

Exception from liability to pay contributions

Article 7 of this Order provides that an insured person shall be excepted from having to pay any contributions from the point they claim a reduced old age pension under Article 25(1A) of the Law or if they do not claim this from the end of the month that they reach their specified pensionable age;

- (1) *An insured person shall be excepted from liability to pay Class 2 or Class 1 primary contributions –*
 - (a) *from the end of the month in which the person becomes entitled to a reduced old age pension under Article 25(1A) of the Law; or*
 - (b) *if the person does not become entitled to such a pension, from the end of the month in which the person attains pensionable age.*
- (2) *For the purposes of this Article, a woman who was insured under the Law of 1950 shall be deemed to reach pensionable age on her 60th birthday.*
- (3) *For the avoidance of doubt, nothing in this Article shall relieve an employer of any liability imposed on the employer by the Law in relation to secondary Class 1 contributions.'*

Articles 12 and 13 of this Order provides the circumstances under which a class 2 insured person can apply to be excepted from the liability to pay those contributions.

Article 12 on the grounds of their expected income for the current year being below a specified amount;

- (1) *A Class 2 insured person is eligible to apply for an exception from liability to pay Class 2 contributions under this Article if the person's estimated total income for the year for which the person applies for the exception, after the amounts described in paragraph (3) have been disregarded, does not exceed the specified amount for that year.*
- (2) *The "specified amount" for the year is one third of the annual equivalent of the standard monthly earnings limit for Class 2 contributions.'*

Article 13 on the grounds of their income having been below a specified earnings limits in a year of assessment; determined in accordance with Article 13B of the Order;

- (1) *A Class 2 insured person is eligible to apply for an exception from liability to pay contributions in a year under this Article if –*
 - (a) *the sum of the person's income from self-employment and Class 1 earnings (if any) is less than the lower earnings limit; and*
 - (b) *the person's total income is less than two thirds of the standard earnings limit.*
- (2) *A person applying for an exception under this Article must –*
 - (a) *make the application, in writing, to the Minister; and*
 - (b) *produce his or her tax assessment and such additional evidence as the Minister may require of the person's income and earnings described in paragraph (1) for the relevant income tax year of assessment.*
- (3) *If the person was in full-time education or training in the year before the concession year the Minister may accept evidence of an estimate of the person's income from self-employment, Class 1 earnings and total income for the current year.^[45]*
- (4) *The Minister shall, on an application being made by an eligible person in accordance with paragraph (2), grant the person an exception from liability to pay Class 2 contributions for the period from –*
 - (a) *1st January, if the application is made on or before 15th June in the same year;*
 - (b) *1st April, if the application is made on or before 15th September in the same year;*
 - (c) *1st July, if the application is made on or before 15th December in the same year; or*

(d) 1st October, if the application is made on or before 15th March in the following year,
to the end of the year.’

Article 13B of this Order then determines the relevant year for the purposes of Article 13;

‘In Articles 13 and 13A –

- (a) *a reference to the income from self-employment of a person making an application under the Article is a reference to that income for the relevant income tax year of assessment;*
- (b) *a reference to the Class 1 earnings of a person making an application under the Article is a reference to the person’s earnings from Class 1 employment for the relevant income tax year of assessment;*
- (c) *a reference to the total income of a person making an application under the Article is a reference to that income for the relevant income tax year of assessment;*
- (d) *the “lower earnings limit” means the annual equivalent of the lower monthly earnings limit for the year to which an application relates;*
- (e) *the “standard earnings limit” means the annual equivalent of the standard monthly earnings limit for the year to which an application relates;*
- (f) *the “relevant income tax year of assessment” is the second year preceding the concession year; and*
- (g) *the “concession year” means the year in which, if a person’s application under Article 13 or 13A is granted, the period described in Article 13(4) or 13A(7) applicable in the person’s case would fall.’*

