

STATES OF JERSEY



DRAFT CHRISTMAS BONUS (JERSEY) LAW 201-

Lodged au Greffe on 22nd March 2011
by the Minister for Social Security

STATES GREFFE



Jersey

DRAFT CHRISTMAS BONUS (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Social Security has made the following statement –

In the view of the Minister for Social Security, the provisions of the Draft Christmas Bonus (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Deputy I.J. Gorst of St. Clement**

REPORT

Background

The Christmas Bonus Law provides an annual payment in December to individuals who satisfy certain criteria. In 2010 the full value of the bonus was £97, with a reduced bonus of £87 paid to individuals who also received the U.K. Christmas bonus of £10. 18,927 persons received a Christmas bonus last year, at a total cost of £1.74 million.

As part of the Comprehensive Spending Review process for 2011, the Minister for Social Security proposed to limit the eligibility criteria for the Christmas bonus (SS-S8) to create a saving of £439,000 in 2011.

During the Annual Business Plan debate, the States approved an amendment brought by Senator Le Gresley (P.99/2010 – 6th amendment). The amended proposal, as approved by the States, is that the Christmas bonus should no longer be paid to –

- Individuals living outside Jersey;
- Individuals living in Jersey who currently only qualify on the grounds of residency and age (i.e. they do not receive any qualifying benefit such as old age pension).

However, in order to maintain eligibility to other individuals aged below 65, it was also agreed that the value of the Christmas bonus should be reduced to –

- £78 in 2011
- £80 in 2012
- £82 in 2013.

In addition to pensioners aged 65 and above, the Christmas bonus will continue to be payable to –

- Women in receipt of a pension with a pension age of 60, aged 60 to 64
- Pensioners who have opted to take a pension at the age of 63 or 64
- Individuals aged below 65 receiving a Survivor's Allowance or Survivor's Pension
- Individuals aged below 65 who receive Invalidity Benefit
- Individuals aged below 65 with a 100% award for Long Term Incapacity Allowance
- Individuals of any age receiving Invalid Care Allowance
- Individuals of any age receiving Income Support and a personal care component (level 2 or level 3).

Revised Law

The Christmas bonus is administered through the Christmas Bonus (Jersey) Law 1991. In order to remove eligibility from the 2 groups set out above, changes are required to this Law.

The existing Law does not include a right of appeal to an independent tribunal. Rather than make extensive amendments to the current Law, a new Law has been prepared. The draftsman's Explanatory Note sets out the detail of the new Law.

The Social Security Department administers 3 similar benefits which provide an annual lump sum –

- TV Licence Benefit – £145.50 in 2010 paid to individuals aged over 75 subject to income and other conditions
- Food Costs Bonus – £153.60 in 2010 paid to households subject to income tax, income support and other conditions
- Christmas Bonus – £97 in 2010 paid to individuals satisfying benefit, residency and age conditions.

The provisions within the new Christmas Bonus Law now provide for the re-determination of claims, independent appeal rights and penalties which are similar to those included in the Social Security (Television Licence Benefit) (Jersey) Law 2006. The Food Costs Bonus triennial Regulations which are planned to be renewed in July 2011 will also include similar provisions.

In summary, these provisions allow for a decision in respect of the payment of a benefit to be challenged by a claimant within a set timeframe. The decision must then be reviewed by a second officer within the Department. If the claimant remains dissatisfied with the second decision, there is a right of appeal to an independent tribunal. Offences committed in respect of these 3 benefits will carry a penalty of up to 2 years' imprisonment or an unlimited fine.

The new Law includes a requirement for the Minister to publicise the payment of the bonus each year. Almost all claims are paid automatically, and the public notice will ensure that anyone who does not receive an automatic payment is able to make a claim at the correct time.

In line with Senator Le Gresley's amendment, the value of the Christmas bonus is reduced from its 2010 value and is set for the next 3 years. From 2014 onwards, the value of the Christmas bonus will revert to a formula in which it is adjusted according to the midpoint between the June Retail Prices Index and the Average Earnings Index for that year.

