



Jersey

## **SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT No. 9) (JERSEY) ORDER 2011**

### **Arrangement**

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#### **Article**

1	Interpretation.....	3
2	Part A1 inserted .....	3
3	Article 6 amended .....	4
4	Article 8 amended .....	5
5	Article 9 amended .....	5
6	Article 10 amended .....	5
7	Article 11 deleted.....	5
8	Articles 12 and 13 substituted.....	5
9	Article 14A inserted.....	13
10	Article 15 amended .....	14
11	Article 16 amended .....	14
12	Article 22 amended .....	14
13	Article 26 substituted.....	15
14	Schedules 1 and 2 inserted .....	15
15	Schedule renamed .....	15
16	Citation and commencement .....	16

#### **SCHEDULE** **17**

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SCHEDULES 1 AND 2 INSERTED	17
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Jersey

## **SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT No. 9) (JERSEY) ORDER 2011**

*Made*

*16th November 2011*

*Coming into force*

*1st January 2012*

**THE MINISTER FOR SOCIAL SECURITY**, in pursuance of Articles 1(5), 10, 11, 14, 36, 46, 47 and 51 of the Social Security (Jersey) Law 1974<sup>1</sup>, orders as follows –

### **1 Interpretation**

In this Order “principal Order” means the Social Security (Contributions) (Jersey) Order 1975<sup>2</sup>.

### **2 Part A1 inserted**

Before Part 1 of the principal Order there shall be inserted the following Part –

## **“PART A1**

### **INTERPRETATION AND GENERAL**

#### **A1 Interpretation**

(1) In this Order, unless the context otherwise requires –

‘due date’ means, in relation to any contribution under the Law, the day on which that contribution was due to be paid;

‘gainful occupation’ means –

- (a) employment for more than the number of hours in a period, prescribed under Article 5(3)(b) of the Law; or
- (b) work done by a person in the course of his or her own business or for another person for reward;

‘income from self-employment’ has the meaning given in Schedule 2;

‘Law’ means the Social Security (Jersey) Law 1974<sup>3</sup>;  
‘total income’ has the meaning given in Schedule 2.

- (2) In this Order the following expressions, when used in relation to a Class 1 insured person, have the same meaning as in Schedule 1A to the Law –
- (a) subject to this Order, ‘earnings’;
  - (b) ‘lower monthly earnings limit’;
  - (c) ‘standard monthly earnings limit’;
  - (d) ‘upper monthly earnings limit’;
  - (e) ‘primary Class 1 contributions’;
  - (f) ‘secondary Class 1 contributions’.
- (3) In this Order the following expressions, when used in relation to a Class 2 insured person, have the same meaning as in Schedule 1B to the Law –
- (a) subject to this Order, ‘earnings’;
  - (b) ‘lower monthly earnings limit’;
  - (c) ‘standard monthly earnings limit’;
  - (d) ‘full rate Class 2 contributions’;
  - (e) ‘reduced rate Class 2 contributions’.

**A2 Class 1 insured person – earnings**

Schedule 1 has effect, for the purposes of the Law, to modify what payments or benefits are, or are not to be treated as, the earnings of a Class 1 insured person, to determine the value attributable to any benefit and to determine the time when any earnings are taken to have been paid or the period to which any earnings relate.

**A3 Class 2 insured person – income arising from self-employment, total income and earnings**

Schedule 2 has effect –

- (a) to define a person’s income from self-employment and a person’s total income;
- (b) to determine the value attributable to any benefit in kind taken into account as income arising from self-employment or earnings; and
- (c) to modify what are the earnings of a Class 2 insured person in specified cases.”.

**3 Article 6 amended**

In Article 6(1) of the principal Order for the words “the Schedule”, in each place that they appear, there shall be substituted the words “Schedule 3”.

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**4 Article 8 amended**

After paragraph (1) of Article 8 of the principal Order there shall be inserted the following paragraph –

“(1A) Paragraph (1) shall not apply to a person undergoing imprisonment or detention in custody who, in any week, is undertaking paid work outside the prison or other place of detention as part of a programme of rehabilitation for more than the number of hours prescribed for the period of a week under Article 5(3)(b) of the Law.”.

