

STATES OF JERSEY



DRAFT COLD WEATHER BONUS (JERSEY) REGULATIONS 201-

Lodged au Greffe on 29th November 2011
by the Minister for Social Security

STATES GREFFE



Jersey

DRAFT COLD WEATHER BONUS (JERSEY) REGULATIONS 201-

REPORT

Background

The Income Support (Jersey) Law 2007 (“the Law”) includes a provision for cold weather payments to be made to selected Income Support households during winter months. Payments are based on the temperature during each month between October and April and are paid automatically to households in the following categories –

- Household includes an adult aged 65 or above;
- Household includes a child aged below three;
- Household includes someone with high personal care needs.

During the winter of 2010/2011, an eligible household received a total of £219.87.

The value of the payments is adjusted each summer in line with the increase in fuel costs as measured in the June RPI. For the 2011/2012 winter, the base rate has been increased by 11.2%.

In February 2011, the States approved proposition P.4/2011 to extend cold weather payments under the Law to Jersey pensioners with incomes above the Income Support level, but without an income tax liability. In September 2011, the 2012 Business Plan was approved, which included funding for this scheme.

The Regulations that have been drafted do not precisely follow the original proposal to extend the cold weather payments within the Law. The new benefit is specifically aimed at pensioners who **do not qualify** for Income Support but have no income tax liability, and therefore the scheme has been drafted as standalone Regulations, closely connected to the Food Costs Bonus (Jersey) Regulations 2008.

Potential Cold Weather Bonus recipients

Pensioner tenants with an annual household income of up to £17,700 for a single pensioner (with savings of no more than £13,700) or £23,900 for a pensioner couple (with savings of up to £22,718) are eligible for Income Support, and are already entitled to cold weather payments. Households with incomes above these levels are liable for income tax and so there is no “gap” between Income Support and income tax for most pensioner tenants.

The level of Income Support benefit reduces as household savings increase, and tenant pensioners with more substantial savings may have an income below the income tax threshold although they do not qualify for Income Support. Some of these will qualify for the new Bonus. For example, a single tenant pensioner with savings of £35,000 will only qualify for Income Support if their annual income is less than £13,265. In this particular example, a single pensioner with an income between £13,265 and £14,270¹ and savings of £35,000 would be covered by the new Bonus.

However, the great majority of pensioner tenants who do not pay income tax are already eligible for Income Support and will receive cold weather payments through Income Support directly. The majority of those pensioner tenants who are not eligible for Income Support are likely to have a liability to pay income tax and will not be covered by Income Support, nor by the proposed new Regulations. Very few pensioner households living in tenanted accommodation will be eligible for the new Cold Weather Bonus. The great majority of potential claimants will be owner-occupiers.

Gross Income Support rates for owner-occupiers are lower, as these households are not paying rent for their accommodation. A single pensioner, who owns a two-bedroomed house and has savings of up to £13,700, will be eligible for Income Support if their income is less than £10,000 per annum. This new benefit will be available to those with incomes between £10,000 per annum and £14,270 per annum, at which point income tax becomes payable. For couples, Income Support is available at incomes of up to £16,000 with income tax liability starting at £23,480.

These figures are given as examples only, as individual Income Support entitlement depends on a range of factors. In particular, individuals with disabilities receive higher Income Support rates. The relationship between income tax thresholds and Income Support levels will be examined closely over the next 12 months as part of the ongoing review of Income Support.

Home insulation

It is very likely that there will be a continuing upward pressure on energy prices in coming years, and it is well established that the proportion of the population in Jersey over pension age will increase steadily over the next 2 to 3 decades. These 2 trends will combine to create substantial annual increases in the cost of any cash benefit provided in respect of heating costs for older households.

Concerns have been raised that many homes in Jersey are still not energy-efficient, and I will discuss, with the Minister for Planning and Environment, a scheme in which the Cold Weather Bonus cash payments are only available on a time-limited basis and are linked to households agreeing to have free insulation installed through the Energy Efficiency Scheme provided by the Environment Department. This would have the joint benefits of restricting the growth in the future costs of the Cold Weather Bonus payments and improving the thermal efficiency of the homes of elderly Islanders.

