

# **STATES OF JERSEY**

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## **DRAFT INCOME SUPPORT (JERSEY) LAW 200-**

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**Lodged au Greffe on 29th August 2006  
by the Minister for Social Security**

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**STATES GREFFE**





Jersey

## **DRAFT INCOME SUPPORT (JERSEY) LAW 200-**

### **European Convention on Human Rights**

The Minister for Social Security has made the following statement –

In the view of the Minister for Social Security the provisions of the Draft Income Support (Jersey) Law 200- are compatible with the Convention Rights.

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

# REPORT

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## Introduction

The draft Income Support (Jersey) Law 200- is an important piece of enabling legislation which provides the framework for a new system of financial support for households on low incomes and is the first step towards the Strategic Objective, within the States Strategic Plan, of delivering an integrated system of benefits which help residents to achieve and maintain financial independence and which provides appropriate financial support for local households and individuals unable to support themselves.

The Law does not set out details of the system or indeed the rates of the new benefit components which will be debated in full by the States once the enabling Law returns from its passage through Privy Council.

Approval of the draft Law will mark the beginning of intense activity leading to implementation in the middle of 2007.

## Proposition

On 21st June 2005, the States approved the proposition “Income Support System (P86/2005)” of the Employment and Social Security Committee for the introduction of a new integrated income support benefit. In summary the States agreed that –

- The existing system of non contributory benefits administered through the Social Security and Housing Departments and the Parishes be discontinued;
- Most of these benefits be replaced by a single system based on a single and current evaluation of income;
- The new system be comprised of a series of components;
- The Health Insurance system be amended to target more help to individuals and thereby allow more flexibility in the delivery of benefit; and
- Special arrangements be made to deal with exceptional and one-off payments through a “Citizen’s Fund”.

The States also agreed that the Employment and Social Security Committee be politically accountable for the system, its development co-ordination and administration and be charged with making arrangements to bring the system into effect. It was also agreed by the States that all the costs of development and administration of the system be funded from the general revenues of the States and, from the same funding source, protection be afforded to those households who may be affected by the removal of existing benefits.

## Reasons for change

Currently about *£64 million (2007)* is spent annually in Jersey in means-tested benefits to support about 25% of households (circa 7,000). Available research suggests that even though the total estimated sum spent on social protection in Jersey is less than the European average, the incidence of poverty is about the same but the severity or depth of poverty is less. Whilst this money is apparently performing well, there is no doubt that improvements can, and should be made. The existing benefit systems are often not easy for residents in Jersey to understand, do not always target money to best effect, cause duplication of effort by officials and customers and lead to frustration amongst those trying to get support at difficult times of their lives.

The combined effect of the current benefits is an uneven distribution of assistance and, in some instances, the creation of disincentives. Replacing them with one benefit and one consistent income assessment will create a fairer, more transparent and accessible system which will assist in the drive to minimize the impact of poverty in Jersey.

The purpose of the new system is that it should help and enable people to both avoid poverty and to take appropriate actions and life decisions to get out of poverty. To do this the new income support system should be effective in tackling real needs whilst promoting work and encouraging self-reliance. It should be equitable, consistent, sustainable, be easily understood and accessible whilst taking account of the whole needs of the family.

## The Law

The Law is essentially a short enabling piece of legislation that sets out a fundamental framework on which powers are given to the States and the Minister to develop the details of the system through Regulations and Orders. However the basic criteria for eligibility are set out in Part 2 of the Law, which in simple terms confirms eligibility for income support on adults of households on relatively low income who are working or have a genuine reason why they are not working. The Law allows subordinate legislation to define ordinarily resident and the constitution of a household as well as definitions for full-time, remunerative work and the availability for and actively seeking work. This is a fundamental principle of the Law, which seeks to promote self-reliance through work.

Part 2 of the Law also describes the components and the difference between the basic components (relating to the constitution of the household) and special components which relate to housing cost, impairment, caring and child care. The States has the power to set the level of component rates by Regulations as well as the criteria to be used when determining the components. Finally, this part of the Law describes how the specific benefit rate for each household is to be calculated by comparison with the determined components and the income of the household, the assessment of which is to be defined by Order.

Part 3 of the Law is concerned with special payments which will come from that part of the Income Support System commonly being described as the "Citizen's Fund". Special payments will cater for exceptional as well as one-off needs which will include those that are currently met by discretionary payments through the Parish Welfare system or the Social Security Department's "Social Fund". This part of the Law is inherently more flexible than Part 2 of the Law which deals with the regular payments currently seen through benefits such as rent abatement/rebate, family allowance and disability allowances.

The requirement for a discretionary element to the Income Support System is to allow instances of exceptional need, which fall outside of the entitlements under Part 2 of the Law, to be addressed.

Part 4 of the Law relates to the determination of claims through "determining officers", and appeals to Tribunals which are to be Human Rights compliant, which is not the case with certain of the existing benefits.

Amongst minor and other consequential matters addressed in the Schedule to the Law, an important change to the Health Insurance (Jersey) Law 1967 is made. The Health Insurance system will become a system based upon individual entitlement, allowing the focussing of benefits to individuals rather than head of households and will allow further changes to be made to target the treatment of chronic illnesses.

### **Cost**

In approving P.86/2005, the States agreed that the funds available to the new Income Support System would be equivalent to the overall cost of the existing means tested benefit systems, this amounts to £64 million in 2007 as per the States Annual Business Plan 2007. The view of the former Employment and Social Security Committee still prevails with the intention of setting rates higher than the existing Parish Welfare levels. At this stage, however, rates cannot be calculated but this will be done as more up-to-date and accurate information is gathered from those existing beneficiaries who will move over to income support.