**5 Article 9 amended**

- (1) In the heading to Article 9 of the principal Order for the word “benefit” there shall be substituted the word “allowance”.
- (2) In Article 9(1) and (3) of the principal Order for the word “benefit” there shall be substituted the word “allowance”.

**6 Article 10 amended**

- (1) In the heading to Article 10 of the principal Order the words “and training” shall be deleted.
- (2) In Article 10 of the principal Order –
  - (a) in paragraphs (1) and (2) the words “or training” shall be deleted;
  - (b) in the proviso to paragraph (2) for the words “at the standard level of Class 2 contribution applicable at the date of payment.” there shall be substituted the words “the full rate Class 2 contribution applicable at the date of payment.”.

**7 Article 11 deleted.**

Article 11 of the principal Order shall be deleted.

**8 Articles 12 and 13 substituted**

For Articles 12 and 13 of the principal Order there shall be substituted the following Articles –

**“12 Small income exception**

- (1) A Class 2 insured person is eligible to apply for an exception from liability to pay Class 2 contributions under this Article if the person’s estimated total income for the year for which the person applies for the exception, after the amounts described in paragraph (3) have been disregarded, does not exceed the specified amount for that year.

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- (2) The 'specified amount' for the year is one third of the annual equivalent of the standard monthly earnings limit for Class 2 contributions.
  - (3) The amounts to be disregarded are –
    - (a) any payment of sick pay received from a friendly society or trade union;
    - (b) any payment in respect of a disablement pension awarded under the Personal Injuries (Emergency Provisions) Act 1939 of the United Kingdom, including an increase of such a pension in respect of dependants, if and to the extent that it is not already disregarded as total income, by virtue of Article 117 of the Income Tax (Jersey) Law 1961<sup>4</sup>; and
    - (c) any payment by way of long term incapacity allowance under Article 16 of the Law.
  - (4) A person applying for an exception under this Article must –
    - (a) make the application using such form and in such manner as the Minister has approved; and
    - (b) furnish to the Minister such information and evidence relating to the person's income described in paragraph (1) as the Minister may require.
  - (5) The Minister shall, on an application being made by an eligible person in accordance with paragraph (4), grant the person an exception from liability to pay Class 2 contributions.
  - (6) An exception –
    - (a) subject to paragraph (8), shall be in force for such period as the Minister may determine; and
    - (b) may be subject to conditions determined by the Minister.
  - (7) The person granted the exception must –
    - (a) notify the Minister, forthwith, if a condition of the exception ceases to be fulfilled; and
    - (b) furnish to the Minister any further information and evidence regarding the person's income described in paragraph (1) as the Minister may require from time to time.
  - (8) The exception shall end upon a condition of the exception ceasing to be fulfilled.
  - (9) The person granted the exception may notify the Minister, at any time while the exception is in force, that the person wishes the exception to end.
  - (10) Where the Minister is notified under paragraph (9), the exception shall end on such date as the Minister may determine.
  - (11) Nothing in this Order shall preclude a person from receiving benefit, while the person is excepted from liability under this Article, by virtue of contributions paid by or credited to the person in respect of any period before the day on which the exception commenced.
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- (12) Contributions shall not be credited to a person who has been granted exception from liability under this Article while that exception remains in force.

**13 Special exception from liability to pay Class 2 contributions**

- (1) A Class 2 insured person is eligible to apply for an exception from liability to pay contributions in a year under this Article if –
- (a) the sum of the person's income from self-employment and Class 1 earnings (if any) is less than the lower earnings limit; and
  - (b) the person's total income is less than two thirds of the standard earnings limit.
- (2) A person applying for an exception under this Article must –
- (a) make the application, in writing, to the Minister; and
  - (b) produce his or her tax assessment and such additional evidence as the Minister may require of the person's income and earnings described in paragraph (1) for the relevant income tax year of assessment.
- (3) If the person was in full-time education or training in the year before the concession year the Minister may accept evidence of the person's income and earnings described in paragraph (1) for the current year.
- (4) The Minister shall, on an application being made by an eligible person in accordance with paragraph (2), grant the person an exception from liability to pay Class 2 contributions for the period from –
- (a) 1st January, if the application is made on or before 15th June in the same year;
  - (b) 1st April, if the application is made on or before 15th September in the same year;
  - (c) 1st July, if the application is made on or before 15th December in the same year; or
  - (d) 1st October, if the application is made on or before 15th March in the following year,
- to the end of the year.

