

DRAFT SOCIAL SECURITY (AMENDMENT No. 14) (JERSEY) LAW 200-

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by the Employment and Social Security Committee**



STATES OF JERSEY

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Report

In November 1996, the States approved a proposition of the Employment and Social Security Committee seeking to modernise some of the features of the Social Security (Jersey) Law 1974. Since the approval of the proposition, the necessary changes to primary legislation have been identified and drafted.

In general terms the amendments seek -

- (a) to reduce the length of time contributions need to be paid to obtain a full pension whilst offering the opportunity of a reduced old age pension to be taken from the age of 63;
- (b) to reform the current system of incapacity benefits to a simpler system, which will remove disincentives to work;
- (c) to convert the gender specific widow's benefits into gender neutral survivor's benefits;
- (d) to allow for the targeting of the States supplementation to those genuinely earning below the earnings ceiling;
and
- (e) to remove the married woman's option not to pay contributions.

Amendments to existing subordinate legislation necessary to implement these changes have been identified and will be phased in following the return of the legislation from the Privy Council.

Explanatory Note

The effect of this draft Law would be to amend the Social Security (Jersey) Law 1974 in the following ways -

- (a) The existing incapacity benefit (which is provided in respect of illness) and the accident benefit (which is available in respect of injury) will be replaced by a single “incapacity benefit” for illness or injury.

The new incapacity benefit will include -

- (i) a “short term incapacity allowance”, for up to one year;
- (ii) a “long term incapacity allowance”, for persons who suffer a permanent loss of physical or mental faculty as a result of disease or accident; and
- (iii) an “incapacity pension”, for persons who are permanently unable to work because of illness or injury.
- (b) A “survivor’s benefit”, available to men and women alike, will replace the existing benefits for widows and widowers.

This new benefit will include “survivor’s allowance”, which will be to the same effect as the existing widow’s allowance, widowed mother’s allowance and widowed father’s allowance.

It will also include “survivor’s pension”, to the same effect as a widow’s pension.

- (c) A person will become entitled to an old age pension at the full rate after contributing to the social security scheme for a total period of at least 45 years between the ages of 18 and sixty-five.

Although the full pension will continue to be payable only to persons who have reached 65, a contributor will have the option of accepting a reduced pension on reaching the age of sixty-three. Once exercised, this option will be irrevocable.

- (d) The so-called “married woman’s option”, i.e. not to contribute to the social security scheme, will be removed.
- (e) The circumstances in which a benefit to a beneficiary may be increased in respect of dependants will be prescribed by the Employment and Social Security Committee, by Order.
- (f) Medical practitioners who are registered in the United Kingdom will become eligible for appointment as members of medical boards and medical appeal tribunals established under the principal Law to determine questions relating to benefit.
- (g) Medical boards will consist of one or two medical practitioners, instead of two or more practitioners, and all members of medical appeal tribunals will have to be medical practitioners.
- (h) The scope of the definition “earnings” for the purposes of the principal Law will be widened.
- (i) The Committee will be able, by Order, to disqualify for the receipt of supplementation persons who intentionally arrange their affairs to obtain it.
- (j) Persons, boards and tribunals who have adjudicative functions under the principal Law will be able to refer questions of special difficulty to experts.

The new provisions for incapacity benefit and survivor’s benefit will not apply to existing beneficiaries, whose entitlements will continue to be governed in accordance with the present law. The abolition of the married woman’s option will not apply to women who have married before those provisions come into force.

The draft Law is part of a broader legislative scheme, including subordinate Orders, to implement these proposals. If it is adopted, those Orders would then be submitted to the Committee, with a view to bringing the new arrangements into force on days to be appointed by the States.

The scheme of the draft Law, in detail, is as follows:

Article 1 identifies the principal Law that is to be amended (the Social Security (Jersey) Law 1974).

Article 2 revises definitions in the principal Law in consequence of the other changes to be made by this amending Law. It also widens the meaning of the expression “earnings”.

Article 3 will enable the Committee to make Orders disqualifying persons for receiving supplementation of their contributions under Article 9 of the principal Law if they have intentionally arranged their affairs to obtain such supplementation.

Article 4 will enable the Committee to make Orders prescribing circumstances in which the earnings of an employed person may be treated as being of such an amount, not exceeding the earnings limit, as the Committee considers appropriate.

Article 5 provides for the following kinds of benefit -

- (a) incapacity benefit, consisting of short term incapacity allowance, long term incapacity allowance and incapacity pension (instead of the existing heads of sickness and invalidity benefits, and injury and disablement benefits); and
- (b) survivor’s benefit, consisting of survivor’s allowance and survivor’s pension (instead of the existing heads of widow’s allowance, widowed mother’s allowance, widow’s pension and widowed father’s allowance).

