

STATES OF JERSEY



Jersey

DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 18) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 28th April 2023
by the Minister for Social Security
Earliest date for debate: 13th June 2023**

STATES GREFFE

REPORT

1 Executive summary

The Minister for Social Security is bringing these Regulations to the States Assembly to clarify certain references in the [Social Security \(Jersey\) Law 1974](#). Under Articles 50 and 51 of that Law the Minister has the power to amend the Law by Regulations. The two changes identified below relate to different aspects of the Social Security Law.

Regulation 2 provides that the rounding of the contribution factor will be according to the usual rules on rounding, instead of rounding up.

Regulation 3 removes a provision that is duplicated in the [Social Security \(Incapacity Benefits\) \(Jersey\) Order 2004](#). The removal of this provision will allow the Minister to make changes by Order, at a later date, that form part of her plans to modernise Jersey's incapacity benefit. The changes made by Regulation do not, in and of themselves, make any changes to the rules under which people can receive incapacity benefits.

2 Regulation 2

“Article 8A (full contribution record and contribution factors) amended

In Article 8A(9) for “rounded up” there is substituted “rounded”.”

The Minister would like to clarify how contribution factors are rounded in their calculation in the legislation to align with operational practice.

A contribution factor measures how much of a contribution record an individual has over a period of time. For example, an individual will have contribution factors for each month, quarter, year and an average for their working age up to pension age. An individual's contribution factors determine their eligibility to, and the value of, any contributory benefits or Social Security pension claimed.

For example, an individual that earns more than the lower earnings limit of £1,080 a month has a full contribution record for that month. This is known as a monthly contribution factor of 1. An individual that earns less than this in a month will have a monthly contribution factor that is less than 1 – the exact value will be their earnings as a proportion of the monthly standard earnings limit (£5,060). Any credits, for example, for short term incapacity, will increase an individual's contribution factor for the month.

The contribution factors range from 0 to 1 and are set to three decimal places. For example, 0, 0.234, 0.789 and 1 are all valid contribution factors.

In the last step of calculating contribution factors, in practice, they are rounded up or down to the nearest third decimal place, according to the normal rules of rounding. For example, 0.4994 would be rounded down to 0.499 whilst 0.4995 would be rounded up to 0.500. However, the Law currently requires all calculations to be rounded up.

This was not the intention when Article 8A was added into the Social Security Law in 2012 in [P.1/2012](#). This proposition took the opportunity to “tidy up” some areas of the legislation, including Article 8A, alongside the main proposal to introduce the new social security contribution rate above the earnings ceiling at the time.

The intention for Article 8A at the time was to: (underline added for emphasis) –

“create a new, single Article in the principal Law (Article 8A) that sets out the existing rules to define monthly, quarterly, annual and life average contribution factors. These

factors are derived from the number of contributions made by an individual and are used to calculate entitlement to benefits and pensions.”

The existing rules were captured correctly, apart from the precise approach to rounding the contribution factors which have always been rounded up or down according to the usual rules on rounding. The proposed Regulation makes this principle clearer.

If the States Assembly does not approve this proposed Regulation, we will need to change how we round the contribution factors in practice.

Most new survivor's and social security pensions claims (approximately 55%) each year would not be affected because their contribution factors are already rounded up or are at the maximum of 1. The remaining 45% of survivor's and social security pensions claims each year (approximately 800) would increase by £0.24p per week or £13 per year.

The estimated cost to the Social Security Fund would be approximately £10,000 per year at first and would increase by about £10,000 each year until the number of pensioners and estimated cost peaks to £200k – £300k a year.

In addition, rejecting the proposed Regulation could also create an issue regarding some of the contribution factors we have calculated and rounded down since the Law was changed in 2012. This would be difficult to resolve in a manner that is cost-effective for the Fund – contributors and pensioners generally.

3 Regulation 3

Article 15 (Short Term Incapacity Allowance) amended.

At present Article 15 includes a provision that a person is not entitled to Short-Term Incapacity Allowance “for any period in which he or she works”. Regulation 3 deletes this provision, leaving the rest of Article 15 intact.