**13A Reduced rate Class 2 contributions**

- (1) A Class 2 insured person is eligible to apply to pay reduced rate Class 2 contributions in a year on the basis that the person's earnings are deemed to be of an amount equal to the standard earnings limit if –

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- (a) the sum of the person's income from self-employment and Class 1 earnings (if any) is less than the lower earnings limit; and
    - (b) the person's total income is less than the standard earnings limit.
  - (2) A Class 2 insured person is eligible to apply to pay reduced rate Class 2 contributions in a year on the basis that the person's total income is the person's earnings if –
    - (a) the sum of the person's income from self-employment and Class 1 earnings (if any) is less than the lower earnings limit; and
    - (b) the person's total income is not less than the standard earnings limit.
  - (3) A Class 2 insured person is eligible to apply to pay reduced rate Class 2 contributions in a year on the basis that the person's earnings are the sum of his or her income from self-employment and Class 1 earnings (if any) if –
    - (a) the sum of the person's income from self-employment and Class 1 earnings (if any) is not less than the lower earnings limit; and
    - (b) the person's total income is less than four thirds of the standard earnings limit.
  - (4) A Class 2 insured person is eligible to apply to pay reduced rate Class 2 contributions in a year on the basis that the person's earnings are his or her total income if –
    - (a) the sum of the person's income from self-employment and Class 1 earnings (if any) is not less than the lower earnings limit; and
    - (b) the person's total income is not less than four thirds of the standard earnings limit.
  - (5) A person applying to pay reduced rate contributions under any of paragraphs (1) to (4) must –
    - (a) make the application, in writing, to the Minister; and
    - (b) produce his or her tax assessment and such additional evidence as the Minister may require of the person's income and earnings described, as the case requires, in paragraph (1), (2), (3) or (4), for the relevant income tax year of assessment.
  - (6) If the person was in full-time education or training in the year before the concession year the Minister may accept evidence of such income and earnings for the current year.
  - (7) The Minister shall, on an application being made by an eligible person in accordance with paragraph (5), permit the person to pay Class 2 reduced rate contributions in accordance with the rule in paragraph (1), (2), (3) or (4) applicable in the person's case, for the period from –
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- (a) 1st January, if the application is made on or before 15th June in the same year;
  - (b) 1st April, if the application is made on or before 15th September in the same year;
  - (c) 1st July, if the application is made on or before 15th December in the same year; or
  - (d) 1st October, if the application is made on or before 15th March in the following year,
- to the end of the year.

### **13B Interpretation of Articles 13 and 13A**

In Articles 13 and 13A –

- (a) a reference to the income from self-employment of a person making an application under the Article is a reference to that income for the relevant income tax year of assessment;
- (b) a reference to the Class 1 earnings of a person making an application under the Article is a reference to the person's earnings from Class 1 employment for the relevant income tax year of assessment;
- (c) a reference to the total income of a person making an application under the Article is a reference to that income for the relevant income tax year of assessment;
- (d) the 'lower earnings limit' means the annual equivalent of the lower monthly earnings limit for the year to which an application relates;
- (e) the 'standard earnings limit' means the annual equivalent of the standard monthly earnings limit for the year to which an application relates;
- (f) the 'relevant income tax year of assessment' is the second year preceding the concession year; and
- (g) the 'concession year' means the year in which, if a person's application under Article 13 or 13A is granted, the period described in Article 13(4) or 13A(7) applicable in the person's case would fall.

### **13C Low earnings employee classified as Class 2 insured person**

A Class 2 contribution payable for a month by a person who, under paragraph 14 of Part 2 of Schedule 1 to the Social Security (Classification) (Jersey) Order 1974, is treated as a Class 2 insured person, shall be reduced by the amount of any Class 1 contributions paid in respect of the person for that month.

