

# STATES OF JERSEY

**r**

## **DRAFT INCOME TAX (AMENDMENT No. 24) (JERSEY) LAW 200-**

---

**Lodged au Greffe on 23rd November 2004  
by the Finance and Economics Committee**

---

**STATES GREFFE**





Jersey

## **DRAFT INCOME TAX (AMENDMENT No. 24)(JERSEY) LAW 200-**

### **European Convention on Human Rights**

The President of the Finance and Economics Committee has made the following statement –

In the view of the Finance and Economics Committee the provisions of the Draft Income Tax (Amendment No. 24) (Jersey) Law 200 are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

## **REPORT**

---

This draft Law gives effect to the proposals described in paragraph 10.6 of the Budget Book 2005.

### **Financial and manpower implications**

There will be no additional financial or manpower implications when the proposals for 20% means 20%, taxing 1 (1)k's and taxing all forms of property development are introduced. Additional manpower will be required to administer the proposed Income Tax Instalment System. It is estimated that 8 permanent staff will be required at an annual cost of some £285,000, together with one-off 'set up' costs of some £184,000.

### **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 11th November 2004 the Finance and Economics Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Finance and Economics Committee the provisions of the Draft Income Tax (Amendment No. 24) (Jersey) Law 200 are compatible with the Convention Rights.

## Explanatory Note

---

### **Part 1 – Interpretation**

*Article 1* defines the Income Tax (Jersey) Law 1961 as the ‘principal Law’.

### **Part 2 – Introduction of income tax instalment system (ITIS)**

*Article 2* inserts a new Article A15 in the principal Law, containing definitions required for the purposes of Part IV. Part IV requires statements and other returns of information to be made.

*Article 3* inserts a new Article 19A in the principal Law, requiring a person who becomes an employer, or a building contractor when first taking on a sub-contractor, to notify the Comptroller.

*Article 4* substitutes Articles 20 and 20A of the principal Law, being the requirements, respectively, for employers to provide the Comptroller with details of their employees and for persons in the building or construction industry to provide the Comptroller with details of their sub-contractors. The substituted Articles require additional information to be provided that will be necessary for the administration of ITIS and enable the Comptroller to issue general or individual notices requiring returns of information. It is expected that the Comptroller will issue a general notice, each year, requiring returns of information to be made monthly.

*Article 5* inserts a new Article A39 in the principal Law, which has the effect that expressions defined in the new Article A15 have the same meaning in Part VII of the Law.

*Article 6* amends Article 39 of the principal Law, with the effect that the rule that income tax is due and payable on the day after an assessment is made will be subject to the new rules for an instalment payment in April, for deductions from earnings from employment and for deductions from payments made to building sub-contractors.

*Article 7* inserts new Articles 41A to 41I in the principal Law.

Article 41A creates the requirement for an individual to make an instalment payment in April in respect of his or her tax liability for the preceding year. The amount of the instalment will be calculated by reference to the individual’s tax liability for the year before that, as the individual’s liability for the preceding year will not have been calculated by April. So, in April 2006, an individual will pay an instalment on account of his or her liability to tax for 2005. The instalment will be an amount equal to one half of the individual’s liability to tax for 2004 save that, if the individual was in employment in 2004 and his or her earnings were 25% or less of total income, the instalment will be an amount equal to 40% of his or her liability to tax for 2004. The instalment will be reduced by any amounts already paid on account of the individual’s liability to tax for 2005. There are two exceptions to the requirement to pay the April instalment. Firstly, no instalment is paid if the amount would be less than £100. Secondly, an individual who is in employment in the year by reference to which the amount of the instalment is calculated and whose earnings from employment for that year exceed 25% of his or her total income is not required to pay the instalment. The Comptroller has a discretion to reduce or waive the instalment where there has been either a significant reduction in the individual’s liability to tax or in his or her unearned income from the year by reference to which the instalment is calculated to the year on account of which the instalment is paid. There is a right of appeal against a refusal by the Comptroller to exercise that discretion.

Article 41B creates the requirement for an employer to make deductions from earnings paid to employees. The deduction is a percentage of the employee’s gross wages. The default rate of deduction is 15% for 2006 and 2007, increasing to 20% for 2008 onwards and will apply in any case where the employer does not have a notice issued by the Comptroller specifying a rate for the employee in question. The employer is required to keep records of the amounts deducted and of the rate applied to each deduction and give each employee a summary of the deductions made. No deduction is required in the case of an employee under the age of 17. The employer must remit the amounts deducted to the Comptroller on a monthly basis and failure to do so is an offence.

Article 41C describes how the rate is to be calculated by the Comptroller. The deductions are on account of an individual’s liability to tax for the year preceding the year in which the deductions are made. Accordingly the rate is calculated by reference to the individual’s liability to tax for that preceding year, although it may also include any liability for arrears accruing from an earlier year. However, because the

Comptroller will not have received a tax return from the individual by 1st January of the year in which the payments are to be made, the Comptroller may calculate a provisional rate based on the individual's liability for the year preceding the preceding year. For example, the rate applicable to deductions to be made in 2006 may be provisionally calculated by reference to the individual's tax liability for 2004. Once the individual has made a return for 2005, the rate may be recalculated. In addition, the rate may be reviewed at any time during the year in which the payment is to be made, if there is a change in the individual's circumstances. Because the deductions made will not necessarily discharge the whole of the individual's liability to tax for the preceding year, the individual is given the option of electing to have a higher rate applied to his or her deductions, although there is a cap upon the rate, described in paragraph (9). The Comptroller will send out a notice of the rate applicable to any employee. There is a right of appeal against the rate calculated by the Comptroller or against a refusal by the Comptroller to issue a rate.

Article 41D makes provision for husbands and wives. If a husband and wife living together have not elected for separate assessment (with the consequence that the wife's income is deemed to be that of her husband) a rate is calculated on the husband's income and that rate applies to both of them. However, they can jointly elect for different rates to apply to each of them, provided that the total amount deducted from their respective earnings is not less than the total amount that would have been deducted had they not made the election. There is no right of election if deductions are to be made at the default rate described in Article 41B.

Article 41E creates the requirement for a person in the building or construction industry (a building contractor) to make deductions from payments made to sub-contractors and to remit them to the Comptroller on a monthly basis. Failure to remit the money to the Comptroller is an offence. The deductions are made at the rate of 15% in 2006 and 2007, increasing to 20% for 2008 onwards. There is an exception if the sub-contractor has an exemption certificate. The building contractor must keep records of the deductions and give a sub-contractor a summary of them.

Article 41F enables a sub-contractor to apply to the Comptroller for an exemption certificate. A certificate will only be issued where the Comptroller is satisfied that the applicant has consistently complied with all the requirements of the Law and will be cancelled at any time when the Comptroller ceases to be so satisfied.

Article 41G requires the Comptroller to credit amounts received under Article 41B or Article 41E to the tax liability of the employee or sub-contractor from whose earnings or payments the amounts have been deducted.

Article 41H creates arrangements for persons entering the Island or, for the first time, commencing employment or becoming a sub-contractor of a building contractor ('new taxpayers'). The earnings of a new taxpayer who is in employment or working as a sub-contractor of a building contractor on 1st January 2006 will, for the first five years, be subject to deductions under ITIS on account of the person's liability to tax for the year in which the deduction is made. In the sixth and seventh year, deductions will be made from the person's earnings at half the rate that would otherwise apply. After that, the person ceases to be treated as a new tax payer and, accordingly, his or her earnings become subject to deductions under ITIS in accordance with Article 41B, being on account of his or her liability to tax for the year preceding the year in which the deduction is made. The earnings of a new tax payer who commences employment or working as a sub-contractor of a building contractor after 1st January 2006 will be subject to the same transitional rule save that, in his or her case, the period of transition is spread over seven years of assessment starting with the year in which the employment or contract commences.

Article 41I restates the late payment surcharge and introduces an exception to it where, by the time in December specified for payment, 70% of the person's tax has been paid through deductions made under ITIS.

*Article 8* makes an amendment and repeals which are consequential upon the introduction of the instalment scheme. Article 17A is amended. Articles 26 (re-enacted as Article 41I), 102 (the £25 credit for monthly payments) and 136(4) the exception to the requirement to make a return of information about an employee if the employee is exempt from tax) are repealed.

*Article 9* amends the Bankruptcy (Désastre) (Jersey) Law 1990 as to confer on amounts deducted by employers and building contractors but not yet remitted to the Comptroller the same priority in a bankruptcy as unpaid tax.

*Article 10* provides for the commencement of *Part 2*. Provisions required to prepare for ITIS are brought into force on 1<sup>st</sup> January 2005. The requirement to pay instalments is brought into force on 1<sup>st</sup> January 2006.

### **Part 3 – Withdrawal of allowances and reliefs**

This Part is in two chapters. *Chapter 1* contains amendments effective from 2006, which have the effect of reducing certain reliefs and allowances by one third in 2006 and by two thirds in 2007. *Chapter 2* contains amendments effective from 2008 which abolish those allowances and reliefs.

The reliefs affected are those in Part XI of the principal Law for mortgage interest relief on a person's only or main residence and for maintenance payments. Although the reliefs are being phased out, the amounts which would otherwise have qualified for the relief are still relevant to the calculation of a person's total income for the purposes of calculating the tax exemption threshold applicable in his or her case and of calculating the marginal rate. Hence, the reliefs are not abolished entirely in 2008 but restated so that they are still taken into consideration for the purposes of the tax exemption threshold and marginal rate.

Similarly, whilst allowances in Part XII of the principal Law are being phased out, the amounts which would have otherwise been allowed as a deduction are still relevant to the calculation of the tax exemption threshold applicable in a person's case and, consequently, of the marginal rate. Hence, the allowances are not abolished, but are restated as part of the tax exemption threshold rules.

#### *Chapter 1 – Allowances and reliefs reduced for 2006 and 2007*

*Article 11* makes an amendment consequential on *Article 12*.

*Article 12* inserts a new *Article 90D* in the principal Law which reduces the amounts that a person is entitled to deduct, in calculating his or her total income, by way of mortgage interest relief on a principal or main residence or relief on maintenance payments, by one third for 2006 and two thirds for 2007.

*Articles 13 to 20* amend Part XII of the principal Law and, consequentially, *Schedule 5*, with effect from 2006.

*Article 13* makes an amendment consequential on *Article 21*.

*Article 14* substitutes *Article 92A* so as to restate the rule for exemption from income tax and substitutes *Article 92B* so as to restate the rule about child care as an element of the rule for exemption from income tax.

*Article 15* repeals *Articles 93 and 94* of the principal Law as these are restated as new *Articles 98C and 98D*, inserted by *Article 18*.

*Article 16* amends *Article 95* so that it becomes an element of the rule for exemption from income tax.

*Article 17* substitutes *Article 98A* to the same effect.

*Article 18* inserts new *Articles 98B to 98E* in the principal Law.

*Article 98B* restates the entitlement to be taxed at the marginal rate. Paragraph (2) has the effect that an individual's total income will continue to be calculated, for the purposes of the marginal rate rule, as if the full amount of the reliefs in Part XI were still allowed.

*Article 98C* restates the rule previously found in *Article 93* of the principal Law whereby allowances are given as a deduction from assessable income.

*Article 98D* restates the entitlement to a personal allowance previously found in *Article 94* of the principal Law.

*Article 98E* restates the entitlement to child allowances, previously expressed in *Articles 95 and 98A*.

*Articles 19 and 20* amend, respectively, *Articles 101 and 101A* of the principal Law with the effect that the deductions allowed under those *Articles* in respect of premiums on life or medical insurance are subject to the reduction under the new *Article 101B*.

*Article 21* inserts a new *Article 101B* in the principal Law which reduces a person's earned income allowance, personal allowance, child allowances, allowance in respect of life insurance premiums and allowance in respect of medical insurance premiums by one third for 2006 and by two thirds for 2007.

*Articles 22 and 23* amend, respectively, *Articles 121B and 130* of the principal Law, consequentially upon the additions and substitutions made in respect of exemptions and allowances.

