

STATES OF JERSEY



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

**Presented to the States on 22nd November 2021
by the Health and Social Security Scrutiny Panel
Earliest date for debate: 23rd November 2021**

STATES GREFFE

COMMENTS

Introduction

Debate on [P.79/2021 ‘Social Security \(Amendment of Law – Minimum Earnings Threshold\) \(Jersey\) Regulations 202-](#) (the ‘Draft Regulations’) was commenced by the States Assembly on 15th September 2021. [Comments \(P.79/2021 Com\)](#) on the Draft Regulations were presented by the Health and Social Services Scrutiny Panel.

During the debate, a number of States Members expressed concern about the potential impact of the proposed changes to the Minimum Earnings Threshold (MET) on employees. The Panel decided to call in the Draft Regulations, scrutinise the impact of the MET on employees and present a second comments paper with the Panel’s findings ahead of the resumption of debate by the States Assembly on 2nd November 2021.

Background

On 29th October 2021, the Panel presented its [second set of Comments on the Draft Regulations \(P.79/2021 Com.\(2\)\)](#), to the States Assembly.

[P.79/2021 Com.\(2\)](#) set out the background and context to the Panel’s [first Comments \(P.79/2021 Com\)](#), described the Panel’s stakeholder engagement with employee representatives, the results of a public survey targeted at employees, data collated from the 2011 Census and the Jersey Opinions and Lifestyle Survey and concluded that the Panel would not support the Draft Regulations as proposed on 15th September 2021, due to a lack of data and assessment of the impact of the Draft Regulations on employees.

Following presentation of [P.79/2021 Com.\(2\)](#) to the States Assembly on 29th October 2021, the decision was taken by the Minister for Social Security on 2nd November 2021, to defer the debate on the Draft Regulations until the next sitting of the States Assembly on 23rd November 2021.

Scrutiny Briefing: Revised MET calculation and approval of the Draft Regulations

Following confirmation that the debate on the Draft Regulations was delayed, the Panel was invited to a joint briefing with the Corporate Services Scrutiny Panel, from the Minister for Social Security and Government Officers from Revenue Jersey and Strategic Policy, Planning and Performance, on 3rd November 2021.

The Panels were informed that Revenue Jersey had committed to amending the MET from an hourly to a monetary calculation, by way of software changes made to Revenue Jersey computer systems, prior to the Draft Regulations receiving approval by the States Assembly.

The instruction for the change of unit (from hourly to monetary) was made together with changes that were required for the move from quarterly employer returns to monthly employer returns, which was approved by the States Assembly (as part of P.109/2019). Due to the way the software has been coded, there is no capability for the two aspects to be rolled out independently of each other. The Panel now understands that there is therefore an urgency for the Assembly to approve P.79/2021, in order to ensure that the

employer returns and contributions can be collected by Revenue Jersey, and Government payroll processed correctly, from January 2022.

The Panel is disappointed that Revenue Jersey made these commitments prior to States Assembly approval of the Draft Regulations.

In order to address the Panel's original concerns, the Minister for Social Security confirmed that she would revise the threshold of the MET from that which was originally proposed in the report accompanying P.79/2021. The Panel understands that the Minister will now set the MET at £100, which is equivalent to 8 times the 2022 minimum wage of £9.22, plus an additional 36%.

The Minister has also committed to lodging a further amendment to the Social Security (Jersey) Law 1974, for debate by the States Assembly in by the end of February 2022. The amendment will seek to ensure that an automatic uplift to the MET is protected and is not subject to the will of the Minister for Social Security by Order. The Minister asked for the Panel's input regarding 2 possible options to uplift the MET in future. Option 1 was to uplift the threshold in line with minimum earnings, and option 2 was to uplift in line with average earnings. Following some consideration, the Panel decided that an uplift in line with minimum earnings would be preferable (for reference, a copy of the Panel's background research into minimum earnings and average earnings is attached at Appendix 1).

A copy of the Panel's letter to the Minister is attached at Appendix 2 of this paper. A copy of the Minister's response is attached at Appendix 3.

Conclusion

The Panel is of the opinion that the debate about P.79/2021 should have been about: i) the principle of whether the introduction of a MET of monetary value is the right change, from a period of time (8 days), and, if so, ii) what the appropriate monetary value of that threshold is for employees at the lower end of the wage scale.

Regrettably, the Panel concludes that the Assembly has been put in a very difficult position because of the software changes that have already been made.