Financial and manpower implications

There are limited manpower considerations – under the current Law, individuals who do not receive a benefit from the Social Security Department can apply for Christmas bonus, if they satisfy age and residency conditions. These applications are currently processed manually. This group (approximately 450 individuals in 2010) will no longer be eligible for the Christmas bonus and there will be a reduction in administrative overhead. Under the new Law, almost all claims will be paid automatically, minimising administration costs.

It is estimated that approximately 18,000 individuals will be eligible for the Christmas bonus in 2011 and the bonus will be paid at a maximum rate of £78 per person, a total estimated cost of £1.32 million. This sum is allowed for within the departmental cash limits, taking into account the approved CSR saving.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires 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). On 21st March 2011, 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 Christmas Bonus (Jersey) Law 201- are compatible with the Convention Rights.

Explanatory Note

This Law replaces the Christmas Bonus (Jersey) Law 1991 (“the 1991 Law”) with a new version in which the main changes are to remove certain categories of eligible person, alter the rates of bonus, and provide for a reconsideration and appeal system (modelled on those for similar payments).

Article 1 is the interpretation provision. It newly defines “Christmas bonus”, to ensure it covers both the bonus paid at the full rate and the reduced bonus paid when the recipient also receives a similar (smaller) lump sum from another territory. It also defines “qualifying benefit” and “relevant week”, which are the key elements in entitlement to the bonus. Other definitions relevant only to the administrative procedures in the new Schedule 2 now appear at the start of that Schedule. Other definitions in the 1991 Law are redundant following the removal of categories of eligible person.

Article 2 (replacing Article 2 of the 1991 Law) alters the eligibility for the Christmas bonus. The effect is that the bonus is only available to those who are ordinarily resident in Jersey and entitled to a qualifying benefit in the last 7 days of a year. That does not include those eligible under the 1991 Law on the basis of being of pensionable age with 5 years’ residence in Jersey (even though not entitled to a qualifying benefit), or on the basis of being entitled to full payment of a qualifying benefit (even though not resident in Jersey). The bonus continues to be reduced or extinguished if the person receives a similar payment from other parts of the British Islands or from Gibraltar (the naming of the territories is corrected).

Article 3 (replacing Article 3 of the 1991 Law) alters the amounts of Christmas bonus. The bonus is set at £78 for 2011, £80 for 2012 and £82 for 2013. For 2014 and beyond, the bonus is increased (or decreased) by the average of the rise or fall in the Retail Prices Index and the Index of Average Earnings. These figures will continue to be reduced (or entitlement extinguished) by the amount of any lump sum from another territory mentioned above.

Article 4 (repeating the effect of Article 5 of the 1991 Law) provides that the bonus is not to be treated as income for certain tax and benefit purposes.

Article 5 (replacing Articles 4 and 6 of the 1991 Law) deals with claims and payments. It clarifies that a person is not expected to submit a claim for a Christmas bonus, because it will be paid to people who are already known to be entitled, as well as to those who submit successful claims. It also clarifies the timing of payments. Eligibility is not fixed until the last 7 days of the year, but payments should be made in December in time for Christmas where reasonably practicable (they can be recovered if the person turns out not to be eligible in the last 7 days), and should all be made by the end of the next July. The new Article reproduces the provision of the 1991 Law for payments to be made out of the consolidated fund, and clarifies that money recovered is to be paid back into that fund. It provides for the detail of the administration of the Christmas bonus to be set out in a new *Schedule 2* to the Law (see below), which replaces the rest of Article 6 of the 1991 Law.

Article 6 (updating the provision in Article 7 of the 1991 Law) provides for offences and penalties related to wrongly obtaining a Christmas bonus. The new Law aligns the offences with those for social security benefits, income support, television licence

benefit and food costs bonus. The penalty is currently limited to a fine of no more than £200. The amendment provides a penalty (in line with that for television licence benefit) of imprisonment for up to 2 years, or a fine (with no maximum limit), or both.

