey

Subject to Article 4, a person currently resident outside Jersey is nevertheless treated as being ordinarily resident in Jersey for the purposes of Article 2(2) of the Law if the person has his or her principal residence in Jersey.

4 Persons not treated as ordinarily resident in Jersey

- (1) A person detained by virtue of a sentence of imprisonment, youth detention or similar punishment (whether in Jersey or elsewhere) is not treated as ordinarily resident in Jersey for the purposes of Article 2(2) of the Law for the period during which the person is so detained.
- (2) However, the period during which a person was ordinarily resident in Jersey immediately prior to such detention is treated as if it immediately preceded the person's release from that detention.
- (3) A person resident in Jersey for the purposes of his or her employment with an employer outside Jersey and covered by a reciprocal agreement is not treated as ordinarily resident in Jersey for the purposes of Article 2(2) of the Law for the period during which he or she is so employed.
- (4) In this Article "reciprocal agreement" means an agreement between any country or territory and Jersey whereby a person continues to be liable for contributions in respect of social security in that country or territory despite his or her working in Jersey.

5 Persons treated as being members of the same household

- (1) A person who normally occupies the same dwelling as his or her principal residence as another person is treated as being a member of the same household as that other person for the purposes of Article 2(2) of the Law if –
 - (a) they are married to each other (unless they are living separately in the dwelling under a formal agreement) or are in a marriage-like relationship (whether or not both persons are of different sexes);
 - (b) they live together as part of a family unit and the circumstances set out in paragraph (2) apply; or
 - (c) one of them is a child and the other has parental responsibility for, or otherwise cares for, him or her as part of a family unit.

- (2) The circumstances mentioned in paragraph 1(b) are that one of the persons is exempted from the requirement to be engaged in full time remunerative work by virtue of Article 3(1)(e) of the Law (persons undergoing education or training on any course approved by the Minister) but does not meet the criteria for the rate payable in respect of the personal care element of the impairment component under paragraph 6(3)(b), (c) or (d) of Schedule 1 to the Regulations.
- (3) Where a child normally occupies more than one dwelling as his or her principal residence, the child shall be treated as part of whichever household would result in the higher total amount of award or awards being paid.

PART 3

CLAIMS AND RELATED MATTERS

6 Manner in which claims are to be made

- (1) Every claim for income support must be made to the Minister on a form approved by the Minister, or in such other manner as the Minister may accept as sufficient in the circumstances for the case.
- (2) The information to be included in the claim is that set out in Part 1 of Schedule 1.
- (3) A claim is treated as having been made on the day on which it is received by the Minister at an office approved by the Minister for the receiving of claims.
- (4) If a claim is defective at the date when it is received or has been made in a manner otherwise than as required by paragraph (1), the Minister may refer the claim to the claimant or, as the case may be, supply him or her with the form, and if the form is received properly completed within 14 days from that date on which the claim is so referred, or the form is so supplied, to the claimant, the Minister shall treat the claim as if it had been duly made in the first instance.
- (5) A claimant may amend a claim at any time before the claim is determined by notice in writing to the Minister, and the Minister may treat the claim as if it had been made as so amended in the first instance.

7 Information and evidence in support of a claim

- (1) A claimant or such other adult member of the household as the determining officer may specify must furnish such certificates and other documents and information as the determining officer may require in connection with the claim and, if reasonably so required, must for that purpose attend at such office or place as the determining officer may direct.
- (2) In any case where the claim for income support may entitle the household to an impairment component, the determining officer may require the person whose condition may so entitle the household to provide evidence of such entitlement.
- (3) The evidence shall take the form of an assessment by a healthcare professional as arranged by a determining officer.
- (4) In this Article “healthcare professional” means a doctor, a dentist or a person on the list of registered persons made under Article 11 of the Health Care (Registration) (Jersey) Law 1995.

8 Notification of change of circumstances and furnishing of information

- (1) Where a household is in receipt of income support and an adult member of that household knows or suspects that there has been a change of circumstances that might affect entitlement to, or the level of payments of, income support, he or she must, as soon as practicable, notify the Minister in writing of the change of circumstances.

- (2) The person mentioned in paragraph (1) must furnish to the Minister, in such manner and within such time as the Minister may specify, such information as the Minister may require as a consequence of the change of circumstances.

9 Persons unable to act

- (1) In the case of a claimant who is unable to act who—
 - (a) has not been received into guardianship in pursuance of a guardianship application under Article 14 of the Mental Health (Jersey) Law 1969;
 - (b) does not have a curator appointed under Article 43 of that Law to manage and administer his or her property and affairs; and
 - (c) does not have a *tuteur*,the Minister may, on receipt of a written application, appoint a person to act on the claimant's behalf.
- (2) However, such appointment shall terminate –
 - (a) if the claimant is received into guardianship, or has a curator or *tuteur* appointed;
 - (b) at the request of the person appointed;
 - (c) if revoked by the Minister; or
 - (d) if the claimant becomes able to act.

PART 4

CALCULATED INCOME

10 Manner of determining income

For the purposes of the Law, the income of a household in respect of which a claim is made for income support shall be calculated or estimated in accordance with Schedule 2.

PART 5

SPECIAL PAYMENTS

11 Application of Part 3 to special payments

- (1) Articles 6, 7 and 9 apply to claims for special payments as they apply to claims for income support.
- (2) However, if the claimant is a member of a household –
 - (a) currently in receipt of income support, the information to be included in the claim is that set out in Part 2 of Schedule 1; or
 - (b) currently not in receipt of income support, the information to be included in the claim is that set out in Parts 1 and 2 of Schedule 1.

PART 6

DETERMINATION OF CLAIMS, ETC.

12 Functions of determining officers

- (1) A claim for an award shall be determined by a determining officer and where required under Article 13, redetermined by a second determining officer.
- (2) The determining officer shall notify in writing the claimant (or other person acting on his or her behalf) and all the other adult members of the claimant's household –
 - (a) of every determination or decision made in respect of the household and the reasons for it; and
 - (b) of their rights to challenge the determination or decision as set out in paragraph (3) in the case of a first determination or as set out in paragraph (4) in the case of a redetermination.
- (3) In the case of a first determination, the determining officer shall notify the other persons mentioned in paragraph (2)–
 - (a) of the right of any of them to have every determination or decision reconsidered by a second determining officer;
 - (b) that this right must be exercised within 21 days of the person receiving notice of the determination or decision; and
 - (c) that if the right is not exercised there is no right of further appeal.
- (4) In the case of a redetermination, the determining officer shall notify the other persons mentioned in paragraph (2) of the right of any of them –
 - (a) to appeal to the Social Security Tribunal; or
 - (b) if the determination was made on medical grounds, to apply for a review by the Medical Appeal Tribunal.
- (5) In the case of an award being granted, the notification shall specify –
 - (a) the manner and method of payment of the award; and
 - (b) such other particulars as may be determined by the Minister.
- (6) Any notification under this Article is treated as duly sent to a person if sent to the person's usual or last known address.
- (7) Where the determining officer or, in the case of a redetermination, the second determining officer, has determined that the household is entitled to an award and the amount of the award, he or she shall allow payment to be made.

