



Jersey

# **SOCIAL SECURITY (OVERLAPPING BENEFITS) (JERSEY) ORDER 1975**

## **Official Consolidated Version**

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## SOCIAL SECURITY (OVERLAPPING BENEFITS) (JERSEY) ORDER 1975

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Jersey

## **SOCIAL SECURITY (OVERLAPPING BENEFITS) (JERSEY) ORDER 1975<sup>1</sup>**

**THE EMPLOYMENT AND SOCIAL SECURITY COMMITTEE**, in pursuance of Articles 28 and 29 of the [Social Security \(Jersey\) Law 1974](#), orders as follows –

Commencement [[see endnotes](#)]

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### **PART 1**

#### **ADJUSTMENT OF BENEFIT**

#### **1 Adjustment of personal benefit under the Law where other personal benefit (whether under the Law or otherwise) is payable**

- (1) Where, for any period, any personal benefit under the Law and one or more of the personal benefits specified in paragraph (4) (hereafter in this Article and in Article 2 referred to as the “specified benefits”) or any other personal benefit under the Law are or, but for this Article, would be, payable to any person, then for that period –
  - (a) every personal benefit under the Law which is or would be so payable shall, subject to the provisions of Article 2(1), be adjusted by reference to each of the specified benefits (if any) payable for that period in accordance with the provisions of paragraph (2) of this Article; and
  - (b) where (after such adjustment, if any) more than one personal benefit under the Law would be payable for that period, an adjustment between those personal benefits shall, subject to the provisions of Articles 1A and 2(2), be made in accordance with the provisions of paragraph (3) of this Article.<sup>2</sup>
- (2) Where in accordance with paragraph (1) any personal benefit under the Law is required to be adjusted for any period by reference to any specified benefit or benefits, then the amount which, but for this Article, would be payable for that period in respect of that personal benefit under the Law shall be reduced or extinguished by the deduction therefrom of the amount payable for that period in respect of that specified benefit or those specified benefits and, subject to any further adjustment to be made in accordance with paragraph (3), only the balance

(if any) shall be payable for that period in respect of that personal benefit under the Law.

- (3) Where in accordance with paragraph (1) an adjustment between any personal benefits under the Law is required to be made for any period, then the amount payable for that period in respect of those personal benefits shall be the amount which, but for this provision, would be payable for that period in respect of one of those personal benefits (if they would be so payable at equal rates) or that one of them which would be so payable for that period at the higher or highest rate.
- (4) The personal benefits referred to in this Article and Article 2 as the “specified benefits” are –
  - (a) in every case –
    - (i) any personal benefit under the Accident Insurance Laws as continued in force by the Insular Insurance (Jersey) Law 1950, and
    - (ii) a pension under the Non-Contributory Pensions (Jersey) Law 1954, except where the beneficiary is a blind person within the meaning of that Law; and
  - (b) in the case of home carer’s allowance, any pension paid out of the public funds of a country or territory outside Jersey.<sup>3</sup>

#### **1A Insolvency benefit: limited adjustment for wages and holiday pay<sup>4</sup>**

Despite Article 1(1)(b), insolvency benefit payable to a person is only to be adjusted in accordance with Article 1(3) to the extent of the values of such of the components of that benefit as are referred to in Article 26C(1), (2)(c) and (2)(d) of the Law and as relate to any day in respect of which short term incapacity allowance or maternity allowance, or both of them, is payable to the person.

## **2 Exceptions to Article 1**

- (1) Any personal benefit under the Law which is specified in any paragraph of the first column of the Schedule shall not be adjusted by reference to any specified benefit in the corresponding paragraph of the second column of the Schedule.
- (2) An adjustment shall not be made between any 2 personal benefits under the Law of which one is specified in any paragraph of the first column of the Schedule and the other is specified in the corresponding paragraph of the second column of the Schedule.

## **3 Adjustment of dependency benefit under the law where other dependency benefit (whether under the law or otherwise) is payable**

- (1) Subject to the provisions of this Order, where, for any period, any dependency benefit under the Law is, or but for this Order would be, payable to any person in respect of an adult dependant, that dependency benefit shall be adjusted by reference to any other dependency benefit specified in paragraph (2) which is payable for that period to that person in respect of that or any other adult dependant or to any person in respect of that adult dependant so that the amount which, but for this Article, would be payable in respect of that dependency benefit under the

Law shall be reduced or extinguished by the deduction therefrom of the amount payable for that period in respect of that other dependency benefit or those other dependency benefits by reference to which the dependency benefit under the Law is required by this Article to be adjusted and only the balance (if any) shall be payable for that period in respect of that dependency benefit under the Law.