Draft Regulations

The draft Regulations provide a Cold Weather Bonus to pensioner households that are also eligible for the Food Costs Bonus.

¹ Income tax thresholds quoted for 2011

The main eligibility criteria for the Food Costs Bonus is that a member of household has lived in Jersey for the last 5 years, and that the household does not currently receive Income Support and did not have any income tax liability in the previous year.

The main additional criterion to receive the Cold Weather Bonus is that the household must include an adult who is aged 65 or above and is receiving a Jersey old-age pension.

The Cold Weather Bonus will be calculated on the same basis as the cold weather payments made under Income Support. The bonus will be paid twice a year, once in January in respect of the months October to December, and then in May in respect of January to April.

In 2012, households who received a Food Costs Bonus in 2011 will be eligible to apply for the Cold Weather Bonus for January to April 2012. After May 2012, applicants will be encouraged to apply for the Food Costs Bonus and the Cold Weather Bonus at the same time and eligibility will last for up to 12 months. This will minimize the amount of administration from the point of view of both the claimant and the Department.

Applications, decisions and appeals in respect of the Cold Weather Bonus will be dealt with in the same way as the Food Costs Bonus, and penalties in respect of any breach of the Regulations are also aligned with those under the Food Costs Bonus Regulations.

Financial and manpower implications

The base value for the Income Support cold weather payments has increased by 11.2% for the 2011/2012 winter period, in line with the annual increase of the fuel and light component of the Jersey RPI.

The Cold Weather Bonus will be paid at the same value as the cold weather payment, and the actual value will depend on the temperature each month over the winter. Based on temperatures for the last 2 years, the total value of the bonus per household is likely to be approximately £255.

The number of pensioners applying for the Food Costs Bonus in 2011 was approximately 1,000. All pensioner households in Jersey were sent a leaflet of benefit information in September, and this has led to some increase in the take-up of the TV licence benefit, the 65+ health scheme and the Food Costs Bonus.

However, the addition of the Cold Weather Bonus may encourage additional take-up by pensioners, and a budget based on 1,100 claimants would suggest a total benefit cost of £280,500 in 2012. This sum, plus administration costs, is provided for in the departmental cash limit.

It is estimated that the development costs for the new benefit will be up to £50,000, and this figure will be requested to be carried forward to 2012 from the Social Security Department's forecast underspend in respect of the 2011 departmental cash limit. The additional manpower for this benefit will be absorbed within the existing headcount for the Department.

Explanatory Note

These Triennial Regulations create a “cold weather bonus” payable by the Minister for Social Security to households that are entitled to receive a bonus under the Food Costs Bonus (Jersey) Regulations 2011 and that have at least one adult member over the age of 65 who is in receipt of a Jersey pension. These Regulations will remain in force for as long as the Food Costs Bonus (Jersey) Regulations 2011 remain in force, unless earlier revoked. (Those Regulations will expire on 30th June 2014, unless earlier revoked.)

Regulation 1 defines words and expressions used in these Regulations. In particular, a “cold weather bonus” is defined as a bonus payable to defray the expenses of heating a dwelling for any month from and including the months of October to April that is a “cold weather month”. A month is a “cold weather month” if the aggregate of the amount by which the average daily temperature of each day in that month falls below 15.5 degrees Celsius exceeds 90.

Regulation 2 requires the Minister to pay a cold weather bonus to the applicant if the household qualifies for it.

Regulation 3 sets out the conditions for a household to qualify for a cold weather bonus. The first condition is that, on the date on which the application is made for a cold weather bonus under Regulation 4(1), the household meets the qualifying conditions in Regulation 3 of the Food Costs Bonus (Jersey) Regulations 2011 to enable it to receive a food costs bonus under those Regulations. The second condition is that throughout the cold weather month at least one adult member of the household is the owner of the dwelling, or is paying rent to occupy the dwelling under the terms of a lease or licence (provided that the dwelling is not lodgings or a hostel). The third condition is that on the first day of the cold weather month at least one adult in the household is aged 65 years or over and is receiving a Jersey old-age pension. The fourth condition is that throughout the cold weather month no adult in the household has received (or has claimed and is entitled to receive) a payment under the Income Support (Special Payments) (Cold Weather Payments) (Jersey) Regulations 2008.

