

# STATES OF JERSEY



## **DRAFT SOCIAL SECURITY (AMENDMENT No. 20) (JERSEY) LAW 2012 (APPOINTED DAY) ACT 201-**

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**Lodged au Greffe on 10th September 2012  
by the Minister for Social Security**

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**STATES GREFFE**





Jersey

## **DRAFT SOCIAL SECURITY (AMENDMENT No. 20) (JERSEY) LAW 2012 (APPOINTED DAY) ACT 201-**

### **REPORT**

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#### **Background**

The Social Security (Amendment No. 20) (Jersey) Law 2012 (Appointed Day) Act 201- will bring into force the amendments to the Social Security (Jersey) Law 1974 from 1st December 2012 to introduce a new insolvency benefit.

The Social Security (Amendment No. 20) (Jersey) Law 2012 ('Amendment 20') was adopted by the States on 9th June 2011, sanctioned by Privy Council on 14th December 2011 and registered in the Royal Court on 6th January 2012.

Amendment 20 sets out –

1. The conditions that must be met for entitlement to insolvency benefit;
2. The components used to calculate benefit;
3. The method of calculating benefit;
4. A mechanism to recover amounts paid in benefit via insolvency proceedings.

In 2009, the Minister for Social Security had introduced a 'temporary insolvency scheme'<sup>1</sup> that paid compensatory statutory notice pay to employees who had been made redundant due to the insolvency of their employer. That temporary scheme will close to new claims with effect from 30th November 2012. Insolvency benefit will be available to entitled employees who lose their employment on or after 1st December 2012 due to the bankruptcy of their employer.

#### **1. Entitlement to insolvency benefit**

Insolvency benefit will provide financial assistance where a person meets the following conditions –

- i. The employer (or former employer) of the person must be bankrupt and this must be the main reason for the fact that the person is no longer employed.
- ii. The person must have been an "employee" within the meaning of the Employment (Jersey) Law 2003.
- iii. The person must have been employed wholly or mainly in Jersey.

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<sup>1</sup> Further details can be found on the States Assembly website [www.statesassembly.gov.je](http://www.statesassembly.gov.je); see R.44/2009, which was extended by P.67/2009 and R.74/2011.

- iv. The employer must have been liable to pay Class 1 contributions in respect of that person in any one or more months in the 3 months prior to bankruptcy.
- v. The employer must owe the person amounts in respect of one or more of the 4 components of the benefit.

## **2. Components of insolvency benefit**

Insolvency benefit is calculated based upon any amounts owed to a person by their former employer in respect of the following 4 components of benefit –

- i. Unpaid wages relating to the 12 months prior to cessation of employment; ‘wages’ as defined by the Employment Law.
- ii. Holiday pay, or pay in lieu of holiday relating to the 12 months prior to cessation of employment.
- iii. Statutory redundancy pay; one week’s capped pay for each year of service, in accordance with the Employment Law.
- iv. Pay in lieu of statutory period of notice on termination of employment; up to 12 weeks’ pay, in accordance with the Employment Law.

## **3. Calculating benefit**

Insolvency benefit is calculated by adding together the components that the person was owed by their former employer and making any appropriate deductions, including Social Security contributions and Income Tax where such deductions would be due on those sums. The maximum amount of insolvency benefit that may be paid to a person is capped at £10,000.

## **4. Recovery via insolvency proceedings**

The Minister for Social Security takes on the right as a creditor to claim any amount of benefit that has been paid out to a person when the proceeds of any remaining assets of the company are distributed amongst the creditors (the insolvency proceedings). Any sums recovered will be refunded to the Social Security Fund.

If a person is owed any other amounts by their former employer that they have not received as paid as part of the benefit, the person may pursue these claims separately as a creditor in the insolvency proceedings.

### **Financial and manpower implications**

In the short term, Social Security contributions will not be increased and funding for the benefit will be drawn from Social Security Fund resources.

In 2009, it was estimated that a funding requirement of £350,000 per year would be required that would have been achieved by increasing Class 1 employer Social Security contribution rates by 0.032%. Given the difficult economic climate and the potentially small amount of funding required, the former Minister decided that employer contributions would not be increased to fund the insolvency benefit in the short term.

A small increase in employer contributions will be required to fund this benefit in the future. More defined estimates of the funding requirement for the insolvency benefit will be available based on actual benefit spend.

## **Explanatory Note**

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This Act would bring the Social Security (Amendment No. 20) (Jersey) Law 2012 into force on 1st December 2012. The draft Law (P.64/2011) was adopted by the States on 9th June 2011 and makes amendments providing for an insolvency benefit.





Jersey

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(JERSEY) LAW 2012 (APPOINTED DAY) ACT 201-**

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

**THE STATES**, in pursuance of Article 7(2) of the Social Security (Amendment No. 20) (Jersey) Law 2012<sup>1</sup>, have made the following Act –

**1 Commencement of Social Security (Amendment No. 20) (Jersey) Law 2012**

The Social Security (Amendment No. 20) (Jersey) Law 2012<sup>2</sup> shall come into force on 1st December 2012.

**2 Citation**

This Act may be cited as the Social Security (Amendment No. 20) (Jersey) Law 2012 (Appointed Day) Act 201-.

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- <sup>1</sup> *L.5/2012*  
<sup>2</sup> *L.5/2012*