13 Reconsideration by second determining officer

If a claimant or an adult member of the claimant's household is dissatisfied with –

- (a) any determination under Article 12;
- (b) any decision of the determining officer under Article 11 of the Law; or
- (c) any determination under Article 12 of the Law,

that is made by a first determining officer considering the matter, he or she may require the matter to be reconsidered by a second determining officer at any time within 21 days of receiving notice of the decision or determination.

PART 7

REVIEWS AND APPEALS

14 Review on medical grounds

- (1) A claimant or an adult member of the claimant's household dissatisfied with a determination of a second determining officer under Article 12 on medical grounds may, within 14 days of receiving

notification of the determination, apply to the Medical Appeal Tribunal constituted under Article 15 for a review of those grounds.

- (2) However, an application made outside the 14 day period, but within 28 days of receiving notification of the determination, may be allowed with the consent of the chairman or deputy chairman of the Tribunal.
- (3) Every application under this Article for the review of a decision shall be made in writing to the Registrar on a form approved by the Registrar for that purpose, or in such manner as the Registrar may accept as sufficient in the circumstances of the case.

15 Medical Appeal Tribunal

- (1) There shall be constituted a Medical Appeal Tribunal which shall comprise the following categories of members –
 - (a) a chairman and a deputy chairman, being persons holding a qualification in law;
 - (b) a panel of up to 5 members who are medical practitioners; and
 - (c) a panel of up to 5 members who are persons other than medical practitioners who are experienced in dealing with the needs of disabled persons in a professional or voluntary capacity or because they are themselves disabled.
- (2) The members shall each be appointed by the States on the recommendation of the Minister made after consulting the Jersey Appointments Commission established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005.
- (3) A member of the Tribunal shall hold office for such period as is specified in his or her appointment and after expiry of such period is eligible for re-appointment for such period as is specified in his or her new appointment.
- (4) A member may continue in office, after the expiry of his or her term of office, for the purposes of completing any proceeding that the member has begun to hear before the expiry of the term of office.
- (5) A member of the Tribunal shall cease to hold office on resigning in writing delivered to the Minister.
- (6) Any member of the Tribunal shall cease to hold office –
 - (a) on becoming bankrupt;
 - (b) on the appointment of a curator of the member's property and affairs under the Mental Health (Jersey) Law 1969;
 - (c) on being received into guardianship under the Mental Health (Jersey) Law 1969;
 - (d) if qualified for membership under paragraph (1)(a) or (b), on ceasing to be so qualified; or
 - (e) on being removed from office by the Royal Court, if the member is guilty of misconduct or has been unable to carry out his or her duties because of ill-health or other commitments for a continuous period exceeding 6 months.
- (7) A member of the Tribunal shall not be removed from office for any other reason.
- (8) For the purposes of hearing any case referred to it under Article 14 the Tribunal shall consist of one person from each of the categories of members mentioned in paragraph (1)(a), (b) and (c) selected by the Registrar.
- (9) However, a person shall not hear any case if he or she –
 - (a) was involved in an earlier determination of the case;
 - (b) is a doctor who has regularly attended the appellant or a member of the appellant's household;
or
 - (c) has any personal or pecuniary interest, whether direct or indirect, in the outcome.

16 Procedure of Medical Appeal Tribunal

- (1) The parties to the review shall be the appellant and the Minister and each party or any person acting on behalf of that party may make representations to the Tribunal.
- (2) The tribunal shall sit in public unless the Tribunal considers it necessary to sit in private.
- (3) However, no person other than the Registrar shall be present while the Tribunal is considering its decision.
- (4) The Tribunal may adjourn the hearing from time to time as it thinks fit.
- (5) The Tribunal may, if it thinks fit, admit any duly authenticated written statement or other material as *prima facie* evidence of any fact or facts in any case in which it thinks it just and proper to do so.
- (6) The Tribunal may, if it thinks fit, call for such documents and examine such witnesses as appear to it likely to afford evidence relevant and material to the issue, although not tendered by either the appellant or the Minister.
- (7) If, after notice of the hearing has been duly given, the appellant or the Minister fails to appear at the hearing, the Tribunal may proceed to determine the review notwithstanding the absence of both or either of them, or may give such directions with a view to the determination of the application as the Tribunal thinks just and proper.
- (8) The Tribunal may require any party to proceedings before the Tribunal under this Order or any witness in the proceedings to give evidence on oath and, for that purpose, the chairman or deputy chairman presiding over the Tribunal shall have power to administer an oath.
- (9) Where, in connection with the review by the Tribunal, there is before the Tribunal medical advice or medical evidence relating to the appellant or a member of the appellant's household that has not been disclosed to the appellant and, in the opinion of the chairman or deputy chairman, the disclosure to the appellant of that advice or evidence would be harmful to the appellant's health, such advice or evidence shall not be required to be disclosed to the appellant, but the Tribunal shall not by reason of such non-disclosure be precluded from taking it into account for the purpose of the review.
- (10) On the review of any case under this Article, the Tribunal may confirm, reverse or vary the decision of the second determining officer and shall give its decision in public.
- (11) The decision of the majority of the members of the Tribunal shall be the decision of the Tribunal and there shall be a written record of the decision signed by the chairman or deputy chairman as the case may be which –
 - (a) includes the names of the Tribunal members;
 - (b) includes the reasons for the decision; and
 - (c) records any dissent and the reasons for such dissent,and the Registrar shall send a copy of such written record to the parties as soon as practicable after the review has taken place.
- (12) Where the Tribunal has made a decision adverse to the appellant, the appellant shall be advised that the decision on the facts is final but that he or she may appeal to the Royal Court on a point of law.
- (13) Subject to this Article the Tribunal may regulate its own procedure.

17 Appeals to Social Security Tribunal

A claimant or an adult member of the claimant's household dissatisfied with a decision of a second determining officer on non-medical grounds may appeal to the Social Security Tribunal in accordance with the time limits and procedure for appeals to that Tribunal set out in Part 2 of the 1974 Order as if the appeal was in respect of any matter determined in accordance with that Order.

18 Appeals and references to Royal Court

- (1) A person aggrieved by a decision of the Medical Appeal Tribunal or the Social Security Tribunal under this Part may appeal to the Royal Court on a point of law.
- (2) The Medical Appeal Tribunal, the Social Security Tribunal or a determining officer may refer any point of law to the Royal Court for the Court to give a ruling on the point.

PART 8

CLOSING PROVISIONS

19 Citation and commencement

This Order may be cited as the Income Support (General Provisions) (Jersey) Order 200 and shall come into force on the same day as Part 2 of the Income Support (Jersey) Law 2007 comes into force.

SCHEDULE 1

(Articles 6(2) and 11(2))

PART 1

INFORMATION TO BE PROVIDED IN SUPPORT OF CLAIM FOR INCOME SUPPORT

1 Property details

Address

Type of property (house, flat etc.)