*Article 24* amends *Schedule 5* to the principal Law. *Schedule 5* contains a saving, in certain cases, for allowances which were repealed by the *Income Tax (Amendment No. 23) (Jersey) Law 2004*. The amendment has the effect

of reducing the saved allowances by one third for 2006 and two thirds for 2007.

*Article 25* provides for the amendments in Chapter 1 to have effect for 2006 and ensuing years.

#### *Chapter 2 – Allowances and reliefs abolished in 2008*

*Article 26* amends Article 3 of the principal Law consequentially upon the repeal of Article 92.

*Article 27* amends Article 86 of the principal Law to ensure that any tax deducted from interest payments which cease to qualify for relief is brought into the charge to tax.

*Article 28* amends Articles 89A and 90 consequentially upon the abolition of relief under Article 90AA and upon the repeal of Article 90D (inserted by Article 12).

*Article 29* amends Article 90AA so that, instead of conferring relief in respect of mortgage interest payments on a principal or main residence, the Article makes such payments a marginal income deduction.

*Article 30* amends Article 90AE of the principal Law consequentially upon the amendments to Article 90AA.

*Articles 31 and 32* amend Articles 90B and 90C of the principal Law so that, instead of conferring relief in respect of maintenance payments, such payments become a marginal income deduction.

*Article 33* substitutes the heading to Part XII of the principal Law.

*Article 34* amends Article 92A of the principal Law as substituted by Article 14 of this Law. The amendment has the effect that, for the purposes of calculating whether an individual's total income exceeds the tax exemption threshold applicable in his or her case, all marginal income deductions are deducted from his or her total income.

*Article 35* amends Article 98B of the principal Law as inserted by Article 18 of this Law. The amendment has the effect that, for the purposes of calculating the marginal rate, all marginal income deductions are deducted from an individual's total income.

*Article 36* amends Article 103 of the principal Law consequentially upon the abolition of allowances and reliefs under Part XII.

*Articles 37, 38 and 39* amend, respectively, Articles 104, 105 and 106 of the principal Law consequentially upon the abolition of allowances under Part XII.

*Article 40* amends Article 121B of the principal Law consequentially upon the abolition of allowances and reliefs under Part XII.

*Article 41* amends Schedule 2 to the principal Law consequentially upon the abolition of relief for life or medical insurance premiums.

*Article 42* repeals provisions conferring any entitlement to relief on mortgage interest payments and maintenance payments under Part XI of the Law and any entitlement, in Part XII of the Law, to earned income allowance, personal allowance, child allowances, allowance in respect of insurance premiums and allowance in respect of medical insurance premiums. It also repeals the savings for allowances in Schedule 5.

*Article 43* provides for Chapter 2 to have effect from 2008 onwards.

#### **Part 4 - Extension of trades chargeable under Schedule D**

*Article 44* amends Article 3 of the principal Law so as to add a definition of "fixed place of business" and extend the definition "trade" to include any disposal, on a commercial basis, of property which derives its value from land or any building or structure.

*Article 45* amends Article 61 of the principal Law. Article 61 establishes the charge to tax under Schedule D. The amendment, taken together with the amendments made by Article 44, widens the charge to tax under Schedule D. Residents and non-residents will become liable to tax on annual profits or gains arising from the trade of disposing, on a commercial basis, of property which derives its value from land or a building or structure in Jersey.

*Article 46* provides for Part 4 to have effect for the year of assessment 2004 and ensuing years.

#### **Part 5 - Persons granted housing consent under Regulation 1(1)(k)**

*Article 47* inserts a new Part XIIA in the principal Law.

Article 135A applies to any person who acquires a property pursuant to a housing consent under Regulation 1(1)(k) of the Housing (Jersey) Regulations 1970 on or after 1st January 2005. Where the person's non-Jersey income exceeds the prescribed limit, so much of that income as exceeds that limit shall be



chargeable to tax at the prescribed rate. The States are given power to make Regulations setting the prescribed limit and prescribed rate.

Article 135B enables the Comptroller of Income Tax and the Housing Committee and its officers to exchange information for the purposes of administering Article 135A and the grant and revocation of housing consents under Regulation 1(1)(k).

*Article 48* provides for Part 5 to come into force on 1st January 2005.

#### **Part 6 – Apportionment of allowances etc for individual absent from the Island**

*Article 49* inserts a new Article 129A in the principal Law.

Article 129A provides that, if a person is not in Jersey for the whole of a year, the exemption threshold applicable and the allowances and reliefs to which he or she is entitled, are duly apportioned. For example, if a person is in Jersey for 25 weeks of the year, his or her exemption threshold, allowances and reliefs will be 25/52nds of those that would have applied if he or she had been in Jersey for the whole year. The apportionment does not apply to a person who has been ordinarily resident in Jersey, but is occasionally resident outside Jersey, as such a person is taxed on the whole of his or her profits for the year. Nor does it apply to a person whose allowances and reliefs on his or her Jersey income are restricted so that the tax paid by the person does not fall below a percentage determined according to ratio between his or her Jersey income and his or her income from all sources, if that person is not an employee, office holder or sub-contractor of a building contractor in Jersey or is a director of a Jersey company.

*Article 50* amends the inserted Article 129A consequentially upon the abolition of allowances and reliefs in 2008.

*Article 51* provides for Article 49 to have effect for the year of assessment 2006 and onwards and for Article 50 to have effect for the year of assessment 2008 and onwards.

#### **Part 7 – Removal of allowance for child in certain cases**

*Article 52* amends Article 95 of the principal Law with the effect that the enhanced exemption threshold and, for so long as it remains, the allowance in respect of a child over the age of 17 and in full-time education, is restricted to a case where the child is in higher education.

*Article 53* amends Schedule 5 to the principal Law so that, despite the amendment of Article 95 of the principal Law, a person whose child is already in full-time education other than higher education will continue to benefit from Article 95.

*Article 54* provides for Part 7 to have effect for the year of assessment 2005 and ensuing years.

#### **Part 8 – Closing provision**

*Article 55* cites the short title of the Law.





Jersey

# DRAFT INCOME TAX (AMENDMENT No. 24)(JERSEY) LAW 200-

## Arrangement

---

### Article

#### PART 1

---

##### INTERPRETATION

1        Interpretation

#### PART 2

---

##### INTRODUCTION OF INCOME TAX INSTALMENT SYSTEM

2        Article A15 inserted  
3        Article 19A inserted and Schedule 5 amended  
4        Articles 20 and 20A substituted  
5        Article A39 inserted  
6        Article 39 amended  
7        Articles 41A to 41I inserted  
8        Consequential amendment and repeals  
9        Bankruptcy (Désastre) (Jersey) Law 1990 amended  
10      Commencement of Part 2

#### PART 3

---

##### WITHDRAWAL OF ALLOWANCES AND RELIEFS

###### CHAPTER 1

##### ALLOWANCES AND RELIEFS REDUCED FOR 2006 AND 2007

11      Articles 86, 89A and 90 amended  
12      Article 90D inserted  
13      Article 92 amended  
14      Articles 92A and 92B substituted  
15      Articles 93 and 94 repealed  
16      Article 95 amended  
17      Article 98A substituted  
18      Articles 98B to 98E inserted  
19      Article 101 amended  
20      Article 101A amended  
21      Article 101B inserted  
22      Article 121B amended  
23      Article 130 amended  
24      Schedule 5 amended

25      Commencement of Chapter 1

## CHAPTER 2

### ALLOWANCES AND RELIEFS ABOLISHED IN 2008

26      Article 3 amended  
27      Article 86 amended  
28      Articles 89A and 90 amended  
29      Article 90AA amended  
30      Article 90AE amended  
31      Article 90B amended  
32      Article 90C amended  
33      Heading to Part XII amended  
34      Article 92A amended  
35      Article 98B amended  
36      Article 103 amended  
37      Article 104 substituted  
38      Article 105 amended  
39      Article 106 amended  
40      Article 121B amended  
41      Schedule 2 amended  
42      Deletion and repeals  
43      Commencement of Chapter 2

## **PART 4**

---

### EXTENSION OF TRADES CHARGEABLE UNDER SCHEDULE D

44      Article 3 amended  
45      Article 61 amended  
46      Commencement of Part 4

## **PART 5**

---

### PERSONS GRANTED HOUSING CONSENT UNDER REGULATION 1(1)(K)

47      Part XXIA inserted  
48      Commencement of Part 5

## **PART 6**

---

### APPORTIONMENT OF ALLOWANCES ETC. FOR INDIVIDUAL ABSENT FROM THE ISLAND

49      Article 129A inserted  
50      Article 129A amended  
51      Commencement of Part 6

## **PART 7**

---

### REMOVAL OF ALLOWANCE FOR CHILD IN CERTAIN CASES

52      Article 95 amended  
53      Schedule 5 amended  
54      Commencement of Part 7

## **PART 8**

---

CLOSING PROVISION

55

Citation





Jersey

## **DRAFT INCOME TAX (AMENDMENT No. 24)(JERSEY) LAW 200-**

**A LAW** to amend further the Income Tax (Jersey) Law 1961.

---

*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 –

---

### **PART 1**

#### **INTERPRETATION**

##### **1 Interpretation**

In this Law, “principal Law” means the Income Tax (Jersey) Law 1961.<sup>[1]</sup>

### **PART 2**

#### **INTRODUCTION OF INCOME TAX INSTALMENT SYSTEM**

##### **2 Article A15 inserted**

At the beginning of Part IV of the principal Law<sup>[2]</sup> there shall be inserted the following Article –

###### **“A15 Interpretation of Part IV**

(1) In this Part, unless the context otherwise requires –

‘building contractor’ means, subject to paragraphs (4) and (5) of this Article, a person carrying on any business in the building or construction industry;

‘earnings’ means all salaries, fees, wages, perquisites or profits or gains arising from an office or employment;

‘effective rate’ means the rate applicable in a person’s case in accordance with Article 41B(2) of this Law;

‘employee’ includes –

- (a) a director of a company;
- (b) a person engaged in the management of a company; and
- (c) any office holder, whether or not of a company,

and any reference to a person being employed or commencing employment shall be construed accordingly;

‘exemption certificate’ means a certificate issued under Article 41F of this Law.

- (2) For the purposes of this Part, a person is a sub-contractor of a building contractor if, under a contract for building or construction work –
  - (a) the person is under a duty to the building contractor to carry out building or construction work or to furnish his or her own labour (that is to say, in the case of a company, the labour of employees or officers of the company) or the labour of others in the carrying out of the work or to arrange for the labour of others to be furnished in the carrying out of the work; or
  - (b) the person is answerable to the building contractor for the carrying out of the work by others, whether under a contract or under other arrangements made or to be made by the person.
- (3) In determining, for the purposes of paragraph (2) of this Article, whether a person is carrying out building or construction work or furnishing labour for another person, the supply by or on behalf of the first-mentioned person to the other person of any materials which are incidental to the work shall be disregarded.
- (4) Subject to paragraph (5) of this Article, where a building contractor is not resident in the Island, any officer (by whatever name called) of the building contractor or other person who is –
  - (a) engaged in the management of the building contractor; and
  - (b) resident in the Island,shall be deemed to be the building contractor.
- (5) Where a building contractor is a body of persons, the secretary of the body or other officer (by whatever name called) performing the duties of secretary shall, if resident in the Island, be deemed to be the building contractor.
- (6) Subject to paragraph (7) of this Article, where an employer is not resident in the Island any officer (by whatever name called) of the employer or other person who is –
  - (a) engaged in the management of the employer; and
  - (b) resident in the Island,shall be deemed to be the employer.
- (7) Where an employer is a body of persons, the secretary of the body or other officer (by whatever name called) performing the duties of secretary shall, if resident in the Island, be deemed to be the employer.”.

### 3 Article 19A inserted and Schedule 5 amended

- (1) After Article 19 of the principal Law<sup>[3]</sup> there shall be inserted the following Article –

#### “19A Duty of employer or building contractor to register

- (1) A person who becomes an employer shall, no later than one month after so becoming, notify the Comptroller, in writing, of the date the person became an employer.



