



Jersey

## **SOCIAL SECURITY (AMENDMENT OF LAW No. 6) (JERSEY) REGULATIONS 2013**

### **Arrangement**

#### **Regulation**

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## **SOCIAL SECURITY (AMENDMENT OF LAW No. 6) (JERSEY) REGULATIONS 2013**

*Made*

*11th December 2013*

*Coming into force*

*in accordance with Regulation 14*

**THE STATES**, in pursuance of Articles 50 and 51 of the Social Security (Jersey) Law 1974<sup>1</sup> and Article 16(1) of the Long-Term Care (Jersey) Law 2012<sup>2</sup>, have made the following Regulations –

### **1 Interpretation**

In these Regulations, except Regulations 12 and 13, a reference to an Article or Schedule or to a sub-division of an Article or Schedule is a reference to that Article, Schedule or sub-division of an Article or Schedule in the Social Security (Jersey) Law 1974<sup>3</sup>.

### **2 Article 1 amended**

In Article 1(1) –

- (a) before the definition “appointed day” there shall be inserted the following definition –

“ ‘1961 Law’ means the Income Tax (Jersey) Law 1961<sup>4</sup>;”;

- (b) for the definition “insured person” there shall be substituted the following definition –

“ ‘insured person’ means, for all the purposes of this Law, a person described in Article 3(1) and includes, for the purposes only of the liability to pay LTC contributions, a person described in Article 3(1A);”;

- (c) after the definition “Long Term Care Fund Allocation” there shall be inserted the following definition –

“ ‘LTC contributions’ means long-term care contributions;”.

### **3 Article 3 amended**

After Article 3(1) there shall be inserted the following paragraph –

“(1A) Subject to the provisions of this Law, a person who attains school leaving age and is deemed, in prescribed circumstances, to be resident in Jersey, shall be insured under this Law for the purposes only of the liability to pay LTC contributions.”.

#### **4 Article 4 amended**

In Article 4(2) –

- (a) for the words “2 classes” there shall be substituted the words “3 classes”;
- (b) the word “; and” at the end of sub-paragraph (a)(ii) shall be deleted;
- (c) after sub-paragraph (b) there shall be added the word “and” and the following sub-paragraph –
  - “(c) long-term care contributions payable by insured persons.”.

#### **5 Articles 8AA, 8AB and 8AC inserted**

After Article 8 there shall be inserted the following Articles –

##### **“8AALTC contributions**

- (1) An insured person’s liability to pay LTC contributions is subject to any Order.
- (2) The amount of an insured person’s LTC contribution shall be determined in accordance with Schedule 1C.
- (3) An insured person shall pay LTC contributions in accordance with Schedule 1D and the 1961 Law as modified by Article 49B of that Law.
- (4) The liability to pay LTC contributions commences on 1st January 2015.

##### **8AB Method of paying employee’s LTC contributions**

- (1) An employer who is liable, under Article 41B of the 1961 Law, to deduct tax from earnings payable by the employer to an employee who is an insured person shall also be liable to pay instalments of the employee’s LTC contribution on behalf of that employee in accordance with Schedule 1D and the said Article 41B as modified by Article 49B of that Law.
- (2) For the purposes of this Law, contributions paid by the employer on behalf of an employee under this Article shall be deemed to be LTC contributions paid by the employee.
- (3) An employer shall be entitled, subject to and in accordance with Schedule 1D, to recover from an employee the amount of any employee’s LTC contribution paid or to be paid by the employer on behalf of the employee.

- (4) The liability to pay instalments under this Article commences on 1st January 2015.
- (5) In this Article, ‘employee’ and ‘employer’ have the same meaning as in Article A15 of the 1961 Law.

#### **8AC Method of paying sub-contractor’s LTC contributions**

- (1) A building contractor who is liable, under Article 41E of the 1961 Law, to deduct tax from payments made to a sub-contractor who is an insured person or to a person nominated by the sub-contractor for the purpose shall also be liable to pay instalments of the sub-contractor’s LTC contribution on behalf of the sub-contractor in accordance with Schedule 1D and Article 41E as modified by Article 49B of that Law.
- (2) For the purposes of this Law, contributions paid by the building contractor on behalf of a sub-contractor under this Article shall be deemed to be LTC contributions paid by that sub-contractor.
- (3) A building contractor shall be entitled, subject to and in accordance with Schedule 1D, to recover from a sub-contractor, or from a person nominated by the sub-contractor to receive payments for the sub-contractor, the amount of any LTC contribution paid or to be paid by the building contractor on behalf of the sub-contractor.
- (4) The liability to pay instalments under this Article commences on 1st January 2015.
- (5) In this Article, ‘building contractor’ and ‘sub-contractor’ have the same meaning as in Article A15 of the 1961 Law.”.

#### **6 Article 11 amended**

In Article 11 –

- (a) in paragraph (c) after the words “Class 1 contributions” there shall be inserted the words “or LTC contributions”;
- (b) after paragraph (ha) there shall be inserted the following paragraph –  
“(hb) for prescribing circumstances in which the income of any person may be treated as being of such amount, not exceeding any income limit specified in Schedule 1C, as the Minister considers appropriate;”.

#### **7 Article 30 amended**

In Article 30 –

- (a) in paragraph (3A) for the words “Where the contributions paid in respect of a person are less than the contributions due in respect of the person,” there shall be substituted the words “Where the Class 1 or Class 2 contributions paid in respect of a person are less than such contributions as are due in respect of the person,”;

- (b) after paragraph (3A) there shall be inserted the following paragraph –
- “(3B) The appropriate Long-Term Care Fund Allocation, which shall be paid into the Long-Term Care Fund, shall be the aggregate of the LTC contributions determined in accordance with Schedule 1C and collected in accordance with Schedule 1D and the 1961 Law.”.

**8 Article 47 amended**

In Article 47 for the word “contributions” in each place that it appears, there shall be substituted the words “Class 2 contributions”.

**9 Schedule 1A amended**

In paragraph 1 of Schedule 1A for the words “For the purposes of this Law,” there shall be substituted the words “For the purposes of determining the amount of Class 1 contributions payable in respect of a Class 1 insured person,”.

**10 Schedule 1B amended**

In paragraph 1 of Schedule 1B for the words “For the purposes of this Law,” there shall be substituted the words “For the purposes of determining the amount of Class 2 contributions payable in respect of a Class 2 insured person,”.

