



Jersey

SOCIAL SECURITY (AMENDMENT OF LAW No. 14) (JERSEY) REGULATIONS 2020

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*Made**17th November 2020**Coming into force**24th November 2020*

THE STATES make these Regulations under Article 50 of the Social Security (Jersey) Law 1974¹ –

1 Interpretation

In these Regulations, a reference to an Article or a provision of a Schedule by number, and without any contrary indication, is a reference to the Article or provision of the same number in the Social Security (Jersey) Law 1974².

2 Articles 21 to 23A substituted

For Article 21 (maternity grant), Article 22 (maternity allowance), Article 23 (supplementary provisions as to maternity benefit) and Article 23A (adoptive parent grant) there is substituted –

“21 Entitlement to parental grant

- (1) Subject to the provisions of this Law, a person to whom paragraph (2) applies is entitled to a parental grant upon the birth or adoption of a child.
- (2) This paragraph applies to a person who –
 - (a) is a parent of the child; and
 - (b) satisfies the relevant contribution conditions, and any prescribed requirements.
- (3) In respect of any one child –
 - (a) only one person may receive payment of the parental grant; but
 - (b) where more than one person is entitled to parental grant, the grant must be paid, in the following order of priority –
 - (i) to the person who is nominated by the other persons so entitled, in such manner as may be prescribed, as the parent to whom the grant is to be paid,

- (ii) if no person is nominated, and except in a case of adoption, to the birth mother, or
 - (iii) to the person whose name appears first on the birth certificate or adoption certificate.
- (4) If all persons entitled to the grant have died, the parental grant may be paid to such other person as may be prescribed.
- (5) No more than one parental grant is to be paid in respect of any one child, but subject to any provision which may be made by Order, a person is entitled to a parental grant in respect of each child –
 - (a) in a case of the birth of more than one child as a result of the same pregnancy; or
 - (b) in the case of –
 - (i) an adoption, by the placement for adoption of more than one child, or
 - (ii) an overseas adoption, by more than one child being adopted,
as part of the same arrangement.
- (6) Further provision may be made by Order for the purpose of giving full effect to this Article, and in particular as to –
 - (a) the application of this Article, with or without modification, in relation to a person or class of persons, including a person who is entitled to a parental grant and who requests, in such a manner as may be prescribed, that the parental grant is to be paid prior to the expected date of birth or placement for adoption, as the case may be;
 - (b) the time and manner of payment of parental grant;
 - (c) the determination of any dispute between persons regarding the nomination under paragraph (3)(b).

22 Entitlement to parental allowance

- (1) Subject to the provisions of this Law, a person to whom paragraph (2) applies is entitled to parental allowance –
 - (a) in the case of a host mother, in accordance with paragraph (3); and
 - (b) in the case of a parent, in accordance with paragraphs (4) to (9).
- (2) This paragraph applies to a person who –
 - (a) is a parent, or the host mother, of a child; and
 - (b) satisfies the relevant contribution conditions, and any prescribed requirements.
- (3) The host mother of a child is entitled to parental allowance –
 - (a) irrespective of any other payment of parental allowance to any other person for any period; but
 - (b) for the post-natal period only, and for no other period.

- (4) In respect of any one adoption or birth, the period for which parental allowance is to be paid must not exceed a total of 32 weeks, but that total –
 - (a) is in addition and without prejudice to any entitlement of a host mother under paragraph (3), in respect of the post-natal period; and
 - (b) applies without regard to the number of children adopted or born, or of persons entitled to the allowance.
- (5) The total number of weeks mentioned in paragraph (4) must fall within the period –
 - (a) beginning no earlier than the date which is 11 weeks prior to the expected adoption date or date of birth; and
 - (b) ending –
 - (i) in the case of adoption, on the day which is 2 years after the date of adoption, or
 - (ii) in any other case, on the day which is the child's second birthday.
- (6) Where one parent entitled to parental allowance is the birth mother, payment of parental allowance must be made to the birth mother for the post-natal period.
- (7) Where a person entitled to parental allowance is also a parent exercising a right to paid parental leave under Article 55E of the Employment (Jersey) Law 2003³, parental allowance must be paid for each week of paid parental leave taken by that person.
- (8) No more than 2 parents are entitled to receive payment of parental allowance in respect of any one adoption or birth, but where 2 parents are so entitled, they –
 - (a) must nominate, subject to paragraphs (6) and (7) and in such manner as may be prescribed, the parent to whom a parental allowance is to be paid; and
 - (b) may specify, subject to paragraph (9) and in such manner as may be prescribed, the period of weeks for which the allowance is to be paid to a nominated parent.
- (9) Periods specified under paragraph (8)(b) need not be continuous, but –
 - (a) no more than 3 separate periods may be specified for each nominated parent; and
 - (b) each specified period must be of no less than 2 weeks.
- (10) Further provision may be made by Order for the purpose of giving full effect to this Article, and in particular as to –
 - (a) the determination of any dispute between persons regarding the nomination to be made under paragraph (8)(a);
 - (b) determination of an issue or dispute regarding entitlement to parental allowance, or the period for which or the parent to whom it is payable;

- (c) cases in which particular contribution conditions may be disapplied;
- (d) requirements which must be satisfied for the purpose of making a valid claim to parental allowance;
- (e) cases in which persons may be disqualified from receiving parental allowance;
- (f) cases in which the period for which parental allowance is payable may be varied, and variations of that period;
- (g) entitlement to, and payment of, parental allowance in a case where no nomination is made under paragraph (8)(a);
- (h) entitlement to, and payment of, parental allowance in a case where a parent is no longer alive;
- (i) the time and manner of payment of parental allowance.

