STATES OF JERSEY

OLD AGE PENSION: INCREASE FOR 2012 (P.97/2012) – COMMENTS

Presented to the States on 7th November 2012
by the Minister for Social Security

STATES GREFFE

COMMENTS

The main proposal set out by Deputy G.P. Southern of St. Helier in P.97/2012 is to create 2 separate pension rates, one payable in Jersey and a separate rate payable to pensioners living outside Jersey.

The Minister for Social Security strongly opposes this proposition on the grounds that it runs counter to our existing, well-established framework of Reciprocal Agreements, which guarantees benefit rights in many different countries.

Introduction

The report accompanying proposition P.97/2012 includes the following statement –

> *"Under Article 50(g)*[1] *of the Social Security (Jersey) Law 1974, the States may alter by Regulations any of the rates or amounts of benefit or increase in benefit set out in Parts 1, 2 and 3 of Schedule 1 (including the old age pension), so it need not take long to achieve."*

It is correct that the States may set the rate of old age pension by Regulations. However, Deputy Southern's proposal is not to change the rate, but to create 2 rates for old age pension, one for individuals resident in Jersey, and a second, lower, rate for non-residents.

What the proposition fails to mention is the existence of Reciprocal Agreements; and the proposal creates issues with reciprocal arrangements between Jersey and other countries, arrangements that Jersey cannot renounce unilaterally.

Reciprocal Agreements

Social Security legislation sits within a well-established network of Reciprocal Agreements, which allows individuals living in one country to receive benefits using entitlement built up in a different country. The old age pension is one of the benefits included in most Reciprocal Agreements. These Reciprocal Agreements can also apply so as to entitle pensioners to enjoy the same pension *increases* as if they had remained living in the other country.

The effect of the Reciprocal Agreements that Jersey has with the UK, France and Portugal, amongst others, is that an individual living in one of these countries is treated as if they were still resident in Jersey for the purposes of entitlement to specified benefits, including old age pension and any increases to the old age pension.

Reciprocal Agreements with countries other than the UK are usually an extension of a bilateral treaty entered into by the UK on behalf of the Crown and extended to Jersey at the Island's request. In some cases (e.g. with Portugal), Jersey is defined as part of the United Kingdom territory for the purpose of the United Kingdom's own reciprocal arrangements. In either case, as a matter of international law, the duties created under the Agreements cannot be renounced unilaterally by Jersey.

[1] The reference to Article 50(g) is now out-of-date (the current Law provides this power under Article 50(d)(v)).

Under the current Reciprocal Agreements, a change to local legislation to create a second rate of old age pension for non-residents would have no impact on individuals living in Reciprocal Agreement countries. They would continue to be entitled under the relevant Reciprocal Agreement to receive the higher, “Jersey” rate of benefit. Even if the right to receive the increase was removed as a matter of Jersey’s social security legislation, a liability would be created under international law for the proper implementation of the relevant treaties. The proportion of old age pensions paid to individuals living in non-reciprocal countries is very small.

In order to achieve the aim set out in the proposition of restricting the higher rate of old age pension to local residents, it would be necessary to move outside existing Reciprocal Agreements. This would mean negotiating with the UK government and other governments to vary the existing Agreements. It would also place at risk the protection that local residents enjoy under the current system, and potentially have an impact on Jersey residents who receive pensions from the UK or other countries who are party to the Reciprocal Agreements.

The process for renegotiation is to give notice for renouncing the entirety of the Reciprocal Agreement, and then seek to agree future arrangements. It should also be noted that such renegotiation would apply to all of the social security and pension issues covered by the relevant Reciprocal Agreements. Also, in those cases where the United Kingdom’s own Reciprocal Agreements treat Jersey as part of its territory, any renunciation could not be confined to Jersey, but would require the United Kingdom re-opening the entirety of its own reciprocal arrangements with the country concerned.

