



Jersey

SOCIAL SECURITY (AMENDMENT No. 23) (JERSEY) LAW 2018

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A LAW to amend further the Social Security (Jersey) Law 1974 and to make consequential amendments

Adopted by the States

11th July 2018

Sanctioned by Order of Her Majesty in Council

10th October 2018

Registered by the Royal Court

19th October 2018

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law, the “Law” means the Social Security (Jersey) Law 1974¹ and a reference to an Article by number and without more is a reference to an Article of that Law.

2 Article 15 amended

For Article 15(3) there shall be substituted the following paragraph –

- “(3) A person shall not be entitled to short term incapacity allowance –
- (a) for any period in which he or she works; or
 - (b) in respect of any disease or injury for which he or she is entitled to long term incapacity allowance.”.

3 Article 16 amended

(1) For Article 16(2) there shall be substituted the following paragraph –

- “(2) The assessment of a claimant’s incapacitation for the purposes of long term incapacity allowance –
- (a) shall be made by a medical board appointed under Article 34AA, in accordance with –
 - (i) this Article,

- (ii) the provisions of any Order made under this Article or Article 34AA, and
 - (iii) Article 34A; and
 - (b) shall take into account any period (as to the commencement and duration of which further provision may be made by Order) during which the claimant has suffered and may be expected to continue to suffer from loss of faculty resulting in such incapacitation.”.
- (2) Article 16(4) shall be deleted.
- (3) For Article 16(5) there shall be substituted the following paragraph –
 - “(5) The assessment shall specify –
 - (a) as a percentage, the degree of incapacitation resulting from the loss of faculty; and
 - (b) the period taken into account by the assessment.”.
- (4) In Article 16(7) and (8) for the word “order” in each place there shall be substituted the word “Order”.

4 Article 18 amended

- (1) In Article 18(2) and (3) for the word “order” in each place there shall be substituted the word “Order”.
- (2) At the end of Article 18 there shall be added the following paragraph –
 - “(5) Without prejudice to paragraphs (2) and (4), provision may be made by Order for all or any of the following matters relating to long term incapacity allowance –
 - (a) the period for which, and grounds on which, any award of long term incapacity allowance may be backdated; and
 - (b) the calculation of the amount of any backdated award such as is mentioned in sub-paragraph (a).”.

5 Article 18A amended

For Article 18A(3)(a) there shall be substituted the following sub-paragraph –

- “(a) meet the criteria for –
 - (i) the rate payable in respect of the personal care element of the impairment component under paragraph 6(3)(c) of Schedule 1 to the Income Support (Jersey) Regulations 2007², or
 - (ii) being assessed as being in need of long-term care under Article 5(1) of the Long-Term Care (Jersey) Law 2012³; and”.

6 Article 28 amended

In Article 28(1)(a) –

- (a) after clause (ai) there shall be inserted the following clause –
- “(aii) any payment has been made under the Income Support (Jersey) Law 2007⁴, to or in respect of that person, or to or in respect of a person who is a member of that person’s household for the purposes of that Law,”;
- (b) in clause (i) the words “excluding any payment under the Income Support (Jersey) Law 2007, but” shall be deleted.

7 Article 32 amended

In Article 32(1) for the words “and, after that,” to the end there shall be substituted the words “and, after that, in a year which is a base year within the meaning given by Article 9A(6), and in such other year as the Minister may direct, an actuary shall review the operation of this Law.”.

8 Article 33 amended

- (1) In Article 33(1)(b) for the words “the claimant” there shall be substituted the words “a person”.
- (2) In Article 33(2) after the word “determination” there shall be inserted the words “by a medical board”.
- (3) In Article 33(5) –
- (a) at the end of sub-paragraph (b) there shall be added the word “or”;
- (b) in sub-paragraph (c) –
- (i) at the beginning there shall be inserted the words “as to”, and
- (ii) at the end the word “or” shall be deleted; and
- (c) sub-paragraph (d) shall be deleted.

9 Article 34 amended

At the end of Article 34 there shall be added the following paragraph –

- “(3) Orders under this Article shall provide for –
- (a) the reference to the Inferior Number of the Royal Court for decision of any question of law arising in connection with the determination of an appeal to the Social Security Medical Appeals Tribunal; and
- (b) appeals to the Inferior Number of the Royal Court from a decision of that Tribunal on any question of law,
- and a decision of the Inferior Number of the Royal Court on any such reference or appeal shall be final and without further appeal, without prejudice to the right of the Inferior Number of the Royal Court to refer the question at issue to the Superior Number of the Royal Court.”.