23 Interpretation of Articles 21 and 22

- (1) In Articles 21, 22 and paragraph (2), references to adoption, the adoption date, overseas adoption and surrogacy are to be construed, subject to paragraph (2), in accordance with Article 55A (interpretation for the purposes of Part 5A) of the Employment (Jersey) Law 2003⁴.
- (2) For the purposes of Articles 21 and 22 –
 - “adoption certificate” means a certified copy, issued under Article 60(2) of the Marriage and Civil Status (Jersey) Law 2001⁵, of an adoption registration under that Law;
 - “birth” includes, except where the context otherwise requires –
 - (a) the birth of a living child at the full term of pregnancy, and
 - (b) the birth of a child, whether living or stillborn, at any time after 24 weeks of pregnancy;
 - “birth certificate” means a short form birth certificate, issued under Article 60(1) of the Marriage and Civil Status (Jersey) Law 2001, relating to a birth registration under that Law;
 - “birth mother” means a woman who gives birth to a child, but does not include a host mother;
 - “host mother” means a woman who gives birth to a child, in the case where the child is or is to be placed with a surrogate parent;
 - “parent” means a person, other than a host mother, who –
 - (a) is, or is to be –
 - (i) named on the birth certificate or adoption certificate of a child, or
 - (ii) a surrogate parent; and
 - (b) has, or expects to have, responsibility for the upbringing of the child or the main responsibility (apart from any responsibility of the birth mother) for the upbringing of the child;

“post-natal period” means the continuous period of 6 weeks beginning with the day on which birth occurs.

- (3) For the purposes of paragraph (1), a person is treated as having responsibility, or the main responsibility, for the upbringing of a child, if the person would have had such responsibility but for the fact that the child was stillborn after 24 weeks of pregnancy, or has died.”.

3 Consequential amendments of the Social Security (Jersey) Law 1974

- (1) In Article 1(1) (interpretation) the definition “adoption order” is deleted.
- (2) In Article 12 (description of benefits) –
- (a) for sub-paragraph (b) there is substituted –
- “(b) parental benefit, consisting of parental grant and parental allowance;”;
- (b) sub-paragraph (c) is deleted.
- (3) In each of the following provisions, in the expression “maternity allowance” wherever it occurs, for “maternity” there is substituted “parental” –
- (a) Article 14(2) (contribution conditions);
- (b) Article 15(2) (short term incapacity allowance);
- (c) Article 26F(1)(c) (pay in lieu of notice: deductions of certain amounts);
- (d) Article 27(1) (increase of benefit for dependants).
- (4) In the table in Part 1 (rates of benefit) of Schedule 1, in the column headed “Description of Benefit”, for “4. Maternity allowance” there is substituted “4. Parental allowance”.
- (5) In the table in Part 2 (amounts of single payment benefits) of Schedule 1 –
- (a) in the column headed “Description of Grant”, for “1. Maternity grant” there is substituted “1. Parental grant”;
- (b) the item and entries at “1A.” are deleted.
- (6) In paragraph 4 of Schedule 2 –
- (a) in the heading for “Maternity” there is substituted “Parental”;
- (b) in sub-paragraphs (1) and (2) for “maternity” in each place there is substituted “parental”.
- (7) In paragraph 5 of Schedule 2 –
- (a) in the heading for “Maternity” there is substituted “Parental”;
- (b) in sub-paragraph (1) for “maternity” there is substituted “parental”.
- (c) for sub-paragraph (2)(b) there is substituted –
- “(b) the expression “relevant quarter” means the previous quarter but one before the quarter in which it is expected that the relevant person’s child will be born or adopted.”.
- (8) Paragraph 5A (adoptive parent grant) of Schedule 2 is deleted.