**11 Schedules 1C and 1D inserted**

After Schedule 1B there shall be inserted the following Schedules –

**“SCHEDULE 1C**

(Article 8AA(1))

**LONG-TERM CARE FACTORS AND CONTRIBUTION RATES**

**1 Insured person’s gross and taxable income**

- (1) For the purposes of calculating the amount of an LTC contribution payable in respect of an insured person, and subject to any Order made under Article 1(5) or 11 –
- (a) an insured person’s gross income for a year is the total of the sums calculated in accordance with Article 4 of the 1961 Law for the year, before the deduction of any amounts allowed under that Article;
- (b) an insured person’s taxable income for a year is so much of the person’s income for the year as is charged to income tax.
- (2) Where, for the purposes of the 1961 Law, an insured person’s income of any description includes that of his spouse or of his or her civil partner, it shall also include that income for the purposes

of calculating the amount of the insured person's LTC contribution.

## **2 Upper annual income limit**

The upper annual income limit for LTC contributions for a year is the annual equivalent of the upper monthly earnings limit for Class 1 contributions for the year, determined in accordance with paragraph 2(1)(c) and (3) of Schedule 1A.

## **3 LTC contribution**

- (1) An insured person's LTC contribution for a year is whichever is the lower of the amount calculated in accordance with option A and the amount calculated in accordance with option B.
- (2) Option A is that, subject to sub-paragraph (3), the person's LTC contribution for a year is the LTC percentage of the person's taxable income for the year.
- (3) If the person is, for the year, entitled to a reduction in the amount of his or her income tax under Article 92C of the 1961 Law, the person's LTC contribution shall be reduced by the same proportion by which the amount of income tax payable by the insured person is reduced under that Article.
- (4) Option B is that, subject to sub-paragraph (5), the person's LTC contribution for a year is the LTC percentage of whichever is the lower of –
  - (a) the person's gross income for the year; and
  - (b) the upper annual income limit for the year.
- (5) Where the insured person's income includes, pursuant to the 1961 Law, the income of his spouse or his or her civil partner, the rule in sub-paragraph (4) shall be applied separately to –
  - (a) the income of the insured person's spouse or civil partner;
  - (b) the income of the insured person, disregarding the income of his or her spouse or civil partner,and the resultant amounts of LTC contributions shall be aggregated.
- (6) In this paragraph, the LTC percentage is –
  - (a) for 2015, 0.5%;
  - (b) for 2016 and ensuing years, 1%.

**SCHEDULE 1D**

(Articles 8AA(3), 8AB(1) and (3), 8AC(1) and 8AC(3))

**COLLECTION OF LTC CONTRIBUTIONS****1 Interpretation of Schedule 1D**

In this Schedule –

‘building contractor’ has the same meaning as in Article A15 of the 1961 Law;

‘Comptroller’ means the person appointed under Article 6 of the 1961 Law;

‘earnings’ has the meaning given in Article A15 of the 1961 Law;

‘employee’ has the meaning given in Article A15 of the 1961 Law;

‘employer’ shall be construed having regard to the definition “employee” and in accordance with Article A15(6) and (7) of the 1961 Law;

‘new taxpayer’ means a person to whom Article 41H of the 1961 Law applies;

‘sub-contractor’ has the same meaning as in Article A15 of the 1961 Law;

‘tax’ means income tax;

‘taxable income’ has the same meaning as in paragraph 1 of Schedule 1C.

**2 Date by which LTC contribution must be paid**

- (1) The Comptroller, when serving a notice of an assessment of tax on an insured person under the 1961 Law shall, at the same time, serve notice of the amount of the LTC contribution that the person is liable to pay for a year.
- (2) Subject to paragraph 3 and to Articles 8AB(1) and 8AC(1), an LTC contribution notified under sub-paragraph (1) is due and payable on the same day as the tax contained in the assessment.
- (3) A notice of the amount of the LTC contribution that a person is liable to pay, served under sub-paragraph (1), shall be deemed to be a demand for payment.

**3 Duty of insured person to pay instalment of LTC contribution**

An insured person who is liable to pay an instalment of tax for a year of assessment, in accordance with Article 41A of the 1961 Law, is also liable to pay an instalment of his or her LTC contribution for the year in which the instalment is due, at the same time and in the same manner as



the instalment of tax, in accordance with Article 41A of the 1961 Law as modified by Article 49B(2) of the 1961 Law.

**4 LTC contribution effective rate**

- (1) In this paragraph, 'payment year' and 'the year of assessment' have the same meaning as in Article 41C(1) of the 1961 Law.
- (2) The LTC contribution effective rate applicable in an employee's case shall be determined in accordance with the following formula –

$$\frac{L}{I} \times 100 = \text{LTC contribution effective rate}$$

I

Where –

L is the sum of –

- (a) the employee's LTC contribution for the payment year; and
- (b) an amount not exceeding the aggregate of any LTC contributions unpaid for any preceding years; and

I has the same value as in Article 41C(2) of the 1961 Law.

- (3) If the Comptroller determines a provisional rate of tax under Article 41C(4) of the 1961 Law the Comptroller shall, at the same time determine a provisional LTC contribution effective rate.
- (4) For the purposes of determining a provisional LTC contribution effective rate for the purposes of Article 41C of the 1961 Law as modified by Article 49B(3) of that Law, sub-paragraph (2) shall have effect with –
  - (a) in clause (a) of the definition 'L', after the words 'contribution for', the insertion of the words 'the year preceding';
  - (b) in the definition 'I' after the words '1961 Law' the addition of the words 'as modified by paragraph (5)(b) of that Article'.
- (5) Where an employee makes an election under Article 41C(8) of the 1961 Law, the Comptroller shall calculate an LTC contribution effective rate that exceeds the rate that would otherwise apply in the employee's case, in accordance with the foregoing provisions of this paragraph, by an amount that corresponds to the amount by which the rate of tax notified under Article 41C(8)(b) of the 1961 Law exceeds the rate that would otherwise apply in the employee's case.
- (6) If, on an appeal by an employee against the effective rate of tax applicable in his or her case, that rate is revised, the Comptroller –
  - (a) shall correspondingly revise the LTC contribution effective rate applicable in the employee's case; and

- (b) in accordance with Article 41C(4) of the 1961 Law, shall calculate a revised combined effective rate applicable in the employee's case.