- (2) A building contractor shall, no later than one month after first entering into a contract with a sub-contractor, notify the Comptroller, in writing, of the date the building contractor first entered into such a contract.
  - (3) A person who fails to comply with paragraph (1) or (2) of this Article shall be guilty of an offence and liable to a fine of level 3 on the standard scale.<sup>[4]</sup>
  - (4) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the employer by virtue of paragraph (6) or (7) of Article A15 of this Law, the body corporate, as well as that person, shall be liable to a penalty for failure to comply with paragraph (1) of this Article.
  - (5) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the building contractor, by virtue of paragraph (4) or (5) of Article A15 of this Law, the body corporate, as well as that person, shall be liable to a penalty for failure to comply with paragraph (2) of this Article.”.
- (2) After paragraph 1 of Schedule 5 to the principal Law<sup>[5]</sup> there shall be added the following paragraph –

**“2 Income Tax (Amendment No. 24) (Jersey) Law 200 : transitional provisions for Article 19A**

- (1) Article 19A of this Law shall apply to a person who, on 31st December 2004, is an employer but who has not, at any time in 2004, delivered a return pursuant to Article 20 of this Law, as if the person became an employer on 1st January 2005.
- (2) Article 19A of this Law shall apply to a building contractor who, on 31st December 2004, has a contract with a sub-contractor but who has not, at any time in 2004, delivered a return pursuant to Article 20A of this Law, as if the building contractor first contracted with a sub-contractor on 1st January 2005.”.

**4 Articles 20 and 20A substituted**

For Articles 20 and 20A of the principal Law<sup>[6]</sup> there shall be substituted the following Articles –

**“20 Returns of information regarding employees**

- (1) An employer shall, when required to do so by a general notice or by a notice served on the employer by the Comptroller, and within the time limited by the notice, prepare and deliver to the Comptroller a true, complete and correct return containing, as required by the notice, all or any of the specified information for the period or year of assessment specified in the notice in respect of each person employed by the employer at any time during that period or year.
- (2) The specified information in respect of each person employed by the employer at any time during the period or year specified is –
  - (a) the person’s full name and place or places of residence;
  - (b) in the case of a woman, the full name of the woman’s spouse (if any);
  - (c) the reference number (if any) assigned to the person by the Comptroller;
  - (d) the reference number (if any) assigned to the employer by the Comptroller;
  - (e) the reference number assigned to the person for the purposes of the Social Security

(Jersey) Law 1974;<sup>[7]</sup>

- (f) a description of the person's employment;
  - (g) the earnings paid to the person in respect of the employment;
  - (h) the benefits provided to the person, whether by the employer or by a person connected with the employer, other than any benefit left out of account by virtue of Article 65B(2)(b) of this Law, and the amount attributable to each benefit determined in accordance with the said Article 65B;
  - (i) the amounts deducted from the earnings paid to the person in respect of superannuation;
  - (j) the amounts required, pursuant to Article 41B of this Law, to be deducted from the earnings paid to the person and the effective rate applied to each deduction;
  - (k) where the employment commenced in the period or year of assessment in question, the date of such commencement; and
  - (l) where the employment ceased in the period or year of assessment, the date of such cessation.
- (3) The Comptroller –
- (a) may require a return to be in a form, and delivered in a manner, approved by the Comptroller; and
  - (b) may require an employer to sign a declaration that the information given in the return is true, complete and correct to the best of the employer's knowledge.
- (4) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the employer, by virtue paragraph (6) or (7) of Article A15 of this Law, the body corporate, as well as the person, shall be liable to a penalty for failure to deliver a return when required to do so by or under this Article.

## **20A Returns of information regarding building sub-contractors**

- (1) A building contractor shall, when required to do so by a general notice or by a notice served on the building contractor by the Comptroller, and within the time limited by the notice, prepare and deliver to the Comptroller a true, complete and correct return containing, as required by the notice, all or any of the specified information for the period or year of assessment specified in the notice in respect of each person who is a sub-contractor of the building contractor at any time during that period or year.
- (2) The specified information in respect of each person who is a sub-contractor of the building contractor at any time during the period or year specified is –
  - (a) the person's full name and place or places of residence;
  - (b) in the case of a woman, the full name of the woman's spouse (if any);
  - (c) the reference number (if any) assigned to the person by the Comptroller;
  - (d) the reference number (if any) assigned to the building contractor by the Comptroller;
  - (e) the reference number assigned to the person for the purposes of the Social Security (Jersey) Law 1974;<sup>[8]</sup>
  - (f) the payments made to the person, or to a person he or she has nominated for the purpose, under or in relation to the contract and the date such payments are made;
  - (g) the amounts required, pursuant to Article 41E of this Law, to be deducted from the payments described in sub-paragraph (f) in respect of tax;

- (h) the making of any payment without deduction of tax pursuant to Article 41E of this Law, by virtue of paragraph (2) of that Article;
  - (i) where the contract commenced in the period or year of assessment in question, the date of such commencement; and
  - (j) where the contract ceased in the period or year of assessment, the date of such cessation.
- (3) The Comptroller –
- (a) may require a return to be in a form, and delivered in a manner, approved by the Comptroller; and
  - (b) may require a building contractor to sign a declaration that the information given in the return is true, complete and correct to the best of his or her knowledge.
- (4) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the building contractor, by virtue of paragraph (4) or (5) of Article A15 of this Law, the body corporate, as well as that person, shall be liable to a penalty for failure to deliver a return when required to do so by or under this Article.”.

## 5 Article A39 inserted

At the beginning of Part VII of the principal Law<sup>[9]</sup> there shall be inserted the following Article –

### “A39 Interpretation of Part VII

Expressions defined in Article A15 of this Law shall, unless the context otherwise requires have the same meaning in this Part.”.

## 6 Article 39 amended

At the beginning of Article 39 of the principal Law<sup>[10]</sup> there shall be inserted the words “Subject to Articles 41A, 41B and 41E of this Law,”.

## 7 Articles 41A to 41I inserted

After Article 41 of the principal Law<sup>[11]</sup> there shall be inserted the following Articles –

### “41A Duty to pay instalment in April

- (1) Subject to paragraph (12) of this Article, a person who is not a body corporate shall, in accordance with this Article, pay an instalment of income tax for a year of assessment.
- (2) The instalment –
  - (a) shall be due and payable no later than 6 p.m. on the last Friday in April of the year next following the year of assessment; and
  - (b) subject to this Article, shall be an amount equal to 50% of the person’s liability to income tax for the year preceding the year of assessment, less the amount of any tax already paid in respect of the year of assessment (disregarding any amount paid by way of deduction under Article 41B or 41E of this Law).
- (3) Where –

- (a) part of a person's income for the year preceding the year of assessment comprises earnings; and
  - (b) those earnings comprise 25% or less of the person's total income for that year,paragraph (2)(b) of this Article shall have effect with the substitution for the amount "50%" of the amount "40%".
- (4) A person shall not be required to pay an instalment pursuant to this Article where the instalment would be less than £100.
- (5) A person shall be liable to pay the instalment whether or not an assessment has been raised for the year of assessment for which the instalment is due.
- (6) The Comptroller may, on an application made by a person no later than the end of March preceding the day an instalment is due, reduce the amount of the instalment or waive the instalment where the Comptroller is satisfied –
  - (a) that 50% of the person's liability to income tax for the year of assessment is likely to be substantially less than the instalment determined in accordance with paragraph (2)(b) of this Article; or
  - (b) that the person's income for the year of assessment from sources other than earnings is likely to be substantially less than the person's income for the preceding year from such sources.
- (7) Where a person applies for a reduction or waiver under paragraph (6) of this Article, the Comptroller shall give notice to the person of whether or not the Comptroller has reduced the amount of or waived the instalment.
- (8) A person aggrieved by the Comptroller's refusal to reduce the amount of or waive an instalment under paragraph (6) of this Article may appeal to the Commissioners, or giving notice in writing to the Comptroller, within 40 days of the issue of the notice under paragraph (7) of this Article.
- (9) The instalment determined in accordance with paragraph (2)(b) of this Article shall be due and payable notwithstanding that an appeal is pending under paragraph (8) of this Article.
- (10) On the determination of an appeal under paragraph (8) of this Article, any balance of the instalment due in accordance with the determination shall be paid, or any amount determined to have been overpaid shall be repaid, as the case may require.
- (11) Save as provided in paragraphs (8) to (10) of this Article, Part VI of this Law shall apply, with the necessary modifications, to an appeal under paragraph (8) of this Article as it applies to an appeal against any assessment.
- (12) This Article shall not apply –
  - (a) where more than 25% of a person's total income for the year preceding the year of assessment comprises earnings; or
  - (b) in the case of a trustee liable to tax for the year of assessment by virtue of Article 6(2) of the Income Tax (Superannuation Funds) (Jersey) Order 1972.<sup>[12]</sup>

#### **41B Duty of employer to deduct and account for tax**

- (1) An employer shall, in accordance with this Article, deduct tax at the effective rate from earnings payable by the employer to an employee.
- (2) The effective rate shall be –
  - (a) where the employer has received a copy of a notice issued by the Comptroller under Article 41C of this Law specifying a rate applicable on the day the

deduction is made, the rate so specified;

(b) where the employer has not received a copy of such a notice –

(i) for deductions made in the years 2006 and 2007, 15%,

(ii) for deductions made in the year 2008 and ensuing years, 20%.

- (3) When making a deduction under paragraph (1) of this Article, an employer shall give the employee written notice of the amount of the deduction and the effective rate applied to the deduction.
- (4) An employer shall maintain a record of the amount of tax deducted and the effective rate applied to the deduction in respect of each of his or her employees.
- (5) An employer shall, no later than 15 days after the end of each month, remit to the Comptroller an amount equal to the aggregate of the amounts required to be deducted under paragraph (1) of this Article during the month in respect of each of his or her employees.
- (6) An employer shall, no later than the end of January following a year of assessment, give each of the persons in his or her employment at the end of that year a written summary of the deductions made pursuant to this Article from the employee's earnings for that year.
- (7) Where an employee ceases employment before the end of a year of assessment, the employer shall, upon the employment ceasing, give the employee a written summary of the deductions made pursuant to this Article from the employee's earnings for that year.
- (8) An employer shall not be required to deduct tax and remit it to the Comptroller in the case of an employee who, on the 31st December in the year in which the deduction would otherwise be made, will be under the age of 17 years.
- (9) An employer who fails to comply with paragraph (5) of this Article shall be guilty of an offence and liable to a fine of –
  - (a) level 4 on the standard scale,<sup>[13]</sup> and
  - (b) an amount not exceeding the monies not remitted, in contravention of that paragraph.
- (10) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the employer by virtue of paragraph (6) or (7) of Article A15 of this Law, the body corporate, as well as the person, shall be liable to a fine under paragraph (9) of this Article.
- (11) The imposition of a fine under paragraph (9)(b) of this Article shall not discharge the employer's liability to remit the monies required under paragraph (5) of this Article.
- (12) Where an employee proves, to the satisfaction of the Comptroller, that a deduction has been made from the employee's earnings, in accordance with paragraph (1) of this Article, the employee shall be entitled to have the deduction treated as a payment of tax by the employee, notwithstanding that the employer has failed to remit the amount to the Comptroller in accordance with paragraph (5) of this Article.
- (13) An employer who fails to make a deduction in accordance with paragraph (1) of this Article but who remits to the Comptroller the amount required by paragraph (5) of this Article in respect of an employee may recover that amount from the employee as a civil debt.
- (14) Deductions shall be made, in accordance with this Article, from the earnings of a married woman notwithstanding that, by virtue of Article 121(1) of this Law, her income is deemed to be that of her husband.
- (15) An agreement shall be void to the extent that it provides for the payment of earnings

without deduction of tax in contravention of this Article.

#### **41C Calculation of rate**

(1) In this Article –

‘payment year’ means the year in which the rate applies to deductions made under Article 41B of this Law;

‘the year of assessment’ means the year preceding the payment year.