Number of bedrooms

Tenure (owned/leased)

Rent frequency and amount (if applicable)

Name of lease or licence holder (if applicable)

Name and address of landlord

If the household shares the dwelling with another household also entitled to income support and the claimant wishes to claim for a housing component in respect of the combined households, the number of individuals included in the other claim.

2 Claimant

Confirmation of period of ordinary residence in Jersey

Bank account details for income support payments: name of bank, sort code, account number and name of account holder(s).

3 All adults in the household

Full name – forename/s and surname

Title

Date of birth

Previous surname (if any)

Social Security number

Relationship to claimant

Employment status

If a University student, details of course and term dates.

4 All children in the household

Full name – forename/s and surname

Date of birth

Previous surname (if any)

Social Security number

Relationship to claimant

Name of school

Details of residence order (if any)

Name of adult within household with main responsibility for care of child(ren).

5 Child Care

Full name and address of registered day carer or day care accommodation

Cost of care per hour

Hours of child care (specify times)

Adult in employment: location of employment, working hours (specify times)

Adult in education or training: name of course, times of course, details of potential to increase earning capacity (e.g. details of existing qualifications)

Adult with impairment: medical information to support need for childcare.

6 Impairment

Nature of medical condition

Name of doctor responsible for treatment

Confirmation that illness or disability has lasted, or is expected to last 6 months (or diagnosis of terminal illness where life expectancy is less than 6 months).

7 Carer details

Name of carer

Full name of each person cared for

Address of each person cared for (if separate household)

Date of birth of each person cared for (if separate household).

8 Capital Assets

Dwelling occupied by household (if owned by member of household): if the size of the dwelling is excessive in respect of the size of the household (e.g. a single person living in a 4 bedroom house), details of current market value.

Property assets (excluding dwelling occupied by household): address of property, name of owner, type of property (e.g. field, 2 bedroom flat), current market value, date of future occupation of dwelling by household member (if appropriate).

Financial assets: name of owner, type and details of asset (e.g. for a bank account, name of bank, type of account, branch, sort code, account number, current balance).

Other items bought for investment purposes: name of owner, type and details of asset (e.g. 20 cases vintage wine), current market value.

Motor vehicles (only required if value in excess of £10,000) - name of owner, type and details of vehicle, current market value.

Investment fund set up to provide future care for member of household with high level impairment

component: name of owner, type and details of asset (e.g. trust fund administered by HSBC), current market value.

9 Income (for each adult in the household)

Earned Income: name and address of employer (or business name if self employed), hours worked per week, basic earnings, other earnings (bonuses, overtime) provided for a period of 5 weeks (if paid weekly) or 2 months (if paid monthly), social security contributions.

Self-employed (additional information): date business began trading/ceased trading (if within the last 2 years), end of financial year.

Benefits and Pensions: name of company/authority providing payment, amount and frequency of payments.

Other income:

Lodger: frequency and amount of income received, nature of services provided

rental income (where value of property has been disregarded for capital purposes): frequency and amount of income received, nature of rental agreement

maintenance received in respect of member of household: name of person providing maintenance, frequency and amount of income received, details of maintenance agreement.

10 Expenses

Maintenance paid by a member of the household: name of person receiving maintenance, frequency and amount of income received, details of maintenance agreement.

PART 2

INFORMATION TO BE PROVIDED IN SUPPORT OF CLAIM FOR A SPECIAL PAYMENT

- (1) Name of adult making special payment claim
- (2) In respect of each expense requested under the special payment regulation –
 - (a) a full description of the item or service required;
 - (b) a full description of the urgent need for the item or service;
 - (c) the cost (or an estimate of the cost) of the item or service; and
 - (d) a full description of the steps taken by the claimant to meet the cost of the item or service by other means.

SCHEDULE 2

(Article 10)

CALCULATED INCOME

1 Capital to be treated as income

- (1) Every £250 of capital belonging to a household other than any capital disregarded under paragraph 2 shall be treated as providing the household with an income of £1 a week.
- (2) The value of capital shall be calculated at its current market or surrender value in the country or territory in which the capital is situated.

2 Capital to be disregarded

- (1) The following amounts of capital shall be disregarded in assessing calculated income –
 - (a) in the case of a household containing a sole adult under the age of 65 years where a member of the household meets the criteria for the personal care element of the impairment component under paragraph 6 of Part 2B to the Regulations £10,950
 - (b) in the case of any other household containing a sole adult under the age of 65 years £7,300
 - (c) in the case of a household containing 2 or more adults who are all under the age of 65 years where a member of the household meets the criteria for the personal care element of the impairment component under paragraph 6 of Schedule 1 to the Regulations £18,150
 - (d) in the case of any other household containing 2 or more adults who are all under the age of 65 years £12,100
 - (e) in the case of a household containing a sole adult aged 65 years or over £10,950
 - (f) in the case of a household containing 2 or more adults, at least one of whom is aged 65 years or over £18,150.
- (2) The following capital shall also be disregarded –
 - (a) subject to sub-paragraph (3), the value of any dwelling owned by a member of the household and occupied by the household as its principal residence;
 - (b) the value of any dwelling purchased by a member of the household that is intended to be occupied by the household as its principal residence, until the property is so occupied or for a period not exceeding 13 weeks from when the property was purchased, whichever is the earlier;
 - (c) the value of assets integral to the running of any business owned by a member of the household for which a member of the household is normally engaged in remunerative work, or for which the person would be so engaged were he or she not prevented from being so engaged by reason of ill health, for a period of more than 26 weeks;
 - (d) the household furniture and effects of any dwelling occupied by the household and articles of clothing and personal effects of any member of the household, other than a motor vehicle or any item bought as an investment;
 - (e) the value of any motor vehicle up to a maximum of £10,000;

- (f) any capital that has been accumulated solely to provide for the future care of a member of a household who meets the criteria for the rate of personal care element of the impairment component payable under paragraph 6(3)(c) or (d) of Schedule 1 to the Regulations, for as long as the member continues to meet that criteria.
- (3) If the dwelling mentioned in sub-paragraph (2)(a) is not appropriate to the needs of the household the capital to be disregarded is the average market value of a dwelling that is so appropriate.
- (4) In this paragraph a dwelling is appropriate to the needs of the household if it is no larger than is reasonably necessary for that household or if, having regard to all the circumstances, it would be unreasonable to expect the household to move from that dwelling.

3 Treatment of capital and income

- (1) If a person has directly or indirectly deprived himself or herself or any other person of any income or capital in order to qualify for income support or a special payment, the amount of that income or capital shall be included in his or her total income or capital as the case may be.
- (2) Any income or capital that is available to a person in the household if he or she applied to acquire it shall be treated as having been acquired by that person on the date on which the person was capable of acquiring it.