4 Consequential amendment of other enactments

- (1) In the Employment (Jersey) Law 2003⁶ –
- (a) in Article 55D (entitlement to parental leave) –
 - (i) in paragraph (2)(b)(i) for “with the mother or adopter of a child” there is substituted “with a child or with the mother or adopter of a child”,
 - (ii) in paragraph (7) –
 - (A) for “or its mother” there is inserted “, its mother or adopter”, and
 - (B) in sub-paragraph (a) before “married to” there is inserted “at the date of childbirth or placement for adoption,”;
 - (b) in paragraph 55E (paid parental leave) in paragraph (6) for “maternity” there is substituted “parental”.
- (2) In Article 77AA(1) (Social Security allowances) of the Income Tax (Jersey) Law 1961⁷ –
- (a) “adoptive parent grant,” is deleted;
 - (b) for “maternity benefit” there is substituted “parental allowance, parental grant”.
- (3) In the Social Security (Claims and Payments) (Jersey) Order 1974⁸ –
- (a) in Article 11(2) (time and manner of payment of benefit) for “maternity” there is substituted “parental”;
 - (b) in Article 13(4)(a) (time for claiming benefit) for “maternity grant and maternity allowance” there is substituted “parental grant and parental allowance”;
 - (c) in the table in Schedule 1 (benefit claimed, etc.) for the second and third rows there is substituted –

“Parental allowance.	Incapacity benefit.
Incapacity benefit.	Parental allowance.”

- (d) in the table in Part 1 of Schedule 2 (table of prescribed times and disqualifications) –
 - (i) for the heading in item 2. “Maternity benefit” there is substituted “Parental grant and parental allowance”, and
 - (ii) in each of the entries (a) to (c) relating to that item, for “maternity” in each place in which it occurs there is substituted “parental”;
 - (e) in the introductory words to Part 2 of Schedule 2 for “Maternity” there is substituted “Parental”;
 - (f) in paragraph 2 (claims in advance) of Schedule 2, in sub-paragraph (3)(b) for “maternity” there is substituted “parental”.
- (4) In Article 2 (provisions determining days of unemployment) of the Social Security (Contributions) (Jersey) Order 1975⁹, in paragraph (1)(f)(i) and (g) for “maternity” in each place there is substituted “parental”.

- (5) In Article 17 (review of decision involving payment or increase of benefit) of the Social Security (Determination of Claims and Questions) (Jersey) Order 1974¹⁰, in paragraph (1)(a) for “maternity” there is substituted “parental”.
- (6) In the following provisions of the Social Security (General Benefit) (Jersey) Order 1975¹¹, for “maternity” in each place there is substituted “parental” –
 - (a) Article 5(1) (increase of benefit for dependents);
 - (b) Article 10 (exceptions from disqualification for imprisonment, etc.), paragraphs (2) and (3);
 - (c) Article 11 (suspension of payment of benefit during imprisonment, etc.), proviso to paragraph (1);
 - (d) Article 12 (interim payments, arrears and repayments), paragraph (7) and the proviso to that paragraph.
- (7) In the Social Security (Married Women) (Jersey) Order 1974¹², in the heading to Article 4 (credits, etc.) and paragraph (1) of that Article, for “maternity” in each place there is substituted “parental”.
- (8) In the Social Security (Overlapping Benefits) (Jersey) Order 1975¹³ –
 - (a) in Article 1A (insolvency benefit: limited adjustment, etc.) for “maternity” there is substituted “parental”;
 - (b) in Article 5 (construction of Part 1) in paragraphs (a) and (b) for “maternity” in each place there is substituted “parental”;
 - (c) in the Table in the Schedule –
 - (i) in item (1) in Column 1, for “or maternity benefit,” there is substituted “, parental grant or parental allowance”,
 - (ii) in the third item in Column 2 for “maternity” there is substituted “parental”.

5 Transitional and saving provisions

- (1) The amendments made to the Social Security (Jersey) Law 1974¹⁴ by Regulation 2 and the consequential amendments made by Regulations 3 and 4, in so far as they relate to payments of parental grant or parental allowance, have effect only in respect of a child whose expected adoption date, or expected date of birth, is on or after 1st January 2021.
- (2) In relation to claims for and payments of adoptive parent grant, maternity grant or maternity allowance made before these Regulations have effect as provided by paragraph (1) –
 - (a) Articles 21 to 23A of the Social Security (Jersey) Law 1974; and
 - (b) any other enactment amended by Regulation 3 or 4,continue in full force and effect, as though unamended by these Regulations.

6 Citation and commencement

These Regulations may be cited as the Social Security (Amendment of Law No. 14) (Jersey) Regulations 2020 and come into force 7 days after the day on which they are made.

ENDNOTES

Table of Endnote Reference

<i>1</i>	<i>chapter 26.900</i>
<i>2</i>	<i>chapter 26.900</i>
<i>3</i>	<i>chapter 05.255</i>
<i>4</i>	<i>chapter 05.255</i>
<i>5</i>	<i>chapter 12.600</i>
<i>6</i>	<i>chapter 05.255</i>
<i>7</i>	<i>chapter 24.750</i>
<i>8</i>	<i>chapter 26.900.06</i>
<i>9</i>	<i>chapter 26.900.24</i>
<i>10</i>	<i>chapter 26.900.28</i>
<i>11</i>	<i>chapter 26.900.36</i>
<i>12</i>	<i>chapter 26.900.44</i>
<i>13</i>	<i>chapter 26.900.54</i>
<i>14</i>	<i>chapter 26.900</i>