# STATES OF JERSEY

# DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 1) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 7th June 2011**
**by the Minister for Social Security**

**STATES GREFFE**

Jersey

# DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 1) (JERSEY) REGULATIONS 201-

## REPORT

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### Summary

These amendments to legislation are to introduce additional Social Security contributions above the existing earnings limit from 1st January 2012 to create a corresponding reduction in the States cost of funding supplementation in accordance with the aims of the Fiscal Strategy.

In general, the amendments propose levying an additional 2% employer contribution on all monthly earnings above the existing earnings limit up to a new upper earnings limit of £12,500 per month (£150,000 p.a.) from 1st January 2012.

Likewise for the self-employed, there will be an additional 2% levy on all earnings and other income directly arising from their business, above the existing earnings limit up to the new upper earnings limit.

Individuals under pension age with little by the way of earnings, but with income above the existing earnings limit, will be liable to pay an additional 2% on that income up to £150,000 p.a.

A revised methodology for the calculation of the cost of the States' contribution towards the pension records of those earning below the existing earnings limit (supplementation) is also proposed, which provides certainty to that cost and reduces it by the additional revenue collected above the existing earnings limit, thereby reducing the cash limit of the Social Security Department.

The estimated increased yield from contributions arising from these proposals amounts to £7 million in 2012, although the changes will cost the States as employer up to £700,000, resulting in a net reduction in States expenditure of £6 million.

Whilst sounding straightforward, the proposals necessitate many changes to the legislation; however they are mostly minor or technical in nature.

### Background

The proposal to introduce a contribution rate above the current earnings limit is one of the 2 major recommendations arising from the Fiscal Strategy Review. The review proposals were presented in the 2011 Budget report (P.157/2010). Whilst the Fiscal Strategy is that of the Minister for Treasury and Resources, the Minister for Social

Security is responsible for bringing forward amendments to the Social Security (Jersey) Law 1974 to provide for contributions above the current earnings limit from January 2012.

A political steering group comprising: the Chief Minister, the Minister for Treasury and Resources, the Assistant Minister for Economic Development (Senator P.F. Routier), the Minister and Assistant Minister for Social Security, was formed to oversee the development of the proposals.

**Latest developments**

The outline proposal made in the budget statement at the end of 2010 suggested that contributions above the standard earnings limit needed to be set at 2% for employees and 2% for employers, to raise an estimated additional £16 million in contributions to the Social Security Fund, which would be matched by an equal decrease in the cost of the States Grant in respect of supplementation.

This increase in contributions planned for 2012 is set against the backdrop of GST rising in June this year, current economic conditions, including levels of inflation and other inevitable increases to contribution rates over the next 5 to 10 years.

The introduction of a long-term care contributory benefit in 2013 will require a new contribution rate, currently estimated at an initial 1.5% across all earnings levels, to be levied on all employees, the self-employed and wealthy individuals, as well as some pensioners. This rate will have to rise as the effects of the ageing society are felt, and this will also require contribution rates to rise within 5 years in response to the increasing cost of pensions and the forecast decline in the size of the working age population.

The findings of the Review of the Fiscal Strategy Review (S.R.2/2011) undertaken by the Corporate Services Scrutiny Panel drew attention to the need to consolidate the savings identified under the Comprehensive Spending Review process before any further additional taxes are introduced.

In addition, since the presentation of those plans last December, there has been a small improvement in the financial forecasts for future States revenues allowing a reconsideration of whether the full increase in Social Security contributions is necessary.

Within this context, and in the particular knowledge that the long-term care benefit will impose a contribution rate on employees, but not on employers, it is now proposed that the contribution rate of 2% above the current earnings limit should be applied to employers only.

Employees will now not see an increase in contribution rates until the introduction of the proposed long-term care benefit. Individuals paying Class 2 contributions (including the self-employed) will also pay 2% above the current earnings limit, as opposed to the 4% previously proposed.

**Contribution limits and competitiveness**

The proposals arising from the Fiscal Strategy Review did not refer to any upper earnings limit on the level of additional contributions. However, the concept of unlimited contributions is of concern when the potential impact upon the international competitiveness of Jersey is taken into account.

In considering the need for an upper earnings limit and the issue of where best to position it, estimated yields at differing limits and the systems of neighbouring jurisdictions were taken into account.

Competitiveness depends upon how attractive a jurisdiction is to do business in and with. All the costs of doing business, including wage levels, taxation and productivity are factors, as well as less tangible factors such as economic stability.

Competitiveness is thereby difficult to measure and assess definitively, and any one factor can only ever tell part of a story. However, as reflected in the Fiscal Strategy Review, Social Security contributions form an important element of competitiveness and any increases will affect the overall competitiveness of any particular jurisdiction, relative to others and it is therefore important that any change in contribution rates or limits is assessed against the contribution rates of neighbouring jurisdictions.

The Table below summarises the existing headline rates and limits for Jersey, Guernsey, the Isle of Man and the UK.

| | **Employee** | | | | **Employer** | | | |
|---|---|---|---|---|---|---|---|---|
| | **Jersey** | **Guernsey** | **UK** | **IoM** | **Jersey** | **Guernsey** | **UK** | **IoM** |
| **Current (2011)** | | | | | | | | |
| Primary Threshold | N/A | N/A | 7,228 | 5,720 | N/A | N/A | 7,072 | 5,720 |
| Earnings Limit | 44,232 | 91,884 | 42,484 | 39,000 | 44,232 | 120,900 | N/A | N/A |
| Standard Rate | 6% | 6% | 12% | 11% | 6.5% | 6.5% | 13.8% | 12.8% |
| Higher Rate | 0% | 0% | 2% | 1% | N/A | N/A | N/A | N/A |

As can be seen, Jersey and Guernsey have lower contribution rates than either the Isle of Man or the UK, but Guernsey has the highest upper earnings limit for employees, with plans to increase it yet further.

The jurisdiction that most closely resembles Jersey, and where the competitive threat could be regarded as greatest, is Guernsey, and so further in-depth comparison between Jersey and Guernsey was undertaken when considering where to set an upper earnings limit.

In considering where to position any upper earnings limit, it is important not only to consider the current proposals when considering the comparison with other jurisdictions, but also that further increases in the rate of contributions will be required to meet the increased costs of pensions arising from the ageing population and also the more immediate measure of increased contributions to be levied against workers, the self-employed, higher-income pensioners and other residents to fund a long-term care benefit for all residents.

Comparisons were accordingly undertaken on the basis, not only of proposals being made in this proposition, but also incorporating the additional estimated 1.5% levy on contributions on earnings above and below the existing earnings limit to fund the long-term care benefit.

**Contribution limits and yield**

Using the data provided by the Taxes Office in respect of 2009 tax assessments and forecasts of annual growth produced by the Economic Adviser, it is possible to create estimates of potential yield for 2012 using different upper earnings limits combined with forecasts of future economic growth and these are presented in the Table below.

| Calculation of contributions based on that part of 2009 data supplied by the Taxes Office which approximates to Class 1 and Class 2 | | | | |
|---|---|---|---|---|
| **level of upper limit** | **2009** | **2010** | **2011** | **2012** |
| unlimited | £7,490,000 | £7,760,000 | £8,117,000 | £8,709,000 |
| £120,000 | £3,726,000 | £3,860,000 | £4,037,000 | £4,332,000 |
| £150,000 | £6,035,000 | £6,253,000 | £6,540,000 | £7,018,000 |
| £180,000 | £6,349,000 | £6,577,000 | £6,880,000 | £7,382,000 |
| £200,000 | £6,500,000 | £6,733,000 | £7,043,000 | £7,557,000 |
| £250,000 | £6,775,000 | £7,019,000 | £7,342,000 | £7,878,000 |

These estimates are based on forecasts of an increase in tax yield between 2009 and 2012.

