

STATES OF JERSEY



DRAFT SOCIAL SECURITY (AMENDMENT No. 22) (JERSEY) LAW 201-

**Lodged au Greffe on 12th August 2014
by the Minister for Social Security**

STATES GREFFE



Jersey

DRAFT SOCIAL SECURITY (AMENDMENT No. 22) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Social Security has made the following statement –

In the view of the Minister for Social Security, the provisions of the Draft Social Security (Amendment No. 22) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator F. du H. Le Gresley**

Minister for Social Security

Dated: 11th August 2014

REPORT

Social Security Medical Appeals Tribunal

Article 34 of the Social Security Law establishes a medical appeal tribunal for the purposes of providing an independent appeal mechanism in respect of decisions taken under Articles 34A–34D of the Law; these decisions refer predominantly to Long-Term Incapacity Allowance claims. The tribunal currently comprises 3 medical practitioners.

The current constitution of 3 medical practitioners has led to 2 practical problems:

- It is not always easy to identify 3 medical practitioners who can take part in a tribunal hearing, who have not been involved in the previous care or treatment of the appellant.
- The lack of a legal representative on the tribunal can create difficulties for the tribunal, when the decisions to be made include legal issues, as well as medical evidence. For example, whether a hearing should be heard in public or private is increasingly posed as a question for the tribunal to decide.

The Social Security Tribunal (which hears other appeals under the Social Security Law) and the Income Support Medical Appeal Tribunal (which hears medical appeals under the Income Support Law) both include a legal chair.

The Minister wishes to amend the constitution of the medical appeal tribunal, so that it also includes a legal chair. The medical appeal tribunal would therefore comprise a person holding a qualification in law and 2 medical practitioners. This detail will be included in the Social Security (Determination of Disablement Questions) Order, but the primary Law must first be amended to allow the constitution of the tribunal to be set up under the Order.

To clarify the role of the tribunal, it will also be renamed as the Social Security Medical Appeals Tribunal.

Consequential amendments to Ministerial Orders

The Minister wishes to complete this minor change to primary legislation during his term of office. Subsequent revisions to subordinate legislation, in the form of Orders, will be addressed over the next 3 months. These will ensure, as far as possible, a common procedure for tribunals and tribunal hearings in respect of all appeals made under the Social Security and Income Support Laws.

Financial and manpower implications

There are no financial or manpower implications associated with the change to the composition or name of the medical appeal tribunal.

Human Rights

No human rights notes are annexed because the Law Officers' Department has indicated that the draft Law does not give rise to any human rights issues.

Explanatory Note

This Law amends the Social Security (Jersey) Law 1974 (the “1974 Law”).

Article 1 substitutes Article 34 of the 1974 Law. Currently, Article 34 provides for the appointment of medical boards and medical appeal tribunals, with the latter consisting of 3 medical practitioners. Such boards and tribunals discharge functions under Articles 34A to 34D of the 1974 Law.

The substituted Article 34 provides for the appointment of a tribunal, to be known as the Social Security Medical Appeals Tribunal, and for its constitution to be prescribed by Order of the Minister for Social Security.

The arrangements for appointment of medical boards are re-enacted as Article 34AA, without any change of substance.

Article 2 further amends the 1974 Law consequentially upon the amendments made by Article 1, in particular, the naming of the Social Security Medical Appeals Tribunal.

Article 3 provides for the citation of the Law and its commencement one month after registration.



Jersey

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Arrangement

Article

| | | |
|---|---|----|
| 1 | Article 34 of the Social Security (Jersey) Law 1974 substituted | 9 |
| 2 | Amendments consequential upon Article 1..... | 9 |
| 3 | Citation and commencement..... | 10 |



Jersey

DRAFT SOCIAL SECURITY (AMENDMENT No. 22) (JERSEY) LAW 201-

A LAW to amend further the Social Security (Jersey) Law 1974

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Article 34 of the Social Security (Jersey) Law 1974 substituted

For Article 34 of the Social Security (Jersey) Law 1974¹ there shall be substituted the following Articles –

“34 Social Security Medical Appeals Tribunal

- (1) The Minister shall, by Order, prescribe the constitution of the Social Security Medical Appeals Tribunal.
- (2) Subject to the provisions of this Law, the Minister may, by Order, prescribe procedures to be followed by the Social Security Medical Appeals Tribunal in the discharge of its functions under this Law.

34AA Medical boards

- (1) The Minister shall appoint medical boards, each consisting of one or 2 medical practitioners.
- (2) Subject to the provisions of this Law, the Minister may, by Order, prescribe the procedures to be followed by a medical board in the discharge of its functions under this Law.”.

2 Amendments consequential upon Article 1

In the Social Security (Jersey) Law 1974² –

- (a) in Article 1(1) –
 - (i) after the definition “LTC contribution” there shall be inserted the following definition –
 - “medical board” means a board appointed under Article 34AA;”;
 - (ii) after the definition “Social Security Fund” there shall be inserted the following definition –
 - “Social Security Medical Appeals Tribunal’ means the Tribunal constituted under Article 34;”;
- (b) in paragraphs (1) and (4) of Article 34B, for the words “a medical appeal tribunal” there shall be substituted the words “the Social Security Medical Appeals Tribunal”;
- (c) in the heading to Article 34C, for the words “medical appeals tribunals” there shall be substituted the words “the Social Security Medical Appeals Tribunal”;
- (d) in Article 34C –
 - (i) in paragraph (1), for the words “a medical appeal tribunal” there shall be substituted the words “the Social Security Medical Appeals Tribunal”,
 - (ii) in paragraph (2), for the words “the medical appeal tribunal” there shall be substituted the words “the Social Security Medical Appeals Tribunal”;
- (e) in Article 34D –
 - (i) paragraphs (1), (2) and (4), for the words “or medical appeal tribunal” there shall be substituted the words “or by the Social Security Medical Appeals Tribunal”,
 - (ii) in paragraph (6), for the words “a medical appeal tribunal” there shall be substituted the words “the Social Security Medical Appeals Tribunal”.

3 Citation and commencement

This Law may be cited as the Social Security (Amendment No. 22) (Jersey) Law 201- and shall come into force one month after it is registered.

¹ *chapter 26.900*
² *chapter 26.900*