

STATES OF JERSEY



DRAFT INCOME SUPPORT (CONSEQUENTIAL AMENDMENTS) (JERSEY) REGULATIONS 200

Lodged au Greffe on 6th August 2007
by the Minister for Social Security

STATES GREFFE



Jersey

DRAFT INCOME SUPPORT (CONSEQUENTIAL AMENDMENTS) (JERSEY) REGULATIONS 200

REPORT

The Income Support (Jersey) Law 2007 has been approved by the States and the scheme itself is due to be implemented in January 2008. These Regulations make amendments to existing laws which need updating to bring them in line with the Income Support (Jersey) Law 2007.

Regulation 1: Income Tax (Jersey) Law 1961

Some of the benefits that are being replaced by Income Support are mentioned in the Income Tax (Jersey) Law 1961. This Regulation will amend the Income Tax (Jersey) Law 1961 to remove references to these benefits and to state that Income Support benefits are not taxable.

Regulation 2: Health Insurance (Jersey) Law 1967

This Regulation will introduce minor amendments to bring the Health Insurance (Jersey) Law 1967 into line with current practice. It will also improve appeal procedures to ensure that they are Human Rights compliant.

Regulation 3: Social Security (Jersey) Law 1974

This Regulation will bring the appeal process in the Social Security (Jersey) Law 1974 into line with appeals made under the Income Support (Jersey) Law 2007.

Regulation 4: Invalid Care Allowance (Jersey) Law 1978

At the moment, Invalid Care Allowance is linked to the care of an individual receiving Attendance Allowance. This Regulation will amend the Invalid Care Allowance (Jersey) Law 1978 to replace the existing link with a link between the top two levels of the personal care element of the Income Support impairment component and Invalid Care Allowance. The appeal provisions of the Invalid Care Allowance (Jersey) Law 1978 are also brought in line with appeals made under the Income Support (Jersey) Law 2007.

Regulation 5: Christmas Bonus (Jersey) Law 1991

The Christmas Bonus that is payable to pensioners is also currently available to individuals who receive Attendance Allowance, Adult Disablement Allowance or Child Disablement Allowance. As these benefits are being replaced by Income Support, the Regulation will amend the Christmas Bonus (Jersey) Law 1991 so that, in future, Christmas Bonuses will be available to individuals who are entitled to any of the top three levels of the personal care element of the Income Support impairment component.

Regulation 6: Health Insurance (Medical Benefit) (Jersey) Regulations 2005

The current Health Insurance Exception (HIE) scheme sets rates for various types of medical benefit. As Income Support is replacing HIE, this Regulation will remove the references to these rates in the Health Insurance (Medical Benefit) (Jersey) Regulations 2005.

Financial/manpower implications

There are no financial or manpower implications for the States arising from the adoption of these Draft Regulations.

NOTE:

In addition to the Regulations, a number of Orders will also be required to update existing Orders.

As with the Regulations, Orders will remove references to benefits that are being replaced by Income Support.

They will ensure that determination and appeal mechanisms are consistent with those set out in the Income Support (Jersey) Law 2007. As the Health Insurance (Jersey) Law 1967 has been amended to introduce individual entitlement to health benefits, Orders will also amend the wording of various forms.

Explanatory Note

These Regulations amend a variety of legislation either directly as a consequence of the introduction of the new income support scheme or in order to streamline procedures for handling various benefits.

The Income Tax (Jersey) Law 1961 is amended so as to exempt payments of income support from income tax and remove references to benefits that are replaced by income support. A reference to the now obsolete family allowance is also removed and a further change is made to reflect the fact that there are no longer any disability allowances paid under the (now renamed) Invalid Care Allowance (Jersey) Law 1978 (*Regulation 1*).

Amendments are made to the Health Insurance (Jersey) Law 1967 so as to remove the requirement for a person over compulsory insurance age to apply to be an insured person in the prescribed manner. The provision requiring Orders to enable points of law to be appealed from a determining officer directly to the Inferior Number of Royal Court is removed and the drafting is improved in respect of a reference to the Social Security Tribunal (*Regulation 2*).

A similar amendment is made regarding appeals to the Court and to a reference to the Social Security Tribunal in identical provisions in the Social Security (Jersey) Law 1974. In addition the provision providing for the constitution of the Tribunal is replaced by one requiring this to be prescribed by Order. A provision is added enabling Tribunal members to be paid (*Regulation 3*).