Article 7 (expanding on Article 8 of the 1991 Law) allows for amendments to be made by the States by Regulations to certain parts of the Law. It allows further conditions to be added to the entitlement criteria. It clarifies that, for 2012 and beyond, Regulations can set a particular amount of Christmas bonus for a particular year, or change the formula for annual adjustments (or do both). It continues to allow changes to the list of qualifying benefits, and clarifies that the treatment of benefit components can be altered. It also allows for other changes to be made as a result of these amendments.

Article 8 repeals the 1991 Law. This repeal also operates (via Article 6(3) of the Interpretation (Jersey) Law 1954) to repeal all the amendments previously made to the 1991 Law, including the Christmas Bonus (Amendment No. 2) (Jersey) Law 2004. That Law was enacted, and would require the States to use Regulations to introduce a maximum income level, but the States have not yet brought the 2004 Law into force. There is no maximum income level in this draft, but under *Article 7* the States could use Regulations to introduce entitlement conditions related to income (or any other factor). So the position in relation to income remains unchanged by this Law.

Article 9 provides the name of the new Law and brings it into force on the day after registration.

Schedule 1 lists the qualifying benefits, which are the same as in the 1991 Law, subject to updating of the wording, including an express reference to benefits preserved under transitional arrangements, and removal of 2 redundant references. It also clarifies the way in which components of income support affect eligibility.

Schedule 2 is new. It details the procedure for administration of the Christmas bonus. It allows for determination, redetermination, Tribunal decision and appeal to court. It is aligned as closely as possible with the equivalent procedures for social security benefits, income support, television licence benefit and food costs bonus. The main difference is that a person is not expected to submit a claim for a Christmas bonus, as it will be paid to people who are already known to be entitled. So there is no requirement to notify anyone who does not claim and is found not to be entitled (or to be entitled at a reduced rate). A person can nevertheless expressly submit a claim and will then be notified of the result. The Minister must publicise the scheme annually, setting out the current rate and general information about reductions for those receiving overseas lump sums. There is a cut-off point of the end of January for submitting a claim, and for challenging an initial decision where no claim was made.



Jersey

DRAFT CHRISTMAS BONUS (JERSEY) LAW 201-

Arrangement

Article

1	Interpretation	11
2	Entitlement to Christmas bonus	11
3	Amount of bonus	12
4	Bonus not treated as benefit or income	12
5	Claims, payments and administration	12
6	Offences	13
7	Power to amend.....	14
8	Repeal.....	14
9	Citation and commencement.....	14

SCHEDULE 1 **15**

REQUIREMENTS AS TO QUALIFYING BENEFITS		15
1	Qualifying benefits.....	15
2	Requirements.....	15

SCHEDULE 2 **16**

ADMINISTRATIVE PROVISIONS		16
1	Interpretation	16
2	Functions of Minister and determining officers	16
3	Notification of adverse determination	17
4	Reconsideration by second determining officer	17
5	Appeals to Tribunal	18
6	Further particulars	18
7	Special procedure in cases of groundless appeals	18
8	Decision without a hearing.....	19
9	Procedure of Tribunal.....	19
10	Appeals and references to Royal Court.....	20
11	Administrative expenses	20
12	Recovery of amounts wrongly paid.....	20
13	Notices.....	21



Jersey

DRAFT CHRISTMAS BONUS (JERSEY) LAW 201-

A LAW to provide for payment of an annual lump sum to Jersey residents entitled to certain benefits and to repeal the Christmas Bonus (Jersey) Law 1991

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 –

1 Interpretation

In this Law, unless the context otherwise requires –

“Christmas bonus” means a sum of money to which a person is entitled under Articles 2 and 3;

“qualifying benefit” has the meaning given by Schedule 1;

“relevant week” means the last 7 days in December in a year in respect of which entitlement to a Christmas bonus is to be determined.