Article 6 amends Article 13 of the principal Law consequentially, in respect of the new provisions for incapacity benefit. In particular, it has the effect of providing that a recipient of long term incapacity allowance whose degree of incapacitation is not less than five per cent and not more than fifteen per cent will be entitled to a weekly rate of benefit instead of a lump sum.

Article 7 provides that references in Article 14 of the principal Law to the life average of a person’s annual contribution factor will in future be taken as references to the average contributions over a period or periods -

- (a) beginning on or after the first day of the month in which the contributor turns 18 and ending on or before the last day of the month before the one in which he attains pensionable age (i.e. 65 years), and
- (b) being in the aggregate at least 45 years.

The effect of this amendment is to entitle a participant who has contributed for 45 years to a full pension when he reaches the age of sixty-five.

Article 7 also makes amendments to Article 14 of the principal Law that are consequential on the introduction of incapacity benefit and survivor’s benefit.

Article 8 substitutes for Articles 15 - 20 of the principal Law (relating to benefits for illness and injury) the following new Articles -

- (a) New Article 15 defines the entitlement to short term incapacity allowance. This may be claimed in respect of incapacity to work because of illness or injury, for up to one year, and otherwise on the conditions that now apply in respect of sickness benefit under the principal Law.
- (b) New Article 16 defines the entitlement to long term incapacity allowance. This may be claimed in respect of a loss of faculty that is likely to be permanent and results in a degree of incapacitation of not less than five per cent, whether caused by disease or injury. The contribution requirements for entitlement to this allowance will be the same as those now applicable to invalidity benefit. Although it cannot be claimed in respect of any period during which the claimant has received short term incapacity allowance, a contributor who qualifies for it will be entitled to receive this allowance whether or not he has received the short term allowance. In substance, it is otherwise subject to the same provisions as now govern disablement benefit.
- (c) New Article 17 defines the entitlement to incapacity pension. This will be available to a contributor who, because of disease or injury, is likely to be permanently unable to work. The contribution conditions will be the same as those now required for entitlement to invalidity benefit. The pension will be payable until the beneficiary attains pensionable age. It will be calculated as if, in addition to the contributions already paid or credited on his behalf, those due from the date when he became entitled to the incapacity pension until the date on which he reached pensionable age had already been paid.

If a beneficiary does work, the incapacity pension will cease, but if he subsequently ceases work and otherwise qualifies for it, he will again be entitled to it.

- (d) New Article 18 contains general provisions concerning incapacity benefit. In substance, these follow provisions now found in Articles 15(3), 16 and 20 of the principal Law.

Article 9 substitutes for Articles 24 and 24A of the principal Law (which relate to widows' and widowed fathers' benefits) the new provisions governing the entitlement to survivor's benefit. In substance, these are the same as those that now apply in respect of widow's benefit. Survivor's allowance will be payable if either spouse is not entitled to an old age pension or is under the age of sixty-five. The existing restriction to the effect that benefit is not payable to a widow while she is cohabiting with a man is widened to apply equally to men and women in heterosexual and homosexual relationships.

Article 10 amends Article 25 of the principal Law to allow a person who has attained the age of 63 years to choose to accept a reduced old age pension, instead of taking a full pension on reaching sixty-five. It also makes amendments that are consequential on the introduction of survivor's benefit.

Article 11 provides that the circumstances in which benefit may be increased in respect of dependants will be prescribed by Order.

The amendment in *Article 12* is consequential on the amendment in Article 11.

Article 13 makes amendments that are consequential on changes effected by Article 14 of this amending Law.

Article 14 introduces new provisions for the constitution of medical boards and medical appeal tribunals and the determination by them of questions relating to loss of faculty as a result of disease or injury. These are substantially the same as those for the determination of questions relating to accidents (which provisions will be replaced). However, a medical board will consist of one or two members, all members of medical appeal tribunals will have to be medically qualified and United Kingdom medical practitioners will be eligible to sit as members of boards and appeal tribunals. They will also have power to review an assessment if there is a substantial and unforeseen improvement in a beneficiary's condition. At present, they may only do so if there has been non-disclosure of relevant information or a beneficiary's condition has become substantially aggravated.

Article 14 also allows for the referral to experts, for examination and report, of any questions of special difficulty that arise on a claim for benefit.

Article 15 repeals Article 45 of the principal Law, which enables the Committee by Order to modify the application of the Law in relation to married women.