4 Calculation of income

- (1) The income of a household shall be calculated on a weekly basis by –
 - (a) estimating the average weekly income of the household;
 - (b) adding the amount derived from capital in accordance with paragraph 1; and
 - (c) deducting the amount that the household is obliged to pay by way of –
 - (i) contributions payable under Part 2 of the Social Security (Jersey) Law 1974, and
 - (ii) any qualifying maintenance payment up to the amount specified in paragraph 2(a) of Schedule 1 to the Regulations in the case of a payment to a spouse and up to the amount specified in sub-paragraph (c) of that paragraph in the case of a payment to a child.
- (2) If the income of a household includes earnings from employment, the average weekly earnings from that employment shall be calculated over a period immediately prior to the determination of –
 - (a) if the earner is paid weekly, 5 weeks;
 - (b) if the earner is paid monthly, 2 months,or over such other period as will most accurately enable average weekly earnings to be assessed.
- (3) If the income of a household includes the earnings of a self-employed person, the average weekly earnings shall be estimated over such period as will most accurately enable average weekly earnings to be assessed.
- (4) If the income of the household includes any unearned income the average weekly income of the household from that unearned income shall be estimated over such period, not exceeding one year immediately prior to the determination, as will most accurately enable average weekly income to be assessed.

5 Percentage of income to be disregarded

In assessing the weekly income of the household there shall be disregarded –

- (a) 6% of the earnings of any adults in the household who is not entitled to a basic component under Article 5(1)(b) of the Law;

- (b) 100% of the income of any children in the household derived from earnings;
- (c) 100% of the first £25 of any income derived from a pension or annuity of one person in the household aged 65 years or over;
- (d) 100% of the first £13 of any income derived from a pension or annuity of any other person in the household aged 65 years or over;
- (e) in the case of a person entitled to a basic component under Article 5(2)(b) of the Law, either–
 - (i) 100% of the first £15 of earnings;
 - (ii) 50% of earnings over £15 but under £25; and
 - (iii) 25% of earnings over £25 but under £45,or 6% of total earnings, whichever results in the greater amount of disregard.

6 Interpretation

In this Schedule –

“capital” means any capital asset;

“earnings” means any sum payable to a person (whether under a contract of service, a contract for services or any other office, employment or arrangement whereby the person is rewarded for work done or services rendered) by way of wages, salary, fees, bonuses, commission, overtime pay or any other emolument including the value of any loan, perquisite or any other benefit in kind;

“income” –

- (a) includes earnings, any benefit or grant payable pursuant to the law of any country or territory, any qualifying maintenance payment received, and any other periodical payment to which a person in the household is entitled and any sums received in respect of a pension or annuity;
- (b) does not include any charitable or voluntary payment, any financial support from the Minister of Health and Social Services under the terms of a foster placement agreement made under Article 16(3) of the Children (Placement (Jersey) Regulations 2005, any payment under the Law or any income derived from any capital other than income derived from capital disregarded under paragraph 2 or under Article 7(3) of the Law;

“qualifying maintenance payment” has the same meaning as in Article 90B(1) of the Income Tax (Jersey) Law 1961.

Explanatory Note

These Regulations prescribe the work requirements for income support along with the criteria for entitlement to the various components of the allowance and the rates in respect of each component. A small change is made to the Income Support (Jersey) Law 2007, under which the Regulations are made.

Part 1 and *Regulation 1* contain the definitions.

Part 2 sets out the circumstances in which a person is treated as being engaged in, or available for and actively seeking, full time remunerative work.

Regulation 2 prescribes full time work as being a minimum of 35 hours a week, with provisions allowing for certain absences and for calculating the weekly hours of a person who works irregular hours.

Regulation 3 prescribes remunerative work as being work that is of at least the amount of the minimum wage or, in the case of a self-employed person, a rate, net of expenses, equivalent to the minimum wage, calculated on the average weekly hours worked, or if they exceed 35, a 35-hour working week.

Regulation 4 provides that a person is available for work if the person is willing and able to take up immediately any remunerative work that is suitable work, i.e. work that is appropriate to the person's skills, qualifications and abilities, or work that does not utilise them fully but that he or she might reasonably be expected to take having regard to the length of time he or she has been on the job market.

Regulation 5 treats a person as actively seeking work if the person has within the past 28 days taken all reasonable steps to obtain suitable work, has not turned down any offer of suitable work and has attended interviews with the Social Security Department as requested unless he or she has a reasonable excuse for not so attending.

Part 3 and the *Schedules* cover the components and rates of income support. *Regulation 6* is linked to *Schedule 1* which sets out the criteria and rates applicable to each component. *Schedule 1* is linked to *Schedule 2* which sets out certain statements relating to a person's condition, which link back to the criteria for the personal care and mobility elements of the impairment component.

Part 4 has 2 miscellaneous provisions. *Regulation 7* amends the Income Support (Jersey) Law 2007 so as to exempt a person on remand or serving a custodial sentence from the requirement to be engaged in full time remunerative work in order to be eligible for income support. *Regulation 8* provides for the citation of the Regulations and for them to come into force when the 2007 Law comes into force.



Jersey

DRAFT INCOME SUPPORT (JERSEY) REGULATIONS 200-

Arrangement

Regulation

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INTRODUCTORY

1 Interpretation

PART 2

WORK REQUIREMENTS

2 Full time work

3 Remunerative work

4 Availability for work

5 Actively seeking work

PART 3

COMPONENTS AND RATES OF INCOME SUPPORT

6 Components and rates of income support

PART 4

MISCELLANEOUS PROVISIONS

7 Article 3 of Law amended

8 Citation and commencement

SCHEDULE 1

PART 1: BASIC COMPONENTS

1 Criteria for basic components

2 Rates for basic components

PART 2: SPECIAL COMPONENTS

A: HOUSING COMPONENT

3 Criteria for housing component

4 Rates for the housing component

B: IMPAIRMENT COMPONENT

5 Elements of impairment component

6 Personal care element

7 Mobility element

8 Clinical cost element

C: CHILD DAY CARE COMPONENT

9 Child day care component criteria

10 Rate for the child day care component

D: CARER'S COMPONENT

11 Carer's component criteria

12 Rate for the carer's component

SCHEDULE 2

PART 1: STATEMENTS IN RESPECT OF PERSONAL CARE ELEMENT OF IMPAIRMENT COMPONENT

PART 2: STATEMENTS IN RESPECT OF MOBILITY ELEMENT OF IMPAIRMENT COMPONENT

1 Walking (with stick or other aid if normally used)

2 Vision, including visual acuity and visual fields, in normal daylight or bright electric light (with visual aids if normally worn)

3 Epileptic seizures causing loss of consciousness

4 Management of personal finance

5 Awareness of danger and consequences of behaviour

6 Getting around outdoors



Jersey

DRAFT INCOME SUPPORT (JERSEY) REGULATIONS 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Articles 3, 5 and 18 of the Income Support (Jersey) Law 2007^[1], have made the following Regulations –

PART 1

INTRODUCTORY

1 Interpretation

(1) In these Regulations unless the context otherwise requires –

“bedsit” means a flat in which the only room that is suitable for use as a bedroom is also used as a living room;

“carer’s component” means the special component under Article 5(3)(d) of the Law;

“child day care component” means the special component under Article 5(3)(c) of the Law;

