

---

# STATES OF JERSEY



## PROPOSALS FOR THE IMPLEMENTATION OF PARENTAL BEREAVEMENT LEAVE

---

Presented to the States on 7th April 2022  
by the Minister for Social Security

---

STATES GREFFE

## REPORT

### Background

In lodging [P.70/2021](#), Deputy Steven Ahier sought the approval of the States Assembly for the development of proposals which would see the introduction of a statutory period of leave for any parent that suffers the death of a child under 18 years of age, including stillbirths<sup>1</sup>, and for any associated costs to be fully met by the Government.

The Assembly was unanimous in its adoption of the Deputy's proposition - and this report sets out how the Minister for Social Security proposes to implement it.

For any parent, the death of a child is a tragedy, and no amount of time off work or financial assistance will make up for it.

When the Employment and Social Security laws were updated in 2020, the Minister ensured that the new rights to enhanced parental leave and benefits, granted under each of these laws, would apply, in full, to both parents in the event of a stillbirth or the death of a baby.

The Minister's proposals for the implementation of P.70 will also ensure that there will be an entitlement to time off work enshrined in Jersey law for all parents that suffer the death of a child under 18.

The Minister also proposes the development of a payment scheme for parents so that they don't have to be concerned about a loss of wages during the statutory leave period.

In developing the legislation and payment scheme, the Minister's policy intention is to make the process simple, straightforward, and where possible "invisible" to parents, ensuring that leave can begin immediately, and that financial support can be received quickly.

Legislative drafting in respect of a new statutory leave period will be requested shortly, and the payment scheme will be developed during this year (2022) and launched alongside the changes to employment legislation.

As part of this project, Government officers will work with relevant stakeholders, including but not limited to: the hospital Maternity Unit, the Office of the Superintendent Registrar, the Law Officers Department, the Children's Commissioner, the Health and Social Security Scrutiny Panel, JACS, Citizen's Advice Jersey, Philip's Footprints, Chamber of Commerce and the Institute of Directors to ensure that both the amendments to law and the payment scheme, are well designed and take full account of the needs of the parents.

At this stage, it is not expected that the Minister will be requesting the Employment Forum to carry out a formal consultation.

The scope of these proposals is limited to those included in the Deputy's proposition i.e. bereavement leave for parents that suffer the death of a child – the Minister

---

<sup>1</sup> a child born at 24 weeks+ gestation onwards, who does not take a breath

acknowledges that there is a wider piece of work around bereavement leave for any family member, including miscarriage – and is therefore proposing a review of the new rights approximately 5 years after their introduction. It will be for the next Minister to consider the exact scope of that review.

## **SUMMARY OF PROPOSALS**

### **Child deaths in Jersey**

The figures for child deaths and stillbirths over the last three years are shown below:

#### **Deaths of children under 18**

2019 – <5

2020 – <5

2021 – <5

#### **Stillbirths**

2019 – 5

2020 – <5

2021 – <5

Whilst the number of child deaths and stillbirths is fortunately very small in Jersey, it nevertheless shows that there will be a number of parents who will benefit from the additional rights and support that these proposals provide.

The Minister does not propose to create separate, stand-alone legislation, as was done in the UK with Jack's Law<sup>2</sup>. The Minister will use existing Jersey Employment law to extend a right to time off work and develop a separate, simple payment scheme. The exact rules of that scheme will be developed over the course of the year but will broadly follow the description included in this report.

### **Employment law**

The Minister will request legislative drafting to make a change to the Employment (Jersey) Law 2003 that will introduce a statutory unpaid period of leave of 2 weeks for any working parent that suffers the death of a child under the age of 18 (including stillbirths). This will be a day one entitlement for all employees and will apply to the child's parents, including the partner of a parent – i.e. a stepparent. There will be flexibility around how the leave is taken e.g. as a single two week block, or two separate one week blocks. Parents will have up to 56 weeks from the date of the bereavement to take this leave. The aim is for these changes to Employment law to be lodged for debate later this year, by the next Minister for Social Security.

