

STATES OF JERSEY



DRAFT INCOME SUPPORT (SPECIAL PAYMENTS) (CHILD PERSONAL CARE) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 20th May 2014
by the Minister for Social Security**

STATES GREFFE



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REPORT

1. Summary

The introduction of a fully means-tested, household benefit has been endorsed by the States several times since May 2000. The Income Support benefit was designed, in line with these decisions, to provide for a variety of costs, including the cost of disability. However, following the shift to this entirely means-tested, household benefit, it was acknowledged that households that included a child with a severe illness or disability constituted a distinct group with unusual and particular financial needs.

At the introduction of Income Support, many families qualified for the new benefit and received an additional allowance for a child who qualified for the highest level of the personal care element of the Income Support medical component (Personal Care level 3; henceforth abbreviated to PC3). Other households were awarded a generous provision in the Income Support transitional arrangements that preserved the value of their disability benefit regardless of parental income or assets. Since then, successive Ministers have made payments equivalent to the value of PC3 (currently £145.25 per week) to other parents of children with these high-level care needs who are under school-leaving age but who do not qualify for the Income Support scheme. These payments have been made by the Minister as exceptional payments under Article 8 of the Law.

The proposed Income Support (Special Payments) (Child Personal Care) (Jersey) Regulations 201- create a mechanism whereby the parents of children that meet the requirements for the highest level of the impairment award can always receive a payment in respect of the child, independent of parental income. The Regulations are supported by amendments to the Income Support (Jersey) (Regulations) 2007 and a related Order that makes changes to the Income Support (General Provisions) Order 2008.

The Income Support (Special Payments) (Cold Weather Payments) (Jersey) Regulations 2008 are also subject to a separate amendment that allows an Income Support household with a child qualifying for PC3 to continue to qualify for the cold weather payments made under Income Support legislation.

2. Background and objective

Successive States decisions (P.44/2000, P.178/2003, P.86/2005, P.102/2006 and P.90/2007) have all confirmed the policy of establishing a unified Income Support benefit, providing household support for a variety of needs, including support for individuals with high personal care needs due to a long-term illness or disability.

Personal Care level 3 is the highest level of the personal care component available under Income Support. It is intended to support individuals who are living with a long-term, serious illness or disability. For people caring for an adult or child with these high-level personal care needs, PC3 also acts as the qualifying condition for the separate Home Carer's Allowance and for a distinct component in Income Support – the carer's component. PC3 is currently available to adults and children within Income Support households. Upon reaching school-leaving age, a young adult who qualifies for PC3 can make their own independent claim for Income Support, regardless of the income of their parents.

Prior to the introduction of the Income Support benefit, children with the highest level of disability were awarded Attendance Allowance. This benefit was subject to an income bar, but as the income test was imposed on the child, rather than the household, it was more or less universally available.

All other tax-funded disability benefits available pre-Income Support included a household income test. This included benefits aimed at both children and adults.

86 children under the age of 16 were in receipt of Attendance Allowance immediately prior to the launch of Income Support. Since 2008, all 3 Ministers for Social Security have made decisions to provide households that include a child with the highest level of disability with exceptional payments, regardless of household income. Transitional payments in respect of families previously receiving Attendance Allowance have also been maintained at 100% of the value of the previous benefit until the child reaches school-leaving age.

These Regulations regularise this situation.

They do not involve a change in either the criteria to receive this award or the financial value of the component. However, they create a separate mechanism to allow households that include a child who has PC3 care needs to make a claim for this component separately to any other Income Support claim for the household. Children will not be able to independently qualify for any other components until school-leaving age, although households qualifying for Income Support will still be able to claim the separate carer's component, mobility element and clinical cost element in respect of the child and their care needs. Adult carers qualifying for the separate Home Carer's Allowance will continue to claim as now.

To ensure equity between households, the Regulations are designed to allow for households of all children qualifying for PC3 to receive this amount regardless of household income, including cases where the parents also qualify for Income Support. This is to cover situations where the household income means that families are entitled to Income Support at a rate that is below the value of PC3. Unless payments for these children were brought under the new rules, wealthier households could receive a higher benefit payment than those qualifying for small Income Support payments.