“developmental milestones” means a set of functional skills or age-specific tasks that most children have or can do at a given age used by healthcare professionals to monitor a child’s progress in attaining certain motor, language, cognitive and social skills;

“earnings” means the amount of earnings that are not disregarded in assessing the calculated income of the person’s household in accordance with the Income Support (General Provisions) (Jersey) Order 200-;

“flat” means a separate dwelling that forms part of a building and is divided horizontally from some other part of the building and whether or not –

- (a) it is a single storey dwelling;
- (b) facilities used or intended to be used for cooking or sanitary purposes are shared with other dwellings in that building; or
- (c) it forms part of a lodging house,

excluding any part of the dwelling that is used as a hostel or by a person in another household as lodgings;

“foster child” means a person under full age who is placed with a foster parent by the Minister of Health and Social Services under Part 4 of the Children (Placement) (Jersey) Regulations 2005^[2];

“healthcare professional” means a doctor, a dentist or a person on the list of registered persons made under Article 11 of the Health Care (Registration) (Jersey) Law 1995^[3];

“hostel” means a facility (other than a private house) providing board and lodging and generally staffed by persons providing support to vulnerable persons;

“house” means any dwelling other than a flat, excluding any part of the dwelling that is used as a hostel or by a person in another household as lodgings;

“housing component” means the special component under Article 5(3)(a) of the Law;

“impairment component” means the special component under Article 5(3)(b) of the Law;

“Law” means the Income Support (Jersey) Law 2007^[4];

“minimum wage” shall be construed in accordance with Articles 16 and 17 of the Employer (Jersey) Law 2003^[5] and any enactment made under those provisions;

“owner”, in relation to a dwelling, includes –

- (a) any co-owner;
- (b) the owner of shares that confer entitlement to occupy the dwelling;
- (c) the occupier of the dwelling under a contract lease for which a premium has been paid and any rent that is paid is substantially less than a market rent for the dwelling;
- (d) any *usufruitier*; and
- (e) any person entitled to occupy and use the dwelling in the exercise of rights of dower, *franc veuvage*, or seignioralty;

“rent” means any periodical sum payable by a tenant or licensee for the occupation of a dwelling or part of a dwelling excluding any sum paid in respect of lighting, heating, board, the provision of furniture or other services and any occupier’s rate payable;

“residential care” means services provided at an institution consisting of –

- (a) board and lodging; and
- (b) assistance with activities that are part of normal daily living (such as bathing, dressing, grooming, eating, medication management, money management and recreation);

“suitable work”, in relation to a person who is available for and actively seeking work, means –

- (a) work that is appropriate to the person’s skills, qualifications and abilities; or
- (b) work that, though it does not make full use of the person’s skills, qualifications and abilities, is work that the person might reasonably be expected to undertake having regard to the length of time that he or she has been looking for work.

- (2) In these Regulations a person is receiving residential care if the residential care has been, or is expected to be, provided for at least 4 weeks.

PART 2

WORK REQUIREMENTS

2 Full time work

- (1) A person is engaged in full time work for the purposes of Article 2(1)(c) of the Law if the person works for a minimum of 35 hours a week.
- (2) However, a person who normally works for a minimum of 35 hours a week is treated as being engaged in full time work for any week or part of a week during which the person –
 - (a) is on leave of absence from work;
 - (b) is taking part in a strike or is involved in an employment dispute; or

- (c) has any other reasonable excuse for being so absent.
- (3) Where a person does not work for the same hours each week, the person's weekly hours shall be determined by reference to his or her average weekly hours calculated by reference to any period of time not exceeding 12 months.
- (4) In this Regulation "employment dispute" and "strike" have the meanings assigned by Article 1 of the Employment (Jersey) Law 2003.

3 Remunerative work

- (1) A person is engaged in remunerative work for the purposes of Article 2(1)(c) of the Law if–
 - (a) in the case of an employee, the person is remunerated at a rate that is at least equal to the minimum wage; or
 - (b) in the case of a self-employed person, the person's average weekly rate of remuneration (net only of any expenses necessarily incurred) is at least equal to the minimum wage, calculated on the basis of –
 - (i) the average hours worked during a week, or
 - (ii) if the average hours worked exceed 35 a week, a 35-hour week.
- (2) For the purposes of this Regulation a person's remuneration shall be calculated in accordance with Part 4 of the Employment (Jersey) Law 2003 and any enactment made under that Part.

4 Availability for work

A person is available for work if the person is willing and able to take up immediately any remunerative work that is suitable work.

5 Actively seeking work

A person is actively seeking work if the person has, during the past 28 days –

- (a) taken all reasonable steps (including any appropriate training or work experience) to obtain suitable work;
- (b) not unreasonably turned down any offer of suitable work; and
- (c) attended every interview with an officer of the Department of Social Security to which he or she has been invited unless he or she had a reasonable excuse for not so attending.

PART 3

COMPONENTS AND RATES OF INCOME SUPPORT

6 Components and rates of income support

The criteria for entitlement to each component of income support mentioned in Article 5 of the Law and the rates of income support payable in respect of each component are set out in Schedule 1.

PART 4

MISCELLANEOUS PROVISIONS

7 Article 3 of Law amended

In Article 3(1) of the Law –

- (a) at the end of sub-paragraph (g) for the full stop there shall be substituted a semicolon;
- (b) after sub-paragraph (g) there shall be added the following sub-paragraph –

“(h) persons remanded in custody or detained by virtue of a sentence of imprisonment, youth detention or similar punishment (whether in Jersey or elsewhere).”.

8 Citation and commencement

These Regulations may be cited as the Income Support (Jersey) Regulations 200~~0~~ and shall come into force on the same day as Part 2 of the Income Support (Jersey) Law 2007.

SCHEDULE 1

(Regulation 6)

PART 1: BASIC COMPONENTS

1 Criteria for basic components

- (1) A household is not entitled to a basic component under Article 5(2)(a) to (c) of the Law in respect of any member of the household –
 - (a) during any week in which the member is entitled to a grant under an Order made by the Minister for Education, Sport and Culture under Article 51 of the Education (Jersey) Law 1995^[6] that is intended to cover the whole of that week;
 - (b) during any week when the member is, for the whole of that week, remanded in custody or detained by virtue of a sentence of imprisonment, youth detention or similar punishment (whether in Jersey or elsewhere);
 - (c) during any continuous period of more than 4 weeks when the member is provided with board and lodging at public expense unless the member is receiving residential care; or
 - (d) for the fifth or subsequent week that the member is outside Jersey –
 - (i) during the 12 month period beginning on the date of determination of the claim for income support, and
 - (ii) during any subsequent 12 month period immediately following that period.
- (2) A household is not entitled to a basic component under Article 5(2)(a) or (c) of the Law in relation to any member of the household who is a foster child.
- (3) A household is only entitled to a basic component under Article 5(2)(d) of the Law if it is entitled to a housing component in respect of the occupation of a dwelling other than a hostel.
- (4) If a housing component is apportioned between 2 or more households under paragraph 4(6)(b), the basic component under Article 5(2)(d) shall be similarly apportioned.