It is clear however that, if we are to be successful in targeting resources to maximise the impact upon poverty levels in the Island, some households with higher incomes will not receive the same level of financial support in comparison to the level of existing benefits they already receive. This is an inevitable consequence of the better focusing of benefits towards those most in need. Some households will receive more in comparison to the level of existing benefits. To insulate those who will not receive the same level of support under the new system, a sum of £20 million has been identified by the Minister for Treasury and Resources to be allocated over a period of years as phased protection to those households affected.

The Minister for Treasury and Resources has also recognised that the income support system will be able to mitigate the effects of the introduction of a Goods and Services Tax (GST) on low income households. This can be done in two ways. Firstly prior to GST being introduced the relevant component rates within Income Support can be increased thereby giving immediate protection to those receiving income support and bringing more people into the income support net, and secondly further changes will be reflected in the retail prices index which will be a factor in the annual increase of benefits. The Minister for Treasury and Resources has identified an estimated annual sum of up to £1.75 million for this purpose.

### **Manpower**

The introduction of the new income support system will result in changes for staff in the Social Security Department, the Parishes and the Housing Department. Staff administering the rent rebate/abatement scheme will

be transferred to the Social Security Department as will staff administering Parish Welfare for the Parish of St. Helier. Coupled with the staff in the Social Security Department's Family and Health Zones, this means a total of 28 people (18 from other Departments) being incorporated into the new income support infrastructure in the Social Security Department. Other Parishes are considering various options regarding benefit delivery, but it is clear in the Law that the Minister of Social Security is politically responsible for all income support provision. The manpower costs are included in the administration costs incorporated within the benefit costs described in the previous paragraphs.

### **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 Minister 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 24th August 2006 the Minister for Social Security made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Social Security the provisions of the Draft Income Support (Jersey) Law 200- are compatible with the Convention Rights.

## Explanatory Note

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This Law will establish a new low income-related benefits scheme for Jersey, to be known as income support, which will largely replace existing non-contributory benefits, including parish welfare. It also makes provision for a system of special payments which apply both in prescribed circumstances and more generally, in exceptional circumstances, at the Minister's discretion.

*Part 1* contains the interpretation provisions.

*Part 2* is concerned with income support, a new means-tested benefit that is payable to households who meet certain criteria.

*Article 2* sets out the conditions for eligibility, namely (a) that the person claiming is an adult (meaning he or she is over compulsory school age), (b) that he or she meets the prescribed length of ordinary residence in Jersey, (c) that all the adult members of the person's household meet, or are exempted from, the requirement to be in full time remunerative work and (d) that the calculated income of the person's household is such as to entitle the household to receive the benefit. There is provision for Orders to prescribe when people are to be treated or not treated as ordinarily resident in Jersey or as being members of the same household.

*Article 3* lists the persons who do not have to meet the requirement to be engaged in full time remunerative work. They are the over 65s, certain persons caring for a child or a disabled person, those incapable of full time work due to a physical, sensory or mental impairment, those undergoing education or training and those available for, and actively seeking, full time remunerative work. However, only one person may be treated as a carer for all children in the household, or any impaired person, and those other than the over 65s, those looking after children under the age of 5 and job-seekers only qualify if, in addition, they work or are actively seek work for such hours as the determining officer considers appropriate in their particular circumstances. There are powers for the States, by Regulations, to amend the list and to define what work is treated as full time and/or remunerative and the circumstances in which a person is available for, and actively seeking, it.

*Article 4* provides that a person eligible for income support may make a claim to the Minister for Social Security, which claim is treated as being made on behalf of that person's household. Only one claim may be made at a time. The details concerning claims and payments are to be prescribed by Order of the Minister.

*Article 5* sets out the components that comprise income support. There are 4 basic components, a standard adult rate, a single parent rate, a child rate and a rate for the household itself. The 4 special components consist of rates in respect of the costs of housing, a household member's physical, sensory or mental impairment, the costs of child care and a household member's caring for a disabled person. The components may be varied by Regulations.

The Minister decides to which components an eligible household is entitled in accordance with any criteria set out in Regulations. Regulations also specify the rates for each component (which, in the case of the special components, may vary according to specified circumstances) and the Minister has a duty to review the rates at least once a year having regard to the cost of living, general living standards and other relevant factors.

*Article 6* states that if the calculated income of a household is less than the total of the rates for each component to which the household is entitled, the household is entitled to income support from the Minister, and the amount of benefit is the amount by which that total exceeds the calculated income. Nothing is payable if the amount otherwise due would be less than £1 a week or such greater amount as may be prescribed.

"Calculated income" is explained in *Article 7*. It is the total weekly income of the household calculated or estimated in the manner prescribed by Order and there are powers for Orders to set out how income and capital is to be treated. There is provision for a determining officer to override the provisions of the Order in exceptional circumstances.

*Part 3* is concerned with special payments. *Article 8* enables Regulations to provide for the Minister to make payments, to persons ordinarily resident in Jersey, of prescribed amounts in prescribed circumstances to defray prescribed expenses. Payment is not limited to those eligible for income support. There is also power for the Minister, in exceptional circumstances, to make payments in the Minister's discretion. This power is subject to any upper limit, in the case of persons temporarily in Jersey, that the States may by Regulations prescribe. Special payments apply irrespective of entitlement to income support. Payments may be in the form of a loan. There are

similar provisions as with income support for the Minister to make Orders concerned with how claims and payments are to be made.

**Part 4** is about administration and enforcement. *Article 9* provides for claims under Part 2 or Article 8(1) to be determined by one or more officers appointed by the Minister known as determining officers and, if the claimant is dissatisfied with the determination, a decision on who is to receive the money or any review of an award, to be reconsidered by a different determining officer. There is a requirement for Orders to provide for reviews by a Medical Appeal Tribunal or the Social Security Tribunal as appropriate and thence on a point of law to the Royal Court, though appeals can only be made if there has been a redetermination.