### **Payment scheme**

The Minister will request the development of a non-statutory scheme that will pay any parent taking parental bereavement leave under the Employment law a fixed weekly payment paid directly to the parent(s). It will be paid regardless of whether the parent's employer chooses to continue to pay them during the leave period or not.

---

<sup>2</sup> [UK set to introduce 'Jack's Law' – new legal right to paid parental bereavement leave - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/uk-set-to-introduce-jack-s-law-new-legal-right-to-paid-parental-bereavement-leave)

**Eligibility**

The right to take 2 weeks of unpaid leave will be a day one entitlement, available to any parent who is working in Jersey. As a day one entitlement, parents will be able to take the leave immediately, regardless of how long they have worked for their employer.

The right will extend to any parent who suffers the death of a child under the age of 18 and will include babies that are stillborn. The rights will not be restricted to biological parents and will mirror those already defined in Employment law for parental leave and be extended to include stepparents.

The eligibility conditions to receive a payment are that a parent:

- Is the parent or stepparent of a child under 18 that has died or has been stillborn (as confirmed by the Officer of the Superintendent Registrar)
- has an address in Jersey.
- is using parental bereavement leave to take time off work.

**Confirmation of death**

In most cases, the first Government official to know about the death or stillbirth will be a member of the Health and Community Services (HCS) team at the hospital, following this, the Office of the Superintendent Registrar will be made aware of the death or stillbirth – and this will be the official point at which Customer and Local Services (CLS) will be informed. There are procedural differences in how deaths and stillbirths are handled – so these will need to be taken into account when developing the scheme.

At this point – an application for payment, or authorisation to make a payment, could be made on their behalf either by Government or someone nominated by each parent.

It could also be the point at which Government informs the parents and their employers that they are now entitled to statutory unpaid leave for two weeks.

Officers are working with the Superintendent Registrar to better understand this process as there will be some unusual circumstances to consider e.g. if parents are not in touch with each other.

The aim will be to establish a process by which parents are not required to either attend face to face meetings or complete forms – ideally the process will be largely invisible to the parents and CLS will rely on information already held to confirm and process the payments. We will also need to ensure the appropriate governance arrangements are in place for the scheme.

A Child's Rights Impact Assessment will be undertaken as part of the development of these proposals.

It will be vital that all relevant stakeholders are made aware of the availability of both the payments and unpaid leave – officers will work with stakeholders to raise awareness as the scheme is developed.

**Timing of payments**

The aim will be to make payments as quickly as possible i.e. during the time the parents are taking bereavement leave and directly to the parent's bank account – although alternate means of making payment will also be considered.

It is proposed that payments will be made regardless of whether the parent's employer continues to pay them or not.

**Legal Framework - Timeline**

The leave period will require a change to primary legislation. This will need a States debate and approval by Privy Council. The intention is for legislative drafting to take place during the middle of the year, and for legislation to be lodged in the later part.

The Minister will therefore shortly be signing a ministerial decision requesting legislative drafting to make a change to the Employment (Jersey) Law 2003.

At the same time, the Minister will also instruct her officers to work on developing the rules and guidelines for the payment scheme which will launch alongside the changes to legislation.

The payment scheme will be administered by CLS. The scheme will be non-statutory, and funding will be drawn from existing departmental budgets.

These proposals represent the first stage in a process of establishing a legal right for the parents that suffer a child bereavement to have time off work – it is proposed that the new rights and the payment scheme are subject to a review after a period of approximately 5 years from the date of inception.

**Financial and Manpower Implications**

Given the small numbers of annual payments that are likely to be made it is suggested that the scheme be administered in a similar way to other Government non-statutory payment schemes<sup>3</sup> i.e. as a largely manual process, involving a very small number of existing senior operational staff.

The fixed value of the weekly payment will be determined during the development of the scheme. Given the small number of payments that will be made in a year, these costs will be absorbed into existing CLS departmental tax funded budgets.

---

<sup>3</sup> For example, the Diffuse Mesothelioma Payment Scheme

---