2 Rates for basic components

The rates payable for the basic components under Article 5(2) of the Law are –

(a)	under Article 5(2)(a) (adult rate)	£80.01
(b)	under Article 5(2)(b) (single parent rate)	£115.50
(c)	under Article 5(2)(c) (child rate)	£53.97
(d)	under Article 5(2)(d) (household rate)	£41.02.

PART 2: SPECIAL COMPONENTS

A: HOUSING COMPONENT

3 Criteria for housing component

- (1) A household is entitled to a housing component if –
 - (a) a member of the household is the owner of a dwelling or pays rent to occupy a dwelling under the terms of a lease or licence;
 - (b) the dwelling is the principal residence of the household;
 - (c) there is a member of the household who is not receiving residential care; and

(d) paragraph (2) is satisfied.

(2) This paragraph is satisfied if –

- (a) a member of the household is aged 25 or over or has the main responsibility for the physical care of a child who is a member of the household; or
- (b) none of the members of the household can reasonably be expected to live with his or her parent or any other person occupying the position of a parent in relation to the claimant (either formally or informally) whether in Jersey or elsewhere.

4 Rates for the housing component

(1) If the dwelling is occupied under the terms of a lease or a licence, the housing component payable is –

- (a) the actual weekly rent payable;
- (b) if the dwelling is appropriate to the needs of the household, the rate payable under sub-paragraph (2) in respect of that type of dwelling; or
- (c) if the dwelling is not appropriate to the needs of the household, the rate payable under sub-paragraph (2) in respect of the type of dwelling (flat, house, etc.) that is in fact occupied and that is appropriate to the needs of the household,

whichever is the lower.

(2) The rates payable under this sub-paragraph are –

(a)	in the case of a hostel	£70.00
(b)	in the case of lodgings or a bedsit	£100.45
(c)	in the case of a flat with 1 bedroom	143.50
(d)	in the case of a flat with 2 bedrooms	£180.46
(e)	in the case of a flat with 3 bedrooms	£205.03
(f)	in the case of a flat with 4 bedrooms	£217.35
(g)	in the case of a flat with 5 or more bedrooms	£225.54
(h)	in the case of a house with 1 bedroom	£163.03
(i)	in the case of a house with 2 bedrooms	£212.24
(j)	in the case of a house with 3 bedrooms	£236.81
(k)	in the case of a house with 4 bedrooms	£256.27
(l)	in the case of a house with 5 bedrooms	£278.81
(m)	in the case of a house with 6 or more bedrooms	£292.18

(3) If the dwelling that the household occupies is owned by a member of the household, the housing component payable is –

- (a) if the dwelling is appropriate to the needs of the household, the rate payable under sub-paragraph (4) in respect of that type of dwelling; or
- (b) if the dwelling is not appropriate to the needs of the household, the rate payable under sub-paragraph (4) in respect of the type of dwelling (flat, house etc.) that is in fact occupied and that is appropriate to the needs of the household.

(4) The rates payable under this sub-paragraph are –

(a)	in the case of a bedsit or flat with 1 or 2 bedrooms	£4.97
(b)	in the case of a flat with 3 bedrooms	£7.00
(c)	in the case of a flat with 4 or more bedrooms	£10.01
(d)	in the case of a house with 1 bedroom	£4.97

- | | | |
|-----|--|--------|
| (e) | in the case of a house with 2 bedrooms | £7.00 |
| (f) | in the case of a house with 3 or more bedrooms | £10.01 |
- (5) In this paragraph a dwelling is appropriate to the needs of the household if it is no larger than is reasonably necessary for that household or if, having regard to all the circumstances, it would be unreasonable to expect the household to move from that dwelling.
- (6) However, if the household shares a dwelling as part of the same family unit with any other household also entitled to income support –
- (a) a dwelling is appropriate to the needs of the household if it is no larger than is reasonably necessary for all households that so share the dwelling or if, having regard to all the circumstances, it would be unreasonable to expect all or any of them to move from that dwelling;
 - (b) only one housing component is payable in respect of the dwelling; and
 - (c) each household otherwise entitled to the component is entitled to such part of the component as that household would receive if the component were divided equally between all the households that share the dwelling.

B: IMPAIRMENT COMPONENT

5 Elements of impairment component

- (1) The impairment component shall consist of the following 3 elements –
 - (a) the personal care element;
 - (b) the mobility element; and
 - (c) the clinical cost element.
- (2) A household is not entitled to an impairment component unless –
 - (a) the circumstances that would otherwise entitle the household to the component have lasted, or are likely to last, for a total period of not less than 6 months; or
 - (b) the member of the household who would entitle the household to the component is not expected to live more than 6 months.
- (3) A household is not entitled to an impairment component in relation to any member of the household in respect of whom the household has no entitlement to a basic component under Article 5(2)(a) to (c) of the Law as a consequence of paragraph 1(1) (b), (c) or (d) unless the person's absence from Jersey is due to the person being a pupil at a school outside Jersey that caters for pupils with special needs.
- (4) A household is not entitled to an impairment component in relation to any member of the household in respect of whom the household has no entitlement to a basic component under Article 5(2)(a) to (c) of the Law as a consequence of paragraph 1(2).

6 Personal care element

- (1) A household is entitled to the personal care element in respect of any member of the household who qualifies in accordance with this paragraph.
- (2) The rate of personal care element payable to a member of a household is calculated by –
 - (a) selecting the one statement set out in column 1 of the table in Part 1 of Schedule 2 in respect of each numbered activity described in that table that most accurately applies to the member (excluding any statement that does not apply to the member by virtue of column 3 or 4); and
 - (b) totalling each score indicated in column 2 of the table in respect of each statement selected under clause (a).

- (3) The rate of personal care element payable in respect of the total score calculated under sub-paragraph (2) is as follows –
 - (a) for a score of at least 15 but less than 36 the rate is £19.46;
 - (b) for a score of at least 36 but less than 56 the rate is £80.01;
 - (c) for a score of at least 56 but less than 75 the rate is £117.53;
 - (d) for a score of at least 75 the rate is £417.90.

7 Mobility element

- (1) A household is entitled to a mobility element in respect of any member of the household who is at least 3 years of age if one or more of the statements set out in Part 2 of Schedule 2 applies to the member (unless the member is a child and the statement is expressed not to be relevant to a child of his or her age).
- (2) However, a household is not entitled to a mobility element in respect of a member of the household who is receiving residential care.
- (3) The rate of mobility element of the impairment component is –
 - (a) £19.46; or
 - (b) £38.92 if the person's average weekly earnings exceed that amount.