Article 16 of this Order provides further clarification on the circumstances under which an insured person liable for class 2 contributions who is nearing pensionable age is able to be excepted from liability to pay those contributions;

- (1) *An insured person who is liable for Class 2 contributions and who, having attained the Class 2 contribution exception age specified in his or her case by paragraph 4 of Schedule 1AA to the Law retires from gainful occupation, shall be excepted from liability to pay contributions under the Law to the extent and subject to the conditions set out below, namely –*
 - (a) *a person desiring to be so excepted shall make application to the Minister for that purpose in such form as may for the time being be approved by the Minister and, if the application is granted, shall be excepted from liability to pay contributions under the Law in respect of the period beginning with the beginning of the month following the month in which the application is made and, subject to paragraph (3), ending at the time the person attains pensionable age:
Provided that a person who is entitled to be excepted from liability to pay contributions under the provisions of Article 12 shall not be entitled to claim exception under the provisions of this Article;*
 - (b) *a person to whom an exception has been granted may give notice to the Minister at any time while it is in force that the person desires the exception to be cancelled, and if such notice is so given, the exception shall cease to be in force from the beginning of the month following that in which notice of cancellation is given.*
- (2) *Notwithstanding anything in this Order to the contrary, a person who has been excepted from liability to pay contributions under the provisions of this Article shall not be entitled to pay contributions in respect of any period during which the person was so excepted.*
- (3) *If a person granted an exception under this Article subsequently commences gainful occupation, the exception shall end at the end of the month in which the person commences gainful occupation.^[76]*

- (4) *A person who ceases to be entitled to an exception under this Article shall notify the Minister before the end of the month in which the change in the person's circumstances occurs or, if later, within 2 working days after that change occurs*
- (5) *A person who ceases to be entitled to an exception under this Article by reason of commencing employment shall forthwith notify his or her employer that the exception has ended.'*

This Order also provides for situations where depending on their circumstances an insured person may be excepted from liability to pay contributions under the Law and may also receive credits to their contribution record.

Articles 1 of this Order relates to where an insured person is unemployed;

- (1) *Subject to paragraphs (2) and (3) and Articles 2, 5, and 15, an insured person shall be excepted from liability to pay a contribution under the Law for any period of at least 7 consecutive days of unemployment if the person proves to the satisfaction of the Minister that he or she has become unemployed following employment in an employed person's employment and that he or she normally relies upon such employment for his or her livelihood, and Class 1 contributions shall be credited in accordance with Article 15 to the person in respect of each day in that period.*
- (2) *A contribution shall not be credited to any person under this Article for any period of unemployment unless the person furnishes, in respect of every day of unemployment in that period, the proof required by Article 2(1)(a)(i) by a declaration or declarations in writing made at the office of an administration of the States for which the Minister is assigned responsibility on such days and at such intervals as the Minister may require.*
- (3) *A person shall not be excepted from liability and contributions shall not be credited in respect of any period that is more than 6 months before the day that the Minister is satisfied as to the proof required under paragraph (1)'*

Article 2 of this Order contains provisions for determining days of unemployment for the purposes of Article 1;

- (1) *For the purposes of Article 1 the following provisions shall apply –*
 - (a) *a day shall not be a day of unemployment –*
 - (i) *unless on that day the person concerned proves, in such a manner as the Minister may require, that the person is unemployed and capable of work and available for employment in an employed person's employment,*
 - (ii) *if on that day the person concerned does not work, and is on holiday,*
 - (iii) *if on that day the person concerned is following any gainful occupation, unless –*
 - (A) *that occupation could ordinarily have been followed by the person in addition to the person's usual employment and outside the ordinary working hours of employment, and*
 - (B) *the earnings derived therefrom, in respect of that day do not exceed one seventh of the standard rate of benefit, or where the earnings are earned in respect of a period longer than a day, the earnings do not on the daily average exceed that amount;*
 - (b) *where in respect of any day a person places restrictions on the nature, hours, rate of remuneration or locality or other conditions of employment which the person is prepared to accept and as a consequence of those restrictions has no reasonable prospects of securing employment, that day shall not be treated as a day of unemployment unless –*
 - (i) *the person is prevented from having reasonable prospects of securing employment consistent with those restrictions only as a result of adverse industrial conditions in Jersey which may reasonably be regarded as*

