



Jersey

# **SOCIAL SECURITY (MARRIED WOMEN) (JERSEY) ORDER 1974**

## **Official Consolidated Version**

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Jersey

## SOCIAL SECURITY (MARRIED WOMEN) (JERSEY) ORDER 1974

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Jersey

## **SOCIAL SECURITY (MARRIED WOMEN) (JERSEY) ORDER 1974<sup>1</sup>**

**THE EMPLOYMENT AND SOCIAL SECURITY COMMITTEE**, in pursuance of Article 45 of the [Social Security \(Jersey\) Law 1974](#), orders as follows –

Commencement [[see endnotes](#)]

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### **1 Interpretation**

In this Order –

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

“marriage” includes any re-marriage, and the word “married”, wherever it occurs, shall be construed accordingly.

### **2 Application<sup>2</sup>**

(1) This Order applies only to a woman who –

- (a) was married before 1st April 2001; and
- (b) is an insured person at 1st April 2001.

(2) This Order shall cease to apply to a woman if she remarries after 1st April 2001.

### **3 Election by married women to be excepted from liability to pay contributions under the Law**

(1) A woman may elect once not to be liable, and thereafter shall not be liable, to pay contributions under the Law in respect of any period during which she is married.<sup>3</sup>

(2) Nothing in this Article shall relieve an employer of any liability imposed on the employer by the Law in relation to employers’ secondary Class 1 contributions.

(3)

- (a) Any such election by a married woman not to pay contributions may be made by her at any time by giving notice in writing to the Minister to that effect, and the election shall be operative from the beginning of the month

next following the month in which the notice was given or from such other date as the Minister may allow.

- (b) Any such election by a married woman may be cancelled by her at any time by giving notice in writing to the Minister to that effect, and such cancellation shall be operative from the beginning of the month next following the month in which notice was given or from such other date as the Minister may allow.<sup>4</sup>
- (4) A married woman who is a Class 1 insured person and who elects not to pay contributions or who cancels any such election in accordance with the provisions of this Article shall forthwith notify her employer of such election or cancellation, as the case may be.

#### **4 Credits for the purpose of determining rate of incapacity benefit and parental allowance where marriage has been terminated<sup>5</sup>**

- (1) For the purpose of determining the rate of incapacity benefit and parental allowance in the case of a woman whose marriage has been terminated by the death of her husband or otherwise, contributions shall be credited in respect of every day in the period beginning with the previous quarter but one before the quarter in which the said termination occurred and ending with the last day of that quarter.<sup>6</sup>
- (2) Notwithstanding anything contained in this Article, no contribution shall be credited for any day earlier than the day following the day on which the marriage took place.
- (3) Where by virtue of this Article a contribution is credited for any day, any contribution under the Law otherwise paid or credited for that day shall be disregarded for the purpose of this Article, but for all other purposes shall be taken into account to the exclusion of any contribution credited by virtue of this Article.

#### **5 Modifications, in relation to widows, of provisions with respect to incapacity benefit and old age pensions**

- (1) Subject to the following provisions of this Article, where a woman ceases to be entitled to survivor's allowance otherwise than by reason of re-marriage or cohabitation with another person of either sex –
  - (a) she shall be deemed to have satisfied the contribution conditions for short term incapacity allowance set out in paragraph 1(1)(a) of Schedule 2 to the Law;
  - (b) she shall be deemed to have satisfied the contribution conditions for long term incapacity allowance, incapacity pension and old age pension set out in paragraph 2(1)(a), paragraph 3(1)(a) and paragraph 6(1)(a) respectively of that Schedule.<sup>7</sup>
- (2) In relation to a widow who, at her husband's death, would be entitled to survivor's allowance but for the fact that the conditions for that allowance specified in Article 24(1)(a) of the Law are not satisfied, paragraph (1)(b) of this Article shall apply as if she had then ceased to be entitled to survivor's allowance.<sup>8</sup>
- (3) In determining for the purpose of paragraph (1) whether a woman ceases to be or becomes entitled as is mentioned in that paragraph, a woman in whose case the

Minister is satisfied that she would be or would have been entitled to survivor's benefit or an old age pension for any period but for any one or more of the following factors, namely –

- (a) delay or failure to make a claim therefor;
- (b) disqualification for the receipt of benefit for any other reason except her cohabitation with a man as his wife;
- (c) the operation of the provisions of the [Social Security \(Overlapping Benefits\) \(Jersey\) Order 1975](#),

shall be treated as if she is or (as the case may be) was entitled thereto throughout that period.<sup>9</sup>

- (4) In determining for the purpose of paragraph (2) whether a woman would be entitled to a survivor's allowance but for the fact mentioned in that paragraph, a woman in whose case the Minister is satisfied that she would be so entitled but for that fact and for any one or more of the factors mentioned in paragraph (4) shall be treated as if she would be so entitled but for that fact.<sup>10</sup>
- (5) A woman who ceases to be entitled as is mentioned in paragraph (1) on more than one occasion shall be entitled to the benefit of the provisions of that paragraph, subject as therein mentioned, on each such occasion.
- (6) Where but for this paragraph, the provisions of Article 3 and the provisions of this Article would be applicable for the purpose of determining a woman's right to incapacity benefit for any day, her right thereto shall be determined by reference to the provisions of that one of those 2 Articles which is more favourable to her, to the exclusion of the provisions of the other.