As set out in our original Comments, the Panel's original concern was that setting the MET at 8 hours minimum wage would negatively affect people working at the lower end of the wage scale, or those with second jobs. The Panel maintains the matter raised in its second Comments which is that there was not enough data to adequately assess this at this time and that the change should wait until further data became available. The Panel still has a number of concerns in this area but accepts that the Minister's new approach in setting the MET at £100, as confirmed to the Panel by letter (see Appendix 3), seeks to address some of the earlier concerns about negative impact on low wage earners.

The Panel thanks the Minister for the constructive discussions that have taken place in relation to P.79/2021 and is pleased to note that the work of the Panel and the concerns raised in the scrutiny process have had an impact on what is now proposed. The Panel believes that the commitment from the Minister to increase the weekly MET (from x8 hours minimum wage to x8 hours minimum wage + approximately 36%) from 1st

January 2022 will provide an improvement for the Islanders on the margins of the contribution's threshold in terms of their take home pay.

If P.79/2021 is approved, the revised MET will take effect from 1st January 2022, initially by way of Ministerial Order. The Minister has committed to updating the Social Security (Jersey) Law 1974, to incorporate an annual uplift to the MET calculation by the end of February 2022.

Statement under Standing Order 37A [Presentation of comment relating to a proposition]:

These comments were submitted to the States Greffe after the 19th November noon deadline as set out in Standing Order 37A due to resource implications from the Panel's workload.

Appendix 1: Research on Minimum Earnings and Average Earnings, relating to the proposed uplift of the Minimum Earnings Threshold

Minimum wage and average earnings (2016-2021)

Year	Minimum Wage	Average Earnings	Average Earnings Increases (AEI)
2016	£6.97	Median: £560 per week Mean: £700 per week	2.1%
2017	£7.18	Median: £570 per week Mean: 730 per week	2.6%
2018	£7.50	Median: £590 per week Mean: £740 per week	3.5%
April 2019	£7.88	Median: £610 per week	2.6%
October 2019	£8.02	Mean: £780 per week	
2020	£8.32	Median: £610 per week Mean: £780 per week	1.1%
2021	£8.32	Median: £630 per week Mean: £820 per week	3.3%
2022	£9.22	N/A	N/A

Option 1: Uprated by minimum wage (2016-2022)

Year	Minimum Wage Threshold	Minimum Wage x8	Minimum Wage x8 +36% uplift (Weekly)	Minimum Wage x8 +36% uplift (Monthly)**
2016	£6.97	£55.76	£75.83	£329.86
2017	£7.18	£57.44	£78.12	£339.82
2018	£7.50	£60.00	£81.60	£354.96
April 2019	£7.88	£63.04	£85.73	£372.93
October 2019	£8.02	£64.16	£87.26	£379.58
2020	£8.32	£66.56	£90.52	£393.76
2021	£8.32	£66.56	£90.52	£393.76
2022	£9.22	£73.76	£100.31	£436.35

Option 1 (+32% since 2016): Increases in minimum wage from 2016 to 2022 with the proposed MET uplift of 36%. Figures show weekly amount and monthly amount (weekly amount x 4.35 weeks per year). Department is likely to round these figures, with a formula to be set out in law, to make it easier to implement and understand.

Option 2: Uprated by Average Earnings Increases (AEI) (2016-2022)

Year	AEI (Lower/Standard Limits)	£100 MET Threshold + AEI increase (Weekly)	£100 MET Threshold + AEI increase (Monthly)**
2016	2.1%	£85.71	£372.84
2017	2.6%	£87.55	£380.84
2018	3.5%	£89.89	£391.02
2019	2.6%	£93.15	£405.20
2020	1.1%	£95.63	£415.99
2021	3.3%	£96.70	£420.65
2022	N/A	£100.00	£435.00

Option 2 (+17% since 2016): If MET had been introduced in 2016, above table shows increases in the MET linked to AEI from 2016 to 2022. The AEI used is % changes to the Lower and Standard Earnings Limits. Department is likely to round these figures, with a formula to be set out in law, to make it easier to implement and understand.

****In both options, the MET will be set in Ministerial Order/Law as a monthly amount**

1. The option selected for uprating the MET can be amended by the Minister for Social Security at any time, by changing the value in the Ministerial Order.
2. Minimum wage has recently increased faster than average earnings, but this is subject to changes in economic conditions, which may impact decisions on minimum wage that result in an increase, freeze or fall below the AEI.

Appendix 2: Letter from the Health and Social Security Panel to the Minister for Social Security, 16th November 2021

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Deputy Judy Martin
Minister for Social Security
BY EMAIL

16th November 2021

Dear Minister

Health and Social Security Panel

Minimum Earnings Threshold (MET)

Thank you for updating the Health and Social Security Scrutiny Panel and the Corporate Services Scrutiny Panel, at the private briefing on 3rd November 2021, in relation to [P.79/2021 Social Security \(Amendment of Law – Minimum Earnings Threshold\) \(Jersey\) Regulations 202 \(P.79/2021\)](#).