Inevitably, forecasts of future performance are subject to much uncertainty and the actual yield may be above or below the values shown.

The Table shows that an upper earnings limit of £120,000 creates additional income of approximately £4.3 million in 2012, but that a limit of £150,000 creates total additional income of £7 million. A higher limit of £250,000 only adds a little to the estimated yield, with additional yield above the £150,000 limit of less than £1 million. The estimate of the additional yield without any limit must be viewed with some caution, as it arises from relatively few individuals, making it prone to changes in their number and income from year to year.

These are estimates of gross yield. There will be some cost to the States in terms of its contribution liability as an employer. With an upper earnings limit of £150,000, this is estimated at £700,000, leaving a net yield of £6 million (rounded to the nearest million).

**Balancing yield and competitive factors**

On the basis of the analysis undertaken of both yield and comparison with Guernsey, an upper earnings limit of £150,000 has been proposed as the level up to which the greatest additional yield is gained whilst having little impact upon the relative competitiveness of the Island.

Appendix 2 to this report illustrates the impact of the proposals at different levels of earnings.

**New businesses**

Individuals liable to make Class 2 contributions, make payments based on their earnings/income received 2 years previously. This has advantages for established business owners, who pay contributions based on historic earnings. However, it can pose difficulties for individuals moving from employment (Class 1) into self-employment (Class 2). For the first 2 years of the business, the individual will pay contributions based on their employed earnings from 2 years ago.

This has often been cited as a barrier to setting up business and of hampering economic growth.

To address this issue, the Minister is proposing that "opening year rules" will be included in the Contribution Orders to allow estimated earnings to be used as the basis of assessment for up to 3 years from the start of a new business. The opening year rules will only be available to bone fide new businesses and an individual will not be able to take advantage of the new rules more than once in a given period. As business accounts are completed for each full year of operation, adjustments will be made for any under or overpayment.

Small changes are made to the legislation within these proposals, which will make these changes possible.

**Value of States Grant in respect of supplementation**

Contributors who have earnings above the lower earnings limit but below the standard earnings limit during a month receive an additional sum, known as supplementation, to make up a complete contribution record for that month. This ensures that lower earners are able to receive full pension and benefit rights.

At present, the full cost of the supplementation of lower earners' contributions is borne by a States Grant. The introduction of contributions above the standard earnings limit will provide additional income into the Social Security Fund which will be used to meet part of the cost of supplementation. This will reduce the cost of the States Grant and thereby reduce the States' deficit.

The current legislation requires the calculation of the States Grant to be undertaken in respect of the current year. As the cost of supplementation is dependent on a number of factors, including the state of the economy, wage levels and the distribution of wages within the local labour market, it is very difficult to accurately forecast the total cost in advance of the year itself.

The proposed legislation introduces a new calculation for the States Grant. This allows for the additional contributions but also bases the value of the States Grant on the cost of supplementation from 2 years ago. This ensures that the cost of the States Grant will be known in advance of the year itself.

The calculation proposed is based upon the latest audited figures for the cost of supplementation, uprated by the square of the Earnings Index, also from 2 years previous, to arrive at a current year cost.

Applying this method to the known costs of supplementation over the last decade confirms that there is only a small difference between them over that period.

The UK Government Actuary examined a similar proposal in 2009 and concluded that this method of calculating the value of the States Grant would have a very small impact on the overall viability of the Social Security Fund.

The new calculation will not be fully effective until 2014, when it will be possible to refer to the actual values for 2012. The proposed legislation includes transitional arrangements for 2011, 2012 and 2013.

**Implementation and future changes**

The Department is already well advanced in terms of preparing for these changes and will be working with businesses and their representatives to enable them to prepare for these changes.

Contribution Orders will be made by the Minister to provide further detail for employers regarding liability, payment and collection matters.

In addition to the changes set out above which are planned for implementation in January 2012 subject to States' approval, there are a number of other amendments which will be considered for implementation in the coming years. These include additional enhancements to the Social Security system, combined with changes that will be necessary to introduce a contributory long-term care benefit. This later implementation date allows for a period of consultation on both a technical and public level in respect of matters not covered by the Fiscal Strategy consultation and the efficient use of development resources.

A new contribution class will be required for the proposed long-term care benefit and the opportunity will be taken to review the existing classes and exemptions. Given the increased risk of leakage from the system that new upper earnings limit presents, additional enforcement and anti-avoidance powers, which require new primary legislation, are also planned for 2013.

The Department will work closely with the Taxes Office to agree joint definitions of earnings and classifications of contributors. The aim of this work is to reduce duplication between the two departments and address any "red tape" issues experienced by local businesses that currently provide information separately to the 2 departments. The issue of levying contributions against unearned income will be further explored.

**Financial and manpower implications**

The additional yield to the Social Security Fund of these proposals is presented above and has been estimated using income tax data for 2009, updated in line with forecasts provided by the Economic Advisor.

There will be additional administrative costs associated with the assessment of Class 2 earnings (and income in some cases), given the anticipated increase in earnings related assessments that will be required once contributions are assessed above the current earnings limit. Preliminary estimates are that additional staff of up to 5 FTE will be required in the short term. The costs of these staff and other costs will be borne out of the Social Security Fund.

However, as a result of successful collaboration between the Taxes Office and the Social Security Department, it may be possible to automate much of this process in future years and improve the effectiveness and efficiency of the collection systems for ITIS and Social Security contributions.

There will be a cost to employers, who will need to adjust their payroll systems to calculate the new contributions and provide the necessary information to the Social Security Department. The Department will work with employers over the next 6 months, providing information and support to enable these adjustments to be made. This will include the Department testing and checking the output from employers' systems.

The Department will also need to make changes to its own IT and administrative systems. This work is being planned to ensure that subsequent changes, for example, the introduction of a long-term care benefit and much closer co-operation with the Taxes Office, can be easily assimilated into the revised structure.