Regulation 4 sets out when, and by whom, an application may be made.

Regulation 5 sets out the amount of bonus payable, and the manner in which it is calculated.

Regulation 6 provides for the administration of applications, determinations, re-determinations and appeals to be in accordance with the provisions set out in the Schedule to the Food Costs Bonus (Jersey) Regulations 2011, as modified to reflect the provisions of these Regulations.

Regulation 7 creates offences related to making false statements or using false documents in support of a claim for a cold weather bonus.

Regulation 8 provides for the commencement and citation of these Regulations, and provides that they will remain in force for as long as the Food Costs Bonus (Jersey) Regulations 2011 remain in force, unless earlier revoked.



Jersey

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Arrangement

Regulation

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Jersey

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Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of the Order in Council dated 28th March 1771¹, have made the following Regulations –

1 Interpretation

- (1) In these Regulations, unless the context otherwise requires –
 - “2007 Law” means the Income Support (Jersey) Law 2007²;
 - “adult” has the same meaning as in the 2007 Law;
 - “cold weather bonus” means a bonus payable to defray the expenses of heating a dwelling for any month from and including the months of October to April that is a cold weather month;
 - “hostel” means a facility (other than a private house) providing board and lodging and generally staffed by persons providing support to vulnerable persons;
 - “Jersey old-age pension” means a pension to which a person is entitled under Article 25 of the Social Security (Jersey) Law 1974³;
 - “Minister” means the Minister for Social Security.
- (2) In these Regulations, a month, being the month of October, November, December, January, February, March or April, is a “cold weather month” if the aggregate of the amount by which the average daily temperature of each day in that month falls below 15.5 degrees Celsius exceeds 90.
- (3) In these Regulations –
 - (a) references to a household are to be construed in the same way as they are for the purposes of the 2007 Law; and
 - (b) references to a person being a member of a household are to be construed in accordance with Article 5 of the Income Support (General Provisions) (Jersey) Order 2008⁴.

2 Payment of cold weather bonus

- (1) The Minister must pay a cold weather bonus, being an amount calculated in accordance with the formula in Regulation 5 –
 - (a) on behalf of a household that qualifies for it under Regulation 3;
 - (b) to a member of that household who applies for it in accordance with Regulation 4,in relation to any cold weather month.
- (2) Any cold weather bonus that is payable for the months of October, November or December shall be paid on or after 1st January the following year.
- (3) Any cold weather bonus that is payable for the months of January, February, March or April shall be paid on or after 1st May of that year.

3 Qualifying conditions

- (1) A household qualifies for a cold weather bonus in respect of a cold weather month if it meets the conditions in paragraphs (2) to (5).
- (2) The first condition is that, on the date on which the application is made for a cold weather bonus under Regulation 4(1), the household meets the qualifying conditions in Regulation 3 of the Food Costs Bonus (Jersey) Regulations 2011⁵ in respect of a food costs bonus under those Regulations.
- (3) The second condition is that throughout the cold weather month the household is occupying accommodation in respect of which at least one adult member of the household is the owner or is paying rent to occupy the dwelling under the terms of a lease or licence.
- (4) The third condition is that on the first day of the cold weather month at least one adult in the household is aged 65 years or over and is receiving a Jersey old-age pension.
- (5) The fourth condition is that no adult in the household has received (or has claimed and is entitled to receive) a payment under the Income Support (Special Payments) (Cold Weather Payments) (Jersey) Regulations 2008⁶ in respect of the cold weather month.
- (6) The second condition is not satisfied where the dwelling being occupied is lodgings or a hostel.

4 Application for bonus

- (1) An application for a cold weather bonus may be made to the Minister –
 - (a) on behalf of a household that meets the first condition on the date of the application;
 - (b) by a member of that household.
- (2) Subject to paragraph (5), an application for a cold weather bonus may be made in respect of January, February, March or April 2012 on or before 31st March 2012, and may be made in respect of those months only.