8 Clinical cost element

- (1) A household is entitled to a clinical cost element in respect of any member of the household if that member –
 - (a) has been diagnosed by a medical practitioner as suffering from a chronic or progressive illness; and
 - (b) the prognosis, based on recognised clinical guidelines, is that the member will need at least 5 consultations with an approved medical practitioner in a year in order to alleviate the symptoms of the illness, to prevent further complications or deterioration in the member's health or to provide palliative care.
- (2) The rate of clinical cost element of the impairment component is –
 - (a) £2.52; or
 - (b) if, based on the criteria set out in sub-paragraph (1)(b), the member will need at least 9 consultations with an approved medical practitioner, £5.04.
- (3) However, no clinical cost element is payable in respect of any member of a household who is not entitled to a basic component under Article 5(2)(a) to (c) of the Law as a consequence of paragraph (1).
- (4) In this paragraph –

“approved medical practitioner” means a doctor for the time being approved under Article 26 of the Health Insurance (Jersey) Law 1967^[7];

“medical practitioner” means a doctor or any person who is a fully registered person as defined by section 55 of the Medical Act 1983 of the United Kingdom;

“recognised clinical guidelines” means evidence-based systematically-developed statements originating from a professional medical or scientific organisation that are designed to assist medical practitioners and patients with decisions about appropriate health care for the patient's specific medical circumstances.

C: CHILD DAY CARE COMPONENT

9 Child day care component criteria

A household is entitled to a child day care component in respect of any child under 12 years of age who is a member of the household, other than a foster child, if the adult member of the household who has the main responsibility for the physical care of the child –

- (a) has average earnings, calculated over any period not exceeding 12 months, that are greater than the cost of the day care provided to all the children for whom he or she has the main responsibility for the physical care during that period; or
- (b) is exempted from the requirement to be in full time remunerative work by virtue of –
 - (i) Article 3(1)(d) of the Law; or
 - (ii) Article 3(1)(e) of the Law if the education or training being undertaken is likely to result in an increase in the member's earning capacity.

10 Rate for the child day care component

- (1) The rate payable in respect of the child day care component is –
 - (a) the average weekly cost of the day care provided to the child; or
 - (b) the rate set out in sub-paragraph (3) that is applicable to the child multiplied by the average number of hours a week for which day care is needed, having regard to the matters set out in sub-paragraph (2),whichever is the lower.
- (2) In assessing the number of hours a week for which child care is needed regard shall be had to –
 - (a) the availability of any alternative options for temporary placement of the child concerned (including the availability of other members of the household to care for the child); and
 - (b) the work commitments, level of impairment or education or training commitments of the person in the household who has the main responsibility for the physical care of the child.
- (3) The rates payable under this sub-paragraph are –
 - (a) for a child under the age of 3 years, £5.15;
 - (b) for a child aged 3 years or over but under the age of 5 years, £4.03;
 - (c) for a child aged 5 years or over, £2.90.

D: CARER'S COMPONENT

11 Carer's component criteria

- (1) A household is entitled to a carer's component in respect of all persons cared for by each member of the household (a "carer") if –
 - (a) the carer has the main responsibility for caring for a person who is ordinarily resident in Jersey;
 - (b) the carer is not in receipt of a personal care element of the impairment component at a rate greater than or equal to the rate mentioned in paragraph 6(3)(c); and
 - (c) at least one of the persons cared for meets the criteria for the rate payable in respect of the personal care element of the impairment component under paragraph 6(3)(c) or (d).
- (2) However, a household is not entitled to a carer's component in respect of any carer while the carer is not entitled to a basic component under Article 5(2)(a) to (c) of the Law as a consequence of paragraph 1(1)(b), (c) or (d), unless the disqualification is because one or more of the persons being cared for is receiving medical treatment outside Jersey and the carer has accompanied that person or persons.

12 Rate for the carer's component

The rate payable in respect of the carer's component is £39.97.

SCHEDULE 2

(Schedule 1, paragraph 6(2))

PART 1: STATEMENTS IN RESPECT OF PERSONAL CARE ELEMENT OF IMPAIRMENT COMPONENT

1 STATEMENT	2 SCORE	3 Age below which statement does not apply	4 Age at which statement ceases to apply
1 Sitting in an upright chair with a back but no arms			
a) cannot sit without severe discomfort	15	3 years	None
b) cannot sit without severe discomfort for more than 10 minutes	15	3 years	None
c) cannot sit without severe discomfort for more than 30 minutes	6	3 years	None
d) cannot sit without severe discomfort for more than 1 hour	3	3 years	None
e) none of the above	0	3 years	None
2 Standing without the support of another person			
a) cannot stand without that support	15	3 years	None
b) cannot stand for more than 10 minutes without that support	15	3 years	None
c) cannot stand for more than 30 minutes without that support	6	3 years	None
d) none of the above	0	3 years	None
3 Rising from sitting in an upright chair with a back but no arms without assistance			
a) cannot rise from sitting to standing without the support of another person	15	3 years	None
b) cannot rise without holding on to something	6	3 years	None
c) neither of the above	0	3 years	None
4 Walking (with a stick or other aid if normally used)			
a) cannot walk at all	15	3 years	None
b) cannot walk more than a few steps on level ground and/or up and down one stair without having to stop or feeling severe discomfort, even with the support of a handrail	15	3 years	None
c) cannot walk more than 50 metres on level ground and/or walk up and down a flight of 12 stairs without having to stop or feeling severe discomfort	9	3 years	None
d) cannot walk more than 200 metres on level ground without having to stop or feeling severe discomfort	6	3 years	None
e) cannot walk more than 400 metres on level ground without having to stop or	3	3 years	None

feeling severe discomfort			
f) none of the above	0	3 years	None
5 Bending or kneeling from a standing position			
a) cannot bend to touch knees and straighten up again	15	3 years	None
b) cannot either bend or kneel, or bend and kneel or squat as if to pick up a piece of paper off the floor and straighten up again	15	3 years	None
c) neither of the above	0	3 years	None
6 Reaching			
a) cannot raise either arm as if to put something in the breast pocket of a jacket	15	1 year	None
b) cannot raise either arm as if to put on a hat	15	1 year	None
c) can only raise one arm as if to put something in the breast pocket of a jacket	9	1 year	None
d) can only raise one arm as if to put on a hat	6	1 year	None
e) none of the above	0	1 year	None
7 Pouring and picking up and transferring to a distance of 60 cm at table-top level			
a) cannot pick up and transfer a full glass of water of 200 ml capacity with either arm	15	3 years	None
b) cannot pick up and pour from a full saucepan or kettle of 1.5 litre capacity with either arm	15	8 years	None
c) cannot pick up and transfer a 2.5 kg bag of potatoes with either arm	9	8 years	None
d) can only pick up and transfer a full glass of water of 200 ml capacity with one arm	6	3 years	None
e) none of the above	0	3 years	None
8 Manual dexterity			
a) cannot turn the pages of a book with either hand	15	3 years	None
b) cannot turn a star-headed sink tap with either hand	15	3 years	None
c) cannot pick up an object up to 2.5 cm in diameter such as a coin with either hand	15	1 year	None
d) cannot use a spoon with either hand	15	3 years	None
e) cannot tie a bow in laces or string	9	8 years	None
f) can only turn a star-headed sink tap with one hand	6	3 years	None
g) can only pick up an object 2.5 cm in diameter such as a coin with one hand	6	1 year	None
h) none of the above	0	1 year	None
9 Vision, including visual acuity and visual fields, in normal daylight or bright electric light (with visual aids if normally worn)			
a) cannot see the shape of furniture in the room	15	3 years	None