2 Entitlement to Christmas bonus

- (1) A person is entitled to a Christmas bonus in respect of a year if the person –
 - (a) is ordinarily resident in Jersey at any time during the relevant week in that year; and
 - (b) meets the requirements of Schedule 1 as to a qualifying benefit, in respect of a period which includes a day in that relevant week.
- (2) Paragraph (3) applies to a person who is entitled to receive a lump sum payment in respect of a year under an enactment that –
 - (a) is similar to this Law; and

- (b) is an enactment of Gibraltar or of any part of the British Islands other than Jersey.
- (3) The person's entitlement to payment of an amount of Christmas bonus in respect of that year is –
 - (a) reduced by the amount of the lump sum payment, if the amount calculated under Article 3 would exceed the lump sum payment by £1 or more; or
 - (b) extinguished, in any other case.
- (4) Only one Christmas bonus is payable to any one person in respect of any one year.

3 Amount of bonus

- (1) The amount of the Christmas bonus is as follows –
 - (a) for the year 2011, £78;
 - (b) for the year 2012, £80;
 - (c) for the year 2013, £82;
 - (d) for each year after that, the amount, rounded up to the nearest penny, that is the product of adding the adjustment element to the amount from the previous year, or of subtracting that element if it is negative.
- (2) In paragraph (1)(d) the adjustment element is the product of multiplying the amount from the previous year by the percentage halfway between –
 - (a) the percentage change (positive or negative), during the 12 months starting on 1st July of that previous year, in the Jersey Retail Prices Index produced by the States of Jersey Statistics Unit; and
 - (b) the percentage change (positive or negative), during those 12 months, in the Jersey Index of Average Earnings produced by that Unit.
- (3) The amount of the Christmas bonus to which a person is entitled is subject to any reduction or extinguishment under Article 2(3) in respect of that person.

4 Bonus not treated as benefit or income

- (1) The Christmas bonus is not to be treated as benefit for the purposes of any enactment under which entitlement to a qualifying benefit arises.
- (2) A payment and the right to receive payment of the Christmas bonus are to be disregarded for all purposes of income tax and for the purposes of any enactment under which regard is had to a person's means.

5 Claims, payments and administration

- (1) A Christmas bonus must be paid to a person entitled to it, whether that person has submitted a claim for it or not.
- (2) A Christmas bonus –

- (a) may be paid in advance of the person becoming entitled to the bonus, but no earlier than 1st December in that year, if the person appears reasonably likely to become entitled to the bonus during the relevant week;
 - (b) must be paid, where reasonably practicable and subject to subparagraph (a), before Christmas Day in the year in respect of which the person is entitled to that bonus; and
 - (c) must in any event be paid before the end of the next July following the relevant week.
- (3) If a payment is made under paragraph (2)(a) and the person does not become entitled to a Christmas bonus during the relevant week, the bonus is to be treated for the purpose of paragraph 12 of Schedule 2 as having been found not to have been properly payable.
- (4) The sums required for making payments of the Christmas bonus, and for administrative costs incurred in connection with the making of those payments, must be paid out of the consolidated fund, and any sums so paid that are later recovered under paragraph 12 of Schedule 2 must be repaid into that fund.
- (5) Schedule 2 has effect, subject to paragraphs (1) to (4), in relation to the administration of the Christmas bonus.

6 Offences

- (1) A person must not, with intent to obtain payment of a Christmas bonus, whether on behalf of that person or of another person –
 - (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 payment of a Christmas bonus, whether on behalf of that person or of another person, 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 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.

- (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 the member were a director of the body corporate.