The Regulations therefore separate the value of a PC3 award in respect of a child from the calculation of household income, providing an equal level of support to children with a severe illness or disability regardless of household income. Payments are made by way of special payments, which are provided on a weekly basis at the current value of the PC3 component paid to adults within the main Income Support scheme.

The Minister for Social Security will continue to be able to support families with children who do not meet the criteria for a PC3 award through the provision of ministerial exceptional payments under Article 8 of the Income Support Law. Financial assistance can be provided where the family faces wholly exceptional circumstances which has led to exceptional costs that the family cannot meet directly.

3. Criteria for Special Payment

Under Regulation 1, the definition of a household is tied to that used for the Income Support Law, as specified in Article 5 of the Income Support (General Provisions) (Jersey) Order 2008. Under Regulation 2, households containing a child that would qualify under the PC3 criteria, and in which at least one adult meets the residency rules of Income Support, will receive a separate weekly (special) payment equal to the value of PC3, completely outside the means-testing for Income Support entitlement. Therefore, they will receive the full value of the payment even if they have no entitlement to the main Income Support scheme due to household income.

The child is still required to meet the conditions of paragraph 5 of Schedule 1 to the Income Support Regulations. The illness or disability must be expected to last at least 6 months. The child continues to be eligible for payments for up to 4 weeks in any year spent in hospital, and separately for up to 4 weeks in any year spent outside Jersey. The benefit also continues to be paid if the child is attending a school outside Jersey that caters for pupils with special needs.

Upon reaching school-leaving age, the young adult will qualify for their own separate Income Support claim and will therefore be covered by the existing rules.

4. Financial and manpower implications

There are no manpower implications for these changes. The children who will qualify for the new award are already being paid either as part of an Income Support claim or as a Ministerial exceptional payment. There will be a small additional cost in respect of children in which the family entitlement to Income Support is less than the value of Personal Care level 3. This cost is estimated to be approximately £22,000 per annum, which is available as part of the overall project to create savings of £3 million from the Income Support budget for 2014, as announced by the Minister in his statement made on 21st January 2014.

Explanatory Note

These Regulations empower the Minister to make a special payment of the amount specified in paragraph 6(3)(c) of Schedule 1 to the Income Support (Jersey) Regulations 2007 (defined as the “2007 Regulations”) per week to any household in which a member of the household is a child who meets the requirements for the impairment component under paragraph 5 of Schedule 1 to the 2007 Regulations and who, but for being a child, meets the criteria for the rate payable in respect of the personal care element of the impairment component for an adult under paragraph 6(3)(c) of Schedule 1 to the 2007 Regulations. The household must also have a member who is an adult who meets the requirement under Article 2(1)(b) of the Income Support (Jersey) Law 2007. The special payment will be made to defray general expenses in respect of the personal care of the child.

Regulation 3 sets out the title of the Regulations and provides that they will come into force 7 days after they are made.



Jersey

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Arrangement

Regulation

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Jersey

DRAFT INCOME SUPPORT (SPECIAL PAYMENTS) (CHILD PERSONAL CARE) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 8 and 18 of the Income Support (Jersey) Law 2007¹, have made the following Regulations –

1 Interpretation

- (1) In these Regulations “2007 Regulations” means the Income Support (Jersey) Regulations 2007².
- (2) In these Regulations references to a person being a member of a household are to be construed in accordance with Article 5 of the Income Support (General Provisions) (Jersey) Order 2008³.

2 Special payment for child personal care

The Minister may make a special payment of the amount specified in paragraph 6(3)(c) of Schedule 1 to the 2007 Regulations per week to any household in which –

- (a) a member of the household is a child who –
 - (i) meets the requirements for the impairment component under paragraph 5 of Schedule 1 to the 2007 Regulations, and
 - (ii) but for being a child, meets the criteria for the rate payable in respect of the personal care element of the impairment component for an adult under paragraph 6(3)(c) of Schedule 1 to the 2007 Regulations; and
 - (b) another member of the household is an adult who meets the requirement under Article 2(1)(b) of the Income Support (Jersey) Law 2007,
- to defray general expenses in respect of the personal care of that child.

3 Citation and commencement

These Regulations may be cited as the Income Support (Special Payments) (Child Personal Care) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

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- ¹ *chapter 26.550*
 - ² *chapter 26.550.30*
 - ³ *chapter 26.550.20*