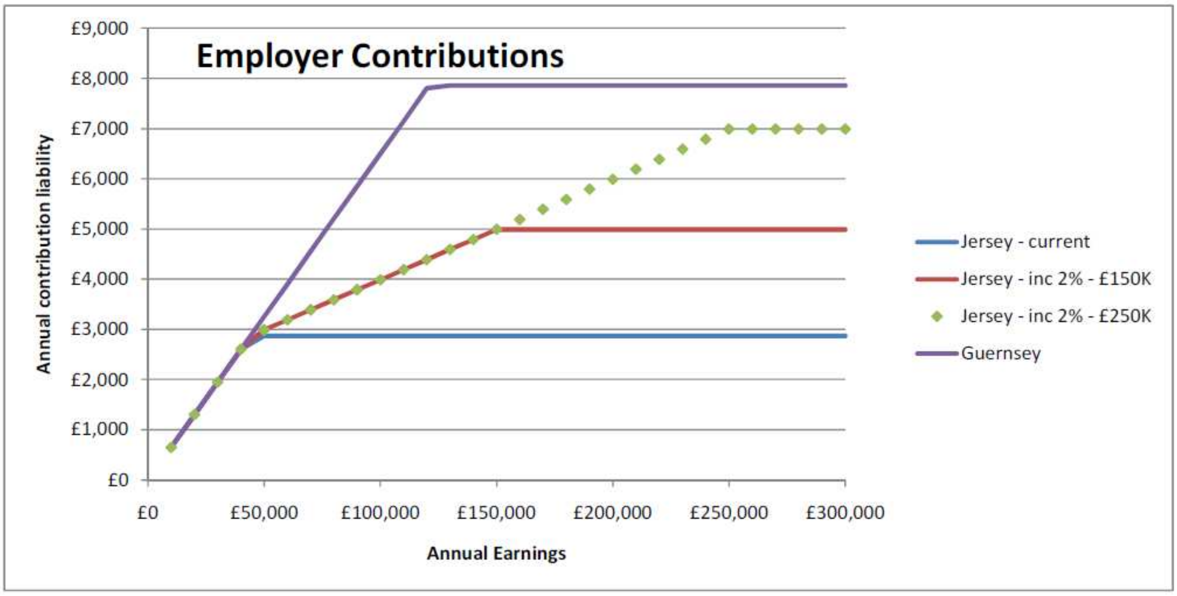
**Summary of proposals**

- An additional Social Security contribution rate of 2% on earnings above the current earnings limit for employers and the self-employed.
- A new upper earnings limit, to be established at £150,000.
- A contribution liability in respect of individuals with low earnings, but total income above the current earnings limit, at the proposed 2% rate on all income between the current earnings limit and £150,000
- New rules allowing new self-employed contributors to be assessed on basis of estimates of actual earnings for up to 3 years.

**APPENDIX 1**

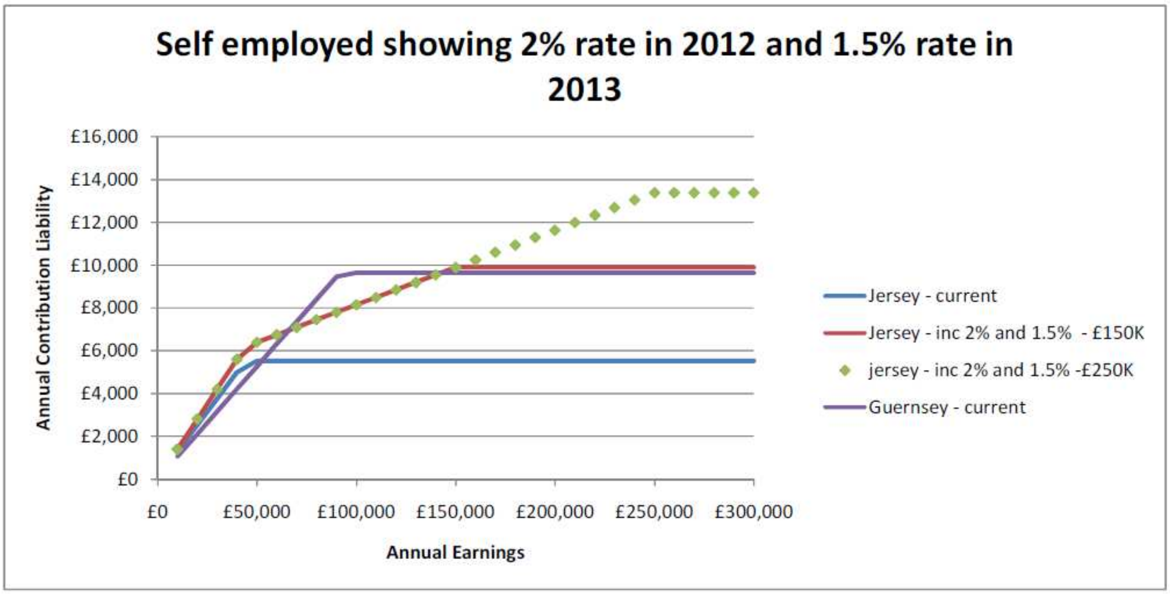
**Comparison of contribution liabilities at differing upper earnings limits, against Guernsey's current system**

The chart below compares the current Guernsey and Jersey schemes, alongside an additional contribution rate of 2%, above the current earnings limit up to an upper earnings limit of £150,000 and £250,000.




The change to employer contributions will occur in 2012 and the graph indicates that at both £150,000 and £250,000 the contribution liability remains below the Guernsey rate.

For the self-employed, there are likely to be increases in 2012 (the introduction of the 2% rate above the current earnings limit) and 2013 (the introduction of a 1.5% rate for long-term care benefit, at all earnings levels to an upper earnings limit). The following graph shows the liability taking into account both of these proposals.



This shows that the combination of the 2 proposals with an upper earnings limit at £150,000 remains competitive with the current Guernsey system, but is less so at higher earnings levels with an upper earnings limit at £250,000.

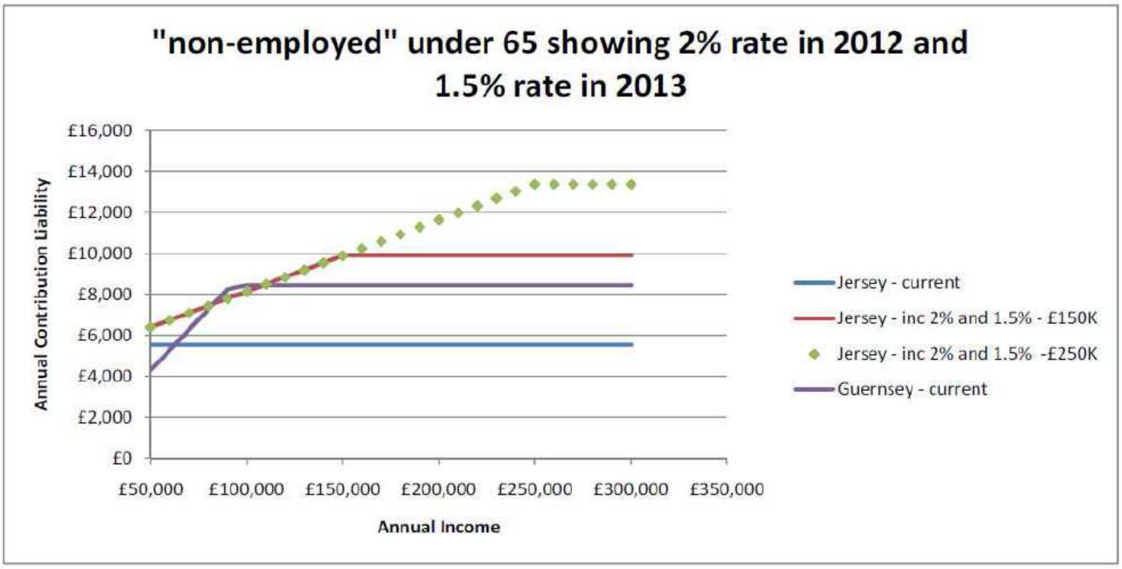
Under the current legislation, Class 2 individuals with very low earnings, but significant unearned income, are required to pay contributions based on the current earnings limit (£44,232).