*Article 10* gives a power for a determining officer to refer any question of special difficulty to one or more experts who then have a duty not to disclose any information acquired except with appropriate authority.

*Article 11* requires the determining officer to decide to whom payments of income support are to be made. Any or any part of a payment of income support or a special payment may be made to a third party, if the determining officer decides that it is in the best interests of the person or household entitled to receive it. Payments made in accordance with this Article constitute the discharge of the obligation to pay the amount concerned to any person or household.

*Article 12* enables a determining officer to review an award of income support and if it is no longer correct, to make a fresh determination. The officer may require any information or evidence that must be provided in support of a claim in accordance with an Order made under Article 4(3) or Article 8(6).

*Article 13* provides a mechanism for the Minister to recover payments of income support or special payments that should not have been made.

*Article 14* enables the imposition of charges over property in order to recover the cost of a special payment in the form of a loan, an overpayment or payments made as a consequence of a disregard of capital or income.

*Article 15* enables the Minister to pay to tribunal members and those whose assistance has been required by a tribunal or a determining officer such remuneration and expenses as the Minister may determine.

*Article 16* creates offences of furnishing false information, obtaining or receiving benefit that should not be paid or received or failing to notify a change of circumstances. The maximum penalty is 7 years' imprisonment and/or a fine.

*Article 17* contains the usual provisions about parties to offences and *Article 18* makes general provision regarding Regulations and Orders.

**Part 5** contains miscellaneous closing provisions. *Article 19* enables the Minister to make Orders for facilitating the introduction of the Law, including modifying the Law, to facilitate the transition from the old scheme of benefits to the new.

*Article 20* abolishes parish welfare.

*Article 21* links to *Schedule 1*, which makes minor or consequential amendments to various enactments. These changes include:

(1) amendments to the Health Insurance (Jersey) Law 1967: removing the concept of dependant wife so that all adults must claim in their own right, replacing the concept of "child of the family", which was linked to the now repealed Family Allowances (Jersey) Law 1972, with "child of the household" to harmonise with the new Law and tidying up the provisions concerned with determination of claims and reciprocal agreements with other countries;

(2) amendments to the Social Security Law 1974: replacing cross-references to the Family Allowances (Jersey) Law 1972 and tidying up the provisions concerned with determination of claims and reciprocal agreements with other countries;

(3) amendments to the Invalid Care and Disability Allowances (Jersey) Law 1978: removing the provisions concerned with the disability allowance which is one of the benefits replaced by income support;

(4) an amendment to the Burials and Exhumations (Jersey) Law 2004 (not yet in force) so as to make the Minister for Social Security responsible for the costs of disposing of a body where the deceased's estate cannot meet the cost, payable as a special payment, instead of the cost being born by the relevant parish;

(5) amendments to the Rates (Jersey) Law to correct an error in the description of how the change to RPI is calculated for the purposes of calculating the annual amount to be levied by way of the Island-wide Rate and to



remove some now redundant provisions.

Article 21 also enables the States, by Regulations, to amend any enactment (other than the draft Law itself) for the purposes of the Law.

*Article 22* repeals the enactments set out in *Schedule 2* which are all concerned with benefits replaced by income support.

*Article 23* is the citation provision and provides for the Law to come into force on such day or days as the States may by Act appoint.





Jersey

## DRAFT INCOME SUPPORT (JERSEY) LAW 200-

### Arrangement

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#### Article

#### **PART 1**

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#### INTRODUCTORY PROVISIONS

#### **PART 2**

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#### INCOME SUPPORT

#### **PART 3**

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#### SPECIAL PAYMENTS

#### **PART 4**

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#### ADMINISTRATION AND ENFORCEMENT

#### **PART 5**

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#### CLOSING PROVISIONS

## **SCHEDULE 1**

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### **MINOR OR CONSEQUENTIAL AMENDMENTS**

- 1        Health Insurance (Jersey) Law 1967
- 2        Social Security (Jersey) Law 1974
- 3        Invalid Care and Disability Allowances (Jersey) Law 1978
- 4        Burials and Exhumations (Jersey) Law 2004
- 5        Rates (Jersey) Law 2005

## **SCHEDULE 2**

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### **ENACTMENTS REPEALED**





Jersey

## DRAFT INCOME SUPPORT (JERSEY) LAW 200-

**A LAW** to establish a benefits scheme for households with low income, to make minor amendments to related legislation and for connected purposes

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*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

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

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### PART 1

#### INTRODUCTORY PROVISIONS

##### 1 Interpretation

In this Law, unless the context otherwise provides –

“adult” means a person over compulsory school age;

“award” means any the amount of income support or a special payment that it has been determined a household or a person, as the case may be, should be awarded;

“calculated income” shall be construed in accordance with Article 7;

“child” means a person below the upper limit of compulsory school age;

“claimant” means a person claiming income support or a special payment;

“compulsory school age” shall be construed in accordance with Article 2 of the Education (Jersey) Law 1999<sup>[1]</sup>;

“day care” means the looking after a child by a day carer, or in day care accommodation, in circumstances regulated by the Day Care of Children (Jersey) Law 2002<sup>[2]</sup>;

“determining officer” has the meaning assigned by Article 9(1)(a);

“eligible household” means a household comprising one or more persons eligible for income support;

“income support” shall be construed in accordance with Article 5;

“Minister” means the Minister for Social Security;

“prescribed” means specified or determined in accordance with an Order made by the Minister;

“special payment” means a payment under Article 8.

