



Jersey

## **SOCIAL SECURITY (COLLECTION OF CONTRIBUTIONS) (JERSEY) ORDER 2013**

### **Arrangement**

#### **Article**

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## **SOCIAL SECURITY (COLLECTION OF CONTRIBUTIONS) (JERSEY) ORDER 2013**

*Made*

*Coming into force*

**THE MINISTER FOR SOCIAL SECURITY**, in pursuance of Articles 1(5), 3, 7, 8, 10, 11, 13, 36 and 51 of the Social Security (Jersey) Law 1974, orders as follows –

### **1 Interpretation**

In this Order, unless the context otherwise requires –

“contribution” means a contribution payable under the Law;

“contribution liability notice” means a notification of the code “FR1” or “XR1” in accordance with Article 2;

“contribution liability code” means the letters “FR1” or “XR1”, as the case may be, as notified in accordance with Article 2;

“contribution quarter” means a period of 3 months commencing 1st January, 1st April, 1st July or 1st October in any year;

“contribution schedule” means the schedule to be delivered in accordance with Article 4(1);

“Department” means the Social Security Department;

“employee” means an employed person over school leaving age –

- (a) who is a Class 1 insured person under Article 3(2) (a) of the Law and not treated as a Class 2 insured person by Order under Article 3(3) of the Law; or
- (b) who is treated as a Class 1 insured person by an Order under Article 3(3) of the Law;

“inspector” has the same meaning as in Article 35 of the Law;

“Law” means the Social Security (Jersey) Law 1974.

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**2 Social security numbers and contribution liability notices**

- (1) A person on becoming an insured person must apply to the Department for –
  - (a) a social security registration number; and
  - (b) a contribution liability notice.
- (2) The contribution liability notice shall take the form of a code comprising –
  - (a) the letters “FR1” in the case of a person who is liable for contributions; and
  - (b) the letters “XR1” in the case of a person who is not liable for contributions.
- (3) The application must be made –
  - (a) not later than the end of the month in which the person becomes an insured person; and
  - (b) in the manner directed by the Department.
- (4) An insured person who has a contribution liability notice in the form “XR1” and who becomes liable for contributions must, within 7 days of becoming so liable, apply to the Department for a contribution liability notice in the form “FR1”.
- (5) An insured person who has a contribution liability notice in the form “FR1” and is no longer liable for contributions must, as soon as reasonably practicable, apply to the Department for a contribution liability notice in the form “XR1”.
- (6) An employee must give his or her social security number and contribution liability notice to the employer not later than 2 working days after starting the employment.
- (7) An employer must not –
  - (a) employ an employee for more than 2 days unless the employee has given the employer his or her social security number and contribution liability notice in accordance with paragraph (6); or
  - (b) pay earnings in respect of that employment until the social security number and contribution liability notice is so given.

**3 Periods of absence**

If an insured person whose liability to pay contributions ceased during a period of absence from Jersey returns to Jersey and becomes ordinarily resident in Jersey, the person must, within 7 days of becoming ordinarily resident, inform the Department.

**4 Contribution schedule**

- (1) An employer must deliver a contribution schedule to the Department no later than 15 days after the last day of each contribution quarter.
- (2) The contribution schedule shall –

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- (a) be in a form approved by the Department;
  - (b) contain all the information the Department requires to determine the contributions payable in respect of each employee of the employer for that quarter;
  - (c) contain the date of termination of employment in respect of any employee whose employment has terminated (for any reason) during that quarter; and
  - (d) contain a declaration signed by or on behalf of the employer that the information given in the statement is true to the best of the employer's knowledge.

## **5 Class 1 contributions**

- (1) Except as provided in paragraph (2), an employer shall pay to the Department upon demand being made by the Department after the end of each contribution quarter the Class 1 contributions payable in respect of each employee of the employer for that quarter.
- (2) An employer employing more than 80 employees on the last day of the first month in a contribution quarter shall (and any other employer may) pay the Class 1 contributions payable in respect of each employee of the employer for each month in that quarter not later than 15 days after the end of each month.
- (3) A payment made in accordance with paragraph (2) shall be accompanied by a payment advice note.
- (4) The payment advice note shall –
  - (a) be in a form approved by the Department; and
  - (b) contain all the information the Department requires to determine the contributions payable in respect of each employee of the employer for that month.
- (5) An employer may recover a primary Class 1 contribution payable by the employer in respect of an employee by deducting an amount equal to the contribution from earnings payable by the employer to the employee.
- (6) However an employer must not deduct –
  - (a) from any one payment of earnings an amount that is more than the amount of the primary Class 1 contributions payable by the employee in respect of the earnings; or
  - (b) a total amount in any month that exceeds the maximum primary Class 1 contributions payable by the employee in respect of the earnings for that month.

## **6 Class 2 contributions**

- (1) Except as provided by paragraph (2), an insured person liable to pay a Class 2 contribution in respect of a month shall pay the contribution payable in respect of that month to the Department not later than 15 days after the end of the contribution quarter in which that month falls.

