STATES OF JERSEY

DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 1) (JERSEY) REGULATIONS 201- (P.110/2011): AMENDMENT

Lodged au Greffe on 22nd June 2011
by Deputy G.P. Southern of St. Helier

STATES GREFFE

1 PAGE 24, REGULATION 7 –

In paragraph (3)(b) of the inserted Article 9A –

(a) in clause (i) for the amount "£6,850,000" substitute the amount "£13,100,000";

(b) in clause (ii) for the amount "£6,900,000" substitute the amount "£19,350,000".

2 PAGE 29, REGULATION 12 –

In the added clause (iii) for sub-clause (A) substitute the following sub-clause –

"(A) the sum of –

(aa) the Class 1 primary contributions paid for the base year in accordance with paragraph 3(1)(c) of Schedule 1A, and

(bb) the product of the following formula –

$$D \times \frac{E}{F}$$

Where –

D is the Class 1 secondary contributions paid for the base year in accordance with paragraph 3(2)(c) of Schedule 1A,

E is the percentage contribution rate applicable, in accordance with paragraph 3(2)(c) of Schedule 1A, for the year for which the amount is to be paid, and

F is the percentage contribution rate applicable, in accordance with paragraph 3(2)(c) of Schedule 1A, for the base year;".

3 PAGE 29, REGULATION 13 –

After paragraph (b) insert the following paragraph –

"(c) in paragraph 3(1) –

(i) the word "and" following clause (a) shall be deleted;

(ii) after clause (b) the word "and" and the following clause shall be added –

'(c) 2% of the person's earnings that exceed the standard monthly earnings limit but do not exceed the upper monthly earnings limit.'.".

4 PAGE 30, NEW REGULATION –

After Regulation 14 insert the following Regulation –

"15 Schedule 1A amended in 2013

In paragraph 3(2)(c) of Schedule 1A for the amount '2%' there shall be substituted the amount '4%'.".

5 PAGE 30, NEW REGULATION –

After Regulation 14 insert the following Regulation –

"16 Schedule 1A amended in 2014

In paragraph 3(2)(c) of Schedule 1A for the amount '4%' there shall be substituted the amount '6%'.".

6 PAGE 30, REGULATION 15 –

In Regulation 15 –

(a) for paragraph (2) substitute the following paragraph –

"(2) Regulations 1 to 11 and this Regulation shall come into force on 1st October 2011.";

(b) after paragraph (3) add the following paragraph –

"(4) Regulation 15 shall come into force on 1st January 2013.";

(c) after paragraph (4) add the following paragraph –

"(5) Regulation 16 shall come into force on 1st January 2014.",

and renumber the Regulations and their sub-divisions accordingly.

DEPUTY G.P. SOUTHERN OF ST. HELIER

REPORT

There can be no doubt in any member's mind that the strategy for the 2011 Budget presented to the States in December 2010 by the Minister for Treasury and Resources was in effect "sold" to us as one which was both ***balanced*** and ***fair.***

It was to be balanced between the 3 arms of a clear plan –

1. **Cutting spending through the CSR**
2. **Economic Growth**
3. **Raising taxes through the Fiscal Strategy Review (FSR)**

It was equally to be balanced between raising tax through GST and more progressive measures. This was made manifestly clear in the foreword to the Budget Statement, as follows:

3. Fiscal Strategy Review

Personal tax

Taxation, and personal taxation in particular, are controversial issues and this was apparent in the responses to the FSR consultation paper issued in June. Involve (the independent charity commissioned to write up the responses to the consultation) summarised them as –

> *"...there seem to be two widely held perspectives; one which emphasises the high cost of living for those on lower incomes and wants to see a more progressive taxation system……..and another perspective of concern that increased taxes on the wealthy will lead to Jersey losing financial services and affluent residents to international competitors…"*

This leaves me with a very difficult balancing act. No single measure will achieve the twin objectives of ***raising money in a fair way, where the better-off pay a higher proportion of their income,*** while also minimising the impact on the economy. To deal with the latter point, the FSR tax increases announced today will be phased in over 3 years, with greater increases in later years.