10 Article 34AA amended

For Article 34AA(2) there shall be substituted the following paragraphs –

- “(2) Subject to the provisions of this Law –
 - (a) the Minister may, by Order, prescribe the procedures to be followed by a medical board in the discharge of its functions under this Law; and
 - (b) where –
 - (i) a person claiming long term incapacity allowance is dissatisfied with any determination of a question by a medical board, or
 - (ii) the Minister considers that a question decided by a medical board should be reconsidered,
the question shall be reconsidered by a second medical board, and further provision as to the procedures to be followed in relation to such reconsideration may be made by Orders under this Article.
- (3) For the purposes of this Article and Articles 34B and 34C, a ‘second medical board’ means a board consisting of one or 2 medical practitioners who are not the same medical practitioners as those appointed to the medical board whose determination or (as the case may be) decision is to be reconsidered.”.

11 Article 34A amended

For Article 34A(1) to (3) there shall be substituted the following paragraphs –

- “(1) Where a person claims long term incapacity allowance, any question as to a matter listed in paragraph (2) shall be referred by the Minister to a medical board for determination.
- (2) The matters mentioned in paragraph (1) are –
 - (a) whether a relevant disease or injury has resulted in a loss of faculty;
 - (b) whether a loss of faculty is likely to be permanent;
 - (c) the degree at which incapacitation resulting from a loss of faculty is to be assessed; and
 - (d) the period to be taken into account in the assessment of the degree of incapacitation.
- (3) Where the medical board has assessed the degree of incapacitation in accordance with paragraph (2)(c), before the end of the period to be taken into account as determined by the medical board under paragraph (2)(d), the Minister shall refer the case again to a medical board, for further determination of the matters listed in paragraph (2).”.

12 Article 34B amended

- (1) In Article 34B(1) before the words “medical board” there shall be inserted the word “second”.
- (2) For Article 34B(3) there shall be substituted the following paragraph –
 - “(3) For the avoidance of doubt, the Social Security Medical Appeals Tribunal shall not have jurisdiction to hear an appeal from a decision of a medical board unless a second medical board has first reconsidered the matter in accordance with an Order made under Article 34AA(2)(b).”.

13 Article 34C substituted

For Article 34C there shall be substituted the following Article –

“34C References by Minister to Social Security Medical Appeals Tribunal

- (1) Where the Minister considers that a decision of a second medical board ought to be considered by the Social Security Medical Appeals Tribunal, the Minister may refer the case to that Tribunal for its consideration.
- (2) A reference by the Minister under paragraph (1) shall be made within 14 days of the decision in question.
- (3) On considering a case referred by the Minister, the Social Security Medical Appeals Tribunal may confirm, reverse or vary the decision in question.
- (4) The Minister may by Order amend the period in paragraph (2).”.

14 Article 34D amended

- (1) For Article 34D(1) to (4) there shall be substituted the following paragraphs –
 - “(1) Where a determining officer is satisfied by fresh evidence that a decision of any medical board or by the Social Security Medical Appeals Tribunal was given as a result of non-disclosure or misrepresentation of a material fact (whether by the claimant or another person, and whether fraudulently or innocently), the determining officer shall refer the decision to a further medical board for review.
 - (2) Independently of any review under paragraph (1), on referral by a determining officer following consideration as described in paragraph (3), and subject to paragraph (4), a further medical board may also review an assessment by any medical board or by the Social Security Medical Appeals Tribunal on the ground that, since the making of the assessment, there has been either –
 - (a) a substantial aggravation; or

- (b) a substantial amelioration,
of the results of the relevant disease or injury.
 - (3) A medical board shall not under paragraph (2) review an assessment unless a determining officer has considered any fresh evidence and determined whether any aggravation or (as the case may be) amelioration is so substantial as to merit such review of the assessment.
 - (4) A medical board shall not under paragraph (2) review an assessment on any application made within 3 months of the assessment.”.
- (2) Article 34D(5), (6) and (7) shall be deleted.
 - (3) In Article 34D(8) the words “and, in particular, may make a provisional assessment notwithstanding that the assessment under review was final” shall be deleted.

15 Article 36 amended

In Article 36(4) for the words “Provision made” there shall be substituted the words “Provision may”.

16 Article 42 deleted

Article 42 shall be repealed.

17 Article 49 and Schedule 3 amended

- (1) For Article 49(1) and (2) there shall be substituted the following words –
“The chief officer appointed to administer this Law (the ‘Controller’) shall, before he or she begins to act in execution of this Law, take oath of office before the Royal Court in the form set out in Schedule 3, but notwithstanding the oath of office the Controller may disclose such information as may be required for any purpose approved by the Minister.”.
- (2) In Schedule 3 the heading “Form of oath to be taken by other officers.” and the text following that heading shall be deleted.

18 Citation and commencement

This Law may be cited as the Social Security (Amendment No. 23) (Jersey) Law 2018 and shall come into force 7 days after the day on which it is registered.

DR. M. EGAN

Greffier of the States

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- ¹ *chapter 26.900*
 - ² *chapter 26.550.30*
 - ³ *chapter 26.600*
 - ⁴ *chapter 26.550*