

STATES OF JERSEY



DRAFT INCOME SUPPORT (SPECIAL PAYMENTS) (CHILD PERSONAL CARE) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 29th July 2014
by the Minister for Social Security**

STATES GREFFE



Jersey

DRAFT INCOME SUPPORT (SPECIAL PAYMENTS) (CHILD PERSONAL CARE) (JERSEY) REGULATIONS 201-

REPORT

1. Introduction of Child Disability Allowances

During the States debate on Deputy J.A. Martin of St. Helier's amendment to the Draft Income Support Regulations (P.90/2014) in respect of components payable to children with disabilities and long-term health conditions, the States strongly supported a move to make payments to children with severe or very severe disabilities irrespective of the income or means of the family.

The debate also supported the concept of a disability strategy and the need for coordination between States departments in this area. However, Members confirmed that they wished to see financial support extended to all families bringing up a child with a significant level of disability, regardless of household income, in advance of the disability strategy being completed.

As identified by the Minister for Social Security both prior to and during the debate, acceptance of the amendment carried with it significant implications in terms of both funding and administration and the Minister deferred the remainder of the debate on P.90/2014 to allow these implications to be properly considered.

Following the debate, 2 detailed and positive meetings have been held with Deputy Martin and relevant ministers. The outcome of those 2 meetings was summarised in an oral answer given by the Minister for Social Security on 14 July.

In summary –

- the formal provision of the highest level of personal care component (PC3) to any family that includes a child with a very severe disability, regardless of income, will proceed in September;
- the new provision of the second level of personal care component (PC2) to any family that includes a child with a severe disability, regardless of income, will be available from January 2015;
- additional research will be undertaken to identify the most appropriate means of supporting families that include a child with a lower level of disability (PC1).

This timetable is subject to States approval of the revised regulations now proposed.

Low income families receiving Income Support will continue to receive these components (PC1, PC2, PC3) in respect of children with disabilities whilst these changes are taking place.

2. Proposal – Income Support Regulations and new legislation

The main purpose of the Income Support system is to provide household benefits which depend on the level of income and assets of the household. The support proposed for children with a severe or very severe level of disability will take no account of household income, but it is possible to use the special payment mechanism included within the Income Support Law to make these payments. Given the desire of the States to address this issue without delay, the regulations previously drawn up in respect of personal care level 3 have now been extended to personal care level 2 as explained below. The report accompanying P.90/2014 set out details of the mechanism of the new Regulations which remain broadly unchanged.

The Regulations now proposed take children with personal care levels 2 and 3 outside of the means test for Income Support. If approved, the Regulations will take effect 7 days after the debate in respect of PC3, and from 1st January 2015 for PC2. The staggered dates are necessary to give the Social Security Department time to prepare for the assessment and administration of the additional claims.

These special payment regulations provide an interim solution. A new child disability allowance law would specifically establish a benefit to be paid to the parent of a child with a given level of disability. The new law should be developed as part of the ongoing development of a disability strategy and should provide for future flexibility in terms of introducing different assessment tests and providing benefits through different payment mechanisms.

3. Impact of proposals: PC3

The transfer of personal care level 3 was included in the Regulations originally lodged by the Minister. These families are already receiving assistance outside the main means tested system, the children have already received assessments and budget is already available. The regulations will have effect 7 days after the date of the debate.

The transfer to the Regulations will simplify the application process and provide a formal right to appeal a decision. Existing families with a child assessed at PC3 will be automatically transferred to the new Regulations – they will not need to re-apply. There is some limited internal administration required to ensure all claims are paid using the same mechanism. This is a one off task which, on its own, would be accommodated within existing resources.

4. Financial and manpower implications – PC3

The cost of implementation of the original proposals to extend PC3 to the parents of all children with very severe disabilities is estimated at £22,000 per annum in respect of a small number of claims which are currently paid at less than the full PC3 rate. This sum has been provided for within the overall project to create savings of £3 million from the Income Support budget in 2014. There is no requirement for additional manpower.

5. Impact of proposals: PC2

The ability of parents with incomes above the Income Support level to claim a cash benefit in respect of a child with a severe disability was the focus of the States debate. These children have a level of disability which qualifies them for PC2, but is below the level to qualify for PC3.

Extending this support to higher income families will create a substantial additional demand. Analysis undertaken since the first debate suggests that there might be up to 80 additional children eligible for this level of benefit, compared with 20 existing claims.

