



Jersey

**ATTENDANCE ALLOWANCES
(JERSEY) LAW 1973**

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ATTENDANCE ALLOWANCES (JERSEY) LAW 1973

Arrangement

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Jersey

ATTENDANCE ALLOWANCES (JERSEY) LAW 1973

A LAW to make provision for the payment of allowances for certain persons requiring attention or supervision in consequence of physical or mental disability, and for connected purposes

Commencement [[see endnotes](#)]

1 Interpretation¹

In this Law, unless the context otherwise requires –

“attendance allowance” means an allowance payable and so called under this Law;

“Board” means the Attendance Allowance Board established in pursuance of Article 6;

“Committee” means the Employment and Social Security Committee;

“Jersey Cost of Living Index” means the cost of living index produced by the Jersey Joint Advisory Council;²

“Jersey Index of Earnings” means the index of earnings produced by the Jersey Joint Advisory Council;³

“maximum income level” has the meaning assigned thereto by Article 4;⁴

“medical practitioner” has the same meaning as “registered medical practitioner” in the Medical Practitioners (Registration) (Jersey) Law 1960;⁵

“Order” means an Order made by the Committee under this Law;

“prescribed” means prescribed by Order;

“Royal Court” means the Inferior Number of the Royal Court;

“Social Security Tribunal” means the Tribunal constituted under Schedule 4 to the Social Security (Jersey) Law 1974.⁶

2 Entitlement to attendance allowance

- (1) Subject to the provisions of this Law, there shall be paid by the Committee, out of monies provided by the States, an allowance (to be known as an “attendance allowance”), for any person who is so severely disabled physically or mentally that the person requires from another person, in connection with his or her bodily functions or in order to avoid substantial danger to the person or others, attention or supervision to such extent as the States shall by Regulations specify.⁷
- (2) Subject to the provisions of this Law, the period for which an attendance allowance is payable for any person shall be that specified in a certificate issued in respect of the person by the Board being a period throughout which the person has satisfied or is likely to satisfy the conditions mentioned in paragraph (1) and which is immediately preceded by a period of not less than 3 months throughout which the person satisfied or is likely to satisfy such conditions.⁸

3 Rate of attendance allowance⁹

- (1) For each year ending 30th September an allowance payable under this Law shall be payable at such monthly rate as the States shall by Regulations specify.
- (2) Subject to the power of the States to alter the rate of any attendance allowance under Article 13, the monthly rate at which any attendance allowance is payable on 30th September in any year shall be increased as from 1st October in that year by the percentage figure halfway between the percentage rise in the Jersey Cost of Living Index and the percentage rise in the Jersey Index of Earnings during the 12 months commencing July of the preceding year.¹⁰
- (3) An attendance allowance payable for part of a month shall be calculated at the rate of 1/30th per day of the monthly rate.
- (4) Provision may be made by Order for adjusting the amount of any attendance allowance payable under this Law so as to avoid fractional amounts or otherwise facilitate computation.

4 Maximum income level¹¹

- (1) For each year ending 30th September the States shall by Regulations specify a maximum income level for all the purposes of this Law.
- (2) Subject to the power of the States to alter a maximum income level under Article 13, a maximum income level applicable on 30th September in any year shall be increased as from 1st October in that year by the percentage figure halfway between the percentage rise in the Jersey Cost of Living Index and the percentage rise in the Jersey Index of Earnings during the 12 months commencing July of the preceding year.¹²

5 Limitation of extent of application of Article 2

No attendance allowance shall be payable –

- (a) unless a claim therefor has been made in the prescribed manner;
- (b) for any period preceding the date on which a claim for it is made;
- (c) unless such requirements as to residence, presence or other matters as may be prescribed are satisfied as respects the person under disability and any person entitled to claim on the person's behalf;
- (d) for any person below the age of 16 years who does not require attention or supervision substantially in excess of that normally required by a person of the same age and sex;
- (e) for any person below the age of 4 years;
- (f) for any person whose income exceeds the maximum income level; and
- (g) for any person being maintained in accommodation at the expense of a Public Authority except for such periods of time and subject to such conditions as the States may by Regulations specify.¹³

6 The Attendance Allowance Board

- (1) There shall be constituted, in accordance with the provisions of the Schedule, an Attendance Allowance Board whose functions shall be –
 - (a) to determine, in accordance with prescribed procedure, any question whether a person satisfies or has satisfied or is likely to satisfy for any period the medical conditions for entitlement to an attendance allowance including any question raised by Article 5(d); and
 - (b) to advise the Committee on such matters as the Committee may refer to them relating to the operation of the provisions of this Law.
- (2) The Board may refer any individual case for investigation and report to one or more persons specially qualified in the opinion of the Board to investigate that case.