## **PART 2**

### **INCOME SUPPORT**

#### **2 Eligibility for income support**

- (1) A person is eligible for income support if the person –
  - (a) is an adult;
  - (b) has been ordinarily resident in Jersey for such period as may be prescribed;
  - (c) is a member of a household of which all the adult members are engaged in full time remunerative work or exempted under Article 3; and
  - (d) is a member of a household whose calculated income entitles the household to receive income support under Article 6.
- (2) Orders may prescribe particular circumstances in which a person is to be treated or not treated for the purposes of this Article as –
  - (a) ordinarily resident in Jersey; or
  - (b) a member of the same household as another person.

#### **3 Persons eligible despite not being engaged in full time remunerative work**

- (1) The following persons are exempted from the requirement to be engaged in full time remunerative work under Article 2(1)(c) –
  - (a) persons aged 65 years or over;
  - (b) persons with the main responsibility for the physical care of any child under the age of 5 years who is a member of the same household;
  - (c) persons with the main responsibility for the physical care of any child aged 5 years or over who is a member of the same household;
  - (d) persons incapable of full time work due to any physical, sensory or mental impairment;
  - (e) persons undergoing education or training on any course approved by the Minister for the purposes of this Article;
  - (f) persons with the main responsibility for the physical care of any person with such degree of physical, sensory or mental impairment as would make the carer eligible to claim a special component under Article 5(3)(d);
  - (g) persons available for, and actively seeking, full time remunerative work.
- (2) However –
  - (a) not more than one person may be treated as having the main responsibility for the physical care of each of the following categories of persons –
    - (i) all children mentioned in paragraph (1)(b) and (c),
    - (ii) any person mentioned in paragraph (1)(f); and
  - (b) persons mentioned in paragraph (1)(c) to (f) are only eligible for income support if they are engaged in, or available for and actively seeking, remunerative work for such hours (if any) as the determining officer considers appropriate in their particular circumstances.
- (3) The States may by Regulations –
  - (a) amend paragraph (1); and
  - (b) provide for the purposes of this Article –

- (i) what is or is not to be treated as remunerative work and what amount of work is to be considered as full time, generally or in any particular circumstances, and
- (ii) the circumstances in which a person is or is not to be treated as being available for, and actively seeking, remunerative work.

#### **4 Claims for income support**

- (1) A person who is eligible for income support may make a claim to the Minister and such claim shall be treated as being made on behalf of the household of which the person is a member.
- (2) Only one claim for income support may be made at any one time on behalf of any one eligible household.
- (3) Orders may prescribe –
  - (a) the manner in which a claim for income support is to be made;
  - (b) the circumstances in which a claim for income support may be backdated;
  - (c) the information and evidence that must be provided in support of a claim;
  - (d) the method, timing and notification of payments;
  - (e) when, by whom and in what circumstances notice must be given of any change of circumstances affecting the continuance of entitlement to income support;
  - (f) provisions relating to payments in the event of a death; and
  - (g) procedures for handling claims on behalf of persons who cannot act for themselves.

#### **5 Components and rate of income support**

- (1) Income support is a weekly allowance made up of basic and special components payable to each eligible household.
- (2) The basic components are –
  - (a) a rate for each adult in the household not included in sub-paragraph (b);
  - (b) a rate for a sole adult in a household where the household is entitled to the component described in sub-paragraph (c);
  - (c) a rate for each child in the household;
  - (d) a rate in respect of each household.
- (3) The special components are –
  - (a) a rate in respect of the reasonable housing costs of the household;
  - (b) a rate in respect of any person in the household who has a physical, sensory or mental impairment;
  - (c) a rate in respect of the reasonable costs of the day care of any child in the household;
  - (d) a rate in respect of any person in the household who has the main responsibility for caring for a person with such degree of physical, sensory or mental impairment as is specified by Regulations made by the States.
- (4) The States shall make Regulations setting out the criteria to be used when determining to which components an eligible household is entitled.
- (5) Rates for each of the components (which, in the case of special components, may vary according to specified circumstances) shall be specified in Regulations and the amounts there specified shall be reviewed by the Minister at intervals not exceeding one year and the Minister shall make such recommendations to the States with respect to the Regulations as the Minister considers appropriate.
- (6) In reviewing the rates the Minister shall have regard to any changes in the cost of living and in the



general standards of living of the community, together with any other factors that the Minister considers relevant.

(7) The States may by Regulations amend paragraph (2) or paragraph (3).

## **6 Calculation of award of income support**

- (1) If the calculated income of a household is less than the total of the rates for each component of income support to which the household is entitled, the household is entitled to an award of income support from the Minister.
- (2) The amount of income support that an eligible household is entitled to receive is the total of the rates for each such component minus the calculated income of the household.
- (3) However, no income support shall be payable if the amount that would otherwise be payable is less than £1 a week or such greater amount as may be prescribed.

## **7 Calculated income**

- (1) The calculated income of an eligible household is the total weekly income of the household calculated or estimated in such manner as may be prescribed and Orders may provide for the calculation to be made by reference to an average over a given period of time (which need not include the week concerned).
- (2) Orders made under this Article may prescribe the extent to which –
  - (a) capital is to be treated as providing an income;
  - (b) income is to be treated as capital;
  - (c) any percentage of income is to be disregarded;
  - (d) any capital is to be disregarded for the purposes of assessing income; and
  - (e) income or capital that would otherwise not be treated as income or capital is nevertheless to be treated as income or capital.
- (3) A determining officer may, in exceptional circumstances, disregard any capital or income that an Order under this Article would otherwise require to be taken into account.