A new definition of “severely disabled person” for the purposes of the Invalid Care Allowance (Jersey) Law 1978 is also substituted, provision is made for questions of Law to be referred to the Royal Court and for determination by a second determining officer before any appeal and the provisions dealing with appeals to a Medical Appeal Tribunal are removed as the 1978 Law is no longer concerned with medical issues (*Regulation 4*).

Amendments are made to the Christmas Bonus (Jersey) Law 1991 to remove and replace references to obsolete benefits, to refer to the amended title of the 1978 Law and to enable, where a certain part of the income support impairment component is payable in respect of a person, the treating of that person as being entitled to a qualifying benefit for the purposes of entitlement to a Christmas bonus (*Regulation 5*).

The Health Insurance (Medical Benefit) (Jersey) Regulations are amended to remove the provisions prescribing a different rate of medical benefits for persons who meet a prescribed means test (the system commonly known as “HIE”) (*Regulation 6*).

The Regulations are to come into force on the same day as Part 2 of the Income Support (Jersey) Law 2007.



Jersey

DRAFT INCOME SUPPORT (CONSEQUENTIAL AMENDMENTS) (JERSEY) REGULATIONS 200

Arrangement

Regulation

- 1 Amendments to Income Tax (Jersey) Law 1961
- 2 Amendment to Health Insurance (Jersey) Law 1967
- 3 Amendments to Social Security (Jersey) Law 1974
- 4 Amendments to Invalid Care Allowance (Jersey) Law 1978
- 5 Amendments to the Christmas Bonus (Jersey) Law 1991
- 6 Amendments to the Health Insurance (Medical Benefit) (Jersey) Regulations 2005
- 7 Citation and commencement



Jersey

INCOME SUPPORT (CONSEQUENTIAL AMENDMENTS) (JERSEY) REGULATIONS 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 21(2) of the Income Support (Jersey) Law 2007^[1], have made the following Regulations –

1 Amendments to Income Tax (Jersey) Law 1961

In the Income Tax (Jersey) Law 1961^[2] –

- (a) in Article 115 –
 - (i) for paragraph (j) there shall be substituted the following paragraph–
 - “(j) income support or any special payment payable under the Income Support (Jersey) Law 2007;”;
 - (ii) paragraphs (k), (m), (p) and (q) shall be deleted;
 - (iii) for the semi-colon at the end of paragraph (o) there shall be substituted a full stop;
- (b) in the heading to Article 130 the words “and family” shall be deleted;
- (c) in Article 130A –
 - (i) for the word “allowances” (including in the heading) there shall be substituted the word “allowance”;
 - (ii) for the words “and Disability Allowances” there shall be substituted the word “Allowance”.

2 Amendment to Health Insurance (Jersey) Law 1967

In the Health Insurance (Jersey) Law 1967^[3] (as it is amended by paragraph 1 of Schedule 1 to the Income Support (Jersey) Law 2007) –

- (a) in Article 1(1) for the definition “Social Security Tribunal” there shall be substituted the following definition –
 - “ ‘Social Security Tribunal’ means the Tribunal constituted by Order under Article 33A of the Social Security (Jersey) Law 1974;”;
- (b) in Article 3 the words “and, in the case of a person over compulsory insurance age, makes application in the prescribed manner” shall be deleted;
- (c) in Article 28 –
 - (i) in paragraph (2)(c) the words “a determination of a determining officer or” shall be deleted;
 - (ii) in paragraph (3) for the words “a Tribunal mentioned in paragraph (2)” there shall be

substituted the words “the Social Security Tribunal”.

3 Amendments to Social Security (Jersey) Law 1974

In the Social Security (Jersey) Law 1974^[4] (as it is amended by paragraph 2 of Schedule 1 to the Income Support (Jersey) Law 2007) –

- (a) in Article 1(1) in the definition “Social Security Tribunal” for the words “constituted under Schedule 4” there shall be substituted the words “constituted by Order under Article 33A”;
- (b) in Article 33 –
 - (i) in paragraph (3)(c) the words “a determination of a determining officer or” shall be deleted;
 - (ii) in paragraph (4) for the words “a Tribunal mentioned in paragraph (3)” there shall be substituted the words “the Social Security Tribunal”;
- (c) after Article 33 there shall be inserted the following Article –

“33A Social Security Tribunal

- (1) The Minister shall by Order prescribe the constitution of the Social Security Tribunal.
 - (2) The Minister may pay to any member of the Social Security Tribunal who exercises any functions under this Law, such remuneration and expenses as the Minister may determine.”;
- (d) Schedule 4 shall be repealed.

