

STATES OF JERSEY

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DRAFT SOCIAL SECURITY (AMENDMENT No. 17) (JERSEY) LAW 200

**Lodged au Greffe on 20th April 2004
by the Employment and Social Security Committee**

STATES GREFFE



Jersey

**DRAFT SOCIAL SECURITY (AMENDMENT No. 17)
(JERSEY) LAW 200**

European Convention on Human Rights

The President of the Employment and Social Security Committee has made the following statement –
In the view of the Employment and Social Security Committee the provisions of the Draft Social Security (Amendment No. 17) (Jersey) Law 200 are compatible with the Convention Rights.

(Signed) **Senator P.F. Routier**

REPORT

Introduction

Over the past 2 years the Employment and Social Security Department has continued its programme of modernising and streamlining the collection of contributions.

The first stage saw the introduction of a simplified form of employer schedule which is pre-populated with the relevant details of the employer's previously declared employees. The employer is only required to enter details of earnings and return the schedule by the due date. The schedule details are then scanned into the system enabling the automatic calculation of the contributions and a bill to be produced and issued which is required to be paid within a statutory timescale. Implementation of the next stage will begin later this year, enabling the move to electronic transmission and receipt of schedules, as well as collection by electronic methods, including direct debit.

Under the previous system of collection, and current legislation, an automatic sanction of 1% of the value of the Class 1 Contributions exists for the late payment of contributions.

Also under existing legislation there is provision for civil court action or prosecution proceedings to be taken for the late return of schedules and the late payment of contributions, but this is a lengthy and time-consuming process giving no incentive to employers to return schedules to the Department on time.

In the revised procedure, the prompt return of the employer's schedule is of critical importance to the collection process. The Employment and Social Security Committee is of the view that an automatic sanction on the late return of a schedule would give sufficient encouragement to defaulting employers to make timely returns and make the collection process system more effective and efficient.

The Committee's proposal is that a 5% penalty be introduced for late or non-return of an employer's contribution schedule.

At the same time, the Employment and Social Security Committee, on the recommendation of H.M. Attorney General, is proposing to increase the penalty for dishonestly making a false statement to obtain benefit. This amendment will bring Article 36(3) of the Social Security Law into line with other sanctions for such offences.

Financial/manpower implications

These proposals are not inflationary nor should they be seen as a cost to business. All employers should return schedules and pay contributions on behalf of their employees by the prescribed times and provided they do so then no sanction would be applicable.

There are no additional internal resource implications.

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 March 2004 the Employment and Social Security Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Employment and Social Security Committee the provisions of the Draft Social Security (Amendment No. 17)(Jersey) Law 200- are compatible with the Convention Rights.

Note: The Finance and Economics Committee supports this projet on the basis that it does not incur additional manpower resource, and moreover improves the efficiency and cost effectiveness of the business processes of the Employment and Social Security Committee.

Explanatory Note

This proposed Law amends the Social Security (Jersey) Law 1974 –

- to impose an additional contribution on an employer who, for no good reason, fails to provide a schedule of contributions to the Committee so that it may calculate the Class 1 contribution the employer is liable to pay;
- to retain the present liability of an employer to pay a late payment fee and interest where a Class 1 contribution is not paid on time;
- to increase the penalty for dishonestly making a false statement or producing a false document or any information under the Law from imprisonment for not more than 3 months and a fine not exceeding £5000 to imprisonment for a term not exceeding 7 years and an unlimited fine.

This proposed Law would come into force on the seventh day after its registration in the Royal Court, but the increased penalty would only apply in respect of offences committed after that date.



Jersey

DRAFT SOCIAL SECURITY (AMENDMENT No. 17) (JERSEY) LAW 200

A LAW to amend further the Social Security (Jersey) Law 1974.^[1]

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Article 36 amended

For paragraphs (1), (2) and (3) of Article 36 of the Social Security (Jersey) Law 1974,^[2] there shall be substituted the following paragraphs –

- “(1) Paragraph (1A) applies where an employer is required to furnish prescribed information to the Committee before a prescribed date to enable the Committee to calculate any amount of Class 1 contribution payable by the employer.
- (1A) If the employer fails to furnish the information before the prescribed date the employer is liable to pay an additional contribution equal to 5% of the amount of the Class 1 contribution unless the employer satisfies the Committee that it was not reasonably possible to furnish the required information before the prescribed date.
- (1B) If the employer fails to pay any amount of Class 1 contribution, including any additional contribution payable under paragraph (1A), before the date prescribed for the payment of the Class 1 contribution the employer shall be liable to pay an additional 1% of the amount unpaid and shall also be liable to pay interest at the rate of 1% of any amount unpaid for each month it remains unpaid.
- (1C) A rate of interest mentioned in paragraph (1A) or (1B) may be amended by the States by Regulations.
- (2) An employer or insured person who fails to pay a contribution that he is liable to pay under this Law within the time prescribed for payment of the contribution shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.^[3]
- (3) A person who, for the purpose of obtaining a benefit or other payment under this Law, whether for himself or some other person, or for any other purpose connected with this Law –
 - (a) knowingly makes a false statement or false representation; or
 - (b) produces or furnishes, or causes or knowingly allows to be produced or furnished,

a document or any information that the person knows to be false in a material particular, shall be guilty of an offence and liable to imprisonment for a term not exceeding 7 years or to a fine, or both.”.

2 Citation and commencement

This Law may be cited as the Social Security (Amendment No. 17) (Jersey) Law 200- and shall come into force on the seventh day following its registration.

[1] *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 and R&Os 7640, 7666, 8602 and 9112.*

[2] *Volume 1973-1974, page 349 and Volume 1994-1995, page 423.*

[3] *Volume 1992-1993, page 437.*