In addition to the number of children who will qualify for PC2, the Department is also likely to receive many queries from parents in respect of other children whose needs fall below this level, but who will need to be advised and may need assessments to determine their exact score. Additional assessors will need to be recruited on a temporary basis to deal with this volume of assessment work.

It is proposed that the new benefit will be available from 1st January 2015. However, it is unlikely that applications can start to be assessed before the beginning of next year. As each child is assessed, a backdated payment will be made, to ensure that families are treated fairly and are all able to receive payments from the same date.

Children already receiving PC2 through Income Support will see no difference to their weekly benefit and will be transferred to the new system on 1 January 2015. These children have already received an assessment and the budget for their payments already exists. These children live in low income families who would be more vulnerable to any disruption in benefit payment. During 2015, any new family that is likely to require Income Support will be prioritised within the assessment process for PC2, to avoid any delay in providing a payment.

6. Financial and manpower considerations – PC2

The benefit cost of extending PC2 to an additional 80 children would be £420,000 in 2015 (£5,260 pa x 80 children = £420,800). In addition to the cost of the benefit itself, there is a substantial cost to be met in the initial assessment of these children, which will need to take place as quickly as possible at the beginning of 2015. It is likely that the Department will need to use specialist healthcare professionals brought in from the UK for this process. The increased number of ongoing claims will also require additional permanent staff to administer new claims, and review children at each developmental milestone. Additional work will be undertaken to clarify the cost of this assistance, which is currently estimated at £100,000 to deal with set up costs for the new benefit and to undertake the initial assessments and £50,000 per annum for the ongoing administration of claims.

The total cost to be met in 2014/2015 is therefore estimated at £570,000. This cost is not provided for in the current Medium Term Financial Plan. The Social Security Department will seek to provide funding in 2015 through the allocation of underspends. In the event that this is not sufficient, the Minister for Treasury and Resources has confirmed that approval will be sought to use contingency budgets to meet this cost.

A growth bid will be made in respect of MTFP2, to provide funding of approximately £470,000 pa from 2016 onwards. This bid has not previously been included in the preliminary planning of MTFP2, and savings will need to be made in other areas of government spending to accommodate this additional cost.

These are preliminary costings and may be subject to change.

One additional FTE will be required to maintain these claims.

7. Personal care level 1

Prior to Income Support, a child with a significant disability could be supported through attendance allowance (children with very severe disabilities) or child

disability allowance (children with severe disabilities). In broad terms, these benefits have been replaced by personal care level 3 and personal care level 2.

There was no previous equivalent to personal care level 1. This component was introduced as part of the Income Support system to provide a small additional weekly sum to an adult or to a low income parent bringing up a child, with a low level of disability or other medical condition.

Constructive discussions with Deputy Martin have identified the disproportionate administrative cost of undertaking full assessments in respect of a large number of children, with a wide range of less severe medical conditions, who might qualify for PC1. In light of these high administration costs, Deputy Martin has agreed to support the current proposed regulations which do not make any changes to the eligibility for personal care level 1, on the understanding that the Social Security Department will investigate if there are more appropriate ways to provide targeted support to children who have low levels of disability, in non- Income Support households, as part of the wider discussions on a disability strategy for Jersey.

8. Other Regulations

As with the Minister's previous proposals (P.90/2014) these Regulations, which set up a new form of special payment to make the payments in respect of children with severe or very severe disabilities, are supported by 2 additional sets of regulations which make minor amendments to existing Income Support Regulations. In addition, a ministerial order will make consequential changes to the Income Support (General Provisions) (Jersey) Order 2008.

9. Financial and manpower implications – summary

The Department has £22,000 (full year cost) of funding available to meet the additional cost of providing PC3 on a consistent basis to all children that qualify for this highest level of support. This funding has been identified as part of the overall project to create £3 million savings within the Income Support budget in 2014.

The Department will submit a growth bid to MTFP2 in respect of funding for a PC2 benefit and associated administration from 2016 onwards. The estimated cost of this is £470,000 per annum.

Funding for 2015 lies outside the current MTFP budget and will need to be identified from departmental underspends or from the use of a contingency budget. In addition to the ongoing annual cost of £470,000 for 2015 an estimated £100,000 of implementation and one-off costs will need to be met, a total of £570,000 required in 2014/2015.