**13D Class 2 – deferred contributions for business commencement**

- (1) Subject to paragraph (10), a Class 2 insured person is eligible to apply for a concession under this Article for a year if –
  - (a) the year is an opening year of a business in which the person commences or has commenced;
  - (b) before commencing in business the person is –
    - (i) a Class 1 insured person,
    - (ii) unemployed, or
    - (iii) in full-time education.
- (2) For the purposes of paragraph (1) –
  - (a) the opening years of a business are –
    - (i) if a person commences in business on any day in January in a year, that year and the following year, or
    - (ii) if a person commences in business on any other day in a year, that year and the following 2 years;
  - (b) a person commences in business if the person establishes a new business or, otherwise than as an employee, joins an existing business;
  - (c) a person is unemployed at any time if the person proves, in such manner as the Minister may require, that at that time the person was unemployed and available for employment in an employed person's employment.
- (3) A person applying for a concession under this Article must –
  - (a) make the application, in writing, to the Minister; and
  - (b) produce his or her tax assessment and such additional evidence as the Minister may require of earnings, whether as a Class 1 insured person or Class 2 insured person, for the relevant income tax year of assessment.
- (4) The 'relevant income tax year of assessment' is the second year preceding the year in which, if the application is granted, the concession period would fall.
- (5) If the person was in full-time education or training in the year before the year in which, if the application is granted, the concession period would fall, the Minister may accept evidence of the person's earnings for the current year.
- (6) Subject to paragraphs (7), (9) and (10), the Minister shall, on an application being made by an eligible person in accordance with paragraph (3), grant the person a concession to pay, during the concession period, reduced rate Class 2 contributions at the rate of one third of the contributions that would be payable in respect of earnings equal to the standard monthly earnings limit.
- (7) If the Minister is satisfied –
  - (a) that the person's business is that of a provider of day care accommodation or of being a day carer and, at the beginning of the concession period, it is a requirement of the

registration of the person as such a provider or day carer that only one child may be looked after at the accommodation or by the carer; or

(b) that the person's business is that of a share fisherman,

the concession granted by the Minister shall be for the person to pay, during the concession period, reduced rate Class 2 contributions of the amounts that would be payable in respect of earnings equal to the lower monthly earnings limit.

(8) The concession period is the period from –

(a) 1st January, if the application is made on or before 15th June in the same year;

(b) 1st April, if the application is made on or before 15th September in the same year;

(c) 1st July, if the application is made on or before 15th December in the same year; or

(d) 1st October, if the application is made on or before 15th March in the following year,

to, subject to paragraph (12), the end of the year.

(9) The Minister shall not be required to grant a concession if the Minister is of the opinion that the person has intentionally arranged his or her affairs so as to take advantage of the concession.

(10) A person who has been granted a concession under this Article in respect of a business may not make an application under this Article in respect of another business within the period of 5 years commencing with the date on which a contribution at a concessionary rate was last payable by the person pursuant to the concession granted in respect of the first-mentioned business.

(11) A person granted a concession shall furnish any further information and evidence regarding the person's earnings as the Minister may require from time to time.

(12) A person granted a concession may, at any time during the concession period, give notice to the Minister that the person desires the concession to be terminated and, if such notice is given, the concession shall end forthwith.

(13) A person may apply under this Article notwithstanding that he or she commenced in business before 1st January 2012 but shall not be granted a concession in respect of any period preceding that date.

(14) In this Article –

(a) references to day care accommodation or to a day carer, or to registration of such accommodation or carer, shall be construed in accordance with the Day Care of Children (Jersey) Law 2002<sup>5</sup>;

(b) 'share fisherman' means a master or member of the crew of a fishing boat, or a person who makes or mends gear

appurtenant to a fishing boat or performs services ancillary to or in connection with the boat, and who is remunerated in respect of that work in whole or in part by a share of the profits or gross earnings of the fishing boat.

### **13E Recalculation of contributions deferred under Article 13D**

- (1) A person granted a concession under Article 13D for the whole or part of a year must produce his or her tax assessment for that year to the Minister on or before the 15th June in the second year following that year or, if later, within 28 days of receiving the tax assessment.
- (2) The Minister shall then determine the contributions that, apart from the concession, the person would have been liable to pay for the year.
- (3) If the person would not have been liable to pay contributions for the year, the person may elect –
  - (a) to receive a refund of the contributions that the person paid for the year, in accordance with paragraph (4); or
  - (b) not to receive a refund of the contributions that the person has paid for the year, in accordance with paragraph (5).
- (4) Where a person makes an election under paragraph (3)(a) –
  - (a) the Minister shall refund the amount of the contributions, after deduction of the amount of any benefit received by the person for the year; and
  - (b) the person's contribution credits shall be recalculated accordingly.
- (5) Where a person makes an election under paragraph (3)(b), if the person received benefit for the year and the amount of benefit received exceeded the amount of contributions paid –
  - (a) the Minister shall notify the person of the amount of the excess; and
  - (b) the person shall be liable to pay the amount of the excess no later than 28 days after being notified.
- (6) If the amount of the contributions that the person has paid for the year exceeds the amount of the contributions that, apart from the concession, the person would have been liable to pay for the year –
  - (a) the Minister shall refund the excess; and
  - (b) the person's contribution credits shall be recalculated accordingly.
- (7) If the amount of the contributions that the person has paid for the year is less than the amount of the contributions that, apart from the concession, the person would have been liable to pay for the year –
  - (a) the Minister shall notify the person of the amount of the shortfall;