- temporary, and, having regard to all the circumstances, personal and other, the restrictions which the person imposes are reasonable,
- (ii) the restrictions are nevertheless reasonable in view of the person's physical condition, or
 - (iii) the restrictions are nevertheless reasonable having regard both to the nature of the person's usual occupation and also to the time which has elapsed since the person became unemployed;
- (c) where the person concerned has lost employment in an employed person's employment by reason of a stoppage of work which was due to a trade dispute at the person's place of employment, the period during which the stoppage of work continues shall not be a period of unemployment, except in a case where, during the stoppage of work, the person has become bona fide employed elsewhere in the occupation which the person usually follows or has become regularly engaged in some other occupation:
 Provided that this sub-paragraph shall not apply in the case of a person who proves –
- (i) that the person is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work, and
 - (ii) that the person does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the person's place of employment any of whom are participating in or financing or directly interested in the dispute;
- (d) where the person concerned –
- (i) has lost the person's employment in an employed person's employment through the person's misconduct, or has voluntarily left such employment without just cause,
 - (ii) after a situation in any suitable employment has been notified to the person by an officer in an administration of the States for which the Minister is assigned responsibility, or by or on behalf of an employer, as vacant or about to become vacant, has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to the person,
 - (iii) has neglected to avail himself or herself of a reasonable opportunity of suitable employment, or
 - (iv) has without good cause refused or failed to carry out any written recommendations given to the person by an officer in an administration of the States for which the Minister is assigned responsibility with a view to assisting the person to find suitable employment, being recommendations which were reasonable having regard to the person's circumstances and to the means of obtaining that employment usually adopted,
- the period thereafter during which the person is unemployed shall not, unless the Minister otherwise determines, be a period of interruption of employment;
- (e) where the person concerned is a seasonal worker, no day during the person's off-season shall be a day of unemployment;
- (f) any period in respect of which the person concerned –
- (i) is disqualified for receiving incapacity benefit or maternity allowance by any Order made under Article 18 or Article 22 respectively of the Law, or
 - (ii) is unable to satisfy any additional conditions with respect to the receipt of incapacity benefit imposed in the person's case by any Order made under Article 18 of the Law,
- shall not be a period of unemployment;
- (g) any period in respect of which the person concerned is disqualified for receiving incapacity benefit or maternity allowance by any Order made under Article 29(1)(c) of the Law shall not be a period of unemployment.^[14]
- (2) For the purposes of paragraph (1)(d), employment shall not be deemed to be employment suitable in the case of a person if it is employment in a situation vacant in consequence of a stoppage of work due to a trade dispute.
- (3) In this Article –

“off-season” means, in relation to a seasonal worker, that part, or, if more than one part, those parts, of the year during which the worker is not normally employed;
“place of employment”, in relation to any person, means the factory, workshop, farm or other premises or place at which the person was employed, so, however, that where separate branches of work which are commonly carried on as separate business in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall, for the purposes of this Article be deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be;

“seasonal worker” means an insured person whose normal employment is for a part or parts only of a year in an occupation or occupations of which the availability or extent varies with the season of the year, or any other insured person who normally restricts his or her employment to the same, or substantially the same, part or parts only of the year;

“trade dispute” means any dispute between employers and employees or between employees and employees which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises or not;

“year” (where used in the definitions of “off season” and “seasonal worker”) means the period of 12 months commencing with the first day in the calendar year on which the person concerned begins a period of normal employment.’