It is proposed that Class 2 contributors who fall into this category, i.e. with –

- Earnings below the lower earnings limit of £9,358; and
- Total income above the standard earnings limit of £44,232,

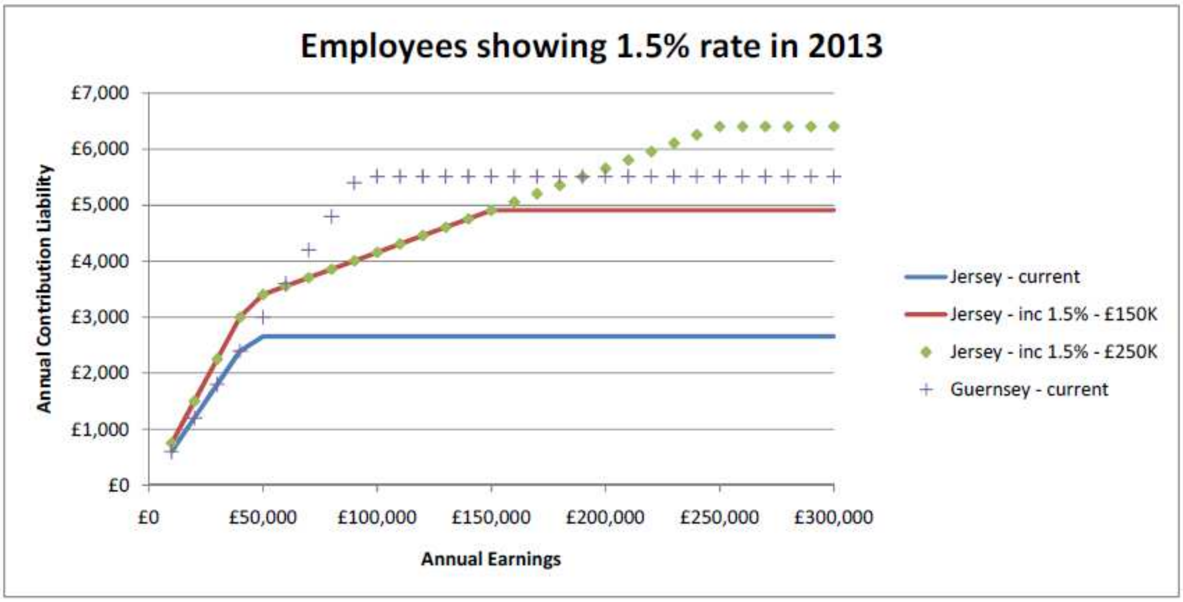
should pay contributions based on the value of their total income, up to the upper earnings limit.

The following graph shows the impact of both the current proposal and the introduction of a long-term care benefit on working age individuals who have substantial income but very little (or no) earnings.




For this group, an upper earnings limit of £150,000 creates proposed Jersey contributions that are slightly above existing Guernsey contributions, but well above at higher income levels if a £250,000 limit were to be introduced.

Although employees are not affected by the change in 2012, they are likely to be subject to the new long-term care benefit contribution in 2013 and it is intended to introduce contributions into that fund up to the same upper earnings limit decided upon in the current proposals. This is shown on the following graph.



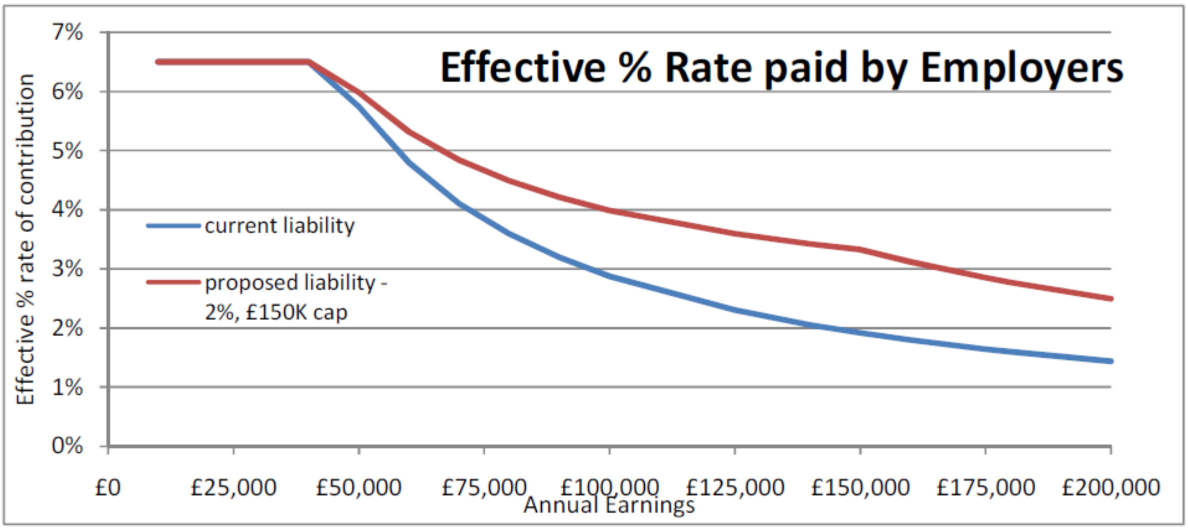

The increase in the rate of contributions below the standard earnings limit from 6% to 7.5% will increase the cost, not only for those with earnings above the current earnings limit, but also for those on lower earnings. However, with an upper earnings limit at £150,000, the position remains competitive and less than Guernsey at higher earnings, but less so at higher earnings with an upper earnings limit of £250,000.

**APPENDIX 2**

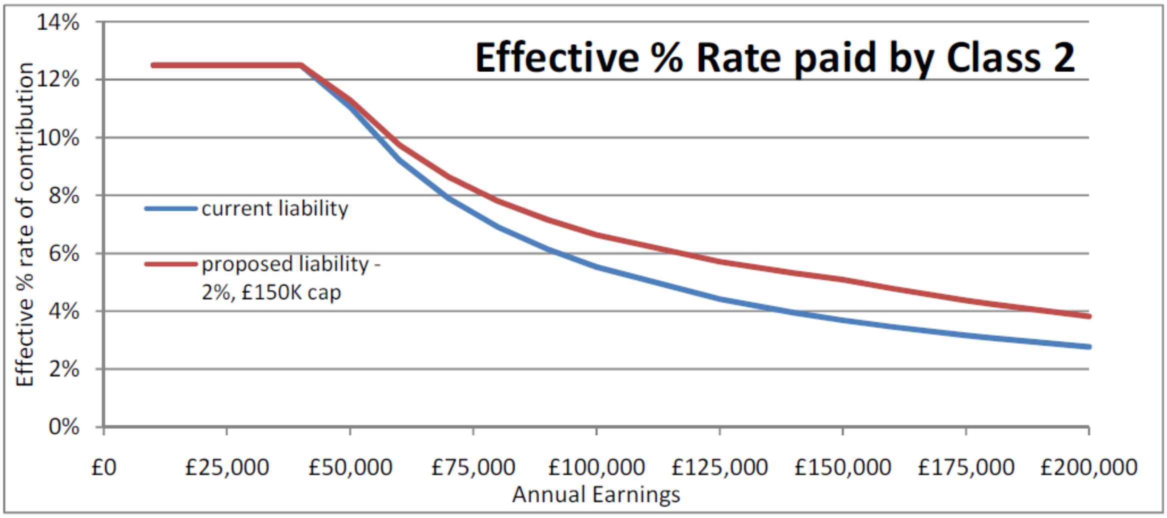
**Analysis of impact on Contributors**

The following table gives an indication of the additional cost of contributions for employers and Class 2 contributors following the introduction of a 2% rate above the current earnings limit, at different levels of annual earnings. This table is based on the 2011 earnings limit of £44,232 and an upper earnings limit of £150,000. These limits will be uprated each year in line with average earnings, and so the actual cost in 2012 will be slightly different from that shown. There is no additional cost to employees under this proposal.