7 Power to amend

- (1) The States may by Regulations amend –
- (a) Article 2(1), to add any further condition as to entitlement to a Christmas bonus;
 - (b) Article 3(1), to specify the amount of Christmas bonus payable for any particular year after 2011, or to amend a formula in Article 3(1)(d) or (2); or
 - (c) Schedule 1, to add, substitute or remove any qualifying benefit or to amend the requirements of paragraph 2 of that Schedule.
- (2) Regulations made under paragraph (1) may include such transitional, ancillary, consequential and supplementary provision as the States think fit, including by way of amendment to any provision of this Law other than this Article.

8 Repeal

The Christmas Bonus (Jersey) Law 1991¹ is repealed.

9 Citation and commencement

This Law may be cited as the Christmas Bonus (Jersey) Law 201- and comes into force on the day after registration.

SCHEDULE 1

(Articles 1 and 2)

REQUIREMENTS AS TO QUALIFYING BENEFITS**1 Qualifying benefits**

Each of the following is a qualifying benefit –

- (a) the personal care element of the impairment component at the rate set out in paragraph 6(3)(b) or (c) of Schedule 1 to the Income Support (Jersey) Regulations 2007²;
- (b) an old age pension under the Social Security (Jersey) Law 1974³;
- (c) a survivor's allowance under that Law;
- (d) a survivor's pension under that Law;
- (e) 100% long term incapacity allowance under that Law;
- (f) 100% disablement benefit under that Law (as preserved under Article 54A of that Law);
- (g) invalidity benefit under that Law (as preserved under Article 54A of that Law); and
- (h) an allowance under the Invalid Care Allowance (Jersey) Law 1978⁴.

2 Requirements

A person meets the requirements of this Schedule if the person –

- (a) is entitled to payment of any qualifying benefit other than that described in paragraph 1(a); or
- (b) is part of a household that –
 - (i) is in receipt of income support under the Income Support (Jersey) Law 2007⁵; and
 - (ii) is entitled, in respect of the person, to the qualifying benefit described in paragraph 1(a).

SCHEDULE 2

(Article 5)

ADMINISTRATIVE PROVISIONS**1 Interpretation**

In this Schedule, unless the context otherwise requires –

‘determining officer’ means a determining officer appointed under Article 9 of the Income Support (Jersey) Law 2007 or under Article 33 of the Social Security (Jersey) Law 1974;

‘Minister’ means the Minister for Social Security;

‘Registrar’ has the same meaning as in the Social Security (Determination of Claims and Questions) (Jersey) Order 1974⁶;

‘Tribunal’ means the Social Security Tribunal constituted under Article 8 of the Social Security (Determination of Claims and Questions) (Jersey) Order 1974.

2 Functions of Minister and determining officers

- (1) The Minister must –
 - (a) administer the making of payments under this Law; and
 - (b) publicise, in a manner and at a time in each year that the Minister considers likely to bring the publicity to the attention of persons who may be entitled to a Christmas bonus –
 - (i) the existence of the bonus,
 - (ii) the amount of the bonus for that year, and
 - (iii) the general effect of Article 2(2) to (3).
- (2) A person who chooses to submit a claim for a Christmas bonus must do so –
 - (a) in writing to the Minister, providing all of the information necessary to determine the person’s entitlement; and
 - (b) no later than the end of January in the year following the year in respect of which the bonus is claimed.
- (3) Entitlement to a Christmas bonus must be determined on behalf of the Minister by a determining officer and, where required under paragraph 4, redetermined by a second determining officer.
- (4) A determining officer, in order to decide whether a person is entitled to a Christmas bonus, may –
 - (a) require the person to furnish such certificates or other documents or information as the determining officer may specify; or

- (b) if it is reasonable to do so, require the person to attend at such office or place as the determining officer may direct.
- (5) A person who fails to comply with a requirement made under sub-paragraph (4) –
 - (a) may be refused payment of the Christmas bonus; but
 - (b) does not commit an offence merely by virtue of that failure.
- (6) Where the determining officer or, in the case of a redetermination, the second determining officer, has determined that a person is entitled to a Christmas bonus, the relevant determining officer must allow payment to be made of that bonus.