Article 3 of this Order relates to where an insured person is incapable of work;

- (1) Subject to paragraph (3) and Articles 4 and 5, an insured person shall be excepted from liability to pay a contribution under the Law for any period during which the person is incapable of work and, in the case of a Class 1 insured person, is not in receipt of earnings from his or her employer.*
- (2) Subject to paragraph (3), an insured person who has been excepted from liability to pay a contribution for any period in excess of one day by virtue of paragraph (1) shall be credited, for that period, with contributions of the appropriate class in accordance with and subject to the provisions of Article 15:
Provided that the person has paid contributions before the end of the relevant quarter and the annual contribution factor derived from those contributions is not less than 0.25.*
- (3) A person shall not be excepted from liability and contributions shall not be credited in respect of any period that is more than 6 months before the person furnishes to the Minister such evidence as the Minister requires of the matters described in paragraph (1).’*

Article 4 of this Order contains provisions for determining days of incapacity for work for the purposes of Article 3;

- (1) For the purposes of Article 3, a day shall not be a day of incapacity for work unless on that day the person concerned is incapable of work by reason of some specific disease or bodily or mental disablement.*
- (2) For the purposes of Article 3, the following provisions shall apply –*
 - (a) a day which is, in accordance with any Order made under Article 18 of the Law, treated for the purposes of incapacity benefit as a day of incapacity for work shall be a day of incapacity for work for the purposes of this Article, but any day which under any such Order is treated as not being such a day shall not be a day of incapacity for those purposes;*
 - (b) any period in respect of which the person concerned is disqualified for receiving incapacity benefit by reason of the provisions of any Order made under Article 18 of the Law shall not be a period of incapacity for work;*

- (c) *any period in respect of which the person concerned is disqualified for receiving incapacity benefit by reason of the provisions of any Order made under Article 29(1)(c) of the Law shall not be a period of incapacity for work.'*

Article 6 of this Order relates to insured persons in receipt of long term incapacity allowance;

- (1) *Subject to paragraph (5), an insured person who is in receipt of long term incapacity allowance shall, if the percentage of the person's degree of incapacitation is specified in Column 1 of Schedule 3, be excepted from liability to pay a contribution under the Law for the period of months specified in respect of that percentage in Column 2 of Schedule 3.*
- (2) *Subject to paragraph (5), an insured person who has been excepted from liability to pay a contribution for any period by virtue of paragraph (1) shall be credited, for that period, with contributions of the appropriate class in accordance with and subject to the provisions of Article 15.^[22]*
- (3) *If an insured person is in receipt of long term incapacity allowance in respect of incapacitation arising independently from each of 2 or more relevant diseases or injuries, the person's exception under this Article from liability to pay a contribution and the contributions with which the person is entitled under this Article to be credited shall be calculated on the aggregate of the percentages of the person's degrees of incapacitation.*
- (4) *However, to the extent that the aggregate of those percentages exceeds 100%, it shall be disregarded.*
- (5) *A person shall not be excepted from liability and contributions shall not be credited in respect of any period before the commencement of the period for which the person receives long term incapacity allowance.'*

Article 6A of this Order relates to persons in receipt of incapacity pension;

- (1) *Subject to paragraph (3), an insured person who is in receipt of an incapacity pension shall be excepted from liability to pay a contribution under the Law for the period from the date on which the person becomes entitled to that pension until the end of the month before the one in which the person attains pensionable age.*
- (2) *An insured person who has been excepted from liability to pay a contribution for any period by virtue of paragraph (1) shall be credited, for that period, with contributions of the appropriate class in accordance with and subject to paragraph (3) and Article 15.*
- (3) *A person shall not be excepted from liability and contributions shall not be credited in respect of any period before the commencement of the period for which the person receives the incapacity pension.'*

Article 8 of this Order relates to insured persons who are imprisoned or detained in legal custody;