An important aspect of fairness is that the better-off contribute more. That is why I have asked that the Minister for Social Security brings forward proposals to introduce 2% social security contributions above the ceiling for both employers and employees from January 2012. This will make the Social Security Fund more self-sustaining and reduce the need to supplement the Fund from general taxation. The increase in social security contributions will mean that those earning above the ceiling (£44,232 in 2011) pay more. Employers also pay more where they employ people earning above the ceiling; those on low incomes and earning less than £44,232 will be unaffected by this change.

The same theme was repeated in the Executive Summary thus:

There are 2 key elements to the FSR –

- The introduction of 2% social security contributions above the ceiling for employees and employers from January 2012; and
- Raising GST from 3 to 5% with compensation for those on low incomes from 1st June 2011.

These 2 changes achieve the twin aims of delivering a package which is fair – where those on higher incomes pay more in cash terms and as a proportion of their income –

In voting to support the 2011 Budget, there were surely many members who were influenced by the Minister's proposals to achieve fairness and balance. Many votes have been taken by members on taxation matters both before the Budget and since –

- to support an increase in GST to 5%;
- to oppose a higher rate of income tax for high-earners;
- to support an increase in CSR savings to £65 million over 3 years;
- to oppose the removal of GST on food;
- to oppose a delay in raising GST.

These votes were all taken on the understanding that fairness was to be achieved by a 2% rise in social security contributions for higher earners. On 7th June 2011, we learned in a press release that this was not to happen –

> *"The Ministers for Treasury & Resources and Social Security have today announced revised Fiscal Strategy proposals for Social Security contributions, as part of the plan to meet the Island's deficit.*
>
> *It was agreed during the 2011 Budget debate that a 2% increase in Social Security contributions would be levied on earnings above the existing ceiling of £44,232, for employees and employers. This measure was in addition to saving £65 million by 2013 and a 2% increase to GST.*
>
> ***In light of a slight improvement in the financial forecast,** the Ministers are pleased to announce that a 2% increase for employees from 1 January 2012 is no longer proposed. A 2% increase will remain for employers, and the rate will reduce from 4% to 2% for the self employed, to an upper ceiling of £150,000."*

Also on 7th June, we were informed of a one-off windfall in tax receipts in the 2010 accounts, as follows –

> *"At the end of 2010 the States consolidated fund held £41m – that's £22m better than target because of –*
>
> > *Underspends by departments, who are being prudent and managing their expenditure well. At the same time Departments are restructuring their services so as to meet ongoing savings targets of £65m by 2013.*
> >
> > *Higher than expected tax receipts from businesses and personal income tax (£14m).* ***This figure is within the prudent forecast range of plus or minus £15m."***.

So we are told that an unexpected bonus which is "within the forecast range" is enough to trigger a major change in the widely consulted Fiscal Strategy. In the meantime, we are asked to ignore the "elephant in the room" that is the ever-growing Social Security supplementation bill. As can be seen in Table 1 (on the next page), supplementation now takes over £65 million from general taxation.

The growth in the Fund over recent years is illustrated by Table 1 below.

Expansion of Social Security over last 12 years

Income £000	*1998*	*1999*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009(E)*	*2010(E)*
Contributions	63,013	73,119	81,124	92,826	103,988	108,428	110,319	115,495	123,954	133,913	144,634	146,300	151,700
States supplement	25,126	30,092	36,161	41,197	48,136	49,892	50,800	50,776	56,567	58,627	61,842	65,000	66,700
Total*	97,470	112,534	125,736	143,870	162,027	165,895	165,794	173,063	189,786	201,428	208,484	324,400	219,600

	1998	*1999*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
% States	28.5	29.2	30.8	30.7	31.6	31.5	31.5	30.5	31.3	30.4	29.9	31.0	30.7
Cont. rate %**	8.5	9.0	9.5	10.0	10.5	10.5	10.5	10.5	10.5	10.5	10.5	10.5	10.5
Employee rate %	3.85	4.20	4.55	4.9	4.7	4.7	5.2	5.2	5.2	5.2	5.2	5.2	5.2
Employers' rate %	4.65	4.80	4.95	5.1	5.8	5.8	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Earnings limit £/year	22,704	24,768	27,264	29,352	31,728	33,048	34,608	35,760	37,656	38,904	40,728	42,480	43,752

