



Jersey

**SOCIAL SECURITY (ASSESSMENT OF
LONG TERM INCAPACITY) (JERSEY)
ORDER 2004**

Official Consolidated Version

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SOCIAL SECURITY (ASSESSMENT OF LONG TERM INCAPACITY) (JERSEY) ORDER 2004

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Jersey

SOCIAL SECURITY (ASSESSMENT OF LONG TERM INCAPACITY) (JERSEY) ORDER 2004

THE EMPLOYMENT AND SOCIAL SECURITY COMMITTEE, in pursuance of Articles 16, 18 and 51 of the [Social Security \(Jersey\) Law 1974](#), orders as follows –¹

Commencement [[see endnotes](#)]

1 Interpretation

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

2 Principles of assessment

- (1) The extent of a claimant’s incapacitation shall be assessed, by reference to the loss of faculty incurred by the claimant as a result of the relevant disease or injury, in accordance with the following general principles –
 - (a) the incapacitation to be taken into account shall be the whole of the loss of faculty to which, having regard to the claimant’s physical and mental condition at the date of the assessment, the claimant may be expected to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal;
 - (b) the question whether or not any incapacitation involves inability to work, loss of earning power or additional expense shall be immaterial;
 - (c) the percentage of the degree of incapacitation incurred (whether as the result of one or more claims) shall not be taken to amount in the aggregate to more than 100%;
 - (d) incapacitation shall not be so treated as resulting from a relevant disease or injury in so far as the claimant would in any case have been subject to that incapacitation as the result of a congenital defect or of a disease or injury contracted or received before the relevant disease or injury;
 - (e) incapacitation shall not be so treated as resulting from a relevant disease or injury in so far as the claimant would not have been subject to that incapacitation but for some disease or injury that is contracted or received

after the relevant disease or injury and is not directly attributable to the relevant disease or injury;

- (f) the assessment shall be made without reference to any of the particular circumstances of the claimant except that person's age, sex, and physical and mental condition.²
- (2) The general principles in sub-paragraphs (d) and (e) of paragraph (1) are subject to Article 5.
 - (3) For the purposes of paragraph (1)(a), the period to be taken into account, in respect of each claim, by an assessment shall begin on –
 - (a) the date on which there ended the last period for which the claimant was assessed as being entitled to long term incapacity allowance; or
 - (b) if the claimant has not previously been so assessed –
 - (i) the date of his or her claim, or
 - (ii) if applicable, and earlier than the date of his or her claim, the date on which the claimant ceased under Article 15(2) of the Law to be entitled to short term incapacity allowance,

but in any event that period shall not begin before the date which is 3 months earlier than the date of the claim in respect of which the assessment is made, except in a case falling within Article 13(3) of the [Social Security \(Claims and Payments\) \(Jersey\) Order 1974](#).³

3 Losses of faculty described in the Schedule

- (1) This Article applies where, as a result of the relevant disease or injury, the claimant has suffered a loss of faculty specified in the first column of the Schedule.
- (2) Subject to paragraphs (3) and (5), the loss of faculty suffered by the claimant as a result of that disease or injury shall be treated for the purposes of Article 16 of the Law as resulting in the degree of incapacitation in the second column of the Schedule in respect of that disease or injury.⁴
- (3) Where either of the circumstances in paragraph (4) applies, the assessment of the degree of incapacitation suffered by the claimant shall be subject to such adjustment as is reasonable in the circumstances of the case.⁵
- (4) The circumstances to which this paragraph refers are –
 - (a) that as a result of the relevant disease or injury, and having regard to his or her physical and mental condition at the date of the assessment, the claimant may be expected to be subject to a greater degree of incapacitation than would normally be incurred as a result of such a disease or injury; or
 - (b) that apart from the relevant disease or injury, the part of the claimant's body that is affected by the disease or injury would not have been normal at the date of the assessment.
- (5) Where a medical board is required to assess a period of incapacitation prior to the date of the assessment, the degree of incapacitation suffered by the claimant shall be subject to such adjustment as is reasonable in the circumstances of the case.⁶
- (6) An adjustment, under paragraph (3) or (5), of an assessment of the degree of incapacitation –

- (a) may specify different percentage degrees for different periods; and
- (b) may specify percentage degrees which are not specified in the second column of the Schedule.⁷

4 Losses of faculty not described in the Schedule

For the purpose of assessing the extent of the incapacitation resulting from any disease or injury that is not specified in the Schedule, a medical board or a medical appeal tribunal may have such regard as is appropriate to the provisions of Article 3.