3 Notification of adverse determination

- (1) Sub-paragraph (3) applies if a determining officer makes an adverse determination, being a determination that a person falling within sub-paragraph (2) –
 - (a) is not entitled to payment of the bonus for any reason, including extinguishment of an entitlement under Article 2(3); or
 - (b) is entitled to payment of an amount of a Christmas bonus that is to be reduced under Article 2(3).
- (2) A person falls within this sub-paragraph if the person –
 - (a) has submitted a claim for a Christmas bonus; or
 - (b) has required a redetermination under paragraph 4.
- (3) The determining officer must notify the person in writing –
 - (a) of the adverse determination and the reasons for it;
 - (b) of the person's right to challenge the adverse determination, as set out in paragraph 4 in the case of a first determination or as set out in paragraph 5 in the case of a redetermination;
 - (c) of the time limit for exercising that right of challenge; and
 - (d) that if the right is not exercised there is no right of further appeal.

4 Reconsideration by second determining officer

- (1) If a person is dissatisfied with a determination made for the purposes of this Law by a determining officer in respect of the person, the person may require that determination to be reconsidered by a second determining officer.
- (2) Sub-paragraph (1) –
 - (a) applies whether or not the person has submitted a claim for the Christmas bonus, or has been notified of the determination; and
 - (b) does not apply to a determination which is itself a redetermination by a second determining officer.
- (3) A requirement under sub-paragraph (1) must be made to the Minister no later than –

- (a) 21 days after receiving notification of the determination; or
- (b) if no such notification was received, whichever is the sooner of –
 - (i) 21 days after becoming aware of the determination, and
 - (ii) if the determination was made when the person had not submitted a claim for the bonus, the last day on which the person could submit such a claim.

5 Appeals to Tribunal

- (1) If a person is dissatisfied with a redetermination by a second determining officer under paragraph 4, the person may appeal to the Tribunal within 14 days of receiving notification of the redetermination.
- (2) However, an appeal made outside the 14 day period, but within 28 days of receiving notification of the determination, may be allowed with the consent of the chairman of the Tribunal.
- (3) Every appeal must be made in writing to the Registrar on a form approved by the Registrar for that purpose, or in such manner as the Registrar may accept as sufficient in the circumstances of the case.

6 Further particulars

- (1) The Tribunal may at any time require the appellant or the determining officer to furnish it with further particulars in writing and within such time as it may direct with regard to any appeal, and may at any stage of the proceedings allow the amendment of any application for appeal or any statement or particulars and extend the time for furnishing any statement or particulars.
- (2) If, after the expiration of the time, or where the time has been extended, expiration of the extended time, for furnishing any statement or particulars under sub-paragraph (1), the appellant has failed to do so, the appeal is to be treated as having been abandoned.

7 Special procedure in cases of groundless appeals

- (1) Where, in the opinion of a determining officer, an appeal is made on grounds that are bound to fail, the determining officer may, within 14 days of receiving notice of the appeal, request the Registrar to place the papers before the chairman or deputy chairman of the Tribunal.
- (2) If, on considering the papers, the chairman or deputy chairman of the Tribunal is of the opinion that the appeal is bound to fail, he or she must send a notice to the appellant stating that –
 - (a) he or she has considered the application for appeal and is of the opinion that the appeal is bound to fail; and
 - (b) unless the applicant renews his or her application to the Tribunal within 14 days of receiving the notification, the appeal will be treated as having been abandoned.

8 Decision without a hearing

If the appellant and the Minister agree and the Tribunal thinks that the case can properly be determined on the particulars supplied by the parties without a hearing, the Tribunal may decide the matter without a hearing on the particulars so supplied.