- (2) The dependency benefits referred to in paragraph (1) are –
  - (a) any dependency benefit under the Law;
  - (b) any dependency benefit under the Accident Insurance Laws as continued in force by the Insular Insurance (Jersey) Law 1950.
- (3) The foregoing provisions of this Article shall not operate to require the making of any adjustment as between 2 dependency benefits of which one is dependency benefit by way of an increase of benefit under Article 27 of the Law, which is, or but for those provisions would be, payable to a person (hereafter in this paragraph referred to as the “beneficiary”) in respect of another person who is employed by, but is not residing with, the beneficiary, and the other is any dependency benefit which is specified in paragraph (2) of this Article and is, or but for those provisions would be, payable in respect of that other person to some person other than the beneficiary.<sup>5</sup>

#### **4 Adjustment of dependency benefit under the law where personal benefit is payable**

- (1) Subject to the provisions of paragraph (3), where, for any period, any one or more of the personal benefits specified in paragraph (2) is or are payable to any person –
  - (a) if the weekly rate or the aggregate weekly rate at which that personal benefit or those personal benefits (if more than one) is or are payable for that period (in this Article called the “weekly rate of personal benefit”) is equal to or exceeds the weekly rate of any dependency benefit under the Law which, apart from this Article, would be payable for that period (in this Article called the “weekly rate of dependency benefit”) there shall not be paid in respect of that person for that period any dependency benefit under the Law; and
  - (b) in any other case, there shall not be paid in respect of that person for that period any dependency benefit under the Law at a weekly rate exceeding the difference between the weekly rate of personal benefit and the weekly rate of dependency benefit.
- (2) The personal benefits referred to in the preceding paragraph are any personal benefit specified in Article 1(4) and any personal benefit under the Law.
- (3) The provisions of this Article shall not apply in relation to any dependency benefit by way of an increase of benefit under Article 27 of the Law in respect of a person who is employed by, but is not residing with, the beneficiary.<sup>6</sup>

#### **5 Construction of Part 1**

Nothing in this Part shall be construed as requiring –

- (a) that any personal benefit under the Law by way of maternity grant or death grant shall be adjusted;

- (b) that any personal benefit or dependency benefit shall be adjusted by reason of personal benefit under the Law by way of maternity grant or death grant, or by reason of any other sum which is payable otherwise than in respect of a period, being payable to any person; or
- (c) that any benefit under the Law shall be adjusted by reference to a benefit not under the Law where the latter benefit has itself been adjusted by reference to the benefit under the Law.

## **PART 2**

### **MISCELLANEOUS PROVISIONS**

#### **6 Priority of title to increases of benefit**

Where, but for any of the foregoing provisions of this Order, 2 persons would both be entitled to an increase of benefit under the Law in respect of a third person, the person entitled thereto shall, as between such persons, be determined in accordance with the following order of priority –

- (a) such one of the 2 persons as may be designated in a written notice to the Minister, signed by the other;
- (b) such one of the 2 persons as the Minister may in his or her discretion determine, having regard to the circumstances of the case.

#### **7 Amount deemed to be payable in respect of any benefit, etc. for any day**

- (1) For the purposes of this Order, the amount which, but for the provisions thereof, would be payable for any day in respect of any benefit, pension or allowance shall, if that day does not fall within a week for which the amount which would be so payable in respect of that benefit, pension or allowance is equal to the appropriate weekly rate, be deemed to be 1/7 of the appropriate weekly rate.<sup>7</sup>
- (2) In this Article, the expression “appropriate weekly rate”, means, in relation to any benefit, pension or allowance, the weekly rate at which it would be payable but for the provisions of this Order.

#### **8 Persons to be treated as entitled to benefit for certain purposes**

Any person who would be entitled to any benefit under the Law but for this Order shall be treated as if the person were entitled thereto for the purpose of any rights or obligations under the Law and the Orders made thereunder (whether of himself, herself or some other person) which depend on the person’s being so entitled, other than for the purpose of the right to payment of that benefit.

## PART 3

### GENERAL

#### 9 Interpretation

- (1) In this Order, unless the context otherwise requires –

“beneficiary” means the person to whom any benefit, pension or allowance is payable;

“death benefit” means any benefit, pension or allowance which, apart from this Order, is payable in respect of the death of any person;

“deceased” means, in relation to any death benefit, the person in respect of whose death that benefit, apart from this Order, is payable;

“dependency benefit” means that benefit, pension or allowance (whether under the Law or otherwise) which, apart from this Order, is payable to a person in respect of another person who is an adult dependant;

“disablement pension” includes a disablement payment on a pension basis and retired pay or a pension in respect of any disablement, wound, injury or disease;

“Law” means the [Social Security \(Jersey\) Law 1974](#);

“personal benefit” means that benefit, pension or allowance (whether under the Law or otherwise) which, apart from this Order, is payable to a person otherwise than in respect of another person who is an adult dependant;

“personal death benefit” means any personal benefit by way of death benefit;

“Personal Injuries Scheme” means any scheme made under the Personal Injuries (Emergency Provisions) Act 1939 of the United Kingdom or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 of the United Kingdom;

“Service Pensions Instrument” means those provisions and only those provisions of any Royal Warrant, Order in Council or other instrument (not being a 1914–1918 War Injuries Scheme) under which a death or a disablement pension (not including a pension calculated by reference to length of Service) and allowances for dependants payable with either such pension may be paid out of public funds in respect of any death or disablement, wound, injury or disease due to service in the naval, military or air forces of the Crown or in any nursing service or other auxiliary service of any of the said forces or in the Home Guard or in any organization established under the control of the Defence Council or formerly established under the control of the Admiralty, the Army Council or the Air Council;

“specified benefits” has the meaning assigned thereto by Article 1;

“1914–1918 War Injuries Scheme” means any scheme made under the Injuries in War (Compensation) Act 1914 or under the Injuries in War (Compensation) Act 1914 (Session 2) or under the Injuries in War (Compensation) Act 1915 or any Government scheme for compensation in respect of persons injured in any merchant ship or fishing vessel as the result of hostilities during the 1914–1918 War.