One additional FTE will be required to maintain these claims.

Explanatory Note

These Regulations empower the Minister for Social Security (the “Minister”), in specified circumstances, to make a special payment to a household to defray general expenses in respect of the personal care of a child.

Regulation 2 gives the Minister the power to make a special payment of the amount specified in paragraph 6(3)(b) of Schedule 1 to the 2007 Regulations per week to any household in which a member of the household is a child who meets the requirements for the impairment component under paragraph 5 of Schedule 1 to the Income Support (Jersey) Regulations 2007 and who, but for being a child, meets the criteria for the rate payable in respect of the personal care element of the impairment component for an adult under paragraph 6(1)(b) of Schedule 1 to the Income Support (Jersey) Regulations 2007, as amended by the Income Support (Amendment No. 12) (Jersey) Regulations 201- (P.136/2014) with effect from 1st January 2015. The household must also have a member who is an adult who meets the requirement under Article 2(1)(b) of the Income Support (Jersey) Law 2007. In accordance with *Regulation 4(b)*, this Regulation will come into force on 1st January 2015.

Regulation 3 gives the Minister the power to make a special payment of the amount specified in paragraph 6(3)(c) of Schedule 1 to the 2007 Regulations per week to any household in which a member of the household is a child who meets the requirements for the impairment component under paragraph 5 of Schedule 1 to the Income Support (Jersey) Regulations 2007 and who, but for being a child, meets the criteria for the rate payable in respect of the personal care element of the impairment component for an adult under paragraph 6(1)(c) of Schedule 1 to the Income Support (Jersey) Regulations 2007, as amended by the Income Support (Amendment No. 12) (Jersey) Regulations 201- (P.136/2014). The household must also have a member who is an adult who meets the requirement under Article 2(1)(b) of the Income Support (Jersey) Law 2007. In accordance with *Regulation 4(a)*, this Regulation will come into force 7 days after these Regulations are made.

Regulation 4 provides for the citation and commencement of these Regulations.



Jersey

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Arrangement

Regulation

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DRAFT INCOME SUPPORT (SPECIAL PAYMENTS) (CHILD PERSONAL CARE) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 8 and 18 of the Income Support (Jersey) Law 2007¹, have made the following Regulations –

1 Interpretation

- (1) In these Regulations “2007 Regulations” means the Income Support (Jersey) Regulations 2007².
- (2) In these Regulations references to a person being a member of a household are to be construed in accordance with Article 5 of the Income Support (General Provisions) (Jersey) Order 2008³.

2 Special payment for child personal care – level 2

The Minister may make a special payment of the amount specified in paragraph 6(3)(b) of Schedule 1 to the 2007 Regulations per week to any household in which –

- (a) a member of the household is a child who –
 - (i) meets the requirements for the impairment component under paragraph 5 of Schedule 1 to the 2007 Regulations, and
 - (ii) but for being a child, meets the criteria in paragraph 6(1)(b) of Schedule 1 to the 2007 Regulations; and
- (b) another member of the household is an adult who meets the requirement under Article 2(1)(b) of the Income Support (Jersey) Law 2007⁴,

to defray general expenses in respect of the personal care of that child.

3 Special payment for child personal care – level 3

The Minister may make a special payment of the amount specified in paragraph 6(3)(c) of Schedule 1 to the 2007 Regulations per week to any household in which –

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- (a) a member of the household is a child who –
 - (i) meets the requirements for the impairment component under paragraph 5 of Schedule 1 to the 2007 Regulations, and
 - (ii) but for being a child, meets the criteria in paragraph 6(1)(c) of Schedule 1 to the 2007 Regulations; and
 - (b) another member of the household is an adult who meets the requirement under Article 2(1)(b) of the Income Support (Jersey) Law 2007⁵,
to defray general expenses in respect of the personal care of that child.

4 Citation and commencement

These Regulations may be cited as the Income Support (Special Payments) (Child Personal Care) (Jersey) Regulations 201- and shall come into force as follows –

- (a) Regulations 1 and 3 and this Regulation shall come into force 7 days after they are made;
- (b) Regulation 2 shall come into force on 1st January 2015.

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- ¹ *chapter 26.550*
 - ² *chapter 26.550.30*
 - ³ *chapter 26.550.20*
 - ⁴ *chapter 26.550*
 - ⁵ *chapter 26.550*