Article 16 provides that survivor's allowance shall be payable at 120 per cent of the standard rate of benefit, and that short term incapacity allowance, incapacity pension and survivor's pension shall be payable at the standard rate of benefit.

It also provides that the rate of an old age pension taken after the claimant turns 63 but before he reaches the age of 65 shall be reduced by .58 per cent for each month between the one in which he becomes entitled to the pension and the one in which he turns 65 (both months inclusive).

Article 17 sets out the contribution conditions that will apply to the new categories of benefit. Those for the new heads of incapacity benefit correspond to the existing conditions for sickness and invalidity benefits. Those for survivors correspond to the existing conditions for widows' benefits.

Article 18 contains savings and consequential repeals.

Article 19 describes how the amending Law may be cited, and enables it to be brought into force on days to be appointed by the States.

SOCIAL SECURITY (AMENDMENT No. 14) (JERSEY) LAW 200-

A LAW to amend further the Social Security (Jersey) Law 1974; sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

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

ARTICLE 1

In this Law, “principal Law” means the Social Security (Jersey) Law 1974,^[1] as amended.^[2]

ARTICLE 2

In Article 1(1) of the principal Law^[3] -

(a) after the definition “benefit” there shall be inserted the following definition -

“ ‘claimant’, in Articles 34A, 34B and 34D -

(a) means a person claiming long term incapacity allowance; and

(b) also means, in relation to the review of a decision, any beneficiary affected by the decision;”;

(b) for the definition “earnings” there shall be substituted the following definition -

“ ‘earnings’ means any sum payable to a person (whether under a contract of service, a contract for services or any other office, employment or arrangement whereby he is rewarded for work done or services rendered) by way of wages, salary, fees, bonuses, commission, overtime pay or any other emolument including the value of any loan, perquisite or any other benefit in kind;”;

(c) the definition “incapable of self-support” shall be deleted;

(d) for the definition “medical practitioner” there shall be substituted the following definition -

“ ‘medical practitioner’ means -

(a) a ‘registered medical practitioner’ as defined in paragraph (1) of Article 1 of the Medical Practitioners (Registration) (Jersey) Law 1960; or

(b) a ‘fully registered person’ as defined in section 55 of the Medical Act 1983 (c. 54) of the United Kingdom;”;

(e) the definitions “relevant accident”, “relevant injury” and “relevant loss of faculty” shall be deleted;

(f) after the definition “relevant contribution conditions” there shall be inserted the following definitions -

“ ‘relevant disease or injury’ means, in relation to long term incapacity allowance, the disease or injury in respect of which that benefit is claimed or payable;

‘relevant loss of faculty’ means the loss of faculty resulting from the relevant disease or injury;”.

ARTICLE 3

After Article 9(3) of the principal Law^[4] there shall be added the following paragraph -

“(4) Provision may be made by order for disqualifying a person for receiving supplementation of his contributions in accordance with paragraph (1) of this Article where he has intentionally arranged his affairs so as to entitle himself to such supplementation.”.

ARTICLE 4

After Article 11(h) of the principal Law^[5] there shall be inserted the following paragraph -

“(ha) for prescribing circumstances in which the earnings of any employed person may be treated as being of such an amount, not exceeding the earnings limit, as the Committee considers appropriate;”.

ARTICLE 5

For Article 12 of the principal Law^[6] there shall be substituted the following Article -

“ARTICLE 12.

DESCRIPTION OF BENEFITS.

Benefit shall be of the following descriptions -

- (a) incapacity benefit, which shall consist of short term incapacity allowance, long term incapacity allowance and incapacity pension;
- (b) maternity benefit, which shall consist of maternity grant and maternity allowance;
- (c) survivor’s benefit, which shall consist of survivor’s allowance and survivor’s pension;
- (d) old age pension; and
- (e) death grant.”.

ARTICLE 6

In Article 13(1) of the principal Law^[7] -

- (a) for the words “disablement benefit” in sub-paragraph (a) there shall be substituted the words “long term incapacity allowance”;
- (b) for sub-paragraph (b) there shall be substituted the following sub-paragraph -
 - “(b) the weekly rate of long term incapacity allowance shall be the percentage of the standard rate of benefit in which the degree of incapacitation, assessed in accordance with the provisions of Article 16, is expressed.”;
- (c) the proviso to sub-paragraph (b) shall be deleted.

ARTICLE 7

(1) For Article 14(2) of the principal Law^[8] there shall be substituted the following paragraph -

“(2) Provision may be made by order for the entitling to incapacity benefit, maternity allowance, survivor’s benefit and old age pension of persons who would be so entitled but for the fact that the relevant contribution conditions set out in sub-paragraphs 1(1)(b), 2(1)(b), 3(1)(b), 4(1)(b) and 6(1)(b) of the Second Schedule are not satisfied.”.