# **PART 3**

## **SPECIAL PAYMENTS**

## **8 Special payments**

- (1) The States may, by Regulations, provide for the Minister to make special payments of such amounts and in such circumstances as the Regulations may specify to any person ordinarily resident in Jersey, whether or not the person is part of an eligible household, to defray such expenses or categories of expenses payable by that person as the Regulations may specify.
- (2) Without prejudice to paragraph (1), the Minister may, in exceptional circumstances, make special payments of such amount as the Minister considers appropriate to any person ordinarily resident in Jersey, whether or not that person is part of an eligible household.
- (3) Subject to paragraph (4), the Minister may, in exceptional circumstances, make special payments of such amount as the Minister considers appropriate to a person who (though not ordinarily resident in Jersey) is temporarily in Jersey, whether or not that person is part of an eligible household.
- (4) The States may by Regulations prescribe a maximum limit of the amount of any special payment that may be made under paragraph (3).

- (5) A special payment may be in the form of a loan, and if so, the loan shall be subject to such conditions (if any), including as to the payment of interest, as the Minister considers appropriate.
- (6) Orders may prescribe –
  - (a) the manner in which a claim for a special payment is to be made;
  - (b) the information and evidence that must be provided in support of a claim;
  - (c) the method, timing and notification of special payments;
  - (d) provisions relating to special payments in the event of a death; and
  - (e) procedures for handling claims on behalf of persons who cannot act for themselves.

## **PART 4**

### **ADMINISTRATION AND ENFORCEMENT**

#### **9 Determination of claims**

- (1) Subject to the provisions of this Law, Orders shall provide –
  - (a) for the determination of any claim under Part 2 or Article 8(1) by one or more officer appointed by the Minister, to be known as determining officers; and
  - (b) if the claimant or an adult member of the claimant’s household is dissatisfied with any determination under paragraph (1)(a), any decision of the determining officer under Article 1 or any review under Article 12, for the matter to be reconsidered by a second determining officer.
- (2) Orders under paragraph (1) shall further provide–
  - (a) for reviews on medical grounds to be made by a Medical Appeal Tribunal constituted as prescribed;
  - (b) for appeals on non-medical grounds to be made to the Social Security Tribunal constituted under Schedule 4 to the Social Security (Jersey) Law 1974<sup>[3]</sup>; and
  - (c) for appeals from any such Tribunal on questions of law to be made to the Royal Court.
- (3) However, a Tribunal mentioned in paragraph (2) shall not have jurisdiction unless a second determining officer has first reconsidered the matter in accordance with an Order made under paragraph (1)(b).

#### **10 Power to refer questions to experts**

- (1) Where any question of special difficulty falls to be determined under this Law, the determining officer may refer that question to one or more experts for examination and report.
- (2) An expert to whom a question is referred under paragraph (1) shall not disclose any information coming to his or her knowledge as a result of such referral to any person except –
  - (a) a person acting in execution of this Law;
  - (b) as may be required for any purpose approved by the Minister; or
  - (c) for the purposes or in the course of any legal proceedings.
- (3) In this Article “expert” means a person appearing to the determining officer to have knowledge or experience which would be relevant in determining the question of special difficulty.

#### **11 Payments to persons in an eligible household and to third parties**

- (1) Where a household is entitled to income support, the determining officer shall decide which of the adult members of the household are to receive payment and whether payment should be assigned to the benefit of or paid to any third party under paragraph (2), and payment of the amount awarded shall be made in accordance with that decision.
- (2) Subject to the provisions of this Law, any award or part of an award may, if the determining officer decides that it is in the best interests of the person or household entitled to receive it, be assigned to the benefit of, or paid to, any third party.
- (3) Payment of an amount in accordance with this Article shall constitute a discharge of the obligation to pay that amount to any person or household as the case may be.

## **12 Review of awards**

- (1) A determining officer may at any time review an award, and if the determining officer considers that the determination may no longer be correct, he or she may make a fresh determination.
- (2) A determining officer reviewing an award under paragraph (1) may require any information or evidence that must be provided in support of a claim in accordance with an Order made under Article 4(3) or Article 8(6).

## **13 Recovery of awards wrongly made**

- (1) If it is found at any time that any award has been paid that was not properly payable, the Minister may require it to be repaid –
  - (a) if it was paid to a person in his or her own right or on behalf of an eligible household, by that person; or
  - (b) if it was paid to a person on behalf of another person or an eligible household, by that person, by that other person or by a member of that household.
- (2) If it is found at any time that any award properly payable has been paid to a person not being a person by whom it was properly receivable, the Minister may require it to be repaid by the person to whom it was paid.
- (3) In case of the death of a person who could be required to repay a sum under this Article, the Minister may require it to be repaid by the person charged with the administration of the deceased person's personal estate.
- (4) Proceedings for the recovery of any sum which a person is required under this Article to repay to the Minister may be instituted by the Treasurer of the States, either in term or in vacation, and notwithstanding any enactment or rule of law to the contrary, any such proceedings may be brought at any time within 10 years from the time when that sum was paid, or, where the proceedings are for the recovery of a consecutive series of sums, within 10 years from the date on which the last sum of the series was paid.
- (5) Any sum which a person is required under this Article to repay to the Minister may, without prejudice to any other remedy, be recovered by means of deduction from any other payment due under this Law to the person to whom the sum was paid, unless it was paid to that person on behalf of another, in which case it may, without prejudice to any other remedy, be recovered by means of deduction from any payment due under this Law to that other person.

## **14 Charges over property**

- (1) In any case where –
  - (a) a special payment has been made in the form of a loan;
  - (b) the Minister seeks to recover an award under Article 13; or

(c) the determining officer has exercised his or her discretion under Article 7(3),

the amount in question may be secured by means of a hypothec charged on any immovable property owned by the claimant or a member of the claimant's household, or a security interest in shares that confer on the claimant or a member of the claimant's household entitlement to occupy any immovable property, as the case may be.