- (2) The Department may, in any particular case or type of case, extend the time limit for payment of Class 2 contributions by up to 2 months.
- (3) A person required to make a payment under paragraph (1) shall submit a payment advice note with the payment.
- (4) The payment advice note required by paragraph (3) shall –
  - (a) be in a form approved by the Minister; and
  - (b) contain all the information the Department requires to determine the contributions payable in respect of the person for the contribution quarter.
- (5) Subject to paragraphs (1) to (4), a person who is entitled to pay Class 2 contributions may pay those contributions by instalments.

## **7 Maintenance and inspection of employers' records**

- (1) An employer shall maintain, in respect of each employee, records of –
  - (a) the dates and amounts of all earnings paid by the employer each month;
  - (b) the deductions of contributions made from those earnings;
  - (c) the employee's social security number and contribution liability code.
- (2) The employer shall –
  - (a) retain the records required under this Article for 6 years; and
  - (b) during that time make them available for inspection by an inspector if so required.

## **8 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 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.

## **9 Death of employer**

When an employer dies anything that the employer would have been liable to do under this Order shall be done by –

- (a) the employer's personal representatives; or
- (b) in the case of an employer who paid earnings on behalf of another person, by the person succeeding that employer or, if there is no such person, the person on whose behalf the employer paid the earnings.

## **10 Succession to a business, etc.**

If there is a change in the employer from whom an employee receives earnings, such change occurring by reason of the trade, business or other undertaking of

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the employer being transferred from one person to another, the employer after the change shall be liable to do anything that the employer before the change would have been liable to do under this Order had the change not taken place.

#### **11 Employer's duty to notify Minister**

- (1) A person who becomes an employer must notify the Minister of –
  - (a) the person's name; and
  - (b) the person's address and, if any, the person's registered office.
- (2) A person must notify the Minister if the person ceases to be an employer.
- (3) An employer must notify the Minister if the employer ceases trading or becomes bankrupt or is otherwise wound up.
- (4) Where the employer becomes bankrupt or is otherwise wound up, the person responsible for the administration of the bankruptcy or winding up must notify the Minister that the person is so responsible.
- (5) An employer must notify the Minister of a change of the employer's address or, if any, the employer's registered office.
- (6) An employer must notify the Minister of a change in the shareholdings in the employer or a change in the persons having control of the employer if the employer knows or suspects that, by virtue of the change, an insured person is reclassified, pursuant to the Social Security (Classification) (Jersey) Order 1974.
- (7) A notice required by this Article must be given within 2 days of the occurrence to which it relates.

#### **12 Abnormal pay practice**

- (1) This Article applies where an employer follows an abnormal pay practice that has the effect of avoiding or reducing contribution liability.
- (2) Where this Article applies the Department may treat any payment of earnings as having been made in the month in which it would have been made had the employer followed normal pay practice.
- (3) If, as a result of paragraph (2), contributions become payable or increased contributions become payable in respect of an employee the employer shall be liable for the contributions or the increase in the contributions.
- (4) An employer shall not be entitled to recover from the employee any amount paid by the employer under paragraph (3).

#### **13 Monthly equivalent of standard rate of benefit**

The monthly equivalent of the standard rate of benefit shall be 4 and one third times the standard rate of benefit.

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**14 Application for supplementation**

- (1) This Article applies where a person claims to be entitled to have his or her contributions supplemented out of the Social Security Fund in accordance with Article 9 of the Law.
- (2) An application for supplementation must –
  - (a) be made in writing in such form as the Department may approve or direct; and
  - (b) be accompanied by such evidence of the applicant's income and contributions the applicant has paid or been credited with as the Minister may require.
- (3) The Department shall not approve the application unless it is satisfied that the sum of the contributions that the applicant is required to pay and entitled to be credited with entitles the applicant to have those contributions supplemented in accordance with Article 9 of the Law.
- (4) Despite paragraph (3), the Department shall not approve the application if it is satisfied that applicant has intentionally arranged his or her affairs to take advantage of Article 9 of the Law.

**15 Offences**

A person who contravenes or fails to comply with a requirement of this Order shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

**16 Revocation of Social Security (Collection of Contributions) (Jersey) Order 2001**

The Social Security (Collection of Contributions) (Jersey) Order 2001 is revoked.

**17 Amendment to Social Security (Classification) (Jersey) Order 1974**

In Part 2, Schedule 1 to the Social Security (Classification) (Jersey) Order 1974 for paragraph 9 in column (A) there shall be substituted the following paragraph –

- “9. Employment of a person by any one employer on any day or days in a week in which that person renders services in that employment where such services are rendered for 8 hours or less in that week.”.



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**18 Citation and commencement**

This Order may be cited as the Social Security (Collection of Contributions) (Jersey) Order 2013 and shall come into force on 1st July 2013.

*Signed*.....

*Date*.....

*Minister for Social Security*