(2) Subject to this Article and Article 41D of this Law, the rate applicable in an employee’s case shall be determined in accordance with the following formula –

$$\frac{L}{I} \times 100 = \text{percentage effective rate}$$

Where –

L is the sum of –

- (a) the employee’s liability to tax for the year of assessment;
- (b) an amount not exceeding the aggregate of any arrears of tax for any earlier year of assessment (whether or not judgment has been obtained in respect of the arrears); and
- (c) any costs recoverable in respect of such arrears, less any amount of tax already paid for the year of assessment (disregarding any amount paid by way of deduction under Article 41B or 41E of this Law); and

I is the total of the sums for which the employee has been or is liable to be assessed for the year of assessment and the sums in respect of which the employee is liable to allow the deduction of tax in the year of assessment.

- (3) The percentage rate determined in accordance with paragraph (2) of this Article shall be rounded up to the nearest whole number.
- (4) The Comptroller may, before an employee has delivered a statement for the year of assessment pursuant to Article 16 of this Law, determine, in accordance with paragraph (5) of this Article, a provisional rate and issue a notice, in writing, to the employee of the rate and the day from which the rate applies.
- (5) For the purposes of determining a rate pursuant to paragraph (4) of this Article paragraph (2) of this Article shall have effect with –
  - (a) in sub-paragraph (a) of the definition ‘L’, the insertion after the words “liability to tax for” of the words “the year preceding”;
  - (b) in the definition ‘I’ –
    - (i) the insertion after the words “assessed for” of the words “the year preceding”,
    - (ii) the insertion after the words “deduction of tax in” of the words “the year preceding”.
- (6) The Comptroller may, after an employee has delivered a statement for the year of assessment pursuant to Article 16 of this Law, determine the rate applicable to the employee and issue a notice, in writing, to the employee and the employee’s employer, of the rate and the day from which the rate applies.
- (7) Where it appears to the Comptroller at any time that, by reason of any change in the information by reference to which the rate is determined, the rate applicable in an employee’s case has altered, the Comptroller may issue a notice, in writing, to the employee and the employee’s employer, of the revised rate and the day from which the

rate applies.

- (8) Subject to paragraph (9) of this Article –
  - (a) an employee may, at any time, make an election, in writing, to the Comptroller to have a rate applied in the employee's case that exceeds the rate determined in accordance with the foregoing paragraphs of this Article; and
  - (b) upon an election being made, the Comptroller shall issue a notice in writing to the employee of the rate and the day from which the rate applies.
- (9) The rate shall not exceed –
  - (a) in a case where the employee has no arrears of tax, 20%;
  - (b) in a case where the employee has arrears of tax for one year of assessment, 25%;
  - (c) in a case where the employee has arrears of tax for 2 years of assessment, 30%;
  - (d) in a case where the employee has arrears of tax for 3 or more years of assessment, 35%.
- (10) A notice issued by the Comptroller under this Article shall have effect until whichever is the earlier of –
  - (a) the day stated in the notice;
  - (b) the day on which a rate specified in a further notice has effect; or
  - (c) the end of the current year.
- (11) An employee aggrieved by the rate applicable in his or her case, or by a refusal by the Comptroller to issue a notice under this Article, may appeal to the Commissioners, on giving notice in writing to the Comptroller –
  - (a) within 40 days of the issue of a notice under of this Article; or
  - (b) where the Comptroller has not issued a notice to the employee, within 40 days of providing the Comptroller with sufficient information to determine a rate under this Article.
- (12) The rate notified to the employee or, in the case where no rate has been notified to the employee, the rate applicable by virtue of Article 41B(2)(b), shall apply in the employee's case notwithstanding that an appeal is pending under paragraph (11) of this Article.
- (13) Save as provided in paragraphs (11) and (12) of this Article, Part VI of this Law shall apply, with the necessary modifications, to an appeal under paragraph (11) of this Article as it applies to an appeal against any assessment.
- (14) The fact that, in determining the rate applicable in an employee's case, the sum 'L' referred to in paragraph (2) of this Article includes an amount described in sub-paragraph (b) or (c) of that paragraph shall not prevent the Comptroller pursuing the recovery of that amount by other means.
- (15) A person who gives another person –
  - (a) a document purporting to be a notice issued by the Comptroller under this Article, knowing it to be false; or
  - (b) a notice issued by the Comptroller under this Article, knowing that the notice has been altered by a person other than the Comptroller,shall be liable to a fine of level 4 on the standard scale. <sup>[14]</sup>

#### **41D Deductions in respect of husbands and wives**

- (1) In the case of a husband and wife to whom Article 121(1) of this Law applies–

- (a) a rate shall be determined in accordance with Article 41C(2) of this Law as if the husband were the employee, whether or not he is in employment; and
  - (b) subject to paragraph (2) of this Article, where the Comptroller has issued a notice under Article 41C specifying a rate, that rate shall apply to both the husband and the wife.
- (2) Where the husband and wife are each in employment they may jointly elect for the rate applicable to the earnings of one of them to be increased and the rate applicable to the earnings of the other of them to be correspondingly reduced.
- (3) The increased rate applicable to the earnings of one of them may exceed the limit in Article 41C(9), if the husband and wife so elect and the Comptroller so agrees.
- (4) The aggregate of the deductions made when applying the rates, adjusted pursuant to this Article, to the earnings of the husband and wife shall not be less than the aggregate of the deductions that would have been made had the adjustment not been made.
- (5) An election shall cease to have effect upon –
  - (a) either the husband or wife ceasing to be in employment;
  - (b) paragraph (4) not being complied with;
  - (c) a new rate applying pursuant to a further notice issued under Article 41C of this Law; or
  - (d) an effective rate described in Article 41B(2)(b) of this Law applying.

#### **41E Duty of building contractor to deduct and account for tax**

- (1) A building contractor shall, in accordance with this Article, deduct tax at the specified rate from payments made to a sub-contractor or to a person nominated by the sub-contractor for the purpose.
- (2) Paragraph (1) of this Article shall not apply at any time when –
  - (a) the sub-contractor has produced an exemption certificate to the building contractor; and
  - (b) the building contractor is satisfied that the exemption certificate is in force at the time the payment is made.
- (3) When making a deduction under paragraph (1) of this Article a building contractor shall give the sub-contractor or the person nominated by the sub-contractor to receive the payment written notice of the amount of the deduction.
- (4) A building contractor shall maintain a record of the amount of tax deducted in respect of each of his or her sub-contractors.
- (5) A building contractor shall, no later than 15 days after the end of each month, remit to the Comptroller an amount equal to the aggregate of the amounts required to be deducted under paragraph (1) of this Article during the month in respect of each of his or her sub-contractors.
- (6) Where, before the end of a year of assessment, a person ceases to be a sub-contractor of a building contractor, the building contractor shall give the sub-contractor a written summary of the total deductions made, pursuant to this Article, during that year, from the payments made under the contract to the sub-contractor or person nominated by the sub-contractor for the purpose.
- (7) A building contractor shall, no later than the end of January following a year of assessment, give each person who is, at the end of the year, his or her sub-contractor, a written summary of the total deductions made, pursuant to this Article, during that year, from the payments made under the contract to the sub-contractor or person nominated



by the sub-contractor for the purpose.

- (8) A building contractor who fails to comply with paragraph (5) of this Article shall be guilty of an offence and liable to a fine of –
  - (a) level 4 on the standard scale,<sup>[15]</sup> and
  - (b) an amount not exceeding the monies not remitted, in contravention of that paragraph.
- (9) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the building contractor by virtue of paragraph (4) or (5) of Article A15 of this Law, the body corporate, as well as that person, shall be liable to a fine under paragraph (8) of this Article.
- (10) The imposition of a fine under paragraph (8)(b) of this Article shall not discharge the building contractor's liability to remit the monies required by paragraph (5) of this Article.
- (11) Where a sub-contractor proves, to the satisfaction of the Comptroller, that a deduction has been made in accordance with paragraph (1) of this Article from payments made to the sub-contractor or to a person nominated by the sub-contractor for the purpose, the sub-contractor shall be entitled to have the deduction treated as a payment of tax by the sub-contractor, notwithstanding that the building contractor has failed to remit the amount to the Comptroller in accordance with paragraph (5) of this Article.
- (12) A building contractor who fails to make a deduction in accordance with paragraph (1) of this Article but who remits to the Comptroller the amount required by paragraph (5) of this Article may recover that amount from the sub-contractor as a civil debt.
- (13) A contract shall be void to the extent that it provides for payments to be made without deduction of tax, in contravention of this Article.
- (14) Where a sub-contractor has arrears of tax for any year of assessment, the fact that deductions are made in accordance with this Article from payments made to the sub-contractor or to a person nominated by the sub-contractor for the purpose shall not prevent the Comptroller pursuing the recovery of those arrears by any means.
- (15) For the purposes of this Article, the 'specified rate' is –
  - (a) for deductions made in the years 2006 and 2007, 15%;
  - (b) for deductions made in the year 2008, and ensuing years, 20%.

#### **41F Exemption certificate**

- (1) A sub-contractor may apply to the Comptroller for an exemption certificate.
- (2) An application for an exemption certificate shall be made in such form and manner, and accompanied by such information, as the Comptroller may require.
- (3) The Comptroller may issue an exemption certificate where the Comptroller is satisfied that the sub-contractor has consistently complied with the requirements of this Law in full and without delay.
- (4) An exemption certificate shall, unless cancelled under paragraph (5) of this Article, have effect for the year specified in it, and may be issued subject to conditions.
- (5) The Comptroller may cancel an exemption certificate at any time when –
  - (a) the Comptroller is no longer satisfied that the sub-contractor has consistently complied with the requirements of this Law in full and without delay; or
  - (b) the conditions attached to the certificate have not been complied with.

- (6) Upon cancelling an exemption certificate, the Comptroller shall publish a notice of cancellation in such a manner that the notice is likely to be seen by persons affected by it.
- (7) The cancellation of an exemption certificate shall take effect upon publication of the notice required by paragraph (6) of this Article.
- (8) A person who gives another person –
  - (a) a document purporting to be an exemption certificate issued by the Comptroller under this Article, knowing it to be false; or
  - (b) an exemption certificate, knowing that the certificate has been altered by a person other than the Comptroller,shall be liable to a fine of level 4 on the standard scale. <sup>[16]</sup>

#### **41G Treatment of amounts received by Comptroller**

- (1) Subject to paragraphs (2) to (4) of this Article, the Comptroller shall receive an amount remitted under Article 41B or 41E of this Law as a payment of tax for the preceding year of assessment by the employee from whose earnings, or the sub-contractor from whose payments, the amount was deducted.
- (2) Where the Comptroller receives an amount remitted under Article 41B or 41E of this Law which has been deducted from the earnings of, or payments made to, a married woman whose income, by virtue of Article 121(1) of this Law, is deemed to be that of her husband, the Comptroller shall receive the amount as a payment of tax by her husband.
- (3) Where, in determining the rate applicable to an amount remitted under Article 41B of this Law, the amount 'L' defined in Article 41C(2) of this Law includes an amount, in accordance with sub-paragraph (b) or (c) of that definition, in respect of arrears of tax or costs recoverable with them, the Comptroller shall apportion any amount remitted under that Article between the employee's liability to pay tax for the year of assessment and his or her liability to pay the arrears or costs, in the same proportion that those liabilities bear to each other.
- (4) Where, in the case of a sub-contractor who has arrears of tax, or costs recoverable with arrears, accruing from a previous year of assessment, the deductions received by the Comptroller in a year of assessment exceed the sub-contractor's liability to tax for the preceding year, the Comptroller shall –
  - (a) receive the excess as a payment of those arrears or costs; and
  - (b) where the sub-contractor has outstanding arrears or costs from more than one previous year of assessment, apply the excess so as to reduce or discharge the arrears or costs from the earliest year of assessment first.
- (5) This Article shall apply notwithstanding that an assessment has not been served on the employee or sub-contractor under Article 25.

#### **41H Arrangements for new taxpayers**

- (1) This Article applies to a person –
  - (a) who was resident in the Island in any of the years of assessment 2002, 2003 and 2004 but who has not, before 1st September 2005, delivered to the Comptroller a statement, pursuant to Article 16 of this Law, for any of those years;
  - (b) who is resident in the Island on 31st December 2005 but who has not, before that

date, provided the Comptroller with information that would be sufficient to enable the Comptroller, in accordance with Article 41C of this Law, to determine a rate to apply in the person's case for the year 2006; or

(c) who first commences employment or becomes a sub-contractor, in the Island, on or after 1st January 2006 and who was not liable to tax, as a person residing in the Island, for the year of assessment preceding the year in which the employment or contract commences.