7 Determination of questions as to right to allowances

- (1) Subject to the provisions of this Law, provision shall be made by Order for the determination by an officer appointed by the Committee (to be known as the “determining officer”) of any claim for an attendance allowance.
- (2) The determining officer shall be bound by the Board's decision on any matter which the Board is required to determine under this Law.
- (3) The Committee shall appoint such number of medical practitioners (to be known as “designated medical practitioners”) as it thinks necessary whose functions shall be to examine persons in respect of whom claims for attendance allowances are made and to submit medical reports in respect of such persons for the consideration of the Board.
- (4) Orders under paragraph (1) shall provide –
 - (a) for review of an award if a person in respect of whom a claim has been made ceases to satisfy the medical conditions either during

the initial qualifying period specified in Article 2(2) or subsequently;

- (b) following the disallowance of a claim for medical reasons, for a review by the Board;
- (c) for appeals on non-medical grounds to be made to the Social Security Tribunal; and
- (d) for appeals on questions of law to be made to the Royal Court.¹⁴

8 Method of payment, and time for obtaining payment

An attendance allowance shall be payable and receivable at such times, in such manner, and subject to such conditions as may be prescribed.

9 Recovery of allowance not properly payable

- (1) If it is found at any time that an attendance allowance has been paid which was not properly payable, the Committee may require it to be repaid –
 - (a) if it was paid to a person as in his or her own right, by that person; or
 - (b) if it was paid to a person as on behalf of another, either by that person or by that other person:

Provided that the Committee shall not require repayment by a person who is shown to its satisfaction to have acted in good faith in all respects as to the obtaining and receipt of the sum in question.

- (2) If it is found at any time that an attendance allowance properly payable has been paid to a person not being a person by whom it was properly receivable, the Committee may require it to be repaid by the person to whom it was paid:

Provided that the Committee shall not require repayment by a person who is shown to its satisfaction to have acted in good faith in all respects as to the obtaining and receipt of the sum in question.

- (3) In case of the death of a person who could be required to repay a sum under this Article, the Committee may require it to be repaid by the person charged with the administration of the person's personal estate.
- (4) Proceedings for the recovery of any sum which a person is required under this Article to repay to the Committee may be instituted by the Treasurer of the States, either in term or in vacation, and notwithstanding any enactment or rule of law to the contrary, any such proceedings may be brought at any time within 12 months from the time when that sum was paid, or, where the proceedings are for the recovery of a consecutive series of sums, within 12 months from the date on which the last sum of the series was paid.
- (5) Any sum which a person is required under this Article to repay to the Committee may, without prejudice to any other remedy, be recovered by means of deductions from any other sum receivable on account of an allowance by the person to whom the sum was paid, unless it was paid to

that person as on behalf of another, and in that case it may, without prejudice to any other remedy, be recovered by means of deduction from any other sums receivable on account of an allowance by that other person.

10 Allowances to be inalienable

Subject to the provisions of this Law, an attendance allowance or any part of such an allowance shall not be capable of being assigned, charged or attached, nor shall it pass to any other person by operation of law, nor shall any claim be set off against the same except in such cases and subject to such conditions as may be prescribed.

11 Administrative and other expenses

- (1) The Committee may pay to any member of the Board, any designated medical practitioner and any other person whose advice or assistance may be required by the Board such remuneration and expenses as the Committee may determine.
- (2) All expenses incurred in carrying this Law into effect shall be defrayed out of the annual income of the States.

12 Penalty for obtaining or receiving payment wrongfully

If any person –

- (a) with intent to obtain an attendance allowance, either as in that person's own right or as on behalf of another, furnishes any information which the person knows to be false in a material particular, or recklessly furnishes any information which is false in a material particular, or withholds any material information; or
- (b) obtains or receives an attendance allowance or any sum as on account of an attendance allowance, either as in that person's own right or as on behalf of another, knowing that it was not properly payable, or not properly receivable by the person,

that person shall be liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding £500 or to both such imprisonment and such fine.¹⁵

13 Regulations

The States may, by Regulations –

- (a) vary the 6 months qualification period specified in Article 2(2), and the age limits specified in Article 5(d) and (e);
- (b) alter the rate of any attendance allowance payable under this Law;
- (c) alter the maximum income level;
- (d) amend the Schedule to this Law; and

- (e) specify different rates of allowance for different cases or classes of case.¹⁶

14 Orders

- (1) The Committee may make Orders for prescribing anything which under this Law is to be prescribed and generally for carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing –
- (a) for prescribing the manner and time in which claims to allowances may be made and the evidence and information to be supplied in support thereof;
 - (b) for prescribing the manner in which a person's income for the purposes of this Law shall be determined;
 - (c) for determining who shall be entitled to an allowance payable for a person below the age of 16 years or a person incapable of managing his or her own affairs and by whom it shall be receivable; and
 - (d) for prescribing the procedure of the Board.
- (2) The Subordinate Legislation (Jersey) Law 1960¹⁷ shall apply to Orders made under this Law.

