



Jersey

## SOCIAL SECURITY (PARENTAL BENEFIT) (JERSEY) ORDER 2020

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Jersey

## **SOCIAL SECURITY (PARENTAL BENEFIT) (JERSEY) ORDER 2020**

*Made**20th November 2020**Coming into force**24th November 2020*

**THE MINISTER FOR SOCIAL SECURITY** makes this Order under Articles 14, 21, 22, 29 and 51 of the Social Security (Jersey) Law 1974<sup>1</sup> –

### **PART 1**

#### PRELIMINARY

#### **1 Interpretation**

In this Order –

“Law” means the Social Security (Jersey) Law 1974<sup>2</sup>;

“nominated week” means a period of 7 consecutive days nominated by a parent under Article 8(1) and (2) in which to receive parental allowance.

### **PART 2**

#### PARENTAL GRANT

#### **2 Application for parental grant**

- (1) The requirements in this Article are prescribed for the purposes of Article 21(2)(b) of the Law (entitlement to parental grant).
- (2) A person who is entitled to apply for a parental grant must apply to the Minister within a period which begins on the day which is 13 weeks before the week in which the child is expected to be born or adopted, and ends on the day which is 6 months after that child’s birth or date of adoption.

#### **3 Birth occurring outside Jersey**

- (1) Where a child is born outside Jersey, and the birth mother has been advised by a medical practitioner registered under the Medical Practitioners (Registration) (Jersey) Law 1960<sup>3</sup> that delivery of that child outside Jersey

is necessary for medical reasons, any parent who would be entitled to a parental grant in respect of that child remains so entitled.

- (2) Where a child is born outside Jersey, and the birth mother has not been so advised, the contribution conditions set out in paragraph 5(1) of Schedule 2 to the Law apply as if, for that paragraph, there were substituted –

“(1) The contribution conditions for a parental grant are that –

- (a) the relevant person had paid contributions prior to the end of the relevant quarter and the annual contribution factor derived from those contributions is not less than 0.25; and
- (b) the relevant person has paid or been credited with contributions in respect of the relevant quarter and the quarterly contribution factor derived from those contributions is not less than 1.00.”.

#### **4 Death of parent before payment of parental grant**

If a parent entitled to a parental grant in respect of a child applies for that grant but dies before payment of the grant is made, the payment must instead be made to a surviving parent of that child.

#### **5 Payment of parental grant where persons entitled have died**

If all persons entitled to the grant die before payment of the grant, the determining officer may, on application by a person, pay the parental grant to that person if –

- (a) the person has day-to-day care of the child;
- (b) the person satisfies the contribution conditions; and
- (c) it is in the best interests of the child to make payment of the grant.

#### **6 Resolution of dispute**

- (1) In the event that more than one person is entitled to a parental grant, and a dispute arises between those persons as to which of them is the person to whom the payment should be made, the decision is to be made by the determining officer.
- (2) The decision of the determining officer must be made with due consideration of the best interests of the child.

### **PART 3**

#### **PARENTAL ALLOWANCE**

#### **7 Application for parental allowance**

- (1) For the purposes of Article 22(2)(b) of the Law (entitlement to parental allowance), a person who applies for parental allowance must make the application to the Minister in the form approved by the Minister.

- (2) A person who is entitled to apply for parental allowance must apply to the Minister within a period which begins on the day which is 13 weeks before the week in which the child is expected to be born or adopted, and ends on the day which is 6 months after that child's birth or date of adoption.

## **8 Nomination of period for parental allowance**

- (1) Subject to paragraphs (2) to (4), up to 2 parents who are entitled to payment of parental allowance in respect of a child must, under Article 22(8)(a) of the Law, nominate –
  - (a) the parent or parents to whom parental allowance is to be paid;
  - (b) the weeks for which parental allowance is to be paid to each parent.
- (2) Nominations under paragraph (1)(b) must be made for blocks of no less than two consecutive weeks.
- (3) If only one parent is named, or expected to be named, on the birth certificate or the adoption certificate, that parent is entitled to 32 nominated weeks.
- (4) If 2 parents are named, or expected to be named, on the birth certificate or the adoption certificate, each parent is entitled to up to 26 nominated weeks, provided that the total number of nominated weeks for both parents does not exceed 32.
- (5) A payment of parental allowance will not be made to a parent for a nominated week unless, during that nominated week, that parent is responsible for the upbringing of the child.
- (6) Paragraph (5) does not apply –
  - (a) if the child is in the care of the Minister for Health and Social Services under Article 24(1)(a) of the Children (Jersey) Law 2002<sup>4</sup>, and has been so for less than 12 weeks; or
  - (b) if the child has died.
- (7) A parent may change the dates of their own nominated weeks by giving 28 days' notice to the determining officer.
- (8) The determining officer may shorten or waive the requirement for notice under paragraph (7) if the determining officer considers it reasonable to do so.