The removal of this provision from the main Social Security Law will not have any effect on claims to Short-Term Incapacity Allowance because the current wording of the Social Security (Incapacity Benefits) (Jersey) Order 2004 contains a very similar provision in Article 2(1)(c) –

“2 Days that are not to be treated as days of incapacity for work

- (1) For the purpose of the provisions of the Law relating to short term incapacity allowance, a day shall not be treated in relation to any person as a day of incapacity for work if –
 - (a) it is a day in respect of which the person fails to prove, in such manner as the Minister may require, that he or she is incapable of work;
 - (b) it is a day in respect of which he or she is disqualified for receiving short term incapacity allowance; or
 - (c) it is a day on which he or she does any work, whether or not it is work for which remuneration is payable.”

The Minister is committed to a major overhaul of incapacity benefits. Work planned for 2023 includes a new service to support workers and their employers while the worker is claiming STIA. The service will offer workers with support through a “return to work” plan which may include a phased return to work while the worker is still claiming STIA.

Unlike other places, Jersey's short-term incapacity system is rigid and people are prevented from undertaking any work at all whilst in receipt of Short-Term Incapacity Allowance. This includes voluntary work, therapeutic work, or any phased or partial returns to work agreed between the worker and their employer.

The Minister aims to introduce flexibility into Jersey's system that would reflect changes that have been in places in other economies (including Guernsey and the UK) for several years. This

would give workers the option, as they have in other economies, of doing some work or work-related activity whilst in receipt of sickness benefits. This specifically aims to support those people who have health conditions that could be helped by a phased return to work, or through temporary adjustments to their duties. The evidence shows that giving people the option to choose to undertake some work can help them recover sooner and reduce long-term absence, particularly in the case of mental health and musculoskeletal injuries.

The Minister plans to introduce a new system that will give these options to workers, and will support both workers and employers in ensuring that any modifications to work are temporary, sustainable, and designed to benefit the worker. However, the new service will not diminish a worker's ability to remain fully absent from work while claiming STIA.

The implementation of the new service will require changes to the Social Security (Incapacity Benefits) (Jersey) Order 2004. The Minister will make these changes as part of the overall roll-out of the new service.

These proposals have been developed following engagement with local employers, GPs, charitable sector and relevant hospital clinics. They build on a series of expert reviews of Jersey's system published by previous Ministers. Full details of the new service will be provided in the next few months.

Work on improvements to Short-Term Incapacity Allowance in 2023 will be followed in 2024 with work to modernise Jersey's Long-Term Incapacity Allowance.

4 Financial and manpower implications

If the States Assembly approves the draft Regulations, there are no financial or manpower implications.

If the States Assembly does not approve Regulation 2, there would be an increased cost to the Social Security Fund of £10,000 a year, gradually increasing to £200,000 – £300,000 per year in future decades as the number of pensioners peaks.

EXPLANATORY NOTE

These Regulations, if passed, will amend the Social Security (Jersey) Law 1974 to provide that the rounding of the contribution factor will be according to the usual rules on rounding (and not always rounded up) and to remove the prohibition on a person claiming short term incapacity allowance on a day they work. The second amendment will allow a person to claim short term incapacity on such a day if it is prescribed as a day of incapacity by the Minister. These Regulations come into force 7 days after they are made.



Jersey

DRAFT SOCIAL SECURITY (AMENDMENT OF LAW No. 18) (JERSEY) REGULATIONS 202-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES make these Regulations under Articles 50 and 51 of the [Social Security \(Jersey\) Law 1974](#) –

1 [Social Security \(Jersey\) Law 1974](#) amended

These Regulations amend the [Social Security \(Jersey\) Law 1974](#).

2 Article 8A (full contribution record and contribution factors) amended

In Article 8A(9) for “rounded up” there is substituted “rounded”.

3 Article 15 (short term incapacity allowance) amended

In Article 15 for paragraph (3) there is substituted –

“(3) A person is not entitled to short term incapacity allowance in respect of any disease or injury for which that person is entitled to long term incapacity allowance.”.

4 Citation and commencement

These Regulations may be cited as the Social Security (Amendment of Law No. 18) (Jersey) Regulations 202- and come into force 7 days after they are made.