9 Procedure of Tribunal

- (1) The parties to an appeal are the appellant and the Minister, and each party or any person acting on behalf of that party may make representations to the Tribunal.
- (2) The Tribunal must sit in public unless the Tribunal considers it necessary to sit in private.
- (3) However, no person other than the Registrar may be present while the Tribunal is considering its decision.
- (4) The Tribunal may adjourn the hearing from time to time as it thinks fit.
- (5) The Tribunal may, if it thinks fit, admit any duly authenticated written statement or other material as prima facie evidence of any fact or facts in any case in which it thinks it just and proper to do so.
- (6) The Tribunal may, if it thinks fit, call for such documents and examine such witnesses as appear to it likely to afford evidence relevant and material to the issue, although not tendered by either the appellant or the Minister.
- (7) If, after notice of the hearing has been duly given, the appellant or the Minister fails to appear at the hearing, the Tribunal may proceed to determine the appeal notwithstanding the absence of one or both of them, or may give such directions with a view to the determination of the appeal as the Tribunal thinks just and proper.
- (8) The Tribunal may require any party to proceedings before the Tribunal under this Law or any witness in the proceedings to give evidence on oath and, for that purpose, the chairman or deputy chairman presiding over the Tribunal has power to administer an oath.
- (9) Where, in connection with the determination of any appeal, there is before the Tribunal medical advice or medical evidence relating to the appellant that has not been disclosed to the appellant and, in the opinion of the chairman or deputy chairman, the disclosure to the appellant of that advice or evidence would be harmful to the appellant's health, such advice or evidence is not required to be disclosed to the appellant, but the Tribunal is not by reason of such non-disclosure precluded from taking it into account for the purpose of the appeal.
- (10) On an appeal, the Tribunal may confirm, reverse or vary the decision of the second determining officer and must give its decision in public.
- (11) The decision of the majority of the members of the Tribunal is the decision of the Tribunal.
- (12) The chairman, or deputy chairman as the case may be, must sign a written record of the decision, being a record that –

- (a) includes the names of the Tribunal members;
 - (b) includes the reasons for the decision; and
 - (c) records any dissent and the reasons for such dissent.
- (13) The Registrar must send a copy of the written record to the parties as soon as practicable after the appeal has taken place.
- (14) Where the Tribunal has made a decision adverse to the appellant, the appellant must be advised that the decision on the facts is final but that he or she may appeal to the Royal Court on a point of law.
- (15) Subject to this paragraph, the Tribunal may regulate its own procedure.

10 Appeals and references to Royal Court

- (1) A person aggrieved by a decision of the Tribunal on an appeal under this Law may appeal to the Royal Court on a point of law.
- (2) The Tribunal or a determining officer may refer any point of law to the Royal Court for the Court to give a ruling on the point.

11 Administrative expenses

The Minister may pay to any member of the Tribunal 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 the Tribunal or by a determining officer, such remuneration and expenses as the Minister may determine.

12 Recovery of amounts wrongly paid

- (1) If it is found at any time that any amount has been paid under this Law that was not properly payable or, though properly payable, was paid to the wrong person, the Minister may require it to be repaid –
- (a) if it was paid to a person in his or her own right, by that person; or
 - (b) if it was paid to a person on behalf of another person, by either of those persons.
- (2) In the case of the death of a person who could be required to repay a sum under this paragraph, the Minister may require it to be repaid by the person charged with the administration of the deceased person's personal estate.
- (3) Proceedings for the recovery of any sum that a person is required under this paragraph to repay to the Minister may be instituted by the Treasurer of the States.
- (4) 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 the sum was paid.
- (5) Any sum that a person is required under this paragraph to repay to the Minister may, without prejudice to any other remedy, be recovered by means of deduction from any other payment due under an enactment under the administration of the Minister.

13 Notices

Any notice, notification or other document required or authorized by this Schedule to be given to any person is deemed to have been given or sent if it was sent by post to that person at the person's ordinary or last known address.

-
- ¹ *L.2/1991 (chapter 26.200)*
² *chapter 26.550.30*
³ *chapter 26.900*
⁴ *chapter 26.600*
⁵ *chapter 26.550*
⁶ *chapter 26.900.28*