* includes investment, bank interest and sundry income

** excludes contributions in respect of the Health Scheme

The Minister for Social Security has long been committed to tackling the issue of growing supplementation. In P.153/2009 (proposition below), accepted by members by 36 votes to nil on 18th November 2009, he was instructed to bring plans to reform Social Security funding:

PROPOSITION

SOCIAL SECURITY FUND: RESEARCH INTO ALTERNATIVE FUNDING MECHANISMS

THE STATES are asked to decide whether they are of opinion −

to refer to their Act dated 10th June 2009 in which they approved the States Strategic Plan 2009 – 2014 and, in the light of Strategic Priorities 1, 4 and 6 of that Plan –

(a) *to request the Chief Minister to re-prioritise the Policy budget of the Chief Minister's Department to enable funding to be made available to the Minister for Social Security to research mechanisms to eliminate the need for supplementation of social security funding from general revenues;*

(b) *to request the Minister for Social Security to report back to the States as a matter of urgency, and* ***in any case no later than September 2010****, with the results of the research and recommendations, including analysis of the mechanisms outlined in the Appendix to the attached report; and*

(c) *to request the Minister for Social Security to bring forward for approval the necessary legislation to give effect to any proposals arising from the research and recommendations to enable any amendments to the current system to be in place* ***no later than January 2012****.*

The mechanisms referred to in the annex above include those contained in this proposition.

Members will note the timescale set on this proposition, along with the lack of action on the part of the Minister for Social Security, although some explanation for the lack of action was given on 12th October:

WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY BY DEPUTY G.P. SOUTHERN OF ST. HELIER ANSWER TO BE TABLED ON TUESDAY 12th OCTOBER 2010

Question

Given that P.153/2009, approved by the Assembly on 18th November 2009, requested the Minister to report back as a matter of urgency, and in any case no later than September 2010, with the results of the research and recommendations relating to the future funding of Social Security supplementation, will the Minister inform members why his report is late and state when it will be delivered?

Answer

As I stated in the States Assembly during the last sitting, the future funding of supplementation is linked to the Fiscal Strategy Review. My department is working closely with Treasury and Resources and is fully involved in the budget proposals which will be lodged by 26th October 2010. In addition, I will be publishing shortly thereafter, a separate report setting out the challenges facing Social Security funding over the next few years. This report will include a response to P.153/2009.

This move has been widely signaled and has been the subject of full consultation. The approach of the Minister for Treasury and Resources to this particular move can be judged by the content of the Fiscal Strategy consultation paper, which concentrates on negative aspects of the proposal, and in his reply to a question back in July:

WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER ANSWER TO BE TABLED ON TUESDAY 6th JULY 2010

Will the Minister state why he has chosen to consult on a cap of Social Security contributions at £115,000? Is it simply to be competitive with Guernsey's £117,468? What would the effect be of removing the ceiling altogether?"

Answer

<u>*Social security ceilings*</u>
The option in the personal tax review that looks at raising the social security ceiling to £115,000 has been chosen because it would raise £30 million extra in social security contributions and would not put us out of line with the position in Guernsey. Completely removing the ceiling would raise about £45 million in social security contributions but would also further increase the cost of employing highly skilled people who earn above £115,000. Raising the ceiling would potentially make it less attractive for highly skilled, high earning people to work in Jersey and increase the cost of employing them, putting jobs and tax revenue at risk.