## **5 Consequences of appeal against assessment to tax**

- (1) Where an insured person appeals against any assessment on him or her made by the Comptroller of Taxes in any first or additional assessment –
  - (a) the insured person, when estimating his or tax in accordance with Article 28(2) of the 1961 Law, shall also estimate his or her LTC contribution that will become payable consequentially on the determination of the appeal;
  - (b) pending the person's appeal against his or her assessment to income tax, the LTC contribution estimated in accordance with clause (a) shall be due and payable at the same time as his or her tax estimated in accordance with Article 28(2) of the 1961 Law and due and payable as described in paragraph (3) of that Article; and
  - (c) where, on determination of the appeal, a balance of tax chargeable must be paid in respect of a portion of the insured person's income, the balance of any corresponding LTC contribution payable in respect of that portion of the insured person's income is also due, and must be paid at the same time and in the same manner as the balance of tax.
- (2) Where –
  - (a) an insured person appeals against a notice of assessment served under Article 25 of the 1961 Law or against a determination by the Commissioners under Article 36 of the Law; and
  - (b) on determination of the appeal, a balance of tax overpaid is required to be repaid,the corresponding balance of any LTC contribution that has been overpaid must be repaid at the same time and in the same manner.
- (3) Where, on an appeal under Article 36 of the 1961 Law, any balance of tax is to be paid or repaid, the corresponding balance of any LTC contribution that has been underpaid or overpaid must be paid or, as the case requires, repaid, at the same time and in the same manner.

## **6 Consequences of error in or adjustment of assessment to tax**

- (1) Where, in the circumstances described in Article 37 or 38 of the 1961 Law, a repayment of tax is due to an insured person, any corresponding overpayment of the insured person's LTC contribution shall also be due and repaid at the same time, and in the same manner, as the repayment of tax.

- (2) Where an insured person is repaid an amount formerly paid for tax for a year of assessment under Part 13 of the 1961 Law, the person shall also be repaid any corresponding amount of LTC contribution that was aggregated with and paid by the person together with the amount formerly paid for tax.

## **7 Age determination**

If a person, by reason of attaining an age during the course of a month, becomes liable for contributions or different amounts of contribution, the Social Security Department shall determine whether any such contribution is payable in respect of that month either by treating the person as having attained that age at the beginning of the month or as not having attained that age until the end of the month.”.

## **12 Income Tax (Jersey) Law 1961 amended**

In the Income Tax (Jersey) Law 1961<sup>5</sup> –

- (a) at the end of the long title there shall be added the words “and the collection of long-term care contributions due under the Social Security (Jersey) Law 1974<sup>6</sup>”;
- (b) after Article 6 there shall be inserted the following Article –

### **“6A Collection of long-term care contributions**

The Comptroller shall, in accordance with Article 49B of this Law and in accordance with the Social Security (Jersey) Law 1974, collect LTC contributions as the agent of the Minister for Social Security and remit them to the Minister for Social Security.”;

- (c) after Article 49A there shall be inserted the following Article –

### **“49B General provision for collection of long-term care contributions**

- (1) In this Article and in Articles 41A, 41B, 41C and 41E as modified by this Article –

‘1974 Law’ means the Social Security (Jersey) Law 1974<sup>7</sup>;

‘LTC contribution’ means a long-term care contribution payable under the 1974 Law for a year, calculated in accordance with Schedule 1C to that Law.

- (2) Where an individual liable to pay an instalment of tax under Article 41A of the 1961 Law is also liable, pursuant to Schedule 1D to the 1974 Law, to pay an instalment of his or her LTC contribution for the year in which the instalment is due, Article 41A shall have effect with the following modifications –
  - (a) in paragraph (1) after the words ‘income tax’ there shall be inserted the words ‘and LTC contribution’;

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- (b) for paragraph (2)(b) there shall be substituted the following sub-paragraph –
- ‘(b) subject to this Article, shall be an amount equal to the sum of –
- (i) the tax portion of the instalment, being 50% of the person’s liability to income tax for the year preceding the year of assessment, less the amount of any tax already paid in respect of the year of assessment (disregarding any amount paid by way of deduction under Article 41B or 41E), and
  - (ii) the LTC portion of the instalment, being 50% of the person’s provisional LTC contribution for the year in which the instalment is due (disregarding any amount paid by way of deduction under Article 41B or 41E).’;
- (c) after paragraph (2) there shall be inserted the following paragraph –
- ‘(2A) The person’s provisional LTC contribution shall be calculated, in accordance with Schedule 1C to the 1974 Law, by reference to the person’s gross and taxable income for the year that is 2 years before the year in which the instalment is due.’;
- (d) in paragraph (3) after the amount ‘50%’ there shall be inserted the words ‘, in each place that it appears,’;
- (e) in paragraph (4) after the word ‘where’ there shall be inserted the words ‘the tax portion of’;
- (f) in paragraph (6) –
- (i) after the words ‘the amount of’ there shall be inserted the words ‘the tax portion of’,
  - (ii) after the word ‘waive’ there shall be inserted the words “the tax portion of”,
  - (iii) in sub-paragraph (a), after the words ‘less than’ there shall be inserted the words ‘the tax portion of’;
- (g) after paragraph (6) there shall be inserted the following paragraph –
- ‘(6A) If, under paragraph (6), the Comptroller reduces or waives the tax portion of the instalment, the LTC portion of the instalment is correspondingly reduced, or waived, as the case requires.’;
- (h) in paragraph (7) after the words ‘or waived’ there shall be inserted the words ‘the tax portion of’;
- (i) in paragraph (8) after the words ‘or waive’ there shall be inserted the words ‘the tax portion of’;
- (j) after paragraph (9) there shall be inserted the following paragraph –
-

‘(9A) If, on the determination of an appeal under paragraph (8), the tax portion of the instalment is varied or waived, the LTC portion of the instalment is correspondingly reduced, or waived, as the case requires.’;

(k) in paragraph (10) after the word ‘determination’, in the second place that it appears, there shall be inserted the words ‘and paragraph (9A)’.