4 Amendments to Invalid Care Allowance (Jersey) Law 1978

In the Invalid Care Allowance (Jersey) Law 1978^[5] (as it is amended by paragraph 3 of Schedule 1 to the Income Support (Jersey) Law 2007) –

- (a) In Article 1(1) for the definition “Social Security Tribunal” there shall be substituted the following definition –
 - “ ‘Social Security Tribunal’ means the Tribunal constituted by Order under Article 33A of the Social Security (Jersey) Law 1974”;
- (b) for Article 2(2) there shall be substituted the following paragraph–
 - “(2) In this Article “severely disabled person” means a person who 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) of Schedule 1 to the Income Support (Jersey) Regulations 2004”;
- (c) for Article 8 there shall be substituted the following Article–

“8 Determination of claims

- (1) Subject to this Law, provision shall be made by Order –
 - (a) for the determination of any claim under this Law by one or more officers appointed by the Minister (to be known as ‘determining officers’); and
 - (b) if the person who made the claim is dissatisfied with a first determination, for the matter to be redetermined by a second determining officer.
- (2) Orders under paragraph (1) shall provide for–
 - (a) appeals to be made to the Social Security Tribunal;

- (b) the reference to the Royal Court for decision of any question of law arising in connection with the determination of a question by a determining officer or an appeal by the Social Security Tribunal; and
 - (c) appeals from the Social Security Tribunal on questions of law to be made to the Royal Court.
- (3) However, the Social Security Tribunal shall not have jurisdiction unless a second determining officer has first reconsidered the matter in accordance with an Order made under paragraph (1)(b)”;
- (d) in Article 12(1) the words “any member of the Medical Appeal Tribunal,” shall be deleted and for the words “either of the said Tribunals” there shall be substituted the words “the Tribunal”.

5 Amendments to the Christmas Bonus (Jersey) Law 1991

In the Christmas Bonus (Jersey) Law 1991^[6] –

- (a) in Article 1 –
 - (i) the existing text shall be renumbered as paragraph (1);
 - (ii) after paragraph (1) there shall be added the following paragraph –
 - “(2) For the purposes of this Law, a person who is part of a household –
 - (a) in receipt of income support under the Income Support (Jersey) Law 2007; and
 - (b) entitled to a component of income support in respect of that person,
 is treated as entitled to that component.”;
- (b) in the Schedule –
 - (i) for the words “a widow’s allowance, a widowed mother’s allowance, a widowed father’s allowance, a widow’s pension, 100% disablement benefit” there shall be substituted the words “a survivor’s allowance, a survivor’s pension, 100% long term incapacity allowance”;
 - (ii) the entries relating to a non-contributory old age pension and a pension under the Accident Insurance Laws shall be deleted;
 - (iii) for the entry relating to attendance allowance there shall be substituted the following entry –
 - “the personal care element of the impairment component at the rate set out in paragraph 6(3)(b), (c) or (d) of Schedule 1 to the Income Support (Jersey) Regulation 200-.”;
 - (iv) for the words “Invalid Care and Disability Allowances” there shall be substituted the words “Invalid Care Allowance”.

6 Amendments to the Health Insurance (Medical Benefit) (Jersey) Regulations 2005

In the Health Insurance (Medical Benefit) (Jersey) Regulations 2005^[7] –

- (a) in Regulation 1 the definitions “1974 Law” and “public holiday” shall be deleted;
- (b) Regulation 3 and the Schedules shall be repealed.

7 Citation and commencement

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

[1]	<i>L.9/2007</i>
[2]	<i>chapter 24.750</i>
[3]	<i>chapter 26.500</i>
[4]	<i>chapter 26.900</i>
[5]	<i>chapter 26.600</i>
[6]	<i>chapter 26.200</i>
[7]	<i>chapter 26.500.18</i>