- (1) *An insured person shall be excepted from liability to pay a contribution under the Law for any month during the whole of which the person is undergoing imprisonment or detention in legal custody, but contributions under this Order shall not be credited in respect of any such month except in respect of any month for which, on release, incapacity benefit is payable in accordance with any Order made under the Law, and then only in accordance with and subject to the provisions of Articles 3 and 4.*
- (1A) *Paragraph (1) shall not apply to a person undergoing imprisonment or detention in custody who, in any week, is undertaking paid work outside the prison or other place of detention as part of a programme of rehabilitation for more than the number of hours prescribed for the period of a week under Article 5(3)(b) of the Law.*
- (2) *If any person to whom paragraph (1) is applicable so desires, the person may for any such month pay a Class 2 contribution –*
- (a) *at any time before the month following the one in which the person becomes entitled to a reduced old age pension under Article 25(1A) of the Law; or*

- (b) *if the person does not become entitled to such a pension, at any time before the person attains pensionable age.*
- (3) *The contribution payable under paragraph (2) shall be the full rate Class 2 contribution applicable at the date of payment in relation to the person.'*

Article 9 of this Order relates to insured persons in receipt of survivor's allowance;

- (1) *A woman shall be excepted from liability to pay a contribution under the Law to the extent and subject to the conditions set out below in respect of any month for which survivor's allowance is payable to her, namely –*
 - (a) *if she has made application to the Minister for exception from such liability and that application has been granted, she shall be excepted from liability to pay a contribution under the Law in respect of any month during which she is so excepted:*
 - Provided that –*
 - (i) *she may give notice to the Minister at any time while she is so excepted that she desires the exception to be cancelled; and, if such notice is so given, the exception shall cease to be in operation from the end of the current contribution month or such other date as the Minister may determine,*
 - (ii) *she shall notify her employer of any such exception granted to her and give her employer her contribution liability notice in the form "XR1", and, if she exercises the foregoing right to cancel such an exception she shall forthwith notify her employer to that effect, apply for a contribution liability notice in the form "FR1", and give such notice to her employer,*
 - (iii) *if immediately before the death of her husband she was a Class 1 insured person who had elected not to pay, or was a Class 2 insured person who had not elected to pay, contributions as such a person, such an application shall be deemed to have been made and granted, unless she notifies the Minister to the contrary.*
- (2) *A contribution as a Class 2 insured person shall be credited to a woman in respect of any month specified in paragraph (1), not being a month in respect of which a contribution is payable under the Law or a month in respect of which any such contribution is credited to her in accordance with the provisions of Articles 3 and 10 of this Order.*
- (3) *The provisions of paragraphs (1) and (2) shall apply mutatis mutandis to a man in receipt of survivor's allowance.'*

Article 9A of this Order relates to insured persons in receipt of home carer's allowance'

- (1) *An insured person who is in receipt of home carer's allowance shall be excepted from liability to pay a contribution under the Law in respect of any month for which the person has applied to the Minister for, and been granted by the Minister, such exception.*
- (2) *An insured person who has been excepted from liability to pay a contribution for any month by virtue of paragraph (1) shall be credited, for that month, with contributions of the appropriate class in accordance with and subject to the provisions of Article 15.*
- (3) *A person shall not be excepted from liability and contributions shall not be credited in respect of any period before the commencement of the period for which the person receives home carer's allowance.'*

Article 10 of this Order relates to persons in full time education;

- (1) *An insured person shall be excepted from liability to pay a contribution as a Class 2 insured person for any month during the whole of which the person is engaged in full-time education.*

- (2) For any month of such education, a person may, if the person so desires, pay a contribution as a Class 2 insured person and such payment may be made at any time before the person attains pensionable age:
Provided that any contribution so paid shall be the full rate Class 2 contribution applicable at the date of payment.
- (3) To any person who –
 - (a) is excepted from liability to pay contributions under paragraph (1);
 - (b) has attained the age of 18 years but has not attained pensionable age; and
 - (c) is ordinarily resident in Jersey,
 there shall be credited for each month during which the person is so excepted (but for a maximum period or periods not exceeding 3 years in the aggregate) a Class 2 contribution.’

