



Jersey

SOCIAL SECURITY (INSOLVENCY BENEFIT) (JERSEY) ORDER 2012

Arrangement

Article

1	Article 26C of the Law: period of notice of termination	3
2	Article 26F of the Law: certain amounts to be deducted from notice component.....	3
3	Social Security (Claims and Payments) (Jersey) Order 1974 amended	4
4	Social Security (Residence and Persons Abroad) (Jersey) Order 1974 amended	5
5	Social Security (Overlapping Benefits) (Jersey) Order 1975 amended.....	5
6	Social Security (General Benefit) (Jersey) Order 1975 amended.....	6
7	Citation and commencement	6



Jersey

SOCIAL SECURITY (INSOLVENCY BENEFIT) (JERSEY) ORDER 2012

*Made**5th November 2012**Coming into force**1st December 2012*

THE MINISTER FOR SOCIAL SECURITY, in pursuance of Articles 3, 13, 26C, 26F, 28, 29, 46 and 51 of the Social Security (Jersey) Law 1974¹, orders as follows –

1 Article 26C of the Law: period of notice of termination

- (1) For the purposes of Article 26C(4) of the Law, the component specified in paragraph (2)(a) of that Article shall not be counted towards the sum referred to in Article 26B of the Law in respect of a person to the extent of any portion of the relevant period of notice of termination that corresponds to the number of days during which the person is absent from Jersey, except if –
 - (a) the absence was reasonably necessary for the specific purpose of the person's actively seeking remunerative work as referred to in Article 26E; or
 - (b) the absence was necessary for the purposes of treating (otherwise than by way of rehabilitation) any incapacity of the person which commenced before that absence began.
- (2) For the purposes of Article 26C(4) of the Law, the component specified in paragraph (2)(a) of that Article shall not be counted towards the sum referred to in Article 26B of the Law in respect of a person to the extent of any portion of the relevant period of notice of termination that corresponds to the number of days during which the person is undergoing imprisonment, or detention in custody, whether in Jersey or elsewhere.

2 Article 26F of the Law: certain amounts to be deducted from notice component

- (1) For the purposes of Article 26F(1)(f) of the Law, an amount to be deducted from the component referred to in Article 26C(2)(a) of the Law and relating to a person is the amount of any incapacity pension to the

extent that it is payable to the person in respect of any period of notice to which the person is or has been entitled in respect of the termination of the person's employment.

- (2) For the purposes of Article 26F(1)(f) of the Law, an amount to be deducted from the component referred to in Article 26C(2)(a) of the Law and relating to a person is the following amount to the extent that it is taken into account under the Social Security (Contributions) (Jersey) Order 1975² in respect of any period of notice to which the person is or has been entitled in respect of the termination of the person's employment –
- (a) except in the case where an amount referred to in paragraph (b) applies, the amount of any income from self-employment of the person (where "income from self-employment" has the same meaning as in the Social Security (Contributions) (Jersey) Order 1975); or
 - (b) in a case where the person has been granted a concession under Article 13D(6) of that Order –
 - (i) in the case where the Minister accepts an estimate under Article 13D(5) of that Order, the amount that is such proportion of 33 $\frac{1}{3}$ % of the annual equivalent of the earnings so estimated as corresponds to the period of notice divided by 1 year,
 - (ii) in the case where Article 13D(5) and (7) of that Order do not apply, the amount that is such proportion of 33 $\frac{1}{3}$ % of the annual equivalent of the standard monthly earnings limit as corresponds to the period of notice divided by 1 year, or
 - (iii) in the case where Article 13D(7) applies, the amount that is such proportion of 33 $\frac{1}{3}$ % of the annual equivalent of the lower monthly earnings limit as corresponds to the period of notice divided by 1 year.
- (3) However, if, before the relevant insolvency benefit is paid to the person, the person provides evidence to the Minister's satisfaction that the actual amount of the person's income from self-employment, during any period of notice to which the person is or has been entitled in respect of the termination of the person's employment, is less than the amount that would apply in respect of the person under paragraph (2), the Minister may accept that amount for the purposes of that paragraph instead of the amount that would otherwise apply under that paragraph.