- (2) The Minister may require –
- (a) the payment of such interest, if any, on the amount in question, as the Minister may specify; or
  - (b) the repayment of the amount in question, plus any interest to be charged, by means of such instalments as the Minister may specify.
- (3) In this Article “amount in question” means the amount of the loan, award to be recovered or the amount of income support payable as a result of the disregard of capital or income, as the case may be.

## **15 Administrative expenses**

The Minister may pay to any member of a Tribunal mentioned in Article 9(2) who exercises any functions under this Law, and any other person whose advice or assistance may be required for the purposes of this Law by either of those Tribunals or by a determining officer, such remuneration and expenses as the Minister may determine.

## **16 Offences**

A person who –

- (a) with intent to obtain an award, whether on behalf of himself or herself or any household or person, furnishes any information that he or she knows to be false in a material particular, or recklessly furnishes any information that is false in a material particular, or withholds any material information;
- (b) obtains or receives an award, whether on behalf of himself, herself or any household or person, knowing that it was not properly payable to, or not properly receivable by, him or her; or
- (c) fails to notify a change of circumstances as required by an Order under this Law,

is guilty of an offence and liable to imprisonment for a term of 7 years and to a fine.

## **17 Parties to offences**

(1) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part 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.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply 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.

(3) A person who aids, abets, counsels or procures the commission of an offence under this Law is also guilty of an offence and liable in the same manner as a principal offender to the penalty provided for that offence.

## **18 Regulations and Orders**

- (1) The States may make Regulations and the Minister may make Orders specifying or prescribing anything that is to be or may be specified or prescribed under this Law and generally for carrying this Law into effect.
- (2) Without prejudice to any specific provision of this Law, any Regulations or Order under this Law may contain such incidental, supplemental or transitional provisions as appear to the States or the Minister, as the case may be, to be expedient for the purposes of the Regulations or Order.

## **PART 5**

### **CLOSING PROVISIONS**

## **19 Transitional provisions**

Without prejudice to the powers conferred by any other provision of this Law, Orders may make such provision as the Minister considers necessary for facilitating the introduction of this Law, including the modification of this Law, so as to facilitate the transition from the scheme of benefits that applied before the commencement of this Law to income support.

## **20 Abolition of Parish Welfare**

The obligations of a parish to meet the costs of the relief and maintenance of persons chargeable to the parish who are suffering as a result of financial hardship are abolished.

## **21 Minor or consequential amendments**

- (1) Schedule 1 has effect for amending the enactments set out in that Schedule.
- (2) The States may by Regulations make such other amendments to any enactment (other than this Law) as appear to the States to be expedient for the purposes of this Law.

## **22 Repeals**

The enactments set out in Schedule 2 are repealed.

## **23 Citation and commencement**

This Law may be cited as the Income Support (Jersey) Law 200- and shall come into force on such day as the States may by Act appoint and different days may be appointed for different purposes.

## SCHEDULE 1

(Article 21(1))

### MINOR OR CONSEQUENTIAL AMENDMENTS

#### 1 Health Insurance (Jersey) Law 1967

- (1) In this paragraph “1967 Law” means the Health Insurance (Jersey) Law 1967<sup>41</sup>.
- (2) In Article 1(1) of the 1967 Law –
  - (a) for the definition “child of the family” there shall be substituted the following definitions –
    - “ ‘child’ means a person below the upper limit of compulsory school age;
    - ‘child of the household’ means, in relation to an insured person, any child who lives with the insured person as part of his or her household”;
  - (b) the definitions “beneficiary”, “dependant”, “dependant wife” and “Family Allowances Law” shall be deleted.
- (3) For Article 3(2)(b)(i) of the 1967 Law there shall be substituted the following clause–
  - “(i) children of the household of insured persons,”.
- (4) Articles 4, 5 and 8 of the 1967 Law shall be repealed.
- (5) For Article 6 of the 1967 Law there shall be substituted the following Article–

#### “6 Right to claim benefit

- (1) An insured person may claim benefit for himself or herself and any child of the household.
- (2) However, no claim may be made unless the insured person –
  - (a) has been entered into insurance for at least 6 months; and
  - (b) has paid such contributions, if any, as the person is required to pay under the Social Security Law.”.
- (6) In each of the following provisions in the 1967 Law in each place where they occur for the words “any of the person’s dependants” there shall be substituted the words “any child of the household” –
  - (a) Article 9(1);
  - (b) Article 11(1);
  - (c) Article 13(1);
  - (d) Article 15(2).
- (7) Article 9(3) and (4) of the 1967 Law shall be repealed.
- (8) In Article 16 of the 1967 Law for the words “any of his or her dependants” there shall be substituted the words “any child of the household”.
- (9) In Article 17 of the 1967 Law–
  - (a) in paragraph (1)(d) the words “and their dependants” shall be deleted;
  - (b) in paragraph (1)(f) for the words “any of his or her dependants” there shall be substituted the words “any child of the household”;
  - (c) paragraph (1)(g) shall be deleted;
  - (d) for paragraph (2)(a) there shall be substituted the following subparagraph –

“(a) for enabling a person to be appointed to exercise, on behalf of an insured person who may be or become unable for the time being to act, any right or power that the insured person may be entitled to exercise under this Law, and for authorizing a person so appointed to receive and deal with any sum payable by way of benefit on behalf of the insured person;”.