The consultation paper concentrates on the negative aspects of this option, when it says:

"However, it could also have an impact on the economy by undermining our competitive position in two ways:

1. Make it less attractive for highly skilled, high earning people to work in Jersey

2. Increase cost of employing people and of doing business in Jersey, which could put jobs at risk"

But the argument around the additional cost of employing high-earners and the risk of a mass exodus of these highly-skilled employees is given the lie by the comparison with the social security rates of our closest rivals, reproduced here:

Figure 2: A comparison of Social Security contributions

	Employee	*Employer*
Jersey	6% up to a ceiling of £43,752	6.5% up to a ceiling of £43,752
Guernsey	6% up to a ceiling of £79,872	6.5% up to a ceiling of £117,468
Isle of Man	11% up to a ceiling of £37,960 – 1% above that	12.8% – no ceiling
UK	11% up to a ceiling of £43,875 – 1% above that	12.8% – no ceiling

The words of the consultation paper however admit that the rise in contributions is "not out of line" with competitor jurisdictions.

> *"Raising the ceiling on contributions would increase Social Security payments for higher earning employees, although not out of line with those of our competitors in the finance world (Figure 2). Raising the ceiling for employers would also add to the cost of employing high earning staff, although again it would not put us out of line with competitor jurisdictions."*

The results of the extensive consultation have produced a ceiling of £150,000 and not the original £115,000.

Until 7th June, the policy was to increase contributions from employers and employees alike by 2% on earnings over £44,000 up to the new ceiling of £150,000. The self-employed (Class 2) contributors, who make up around 10% of contributors, were to pay 4% extra on earnings in this range. Class 2 contributors include many high-earners such as G.P.s, partners in law firms, and 1(1)(k)s.

Following the change of heart on the part of the Minister for Social Security, the 2% rise in employee contributions is lost along with the equivalent for Class 2 contributors. The net reduction in the States contribution to supplementation of £65 million is around £7 million.

My amendment puts back the 2% employee contributions for Class 1 contributors. This raises an estimated £6.4 million, and reduces the States contribution accordingly.

However, I have not attempted to reinstate the additional 2% for the self-employed (Class 2) contributors. I believe that a major overhaul of the Class 2 contribution is long overdue, and must be delivered in the coming 12 to 18 months to cater for the wide range of employment types currently captured by Class 2, and I have no wish to pre-empt any forthcoming proposals.

My amendment also commits the Minister to raising Class 1 employer rates for higher earners by 2% per annum over the years 2012 and 2013. This, in my view, is the logical response to attempt to bring an element of balance to the impact of zero/ten on business tax revenues as seen in Table 3.

Table 3: Company Tax versus Personal Tax 2000 – 2011

Year	*Total general revenue income £ million**	*Company Tax £ million*	*%*	*Personal tax (IT + impôts + GST)*	*%*
2000	398	208	**52**	166	**42**
2001	415	227	**55**	181	**44**
2002	436	215	**49**	198	**45**
2003	444	216	**49**	218	**49**
2004	445	212	**48**	212	**48**
2005	467	202	**43**	242	**52**
2006	524	217	**41**	257	**49**
2007	559	238	**42**	290	**52**
2008	660	233	**35**	352	**53**
2009	674	214	**32**	391	**58**
2010	496 (E)	79 (E)	**15**	362 (E)	**73**
2011	521 (E)	65 (E)	**12**	436 (E)	**84**

*2000 – 2006 Treasurer's Report p.xi Financial Report and Accounts, 2006
2007 – 2008 Treasurer's Report Table 2, p.7 Financial Report and Accounts, 2008
2009 Treasurer's Report Table 4, p.8 Financial Report and Accounts, 2009
(E) Estimates Draft Budget Statement 2011 Summary Table B, p.74.

Financial and manpower implications

As stated above, each 2% raised on Class 1 only raises an estimated £6.4 million per annum. That makes my amendments total £19.2 million p.a. by 2014. Adding in the current proposal for £7 million gives £26.2 million in total per annum by 2014. This would also be the impact upon the States Grant by that year.

However, States expenditure would be increased by £700k for each of the 2% increase in employer rates above the ceiling, meaning that States cash limits will have to be increased by a further £700k in 2013 and 2014, in line with my amendments.

Total net yield for the States, including what is currently proposed and after impact on States payroll, is approximately £24 million. There are no additional manpower requirements arising from this proposition.