



Jersey

# **SOCIAL SECURITY (GENERAL BENEFIT) (JERSEY) ORDER 1975**

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## SOCIAL SECURITY (GENERAL BENEFIT) (JERSEY) ORDER 1975

### Contents

#### Article

1	Interpretation .....	5
2	.....	5
3	.....	5
4	Computation of benefit payable.....	5
5	Increase of benefit for dependents .....	6
6	.....	6
7	.....	6
8	.....	6
9	Disqualification for imprisonment, etc. ....	6
10	Exceptions from disqualification for imprisonment, etc. ....	6
11	Suspension of payment of benefit during imprisonment, etc.....	7
12	Interim payments, arrears and repayments .....	7
13	Disqualifications to be disregarded for certain purposes.....	9
14	Citation.....	9

#### **SCHEDULE 1** **10**

PROVISIONS FOR THE PURPOSES OF WHICH DISQUALIFICATIONS UNDER THE LAW ARE TO BE DISREGARDED	10
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#### **SCHEDULE 2** **12**

PRESCRIBED RELATIONSHIPS	12
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#### **ENDNOTES** **13**

Table of Legislation History .....	13
Table of Renumbered Provisions .....	13
Table of Endnote References .....	14





Jersey

## SOCIAL SECURITY (GENERAL BENEFIT) (JERSEY) ORDER 1975<sup>1</sup>

THE EMPLOYMENT AND SOCIAL SECURITY COMMITTEE, in pursuance of Articles 13, 14, 27, 29 and 51 of the [Social Security \(Jersey\) Law 1974](#), orders as follows –

Commencement [[see endnotes](#)]

### 1 Interpretation

In this Order, unless the context otherwise requires –

“determining authority” means, as the case may require, the determining Officer or the Social Security Tribunal;

“Law” means the [Social Security \(Jersey\) Law 1974](#).

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3 <sup>3</sup>

### 4 Computation of benefit payable

- (1) For the purpose of facilitating the computation of the amount of any benefit payable under the Law, any weekly rate of benefit specified in Part 1, Part 1A or Part 3 of Schedule 1 to the Law which is not divisible by 7 shall be increased to the next higher amount which is divisible by 7 and does not comprise a fraction of a penny.<sup>4</sup>
- (2) An amount of benefit which would otherwise include a fraction of a penny shall be increased to the next whole penny.
- (3) The daily rate of any benefit payable shall be one seventh of the weekly rate of that benefit.<sup>5</sup>
- (4) The monthly rate of any benefit payable shall be the weekly rate of that benefit multiplied by 4 and one third.

## 5 Increase of benefit for dependents<sup>6</sup>

- (1) For the purposes of Article 27(1) of the Law (which paragraph relates to increases of incapacity benefit and parental allowance to beneficiaries) –
  - (a) a child of the family who is below compulsory school age, as defined in Article 2 of the [Education \(Jersey\) Law 1999](#), is a prescribed category of person being cared for;
  - (b) the other parent of the child (that is to say the parent who is not the beneficiary) is a prescribed category of carer;
  - (c) the prescribed period or periods during which benefit may be increased, in respect of any one child to whom paragraph (2) refers, is 5 years in the aggregate; and
  - (d) benefit may be increased if but only if the circumstances in paragraph (2) apply.<sup>7</sup>
- (2) The circumstances to which paragraph (1) refers are –
  - (a) the parent who is not the beneficiary must be for the time being excepted, under an application made under Article 14 of the [Social Security \(Contributions\) \(Jersey\) Order 1975](#), from liability to pay a contribution under the Law;
  - (b) the child in respect of whom the application under that Article of that Order was granted must be the first or second child of the family; and
  - (c) the beneficiary and the other parent must reside with each other in Jersey, and be ordinarily resident in Jersey.

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## 9 Disqualification for imprisonment, etc.