| £ | Employer | | | Class 2 (Including self-employed) | | |
|---|---|---|---|---|---|---|
| Annual earnings | Current annual liability | Proposed annual liability | Proposed annual increase | Current annual liability | Proposed annual liability | Proposed annual increase |
| 10,000 | 650 | 650 | – | 1,250 | 1,250 | – |
| 20,000 | 1,300 | 1,300 | – | 2,500 | 2,500 | – |
| 30,000 | 1,950 | 1,950 | – | 3,750 | 3,750 | – |
| 40,000 | 2,600 | 2,600 | – | 5,000 | 5,000 | – |
| 50,000 | 2,875 | 2,990 | 115 | 5,529 | 5,644 | 115 |
| 60,000 | 2,875 | 3,190 | 315 | 5,529 | 5,844 | 315 |
| 70,000 | 2,875 | 3,390 | 515 | 5,529 | 6,044 | 515 |
| 80,000 | 2,875 | 3,590 | 715 | 5,529 | 6,244 | 715 |
| 90,000 | 2,875 | 3,790 | 915 | 5,529 | 6,444 | 915 |
| 100,000 | 2,875 | 3,990 | 1,115 | 5,529 | 6,644 | 1,115 |
| 125,000 | 2,875 | 4,490 | 1,615 | 5,529 | 7,144 | 1,615 |
| 150,000 | 2,875 | 4,990 | 2,115 | 5,529 | 7,644 | 2,115 |
| 175,000 | 2,875 | 4,990 | 2,115 | 5,529 | 7,644 | 2,115 |
| 200,000 | 2,875 | 4,990 | 2,115 | 5,529 | 7,644 | 2,115 |



In percentage terms, the maximum increase is experienced at an income of £150,000. At this level the current system requires a contribution rate of 1.92% of gross earnings, and this will increase to 3.33%. This is an increase of 1.41 percentage points. As can be seen from the graph, the percentage difference between the current and proposed systems is smaller, both above and below this earnings level.

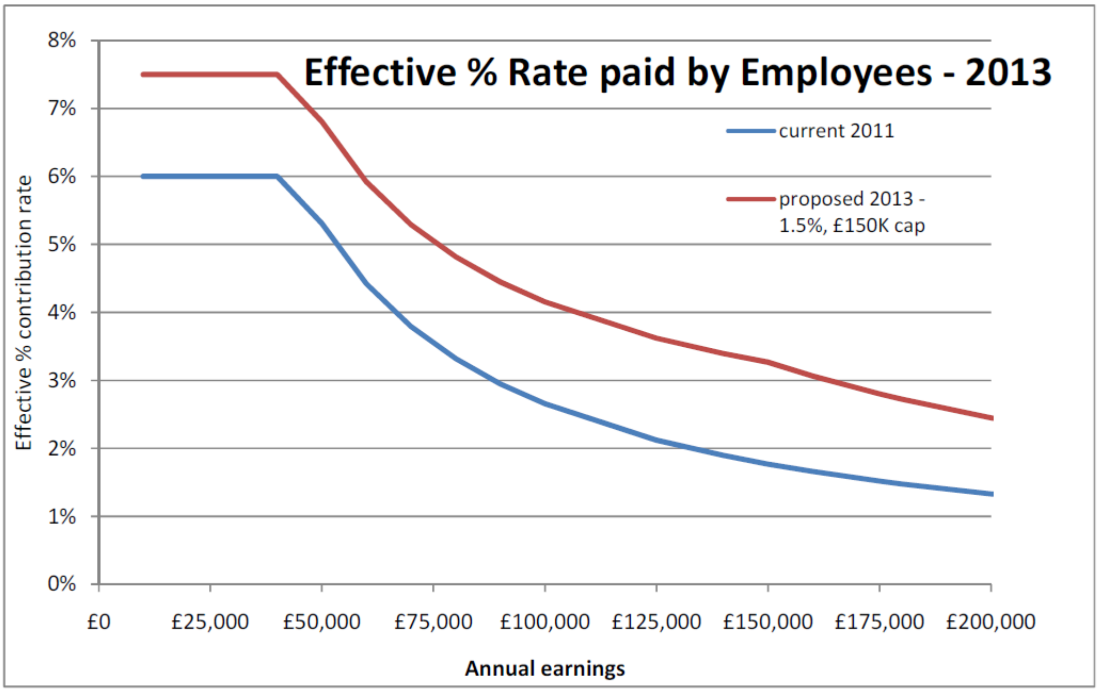



As with employers, the maximum increase is experienced at an income of £150,000. At this level, the current system requires a contribution rate of 3.69% of gross earnings, and this will increase to 5.10%. This is an increase of 1.41 percentage points.

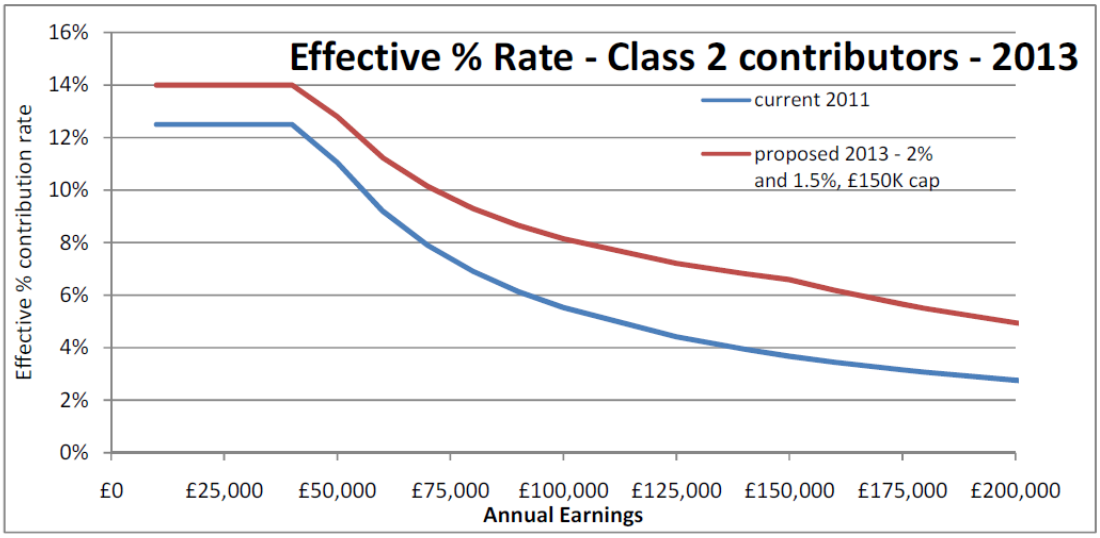
**Proposed changes in 2013**

The following Tables compare the current position with the proposed position for 2013, once the proposed contributory long-term care benefit is introduced at a rate of 1.5% for employees and Class 2, in addition to the 2012 proposals. **Note that the contributions in respect of the long-term care benefit have yet to be considered by the States Assembly.** It is planned to lodge draft primary legislation which will establish a long-term care benefit for debate in July 2011, and detailed Regulations will follow during 2012. As with the previous Table, the figures are based on the current earnings limit of £44,232 and the proposed upper earnings limit of £150,000. The actual figures in 2013 will be slightly different.