- (b) the person shall be liable to pay the amount of the shortfall no later than 28 days after being notified; and
  - (c) the person's contribution credits shall be recalculated, taking into account the shortfall that the person pays.
- (8) Benefits already paid during the year are not affected by any recalculation of contribution credits under paragraph (4)(b), (6)(b) or (7)(c).
- (9) If a person does not comply with paragraph (1) –
- (a) the person shall be liable to pay the amount of the full rate Class 2 contributions for the year to which the tax assessment relates, less the amount of the contributions actually paid for the year;
  - (b) the Minister shall notify the person of the amount of the liability; and
  - (c) the person shall be liable to pay the amount no later than 28 days after being notified.”.

**9 Article 14A inserted**

After Article 14 of the principal Order there shall be inserted the following Article –

**“14A Evidence required for the purposes of credits**

- (1) For the purposes of the crediting of contributions under any of Articles 1 to 9, a person shall furnish to the Minister any evidence required by the Minister in relation thereto within the period of 13 weeks following the end of the relevant quarter for which the contributions are to be credited.
- (2) If the Minister is satisfied that there is good cause for a person's failure to furnish evidence within the period required by paragraph (1), the Minister may extend the period by up to 13 weeks.
- (3) The Minister's power under paragraph (2) may be exercised more than once in any case, but cannot be exercised so as to extend the period by, in the aggregate, more than 13 weeks.
- (4) For the purposes of the crediting of contributions under Article 10, a person shall furnish to the Minister any evidence required by the Minister in relation thereto before the person attains pensionable age.
- (5) For the purposes of the crediting of contributions under Article 14, a person shall furnish to the Minister any evidence required by the Minister in relation thereto before any benefit described in paragraph (10) of that Article is paid to the person.”.

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**10 Article 15 amended**

In Article 15 of the principal Order for paragraphs (1) to (3) there shall be substituted the following paragraphs –

- “(1) The amount of a Class 1 contribution credited to an insured person under any of the foregoing provisions of this Order for any day shall be one twenty-eighth of the sum of the primary and secondary Class 1 contributions payable in respect of earnings equal to the standard monthly earnings limit for the month in which the day falls.
- (2) The amount of a Class 2 contribution credited to an insured person under any of the foregoing provisions of this Order for any day shall be one twenty-eighth of the amount equal to the Class 2 contribution that would have been due from the person for the month in which the day falls.”.

**11 Article 16 amended**

In Article 16 of the principal Order –

- (a) in paragraph (1)(a) for the words “and ending” there shall be substituted the words “and, subject to paragraph (3), ending”;
- (b) in the proviso to paragraph (1)(a) for the words “Article 11” there shall be substituted the words “Article 12”;
- (c) after paragraph (2) there shall be added the following paragraphs –
  - “(3) If a person granted an exception under this Article subsequently commences gainful occupation, the exception shall end at the end of the month in which the person commences gainful occupation.
  - (4) A person who ceases to be entitled to an exception under this Article shall notify the Minister before the end of the month in which the change in the person’s circumstances occurs or, if later, within 2 working days after that change occurs.
  - (5) A person who ceases to be entitled to an exception under this Article by reason of commencing employment shall forthwith notify his or her employer that the exception has ended.”.

**12 Article 22 amended**

In Article 22 of the principal Order

- (a) at the beginning of paragraph (1) there shall be inserted the words “Subject to paragraphs (1A) to (1C),”;
- (b) after paragraph (1) there shall be inserted the following paragraphs –
  - “(1A) If the contribution is paid after the end of the year following the year in which the period to which the contribution relates fell, the amount of the contribution due shall be determined in accordance with paragraph (1B) or (1C).