## **9 Partial satisfaction of contribution conditions and reduced rates of benefit**

- (1) A person is entitled to a parental allowance at a reduced rate calculated as set out in paragraph (2) if –
  - (a) that person would be entitled to a parental allowance but for the fact that the contribution condition set out in paragraph 4(1)(b) of Schedule 2 to the Law is not satisfied; and
  - (b) the quarterly contribution factor derived from contributions paid by or credited to that person in respect of the relevant quarter is not less than 0.33.

- (2) The amount of allowance to be paid is the full rate of allowance multiplied by the quarterly contribution factor in respect of the relevant quarter.

## **10 Disqualification from receipt of parental allowance**

- (1) For the purposes of Article 22(10)(e) of the Law, parental allowance is not payable, for a period to be decided by the determining officer, if –
- (a) during a period in respect of which the allowance is payable, a person does any work as an employed or self-employed person (including any work which under any Order made under the Law is to be disregarded for the purpose of the classification of insured persons); or
  - (b) during the period of payment of the allowance, a parent fails to answer any reasonable queries by the determining officer.
- (2) In paragraph (1), “work” –
- (a) means any work undertaken –
    - (i) in excess of 14 hours in any one week,
    - (ii) in excess of 70 hours in total, or
    - (iii) by a birth mother or host mother in the post-natal period; but
  - (b) excludes reasonable contact from time to time between the person and that person’s employer during the period in which parental allowance is paid.

## **11 Determination of disputes**

- (1) If more than one parent is entitled to parental allowance, and the parents dispute the allocation of weeks in which payment to each parent should be made, the decision is to be made by the determining officer.
- (2) The decision of the determining officer must be made with due consideration of the best interests of the child.

## **12 Payment of allowance where parents entitled have died**

If all parents entitled to the allowance die before receiving payment of all or any part of the allowance, the determining officer may, on application by no more than 2 persons, pay parental allowance to each of those persons if –

- (a) the applicants specify nominated weeks, the total of which do not exceed the number of weeks of parental allowance which remain unpaid;
- (b) the applicants have day-to-day care of the child;
- (c) each applicant satisfies the contribution conditions; and
- (d) it is in the best interests of the child to make payment of the allowance.

**PART 4**

## FINAL

**13 Repeal and consequential amendments**

- (1) The Social Security (Maternity Benefit) (Jersey) Order 1975 is repealed<sup>5</sup>.
- (2) In Article 5(1) of the Social Security (General Benefit) (Jersey) Order 1975<sup>6</sup> “and maternity allowance” is deleted.
- (3) In the Social Security (Claims and Payments) (Jersey) Order 1974<sup>7</sup> –
  - (a) in the following places, for “confinement” there is substituted “birth or adoption” –
    - (i) in Article 13(4)(a),
    - (ii) in Schedule 2 –
      - (A) in Part 1, in the table at item 2, in each place,
      - (B) in Part 2, in paragraph 2(3), in each place;
  - (b) in Part 2 of Schedule 2, in paragraph 2(3), for “a woman will be confined” there is substituted “that a child will be born or adopted”.
- (4) In Article 6(1) of the Social Security (Residence and Persons Abroad) (Jersey) Order 1974<sup>8</sup> for “long term incapacity allowance or maternity allowance” there is substituted “or long term incapacity allowance”.

**14 Transitional provision**

The provisions of Parts 2 and 3, and the repeal and consequential amendments made in Article 13, 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.

**15 Citation and commencement**

This Order may be cited as the Social Security (Parental Benefit) (Jersey) Order 2020 and comes into force on 24th November 2020.

**DEPUTY J.A. MARTIN OF ST. HELIER**

*Minister for Social Security*

**ENDNOTES****Table of Endnote References**

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<i>1</i>	<i>chapter 26.900</i>
<i>2</i>	<i>chapter 26.900</i>
<i>3</i>	<i>chapter 20.600</i>
<i>4</i>	<i>chapter 12.200</i>
<i>5</i>	<i>R&amp;O.6124 (chapter 26.900.46)</i>
<i>6</i>	<i>chapter 26.900.36</i>
<i>7</i>	<i>chapter 26.900.06</i>
<i>8</i>	<i>chapter 26.900.78</i>