(2) A person to whom this Article applies who, on 1st January 2006, is in employment or a sub-contractor of a building contractor shall be treated as a new taxpayer for the period of 7 years beginning on that date.

(3) A person to whom this Article applies who, after 1st January 2006, commences employment or becomes a sub-contractor of a building contractor shall be treated as a new taxpayer for the period consisting of the year in which the employment or contract commences and the 6 ensuing years.

(4) Where a person treated as a new taxpayer, whether by virtue of paragraph (2) or (3) of this Article or by virtue of this paragraph –

(a) ceases to reside in the Island before the end of the period applicable in the person's case pursuant to, as the case may be, paragraph (2) or (3) of this Article or this paragraph; and

(b) returns to the Island to commence or resume employment in the Island, or to become or resume as a sub-contractor in the Island,

the person shall be treated as a new taxpayer for the period consisting of the year in which the employment or contract commences or resumes and the 6 ensuing years.

(5) A person described in paragraph (2) of this Article shall, no later than 1st March 2006 notify the Comptroller, in writing, of the information described in paragraphs (7) and (8) of this Article.

(6) A person described in paragraph (3) or (4) of this Article shall, no later than one month after commencing or resuming the employment or entering into or resuming the contract, notify the Comptroller, in writing, of the information described in paragraphs (7) and (8) of this Article.

(7) The information required is –

(a) the person's full name and place or places of residence;

(b) the reference number assigned to the person for the purposes of the Social Security (Jersey) Law 1974;<sup>[17]</sup>

(c) the person's date of birth;

(d) if the person is married, the date of the marriage;

(e) the number of children dependent upon the person;

(f) the date (if any) the person arrived in the Island;

(g) the name and address of –

(i) if the person is an employee, his or her employer,

(ii) if the person is a sub-contractor of a building contractor, the building contractor;

(h) the date the employment or building contract commenced;

(i) an estimate of the person's –

(i) earnings from the employment or payments under the building contract, and

(ii) income from all other sources,

in the year in which the employment or contract commences.

- (8) A married person shall also provide the information described in paragraph (7) of this Article in respect of his or her spouse.
- (9) The Comptroller may –
  - (a) require a return of information under paragraph (7) of this Article to be in a form, and delivered in a manner, approved by the Comptroller; and
  - (b) require the person making the return to sign a declaration that the information given is true, complete and correct to the best of his or her knowledge.
- (10) Whilst a person is treated as a new taxpayer, this Part shall apply with the following modifications –
  - (a) in Article 41C(2) –
    - (i) in the definition ‘L’, for sub-paragraph (a) there shall be substituted the following sub-paragraph –  
‘(a) the employee’s estimated liability to tax for the payment year;’,
    - (ii) in the full out words to the definition ‘L’, for the words “the year of assessment” there shall be substituted the words “the payment year”,
    - (iii) for the definition ‘I’ there shall be substituted the following definition –  
‘ I’ is the total of the sums for which the employee is estimated to be liable to be assessed for the payment year and the sums in respect of which the employee is estimated to be liable to allow the deduction of tax in the payment year.’;
  - (b) in paragraphs (1) and (4) of Article 41G for the words ‘preceding year’ there shall be substituted the words ‘that year’.
- (11) For the last 2 years of assessment for which a person is treated as a new taxpayer, this Part shall apply with the additional modification that in Article 41C(2) for the amount ‘100’ there shall be substituted the amount ‘50’.

#### **41I Late payment surcharge**

- (1) In this Article, ‘specified time’, in relation to a year of assessment, means 6 p.m. on the Friday following the first Monday in December of the year next following the year of assessment.
- (2) Any person chargeable to tax, whether or not an assessment has been served on that person, shall be liable to pay an amount in addition to that tax (hereafter referred to as the ‘surcharge’) equal to 10% of that tax which remains unpaid, if the tax chargeable on that person for the year of assessment is not paid in full by the specified time.  
Provided that the Comptroller may waive payment of the surcharge –
  - (a) if it amounts to £50 or less for any year of assessment;
  - (b) where failure to pay the tax by the specified day is caused by the action of a person, in accordance with Article 3A of this Law, not connected with the person liable to the surcharge and the failure is remedied without unnecessary delay; or
  - (c) the Comptroller is satisfied that death, serious illness or other grave and exceptional circumstance prevented payment by the specified time.
- (3) Paragraph (2) of this Article shall not apply where the aggregate of the amounts received by the specified time by the Comptroller, pursuant to Article 41G of this Law, as payment of a person’s tax for the year of assessment, is 70% or more of the person’s liability to tax for that year.

- (4) The Comptroller shall issue a written notice to a person of his or her liability under paragraph (2) of this Article.
- (5) A person may, within 40 days of the issue of a notice under paragraph (4) of this Article apply to the Comptroller in writing for a waiver under paragraph (2) of this Article.
- (6) Where a person applies under paragraph (5) of this Article, the Comptroller shall give notice to the person of whether or not he has waived the person's liability.
- (7) A person aggrieved by the Comptroller's refusal to waive liability under paragraph (2) of this Article may appeal to the Commissioners, on giving notice in writing to the Comptroller within 40 days of the issue of notice of refusal.
- (8) The following provisions of this Law shall apply, with the necessary modifications, to an appeal under paragraph (7) of this Article as they apply to an appeal against any assessment –
  - (a) the proviso to Article 27(1);
  - (b) Article 27(2);
  - (c) Article 28(1);
  - (d) Article 29, with the omission of paragraphs (4) and (5);
  - (e) Articles 29A and 31 to 36.
- (9) All monies received by the Comptroller in payment of the surcharge shall be applied to meet the costs of collection of the Income Tax Department and any remainder paid to the Treasurer of the States.”.

## **8 Consequential amendment and repeals**

- (1) In Article 17A(12) of the principal Law<sup>[18]</sup> for the words “Article 26(2)” there shall be substituted the words “Article 41I(2)”.
- (2) The following provisions of the principal Law shall be repealed –
  - (a) Article 26;<sup>[19]</sup>
  - (b) Article 102;<sup>[20]</sup>
  - (c) Article 136(4).<sup>[21]</sup>

## **9 Bankruptcy (Désastre) (Jersey) Law 1990 amended**

In Article 32(1)(c)(i) of the Bankruptcy (Désastre) (Jersey) Law 1990,<sup>[22]</sup> for the words “Article 45” there shall be substituted the words “Articles 41B, 41E and 45”.

## **10 Commencement of Part 2**

- (1) The following provisions of this Part shall come into force on 1st January 2005 –
  - (a) Articles 2 and 3;
  - (b) Article 5;
  - (c) Article 7, to the extent that it inserts the following Articles in the principal Law –
    - (i) Article 41C,
    - (ii) Article 41D,
    - (iii) Article 41F.

- (2) The following provisions of this Part shall come into force on 1st January 2006 –
- (a) Article 4;
  - (b) Article 6;
  - (c) Article 7, to the extent that it is not already in force by virtue of paragraph (1)(c);
  - (d) Articles 8 and 9.

## **PART 3**

### **WITHDRAWAL OF ALLOWANCES AND RELIEFS**

#### **CHAPTER 1**

##### **ALLOWANCES AND RELIEFS REDUCED FOR 2006 AND 2007**

#### **11 Articles 86, 89A and 90 amended**

In Articles 86(2)(e), 89A(2) and 90 of the principal Law<sup>[23]</sup> after the words “90AA to 90AD” there shall be inserted the words “and Article 90D”.

#### **12 Article 90D inserted**

After Article 90C of the principal Law<sup>[24]</sup> there shall be inserted the following Article –

##### **“90D Reduction in relief of tax for 2006 and 2007**

Notwithstanding Article 90AA and Articles 90A to 90C of this Law, the amount of any relief that a person is allowed to deduct, by virtue of any of those Articles, in calculating his total income shall be reduced –

- (a) for the year of assessment 2006, by one third;
- (b) for the year of assessment 2007, by two thirds.”.

#### **13 Article 92 amended**

At the beginning of Article 92(1) of the principal Law<sup>[25]</sup> there shall be inserted the words “Subject to Article 101B of this Law,”.

#### **14 Articles 92A and 92B substituted**

For Articles 92A and 92B of the principal Law<sup>[26]</sup> there shall be substituted the following Articles –

##### **“92A Threshold for exemption from income tax**

- (1) An individual shall be entitled to exemption from income tax for a year of assessment if his total income for that year does not exceed the threshold applicable in his case by virtue of this Article.

- (2) The threshold applicable in the case of an individual who proves, for the year of assessment –
- (a) that he has his wife living with him; or
  - (b) that his wife is wholly maintained by him during the year of assessment and that he is not entitled, in computing the amount of his income for that year for the purposes of this Law, to make any deductions in respect of sums paid for the maintenance of his wife,
- shall, subject to paragraphs (3), (4) and (5) of this Article and Articles 92B, 95 and 98A of this Law, be £17,680.
- (3) Where an individual to whom paragraph (2) of this Article applies proves, at the commencement of the year of assessment, that either he or his wife living with him was of the age of 63 years or more, the threshold shall be increased by £2,570.
- (4) Where the individual's total income for the year of assessment includes any earned income of his wife, the threshold shall be increased by an amount equal to the amount of that earned income, but not exceeding in any case £4,500.
- (5) No exemption shall be allowed by virtue of paragraph (4) of this Article in respect of earned income received or receivable by the wife from the individual himself.
- (6) The threshold applicable in the case of any individual to whom, for the year of assessment, paragraph (2) of this Article does not apply shall, subject to paragraph (7) of this Article and Articles 92B, 95 and 98A of this Law, be £11,020.
- (7) Where an individual to whom paragraph (6) of this Article applies proves, at the commencement of the year of assessment that he was of the age of 63 years or more the threshold shall be increased by £1,280.
- (8) In calculating, for the purposes of paragraph (1) of this Article, the amount by which an individual's total income exceeds the threshold applicable in the individual's case, the effect of Article 90D of this Law shall be disregarded.

#### **92B Increase in exemption threshold for child care**

- (1) The threshold applicable in the case of an eligible claimant shall be increased by –
- (a) the amount paid by the claimant to a registered provider for the care of a qualifying child;
  - (b) the claimant's qualifying income; or
  - (c) £6,150,
- whichever is the lesser, but no amount which qualifies for relief under any other provision of this Law shall be included.
- (2) Where, for any year of assessment, 2 or more individuals are entitled to an increase under paragraph (1) of this Article in respect of the qualifying child, the amount of the increase shall be apportioned between them as they agree or, in default of agreement, by the Comptroller to the best of his judgment, in accordance with evidence supplied to him by each claimant.
- (3) No increase claimed under paragraph (1) of this Article shall be allowed unless the eligible claimant provides the Comptroller with a certificate from the registered provider showing, in respect of the year of assessment –
- (a) the name, address and registration number of the registered provider;
  - (b) the full name and date of birth of the qualifying child; and
  - (c) the amount received for the care of that child.

(4) For the purposes of Article 137 of this Law, a certificate provided under paragraph (3) of this Article shall be treated as a statement made in connection with a claim for relief.

(5) In this Article –

‘eligible claimant’ means –

- (a) an individual in whose case the exemption threshold described in Article 92A(2) of this Law applies and –
  - (i) whose spouse has qualifying income, or
  - (ii) who is entitled to an increase in that threshold under Article 98A of this Law; or
- (b) an individual in whose case the exemption threshold described in Article 92A(6) of this Law applies and who has qualifying income, apart from a man, if he and a woman live together as husband and wife for the whole or any part of the year of assessment;

‘qualifying child’ means a child in respect of whom an eligible claimant’s exemption threshold is increased under Article 95 of this Law and who has not attained the age of 13 years in the year of assessment;

‘qualifying income’ means income, other than any earned income received or receivable by a wife from her husband, arising from a trade, profession, employment or vocation chargeable to tax under Case I or II of Schedule D, other than the first £4,500 of that income for the year of assessment;

‘registered provider’ means a nursery or child minder registered under Article 68 of the Children (Jersey) Law 1969.<sup>[27]</sup>.