(1B) In the case of a person who, for the period to which the contribution relates, was liable to pay full rate Class 2 contributions, the amount of the contribution shall be whichever is the greater of –

- (a) the full rate Class 2 contribution applicable for the period to which the contribution relates; or
- (b) the full rate Class 2 contribution applicable for the month in which the payment is made.

(1C) In the case of a person who, for the period to which the contribution relates, was liable to pay reduced rate Class 2 contributions, if the standard monthly earnings limit applicable in the person's case on the date the contribution is paid is greater than the standard monthly earnings limit applicable in the person's case for the period to which the contribution relates, the amount of the contribution shall be increased by the percentage 'C' that is the product of the following formula –

$$\frac{A - B}{B} \times 100 = C\%$$

Where –

A is the standard monthly earnings limit applicable in the person's case on the date the contribution is paid;

B is the standard monthly earnings limit applicable in the person's case for the period to which the contribution relates.”.

**13 Article 26 substituted**

For Article 26 of the principal Order there shall be substituted the following Article –

**“26 Offence**

A person who fails to comply with Article 13E(1) or 14A(4) or (5) is guilty of an offence and liable to a fine of level 3 on the standard scale.”.

**14 Schedules 1 and 2 inserted**

Before the Schedule to the principal Order there shall be inserted the Schedules set out in the Schedule to this Order.

**15 Schedule renamed**

The Schedule to the principal Order is renamed “Schedule 3”.

**16 Citation and commencement**

This Order may be cited as the Social Security (Contributions) (Amendment No. 9) (Jersey) Order 2011 and shall come into force on 1st January 2012.

**SENATOR I.J. GORST**

*Minister for Social Security*

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**SCHEDULE**

(Article 14)

**SCHEDULES 1 AND 2 INSERTED**

**“SCHEDULE 1**

(Article A2)

**CLASS 1 INSURED PERSON – EARNINGS**

**1 Periods of absence from employment**

- (1) There shall be treated as earnings of a Class 1 insured person –
  - (a) holiday pay, unless paid more than one month after the employment is terminated;
  - (b) remuneration paid by the employer in respect of a period during which the person is –
    - (i) on maternity, paternity, adoption or parental leave, or
    - (ii) absent from work due to illness;
  - (c) permanent health insurance benefits received by the Class 1 insured person, in respect of a period during which the person is absent from work due to illness, under a policy taken out by the employer.
- (2) If a Class 1 insured person continues to receive earnings in respect of any employment during a period of absence due to illness, the amount of the earnings shall be reduced by the amount of any benefit under the Law paid to the person in respect of the incapacity if the person has agreed to reimburse the person's employer with an amount equal to the benefit.

**2 Treatment of earnings on termination of employment, etc.**

- (1) There shall be treated as earnings of a Class 1 insured person for a month in which the person leaves employment –
  - (a) earnings paid to the person in respect of that employment during that month;
  - (b) any earnings due in respect of that employment but not paid before the end of that month; and
  - (c) a payment in lieu of notice except such payment paid after the end of the month in which the employment is terminated.

- (2) Earnings due but not paid shall not be treated as earnings if the Minister is satisfied that the earnings will not be paid.
- (3) There shall be disregarded earnings paid after the death of a Class 1 insured person when calculating the contribution liability of the person for any month before the person's death.
- (4) If a husband and wife are jointly employed in employed person's employment and earnings in respect of that employment are paid to them jointly, the amount of the earnings of each shall be calculated upon the same basis as that upon which those earnings are calculated for the purposes of income tax or, in the absence of such calculation, upon the basis of equality.

**3 Directors fees**

- (1) Directors fees received by a Class 1 insured person from the company that employs the person or from a company connected with it shall be treated as earnings.
- (2) For the purposes of sub-paragraph (1) 'connected' shall be construed in accordance with Article 3A of the Income Tax (Jersey) Law 1961<sup>6</sup>.

**4 Tips gratuities and service charges**

Tips, gratuities and service charges paid to a Class 1 insured person shall be treated as earnings of a Class 1 insured person, but only if the tips, gratuities or service charges are distributed to employees by the employer or otherwise in accordance with a scheme for their distribution.