(3) Where an employer is liable under Article 41B of this Law and Article 8AB of the 1974 Law to make deductions from an employee’s earnings Article 41B shall have effect with the following modifications –

(a) at the end of the heading there shall be added the words ‘and LTC contributions’;

(b) in paragraphs (1), (2), (3) and (4), for the words ‘the effective rate’ there shall be substituted the words ‘the combined effective rate’;

(c) for paragraph (2)(b) there shall be substituted the following sub-paragraph –

‘(b) where the employer has not received a copy of such a notice, for deductions made in the year 2015 and ensuing years, 21%.’;

(d) in paragraph (5A) for the words beginning ‘the Comptroller may’ to the end of the paragraph there shall be substituted the words –

‘the Comptroller –

(i) may, to the best of the Comptroller’s information and judgement, make an estimate of the amount of tax required to be remitted under paragraph (5) and calculate, by reference to that estimate, the corresponding amount of LTC contribution required to be remitted; and

(ii) shall serve on the employer a notice requiring an amount that is the sum of those amounts to be paid and containing the information described in paragraph (5B).’;

(e) in paragraph (5B)(b) for the words ‘the amount’ there shall be substituted the words ‘the estimate of the amount of tax’;

(f) in paragraph (5B)(c) for the words ‘the said amount,’ there shall be substituted the words ‘the amount required to be paid.’;

(g) in paragraph (8) for the words ‘tax and remit it’ there shall be substituted the words ‘tax and an LTC contribution and remit them’;

(h) in paragraph (12) after the words ‘a payment of tax’ there shall be inserted the words ‘and LTC contribution’.

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- (4) Where an employer is liable under Article 41B of this Law and Article 8AB of the 1974 Law to make deductions from an employee's earnings, Article 41C shall have effect with the following modifications –
- (a) in the heading for the word 'rate' there shall be substituted the words 'effective rate and combined effective rate';
  - (b) in paragraph (2) for the word 'rate' there shall be substituted the words 'effective rate';
  - (c) for paragraphs (3) and (4) there shall be substituted the following paragraphs –
    - '(3) For the purposes of this Part the combined effective rate is the sum of –
      - (a) the effective rate determined in accordance with paragraph (2); and
      - (b) the LTC contribution effective rate determined in accordance with Schedule 1D to the Social Security (Jersey) Law 1974,rounded up to the nearest whole number.
    - (4) The Comptroller may, before an employee has delivered a statement for the year of assessment pursuant to Article 16 –
      - (a) determine a provisional combined effective rate which is the sum of –
        - (i) a provisional effective rate determined in accordance with paragraph (5), and
        - (ii) a provisional LTC contribution effective rate determined in accordance with Schedule 1D to the Social Security (Jersey) Law 1974,rounded up to the nearest whole number; and
      - (b) issue a notice, in writing, to the employee and the employee's employer of the rate and the day from which the rate applies.';
  - (d) in paragraph (6) for the words 'the rate' there shall be substituted the words 'the combined effective rate';
  - (e) in paragraph (7) for the words 'the rate' in the first place that they appear there shall be substituted the words 'the combined effective rate';
  - (f) in paragraph (7A) for the words 'revised rate' in each place that they appear there shall be substituted the words 'revised combined effective rate';
  - (g) in paragraph (7A) for the words 'the employee's outstanding liability to tax for the year of assessment or any preceding year,' there shall be substituted the words 'the sum of the employee's outstanding liability to tax for the year of assessment or any preceding year and his or her liability to an LTC contribution for the current year or any preceding year,';

- 
- (h) for paragraph (7B) there shall be substituted the following paragraph –
    - ‘(7B) Subject to paragraph (9), the combined effective rate determined shall be the rate required to recover, in the period commencing on the day the notice has effect to the end of the payment year, the sum of –
      - (a) the balance of the revised sum of L in paragraph (2) that has not been recovered in the part of the payment year preceding that period; and
      - (b) the balance of the revised sum of the employee’s LTC contribution for the year and the aggregate of any LTC contributions unpaid by the employee for any preceding years that has not been recovered in the preceding part of the current year.’;
  - (i) in paragraph (8)(a) for the words ‘a rate’ there shall be substituted the words ‘a combined effective rate’;
  - (j) at the end of paragraph (8)(a) there shall be added the words ‘and Schedule 1D to the Social Security (Jersey) Law 1974’;
  - (k) in paragraph (9) for the words ‘The rate’ there shall be substituted the words ‘The combined effective rate’;
  - (l) in paragraph (9)(a) for the rate ‘20%’ there shall be substituted the rate ‘21%’;
  - (m) in paragraph (11) for the words ‘the rate’ there shall be substituted the words ‘the effective rate’;
  - (n) in paragraph (12) for the words ‘The rate’ there shall be substituted the words ‘The combined effective rate’.
- (5) Where a building contractor is liable to make deductions under Article 41E of this Law and Article 8AC of the 1974 Law from payments made to a sub-contractor or to a person nominated by the sub-contractor for the purpose Article 41E shall have effect with the following modifications –
- (a) at the end of the heading there shall be added the words ‘and LTC contributions’;
  - (b) in paragraph (1) after the words ‘deduct tax’ there shall be inserted the words ‘and an LTC contribution’;
  - (c) after paragraph (2) there shall be inserted the following paragraphs –
    - ‘(2A) A building contractor shall not deduct an LTC contribution under paragraph (1) at any time when –
      - (a) the sub-contractor has produced an LTC exemption certificate to the building contractor; and
      - (b) the LTC exemption certificate is in force at the time the payment is made.
    - (2B) The Comptroller shall issue an LTC exemption certificate to a sub-contractor –