## 15 Articles 93 and 94 repealed

Articles 93 and 94 of the principal Law<sup>[28]</sup> shall be repealed.

## 16 Article 95 amended

- (1) For the heading to Article 95 of the principal Law<sup>[29]</sup> there shall be substituted the heading “**Increase in exemption threshold for children**”.
- (2) In Article 95 of the principal Law –
  - (a) in paragraph (1) for the words “a deduction”, in each place where they appear, there shall be substituted the words “an increase in his exemption threshold”;
  - (b) in paragraph (2)–
    - (i) for the words “a deduction” in the first place where they appear, there shall be substituted the words “an increase in his exemption threshold”,
    - (ii) for the words “such a deduction” there shall be substituted the words “such an increase”,
    - (iii) for the words “the same deduction” there shall be substituted the words “the same increase”;
  - (c) in paragraph (3)–
    - (i) for the words “the deduction under this Article” there shall be substituted the words “the exemption threshold increase under this Article”,
    - (ii) for the words “a deduction”, in each place where they appear, there shall be substituted the words “an increase”;



- (d) in paragraph (4)–
  - (i) for the words “a deduction” there shall be substituted the words “an exemption threshold increase”,
  - (ii) for the words “the deduction” there shall be substituted the words “the increase”;
- (e) in paragraph (5) for the words “a deduction” in each place where they appear there shall be substituted the words “an exemption threshold increase”.

## 17 Article 98A substituted

For Article 98A of the principal Law<sup>[30]</sup> there shall be substituted the following Article –

### **“98A Additional increase in exemption threshold for single parents and others**

- (1) If an individual proves, for a year of assessment –
  - (a) that the exemption threshold in Article 92A(2) of this Law does not apply in his case or that it does so apply but he or his spouse was, throughout the year of assessment, totally incapacitated by physical or mental infirmity; and
  - (b) that he is entitled to an exemption threshold increase under Article 95 of this Law in respect of one or more children resident with him,the individual shall, subject to paragraphs (2) to (5) of this Article, be entitled to an exemption threshold increase of £4,500.
- (2) Not more than one increase shall be allowed to an individual under this Article for any year.
- (3) Where –
  - (a) a man and a woman who are not married to each other live together as husband and wife for the whole or any part of a year of assessment; and
  - (b) apart from this paragraph, each of them would be entitled to an exemption threshold increase under paragraph (1) of this Article,neither of them shall be entitled to such an increase except in respect of the youngest of the children in respect of whom either would otherwise be entitled to an increase.
- (4) Where more than one individual is entitled to relief under this Article in respect of the same child, the increase under paragraph (1) of this Article shall be apportioned between them in such proportions as they may agree or, in default of such agreement, in proportion to the length of the periods for which the child was resident with them respectively in the year of assessment.
- (5) Where, for any year of assessment, an individual is entitled under this Article to apportioned increases in respect of 2 or more children, the increase to which the individual is entitled shall be equal to the sum of those apportioned increases or the increase referred to in paragraph (1) of this Article, whichever is the less.”.

## 18 Articles 98B to 98E inserted

After Article 98A of the principal Law<sup>[31]</sup> there shall be inserted the following Articles –

### **“98B Marginal rate of tax**

- (1) An individual whose total income exceeds the threshold applicable in his case by virtue

of Article 92A of this Law shall be entitled, for any year of assessment, to have the amount of income tax payable in respect of his total income reduced so that it does not exceed an amount equal to 27% of the amount by which his total income exceeds that threshold.

- (2) In calculating, for the purposes of paragraph (1) of this Article, the amount by which an individual's total income exceeds the threshold applicable in the individual's case, the effect of Article 90D of this Law shall be disregarded.

#### **98C Deductions from assessable income**

The amount of the income of an individual which is chargeable to income tax shall be ascertained by making from the assessable income of the individual deductions in accordance with and subject to the following provisions of this Part of this Law.

#### **98D Personal allowance**

- (1) Subject to Article 101B of this Law, if an individual proves that for the year of assessment he has his wife living with him, or that his wife is wholly maintained by him during the year of assessment and that he is not entitled in computing the amount of his income for that year for the purposes of this Law to make any deductions in respect of the sums paid for the maintenance of his wife, he shall be entitled to a deduction by way of personal allowance for married persons of £5,200.
- (2) Subject to Article 101B of this Law, an individual who is not entitled to a deduction under paragraph (1) of this Article shall be entitled to a deduction by way of personal allowance of £2,600.
- (3) Subject to Article 101B of this Law, if the total income of the individual includes any earned income of his wife, the deduction to be allowed under this Article shall be increased by an amount equal to the amount of that earned income, but not exceeding in any case £4,500.
- (4) No deduction shall be allowed by virtue of paragraph (3) of this Article in respect of earned income received or receivable by the wife from the individual himself.

#### **98E Child allowances**

- (1) Subject to Article 101B of this Law, an individual entitled to an exemption threshold increase under Article 95 of this Law shall be entitled to a deduction by way of allowance in an amount equal to the increase.
- (2) Subject to Article 101B of this Law, an individual entitled to an exemption threshold increase under Article 98A of this Law shall be entitled to a deduction by way of allowance in an amount equal to the increase.”.

### **19 Article 101 amended**

At the beginning of Article 101(1) of the principal Law<sup>[32]</sup> there shall be inserted the words “Subject to Article 101B of this Law,”.

### **20 Article 101A amended**

In Article 101A of the principal Law<sup>[33]</sup> after the words “Subject to” there shall be inserted the words “Article 101B of this Law and”.

## 21 Article 101B inserted

After Article 101A of the principal Law<sup>[34]</sup> there shall be inserted the following Article –

### “101B Reduction in allowances for 2006 and 2007

Notwithstanding Articles 92, 98D, 98E, 101 and 101A of this Law, the amount of any deduction by way of allowance to which an individual is entitled under any of those Articles shall be reduced –

- (a) for the year of assessment 2006, by one third;
- (b) for the year of assessment 2007, by two thirds.”.

## 22 Article 121B amended

In Article 121B(4) of the principal Law<sup>[35]</sup> –

- (a) for sub-paragraph (b) there shall be substituted the following sub-paragraph –
  - “(b) any increase in the exemption threshold pursuant to Article 92A(4) of this Law and any additional deduction under Article 98D(3) of this Law shall be apportioned to the wife; and”;
- (b) in sub-paragraph (c) for the words “Articles 92B(3),” there shall be substituted the words “Articles 92B(2),”.

## 23 Article 130 amended

In Article 130 of the principal Law,<sup>[36]</sup> in the proviso to paragraph (1), for the words “paragraph (2) of Article 94” there shall be substituted the words “paragraph (4) of Article 92A and paragraph (3) of Article 98D”.

## 24 Schedule 5 amended

In paragraph 1 of Schedule 5 to the principal Law<sup>[37]</sup> –

- (a) after sub-paragraph (3) there shall be inserted the following sub-paragraph –
  - “(3A) In a case to which sub-paragraph (3) applies, Article 96 shall continue to have effect–
    - (a) for the year of assessment 2006, with the substitution in paragraph (1) of that Article of the amount ‘one thousand five hundred pounds’ by the amount ‘£1,000’;
    - (b) for the year of assessment 2007, with the substitution in paragraph (1) of that Article of the amount ‘£1,000’ by the amount ‘£500’.”;
- (b) after sub-paragraph (4) there shall be inserted the following sub-paragraph –
  - “(4A) In a case to which sub-paragraph (4) applies, Article 99 shall continue to have effect–
    - (a) for the year of assessment 2006, with the substitution in paragraph (1) of that Article of the amount ‘one thousand five hundred pounds’, in the second place where it appears, by the amount ‘£1,000’;
    - (b) for the year of assessment 2007, with the substitution in paragraph (1) of that Article of the amount ‘£1,000’ by the amount ‘£500’.”;

(c) after sub-paragraph (5) there shall be inserted the following sub-paragraph –

- “(5A) In a case to which sub-paragraph (5) applies, Article 100 shall continue to have effect–
- (a) for the year of assessment 2006, with the substitution of the amount ‘one thousand five hundred pounds’ by the amount ‘£1,000’;
  - (b) for the year of assessment 2007, with the substitution of the amount ‘£1,000’ by the amount ‘£500’.”.

## 25 Commencement of Chapter 1

This Chapter of this Part shall have effect for the year of assessment 2006 and ensuing years.

## CHAPTER 2

### ALLOWANCES AND RELIEFS ABOLISHED IN 2008

## 26 Article 3 amended

In Article 3(1) of the principal Law<sup>[38]</sup> the definition “assessable income” shall be deleted.

## 27 Article 86 amended

In Article 86(2)(e) of the principal Law<sup>[39]</sup> for the words “so much of the payment as does not qualify for relief under any of Articles 90AA to 90AD and Article 90D of this Law” there shall be substituted the words “, in the case of a payment to which Article 90AA of this Law applies, the whole of the payment and, in the case of a payment to which any of Articles 90AB to 90AD of this Law applies, on so much of the payment as does not qualify for relief under those Articles”.

## 28 Articles 89A and 90 amended

In Articles 89A(2) and 90 of the principal Law<sup>[40]</sup> for the words “Articles 90AA to 90AD and Article 90D” there shall be substituted the words “Articles 90AB to 90AD”.

## 29 Article 90AA amended

- (1) In the heading to Article 90AA of the principal Law<sup>[41]</sup> for the word “**Relief**” there shall be substituted the words “**Marginal income deduction**”.
- (2) In Article 90AA of the principal Law –
  - (a) in paragraph (2) for the words “relief of tax on” there shall be substituted the words “a marginal income deduction in respect of”;
  - (b) in paragraphs (5) and (6) for the words “eligible for relief” there shall be substituted the words “eligible for a marginal income deduction”;
  - (c) in paragraph (6) for the words “the relief” there shall be substituted the words “the deduction”.

## 30 Article 90AE amended

In Article 90AE of the principal Law<sup>[42]</sup> –

- (a) in paragraph (3) for the words “Articles 90AA” there shall be substituted the words “Articles 90AB”;
- (b) after paragraph (3) there shall be inserted the following paragraph–

“(3A) Where only a portion of a loan fulfils the conditions required under Article 90AA of this Law for interest on the loan to be eligible for a marginal income deduction, such portion of the total interest payable on the whole of the loan shall be treated as eligible for a marginal income deduction under that Article as equates to the portion of the loan fulfilling those conditions.”;

- (c) in paragraph (4) for the words “paragraph (3)” there shall be substituted the words “paragraph (3A)”;
- (d) in paragraph (5)(b) after the words “is eligible for” there shall be inserted the words “, as the case may be, the marginal income deduction or”.

### 31 Article 90B amended

In Article 90B(2) of the principal Law<sup>[43]</sup> for the words “, in computing his total income for a year of assessment, to deduct an amount” there shall be substituted the words “to a marginal income deduction in an amount”.

### 32 Article 90C amended

In Article 90C of the principal Law<sup>[44]</sup> –

- (a) for paragraph (3) there shall be substituted the following paragraph –

“(3) An individual making a payment to which this Article applies shall be entitled, for the year of assessment in which the payment falls due, to a marginal income deduction of an amount determined in accordance with paragraph (4) of this Article.”;

- (b) in paragraph (4) for the words “The amount which an individual may deduct under paragraph (3) of this Article in computing his total income for a year of assessment” there shall be substituted the words “The amount to be determined in an individual’s case”;
- (c) in paragraph (5) for the words “to make a deduction in respect of a payment in computing his total income for a year of assessment,” there shall be substituted the words “to a marginal income deduction in respect of a payment,”.

### 33 Heading to Part XII amended

For the heading “**Personal allowances and reliefs**” to Part XII of the principal Law<sup>[45]</sup> there shall be substituted the heading “**Tax exemption threshold and marginal rate**”.