**5 Benefits in kind – accommodation**

- (1) Accommodation provided to a Class 1 insured person by the person's employer shall be treated as earnings.
- (2) The value attributable to the accommodation shall be whichever is the greater of –
  - (a) the amount equal to the earnings the employer would have paid to the employee had the employer not been providing the accommodation; or
  - (b) the monthly equivalent of the weekly rate for housing component prescribed, in the case of accommodation of the same description, in Regulations made under Article 5 of the Income Support (Jersey) Law 2007<sup>7</sup>.

**6 Benefits in kind – employee profit-sharing or share schemes**

- (1) Participation by a Class 1 insured person in an employee profit-sharing scheme or share allocation scheme shall be treated as earnings.

- (2) The earnings shall be deemed to be paid on the first day on which the employee may withdraw the profits or sell the shares.
- (3) The value attributable to the earnings is the amount of the profits or value of the shares on the day the earnings are deemed to be paid.

**7 Benefits in kind – mortgages and other loans**

- (1) There shall be treated as earnings of a Class 1 insured person any mortgage or other loan that is either interest-free or on which a rate of interest is payable that is below the market rate, provided by or on behalf of the person's employer to the Class 1 insured person.
- (2) In sub-paragraph (1), the reference to a mortgage or other loan provided to the Class 1 insured person includes a reference to a mortgage or other loan provided to a member of that person's family or household, where the provision of the mortgage or other loan to the member of the family or household is an arrangement that, apart from this sub-paragraph, would avoid the mortgage or other loan being treated as earnings of the Class 1 insured person.
- (3) Where the earnings of an employment include a mortgage or other loan described in sub-paragraph (1), the value attributable to the mortgage or other loan is –
  - (a) in the case of an interest-free mortgage or other loan, the amount of interest that would be due if the mortgage or other loan was subject to interest payments at the market rate;
  - (b) in the case of a mortgage or other loan on which a rate of interest is payable that is below the market rate, the difference between the amount of interest due and the amount of interest that would be due on the mortgage or other loan if it was subject to interest payments at the market rate.

**8 Benefits in kind – vouchers**

- (1) There shall be treated as earnings of a Class 1 insured person any vouchers, provided by or on behalf of the person's employer, that may be exchanged for goods or services.
- (2) The value attributable to a voucher is whichever is the greater of –
  - (a) in any case –
    - (i) the face value of the voucher, or
    - (ii) the cost to the employer of providing the voucher; and
  - (b) in the case of a voucher redeemable for the provision of child day care, the rate applicable in the child's case for the child day care component specified in Regulations made under Article 5 of the Income Support (Jersey) Law 2007.

**9 Benefits in kind – crèche facilities**

- (1) There shall be treated as earnings of a Class 1 insured person the use of crèche facilities provided by or on behalf of the person's employer.
- (2) The value attributable to the use of crèche facilities is the rate applicable in the child's case for the child day care component specified in Regulations made under Article 5 of the Income Support (Jersey) Law 2007.

**10 Payments to be disregarded**

Specific and distinct payments of, or contributions towards, expenses incurred by a Class 1 insured person in connection with any employment shall not be treated as earnings of the employment.

**11 Value attributable to benefits in kind – general**

The value attributable to any benefit in kind provided for use for which express provision is not made in this Schedule shall be the total costs incurred, whether directly or indirectly, by the insured person's employer in connection with the provision of the benefit.

**12 Deemed amount of earnings where information not provided**

- (1) If, without reasonable excuse, a Class 1 insured person fails to comply with Article 35(2) of the Law, the person's earnings shall, for the purposes of determining his or her primary contributions, be taken to be such amount, not exceeding the upper monthly earnings limit, as the Minister considers appropriate.
- (2) If, without reasonable excuse, the employer of a Class 1 insured person fails to comply with Article 35(2) of the Law or any requirement to provide information under this Order, the earnings of that person shall, for the purposes of determining the employer's secondary contributions, be taken to be such amount, not exceeding the upper monthly earnings limit, as the Minister considers appropriate.

**13 Period to which earnings relate**

- (1) Earnings paid in any month to a Class 1 insured person shall be treated as earnings of that month.
- (2) However a payment in respect of a holiday period, other than such a payment made by way of a supplement to the Class 1 insured person's rate of pay, shall be treated as earnings of the month in respect of which the payment is due.