(2) For Article 14(4) of the principal Law^[9] there shall be substituted the following paragraph -

“(4) Subject to the provisions of this Law, any reference in it to the life average of the annual contribution factors of any person shall be construed as referring to the average (calculated in the prescribed manner) over a period or periods in the aggregate of forty-five years which -

- (a) begins on or after the first day of the month in which he attains the age of eighteen years; and
- (b) ends on or before the last day of the month before the one in which he attains pensionable age.”.

ARTICLE 8

For Articles 15, 16, 17, 18, 19 and 20 of the principal Law^[10] there shall be substituted the following Articles -

“ARTICLE 15.

SHORT TERM INCAPACITY ALLOWANCE.

- (1) Subject to the provisions of this Law, a person who -
 - (a) is under pensionable age on any day for which benefit is claimed;
 - (b) is not entitled to a reduced old age pension under paragraph (1A) of Article 25; and
 - (c) satisfies the relevant contribution conditions,

shall be entitled to short term incapacity allowance in respect of any day of incapacity for work during a period of incapacity for work.

(2) Where in respect of any period of incapacity for work a person has been entitled to short term incapacity allowance for 364 days (including, in the case of a woman, any day for which she was entitled to a maternity allowance), he or she shall cease to be entitled to that benefit for any subsequent period of incapacity for work falling within that period.

(3) A person shall not be entitled to short term incapacity allowance for any period in which he works.

(4) Subject to the provisions of this Law, where a person who is under pensionable age and is not entitled to a reduced old age pension under paragraph (1A) of Article 25 ceases by virtue of paragraph (2) of this Article to be entitled to short term incapacity allowance -

- (a) if he satisfies the requirements of Article 16, he shall be entitled to long term incapacity allowance; or
- (b) if he satisfies the requirements of Article 17, he shall be entitled to an incapacity pension.

ARTICLE 16.

LONG TERM INCAPACITY ALLOWANCE.

- (1) Subject to the provisions of this Law, a person who -
 - (a) is under pensionable age;
 - (b) is not entitled to a reduced old age pension under paragraph (1A) of Article 25;

- (c) as a result of the relevant disease or injury is suffering from a loss of physical or mental faculty which is likely to be permanent; and
- (d) satisfies the relevant contribution conditions,

shall be entitled to long term incapacity allowance.

(2) The assessment of a claimant's incapacitation for the purposes of long term incapacity allowance shall take into account the period during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty.

(3) If the claimant is receiving or has received short term incapacity allowance in respect of the relevant disease or injury, the period to be taken into account under paragraph (2) of this Article shall not begin earlier than the end of the last period during which he received that allowance.

(4) If, having regard to the possibility of changes (whether predictable or not) in the condition of a claimant, it does not allow of a final assessment being made up to the end of the period which is to be taken into account under paragraph (2) of this Article -

- (a) a provisional assessment shall be made, taking into account such shorter period as seems reasonable having regard to his condition and the possibility of changes; and
- (b) on the next assessment, the period to be taken into account shall begin with the end of the period taken into account by the provisional assessment.

(5) The assessment -

- (a) shall specify as a percentage the degree of incapacitation resulting from the loss of faculty;
- (b) shall specify the period taken into account by the assessment; and
- (c) shall state whether the assessment is provisional or final.

(6) In the assessment of a claimant's incapacitation -

- (a) the percentage and the period to which paragraph (5) of this Article refers shall not be specified more particularly than is necessary for the purpose of determining the claimant's rights in relation to long term incapacity allowance;
- (b) if the percentage so specified is lower than five per cent, the claimant shall not be entitled to long term incapacity allowance in respect of that incapacitation; and
- (c) a percentage which is higher than five per cent but is not a multiple of five shall be treated as being the next highest percentage which is a multiple of five.

(7) Subject to the other provisions of this Article, provision may be made by order for the definition of the principles on which incapacitation is to be assessed.

(8) Any such order may in particular prescribe that a specified loss of faculty shall be treated as resulting in a specified percentage of incapacitation.

ARTICLE 17.

INCAPACITY PENSION.

(1) Subject to the provisions of this Law, a person who -

- (a) is under pensionable age;
- (b) is not entitled to a reduced old age pension under paragraph (1A) of Article 25;

- (c) as a result of the relevant disease or injury is likely to be permanently incapable of work; and
- (d) satisfies the relevant contribution conditions,

shall be entitled to an incapacity pension.