3 Social Security (Claims and Payments) (Jersey) Order 1974 amended

- (1) After Article 11(1) of the Social Security (Claims and Payments) (Jersey) Order 1974³ the following paragraph shall be inserted –
- “(1A) Insolvency benefit may be paid to a person who is entitled to it once, in several payments or periodically, according to the information that is available to the determining authority, or according to any other factor that appears to the Minister to be appropriate in the circumstances of the particular case.”.

- (2) In Article 13(4)(c) of the Social Security (Claims and Payments) (Jersey) Order 1974 after the words “survivor’s benefit” there shall be inserted the words “and not being insolvency benefit”.
- (3) In Schedule 2 to the Social Security (Claims and Payments) (Jersey) Order 1974 –
- (a) for the words “(Articles 1(4) and 13)” immediately after the heading there shall be substituted the words “(Articles 1(3) and 13)”;
- (b) at the end of the table in Part 1 there shall be inserted the following words –

“10	Insolvency benefit	30 days (or such longer period not exceeding 6 months as the Minister may determine in the circumstances of any particular case) after the cessation of the employee’s service in employment by the relevant employer (as referred to in Article 26C of the Law)	The benefit claimed”
-----	--------------------	--	----------------------

4 Social Security (Residence and Persons Abroad) (Jersey) Order 1974 amended

After Article 6(2) of the Social Security (Residence and Persons Abroad) (Jersey) Order 1974⁴ the following paragraph shall be inserted –

“(2A) Article 5 shall not operate to disqualify a person for receiving insolvency benefit and paragraph (2) shall not apply in respect of the payment of insolvency benefit.”.

5 Social Security (Overlapping Benefits) (Jersey) Order 1975 amended

- (1) In Article 1(1)(b) of the Social Security (Overlapping Benefits) (Jersey) Order 1975⁵ for the words “Article 2(2)” the words “Articles 1A and 2(2)” shall be substituted.
- (2) After Article 1 of the Social Security (Overlapping Benefits) (Jersey) Order 1975 the following Article shall be inserted –

“1A Insolvency benefit: limited adjustment for wages and holiday pay

Despite Article 1(1)(b), insolvency benefit payable to a person is only to be adjusted in accordance with Article 1(3) to the extent of the values of

such of the components of that benefit as are referred to in Article 26C(1), (2)(c) and (2)(d) of the Law and as relate to any day in respect of which short term incapacity allowance or maternity allowance, or both of them, is payable to the person.”.

- (3) At the end of the Schedule to the Social Security (Overlapping Benefits) (Jersey) Order 1975 the following matter shall be added –

“(3) Insolvency benefit (to the extent of the components referred to in Article 26C(1) and (2)(a), (c) and (d) of the Law)	Long term incapacity allowance, survivor’s allowance, survivor’s pension, old age pension, maternity grant, death grant or adoptive parent grant
(4) Insolvency benefit (to the extent of the component referred to in Article 26C(2)(b) of the Law)	Any benefit under the Law (other than insolvency benefit itself)”.

6 Social Security (General Benefit) (Jersey) Order 1975 amended

In the Social Security (General Benefit) (Jersey) Order 1975⁶ –

- (a) in Article 10(1) for the words “paragraphs (2) and (3)” the words “paragraphs (2), (2A) and (3)” shall be substituted;
- (b) after Article 10(2) the following paragraph shall be inserted –
- “(2A) Subject to Article 1 of the Social Security (Insolvency Benefit) (Jersey) Order 2012⁷, the said provisions shall not operate to disqualify a person for receiving insolvency benefit.”;
- (c) in Article 12(7) for the words “or death grant” in both places where they appear there shall be substituted the words “, death grant or insolvency benefit”.

7 Citation and commencement

This Order may be cited as the Social Security (Insolvency Benefit) (Jersey) Order 2012 and shall come into force on 1st December 2012.

SENATOR F. DU H. LE GRESLEY

Minister for Social Security

-
- ¹ *chapter 26.900*
 - ² *chapter 26.900.24*
 - ³ *chapter 26.900.06*
 - ⁴ *chapter 26.900.78*
 - ⁵ *chapter 26.900.54*
 - ⁶ *chapter 26.900.36*
 - ⁷ *R&O.123/2012*