| £ | Employee | | | Employer | | | Class 2 (Including self-employed) | | |
|---|---|---|---|---|---|---|---|---|---|
| Annual earnings | Current annual liability | Proposed annual liability | Proposed annual increase | Current annual liability | Proposed annual liability | Proposed annual increase | Current annual liability | Proposed annual liability | Proposed annual increase |
| 10,000 | 600 | 750 | 150 | 650 | 650 | – | 1,250 | 1,400 | 150 |
| 20,000 | 1,200 | 1,500 | 300 | 1,300 | 1,300 | – | 2,500 | 2,800 | 300 |
| 30,000 | 1,800 | 2,250 | 450 | 1,950 | 1,950 | – | 3,750 | 4,200 | 450 |
| 40,000 | 2,400 | 3,000 | 600 | 2,600 | 2,600 | – | 5,000 | 5,600 | 600 |
| 50,000 | 2,654 | 3,404 | 750 | 2,875 | 2,990 | 115 | 5,529 | 6,394 | 865 |
| 60,000 | 2,654 | 3,554 | 900 | 2,875 | 3,190 | 315 | 5,529 | 6,744 | 1,215 |
| 70,000 | 2,654 | 3,704 | 1,050 | 2,875 | 3,390 | 515 | 5,529 | 7,094 | 1,565 |
| 80,000 | 2,654 | 3,854 | 1,200 | 2,875 | 3,590 | 715 | 5,529 | 7,444 | 1,915 |
| 90,000 | 2,654 | 4,004 | 1,350 | 2,875 | 3,790 | 915 | 5,529 | 7,794 | 2,265 |
| 100,000 | 2,654 | 4,154 | 1,500 | 2,875 | 3,990 | 1,115 | 5,529 | 8,144 | 2,615 |
| 125,000 | 2,654 | 4,529 | 1,875 | 2,875 | 4,490 | 1,615 | 5,529 | 9,019 | 3,490 |
| 150,000 | 2,654 | 4,904 | 2,250 | 2,875 | 4,990 | 2,115 | 5,529 | 9,894 | 4,365 |
| 175,000 | 2,654 | 4,904 | 2,250 | 2,875 | 4,990 | 2,115 | 5,529 | 9,894 | 4,365 |
| 200,000 | 2,654 | 4,904 | 2,250 | 2,875 | 4,990 | 2,115 | 5,529 | 9,894 | 4,365 |




The increase in contributions for employees is a maximum of 1.5 percentage points. This increase applies to all employees with earnings up to £150,000.




In percentage terms, the maximum increase is experienced at an income of £150,000. At this level the current system requires a contribution rate of 3.69% of gross earnings, and this will increase to 6.60%. This is an increase of 2.91 percentage points. As can be seen from the graph, the percentage difference between the current and proposed systems is smaller, both above and below this earnings level.

## Explanatory Note

These Regulations amend the Social Security (Jersey) Law 1974 (the "Law").

The amendments take effect in 2 stages. The amendments made by *Regulations 2 to 11* would come into force on 1st October 2011. The amendments made by *Regulations 12, 13 and 14* would come into force on 1st January 2012.

*Regulation 1* provides that references to Articles and other sub-divisions in the Regulations are to the Articles and sub-divisions so numbered in the Law.

*Amendments coming into force on 1st October 2011*

*Regulation 2* amends Article 1 of the Law. It adds definitions consequentially upon the amendments in these Regulations that move contribution factors and rates for, respectively, Class 1 and Class 2, to new Schedules 1A and 1B. It also restates and expands the Minister's power to prescribe the earnings that are to be taken into consideration for the purposes of the Law. Finally, the amendments make it clear that the payment, crediting or supplementation of contributions to the Social Security Fund in an amount equal to the standard contribution creates a full contribution record.

*Regulation 3* amends Article 4 of the Law. The amendments in sub-paragraphs (a) and (b) reflect a change in terminology for Class 2 contributions, until now referred to as "flat rate" or "earnings related" and, in future, to be referred to as "full rate" or "reduced rate". The amendment in sub-paragraph (c) reflects the addition of Article 9A to the Law.

*Regulation 4* amends Article 5 of the Law consequentially upon the relocation of the rules for calculating the rates of Class 1 contributions to the new Schedule 1A.

*Regulation 5* amends Article 8 of the Law consequentially upon the change in terminology for Class 2 contributions and the relocation of the rules for calculating the rates of Class 2 contributions to the new Schedule 1B.

*Regulation 6* amends Article 9 of the Law. Article 9 describes the circumstances in which an insured person's contributions will be supplemented out of the Social Security Fund. The rules for supplementation of Class 1 and Class 2 contributions are relocated, respectively, to the new Schedules 1A and 1B. In addition the Minister's power to allow supplementation for a person under the age of 18, even though the person's contributions fall below the threshold, is removed.

*Regulation 7* inserts Article 9A in the Law. This new Article creates a method for calculating the amount to be paid into the Social Security Fund by the States, as a contribution to supplementation. The amount is calculated by reference to the following figures: the total amount required for supplementation 2 years earlier, the amount of contributions paid above the standard monthly earnings limit 2 years earlier, and the rise or fall in the Jersey Index of Earnings 2 years earlier.

Because the calculations depend on figures collected 2 years earlier, transitional arrangements are needed for 2011, 2012 and 2013. Paragraph (1) specifies a fixed amount to be paid by the States in 2011. Contributions above the standard monthly earnings limit will only commence in 2012 and so, instead of calculating the States' contributions for 2012 and 2013 by reference to the past amounts of contributions paid above the standard monthly earnings limit, fixed figures are specified for those years. (See *Regulations 12 to 14* for the addition of contributions above the standard monthly earnings limit and consequential amendments to Article 9A.)

*Regulation 8* amends Article 10 of the Law so as to allow the Minister to provide, by Order, that a person may be excepted from liability to pay contributions from any date specified by the Minister. Currently the Minister cannot specify a date that is 13 weeks before the date on which the application to be excepted from liability is made.

*Regulation 9* amends Article 11 of the Law so as to enable the Minister, by Order, to round up or down amounts determined in accordance with an index, such as the Jersey Index of Earnings, and to make arrangements for correction of overpayments and underpayments of contributions.

*Regulation 10* amends Article 30 of the Law. Paragraph (3) of that Article currently specifies the percentages of contributions that are to be paid into the Health Insurance Fund. For the future, these percentages will be shown within Schedules 1A and 1B.

*Regulation 11* adds Schedules 1A and 1B to the Law. Schedule 1A is concerned with Class 1 contributions. It defines what constitutes earnings for the purposes of Class 1 contributions, sets monthly earnings limits, sets contribution rates and also restates the rule for supplementation of Class 1 contributions. Schedule 1B contains the same information for the purposes of Class 2 contributions.

*Amendments coming into force on 1st January 2012*

*Regulation 12* amends the new Article 9A so as to add rules for the calculation of B in the formula in that Article, with effect from 2014, that depend upon monthly earnings limits and contribution rates added to Schedules 1A and 1B by *Regulations 13 and 14.*

*Regulation 13* amends Schedule 1A so as to add an upper monthly earnings limit and a new liability for employers to pay Class 1 contributions, of 2%, on earnings of an employee that exceed the standard monthly earnings limit but do not exceed the upper monthly earnings limit.

*Regulation 14* amends Schedule 1B so as to add an upper monthly earnings limit and a new liability to pay full rate or reduced rate Class 2 contributions, of 2%, on earnings that exceed the standard monthly earnings limit but do not exceed the upper monthly earnings limit.

*Regulation 15* provides for the citation of the Regulations. *Regulations 1 to 11 and 15* come into force on 1st October 2011. *Regulations 12 to 14* come into force on 1st January 2012.

Jersey

# DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 1) (JERSEY) REGULATIONS 201-

## Arrangement

### Regulation

Jersey

# DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 1) (JERSEY) REGULATIONS 201-

| | |
|---|---|
| *Made* | *[date to be inserted]* |
| *Coming into force* | *[date to be inserted]* |

**THE STATES**, in pursuance of Articles 50 and 51 of the Social Security (Jersey) Law 1974[1], have made the following Regulations –

## 1 Interpretation

In these Regulations, a reference to an Article or other sub-division of a Law by number only is a reference to the Article or sub-division of that number in the Social Security (Jersey) Law 1974[2].