- (2) References in this Order to any enactment, scheme, warrant, Order, instrument or Regulations shall include references to such enactments, scheme, warrant, Order,

instrument or Regulations as amended by any subsequent enactment, scheme, warrant, Order, instrument or Regulations.

- (3) For the purpose of this Order, where a payment of benefit is made under the Accident Insurance Laws, as continued in force by the Insular Insurance (Jersey) Law 1950, to a partially disabled person who has dependants, that benefit shall be deemed to consist of personal benefit and dependency benefit in such proportions as the Minister may determine.

## **10 Citation**

This Order may be cited as the Social Security (Overlapping Benefits) (Jersey) Order 1975.

**SCHEDULE<sup>8</sup>**

(Article 2)

Showing in Column 1, by paragraphs, personal benefits under the Law which are not required to be adjusted by reference to any personal benefit shown in the corresponding paragraph of Column 2.

<i>Column 1</i>	<i>Column 2</i>
(1) Short term incapacity allowance, long term incapacity allowance or maternity benefit, or old age pension which is not payable wholly or in part by virtue of a husband's contributions or insurance.	(1) Death benefit by way of a pension or allowance payable to a woman as the widow of the deceased under the Accident Insurance Laws, and Personal Injuries Scheme, any Service Pensions Instrument or any 1914-1918 War Injuries Scheme.
(2) Any personal benefit.	(2) Death benefit by way of pension or allowance payable to a person otherwise than as the widow of the deceased under any Personal Injuries Scheme, any Service Pensions Instrument or any 1914-1918 War Injuries Scheme.
(3) Insolvency benefit (to the extent of the components referred to in Article 26C(1) and (2)(a), (c) and (d) of the Law)	Long term incapacity allowance, survivor's allowance, survivor's pension, old age pension, maternity grant, death grant or adoptive parent grant
(4) Insolvency benefit (to the extent of the component referred to in Article 26C(2)(b) of the Law)	Any benefit under the Law (other than insolvency benefit itself)

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Social Security (Overlapping Benefits) (Jersey) Order 1975	<a href="#">R&amp;O.6134</a>	1 January 1975
Social Security (Overlapping Benefits) (Amendment) (Jersey) Order 1977	<a href="#">R&amp;O.6376</a>	26 January 1977
Social Security (Payment for Sundays) (Jersey) Order 1986	<a href="#">R&amp;O.7556</a>	1 October 1986
Social Security (Widowed Father's Allowance) (Jersey) Order 1987	<a href="#">R&amp;O.7666</a>	1 October 1987
Social Security (Overlapping Benefits) (Amendment No. 2) (Jersey) Order 2000	<a href="#">R&amp;O.9/2000</a>	27 January 2000
Social Security (Overlapping Benefits) (Amendment No. 3) (Jersey) Order 2001	<a href="#">R&amp;O.65/2001</a>	1 April 2001
Social Security (Overlapping Benefits) (Amendment No. 4) (Jersey) Order 2005	<a href="#">R&amp;O.81/2004</a>	1 October 2004
States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005	<a href="#">R&amp;O.48/2005</a>	9 December 2005
<a href="#">Social Security (Insolvency Benefit) (Jersey) Order 2012</a>	<a href="#">R&amp;O.123/2012</a>	1 December 2012
Social Security (Miscellaneous Provisions No. 2) (Jersey) Order 2012	<a href="#">R&amp;O.162/2012</a>	1 January 2013

### Table of Renumbered Provisions

Original	Current
PART I	PART 1
1(4)(c)	repealed by <a href="#">R&amp;O.9/2000</a> ; former subparagraph amended by <a href="#">R&amp;O.6376</a>
(d)	repealed by <a href="#">R&amp;O.6376</a>
3(2)(c)	repealed by <a href="#">R&amp;O.6376</a>
5(c)	repealed by <a href="#">R&amp;O.6376</a>
(d)	(c)
PART II	PART 2
PART III	PART 3

### Table of Endnote References

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- <sup>1</sup> *This Order has been amended by the States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- <sup>2</sup> *Article 1(1)* *amended by R&O.123/2012*
- <sup>3</sup> *Article 1(4)* *substituted by R&O.162/2012*
- <sup>4</sup> *Article 1A* *inserted by R&O.123/2012*
- <sup>5</sup> *Article 3(3)* *amended by R&O.81/2004*
- <sup>6</sup> *Article 4(3)* *amended by R&O.81/2004*
- <sup>7</sup> *Article 7(1)* *amended by R&O.7556*
- <sup>8</sup> *Schedule* *substituted by R&O.81/2004, amended by R&O.123/2012*