(2) An incapacity pension shall be payable until the beneficiary becomes entitled to a reduced old age pension under paragraph (1A) of Article 25 or attains pensionable age, whichever event occurs first.

(3) The amount of the incapacity pension to which a beneficiary is entitled shall be calculated as if, in addition to any other contributions paid by him and on his behalf, the contributions which would be payable by or credited to him and on his behalf had been paid or credited from the date from which the beneficiary became entitled to the incapacity pension until the end of the month before the one in which he would attain pensionable age.

(4) An incapacity pension shall cease to be payable if the beneficiary works but if the beneficiary subsequently ceases to work and satisfies the requirements in paragraph (1) he shall again be entitled, from the date on which he so ceases work, to an incapacity pension in accordance with this Article.

ARTICLE 18.

GENERAL PROVISIONS CONCERNING INCAPACITY BENEFIT.

- (1) For the purposes of any provisions of this Law relating to incapacity benefit -
 - (a) any two days of incapacity for work (whether consecutive or not) within a period of seven consecutive days shall be treated as one period of incapacity for work; and
 - (b) any two such periods which are not separated by a period of more than thirteen weeks shall be treated as one period of incapacity for work.
- (2) Provision may be made by order for all or any of the following matters relating to incapacity benefit -
 - (a) the defining of days which are or are not to be treated as days of incapacity for work;
 - (b) the disqualifying of a person for the receiving of incapacity benefit, for such period not exceeding thirteen weeks as may be determined in such manner as may be prescribed, if -
 - (i) the relevant disease or injury is attributable to his own wilful act;
 - (ii) he behaves in a manner calculated to retard his recovery;
 - (iii) he fails without good cause to attend for or to submit himself to such medical or other examination or treatment as may be required in accordance with the order, or to observe any prescribed rules of behaviour; or
 - (iv) he is guilty of obstruction or misconduct in connexion with any relevant medical examination or treatment;
 - (c) the requiring of a claimant for or beneficiary in receipt of incapacity benefit -
 - (i) to submit from time to time to medical examination for the purpose of determining the effect of the relevant disease or injury, or the appropriate treatment for it; and
 - (ii) to submit from time to time to appropriate medical treatment for that disease or injury;
 - (d) the imposing in the case of any class of persons of additional conditions with respect to the receipt of incapacity benefit and restrictions on the rate and duration of the benefit if, having regard to special circumstances, it appears to the Committee necessary to do so for the purpose of preventing inequalities or injustice to the general body of insured persons.
- (3) Any order made under this Article requiring persons to submit to medical examination or treatment may

direct that they are to attend for that purpose at such times and places as may be required by persons specified in the order.

(4) Where it appears to the Committee that a question has arisen whether an assessment of incapacity benefit ought to be revised, the Committee may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined.”.

ARTICLE 9

For Articles 24 and 24A of the principal Law^[11] there shall be substituted the following Article -

“ARTICLE 24.

SURVIVOR’S BENEFIT.

(1) Subject to the provisions of this Law, a surviving spouse shall be entitled to survivor’s benefit if the deceased spouse satisfied the relevant contribution conditions, and -

- (a) in the case of survivor’s allowance either spouse was not entitled to an old age pension, or was under pensionable age, at the time of the deceased spouse’s death; and
- (b) in the case of a survivor’s pension, the survivor was under pensionable age at the time of the other spouse’s death and was not entitled to a reduced old age pension under paragraph (1A) of Article 25.

(2) The period for which survivor’s benefit is payable to a surviving spouse shall be -

- (a) in the case of survivor’s allowance, the fifty-two weeks next following the other spouse’s death; and
- (b) in the case of a survivor’s pension, any period during which the survivor is under pensionable age and is not entitled to a survivor’s allowance or to a reduced old age pension under paragraph (1A) of Article 25,

but the benefit shall not be payable for any period after the death or remarriage of the survivor, or for any period during which the survivor is cohabiting with another person of either sex.

(3) In this Article, references to the spouse of a surviving spouse, if the survivor has been married more than once, are to the survivor’s last spouse only.”.

ARTICLE 10

(1) For Article 25(2) of the principal Law^[12] there shall be substituted the following paragraphs -

“(1A) Subject to the provisions of this Law, a person shall be entitled to a reduced old age pension if -

- (a) he is over the age of sixty-three;
- (b) he satisfies the relevant contribution conditions; and
- (c) he elects, in the prescribed manner, to take a reduced old age pension under this paragraph.

(1B) An election under paragraph (1A) of this Article shall be irrevocable, and a person who becomes entitled to a reduced old age pension under that paragraph shall not be entitled to any increase in that pension by reason of subsequently attaining pensionable age.