15 Reciprocal agreements with other countries¹⁸

- (1) For the purpose of giving effect to any agreement with the government of the United Kingdom or of any part of Her Majesty's dominions, or the government of any other country, (including any agreement between the government of the United Kingdom and the government of any part of Her Majesty's dominions or of any foreign country, which has been extended or applies to Jersey), providing for reciprocity in matters relating to payments for purposes similar to or comparable with the purposes of this Law, it shall be lawful for the States, by Act, to make provision for modifying or adapting this Law in its application to cases affected by the agreement.
- (2) Any Act under this Article may contain such incidental and supplementary provisions as appear to the States to be expedient for the purposes of the Act.

16 Citation

This Law may be cited as the Attendance Allowances (Jersey) Law 1973.

SCHEDULE

(Article 6)

THE ATTENDANCE ALLOWANCE BOARD¹⁹

- 1** The Board shall consist of a Chairman and 6 other members appointed by the States, on the recommendation of the Committee.
- 2** The Chairman and at least 4 of the other members of the Board shall be medical practitioners.
- 3** For the purpose of carrying out its functions in relation to any particular claim the Board shall consist of the chairman and 2 other members, at least one of whom shall be a medical practitioner, appointed by the Committee.
- 4** The Chairman and other members of the Board shall hold office for a period of 3 years, but any member may by notice in writing to the Committee resign office at any time and shall be eligible for re-appointment from time to time on or after the expiration of the member's term of office.
- 5** Where the Chairman of the Board is unable to act, the Committee shall designate one of the 4 other members of the Board to act as deputy chairman.
- 6** If, in the opinion of the Committee, a member becomes unfit to continue in office or is incapable of performing the member's duties, the Committee shall recommend to the States that the office be declared vacant.

ENDNOTES**Table of Legislation History**

Legislation	Year and Number	Commencement
Attendance Allowances (Jersey) Law 1973	L.12/1973	1 September 1973 (R&O.5850)
Attendance Allowances (No. 2)(Jersey) Regulations 1975	R&O.6131	1 May 1975
Attendance Allowances (Amendment) (Jersey) Law 1975	L.6/1975	26 July 1975
Attendance Allowances (No. 3)(Jersey) Regulations 1976	R&O.6333	22 September 1976
Attendance Allowances (Amendment No. 2) (Jersey) Law 1984	L.21/1984	14 September 1984
Attendance Allowances (Amendment No. 3) (Jersey) Law 1986	L.23/1986	1 October 1986 (R&O.7627)
Attendance Allowances (Amendment No. 4) (Jersey) Law 1991	L.14/1991	1 September 1991 (R&O.8256)
Loi (1998) (Amendement) au sujet des témoins et informateurs	L.44/1998	18 December 1998
Criminal Procedure (Prescription of Offences) (Jersey) Law 1999	L.23/1999	23 July 1999

Table of Renumbered Provisions

Original	Current
1(1)	1
1(2)	spent, omitted from this revised edition
2A	3
2B	4
3	5
4	6
5	7
6	8
7	9
8	10
9	11
10	12
11(1)	repealed by L.23/1999
11(2)	repealed by L.23/1999

Original	Current
11(3)	deleted by L.44/1998
12	13
(aa)	(b)
(ab)	(c)
(b)	(d)
(c)	(e)
13	14
13A	15
14	16

Table of Endnote References

¹ Article 1	<i>definition “the Insular Insurance Tribunal” deleted by L.23/1986</i>
² Article 1	<i>definition “ Jersey Cost of Living Index” inserted by L.23/1986</i>
³ Article 1	<i>definition “ Jersey Index of Earnings” substituted by L.14/1991; former definition inserted by L.23/1986</i>
⁴ Article 1	<i>definition “maximum income level” inserted by L.23/1986</i>
⁵	<i>chapter 20.600</i>
⁶	<i>chapter 26.900</i>
Article 1	<i>definition “Social Security Tribunal” inserted by L.23/1986</i>
⁷ Article 2(1)	<i>amended by L.23/1986</i>
⁸ Article 2(2)	<i>amended by R&O.6131</i>
⁹ Article 3	<i>inserted by L.23/1986</i>
¹⁰ Article 3(2)	<i>amended by L.14/1991</i>
¹¹ Article 4	<i>inserted by L.23/1986</i>
¹² Article 4(2)	<i>amended by L.14/1991</i>
¹³ Article 5	<i>amended by L.23/1986, R&O.6131</i>
¹⁴ Article 7(4)	<i>amended by L.23/1986</i>
¹⁵ Article 12	<i>amended by L.21/1984</i>
¹⁶ Article 13	<i>amended by L.23/1986</i>
¹⁷	<i>chapter 15.720</i>
¹⁸ Article 15	<i>inserted by L.6/1975</i>
¹⁹ Schedule	<i>paragraphs 1 and 2 substituted by R&O.6333</i>