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**SCHEDULE 2**

(Article A3)

**CLASS 2 INSURED PERSON – INCOME FROM SELF-EMPLOYMENT, TOTAL INCOME AND EARNINGS**

**1 Income from self-employment**

- (1) A Class 2 insured person's income from self-employment is the aggregate of –
- (a) the person's earnings, described in paragraph 1 of Schedule 1B to the Law;
  - (b) dividends paid by a company of which the person is a shareholder, where the income of the company derives from the person's self-employment;
  - (c) distributions made by a partnership in which the person is a partner;
  - (d) contributions, by a company of which the person is a director or the company secretary or by a partnership in which the person is a partner, to a pension scheme for the benefit of the person or a member of the person's family or household;
  - (e) accommodation provided to the Class 2 insured person by a company of which the person is a director or the company secretary or by a partnership in which the person is a partner;
  - (f) the amount of any mortgage or other loan that is either interest-free or on which the rate of interest payable is below the market rate, provided to the Class 2 insured person by or on behalf of a company of which the person is a director or the company secretary;
  - (g) income that the person is entitled to receive from a trust, where the income of the trust derives from the person's self-employment;
  - (h) the amount attributable to the use, by the person, of crèche facilities provided by or on behalf of a company of which the person is a director or the company secretary or by a partnership in which the person is a partner.
- (2) In sub-paragraph (1)(b) the reference to dividends includes dividends paid to a member of the Class 2 insured person's family or household, where the payment to the member of the family or household is an arrangement that, apart from this sub-paragraph, would avoid the dividend being treated as the Class 2 insured person's income from self-employment.

- (3) Paragraph 7(2) of Schedule 1 applies for the purposes of subparagraph (1)(f) of this paragraph as it applies for the purposes of paragraph 7(1) of Schedule 1.

## **2 Value attributable to benefits**

- (1) The value attributable to accommodation referred to in paragraph 1(e) is whichever is the greater of –
  - (a) the amount equal to the earnings the Class 2 insured person would have received had accommodation not been provided; or
  - (b) the monthly equivalent of the weekly rate for housing component prescribed, in the case of accommodation of the same description, in Regulations made under Article 5 of the Income Support (Jersey) Law 2007.
- (2) The value attributable to a mortgage or other loan referred to in paragraph 1(f) shall be determined in accordance with paragraph 7(3) of Schedule 1.
- (3) The value attributable to the use of crèche facilities referred to in paragraph 1(h) shall be determined in accordance with paragraph 9(2) of Schedule 1.
- (4) The value attributable to the use of any service, good or facility for which express provision is not made in this Schedule shall be the total costs incurred, whether directly or indirectly, in connection with the provision of the service, good or facility.

## **3 Total income**

The total income of a person is the person's total income for the purposes of the Income Tax (Jersey) Law 1961 and includes any income that is income from self-employment, to the extent that it is not already total income for the purposes of that Law.

## **4 Schedule 1B to the Law modified - earnings**

- (1) Notwithstanding paragraph 1 of Schedule 1B to the Law –
  - (a) in the case of a person paying reduced-rate Class 2 contributions pursuant to an application granted under Article 13A in the case described in paragraph (1) of that Article, 'earnings' means the amount equal to the annual equivalent of the standard monthly earnings limit for the year to which the application relates;
  - (b) in the case of a person paying reduced-rate Class 2 contributions pursuant to an application granted under Article 13A in the case described in paragraph (2) or (4) of that Article, 'earnings' means the person's total income;
  - (c) in the case of a person paying reduced rate Class 2 contributions pursuant to an application granted under

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Article 13A in the case described in paragraph (3) of that Article, 'earnings' means the sum of the person's income from self-employment and Class 1 earnings (if any).

- (2) In this paragraph 'total income', 'income from self-employment' and 'Class 1 earnings' have the same meaning as in Article 13B."

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- <sup>1</sup> *chapter 26.900*
  - <sup>2</sup> *chapter 26.900.24*
  - <sup>3</sup> *chapter 26.900*
  - <sup>4</sup> *chapter 24.750*
  - <sup>5</sup> *chapter 10.700*
  - <sup>6</sup> *chapter 24.750*
  - <sup>7</sup> *chapter 26.550*