### 34 Article 92A amended

For paragraph (8) of Article 92A of the principal Law<sup>[46]</sup> there shall be substituted the following paragraph –

“(8) In calculating, for the purposes of paragraph (1) of this Article, the amount by which an individual’s total income exceeds the threshold applicable in his case, there shall be deducted from the individual’s total income any marginal income deduction to which he is entitled under Article 90AA and Articles 90A to 90C of this Law”.

**35 Article 98B amended**

For paragraph (2) of Article 98B of the principal Law<sup>[47]</sup> there shall be substituted the following paragraph –

“(2) In calculating, for the purposes of paragraph (1) of this Article, the amount by which an individual’s total income exceeds the threshold applicable in his case, there shall be deducted from the individual’s total income any marginal income deduction to which he is entitled under Article 90AA and Articles 90A to 90C of this Law”.

**36 Article 103 amended**

- (1) In the heading to Article 103 of the principal Law<sup>[48]</sup> for the word “relief” there shall be substituted the word “exemption”.
- (2) In Article 103 of the principal Law<sup>[49]</sup> –
  - (a) for the words “any allowances or relief” there shall be substituted the words “any exemption or the application of the marginal rate”;
  - (b) the words “, other than Article 92,” shall be deleted.

**37 Article 104 substituted**

For Article 104 of the principal Law<sup>[50]</sup> there shall be substituted the following Article –

**“104 Charges on income**

The amount of any reduction to which an individual is entitled under Article 98B(1) of this Law shall be reduced by the amount of any tax which the individual is entitled to charge against any other person or to deduct, retain or satisfy out of any payment which the individual is liable to make to any other person.”.

**38 Article 105 amended**

In Article 105(1) of the principal Law<sup>[51]</sup> for the words “may claim allowance or relief under the provisions of this Part of this Law” there shall be substituted the words “shall be entitled to a reduction under Article 98B(1) of this Law”.

**39 Article 106 amended**

In Article 106(2) of the principal Law<sup>[52]</sup> for the words beginning “No allowance” and ending “so as to” there shall be substituted the words “The reduction to which an individual not resident in the Island would otherwise be entitled under Article 98B(1) of this Law shall not”.

**40 Article 121B amended**

In Article 121B(4) of the principal Law<sup>[53]</sup> –

- (a) sub-paragraph (a) shall be deleted;

- (b) in sub-paragraph (b) the words “and any additional deduction under Article 98D(3) of this Law” shall be deleted.

#### **41 Schedule 2 amended**

In paragraph 1 of Schedule 2 to the principal Law<sup>[54]</sup> –

- (a) in sub-paragraph (c) –
  - (i) after the words “(other than term assurance)” there shall be inserted the words “provided and paid for by the employer”,
  - (ii) the words “, apart from any premiums in respect of which the office holder or employee is entitled to make a deduction pursuant to Article 101 of this Law” shall be deleted;
- (b) in sub-paragraph (d) –
  - (i) after the words “private medical insurance” there shall be inserted the words “provided and paid for by the employer”,
  - (ii) the words “, apart from any premiums in respect of which the office holder or employee is entitled to make a deduction pursuant to Article 101A of this Law” shall be deleted.

#### **42 Deletion and repeals**

- (1) In the proviso to Article 130(1) of the principal Law<sup>[55]</sup> the words “and paragraph (3) of Article 98D” shall be deleted.
- (2) The following provisions of the principal Law shall be repealed –
  - (a) Article 90D;<sup>[56]</sup>
  - (b) Article 92;<sup>[57]</sup>
  - (c) Articles 98C to 98E;<sup>[58]</sup>
  - (d) Articles 101 to 101B;<sup>[59]</sup>
  - (e) Article 106(3);<sup>[60]</sup>
  - (f) Article 130(2);<sup>[61]</sup>
  - (g) in Article 131(1), sub-paragraph (b) of the proviso;<sup>[62]</sup>
  - (h) Article 132(7)(b);<sup>[63]</sup>
  - (i) in Schedule 5, paragraph 1, sub-paragraphs (3) to (5A).<sup>[64]</sup>

#### **43 Commencement of Chapter 2**

This Chapter of this Part shall have effect for the year of assessment 2008 and ensuing years.

## **PART 4**

### **EXTENSION OF TRADES CHARGEABLE UNDER SCHEDULE D**

#### **44 Article 3 amended**

In Article 3(1) of the principal Law<sup>[65]</sup> –

(a) after the definition “enactments” there shall be inserted the following definition –

“ ‘fixed place of business’ includes a building site or a construction project;”;

(b) in the definition “trade” after the word “includes” there shall be inserted the words “every disposal, on a commercial basis, of property deriving its value from land or from any building or structure or from any part thereof, and”.

#### **45 Article 61 amended**

In Article 61 of the principal Law<sup>[66]</sup> –

(a) in paragraph (1)(a)(iii) for the words “from” (in the first place where it appears) to the end of the clause there shall be substituted the following words –

“from –

(A) any property whatever in the Island;

(B) any trade exercised in the Island, whether or not through a fixed place of business in the Island;

(C) any profession, employment, vocation or office exercised within the Island; or

(D) any pension arising in the Island;”;

(b) after paragraph (1) there shall be inserted the following paragraph –

“(1A) In the case of a trade of disposing of property deriving its value from land or from any building or structure or from any part thereof, which is situated in the Island, the land, building or structure shall be a fixed place of business through which the trade is exercised, whether or not the disposal is made or concluded in the Island.”.

#### **46 Commencement of Part 4**

This Part shall have effect for the year of assessment 2004 and ensuing years.

## **PART 5**

### **PERSONS GRANTED HOUSING CONSENT UNDER REGULATION 1(1)(K)**

#### **47 Part XXIA inserted**

After Part XXI of the principal Law<sup>[67]</sup> there shall be inserted the following Part –

## **“PART XXIA**

### **SPECIAL PROVISION FOR PERSON GRANTED 1(1)(K) HOUSING CONSENT**

#### **135A Persons granted 1(1)(k) housing consent**

(1) This Article applies to any person who, pursuant to a 1(1)(k) housing consent granted on or after 1st January 2005, acquires land or property conferring a right to occupy land (whether or not that person has previously been granted such a consent).



- (2) This Article shall cease to apply to the person upon –
  - (a) the revocation of the 1(1)(k) housing consent; or
  - (b) the person ceasing to own the land or property conferring the right to occupy land, unless, within the period of 6 months following such cessation, the person acquires other land or such property pursuant to a further 1(1)(k) housing consent.
- (3) Notwithstanding the rate of tax required by Article 1 of this Law to be charged for a year of assessment, where, for that year of assessment, so much of the person’s total income as is not Jersey income exceeds the prescribed limit, the amount of the excess shall be chargeable to tax at the prescribed rate.
- (4) The States may by Regulations, for the purposes of paragraph (3) of this Article, specify a prescribed limit and either a single prescribed rate or different prescribed rates to apply to different portions of so much of a person’s income as is chargeable to tax in accordance with that paragraph.
- (5) In this Article –

‘1(1)(k) housing consent’ means consent under the Housing (Jersey) Law 1949<sup>[68]</sup> for the sale, transfer or lease of any land in the case described in Regulation 1(1)(k) of the Housing (General Provisions) (Jersey) Regulations 1970;<sup>[69]</sup>

‘Jersey income’ means –

- (a) all annual profits or gains arising or accruing from –
  - (i) any rents or receipts described in Article 51 of this Law,
  - (ii) any kind of property whatever, situated in the Island,
  - (iii) any trade exercised in the Island, whether or not through a fixed place of business in the Island,
  - (iv) any profession, employment, vocation or office exercised within the Island, or
  - (v) any pension arising in the Island;
- (b) all interest of money and annuities arising in the Island; and
- (c) all sums paid to an individual or an individual’s personal representative pursuant to Article 131D or 131E of this Law,

and includes any payment to be charged to tax by virtue of Article 86(2)(e) of this Law.

### **135B Exchange of information for the purposes of Article 135A**

- (1) Notwithstanding anything in this Law or any other enactment –
  - (a) the Comptroller may disclose information to the Housing Committee or an officer of that Committee for the purposes of the grant and revocation of 1(1)(k) housing consents;
  - (b) an officer of the Housing Committee may disclose information to the Comptroller for the purposes of the administration of this Article.
- (2) A person to whom information is disclosed pursuant to paragraph (1) of this Article shall use it only for the purposes for which it is disclosed.
- (3) In this Article –

‘1(1)(k) housing consent’ has the same meaning as in Article 135A of this Law;

‘officer’ has the same meaning as in Article 36A(6) of the States of Jersey Law 1966<sup>[70]</sup>.

**48 Commencement of Part 5**

This Part of this Law shall come into force on 1st January 2005.

**PART 6**

**APPORTIONMENT OF ALLOWANCES ETC. FOR INDIVIDUAL ABSENT FROM THE ISLAND**

**49 Article 129A inserted**

After Article 129 of the principal Law<sup>[71]</sup> there shall be inserted the following Article –

**“129A Apportionment for individual in Island for part of year**

- (1) Subject to paragraph (2), this Article applies, for any year of assessment, to an individual who is not –
  - (a) in the Island for the whole of that year; or
  - (b) assessed and charged to income tax for that year in accordance with Article 126 of this Law.
- (2) This Article shall not apply to an individual whose allowances and reliefs for the year of assessment have been reduced in accordance with Article 106 of this Law, and –
  - (a) who is not an employee or office holder or a sub-contractor carrying on the duties of the employment, office or contract in the Island; or
  - (b) who is a director of a company which is incorporated in the Island or which, in the year of assessment, is resident in, or carries on any part of its activities in, the Island.
- (3) Where this Article applies to an individual for a year of assessment, the exemption threshold applicable in the individual’s case by virtue of Article 92A of this Law, and any reliefs, reduction, allowances and deductions to which the individual would otherwise have been entitled under Parts XI and XII and Article 65B(3) of this Law shall be reduced to an amount equal to, for each period of 7 complete, consecutive days in that year for which the individual proves, to the satisfaction of the Comptroller, that he or she is in the Island, 1/52nd of the amounts determined in accordance with the aforementioned provisions.
- (4) In this Article –

‘office holder’ does not include a director of a company described in paragraph (2)(b) of this Article;

‘sub-contractor’ has the same meaning as in Article A15 of this Law”.

**50 Article 129A amended**

In Article 129A(2) of the principal Law<sup>[72]</sup> in paragraph for the words “whose allowances and reliefs for the year of assessment have” there shall be substituted the words “whose entitlement to any reduction under Article 98B(1) of this Law has”.

**51 Commencement of Part 6**

- (1) Article 49 shall have effect for the year of assessment 2006 and ensuing years.
- (2) Article 50 shall have effect for the year of assessment 2008 and ensuing years.

## PART 7

### REMOVAL OF ALLOWANCE FOR CHILD IN CERTAIN CASES

#### 52 Article 95 amended

In Article 95 of the principal Law<sup>[73]</sup> –

- (a) in paragraph (1)(b) for the words “full-time instruction at any university, college or other establishment for further education” there shall be substituted the words “full-time higher education”;
- (b) in paragraph (2) for the words “such full-time instruction as aforesaid” there shall be substituted the words “such full-time instruction or full-time higher education as aforesaid”;
- (c) after paragraph (5) there shall be added the following paragraph–

“(6) In this Article ‘higher education’ has the same meaning as in the Education (Jersey) Law 1999.<sup>[74]</sup>”.

#### 53 Schedule 5 amended

After paragraph 2 of Schedule 5 to the principal Law<sup>[75]</sup> there shall be added the following paragraph –

##### “3 Income Tax (Amendment No. 24) (Jersey) Law 200: transitional provision for Article 95

- (1) In this paragraph ‘amending Law’ means the Income Tax (Amendment No. 24) (Jersey) Law 200-<sup>[76]</sup>.
- (2) In the case of an individual entitled, for the year of assessment 2004, to a deduction under Article 95(1)(b) or (2) of this Law in respect of a child receiving instruction at any university, college or other establishment for further instruction, but who is not receiving full-time higher education, Article 95 of this Law shall, for so long as the child continues to receive such instruction at that university, college, or other establishment for further instruction, continue to have effect without the amendment made by Article 52 of the amending Law.
- (3) In sub-paragraph (2) of this paragraph ‘higher education’ has the same meaning as in the Education (Jersey) Law 1999.<sup>[77]</sup>”

#### 54 Commencement of Part 7

This Part shall have effect for the year of assessment 2005 and ensuing years.

