

STATES OF JERSEY



DRAFT SOCIAL SECURITY (AMENDMENT OF LAW – MINIMUM EARNINGS THRESHOLD) (JERSEY) REGULATIONS 202- (P.79/2021): COMMENTS

**Presented to the States on 29th October 2021
by the Health and Social Security Scrutiny Panel**

STATES GREFFE

COMMENTS

Introduction

[P.79/2021 'Social Security \(Amendment of Law – Minimum Earnings Threshold\) \(Jersey\) Regulations 202-](#) (the 'Draft Regulations') was debated by the States Assembly on 15th September 2021. P.79/2021 asked Members to approve; the introduction of a Minimum Earnings Threshold (MET) to replace the 8 hours per week rule, the intention to initially set the MET at the equivalent of 8 hours of work per week on the minimum wage and the intention to support Revenue Jersey and modernise and improve the revenue collection process for employers.

Background

On 10th September 2021, the Health and Social Security Scrutiny Panel presented a [comments paper \(P.79/2021 Com\)](#) to the States Assembly on the Draft Regulations.

The Panel's comments included the background and context to the Draft Regulations, a brief summary of the impact that the MET could have on employees and employers, and the Social Security Fund, based on data provided by the Department.

During the debate on the Draft Regulations, the Panel observed concerns from States Members about the availability, scope and age of the data used to assess the potential impact of the Draft Regulations. Members raised concerns that the data referred to in the comments paper had been collated by the department in 2018 and referred to the 2011 Census and the 2016 Jersey Opinions and Lifestyle Survey (JOLS) data. It was highlighted that there may have been significant changes to the employee / employer landscape since that time, because of the effects of Brexit and the Covid-19 pandemic. A number of Members did not feel that they had been presented with enough information to make an informed decision whilst voting for P.79/2021.

The Panel agreed to call in the Draft Regulations, in order to gather additional evidence about the potential impact on employees, and to present this information to the States Assembly at the debate on 2nd November 2021, in a further comments paper.

The Panel agreed to write to a number of stakeholders, including local charities, industry bodies, employee unions and cleaning businesses. The Panel also agreed to undertake a public survey aimed at receiving the views and opinions of employees about the Draft Regulations.

Stakeholder engagement – Employers/employee representatives

The Panel sent letters to a number of stakeholders asking a range of questions about the proposals to introduce the MET and its impact.

The Panel received [submissions from 5 stakeholders](#), which included the following themes:

- **Stakeholder awareness:** half of respondents advised that they were aware of the Draft Regulations prior to receiving the Panel's stakeholder correspondence but none had consulted with Government about the changes.

- **Stakeholder views:** a couple supported the transition to a Social Security Contributions system based on earnings and not working hours, whilst more than half expressed concern that the minimum wage level set by the Draft Regulations was too low. Unite the Union (Unite) stated that the MET should be set at *“eight times the living wage”* and the Jersey Hospitality Association (JHA) stated that the *“new minimum wage rate of £9.22 seems low”*. The view of one anonymous respondent was that the current 8-hours rule should be extended to 16 hours.
- **Impact on stakeholders:** none of the respondents provided a particular view about the impact on their business operations. However, the Panel noted in a submission from the JHA, that the Draft Regulations would, *“affect less than 3% of all of the payroll payments that we made in 2019”*.
- **Impact on employees:** none of the respondents provided a particular view about the impact on their employees. However, the Panel noted in one anonymous submission that, *“...I employee will receive a reduction in take home pay as a result of this change...”*

The Panel accepts that the evidence it received represents a fraction of all stakeholders that will be affected by the introduction of the MET. However, the Panel note that 2 of the stakeholder respondents, Unite and the JHA, represent a significant number of employers and employees in the Island.

Employee public survey

The Panel also carried out a public survey targeted at employees, which ran from 1st October to 25th October 2021, in English, Portuguese and Polish. The survey was not an in-depth employee impact assessment but was intended to gauge the public’s views about the changes proposed under the Draft Regulations.

A [full breakdown of the survey results can be found on the States Assembly website](#). 106 responded and the following themes have been extracted from the final open-ended question:

- 3% supported the Draft Regulations
- 41% did not support the Draft Regulations
- 3% believed that the minimum wage is too low for the MET
- 10% believed that the 8-hour rule should remain

Nearly half of those surveyed do not support the Draft Regulations (41%). The Panel believes this signifies the importance of rigorous consultation whenever employment-based changes to legislation are being proposed.