Article 14 of this Order relates to home responsibility credits for the full time care of a child of the family aged below compulsory school age;

- (1) *An insured person who is not entitled to incapacity benefit shall be excepted from liability to pay a contribution under the Law in respect of any period during which the person has the full-time care of a child of the family who is below compulsory school age, if –*
 - (a) *the insured person has been ordinarily resident in Jersey for the period of 6 months immediately preceding each period during which the person is excepted under this Article from liability;*
 - (b) *the person has made application to the Minister for exception from such liability; and*
 - (c) *the Minister has granted the application.*
- (2) *If the Minister grants the application, contributions shall be credited to the person in respect of each period during which the person is excepted by the Minister under this Article.*
- (3) *An exception under this Article may only be granted in respect of one child who is for the time being below compulsory school age, and such exceptions shall not be granted for a period or periods that in the aggregate exceed 10 years.*
- (4) *If the Minister by notice in writing to the insured person requires the person to do so, the insured person shall from time to time while the person remains excepted under this Article furnish to the Minister such information as the Minister requires to confirm that the person remains eligible to be so excepted.*
- (5) *The insured person shall forthwith notify the Minister in writing if, by reason of any change in the person’s circumstances, the person ceases to be eligible to be excepted under this Article.*
- (6) *The Minister may cancel the exception of the insured person if the person fails to comply with a requirement under paragraph (4).*
- (7) *The Minister shall cancel the exception of the insured person if –*
 - (a) *the person gives notice to the Minister at any time while the person is so excepted that the person desires the exception to be cancelled; or*
 - (b) *the person ceases to be eligible to be excepted under this Article.*
- (8) *If the exception of the insured person is cancelled, the exception shall cease to be in operation from the end of the current contribution month or from such other date as the Minister may determine.*
- (9) *For the purposes of this Article, an insured person who has the care of a child has its full-time care if the insured person does not undertake any gainful occupation for any period exceeding –*
 - (a) *15 hours; or*
 - (b) *such other length of time as the Minister may determine, in any week.*
- (10) *Any contribution credited to a person by virtue of this Article shall be taken into account only for the purposes of survivor’s benefit, incapacity pension, old age pension, home carer’s allowance and death grant.’*

A further Order made under Article 11 of the Law is the **Social Security (Married Women) (Jersey) Order 1974**. This provides for a women who was married prior to 1 April 2001 and an insured person on that date to elect not to pay contributions;

Article 2 of this Order stipulates who the Order is applicable to;

- '(1) This Order applies only to a woman who –
- (a) was married before 1st April 2001; and
 - (b) is an insured person at 1st April 2001.
- (2) This Order shall cease to apply to a woman if she remarries after 1st April 2001.'

Article 3 of this Order relates to the election to be excepted form liability to pay contributions;

- (1) A woman may elect once not to be liable, and thereafter shall not be liable, to pay contributions under the Law in respect of any period during which she is married.
- (2) Nothing in this Article shall relieve an employer of any liability imposed on the employer by the Law in relation to employers' secondary Class 1 contributions.
- (3)
 - (a) Any such election by a married woman not to pay contributions may be made by her at any time by giving notice in writing to the Minister to that effect, and the election shall be operative from the beginning of the month next following the month in which the notice was given or from such other date as the Minister may allow.
 - (b) Any such election by a married woman may be cancelled by her at any time by giving notice in writing to the Minister to that effect, and such cancellation shall be operative from the beginning of the month next following the month in which notice was given or from such other date as the Minister may allow.
- (4) A married woman who is a Class 1 insured person and who elects not to pay contributions or who cancels any such election in accordance with the provisions of this Article shall forthwith notify her employer of such election or cancellation, as the case may be.'