*Amendments coming into force on 1st October 2011*

## 2 Article 1 amended

(1) In Article 1(1) –

(a) for the definition "earnings" there shall be substituted the following definition –

" 'earnings' –

(a) in relation to a Class 1 insured person, has the meaning given in Schedule 1A;

(b) in relation to a Class 2 insured person, has the meaning given in Schedule 1B;";

(b) the definition "earnings limit" shall be deleted;

(c) the definition "Jersey Cost of Living Index" shall be deleted;

(d) for the definition "Jersey Index of Earnings" there shall be substituted the following definition –

" 'Jersey Index of Earnings' means the Index of Average Earnings produced by the States of Jersey Statistics Unit;".

(e) after the definition "Social Security Tribunal" there shall be inserted the following definition –

" 'standard contribution' –

(a) in relation to a Class 1 insured person, has the meaning given in Schedule 1A;

(b) in relation to a Class 2 insured person, has the meaning given in Schedule 1B;".

(2) For Article 1(5) there shall be substituted the following paragraph –

"(5) The Minister may by Order prescribe, for any specified purpose or provision of this Law –

(a) monetary amounts and benefits of any description (whether or not convertible into money) that are, or are not, earnings;

(b) without prejudice to the generality of sub-paragraph (a), descriptions of income that are to be treated as earnings;

(c) the manner in which the value attributable to any earnings that are not money is to be determined;

(d) when any earnings are deemed to be paid;

(e) circumstances in which notional earnings are to be attributed to a person;

(f) the manner in which a person's earnings are to be calculated or estimated;

(g) the manner in which the amount of a person's earnings to be treated as comprised in any payment made to or in respect of the person is to be calculated or estimated; and

(h) earnings of a specified class or description, made or falling to be made to or by a person, that are to be disregarded, wholly or in part, in calculating a person's earnings, or deducted from such earnings.".

(3) Article 1(6) shall be deleted.

(4) In Article 1(7) after the words "a full contribution record" there shall be inserted the words "for contributions (being contributions paid into, credited to or supplemented from, the Social Security Fund) equal to the standard contribution".

## 3 Article 4 amended

In Article 4 –

(a) in paragraph (2)(a) the words "earnings related" shall be deleted;

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

"(b) Class 2 full rate or reduced rate contributions payable by Class 2 insured persons.";

(c) for paragraph (3) there shall be substituted the following paragraph –

"(3) There shall also be paid into the Social Security Fund, out of monies provided by the States, such amounts as are determined in accordance with Article 9A, for the purpose of contributing to the cost of supplementing contributions in accordance with Article 9.".

**4 Article 5 amended**

In Article 5 –

(a) paragraphs (1) and (2) shall be deleted;

(b) for paragraph (4) there shall be substituted the following paragraph –

"(4) Subject to the provisions of any Order made under Article 11(d), the amounts of primary and secondary Class 1 contributions shall be determined in accordance with Schedule 1A.".

**5 Article 8 amended**

In Article 8 –

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

"(1) Class 2 insured persons, who are not entitled by virtue of paragraph (2), or being so entitled do not apply, to pay reduced rate Class 2 contributions, shall be liable to pay full rate Class 2 contributions.";

(b) in paragraph (2) for the words "Earnings related" there shall be substituted the words "Reduced rate";

(c) for paragraph (3) there shall be substituted the following paragraph –

"(3) Subject to the provisions of any Order made under Article 11(d), the amounts of full rate Class 2 contributions and reduced rate Class 2 contributions payable in any month shall be determined in accordance with Schedule 1B.".

**6 Article 9 amended**

For paragraphs (1) to (3) of Article 9 there shall be substituted the following paragraph –

"(1) Subject to the provisions of this Law, monthly contributions in respect of an insured person shall be supplemented out of the Social Security Fund –

(a) in the case of a Class 1 insured person, in the circumstances and by the amount provided by paragraph 4 of Schedule 1A; and

(b) in the case of a Class 2 insured person, in the circumstances and by the amount provided by paragraph 5 of Schedule 1B.".

**7 Article 9A inserted**

After Article 9 there shall be inserted the following Article –

**“9A Contributions by States to supplementation**

(1) The amount required by Article 4(3) to be paid into the Social Security fund for 2011, out of monies provided by the States, is £65,350,000.

(2) Amounts required by Article 4(3) to be paid into the Social Security Fund from 1st January 2012, out of monies provided by the States shall be determined annually, in accordance with paragraph (3).

(3) Subject to paragraph (4), the amount to be paid, for a year, shall be the product of the following formula –

$(A - B) \times (1 + C)^2$

Where –

(a) A is the total amount required, for the base year, for the purpose of supplementing contributions in accordance with Article 9, reported in the accounts prepared in accordance with Article 30(4);

(b) B is –

(i) for the purpose of determining the amount payable in 2012, £6,850,000,

(ii) for the purpose of determining the amount payable in 2013, £6,900,000;

(c) C is the percentage rise or fall in the Jersey Index of Earnings in the base year; and

(d) the ‘base year’ is the year 2 years before the year for which the amount is to be paid.

(4) If B is equal to or greater than A, no money is required to be paid for the year.

(5) The amount to be paid in for a year may be paid in a lump sum or in instalments, and at such time or times, as the Minister determines.”.

**8 Article 10 amended**

In Article 10 –

(a) in paragraph (2) for the words beginning “any date not earlier than” to the end of the paragraph there shall be substituted the words “the day the person’s application is made or a day that is earlier or later than that day.”;

(b) in paragraph (3) for the words “his or her contributions, after the deduction of the appropriate Health Insurance Fund allocation, to exceed the standard level of contribution.” there shall be substituted the words “so much of his or her contributions as are payable into the Social Security Fund to exceed the standard contribution”.

**9 Article 11 amended**

In Article 11 –

(a) after paragraph (d) there shall be inserted the following paragraph –

“(da) for calculating or otherwise adjusting any amount determined, in accordance with this Law, by reference to any index or scale, so as to avoid fractional amounts or otherwise facilitate computation;”;

(b) after paragraph (g) there shall be inserted the following paragraph –

“(ga) for the correction of overpayments or underpayments of contribution made in such circumstances as may be prescribed;”;

(c) in paragraph (ha) for the words “the earnings limit” there shall be substituted the words “any earnings limit specified in Schedule 1A or 1B”.

**10 Article 30 amended**

For Article 30(3) there shall be substituted the following paragraph –

“(3) The appropriate Health Insurance Fund Allocation, which shall be paid into the Health Insurance Fund, shall be the aggregate of the amounts expressed in Schedules 1A and 1B to be allocated to that Fund.”.

**11 Schedules 1A and 1B inserted**

Before Schedule 1 there shall be inserted the following Schedules –

**“SCHEDULE 1A**

(Articles 5(4), 9 and 30(3))

**CLASS 1 FACTORS AND CONTRIBUTION RATES**

**1 Class 1 – earnings**

For the purposes of this Law, and subject to any Order made under Article 1(5) or 11, the earnings of a Class 1 insured person include any sums payable to the person (whether under a contract of service or any other office, employment or arrangement whereby the person 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.

**2 Class 1 – monthly earnings limits**

(1) In this Schedule, subject to sub-paragraph (2) –

(a) the lower monthly earnings limit for Class 1 contributions is £776;

(b) the standard monthly earnings limit for Class 1 contributions is £3,686.

(2) On the 1st January in 2012 and every subsequent year, the limits in sub-paragraph (1)(a) and (b) shall each be increased or decreased, as the case requires, by the percentage figure equal to the percentage rise or fall in the Jersey Index of Earnings during the 12 months ending on 30th June in the preceding year.

**3 Class 1 – monthly contributions**

(1) The amount of an employed person's primary Class 1 contributions in respect of the monthly earnings of an employment is the aggregate of the following amounts –

(a) 0.8% of the person's earnings that do not exceed the standard monthly earnings limit, which amount shall be allocated to the Health Insurance Fund; and

(b) 5.2% of the person's earnings that do not exceed the standard monthly earnings limit.