## PART 8

### CLOSING PROVISION

**55 Citation**

This Law may be cited as the Income Tax (Amendment No. 24) (Jersey) Law 200.

- 
- [1] *Volume 1961-1962, pages 197 and 443, Volume 1963-1965, pages 97, 143, 178, 189, 423 and 454, Volume 1966-1967, page 523, Volume 1968-1969, pages 38 and 219, Volume 1970-1972, pages 209, 305 and 382, Volume 1973-1974, page 275, Volume 1975-1978, pages 47, 148 and 257, Volume 1979-1981, pages 16, 157, 297 and 383, Volume 1982-1983, page 46, Volume 1984-1985, page 76, Volume 1986-1987, pages 192 and 208, Volume 1988-1989, pages 222 and 380, Volume 1990-1991, pages 96, 432 and 1088, Volume 1992-1993, pages 36 and 121, Volume 1994-1995, pages 220 and 366, Volume 1996-1997, pages 264, 643 and 652, Volume 1998, pages 3 and 259, Volume 1999, pages 209, 390, 403 and 418, Volume 2000, page 290, Volume 2001, pages 123 and 145, Volume 2003, page 239 and Volume 2004, page 795.*
- [2] *Volume 1961-1962, page 203, Volume 1963-1965, page 178, Volume 1986-1987, page 192, Volume 1996-1997, page 267, Volume 2003, page 251 and Volume 2004, page 808.*
- [3] *Volume 1961-1962, page 205.*
- [4] *Volume 1992-1993, page 437.*
- [5] *Volume 1961-1962, page 308 and Volume 2004, page 821.*
- [6] *Volume 1961-1962, pages 205 and 206, Volume 1963-1965, page 178, Volume 1996-1997, page 268 and Volume 2003, page 251.*
- [7] *Volume 1973-1974, page 319, Volume 1982-1983, pages 51, 53 and 239, Volume 1986-1987, pages 149 and 151, Volume 1990-1991, pages 467 and 1117, Volume 1992-1993, pages 433 and 437, Volume 1994-1995, page 423, Volume 1996-1997, pages 7 and 1063, Volume 1998, page 722, Volume 1999, pages 419 and 515, Volume 2000, page 873, Volume 2002, pages 639 and 643, Volume 2004, page 839 and Nos. 7640, 7666, 8602 and 9112.*
- [8] *Volume 1973-1974, page 319, Volume 1982-1983, pages 51, 53 and 239, Volume 1986-1987, pages 149 and 151, Volume 1990-1991, pages 467 and 1117, Volume 1992-1993, pages 433 and 437, Volume 1994-1995, page 423, Volume 1996-1997, pages 7 and 1063, Volume 1998, page 722, Volume 1999, pages 419 and 515, Volume 2000, page 873, Volume 2002, pages 639 and 643, Volume 2004, page 839 and Nos. 7640, 7666, 8602 and 9112.*
- [9] *Volume 1961-1962, page 217.*
- [10] *Volume 1961-1962, page 217.*
- [11] *Volume 1961-1962, page 217.*
- [12] *R&Os 5752 and 6073.*
- [13] *Volume 1992-1993, page 437.*
- [14] *Volume 1992-1993, page 437.*
- [15] *Volume 1992-1993, page 437.*
- [16] *Volume 1992-1993, page 437.*
- [17] *Volume 1973-1974, page 319, Volume 1982-1983, pages 51, 53 and 239, Volume 1986-1987, pages 149 and 151, Volume 1990-1991, pages 467 and 1117, Volume 1992-1993, pages 433 and 437, Volume 1994-1995, page 423, Volume 1996-1997, pages 7 and 1063, Volume 1998, page 722, Volume 1999, pages 419 and 515, Volume 2000, page 873, Volume 2002, pages 639 and 643, Volume 2004, page 839 and Nos. 7640, 7666, 8602 and 9112.*
- [18] *Volume 1961-1962, page 204 and Volume 2004, page 808.*
- [19] *Volume 1961-1962, page 209, Volume 1992-1993, page 121, Volume 1999, page 404 and Volume 2004, page 807.*
- [20] *Volume 1961-1962, page 262, Volume 1986-1987, page 201 and Volume 1999, page 409.*
- [21] *Volume 1961-1962, page 296.*
- [22] *Volume 1990-1991, page 78.*
- [23] *Volume 1961-1962, pages 248 and 250, Volume 1996-1997, page 654, Volume 2004, pages 800 and 801.*
- [24] *Volume 1961-1962, page 251 and Volume 1996-1997, page 645.*
- [25] *Volume 1961-1962, page 253 and Volume 1992-1993, page 36.*
- [26] *Volume 1961-1962, page 254, Volume 1970-1972, page 204, Volume 1982-1983, page 47, Volume 1988-1989, pages 223 and 224, Volume 1994-1995, pages 366 and 367, Volume 1996-1997, pages 264 and 652, Volume 1999, pages 391 and*

406, Volume 2000, pages 290 and 292, Volume 2001, page 146, Volume 2002, pages 427 and 1481 and Volume 2004, page 819.

[27] Volume 1968-1969, page 307 and Volume 1970-1972, page 513.

[28] Volume 1961-1962, page 254, Volume 1992-1993, page 38 and Volume 2000, page 292.

[29] Volume 1961-1962, page 255 and Volume 2000, pages 292 and 293.

[30] Volume 1961-1962, page 259, Volume 1990-1991, page 99, Volume 2000, page 293 and Volume 2004, page 820.

[31] Volume 1961-1962, page 259, Volume 1990-1991, page 99, Volume 2000, page 293 and Volume 2004, page 820.

[32] Volume 1961-1962, page 260.

[33] Volume 1961-1962, page 262 and Volume 1990-1991, pages 102 and 435.

[34] Volume 1961-1962, page 262 and Volume 1990-1991, pages 102 and 435.

[35] Volume 1961-1962, page 278 and Volume 2003, page 240.

[36] Volume 1961-1962, page 282, Volume 1968-1969, page 38, Volume 1975-1978, page 48 and Volume 1979-1981, page 298.

[37] Volume 1961-1962, page 308 and Volume 2004, page 821.

[38] Volume 1961-1962, page 198, Volume 1963-1965, page 143, Volume 1975-1978, page 47, Volume 1996-1997, page 266, Volume 1999, page 403 and Volume 2003, pages 241, 242 and 251.

[39] Volume 1961-1962, page 248, Volume 2004, page 800 and Article 11 of this amending Law (see page 36 of this projet).

[40] Volume 1961-1962, page 250, Volume 1996-1997, page 654, Volume 2004, page 801 and Article 11 of this amending Law (see page 36 of this projet).

[41] Volume 1961-1962, page 251 and Volume 2004, page 801.

[42] Volume 1961-1962, page 251 and Volume 2004, page 801.

[43] Volume 1961-1962, page 251, Volume 1996-1997, page 645 and Volume 2004, page 818.

[44] Volume 1961-1962, page 251 and Volume 1996-1997, page 645.

[45] Volume 1961-1962, page 253, Volume 1970-1972, page 204, Volume 1975-1978, page 148, Volume 1982-1983, page 47, Volume 1986-1987, page 201, Volume 1988-1989, pages 222 to 224, Volume 1990-1991, pages 99, 103 and 435, Volume 1992-1993, pages 36, 38 and 43, Volume 1994-1995, pages 366 and 367, Volume 1996-1997, page 652, Volume 1999, pages 391, 406, 407 and 409, Volume 2000, pages 290, 292 and 293, Volume 2001, page 146, Volume 2002, page 1481 and Volume 2004, pages 819 and 820.

[46] Volume 1961-1962, page 254, Volume 1970-1972, page 204, Volume 1982-1983, page 47, Volume 1988-1989, pages 223 and 224, Volume 1994-1995, pages 366 and 367, Volume 1996-1997, pages 264 and 652, Volume 1999, pages 391 and 406, Volume 2000, page 290, Volume 2004, page 819 and Article 14 of this amending Law (see page 36 of this projet).

[47] Volume 1961-1962, page 259, Volume 1990-1991, page 99 and Article 18 of this amending Law (see page 40 of this projet).

[48] Volume 1961-1962, page 262.

[49] Volume 1961-1962, page 262.

[50] Volume 1961-1962, page 263.

[51] Volume 1961-1962, page 263.

[52] Volume 1961-1962, page 263, Volume 1990-1991, page 103, Volume 1992-1993, page 43 and Volume 2004, page 820.

[53] Volume 1961-1962, page 278, Volume 2003, page 240 and Article 22 of this amending Law (see page 42 of this projet).

[54] Volume 1961-1962, page 307, Volume 2003, page 253 and Volume 2004, page 814.

[55] Volume 1961-1962, page 282, Volume 1968-1969, page 38, Volume 1975-1978, page 48, Volume 1979-1981, page 298 and Article 23 of this amending Law (see page 42 of this projet).

[56] Volume 1961-1962, page 251 and Article 12 of this amending Law (see page 36 of this projet).

[57] Volume 1961-1962, page 253, Volume 1975-1978, page 148, Volume 1988-1989, page 222, Volume 1992-1993, page 36 and Article 13 of this amending Law (see page 36 of this projet).

- [58] *Volume 1961-1962, page 259 and Article 18 of this amending Law (see page 41 of this projet).*
- [59] *Volume 1961-1962, pages 260 and 262 and Article 21 of this amending Law (see page 42 of this projet).*
- [60] *Volume 1961-1962, page 264, Volume 1990-1991, page 103 and Volume 1992-1993, page 43.*
- [61] *Volume 1961-1962, page 282, Volume 1968-1969, page 38, Volume 1975-1978, page 48 and Volume 1979-1981, page 298.*
- [62] *Volume 1961-1962, page 283, Volume 1975-1978, page 48 and Volume 1990-1991, page 103.*
- [63] *Volume 1961-1962, page 289.*
- [64] *Volume 1961-1962, page 308, Volume 2004, page 821 and Article 24 of this amending Law (see page 42 of this projet).*
- [65] *Volume 1961-1962, page 198, Volume 1963-1965, page 143, Volume 1975-1978, page 47, Volume 1996-1997, page 266, Volume 1999, page 403 and Volume 2003, pages 241, 242 and 251.*
- [66] *Volume 1961-1962, page 226, Volume 2002, page 427, Volume 2003, page 242 and Volume 2004, pages 799 and 800.*
- [67] *Volume 1961-1962, page 295, Volume 1963-1965, page 424, Volume 1975-1978, page 258, Volume 1979-1981, page 384, Volume 1996-1997, page 269, Volume 1999, pages 213 to 215 and 418 and Volume 2004, page 807.*
- [68] *Tome VII, page 535, Volume 1988-1989, page 295, Volume 1990-1991, pages 545 and 1113, Volume 1992-1993, page 115, Volume 1996-1997, pages 1 and 337, Volume 1999, pages 418 and 533, Volume 2002, page 1215 and Volume 2004, page 773.*
- [69] *R&Os 5444, 5981, 6284, 6651, 6720, 6903, 7167, 7572, 8170, 8592, 8866, 8919, 9446, 16/2001, 54/2001, 14/2002, 135/2002, 14/2003, 52/2003 and 148/2003.*
- [70] *Volume 1966-1967, page 18, Volume 1996-1997, pages 11 and 803 and R&O 9176.*
- [71] *Volume 1961-1962, page 282.*
- [72] *Volume 1961-1962, page 282 and Article 49 of this amending Law (see page 50 of this projet).*
- [73] *Volume 1961-1962, page 255 and Volume 2000, pages 292 and 293.*
- [74] *Volume 1999, page 439, Volume 2001, page 300 and R&O 130/2004.*
- [75] *Volume 1961-1962, page 308 and Volume 2004, page 821.*
- [76] *P.205/2004.*
- [77] *Volume 1999, page 439, Volume 2001, page 300 and R&O 130/2004.*