- 
- (a) upon the application of the sub-contractor; and
  - (b) if, in the year in which the application is made, the sub-contractor has paid, in the aggregate, an LTC contribution for the year that is equal to or exceeds the LTC percentage of the upper annual income limit for the year, referred to in paragraph 3 of Schedule 1C to the Social Security (Jersey) Law 1974.
- (2C) An LTC exemption certificate shall remain in force from the day it is issued until the end of the year in which it is issued.’;
- (d) in paragraph (4) after the word ‘tax’ there shall be inserted the words ‘and LTC contribution’;
  - (e) in paragraph (5A) for the words beginning ‘the Comptroller may’ to the end of the paragraph there shall be substituted the words –
    - ‘the Comptroller –
    - (i) may, to the best of the Comptroller’s information and judgement, make an estimate of the amount required to be remitted under paragraph (5) and calculated, by reference to that estimate, the corresponding amount of LTC contribution required to be remitted; and
    - (ii) shall serve on the building contractor a notice requiring an amount that is the sum of those amounts to be paid and containing the information described in paragraph (5B).’;
  - (f) in paragraph (5B)(b) for the words ‘the amount’ there shall be substituted the words ‘the estimate of the amount of tax’;
  - (g) in paragraph (5B)(c) for the words ‘the said amount,’ there shall be substituted the words ‘the amount required to be paid,’;
  - (h) in paragraph (11) after the words ‘a payment of tax’ there shall be inserted the words ‘and LTC contribution’;
  - (i) in paragraph (15) for sub-paragraph (b) there shall be substituted the following sub-paragraphs –
    - ‘(b) for deductions made in the years 2008 to 2014 inclusive, 20%;
    - (c) for deductions made in the year 2015 and ensuing years, 21%, being the sum of a rate of 20% for the purposes of deductions of tax and a rate of 1% for the purposes of deduction of LTC contributions.’.
- (6) Where the Comptroller receives an amount remitted under Article 41A, as modified by this Article, as a payment of tax and LTC contribution by an insured person, the Comptroller shall, before Article 41G is applied –
- (a) deduct from the amount received a sum that bears the same proportion to the whole as the LTC portion of the instalment bears to the tax portion of the instalment; and
-



- (b) remit the sum deducted to the Minister for Social Security.
- (7) Where the Comptroller receives an amount remitted under Article 41B, as modified by this Article, as a payment of tax and LTC contribution in respect of an insured person, the Comptroller shall, before Article 41G is applied –
  - (a) deduct from the amount received a sum that bears the same proportion to the whole as the LTC contribution effective rate applicable to the amount bears to the effective rate applicable to the amount; and
  - (b) remit the sum deducted to the Minister for Social Security.
- (8) Where the Comptroller receives an amount remitted under Article 41E, as modified by this Article, as a payment of tax and LTC contributions in respect of an insured person, the Comptroller shall, before Article 41G is applied –
  - (a) deduct from the amount received a sum that bears the same proportion to the whole as the LTC rate specified in Article 41E as modified by this Article bears to the income tax rate also specified in that provision; and
  - (b) remit the sum deducted to the Minister for Social Security.
- (9) Nothing in the modifications of this Part shall be taken –
  - (a) to confer a right of appeal under this Law in respect of a person's liability for or the amount of an LTC contribution;
  - (b) to confer a right of appeal under this Law against so much of a combined effective rate as is an LTC contribution effective rate;
  - (c) to make it an offence under this Law to fail to remit an LTC contribution to the Comptroller or to do any other thing in relation to LTC contributions.
- (10) Schedule 1A reproduces Articles 41A, 41B, 41C and 41E as modified by this Article.”;
- (d) after Schedule 1 there shall be inserted the following Schedule –

**“SCHEDULE 1A**

(Article 49B(10))

**ARTICLES 41A, 41B, 41C AND 41E AS MODIFIED BY ARTICLE 49B  
IN THEIR APPLICATION TO PERSONS LIABLE TO PAY AN LTC  
CONTRIBUTION**

**41A Duty to pay instalment in April**

- (1) Subject to paragraph (12), a person who is not a body corporate shall, in accordance with this Article, pay an instalment of income tax [and LTC contribution] for a year of assessment.
- (2) The instalment –

(a) shall be due and payable no later than 6 p.m. on the last Friday in April of the year next following the year of assessment; and

[(b) subject to this Article, shall be an amount equal to the sum of –

(i) the tax portion of the instalment, being 50% of the person's liability to income tax for the year preceding the year of assessment, less the amount of any tax already paid in respect of the year of assessment (disregarding any amount paid by way of deduction under Article 41B or 41E), and

(ii) the LTC portion of the instalment, being 50% of the person's provisional LTC contribution for the year in which the instalment is due (disregarding any amount paid by way of deduction under Article 41B or 41E).]

[(2A) The person's provisional LTC contribution shall be calculated, in accordance with Schedule 1C to the 1974 Law, by reference to the person's gross and taxable income for the year that is 2 years before the year in which the instalment is due.]

(3) Where –

(a) part of a person's income for the year preceding the year of assessment comprises earnings; and

(b) those earnings comprise 25% or less of the person's total income for that year,

paragraph (2)(b) shall have effect with the substitution for the amount "50%" [, in each place that it appears,] of the amount "40%".

(4) A person shall not be required to pay an instalment pursuant to this Article where [the tax portion of] the instalment would be less than £100.

(5) A person shall be liable to pay the instalment whether or not an assessment has been raised for the year of assessment for which the instalment is due.

(6) The Comptroller may, on an application made by a person no later than the end of March preceding the day an instalment is due, reduce the amount of [the tax portion of] the instalment or waive [the tax portion of] the instalment where the Comptroller is satisfied –

(a) that 50% of the person's liability to income tax for the year of assessment is likely to be substantially less than [the tax portion of] the instalment determined in accordance with paragraph (2)(b); or

(b) that the person's income for the year of assessment from sources other than earnings is likely to be substantially less than the person's income for the preceding year from such sources.

- [(6A) If, under paragraph (6), the Comptroller reduces or waives the tax portion of the instalment, the LTC portion of the instalment is correspondingly reduced, or waived, as the case requires.]
- (7) Where a person applies for a reduction or waiver under paragraph (6), the Comptroller shall give notice to the person of whether or not the Comptroller has reduced the amount of or waived [the tax portion of] the instalment.
- (8) A person aggrieved by the Comptroller's refusal to reduce the amount of or waive [the tax portion of] an instalment under paragraph (6) may appeal to the Commissioners, on giving notice in writing to the Comptroller, within 40 days of the issue of the notice under paragraph (7).
- (9) The instalment determined in accordance with paragraph (2)(b) shall be due and payable notwithstanding that an appeal is pending under paragraph (8).
- [(9A) If, on the determination of an appeal under paragraph (8), the tax portion of the instalment is varied or waived, the LTC portion of the instalment is correspondingly reduced, or waived, as the case requires.]
- (10) On the determination of an appeal under paragraph (8), any balance of the instalment due in accordance with the determination [and paragraph (9A)] shall be paid, or any amount determined to have been overpaid shall be repaid, as the case may require.
- (11) Save as provided in paragraphs (8) to (10), Part 6 shall apply, with the necessary modifications, to an appeal under paragraph (8) as it applies to an appeal against any assessment.
- (12) This Article shall not apply –
- (a) where more than 25% of a person's total income for the year preceding the year of assessment comprises earnings; or
  - (b) in the case of a trustee liable to tax for the year of assessment by virtue of Article 6(2) of the Income Tax (Superannuation Funds) (Jersey) Order 1972<sup>8</sup>.