(10) For Article 28 of the 1967 Law there shall be substituted the following Article–

**“28 Determination of claims**

- (1) Subject to this Law, provision shall be made by Order –
  - (a) for the determination of any question arising under or in connection with this Law, including any claim for benefit, by one or more determining officers appointed by the Minister; and
  - (b) if the insured person is dissatisfied with any determination of a determining officer under this Law, for the matter to be redetermined by a second determining officer.
- (2) Orders under paragraph (1) shall provide for–
  - (a) appeals to the Social Security Tribunal from any determination of a determining officer;
  - (b) the reference to the Inferior Number of the Royal Court for decision of any question of law arising in connection with the determination of a question by a determining officer or of an appeal by the Social Security Tribunal;
  - (c) appeals to the Inferior Number of the Royal Court from a determination of a determining officer or a decision of the Social Security Tribunal on any question of law.
- (3) However, a Tribunal mentioned in paragraph (2) shall not have jurisdiction unless a second determining officer has first reconsidered the matter in accordance with an Order made under paragraph (1)(b).
- (4) The decision of the Inferior Number of the Royal Court on any reference or appeal arising in connection with this Law shall be final and without further appeal, but this is without prejudice to the right of the Inferior Number of the Royal Court to refer the question at issue to the Superior Number of the Royal Court.
- (5) Subject to this Article, any Order under this Article may, in relation to any consideration of a matter by a determining officer or the Social Security Tribunal in accordance with the Order, include provision –
  - (a) as to the procedure which is to be followed, the form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence;
  - (b) as to the time to be allowed for making any claim or appeal, for raising any question with a view to the review of any decision or for producing any evidence;
  - (c) for summoning persons to attend and give evidence or produce documents and for authorizing the administration of oaths to witnesses; or
  - (d) for the representation of one person, at any hearing of a case, by another person, whether or not that other person has professional qualifications.
- (6) Where, in any proceedings for an offence under this Law or for the recovery of any sums due to the Health Insurance Fund, any question arises that is required by an Order under this Article to be determined in accordance with the Order, provision may be made by Order –
  - (a) that the decision relating to that question shall be conclusive for the purpose of

those proceedings;

(b) for obtaining such a decision when it has not been given; and

(c) for adjourning the proceedings until such a decision has been given.”.

(11) In Article 34 of the 1967 Law –

(a) in paragraph (1) for the words “it shall be lawful for the States, by Act, to make provision for modifying or adapting this Law in its application to cases affected by the agreement” there shall be substituted the words “the States may, by Act, provide for this Law to be read as modified or adapted, in its application to cases affected by the agreement, to the extent required by the agreement”;

(b) in paragraph (2) for the words “The modifications of this Law which may be made by virtue of paragraph (1) shall include provision” there shall be substituted the words “Where the States have made an Act under paragraph (1), this Law shall be read as modified so as to include provision”.

## 2 Social Security (Jersey) Law 1974

In the Social Security (Jersey) Law 1974<sup>[5]</sup> –

(a) for Article 1(2) there shall be substituted the following paragraph –

“(2) For the purposes of this Law –

(a) “child” means a child below school leaving age and any other child who is in full-time education;

(b) a person shall be treated as having a family that includes a child if he or she lives with any child as part of his or her household;

(c) “school leaving age” means the upper limit of compulsory school age by virtue of Article 2 of the Education (Jersey) Law 1999<sup>[6]</sup>.”;

(b) in Article 28(1)(a)(i) for the words “excluding an allowance under the Family Allowances (Jersey) Law 1972<sup>[7]</sup>” there shall be substituted the words “excluding any payment under the Income Support (Jersey) Law 2004”;

(c) for Article 33 there shall be substituted the following Article –

### “33 Determination of claims and questions

(1) Subject to this Law, provision shall be made by Order –

(a) for the determination of any question arising under or in connection with this Law, including any claim for benefit, by one or more officers appointed by the Minister, to be known as determining officers; and

(b) if the claimant is dissatisfied with any determination of a determining officer under this Law, for the matter to be redetermined by a second determining officer.

(2) Paragraph (1) shall not apply to the determination of any question for which provision is made by Articles 34A to 34D.

(3) Orders under paragraph (1) shall provide for–

(a) appeals to the Social Security Tribunal from any determination of a determining officer;

(b) the reference to the Inferior Number of the Royal Court for decision of any question of law arising in connection with the determination of a question by a determining officer or of an appeal by the Social Security Tribunal;



- (c) appeals to the Inferior Number of the Royal Court from a determination of a determining officer or a decision of the Social Security Tribunal on any question of law.
- (4) However, a Tribunal mentioned in paragraph (3) shall not have jurisdiction unless a second determining officer has first reconsidered the matter in accordance with an Order made under paragraph (1)(b).
- (5) No Order under this Article shall provide for appeals to lie from a decision of a determining officer on questions –
  - (a) whether the contribution conditions for any benefit are satisfied, or otherwise relating to an insured person’s contributions;
  - (b) as to entitlement to a death grant;
  - (c) which of the 2 or more persons satisfying the conditions for an increase of benefit, whether of the same or of a different description, shall be entitled to the increase where by virtue of some provisions of this Law not more than one of them is entitled to the increase; or
  - (d) as to the class of insured persons in which a person is to be included.
- (6) The decision of the Inferior Number of the Royal Court on any reference or appeal arising in connection with this Law shall be final and without further appeal, but this is without prejudice to the right of the Inferior Number of the Royal Court to refer the question at issue to the Superior Number of the Royal Court.
- (7) Subject to this Article, any Order under this Article may, in relation to any consideration of a matter by a determining officer or the Social Security Tribunal in accordance with the Order, include provision –
  - (a) as to the procedure which is to be followed, the form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence;
  - (b) as to the time to be allowed for making any claim or appeal, for raising any question with a view to the review of any decision or for producing any evidence;
  - (c) for summoning persons to attend and give evidence or produce documents and for authorizing the administration of oaths to witnesses; or
  - (d) for the representation of one person, at any hearing of a case, by another person, whether or not that other person has professional qualifications.
- (8) Where, in any proceedings for an offence under this Law, involving any question as to the payment of contributions under this Law or for the recovery of any sums due to the Social Security Fund, any question arises that is required by an Order under this Article to be determined in accordance with the Order, provision may be made by Order –
  - (a) that the decision relating to that question shall be conclusive for the purpose of those proceedings;
  - (b) for obtaining such a decision when it has not been given; and
  - (c) for adjourning the proceedings until such a decision has been given.”;
- (d) in Article 48 –
  - (i) in paragraph (1) for the words “it shall be lawful for the States, by Act, to make provision for modifying or adapting this Law in its application to cases affected by the agreement” there shall be substituted the words “the States may, by Act, provide for this Law to be read as modified or adapted, in its application to cases affected by the agreement, to the extent required by the agreement”;
  - (ii) in paragraph (2) for the words “The modifications of this Law which may be made by virtue of paragraph (1) shall include provision” there shall be substituted the words “Where the States