- (3) A household shall be treated as meeting the first condition on the date of the application for a cold weather bonus in respect of January, February, March or April 2012 if that household met the qualifying conditions in Regulation 3 of the Food Costs Bonus (Jersey) Regulations 2011 in respect of a food costs bonus under those Regulations between 1st July 2011 and 31st December 2011.
- (4) Subject to paragraph (5) an application for a cold weather bonus made in respect of any cold weather month falling after April 2012 may be made on or after 1st May 2012 and may be made in respect of the period of not more than 12 consecutive calendar months, beginning with the 1st day of the month following the date of the application.
- (5) If in any case where the applicant proves that there was good cause for a failure to make the application before the date on which it was made, the Minister may treat the application as being in respect of a period beginning not more than 6 months earlier than the date it was in fact made.

5 Amount of cold weather bonus

- (1) The amount of cold weather bonus payable shall be calculated according to the formula –

$$C \times \frac{T - 90}{450}$$

where –

C is calculated according to paragraph (2); and

T is the aggregate, up to a maximum of 540, of the amount by which the average daily temperature of each day in that month falls below 15.5 degrees Celsius.

- (2) C is –
 - (a) for each cold weather month from January to April 2012 inclusive, £141.97;
 - (b) for each subsequent cold weather month, the figure produced by increasing or decreasing the figure for the previous April by the same percentage as that of the rise or fall in the fuel element of the Jersey Retail Prices Index published by the States of Jersey Statistics Unit for the 12 months ending in the previous June.
- (3) The product of each formula in this Regulation shall be rounded up to the next whole penny.
- (4) Only one cold weather bonus is payable at any time in respect of a dwelling.
- (5) If a dwelling is occupied by 2 or more households entitled to a cold weather bonus under these Regulations the cold weather bonus is divided equally between all the households entitled to it.
- (6) No cold weather bonus shall be payable where a dwelling is occupied by 2 or more households and one or more of those households receives, or has applied for and is entitled to receive, a cold weather payment under

the Income Support (Special Payments) (Cold Weather Payments) (Jersey) Regulations 2008 in respect of that dwelling.

6 Applications, determinations and appeals

The Schedule to the Food Costs Bonus (Jersey) Regulations 2011, which provides procedures for applications, determinations and appeals in respect of a bonus payable under those Regulations, has effect in respect of a cold weather bonus made under these Regulations as if –

- (a) references to a bonus made under those Regulations in that Schedule were references to a cold weather bonus; and
- (b) paragraphs 3, 5(2)(c) and 5(3) of the Schedule were omitted.

7 Offences

- (1) A person must not, with intent to obtain a cold weather bonus, whether on behalf of that person or of another person or of any household –
 - (a) furnish any information that he or she knows to be false in a material particular;
 - (b) recklessly furnish any information that is false in a material particular; or
 - (c) withhold any material information.
- (2) A person must not obtain or receive a cold weather bonus, whether on behalf of that person or of another person or of any household, knowing that it was not properly payable to, or not properly receivable by, him or her.
- (3) A person who contravenes paragraph (1) or (2) is guilty of an offence and is liable to imprisonment for a term of 2 years and to a fine.
- (4) Where an offence under paragraph (3) committed by a limited liability partnership, separate limited partnership or body corporate is proved to have been committed with the consent or connivance of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (5) Where the affairs of a body corporate are managed by its members, paragraph (4) applies in relation to acts and defaults of a member in connection with the member's functions of management as if he or she were a director of the body corporate.

8 Citation, commencement and duration

- (1) These Regulations may be cited as the Cold Weather Bonus (Jersey) Regulations 201-.

- (2) These Regulations come into force on the day after they are made and, unless earlier revoked, they remain in force for as long as the Food Costs Bonus (Jersey) Regulations 2011⁷ remain in force.

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- ¹ *chapter 15.120*
 - ² *chapter 26.550*
 - ³ *chapter 26.900*
 - ⁴ *chapter 26.550.20*
 - ⁵ *R&O.81/2011*
 - ⁶ *chapter 26.550.65*
 - ⁷ *R&O.81/2011*