(2) The amount of an employer's secondary Class 1 contributions in respect of the monthly earnings of an employee is the aggregate of the following amounts –

(a) 1.2% of the employee's earnings that do not exceed the standard monthly earnings limit, which amount shall be allocated to the Health Insurance Fund; and

(b) 5.3% of the employee's earnings that do not exceed the standard monthly earnings limit.

**4 Class 1 – supplementation**

(1) Where –

(a) contributions have been paid in respect of a Class 1 insured person for a month; and

(b) the social security contributions paid or credited in respect of the Class 1 insured person for the month exceed the contribution threshold but are less than the standard contribution,

the social security contributions shall be supplemented, out of the Social Security Fund, by an amount sufficient to cause those contributions in respect of the person for the month to equal the standard contribution.

(2) No supplementation shall be awarded in respect of –

(a) secondary Class 1 contributions alone; or

(b) social security contributions paid or credited which are above the contribution threshold and below the standard contribution but which would not have been below the standard contribution had contribution liability been discharged in full.

(3) For the purposes of this paragraph –

(a) the standard contribution is the sum of –

(i) the maximum amount payable under paragraph 3(1)(b), and

(ii) the maximum amount payable under paragraph 3(2)(b);

(b) the contribution threshold is the sum of –

(i) 5.2% of the lower monthly earnings limit, and

(ii) 5.3% of the lower monthly earnings limit;

(c) 'social security contributions' means so much of the contributions paid or credited in respect of a Class 1 insured person as are to be paid into the Social Security Fund.

## SCHEDULE 1B

(Articles 8(3), 9 and 30(3))

## CLASS 2 FACTORS AND CONTRIBUTION RATES

### 1 Class 2 – earnings

For the purposes of this Law, and subject to any Order made under Article 1(5) or 11, the earnings of a Class 2 insured person include any sums payable to the person (whether under a contract for services or any office or arrangement whereby the person 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.

### 2 Class 2 – monthly earnings limits

(1) In this Schedule, subject to sub-paragraph (2) –

(a) the lower monthly earnings limit for Class 2 contributions is £776;

(b) the standard monthly earnings limit for Class 2 contributions is £3,686.

(2) On the 1st January in 2012 and every subsequent year, the limits in sub-paragraph (1)(a) and (b) shall each be increased or decreased, as the case requires, by the percentage figure equal to the percentage rise or fall in the Jersey Index of Earnings during the 12 months ending on 30th June in the preceding year.

**3 Class 2 – monthly full rate contributions**

The amount of a person's full rate Class 2 contributions payable in any month is the aggregate of the following amounts –

(a) 2% of the standard monthly earnings limit, which amount shall be allocated to the Health Insurance Fund; and

(b) 10.5% of the standard monthly earnings limit.

**4 Class 2 – monthly reduced rate contributions**

The amount of a person's reduced rate Class 2 contributions payable in any month is the aggregate of the following amounts –

(a) 2% of the person's earnings for the month that do not exceed the standard monthly earnings limit, which amount shall be allocated to the Health Insurance Fund; and

(b) 10.5% of the person's earnings for the month that do not exceed the standard monthly earnings limit.

**5 Class 2 – supplementation**

(1) No supplementation shall be awarded in respect of full rate Class 2 contributions.

(2) Where the reduced rate Class 2 social security contributions paid or credited in respect of a Class 2 insured person for a month –

(a) are at least equal to the amount of such contributions payable for the month in respect of the person by virtue of paragraph 4(b); and

(b) are less than the standard contribution,

the contributions shall be supplemented, out of the Social Security Fund by an amount sufficient to cause the social security contributions in respect of the person for the month to equal the standard contribution.

(3) No supplementation shall be awarded in respect of reduced rate Class 2 social security contributions paid or credited for any month in respect of a Class 2 insured person which are below the standard contribution but which would not have been below the standard contribution had contribution liability been discharged in full.

(4) For the purposes of this paragraph –

(a) the standard contribution is the maximum amount payable under paragraph 4(b); and

(b) 'social security contributions' means so much of the contributions paid or credited in respect of a Class 2 insured person as are to be paid into the Social Security Fund.".

*Amendments coming into force on 1st January 2012*

### 12 Article 9A amended

In Article 9A(3)(b) after clause (ii) there shall be added the following clause –

“(iii) for the purpose of determining the amount payable in 2014 and ensuing years, the aggregate of the following amounts –

(A) the Class 1 secondary contributions paid for the base year in accordance with paragraph 3(2)(c) of Schedule 1A,

(B) the full rate Class 2 contributions paid for the base year in accordance with paragraph 3(c) of Schedule 1B, and

(C) the reduced rate Class 2 contributions paid for the base year in accordance with paragraph 4(c) of Schedule 1B,

as those amounts are reported in the accounts prepared in accordance with Article 30(4);”.

### 13 Schedule 1A amended

In Schedule 1A –

(a) in paragraph 2(1) –

(i) for the words “subject to sub-paragraph (2)” there shall be substituted the words “subject to sub-paragraphs (2) and (3)”,

(ii) after clause (b) there shall be added the following clause –

“(c) the upper monthly earnings limit for Class 1 contributions is £12,500.”;

(b) after paragraph 2(2) there shall be added the following sub-paragraph –

“(3) On the 1st January in 2013 and every subsequent year, the limit in sub-paragraph (1)(c) shall be increased or decreased, as the case requires, by the percentage figure equal to the percentage rise or fall in the Jersey Index of Earnings during the 12 months ending on 30th June in the preceding year.”;

(c) in paragraph 3(2) –

(i) the word “and” following clause (a) shall be deleted;

(ii) after clause (b) the word “and” and the following clause shall be added –

“(c) 2% of the employee’s earnings that exceed the standard monthly earnings limit but do not exceed the upper monthly earnings limit.”.

**14 Schedule 1B amended**

In Schedule 1B –

(a) in paragraph 2(1) –

(i) for the words “subject to sub-paragraph (2)” there shall be substituted the words “subject to sub-paragraphs (2) and (3)”,

(ii) after clause (b) there shall be added the following clause –

“(c) the upper monthly earnings limit for Class 2 contributions is £12,500.”;

(b) after paragraph 2(2) there shall be added the following sub-paragraph –

“(3) On the 1st January in 2013 and every subsequent year, the limit in sub-paragraph (1)(c) shall be increased or decreased, as the case requires, by the percentage figure equal to the percentage rise or fall in the Jersey Index of Earnings during the 12 months ending on 30th June in the preceding year.”;

(c) in paragraph 3 –

(i) the word “and” following sub-paragraph (a) shall be deleted,

(ii) after sub-paragraph (b) the word “and” and the following sub-paragraph shall be added –

“(c) 2% of the amount that is the difference between the standard monthly earnings limit and the upper monthly earnings limit.”;

(d) in paragraph 4 –

(i) the word “and” following sub-paragraph (a) shall be deleted,

(ii) after sub-paragraph (b) the word “and” and the following sub-paragraph shall be added –

“(c) 2% of the person’s earnings that exceed the standard monthly earnings limit but do not exceed the upper monthly earnings limit.”.

*Closing provision*

**15 Citation and commencement**

(1) These Regulations may be cited as the Social Security (Amendment of Law No. 1) (Jersey) Regulations 201-.

(2) These Regulations, apart from Regulations 12, 13 and 14, shall come into on 1st October 2011.

(3) Regulations 12, 13 and 14 of these Regulations shall come into force on 1st January 2012.

[1] *chapter 26.900*
[2] *chapter 26.900*