**41B Duty of employer to deduct and account for tax [and LTC contributions]**

- (1) An employer shall, in accordance with this Article, deduct tax at [the combined effective rate] from earnings payable by the employer to an employee, including any payments made by an employer that fall within Article 62D.
- (2) [The combined effective rate] shall be –
- (a) where the employer has received a copy of a notice issued by the Comptroller under Article 41C specifying a rate applicable on the day the deduction is made, the rate so specified;

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- [ (b) where the employer has not received a copy of such a notice, for deductions made in the year 2015 and ensuing years, 21%.]
- (3) When making a deduction under paragraph (1), an employer shall give the employee written notice of the amount of the deduction and [the combined effective rate] applied to the deduction.
- (4) An employer shall maintain a record of the amount of tax deducted and [the combined effective rate] applied to the deduction in respect of each of his or her employees.
- (5) An employer shall, no later than 15 days after the end of each month, remit to the Comptroller an amount equal to the aggregate of the amounts required to be deducted under paragraph (1) during the month in respect of each of his or her employees.
- (5A) If, in respect of an amount required to be remitted under paragraph (5) –
- (a) the Comptroller has not received a return from the employer under Article 20 or the information included in the return is not complete; and
- (b) no amount is remitted to the Comptroller or the Comptroller is not satisfied the amount remitted is the amount required to be deducted under paragraph (1),
- [the Comptroller –
- (i) may, to the best of the Comptroller’s information and judgement, make an estimate of the amount of tax required to be remitted under paragraph (5) and calculate, by reference to that estimate, the corresponding amount of LTC contribution required to be remitted; and
- (ii) shall serve on the employer a notice requiring an amount that is the sum of those amounts to be paid and containing the information described in paragraph (5B).]
- (5B) That information is –
- (a) the amount required to be paid;
- (b) the latest date on which an appeal against [the estimate of the amount of tax] required to be paid may be made; and
- (c) the date by which [the amount required to be paid,] failing the making of an appeal, is required to be paid, such date being no earlier than 15 days from the date of the notice.
- (5C) If, at any time, the Comptroller discovers, by reason of receiving a return from the employer under Article 20 or for any other reason, that the amount of the estimate specified in a notice under paragraph (5A) is incorrect, the Comptroller may cancel the notice and serve on the employer a further notice under paragraph (5A) requiring a revised amount to be paid and containing the information described in paragraph (5B).
- (5D) An employer shall comply with any notice served on the employer contractor under paragraph (5A).
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- (5E) Part 6 shall apply, with the necessary modifications, to an appeal against an estimate under paragraph (5A) as it applies to an appeal against an assessment and as if for the number “40” in Article 27(1) there were substituted the number “15”.
- (6) An employer shall, no later than the end of January following a year of assessment, give each of the persons in his or her employment at the end of that year a written summary of the deductions made pursuant to this Article from the employee’s earnings for that year.
- (7) Where an employee ceases employment before the end of a year of assessment, the employer shall, upon the employment ceasing, give the employee a written summary of the deductions made pursuant to this Article from the employee’s earnings for that year.
- (8) An employer shall not be required to deduct [tax and an LTC contribution and remit them] to the Comptroller in the case of an employee who, on the 31st December in the year in which the deduction would otherwise be made, will be under the age of 17 years.
- (9) An employer who fails to comply with paragraph (5) shall be guilty of an offence and liable to a fine of –
- (a) level 4 on the standard scale; and
  - (b) an amount not exceeding the monies not remitted, in contravention of that paragraph.
- (10) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the employer by virtue of Article A15(6) or (7), the body corporate, as well as that person, shall be liable to a fine under paragraph (9) of this Article.
- (11) The imposition of a fine under paragraph (9)(b) shall not discharge the employer’s liability to remit the monies required under paragraph (5).
- (12) Where an employee proves, to the satisfaction of the Comptroller, that a deduction has been made from the employee’s earnings, in accordance with paragraph (1), the employee shall be entitled to have the deduction treated as a payment of tax [and LTC contribution] by the employee, notwithstanding that the employer has failed to remit the amount to the Comptroller in accordance with paragraph (5).
- (13) An employer who fails to make a deduction in accordance with paragraph (1) but who remits to the Comptroller the amount required by paragraph (5) in respect of an employee may recover that amount from the employee as a civil debt.
- (14) Deductions shall be made, in accordance with this Article, from the earnings of a married woman notwithstanding that, by virtue of Article 121(1), her income is deemed to be that of her husband.

- (14A) Deductions shall be made, in accordance with this Article, from the earnings of a civil partner B notwithstanding that, by virtue of Article 122B(1), his or her income is deemed to be that of his or her civil partner A.
- (15) An agreement shall be void to the extent that it provides for the payment of earnings without deduction of tax in contravention of this Article.

#### **41C Calculation of [effective rate and combined effective rate]**

- (1) In this Article –
- “payment year” means the year in which the rate applies to deductions made under Article 41B;
- “the year of assessment” means the year preceding the payment year.
- (2) Subject to this Article and Article 41D, the [effective rate] applicable in an employee’s case shall be determined in accordance with the following formula –

$$\frac{L}{I} \times 100 = \text{percentage effective rate}$$

Where –

L is the sum of –

- (a) the employee’s liability to tax for the year of assessment;
- (b) an amount not exceeding the aggregate of any arrears of tax for any earlier year of assessment (whether or not judgment has been obtained in respect of the arrears); and
- (c) any costs recoverable in respect of such arrears, less any amount of tax already paid for the year of assessment (disregarding any amount paid by way of deduction under Article 41B or 41E); and

I is the total of the sums for which the employee has been or is liable to be assessed for the year of assessment and the sums in respect of which the employee is liable to allow the deduction of tax in the year of assessment.