Subject to the provisions of this Order, a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife, husband or dependant, for any period during which that person is undergoing imprisonment or detention in legal custody.<sup>11</sup>

## 10 Exceptions from disqualification for imprisonment, etc.

- (1) The provisions of Article 9 (in this Article referred to as the “said provisions”) shall have effect subject to the exceptions contained in paragraphs (2) to (4) of this Article.<sup>12</sup>

- (2) The said provisions shall not operate to disqualify a person for receiving a parental grant.<sup>13</sup>
- (2A) Subject to Article 1 of the [Social Security \(Insolvency Benefit\) \(Jersey\) Order 2012](#), the said provisions shall not operate to disqualify a person for receiving insolvency benefit.<sup>14</sup>
- (3) The said provisions shall not operate to disqualify a person for receiving incapacity benefit, parental allowance, survivor's benefit or old age pension, or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought or intended to be brought against the person in criminal proceedings unless, in relation to the person, a custodial sentence is imposed at the conclusion of those proceedings.<sup>15</sup>
- (4) The said provisions shall not operate to disqualify a person for receiving home carer's allowance whilst that person is undergoing a period of imprisonment or detention in legal custody that does not exceed 7 days.<sup>16</sup>

## **11 Suspension of payment of benefit during imprisonment, etc.**

- (1) The payment to any person of any benefit –
  - (a) which is excepted from the operation of Article 9 by virtue of the provisions of Article 10; or
  - (b) which is payable otherwise than in respect of a period during which the person is undergoing imprisonment or detention in legal custody,shall be suspended while that person is undergoing imprisonment or detention in legal custody:

Provided that a parental grant to which this paragraph applies and any other benefit to which sub-paragraph (b) applies may nevertheless be paid during any such period to any person appointed for the purpose by the Minister to receive and deal with any sum payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Minister and the Social Security Fund for any sum so paid.<sup>17</sup>

- (2) Where, by virtue of paragraph (1) of this Article, payment of benefit is suspended for any period, the period of suspension shall not be taken into account in calculating any period under the provisions of Article 14 of the [Social Security \(Claims and Payments\) \(Jersey\) Order 1974](#).

## **12 Interim payments, arrears and repayments**

- (1) Subject to the provisions of this Article and Article 12(5) of the [Social Security \(Claims and Payments\) \(Jersey\) Order 1974](#), benefit shall be payable in accordance with an award notwithstanding that an appeal against the award is pending, and, subject as aforesaid and to the provisions of Articles 18 and 19 of the [Social Security \(Determination of Claims and Questions\) \(Jersey\) Order 1974](#), shall be treated as having been duly paid and shall not be recoverable under the provisions of the Law or otherwise.

- (2) Where it appears to the Minister that a question has arisen whether –
- (a) the conditions for the receipt of benefit payable under an award are or were fulfilled; or
  - (b) an award of benefit ought to be revised,
- the Minister may direct that payment of the benefit shall be suspended in whole or in part until that question has been determined.
- (3) Where 2 or more claims are made for short term incapacity allowance by an insured person in respect of different periods in the same period of incapacity and (at the date when a claim in respect of any such first mentioned period is determined, or the decision in respect thereof is revised, in favour of that person by the determining authority) benefit of the same description has been received by the person in respect of any days in the same period of incapacity subsequent to the days to which that determination or the said revised decision relates, then, if it is shown that by reason of Article 15(2) of the Law benefit would be overpaid if the benefit payable under the said determination or the said revised decision were paid, any such benefit so subsequently paid which on the foregoing basis would have been overpaid shall be treated as having been paid on account of the benefit payable under the said determination or the said revised decision, and the amount due under that determination or decision shall be reduced accordingly.<sup>18</sup>
- (4) Where on appeal or review a decision is reversed or varied or revised and by reason thereof any sum on account of short term incapacity allowance is shown to have been paid to any person for days for which the person was not entitled thereto, then in determining for the purposes of Article 15 of the Law whether that person has exhausted his or her right to short term incapacity allowance and what is the last day for which the person was entitled thereto, any days for which any such sum has been so paid in pursuance of the original decision shall be treated as if they were days for which that person was entitled to that benefit notwithstanding the provisions of Article 2(1) of the [Social Security \(Incapacity Benefits\) \(Jersey\) Order 2004](#):
- Provided that, if any sum was so paid to such a person and that sum or any part thereof is recovered, then there shall be excluded for the purposes of the said determination under the said Article 15 a number of days (to the nearest whole number) equal to the number to be obtained by dividing the amount recovered by the daily rate at which the benefit was paid.<sup>19</sup>
- (5) Where –
- (a) on appeal against an award of benefit, a decision is reversed or varied so that such benefit is not payable or is payable at a lower rate; and
  - (b) on review, the decision on that appeal is revised so as to make such benefit payable, or payable at a higher rate, from a date before the decision on appeal,
- any benefit paid in pursuance of the award before the decision on appeal shall, to the extent to which it would not have been payable if the decision on appeal had been given in the first instance, be treated as having been paid on account of any benefit made payable for the same period by the



decision on review, except insofar as it has, in pursuance of the decision on appeal, been repaid or treated as paid on account of the benefit awarded by that decision.