(2) Subject to the provisions of this Law, an old age pension (whether or not it is a reduced pension) shall be payable from the date on which the person becomes entitled to it, and shall be payable for life.”.

(2) For the words “widow’s benefit” in Article 25(3)(b) of the principal Law there shall be substituted the words “survivor’s benefit”.

(3) For the words “widow’s benefit” in Article 25(6) of the principal Law there shall be substituted the words

“survivor’s benefit”.

ARTICLE 11

For Article 27 of the principal Law^[13] there shall be substituted the following Article -

“ARTICLE 27.

INCREASE OF BENEFIT FOR DEPENDANTS.

(1) The weekly rate of short term incapacity allowance, incapacity pension and maternity allowance shall be increased by the amount set out in the second column of Part III of the First Schedule, and the weekly rate of long term incapacity allowance shall be increased by a percentage of that amount, being the percentage in which the degree of incapacitation (assessed in accordance with the provisions of Article 16) is expressed, for any prescribed period during which the beneficiary or any other prescribed person is caring, in prescribed circumstances, for a person of a prescribed category.

(2) A beneficiary shall not be entitled for the same period to an increase in benefit under paragraph (1) of this Article in respect of more than one person.”.

ARTICLE 12

For the words “wholly or mainly maintaining” in Article 29(1)(d) of the principal Law^[14] there shall be substituted the word “caring for”.

ARTICLE 13

For the words “Article 34” in Article 33(2)(a) of the principal Law^[15] there shall be substituted the words “Articles 34, 34A, 34B, 34C and 34D”.

ARTICLE 14

For Article 34 of the principal Law^[16] there shall be substituted the following Articles -

“ARTICLE 34.

MEDICAL TRIBUNALS.

(1) For the purposes of Articles 34, 34A, 34B, 34C and 34D, the Committee shall appoint the following bodies -

- (a) medical boards, each consisting of one or two medical practitioners; and
- (b) medical appeal tribunals, each consisting of three medical practitioners.

(2) Subject to the provisions of this Law, the Committee may prescribe the procedures to be followed by medical boards and medical appeal tribunals.

ARTICLE 34A.

DETERMINATION OF QUESTIONS RELATING TO LOSS OF FACULTY.

- (1) Subject to the provisions of this Law, any question as to -
 - (a) whether a relevant disease or injury has resulted in a loss of faculty;
 - (b) whether a loss of faculty is likely to be permanent;
 - (c) the degree at which incapacitation resulting from a loss of faculty is to be assessed; or

- (d) the period to be taken into account in the assessment of the degree of incapacitation resulting from a loss of faculty,

shall be determined in accordance with the following provisions of this Article.

- (2) Where a person claims long term incapacity allowance, the Committee shall refer the case to a medical board for the determination of the questions to which paragraph (1) of this Article refers.

- (3) If on that reference, or on any subsequent reference, a medical board provisionally assesses the degree of incapacitation resulting from the claimant's loss of faculty, the Committee shall refer the case again to a medical board before or as soon as reasonably practicable after the end of the period which that provisional assessment takes into account, for determination by the medical board.

ARTICLE 34B.

APPEALS FROM DETERMINATIONS BY MEDICAL BOARDS.

- (1) Subject to paragraph (3) of this Article, a claimant shall have a right of appeal to a medical appeal tribunal against a decision of a medical board under this Law.

- (2) An appeal shall be made in such manner and brought within such time as may be prescribed.

- (3) An appeal shall not lie in respect of a provisional assessment unless -

- (a) two years has elapsed since the case was first referred to a medical board; and

- (b) the period taken into account by the assessment does not fall wholly within that period of two years.

- (4) On hearing an appeal, a medical appeal tribunal may confirm, reverse or vary the decision against which the appeal is brought.

ARTICLE 34C.

REFERENCES TO MEDICAL APPEAL TRIBUNALS BY COMMITTEE.

- (1) Where the Committee considers that a decision of a medical board ought to be considered by a medical appeal tribunal, it may refer the case to such a tribunal for its consideration.

- (2) On considering the case, the medical appeal tribunal may confirm, reverse or vary the decision of the medical board.

ARTICLE 34D.

FURTHER REVIEWS.

- (1) A medical board may review a decision of any medical board or medical appeal tribunal if the reviewing board is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation of a material fact (whether by the claimant or another person, and whether fraudulently or innocently).

- (2) Subject to paragraphs (3), (6) and (7) of this Article, a medical board may review an assessment by any medical board or medical appeal tribunal of a degree of incapacitation if the reviewing board is satisfied that, since the making of the assessment, there has been a substantial and unforeseen aggravation of the results of the relevant disease or injury.