have made an Act under paragraph (1), this Law shall be read as modified so as to include provision”;

- (e) in paragraphs 1 to 3 of Schedule 4 in each place where they occur for the words “5 other members” there shall be substituted the words “12 other members”.

### **3 Invalid Care and Disability Allowances (Jersey) Law 1978**

In the Invalid Care and Disability Allowances (Jersey) Law 1978<sup>[8]</sup> –

- (a) for the long title there shall be substituted the following long title –

“A LAW to make provision for a non-contributory invalid care allowance and for connected purposes”;

- (b) for Article 2(2) there shall be substituted the following paragraph –

“(2) In this Article “severely disabled person” means a person with such degree of physical, sensory or mental impairment as is specified by Regulations under Article 5(3)(d) of the Income Support (Jersey) Law 200-.”;

- (c) Articles 3, 4, and 7 shall be repealed;

- (d) in Article 10 –

- (i) in paragraphs (1) and (2) the provisos shall be deleted and for the colon at the end of each paragraph there shall be substituted a full stop;

- (ii) in paragraph (4) for the words “12 months” in each place where they occur there shall be substituted the words “10 years”;

- (e) in Article 12 paragraph (2) shall be repealed and the numbering of the remaining text as (1) shall be deleted;

- (f) in Article 13 for the words “a fine not exceeding £1,000” there shall be substituted the words “imprisonment for a term of 7 years and to a fine”;

- (g) in Article 14–

- (i) in paragraph (a) after the word “Law” there shall be inserted the word “and”;

- (ii) in paragraph (b) for the word “; and” there shall be substituted a full stop;

- (iii) paragraph (c) shall be deleted;

- (h) in Article 17 for the words “and Disability Allowances” there shall be substituted the word “Allowance”.

### **4 Burials and Exhumations (Jersey) Law 2004**

For Article 7(b) of the Burials and Exhumations (Jersey) Law 2004<sup>[9]</sup> there shall be substituted the following paragraph –

“(b) if the monetary value of the estate is not sufficient to meet such costs, such part of the costs as the Minister for Social Security considers reasonable shall be payable by the Minister to the person arranging for the disposal as if those costs were a special payment made in pursuance of Regulations made under Article 8(1) of the Income Support (Jersey) Law 200-.”.

### **5 Rates (Jersey) Law 2005**

In the Rates (Jersey) Law 2005<sup>[10]</sup> –

- (a) in Article 20(1) for the words “increased by the percentage rise in the Jersey Retail Prices Index during the 12 months beginning on 1st April of that previous year” there shall be substituted the words “adjusted by the percentage change in the Jersey Retail Prices Index calculated by comparing the annual figure compiled for the quarter ending in March of that year with the annual figure compiled for the quarter ending in March of the previous year”; and
- (b) the following provisions shall be repealed –
  - (i) the definition “institutional care” in Article 1(1);
  - (ii) Article 26(3);
  - (iii) Article 52.

## **SCHEDULE 2**

(Article 22)

### **ENACTMENTS REPEALED**

Loi (1908) sur l'Administration de l'Assistance Paroissiale à St. Hélier<sup>[11]</sup>

Poor Law Amendment (Jersey) Law 1953<sup>[12]</sup>

Family Allowances (Jersey) Law 1972<sup>[13]</sup>

Attendance Allowances (Jersey) Law 1973<sup>[14]</sup>

Disability Transport Allowance (Jersey) Law 1997<sup>[15]</sup>

Disability Allowances (Jersey) Regulations 1988<sup>[16]</sup>

Milk (Sale to Special Classes) (Jersey) Regulations 2004<sup>[17]</sup>

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<a href="#">[1]</a>	<i>chapter 10.800</i>
<a href="#">[2]</a>	<i>chapter 10.700</i>
<a href="#">[3]</a>	<i>chapter 26.900</i>
<a href="#">[4]</a>	<i>chapter 26.500</i>
<a href="#">[5]</a>	<i>chapter 26.900</i>
<a href="#">[6]</a>	<i>chapter 10.800</i>
<a href="#">[7]</a>	<i>chapter 26.400</i>
<a href="#">[8]</a>	<i>chapter 26.600</i>
<a href="#">[9]</a>	<i>L.22/2004</i>
<a href="#">[10]</a>	<i>chapter 24.950</i>
<a href="#">[11]</a>	<i>chapter 16.150 (L.5/1908)</i>
<a href="#">[12]</a>	<i>chapter 26.800 (L.20/1953)</i>
<a href="#">[13]</a>	<i>chapter 26.400 (L.27/1972)</i>
<a href="#">[14]</a>	<i>chapter 26.100 (L.12/1973)</i>
<a href="#">[15]</a>	<i>chapter 26.300 (L.1/1997)</i>
<a href="#">[16]</a>	<i>chapter 26.600.30 (R&amp;O.7730)</i>
<a href="#">[17]</a>	<i>chapter 26.650 (R&amp;O.31/2004)</i>