Impact on employees – 2011 Census and Jersey Opinions and Lifestyle Survey (JOLS)

In order to inform its first comments paper, [P.79/2021 Com](#), the Panel requested data from the Department about the impact of the Draft Regulations, including the potential number of affected employees and the Government’s strategy for communicating the changes to employers and the public.

The Panel was provided with a summary of data gathered in 2018 about the total number of employed persons, the number of persons employed in an extra job or jobs for less than 8 hours

per week, and the number of people whose main job is less than 8 hours per week, which was based on the 2011 Census and 2016 JOLS data.

The Panel understands that the [Census](#) and [JOLS](#) are run by Statistics Jersey, which is professionally and operationally independent from the Government of Jersey. It is noted that the Census is regulated by the [Statistics and Census \(Jersey\) Law 2018](#), with strict rules governing the independence of Statistics Jersey and the collection, analysis and distribution of information.

The Panel also understands that the JOLS includes a set of core questions “*covering demographics, economic activity and household structure to ensure that key census variables can be monitored annually. There are also a range of questions that ask for the public's opinion on a variety of different topics.*”¹

The Panel are therefore confident that (in terms of data reliability and survey size) the Census and the JOLS are a reliable indicator, of the potential number of employees that will be impacted by the Draft Regulations.

The 2011² and 2016 data summarised that most people in Jersey had worked for more than 8 hours per week estimated at 55,000 people, with 1,400 people employed in an extra job, or jobs, for 8 hours or less a week and that there were approximately 600 people whose main job was less than 8 hours per week.

The Panel was informed that the changes being brought forward under the Draft Regulations, were being communicated to employers and the public by email and via the gov.je website. The Panel was also informed that the changes are part of a larger project to modernise and improve revenue collection in Jersey, which is being actively communicated to employers.

Following a meeting with the Minister for Social Security and Government Officers in September 2021 the Panel was provided with an explanatory note summarising the proposed changes under the Draft Regulations, which included the factors to consider in relation to a reduction or increase in the monetary value of the MET, its impact and a number of examples and scenarios relating to the MET. A copy of the [explanatory note, including a range of different scenarios, can be found on the States Assembly website.](#)

The Panel was also provided with an updated set of data based on the 2011 Census and 2019 JOLS data. This summarised that approximately 1,300 – 2,400 people are employed in an extra job, or jobs, for 8 hours or less a week and that between 500-900 people have a main job which is less than 8 hours per week.

The Panel was assured about the accuracy of the combined 2011 Census and 2019 JOLS data, following additional analysis by Statistics Jersey, who confirmed that the number of people employed in an extra job or jobs for less than 8 hours per week, and the number of people whose main job is less than 8 hours per week, remained broadly consistent with the statistics gathered in 2018.

¹ [JOLS \(Statistics Jersey\)](#)

² Results of the 2021 Census were not available at the time of writing.

It was highlighted to the Panel by the Department and Statistics Jersey, that there has not been any recent data collected since Brexit, or the outbreak of COVID-19 in the Island.

Conclusion

After considering the updated information provided by the Minister and the Department, the Panel has decided that it will not be supporting the Proposition. The Panel believes that the Minister should undertake a further assessment of the employment and economic outlook, and lodge a Proposition for debate in 2022.

The Panel recognises the need to streamline payment of Social Security contributions, however, it is disappointed that the proposition has been lodged with inadequate information about the impact the change will have on employees.

Based on the available data, the Panel has been advised that the Draft Regulations will impact a small percentile of Islanders, however, it has been difficult to assess the scale of impact on individuals affected. The Panel is concerned that the introduction of a MET could have a negative impact on low or middle earners, particularly individuals (estimated to be between 1,300 – 2,400 people) undertaking additional small jobs and earning over the minimum wage.

The Panel are concerned about the feedback it received to its employee public survey regarding the Draft Regulations. The Panel believe this indicates a need for rigorous stakeholder consultation by Government, that includes employees, and that this should have been undertaken before the proposition was lodged.

In its consultation exercise, the Panel observed that Unite and the JHA are broadly supportive of the transition to an earnings based Social Security Contributions system, but have concerns that setting the MET at the level of minimum wage is potentially too low.

Overall, the Panel feels that this is the wrong time to introduce a MET, until a better assessment and up to date data can be provided to the Assembly. In 2022 the 2021 Census data will be available and, also, further details about the impact of economic pressures, such as the rise in inflation. This will assist the Assembly in making an informed decision.