- (6) Where, in accordance with a decision given on a review or appeal any benefit is required to be repaid to the Social Security Fund then, without prejudice to any other method of recovery, such benefit shall be recoverable by deduction from any benefit then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive the person's benefit on the person's death.
- (7) Where, under arrangements made by the Minister for the purpose of dealing with any emergency, payment by way of incapacity benefit, parental benefit, death grant or insolvency benefit has been made to any person pending the determination of a claim therefor, without due proof of the fulfilment of the relevant conditions or otherwise than in accordance with the provisions of the Law or of any Order made thereunder, the payment so made shall, for the purposes of the said provisions, be deemed to be a payment of such benefit duly made:

Provided that this paragraph shall apply, in a case in which the conditions for the receipt of any such benefit were not fulfilled, subject to the following provisions –

- (a) if it is shown at any time to the satisfaction of the determining authority that any person to whom such a payment has been made has not acted in good faith in all respects as to the obtaining and receipt thereof, the person shall be liable to repay to the Social Security Fund any sum so paid; and
- (b) if it is so shown that any such person was entitled to some benefit other than incapacity benefit, parental benefit, death grant or insolvency benefit for the period in respect of which the payment was made, such payment (insofar as it does not exceed the amount of such other benefit) shall not be deemed to be a payment of the benefit in question, but a payment of such other benefit duly made.<sup>20</sup>

### **13 Disqualifications to be disregarded for certain purposes**

Where a person of any class mentioned in the first column of Schedule 1 would be entitled to the benefit set opposite to that class in the second column of that Schedule but for the operation of any provision of the Law disqualifying the person for receipt of that benefit, that person shall be treated as if entitled to that benefit for the purpose of the provisions of the Law set opposite thereto in the third column of the said Schedule and of any Order made thereunder.

### **14 Citation**

This Order may be cited as the Social Security (General Benefit) (Jersey) Order 1975.

**SCHEDULE 1<sup>21</sup>**

(Article 13)

**PROVISIONS FOR THE PURPOSES OF WHICH DISQUALIFICATIONS UNDER THE LAW ARE TO BE DISREGARDED**

Class of person  (1)	Benefit for which person is disqualified  (2)	Article of the Law for the purpose of which disqualification is to be disregarded  (3)	Subject matter  (4)
A widow	Survivor's benefit	25 (3) (b)	Old age pension by virtue of husband's insurance for widow entitled, immediately before attaining pensionable age, to survivor's benefit in respect of her husband's death.
A widow	Survivor's benefit	25 (6)	Calculation of yearly average of contributions for old age pension of widow by virtue of her own insurance, where she is not entitled to survivor's benefit immediately before attaining pensionable age.
A surviving spouse	Survivor's allowance	24 (2) (b)	Period for which a survivor's pension is payable (being a period for which the surviving spouse is not entitled to survivor's allowance).
A deceased spouse	Old age pension	24 (1) (a)	Survivor's allowance for surviving spouse, if deceased spouse was not entitled at date of death to an old age pension insurance.
A widow	Old age pension	25 (4) proviso	Cessation, on re-marriage, of an old age pension to which a widow is entitled immediately before re-marriage by virtue of deceased husband's insurance.
A surviving civil partner	Survivor's allowance	24(2)(b)	Period for which a survivor's pension is payable (being a period for which the surviving

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A deceased civil partner	Old age pension	24(1)(a)	civil partner is not entitled to survivor's allowance). Survivor's allowance for surviving civil partner, if deceased civil partner was not entitled at date of death to an old age pension.
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**SCHEDULE 2**

(Article 5)