- (3) A medical board shall not under paragraph (2) of this Article review an assessment unless it is of the opinion that, having regard to the period taken into account by the assessment and the probable duration of the aggravation of the results of the relevant disease or injury, substantial injustice will occur if it is not revised.

- (4) Subject to paragraphs (5), (6) and (7) of this Article, a medical board may review an assessment by any

medical board or medical appeal tribunal of a degree of incapacitation if the reviewing board is satisfied that, since the making of the assessment, there has been a substantial and unforeseen amelioration of the results of the relevant disease or injury.

(5) A medical board shall not under paragraph (4) of this Article review an assessment unless it is of the opinion that, having regard to the period taken into account by the assessment and the probable duration of the amelioration of the results of the relevant disease or injury, the assessment under review is not justified.

(6) A medical board shall not under paragraph (2) or paragraph (4) of this Article -

(a) review a provisional assessment on any application made within six months of that assessment; or

(b) review any other assessment on any application made within five years of that other assessment,

unless a medical appeal tribunal gives leave to the reviewing board to do so.

(7) Notwithstanding Article 16, if such leave is given under paragraph (6) of this Article, the period to be taken into account on any revision of the assessment shall not include any period before the date of the application.

(8) Subject to the other provisions of this Article, a medical board may on a review deal with a case in any manner in which it may deal with a case on an original reference and, in particular, may make a provisional assessment notwithstanding that the assessment under review was final.

(9) The provisions of this Law shall apply to a decision on a review under this Article as if it were an original decision.

ARTICLE 34E.

POWER TO REFER QUESTIONS TO EXPERTS.

(1) Where any question of special difficulty falls to be determined under any of Articles 33, 34A, 34B, 34C or 34D, the person or body responsible for such determination 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) of this Article shall not disclose any information coming to his 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 Committee; or

(c) for the purposes or in the course of any legal proceedings,

but Article 49 shall not apply to the expert.

(3) In this Article 'expert' means a person appearing to the person or body responsible for the determination to have knowledge or experience which would be relevant in determining the question of special difficulty.".

ARTICLE 15

Article 45 of the principal Law^[17] shall be repealed.

ARTICLE 16

(1) For paragraphs 1, 2 and 3 of Part I of the First Schedule to the principal Law^[18] there shall be substituted the following paragraphs -

"1. Short term incapacity allowance Standard rate of benefit.

2. Incapacity pension Standard rate of benefit.”.

(2) For paragraphs 5, 6, 6A and 7 of Part I of the First Schedule to the principal Law^[19] there shall be substituted the following paragraphs -

“5. Survivor’s allowance ... 120 per cent of the standard rate of benefit.

6. Survivor’s pension Standard rate of benefit.”.

(3) After paragraph 8 of Part I of the First Schedule to the principal Law^[20] there shall be inserted the following paragraph -

“8A. Old age pension reduced under Article 25 (1A) The rate of old age pension payable to the person, reduced by 0.58% for each month from the month in which he becomes entitled to receive the reduced pension until the month in which he attains pensionable age (both months inclusive).”.

(4) In Part III of the First Schedule to the principal Law,^[21] the word “adult” shall be deleted.

ARTICLE 17

(1) In paragraph 1 of the Second Schedule to the principal Law^[22] -

- (a) for the heading “*Sickness benefit.*” there shall be substituted the heading “*Short term incapacity allowance.*”;
- (b) in sub-paragraph (1), for the words “sickness benefit” there shall be substituted the words “short term incapacity allowance”;
- (c) in sub-paragraph (2), for the words “sickness benefit” there shall be substituted the words “short term incapacity allowance”.

(2) In paragraph 2 of the Second Schedule to the principal Law²² -

- (a) for the heading “*Invalidity benefit.*” there shall be substituted the heading “*Long term incapacity allowance.*”;
- (b) in sub-paragraph (1), for the words “invalidity benefit” there shall be substituted the words “long term incapacity allowance”;
- (c) in sub-paragraph (2), for the words “invalidity benefit” there shall be substituted the words “long term incapacity allowance”.

(3) For paragraph 3 of the Second Schedule to the principal Law^[23] there shall be substituted the following paragraph -

“*Incapacity pension.*”

3.-(1) The contribution conditions for incapacity pension are that

- (a) the claimant has paid contributions prior to the end of the relevant quarter and the annual contribution factor derived from those contributions is not less than 0.5; and
- (b) the claimant has either paid or been credited with contributions in respect of the relevant quarter and the quarterly contribution factor derived from those contributions is 1.00.