## **6 Old age pensions for women whose marriages have been dissolved**

- (1) Where a woman's marriage (being, in the case of a woman who has been married more than once, her last marriage before attaining pensionable age) has been terminated otherwise than by the death of her husband and she was under pensionable age at the date of that termination, then, in calculating for the purpose of her right to an old age pension by virtue of her own insurance the life average contribution factor derived from the contributions paid by or credited to her, there shall be treated as so paid or credited during either of the periods described in subparagraph (2) an annual contribution factor, either –
  - (a) equal to the life average contribution factor (ascertained as at the date of the termination of the marriage or of her last husband's attaining pensionable age, whichever is the earlier) derived from the contributions paid by or credited to the husband; or
  - (b) equal to the annual contribution factor derived from the contributions actually paid by or credited to her for the period in question,whichever will enable her to receive the greater amount of pension.<sup>11</sup>
- (2) The periods referred to in paragraph (1) are –
  - (a) the number of years between (inclusive) the year in which the woman attained school leaving age or 1951, whichever is the later, and (inclusive) the year in which the marriage was terminated; and

- (b) the number of years between (inclusive) the year in which the woman married the husband and (inclusive) the year in which the marriage was terminated.<sup>12</sup>
- (3) Where a woman's last or only marriage has been terminated otherwise than by the death of her husband and she was not under pensionable age on the date of that termination, she shall, subject to the provisions of the Law, be entitled to an old age pension by virtue of his insurance as if he had died on the date of that termination.<sup>13</sup>
- (4) Where at the date of the termination of a marriage otherwise than by death, the husband would, had he then died, have satisfied, as respects the annual contribution factor derived from contributions which are required to have been actually paid since entry into insurance, the contribution conditions for an old age pension, the wife shall, for the purpose of her right to an old age pension by virtue of her own insurance, be deemed to have satisfied those contribution conditions in that respect.
- (5) The foregoing provisions of this Article shall not apply in the case of a woman whose marriage has been terminated otherwise than by the death of her husband if, being under pensionable age on the date of that termination, she has remarried after that termination and before attaining that age.

## **7 Notice of marriage and termination of marriage**

- (1) It shall be the duty of every woman, who, being an insured person, marries, to furnish any evidence of her marriage as may be required by the Minister and to give notice to the Minister in writing of her marriage not later than 13 weeks thereafter.<sup>14</sup>
- (2) It shall be the duty of a married woman whose marriage is terminated by the death of her husband or otherwise to notify the Minister of such termination in such manner as the Minister may require.

## **8 Notice by post**

Any notice required by this Order may be sent by post, and, if so sent, shall be deemed to have been given on the date on which it was posted.

## **9 Citation**

This Order may be cited as the Social Security (Married Women) (Jersey) Order 1974.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Social Security (Married Women) (Jersey) Order 1974	<a href="#">R&amp;O.6080</a>	1 January 1975
Social Security (Married Women) (Amendment) (Jersey) Order 1984	<a href="#">R&amp;O.7316</a>	1 October 1984
Social Security (Married Women) (Amendment No. 2) (Jersey) Order 2001	<a href="#">R&amp;O.64/2001</a>	1 April 2001
Social Security (Married Women) (Amendment No. 3) (Jersey) Order 2004	<a href="#">R&amp;O.79/2004</a>	1 October 2004
Social Security (Married Women) (Amendment No. 4) (Jersey) Order 2004	<a href="#">R&amp;O.165/2004</a>	22 December 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 (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
1A	2
2	3
3	4
4	5
(3)	repealed by <a href="#">R&amp;O.64/2001</a>
(4)	(3)
(5)	(4)
(6)	(5)
(7)	(6)
5	6
(1A)	(2)
(2)	(3)
(3)	(4)
(4)	(5)
6	7
7	8
8	9

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**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 inserted by R&O.64/2001*
- <sup>3</sup> *Article 3(1) substituted by R&O.165/2004*
- <sup>4</sup> *Article 3(3) amended by R&O.64/2001, R&O.165/2004*  
*R&O.165/2004 deleted the proviso to Article 3(3)(b). The proviso stated: "Provided that such cancellation shall be without prejudice to the right of the person concerned again to make any such election from time to time.". Article 2(3) of R&O.165/2004 states that the deletion "shall not prevent a married woman who has before the commencement of this Order elected not to pay contributions from cancelling that election on one occasion after this Order comes into force".*
- <sup>5</sup> *Article 4 heading amended by R&O.79/2004, R&O.137/2020*
- <sup>6</sup> *Article 4(1) amended by R&O.79/2004, R&O.137/2020*
- <sup>7</sup> *Article 5(1) substituted by R&O.79/2004, former paragraph amended by R&O.64/2001*
- <sup>8</sup> *Article 5(2) substituted by R&O.64/2001*
- <sup>9</sup> *Article 5(3) amended by R&O.64/2001*
- <sup>10</sup> *Article 5(4) amended by R&O.64/2001*
- <sup>11</sup> *Article 6(1) substituted by R&O.7316*
- <sup>12</sup> *Article 6(2) inserted by R&O.7316*
- <sup>13</sup> *Article 6(3) amended by R&O.7316*
- <sup>14</sup> *Article 7(1) amended by R&O.64/2001*