b) cannot see well enough to read 16 point print at a distance of 20 cm	15	3 years	None
c) cannot see well enough to recognise a friend at a distance of 5 metres	9	1 year	None
d) cannot see well enough to recognise a friend at a distance of 15 metres	6	1 year	None
e) none of the above	0	1 year	None
10 Hearing (with a hearing aid if normally worn)			
a) cannot hear well enough to follow by hearing alone a television or radio programme even with the volume turned up	15	1 year	None
b) cannot hear well enough to understand by hearing alone a person talking in a loud voice in a quiet room	15	1 year	None
c) cannot hear well enough to understand by hearing alone a person talking at a normal level of voice in a quiet room	9	1 year	None
d) none of the above	0	1 year	None
11 Speech			
a) cannot speak or use language effectively to communicate even with close family or friends	15	3 years	None
b) speech cannot be understood by strangers	9	3 years	None
c) speech difficult for strangers to understand	6	3 years	None
d) none of the above	0	3 years	None
12A Epileptic seizures causing loss of consciousness: persons aged 12 and over			
a) in the past 6 months has had 6 or more epileptic seizures with loss of consciousness and has no useful warning of seizure and/or dangerous post-ictal behaviour	15	12 years	None
b) in the past 6 months has had 3 or more epileptic seizures with loss of consciousness and has no useful warning of seizure and/or dangerous post-ictal behaviour	9	12 years	None
c) in the past 6 months has had 1 or more epileptic seizures with loss of consciousness and has no useful warning of seizure and/or dangerous post-ictal behaviour	6	12 years	None
d) none of the above	0	12 years	None
12B Epileptic seizures causing loss of consciousness: persons aged under 12			
a) in the past 6 months has had an epileptic seizure with loss of consciousness at least once a week	15	1 year	12 years
b) in the past 6 months has had an epileptic seizure with loss of consciousness at least once a month	9	1 year	12 years
c) in the past 6 months has had an epileptic	6	1 year	12 years

seizure with loss of consciousness at least once every 2 months			
d) none of the above	0	1 year	12 years
13 Management of personal finance			
a) does not understand the value of money	20	8 years	None
b) unable to budget for daily and/or weekly needs	15	8 years	None
c) unable to budget for irregular bills	5	12 years	None
d) none of the above	0	8 years	None
14 Maintaining appearance and hygiene			
a) unable to maintain normal standards of appearance and hygiene without daily prompting/supervision from another person	20	5 years	None
b) unable to maintain normal standards of appearance and hygiene without weekly prompting/supervision from another person	10	5 years	None
c) neither of the above	0	5 years	None
15 Management of daily routine			
a) does not rise from bed without prompting and 24 hour cycle constantly out of phase	20	5 years	None
b) needs daily prompting to ensure rising from and retiring to bed	15	8 years	None
c) needs daily prompting to ensure rising from or retiring to bed	10	8 years	None
d) needs intermittent prompting to ensure rising from or retiring to bed	5	8 years	None
e) none of the above	0	5 years	None
16 Awareness of danger and consequences of behaviour			
a) is totally unaware of common dangers or the potentially harmful consequences of his or her behaviour	20	3 years	None
b) needs to be instructed on at least a daily basis about common dangers or the potentially harmful consequences of his or her behaviour	15	5 years	None
c) is generally aware of common dangers and does not need instructing about the potentially harmful consequences of his or her behaviour, but only when he or she is in a familiar structured environment	10	8 years	None
d) none of the above	0	3 years	None
17 Getting around outdoors			
a) unable to cope with leaving the house even if accompanied by another person	20	5 years	None
b) unable to cope with leaving the house unless accompanied by another person	15	5 years	None
c) unable to cope with finding his or her way around even in familiar places	15	8 years	None
d) unable to cope with finding his or her way around only in unfamiliar places	10	12 years	None
e) none of the above	0	5 years	None

18 Coping with change			
a) pre-planned changes in routine result in disruptive or potentially harmful behaviour	10	3 years	None
b) unplanned changes in routine result in disruptive or potentially harmful behaviour	5	3 years	None
c) neither of the above	0	3 years	None
19 Need for the help of another person as stipulated by a health care professional to ensure that developmental milestones are achieved as fully as possible			
a) requires help throughout his or her waking hours	15	None	12 years
b) requires help on a daily basis	9	None	12 years
c) none of the above	0	None	12 years
20 Need for help from another person as stipulated by a health care professional due to a medical condition			
a) requires help with a medical therapeutic procedure, monitoring of the condition or the administering of medication at least 3 times a day	15	None	12 years
b) requires help with a medical therapeutic procedure at least once a day	9	None	12 years
c) requires help with a medical therapeutic procedure at least twice a week	6	None	12 years
d) requires help with monitoring the condition or the administering of medication at least twice a day	6	None	12 years
e) none of the above	0	None	12 years

Note: in this Part and in Part 2 a reference to “can” or “cannot” is a reference to what a person is physically able or unable to do.

PART 2: STATEMENTS IN RESPECT OF MOBILITY ELEMENT OF IMPAIRMENT COMPONENT

(Schedule 1, paragraph 7(1))

1 Walking (with stick or other aid if normally used)

Cannot walk on level ground more than 50 metres and/or walk up and down a flight of 12 stairs, without having to stop or feeling severe discomfort.

2 Vision, including visual acuity and visual fields, in normal daylight or bright electric light (with visual aids if normally worn)

- (a) Cannot see the shape of furniture in the room which the person is in.
- (b) Cannot read 16 point print at a distance of 20 cm.
- (c) Cannot recognise a friend across a room at a distance of 5 metres.

3 Epileptic seizures causing loss of consciousness

In the past 6 months has had 1 or more epileptic seizures with loss of consciousness and has no useful warning of seizure and/or dangerous post-ictal behaviour.

Note: Statement is not relevant in the case of a child under the age of 12 years.

4 Management of personal finance

Does not understand the value of money.

Note: Statement is not relevant in the case of a child under the age of 8 years.

5 Awareness of danger and consequences of behaviour

- (a) Is totally unaware of common dangers or the potentially harmful consequences of his or her behaviour.
- (b) Needs to be warned on at least a daily basis about common dangers or the potentially harmful consequences of his or her behaviour.

Note: Statement (b) is not relevant in the case of a child under the age of 5 years.

6 Getting around outdoors

- (a) Unable to cope with leaving the house unless accompanied by another person.
- (b) Unable to find his or her way around even in familiar places.

Note: The statements are not relevant in the case of a child under the age of 8 years.

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- [1] *L.9/2007*
- [2] *chapter 12.200.50*
- [3] *chapter 20.300*
- [4] *L.9/2007*
- [5] *chapter 05.255*
- [6] *chapter 10.800*
- [7] *chapter 26.500*