- [(3) For the purposes of this Part the combined effective rate is the sum of –
- (a) the effective rate determined in accordance with paragraph (2); and
  - (b) the LTC contribution effective rate determined in accordance with Schedule 1D to the Social Security (Jersey) Law 1974,
- rounded up to the nearest whole number.
- (4) The Comptroller may, before an employee has delivered a statement for the year of assessment pursuant to Article 16 –

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- (a) determine a provisional combined effective rate which is the sum of –
    - (i) a provisional effective rate determined in accordance with paragraph (5); and
    - (ii) a provisional LTC contribution effective rate determined in accordance with Schedule 1D to the Social Security (Jersey) Law 1974,  
rounded up to the nearest whole number; and
  - (b) issue a notice, in writing, to the employee and the employee’s employer of the rate and the day from which the rate applies.]
- (5) For the purposes of determining [a provisional effective rate], paragraph (2) shall have effect with –
- (a) in sub-paragraph (a) of the definition ‘L’, the insertion after the words “liability to tax for” of the words “the year preceding”;
  - (b) in the definition ‘I’ –
    - (i) the insertion after the words “assessed for” of the words “the year preceding”,
    - (ii) the insertion after the words “deduction of tax in” of the words “the year preceding”.
- (6) The Comptroller may, after an employee has delivered a statement for the year of assessment pursuant to Article 16, determine [the combined effective rate] applicable to the employee and issue a notice, in writing, to the employee and the employee’s employer, of the rate and the day from which the rate applies.
- (7) Where it appears to the Comptroller at any time that, by reason of any change in the information by reference to which [the combined effective rate] is determined, the rate applicable in an employee’s case has altered, the Comptroller may issue a notice, in writing, to the employee and the employee’s employer, of the revised rate and the day from which the rate applies.
- (7A) Where it appears to the Comptroller that the issue of a [revised combined effective rate] in accordance with paragraph (7) would be insufficient to recover, in the remainder of the payment year, [the sum of the employee’s outstanding liability to tax for the year of assessment or any preceding year and his or her liability to an LTC contribution for the current year or any preceding year,] the Comptroller may –
- (a) in accordance with paragraph (7B), determine a [revised combined effective rate] applicable to the employee; and
  - (b) issue a notice, in writing, to the employee and the employee’s employer, of the rate and the day from which the rate applies.
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- [(7B) Subject to paragraph (9), the combined effective rate determined shall be the rate required to recover, in the period commencing on the day the notice has effect to the end of the payment year, the sum of –
- (a) the balance of the revised sum of L in paragraph (2) that has not been recovered in the part of the payment year preceding that period; and
  - (b) the balance of the revised sum of the employee's LTC contribution for the year and the aggregate of any LTC contributions unpaid by the employee for any preceding years that has not been recovered in the preceding part of the current year.]
- (8) Subject to paragraph (9) –
- (a) an employee may, at any time, make an election, in writing, to the Comptroller to have [a combined effective rate] applied in the employee's case that exceeds the rate determined in accordance with the foregoing paragraphs of this Article [and Schedule 1D to the Social Security (Jersey) Law 1974]; and
  - (b) upon an election being made, the Comptroller shall issue a notice in writing to the employee of the rate and the day from which the rate applies.
- (9) [The combined effective rate] shall not exceed –
- (a) in a case where the employee has no arrears of tax, [21%];
  - (b) in a case where the employee has arrears of tax for one year of assessment, 25%;
  - (c) in a case where the employee has arrears of tax for 2 years of assessment, 30%;
  - (d) in a case where the employee has arrears of tax for 3 or more years of assessment, 35%.
- (10) A notice issued by the Comptroller under this Article shall have effect until whichever is the earlier of –
- (a) the day stated in the notice;
  - (b) the day on which a rate specified in a further notice has effect; or
  - (c) the end of the current year.
- (11) An employee aggrieved by [the effective rate] applicable in his or her case, or by a refusal by the Comptroller to issue a notice under this Article, may appeal to the Commissioners, on giving notice in writing to the Comptroller –
- (a) within 40 days of the issue of a notice under of this Article; or
  - (b) where the Comptroller has not issued a notice to the employee, within 40 days of providing the Comptroller with sufficient information to determine a rate under this Article.



- (12) [The combined effective rate] notified to the employee or, in the case where no rate has been notified to the employee, the rate applicable by virtue of Article 41B(2)(b), shall apply in the employee's case notwithstanding that an appeal is pending under paragraph (11) of this Article.
- (13) Save as provided in paragraphs (11) and (12), Part 6 shall apply, with the necessary modifications, to an appeal under paragraph (11) as it applies to an appeal against any assessment.
- (14) The fact that, in determining the rate applicable in an employee's case, the sum 'L' referred to in paragraph (2) includes an amount described in sub-paragraph (b) or (c) of that paragraph shall not prevent the Comptroller pursuing the recovery of that amount by other means.
- (15) A person who gives another person –
  - (a) a document purporting to be a notice issued by the Comptroller under this Article, knowing it to be false; or
  - (b) a notice issued by the Comptroller under this Article, knowing that the notice has been altered by a person other than the Comptroller,shall be liable to a fine of level 4 on the standard scale.

**41E Duty of building contractor to deduct and account for tax [and LTC contributions]**

- (1) A building contractor shall, in accordance with this Article, deduct tax [and an LTC contribution] at the specified rate from payments made to a sub-contractor or to a person nominated by the sub-contractor for the purpose.
  - (2) Paragraph (1) shall not apply at any time when –
    - (a) the sub-contractor has produced an exemption certificate to the building contractor; and
    - (b) the building contractor is satisfied that the exemption certificate is in force at the time the payment is made.
- [(2A) A building contractor shall not deduct an LTC contribution under paragraph (1) at any time when –
- (a) the sub-contractor has produced an LTC exemption certificate to the building contractor; and
  - (b) the LTC exemption certificate is in force at the time the payment is made.
- (2B) The Comptroller shall issue an LTC exemption certificate to a sub-contractor –
- (a) upon the application of the sub-contractor; and
  - (b) if, in the year in which the application is made, the sub-contractor has paid, in the aggregate, an LTC contribution for the year that is equal to or exceeds the LTC percentage

of the upper annual income limit for the year, referred to in paragraph 3 of Schedule 1C to the Social Security (Jersey) Law 1974.