One-off payment

Although not included in the current proposition, consideration has been given to providing a bonus payment to local pensioners to cover the difference between the current rate of pension and its value if it had been increased by the Retail Price Index. However, as this would be a payment linked to the pension claim of the individual, it would also be covered by the relevant Reciprocal Agreements and would therefore need to be paid to all pensioners living in Reciprocal Agreement countries where the Agreement covers pension increases.

Cost of proposals

Given that the number and value of pensions exported to non-Reciprocal Agreement countries (or those where the Reciprocal Agreement does not cover pension increases) is very small, and the additional operational costs and administration associated with paying 2 rates of old age pension would be considerable, the only viable option would be to make the increased pension payments to all pensioners, whatever their current country of residence.

The approximate annual cost of this can be estimated as –

- The actual cost of old age pensions for September 2012 was £11.97 million.
- An additional 1.4% would be £167,600 (for the month).
- Using the monthly figure to estimate the full year cost, this would be £2.04 million.

Information on old age pension claims at the end of 2011 provides the following analysis.

Year end 2011	*% of pension claims*	*% of pension value*
Claims paid in Jersey	58%	82%
Claims paid to reciprocal country	39%	16%
Claims paid to non-reciprocal country	3%	2%

From the estimate of £2.04 million additional cost, approximately £1.67 million[2] would be paid to pensioners living in Jersey, with the remainder payable to pensioners living overseas. Only 2% (i.e. £40,000 per annum) of the value of the additional payments would be made to claimants living in countries that are not covered by a Reciprocal Agreement.

Long-term impact

The proposition does not address future increases in pension rate. Although it would provide additional support to pensioners until October 2013, it provides no guarantee or proposal as to how future increases in prices should be dealt with.

The proposed “quick fix” also adds extra cost to the pension bill for every future year. By increasing the value of the pension in one year, every future year will bear the cost of that increase. The cost of £2 million in one year is an additional £40 million to be met by the Social Security Fund over 20 years.

Ministers have fully acknowledged the difficult circumstances that some local pensioners find themselves in, following a number of years in which prices have risen more quickly than earnings. These difficult circumstances are shared by many working age people, who have seen wage-freezes and a lack of job opportunities over the same period. The contributions of the working age population provide the funding for the current generation of pensioners, and any proposal to provide additional support to pensioners must also take account of the additional burden placed on the working age population.

Proposals that do fully address this issue and provide a solution that both protects pensioners from future price rises and ensures the long-term sustainability of the Social Security Fund are currently being developed. An outline of the proposals is being published, and detailed work to confirm the impact of proposals will be complete in time for a States debate early in 2013.

[2] The calculation provided by Deputy Southern substantially underestimates the value of the additional payment to Jersey residents.

Income Support

The proposition also requests the Minister to increase the pension disregard within the income support system to match any increase in the rate of old age pension.

Successive Ministers have always ensured that low-income pensioners receive the full value of their old age pension increase by adjusting the income support pension disregard appropriately. Any proposal to adjust the pension rate will include this provision, in line with current policy.

Conclusion

Members are strongly urged to reject this proposition.

- It is impossible to direct an increase in old age pension to Jersey residents without unpicking the numerous Reciprocal Agreements that Jersey has with other countries. This potentially puts at risk future pension payments from reciprocal countries which are paid to local Jersey residents.

- The proposal does not provide any long-term solution, but does create long-term costs.

- Early in 2013, the Minister for Social Security, working with other Ministers, will be proposing a sustainable solution that protects pensioners from future price rises, including an increase in the rate of old age pension from April 2013.

APPENDIX

List of countries with which Jersey has a Reciprocal Agreement in respect of old age pension

- Negotiated directly with the country –

  - Great Britain
  - Northern Ireland
  - Guernsey (includes Alderney, Herm and Jethou)
  - Isle of Man.

- UK Reciprocal Agreement extended to Jersey –

  - Austria
  - Barbados
  - Bermuda
  - Canada
  - Cyprus
  - France
  - Iceland
  - Ireland
  - Italy
  - Jamaica
  - New Zealand
  - Norway
  - Portugal
  - Spain
  - Sweden
  - Switzerland
  - The Netherlands
  - USA.