We were grateful for the input from your officers and from Revenue Jersey officers in providing some further detail about the background work that has been done with payroll providers to prepare for the introduction of a MET. We understand that this has been done as part of wider changes to Revenue Jersey, including their new involvement in collecting Social Security contributions.

The Panel has understood the following points, and we would be grateful if you could confirm whether these are correct:

1. Modifications to IT systems and payroll software, to prepare for a change from units of hours to units of monetary value, had been instructed prior to the States Assembly considering the introduction of a MET (as per P.79/2021). The instruction for the change of unit was made together with changes that were required for the move from quarterly employer returns to monthly employer returns, which was approved by the States Assembly (as part of P.109/2019). Due to the way the software has been coded, there is no capability for the two aspects to be rolled out independently of each other. There is therefore an urgency for the Assembly to approve P.79/2021, in order to ensure that the employer returns and contributions can be collected by Revenue Jersey, and Government payroll processed correctly, from January 2022.
2. If the States Assembly approves P.79/2021, you will initially set the MET threshold by way of Ministerial Order, to be effective from 1st January 2022. The Report accompanying P.79/2021 details that the Minister intends to set the initial weekly MET at the equivalent of eight hours a week at the minimum wage, however, we now understand that you intend to set the initial MET at £100 per week.
3. You have also committed to lodging a further amendment to the Social Security (Jersey) Law 1974, for debate by the States Assembly in January/February 2022. The amendment will seek to ensure that an automatic uplift to the MET is protected and is not subject to the will of the Minister for Social Security by Order. Of the two uplift options discussed with the Panel (namely, option 1: in line with minimum earnings, or

option 2: in line with average earnings) the Panel is of the opinion that **[Option 1]** of these is the most preferable.

The Panel was concerned to learn that that an instruction had been given to make significant changes to software systems, affecting employer contribution returns, without the prior in principle approval of the legislature. The Panel seeks assurance from the Minister that:

- i. mitigating measures will be put in place to ensure similar occurrences are not repeated; and
- ii. there is a good working relationship between Revenue Jersey and Customer and Local Services, particularly in relation to the new process for collecting and sharing information from the combined employer returns.

The Panel would be grateful if you could respond in writing at the earliest convenience, but if possible, no later than **Thursday 18th November**. We should be grateful if you could circulate the updated information in relation to P.79/2021 addressing the above, to all States Members ahead of the debate and also refer to this in your opening speech to the Assembly on the proposition.

Yours Sincerely,



Deputy Mary Le Hegarat
Chair
Health and Social Security Scrutiny Panel

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Appendix 3: Letter from the Minister for Social Security to the Health and Social Security Panel, 17th November 2021

Minister for Social Security

19-21 Broad Street | St Helier
Jersey | JE2 4WE



Deputy Mary Le Hegarat

Chair

Health and Social Security Scrutiny Panel

BY EMAIL

17th November 2021

Dear Deputy Le Hegarat,

Minimum Earnings Threshold (MET)

Thank you for your letter of 16th November 2021, following the private briefing on the 'Social Security (Amendment of Law – Minimum Earnings Threshold) (Jersey) Regulations 202 (P.79/2021)'.

The three points you set out are correct.

Minimum earnings threshold value

If the Assembly approves P.79/2021, I will set the minimum earnings threshold at £100 per week for weekly paid employees and £435 per month (the monthly equivalent) for monthly paid employees, from 1st January 2022.

This would mean that an employer would start to pay and collect contributions when an employee earns £100 a week, rather than when they work 8 hours a week.

Minimum earnings threshold annual uplift

Subject to approval of P.79, I will also include an automatic increase in the minimum earnings threshold each year, in the Ministerial Order, in line with the percentage increase in the minimum wage, as you recommend. I also think it's important that the new threshold increases in line with wages and particularly the minimum wage. I will then return to the States Assembly early in 2022 with a proposal to embed this directly in the Social Security (Jersey) Law 1974.

Concerns and assurances

I understand your concerns and would like to reassure you that senior officers are taking steps to alert all relevant officers of the absolute need to ensure that proper statutory cover is in place before asking external stakeholders to invest in changes dependent upon new legislation.

There is a very good working relationship between officers in Strategic Planning Policy and Performance (SPPP), Revenue Jersey and Customer and Local Services who together oversee administration of the revenue collection and social-welfare systems. Officers are

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