

STATES OF JERSEY



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

**Presented to the States on 10th September 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 lodged by the Minister for Social Security on 3rd August 2021.

Background

The report attached to the Draft Regulations details that, if approved, the changes will:

- introduce a minimum earnings threshold (MET) to replace the current 8 hours a week rule (per the Social Security (Classification) (Jersey) Order 1974;
- initially set the MET so that it is equivalent to working 8 hours a week at the minimum wage; and
- support Revenue Jersey and modernise and improve the revenue collection process for employers.

At present, Class 1 contributions are paid by everyone who is employed for more than 8 hours a week and they are split between the employee and the employer. The change will simplify matters for employers, by ensuring that they pay contributions for all employees earning over the MET amount, rather than by the number of hours worked.

The report attached to the Draft Regulations explains that, if the MET was to be set today based on 8 hours working at minimum wage it would be calculated at £289 per month, or £66 per week (minimum wage of £8.32 per hour, however, we note that if P.85/2021 is adopted, the minimum wage would increase to £9.22 per hour for 2022).

Class 2 contributions are paid by people who are: self employed; not working; students; looking after a family; and those who are employed for under 8 hours a week.

Both Class 1 and Class 2 require individuals to contribute a percentage of their earnings (or in some cases a fixed sum for Class 2), but the key difference is how this is paid. Class 1 is split between employer and employee and Class 2 is paid by the individual alone.

People can apply for Low Income Contributions Relief if they earn under the Lower Earnings Limit (LEL), currently £968.00 per month, and pay either Class 1 or Class 2 contributions. The Panel understands that the introduction of a MET will not affect the application of the LEL for contributions, or the criteria for applying for Low Income Contribution Relief.

Comments

The Health and Social Security Panel received a briefing from a Government Officer on the Draft Regulations on 12th August 2021.

Employees / workers

During the briefing, the Panel asked whether there was any data available about the number of people who might be affected by the change to the 8 hour rule, i.e. individuals who were employed in a job (or jobs) for less than 8 hours a week.

The Department advised the Panel that:

- It is estimated that there are about 600 people (1% of total employed) whose main job is less than 8 hours per week¹;
- It is estimated that there are 1,400 people (2.5% of the total working population) who are employed in an extra job (or jobs) for 8 hours or less per week²; and
- Most of the working population, estimated 55,000 people (99% of total employed) work for more than 8 hours a week.

The Panel believes that there will be a notable impact on the individuals who have more than one job, for example, an individual working a second job of 7 hours a week and getting paid the living wage (currently £10.96 per hour). In this example, the individual would have their contributions covered by their main job (under Class 1 contributions) but would now earn over the minimum earnings threshold in their second job and also be liable to pay contributions (Class 1) from that job as well.

With the introduction of the MET, there would be a clear disparity between the monetary value requiring people to pay Class 1 contributions and the LEL for contributions (currently £289 and £968, respectively). The Panel acknowledges that this disparity exists for some people already, however, notes that the change could impact an increased number of individuals at the lower end of the wage spectrum. Whilst Class 1 contributions make an employer liable to contribute on behalf of the employee there could potentially be a change to the way in which contributions are collected.

Employers

The Panel acknowledges that the adoption of a MET could simplify the administration involved in the calculation of Class 1 contributions for employers, however, is concerned that the change could:

- encourage an employer to retain a minimum wage approach, rather than pay the living wage, so as to avoid going over the MET;
- create an additional administrative burden and contribution expense for some small businesses, for example those that employ some people for less than 8 hours per week but pay over the minimum wage.

The Department has advised that some employers have paid contributions for employees where it has not been required for them to do so, due to the confusing administration of the 8-hour rule. It is understood that the change to a monetary amount will simplify requirements. The Panel acknowledges this but queries whether there will also be a number of employers, particularly in certain industries who typically employ some staff for a small number of hours (for example, tutoring) who would be affected by the change as they will now have to pay towards Class 1 contributions for some staff. However, no information has been provided to show the type of businesses, or industries that the Draft Regulations could affect in this way and the Panel is keen to ensure that suitable consideration has been given to this aspect.

The Social Security Fund

The Report details that *‘There are no financial or manpower implications for the new minimum earnings threshold. This is not expected to change the amount of contributions paid by employees and employers into the Social Security Fund.’*

The Panel has been advised that this statement has been made from the perspective of the Fund. It is understood that payments into the Fund are expected to balance out, for example, there might be an increase to Class 1 contributions taken from people’s wages (e.g. from a small second job), however, there will likely be less contributions paid in error from employers.

Conclusion

It is noted that the Draft Regulations are intended to support Revenue Jersey and employers in the collection of Social Security contributions, however, the Panel is concerned that what is described in the report attached to the Draft Regulations as a ‘small change’ could have a significant impact on certain employees / individual workers at the lower end of the wage scale. The Panel also queries whether there will be other consequences for employers and the Social Security Fund.

The Panel believes that, if adopted, the Regulations will result in more people being captured by the requirement to pay Class 1 contributions, which will impact both employers and employees.

The Panel understands that information about the changes proposed by the Draft Regulations have been communicated directly to employers and the

public, both by email and on the gov.je web page. Much of the information available online is directed towards employers and the Panel is concerned that there has not been sufficient consultation with individuals who may be affected by changes to their contributions.

The Panel has not lodged an Amendment to the Draft Regulations, but wishes to highlight its concerns to Members in the hope that the Minister for Social Security will address these issues in the debate.

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

These comments were submitted to the States Greffe after the 10th September noon deadline as set out in Standing Order 37A in order that final review processes could be completed.