5 Interchangeable or complementary organs

- (1) This Article applies where a claimant has suffered a relevant disease or injury to an organ of his or her body that, in a person whose physical condition is normal, would be one of 2 similar organs whose functions are interchangeable or complementary (for example, the kidneys).
- (2) Paragraphs (3) and (4) shall apply in assessing the extent of the incapacitation resulting from the relevant loss of faculty for any period during which the claimant may be expected to be subject to any incapacitation resulting from the relevant disease or injury.
- (3) Any incapacitation in respect of the other organ to which the claimant would in any case have been subject by reason of a congenital defect, or a disease or injury that –
 - (a) is contracted or received before the relevant disease or injury; and
 - (b) is not attributable to any other disease or injury,shall be treated as having been incurred as a result of the relevant disease or injury.
- (4) Any incapacitation in respect of the other organ to which the claimant would not have been subject but for some disease or injury that –
 - (a) is contracted or received after the relevant disease or injury; and
 - (b) is not attributable to any other disease or injury,shall also be treated as having been incurred as a result of the relevant disease or injury.
- (5) However, the degree of incapacitation that shall be treated by reason of paragraph (3) as resulting from a relevant disease or injury shall be that appropriate to one-half of the percentage at which the extent of incapacitation resulting from the relevant disease or injury would otherwise be assessed under this Order.
- (6) Paragraph (4) shall not in any event have effect unless the assessment in respect of the relevant loss of faculty would be thereby increased.

6 Citation

This Order may be cited as the Social Security (Assessment of Long Term Incapacity) (Jersey) Order 2004.

SCHEDULE

(Article 3)

PRESCRIBED DEGREES OF INCAPACITATION

Loss of faculty		Degree of incapacity (percentage)
1.	Loss of both hands or amputation of higher sites	100
2.	Loss of a hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100
AMPUTATION CASES - UPPER LIMBS (EITHER ARM)		
7.	Amputation through shoulder joint	90
8.	Amputation below shoulder with stump less than 8 inches from tip of acromion	80
9.	Amputation from 8 inches from tip of acromion to less than 4½ inches below tip of olecranon	70
10.	Loss of hand or of the thumb and 4 fingers of one hand or amputation from 4½ inches below tip of olecranon	60
11.	Loss of thumb	30
12.	Loss of thumb and its metacarpal bone	40
13.	Loss of 4 fingers of one hand	50
14.	Loss of 3 fingers of one hand	30
15.	Loss of 2 fingers of one hand	20
16.	Loss of terminal phalanx of thumb	20
AMPUTATION CASES - LOWER LIMBS		
17.	Amputation of both feet resulting in end-bearing stumps	90

Loss of faculty		Degree of incapacitation (percentage)
18.	Amputation through both feet proximal to the metatarso-phalangeal joint	80
19.	Loss of all toes of both feet through the metatarso-phalangeal joint	40
20.	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
21.	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	30
22.	Amputation at hip	90
23.	Amputation below hip with stump not exceeding 5 inches in length measured from tip of great trochanter	80
24.	Amputation below hip with stump exceeding 5 inches in length measured from tip of great trochanter, but not beyond middle thigh	70
25.	Amputation below middle thigh to 3½ inches below knee	60
26.	Amputation below knee with stump exceeding 3½ inches but not exceeding 5 inches	50
27.	Amputation below knee with stump exceeding 5 inches	40
28.	Amputation of one foot resulting in end-bearing stump	30
29.	Amputation through one foot proximal to the metatarso-phalangeal joint	30
30.	Loss of all toes of one foot through the metatarso-phalangeal joint	20
OTHER LOSSES OF FACULTY		
31.	Loss of one eye, without complications, the other being normal	40
32.	Loss of vision of one eye, without complications or disfigurement of eyeball, the other being normal	30
LOSS OF FINGERS OF LEFT OR RIGHT HAND		
	Index finger –	
33.	Whole	14
34.	Two phalanges	11
35.	One phalanx	9

Loss of faculty		Degree of incapacitation (percentage)
36.	Guillotine amputation of tip without loss of bone	5
	Middle finger –	
37.	Whole	12
38.	Two phalanges	9
39.	One phalanx	7
40.	Guillotine amputation of tip without loss of bone	4
	Ring or little finger –	
41.	Whole	7
42.	Two phalanges	6
43.	One phalanx	5
44.	Guillotine amputation of tip without loss of bone	2
LOSS OF TOES OF LEFT OR RIGHT FOOT		
	Great toe –	
45.	Through metatarso-phalangeal joint	14
46.	Part, with some loss of bone	3
	Any other toe –	
47.	Through metatarso-phalangeal joint	3
48.	Part, with some loss of bone	1
	Two toes of one foot, excluding great toe –	
49.	Through metatarso-phalangeal joint	5
50.	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe –	
51.	Through metatarso-phalangeal joint	6
52.	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe –	
53.	Through metatarso-phalangeal joint	9
54.	Part, with some loss of bone	3

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Social Security (Assessment of Long Term Incapacity) (Jersey) Order 2004	R&O.88/2004	1 October 2004
Social Security (Miscellaneous Provisions) (No. 6) (Jersey) Order 2019	R&O.18/2019	1 May 2019

Table of Renumbered Provisions

Original	Current
6	spent, omitted from this revised edition
7	6

Table of Endnote References

¹ Preamble	<i>amended by R&O.18/2019</i>
² Article 2(1)	<i>amended by R&O.18/2019</i>
³ Article 2(3)	<i>inserted by R&O.18/2019</i>
⁴ Article 3(2)	<i>amended by R&O.18/2019</i>
⁵ Article 3(3)	<i>amended by R&O.18/2019</i>
⁶ Article 3(5)	<i>inserted by R&O.18/2019</i>
⁷ Article 3(6)	<i>inserted by R&O.18/2019</i>