- (2C) An LTC exemption certificate shall remain in force from the day it is issued until the end of the year in which it is issued.]
- (3) When making a deduction under paragraph (1) a building contractor shall give the sub-contractor or the person nominated by the sub-contractor to receive the payment written notice of the amount of the deduction.
- (4) A building contractor shall maintain a record of the amount of tax [and LTC contribution] deducted in respect of each of his or her sub-contractors.
- (5) A building contractor shall, no later than 15 days after the end of each month, remit to the Comptroller an amount equal to the aggregate of the amounts required to be deducted under paragraph (1) during the month in respect of each of his or her sub-contractors.
- (5A) If, in respect of an amount required to be remitted under paragraph (5) –
- (a) the Comptroller has not received a return from the building contractor under Article 20A or the information included in the return is not complete; and
  - (b) no amount is remitted to the Comptroller or the Comptroller is not satisfied the amount remitted is the amount required to be deducted under paragraph (1),
- [the Comptroller –
- (i) may, to the best of the Comptroller's information and judgement, make an estimate of the amount required to be remitted under paragraph (5) and calculate, by reference to that estimate, the corresponding amount of LTC contribution required to be remitted; and
  - (ii) shall serve on the building contractor a notice requiring an amount that is the sum of those amounts to be paid and containing the information described in paragraph (5B).]

(5B) That information is –

    - (a) the amount required to be paid;
    - (b) the latest date on which an appeal against [the estimate of the amount of tax] required to be paid may be made; and
    - (c) the date by which [the amount required to be paid,] failing the making of an appeal, is required to be paid, such date being no earlier than 15 days from the date of the notice.

(5C) If, at any time, the Comptroller discovers, by reason of receiving a return from the building contractor under Article 20A or for any other reason, that the amount of the estimate specified in a notice under paragraph (5A) is incorrect, the Comptroller may cancel the notice and serve on the building contractor a further notice under

- paragraph (5A) requiring a revised amount to be paid and containing the information described in paragraph (5B).
- (5D) A building contractor shall comply with any notice served on the building contractor under paragraph (5A).
- (5E) Part 6 shall apply, with the necessary modifications, to an appeal against an estimate under paragraph (5A) as it applies to an appeal against an assessment and as if for the number “40” in Article 27(1) there were substituted the number “15”.
- (6) Where, before the end of a year of assessment, a person ceases to be a sub-contractor of a building contractor, the building contractor shall give the sub-contractor a written summary of the total deductions made, pursuant to this Article, during that year, from the payments made under the contract to the sub-contractor or person nominated by the sub-contractor for the purpose.
- (7) A building contractor shall, no later than the end of January following a year of assessment, give each person who is, at the end of the year, his or her sub-contractor, a written summary of the total deductions made, pursuant to this Article, during that year, from the payments made under the contract to the sub-contractor or person nominated by the sub-contractor for the purpose.
- (8) A building contractor who fails to comply with paragraph (5) shall be guilty of an offence and liable to a fine of –
- (a) level 4 on the standard scale; and
  - (b) an amount not exceeding the monies not remitted, in contravention of that paragraph.
- (9) Where the secretary or another officer of a body corporate or any other person engaged in the management of the body corporate is deemed to be the building contractor by virtue of Article A15(4) or (5), the body corporate, as well as that person, shall be liable to a fine under paragraph (8) of this Article.
- (10) The imposition of a fine under paragraph (8)(b) shall not discharge the building contractor’s liability to remit the monies required by paragraph (5).
- (11) Where a sub-contractor proves, to the satisfaction of the Comptroller, that a deduction has been made in accordance with paragraph (1) from payments made to the sub-contractor or to a person nominated by the sub-contractor for the purpose, the sub-contractor shall be entitled to have the deduction treated as a payment of tax [and LTC contribution] by the sub-contractor, notwithstanding that the building contractor has failed to remit the amount to the Comptroller in accordance with paragraph (5).
- (12) A building contractor who fails to make a deduction in accordance with paragraph (1) but who remits to the Comptroller the amount required by paragraph (5) may recover that amount from the sub-contractor as a civil debt.

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- (13) A contract shall be void to the extent that it provides for payments to be made without deduction of tax, in contravention of this Article.
  - (14) Where a sub-contractor has arrears of tax for any year of assessment, the fact that deductions are made in accordance with this Article from payments made to the sub-contractor or to a person nominated by the sub-contractor for the purpose shall not prevent the Comptroller pursuing the recovery of those arrears by any means.
  - (15) For the purposes of this Article, the 'specified rate' is –
    - (a) for deductions made in the years 2006 and 2007, 15%;
    - [(b) for deductions made in the years 2008 to 2014 inclusive, 20%;
    - (c) for deductions made in the year 2015 and ensuing years, 21%, being the sum of a rate of 20% for the purposes of deductions of tax and a rate of 1% for the purposes of deduction of LTC contributions.]

### **13 Long-Term Care (Jersey) Law 2012 amended**

Paragraphs 3(b), 5 and 6 of the Schedule to the Long-Term Care (Jersey) Law 2012<sup>9</sup> shall be repealed.

### **14 Citation and commencement**

- (1) These Regulations may be cited as the Social Security (Amendment of Law No. 6) (Jersey) Regulations 2013.
- (2) The following provisions of these Regulations shall come into force on 1st July 2014 –
  - (a) this Regulation and Regulations 1 to 11 and 13.
  - (b) Regulation 12, for the purpose of enabling the Comptroller to serve notices, under Article 41C of the 1961 Law, as modified by Article 49B, inserted in the 1961 Law by these Regulations, of combined effective rates that shall apply from 1st January 2015.
- (3) Regulation 12 shall come into force on 1st January 2015, to the extent that it is not already in force.

**M.N. DE LA HAYE**

*Greffier of the States*

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- 1* chapter 26.900  
*2* L.21/2012  
*3* chapter 26.900  
*4* chapter 24.750  
*5* chapter 24.750  
*6* chapter 26.900  
*7* chapter 26.900  
*8* chapter 24.750.60  
*9* L.21/2012