(2) In this paragraph the expression ‘relevant quarter’ means the previous quarter but one before the quarter in which entitlement to incapacity pension first arises.”.

(4) In paragraph 6 of the Second Schedule to the principal Law^[24] -

- (a) for the heading “*Widow’s benefit, widowed father’s allowance and old age pension.*” there shall be substituted the heading “*Survivor’s benefit and old age pension.*”;
- (b) in sub-paragraph (1), for the words “widow’s benefit, widowed father’s allowance” there shall be substituted the words “survivor’s benefit”;
- (c) in clause (b) of sub-paragraph (1), for the figures “0.96” there shall be substituted the figures “1.00”;
- (d) in clause (b) of sub-paragraph (1), for the colon there shall be substituted a full stop;
- (e) the proviso to sub-paragraph (1) shall be deleted;
- (f) for sub-paragraph (2) there shall be substituted the following sub-paragraph -

“(2) In this paragraph -

- (a) the expression ‘relevant person’ means -
 - (i) in the case of a survivor’s benefit, the deceased spouse; and
 - (ii) in the case of an old age pension, the person claiming the pension;
- (b) the expression ‘relevant time’ (except in the case to which clause (c) of this sub-paragraph refers) means the date of the relevant person attaining pensionable age or dying under that age;
- (c) the expression ‘relevant time’, in the case of a reduced old age pension under paragraph (1A) of Article 25, means the date at which the relevant person becomes entitled to the reduced pension.”.

ARTICLE 18

(1) Notwithstanding the amendment of the principal Law by Articles 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16 and 17 of this Law, if any person was entitled immediately before the commencement of this Law to any description of benefit under the principal Law -

- (a) his entitlement to that benefit shall from the commencement of this Law be determined as if this Law had not been passed; and
- (b) he shall not be entitled, in respect of the circumstances in which he became entitled to that benefit, to receive benefit under the principal Law as amended by those Articles of this Law.

(2) Notwithstanding its repeal by Article 15 of this Law, Article 45 of the principal Law^[25] shall continue to apply to every woman who was married before its repeal.

(3) The following Laws shall be repealed -

- (a) the Social Security (Amendment No. 6) (Jersey) Law 1986,^[26]
- (b) the Social Security (Amendment No. 9) (Jersey) Law 1992.^[27]

ARTICLE 19

(1) This Law may be cited as the Social Security (Amendment No. 14) (Jersey) Law 200.

(2) This Law shall come into force on such day as the States may by Act appoint and different days may be

appointed for different provisions or different purposes of this Law.

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- [1] Volume 1973-1974, page 319.
- [2] Volume 1982-1983, pages 51, 53 and 239, Volume 1986-1987, pages 149, 151 and 227, Volume 1990-1991, pages 467 and 1117, Volume 1992-1993, pages 3, 433 and 437, Volume 1994-1995, page 423, Volume 1996-1997, pages 7 and 1063, Volume 1998, page 722, Volume 1999, page 419 and R & Os 7640, 7666, 8602 and 9112.
- [3] Volume 1973-1974, page 319 and Volume 1990-1991, page 467.
- [4] Volume 1973-1974, page 326.
- [5] Volume 1973-1974, page 327.
- [6] Volume 1973-1974, page 327 and Volume 1986-1987, page 227.
- [7] Volume 1973-1974, page 328.
- [8] Volume 1973-1974, page 329 and Volume 1986-1987, page 227.
- [9] Volume 1973-1974, page 329.
- [10] Volume 1973-1974, pages 329, 330, 331 and 333 and Volume 1986-1987, page 151.
- [11] Volume 1973-1974, page 336, Volume 1986-1987, page 228 and Volume 1992-1993, page 3.
- [12] Volume 1973-1974, page 337.
- [13] Volume 1973-1974, page 338.
- [14] Volume 1973-1974, page 340.
- [15] Volume 1973-1974, page 343.
- [16] Volume 1973-1974, page 345.
- [17] Volume 1973-1974, page 354.
- [18] Volume 1973-1974, page 360.
- [19] Volume 1973-1974, page 360 and Volume 1986-1987, page 229.
- [20] Volume 1973-1974, page 360 and R & O 7640.
- [21] Volume 1973-1974, page 361.
- [22] Volume 1973-1974, page 362.
- [23] Volume 1973-1974, page 362.
- [24] Volume 1973-1974, page 364, Volume 1986-1987, page 229 and Volume 1992-1993, page 3.
- [25] Volume 1973-1974, page 354.
- [26] Volume 1986-1987, page 227.
- [27] Volume 1992-1993, page 3.