**PRESCRIBED RELATIONSHIPS**

- (a) Lineal descendant or ascendant in a direct line, and
- (b) Stepfather, stepmother, stepson, stepdaughter, brother, sister, half-brother, half-sister, stepbrother, stepsister.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Social Security (General Benefit) (Jersey) Order 1975	R&O.6149	1 January 1975
Social Security (Payment for Sundays) (Jersey) Order 1986	R&O.7556	1 October 1986
Social Security (General Benefit) (Amendment) (Jersey) Order 2001	<a href="#">R&amp;O.68/2001</a>	1 April 2001
Social Security (General Benefit) (Amendment No. 2) (Jersey) Order 2004	<a href="#">R&amp;O.76/2004</a>	1 October 2004
States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005	<a href="#">R&amp;O.48/2005</a>	9 December 2005
Social Security (General Benefit) (Amendment No. 3) (Jersey) Order 2011	<a href="#">R&amp;O.161/2011</a>	1 January 2012
Social Security (General Benefit) (Amendment No. 4) (Jersey) Order 2012	<a href="#">R&amp;O.28/2012</a>	28 February 2012
Civil Partnership (Consequential Amendments) (Jersey) Regulations 2012	<a href="#">R&amp;O.47/2012</a>	2 April 2012
Social Security (Insolvency Benefit) (Jersey) Order 2012	<a href="#">R&amp;O.123/2012</a>	1 December 2012
Social Security (Miscellaneous Provisions No. 2) (Jersey) Order 2012	<a href="#">R&amp;O.162/2012</a>	1 January 2013
Social Security (General Benefit) (Amendment No. 5) (Jersey) Order 2013	<a href="#">R&amp;O.40/2013</a>	26 March 2013
Social Security (Miscellaneous Provisions No. 5) (Jersey) Order 2015	<a href="#">R&amp;O.92/2015</a>	1 September 2015
Social Security (Amendment of Law No. 14) (Jersey) Regulations 2020	<a href="#">R&amp;O.137/2020</a>	24 November 2020

### Table of Renumbered Provisions

Original	Current
1(1)	1
1(2)	spent, omitted from this revised edition
FIRST SCHEDULE	SCHEDULE 1

Original	Current
SECOND SECHEDULE	SCHEDULE 2

## Table of Endnote References

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- <sup>1</sup> *This Order has been amended by the States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- <sup>2</sup> Article 2 *deleted by R&O.28/2012*
- <sup>3</sup> Article 3 *revoked by R&O.161/2011*
- <sup>4</sup> Article 4(1) *amended by R&O.7556, R&O.40/2013*
- <sup>5</sup> Article 4(3) *amended by R&O.7556*
- <sup>6</sup> Article 5 *substituted by R&O.76/2004*
- <sup>7</sup> Article 5(1) *amended by R&O.92/2015, R&O.137/2020 (R&O.147/2020 produced an incompatible amendment to the bracketed text. The amendment in R&O.137/2020 was preferred because it correctly reflects Article 27(1) of the Law, and the bracketed text itself has no legal effect)*
- <sup>8</sup> Article 6 *revoked by R&O.76/2004*
- <sup>9</sup> Article 7 *revoked by R&O.76/2004*
- <sup>10</sup> Article 8 *revoked by R&O.76/2004*
- <sup>11</sup> Article 9 *amended by R&O.76/2004*
- <sup>12</sup> Article 10(1) *amended by R&O.123/2012, R&O.162/2012*
- <sup>13</sup> Article 10(2) *amended by R&O.137/2020*
- <sup>14</sup> Article 10(2A) *inserted by R&O.123/2012*
- <sup>15</sup> Article 10(3) *amended by R&O.68/2001, R&O.76/2004, R&O.137/2020*
- <sup>16</sup> Article 10(4) *added by R&O.162/2012*
- <sup>17</sup> Article 11(1) *amended by R&O.137/2020*
- <sup>18</sup> Article 12(3) *amended by R&O.76/2004*
- <sup>19</sup> Article 12(4) *amended by R&O.76/2004*
- <sup>20</sup> Article 12(7) *amended by R&O.76/2004, R&O.123/2012, R&O.137/2020*
- <sup>21</sup> Schedule 1 *substituted by R&O.68/2001, amended by R&O.47/2012*