



Jersey

**LONG-TERM CARE (BENEFITS)  
(JERSEY) ORDER 2014**

**Revised Edition**

26.600.10

Showing the law as at 1 January 2015

This is a revised edition of the law





Jersey

## LONG-TERM CARE (BENEFITS) (JERSEY) ORDER 2014

### Arrangement

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#### Article

1	Interpretation .....	5
2	Meaning of “asset” .....	7
3	Meaning of “carer” .....	8
4	Meaning of “deemed income” .....	9
5	Meaning of “dependent” .....	9
6	Meaning of “income” .....	10
7	Meaning of “loan” .....	11
8	Rates for long-term care benefit comprising standard care costs .....	12
9	Conditions for receiving a long-term care benefit comprising standard care costs .....	13
10	Amount required to be paid towards standard care costs .....	14
11	Co-payment benefits – grants to meet the costs referred to in Article 9(b) and (c) .....	15
12	Co-payment benefits – loans to meet the costs referred to in Article 9(b), (c) and (d) .....	15
12A	Circumstances where benefits are reduced .....	18
13	Determining the value of a person’s assets .....	19
14	Matters relating to valuations of property and assessments of income .....	20
15	Repayment of loans .....	21
16	Citation .....	21

### Supporting Documents

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<b>ENDNOTES</b>	<b>22</b>
Table of Legislation History .....	22
Table of Renumbered Provisions .....	22
Table of Endnote References .....	22





Jersey

## **LONG-TERM CARE (BENEFITS) (JERSEY) ORDER 2014**

**THE MINISTER FOR SOCIAL SECURITY**, in pursuance of Articles 3, 4 and 16 of the Long-Term Care (Jersey) Law 2012<sup>1</sup>, orders as follows –

Commencement [[see endnotes](#)]

### **1 Interpretation**

In this Order –

“adult” means a person who is not a child;

“appropriate level of standard care” means long-term care comprising standard care of the level referred to in column 2 of the table in Article 8 which the person has been assessed as needing under Article 5 of the Law;

“approved home” means a care home or group home, as the case may be;

“asset” has the meaning in Article 2;

“breakdown” in the case of a partnership, means a divorce, annulment, separation, dissolution or any situation where the partners concerned are no longer in a relationship which is similar to marriage or civil partnership;

“care home” means an approved care home other than a group home;

“carer” has the meaning in Article 3;

“child” means a person below the upper limit of compulsory school age by virtue of Article 2 of the Education (Jersey) Law 1999<sup>2</sup>;

“civil partnership” has the same meaning as in the Civil Partnership (Jersey) Law 2012<sup>3</sup>;

“deemed income” has the meaning in Article 4;

“dependent” has the meaning in Article 5;

“dispose” means to transfer by any method and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, divest, release and agree to do any of those things;

“eligible person” means a person who has attained the age of 18 years and –

- (a) is a resident of an approved home or in receipt of an approved care package;
- (b) meets the conditions in sub-paragraphs (a), (d) and (e) of Article 3(2) of the Law; and
- (c) has applied for a benefit under the Law to meet the cost of charges imposed on the person by the approved home or provider of the approved care package;

“group home” means an approved care home which provides long-term care for no more than 5 adults and whose requirements for long-term care arise for reasons that are not wholly or mainly associated with age;

“income” has the meaning in Article 6;

“Law” means the Long-Term Care (Jersey) Law 2012<sup>4</sup>;

“loan” has the meaning in Article 7;

“owned principal residence” means a principal residence which is owned in whole or in part by an eligible person or the eligible person’s partner, or both, and for this purpose, “own” means entitlement to occupy and use the principal residence –

- (a) as owner;
- (b) by virtue of owning shares in a company that owns the land; or
- (c) by virtue of a consent under the former Regulation 1(1)(j) of the Housing (General Provisions) (Jersey) Regulations 1970<sup>5</sup> (repealed by the Control of Housing and Work (Jersey) Law 2012<sup>6</sup>), a condition of such consent being that the principal residence is owned by a company;

“partner” means either person in a partnership;

“partner 1” means the partner who is the first in his or her partnership to become an eligible person, or where both partners become eligible persons at the same time, the partner who is the older of the 2 partners;

“partner 2” means the partner who is the second in his or her partnership to become an eligible person, or where both partners become eligible persons at the same time, the partner who is the younger of the 2 partners;

“partnership” means a marriage, civil partnership or a relationship which is similar to a marriage or civil partnership, other than one which –

- (a) has broken down; or
- (b) commences after the date that either person in such a relationship becomes an eligible person;

“principal residence” means a residence in Jersey, not being an approved home, which is owned, rented or occupied under a licence, in whole or in part, by an eligible person or the eligible person’s partner, or both and –

- (a) is occupied by an eligible person as his or her principal residence or, where applicable, by the eligible person and the eligible person’s partner as the principal residence of the partnership;

- (b) was occupied by an eligible person as his or her principal residence before moving into an approved home; or
- (c) is a residence which is derived from the proceeds of a disposal of a residence to which paragraph (b) applied;

“property” means immovable or movable property, as the case requires;

“qualifying maintenance payment” has the same meaning as in Article 90B of the Income Tax (Jersey) Law 1961<sup>7</sup>;

“single person” means a person who is not a partner;

“standard care” means long term care provided in an approved home or principal residence of a level described in column 2 of the table in Article 8;

“third party” means a person other than a person whose income, deemed income or assets are required to be assessed under this Order.<sup>8</sup>

## 2 Meaning of “asset”

- (1) “Asset” means all of a person’s immovable and movable (whether tangible or intangible) property excluding any of the following –
  - (a) each personal possession with a market value of less than £10,000 when its value is first required to be assessed for the purposes of this Order;
  - (b) any sums held on trust in a retirement annuity trust scheme approved under Article 131CA of the Income Tax (Jersey) Law 1961 or a trust approved under Article 131E of that Law;
  - (c) income;
  - (d) assets that are integral to a business owned by the person or the person’s partner that is being run actively as a going-concern by the person.
- (2) Paragraph (1)(a) does not include any personal possession held wholly or mainly for investment purposes.
- (3) For the avoidance of any doubt, deemed income is not regarded as an asset for the purposes of this Order.
- (4) An asset –
  - (a) may be situated in or outside Jersey; and
  - (b) includes property disposed of by a person –
    - (i) in consideration for less than its market value at the time of disposal, and
    - (ii) either –
      - (A) within the 10 year period ending on the date the person, or a partner of the person, became an eligible person, or
      - (B) in the case of disposal of an owned principal residence in Jersey, at any time prior to the person, or a partner

of the person, becoming an eligible person, if the person making the disposal has continued to live in the property as his or her principal residence, or has retained a legal right to enjoyment of the property such as receipt of rental income, during the period prior to the person, or a partner of the person, becoming an eligible person,

unless the person can reasonably demonstrate that the primary purpose of the disposal was for a reason other than to obtain a benefit under this Law or to increase the amount of such a benefit.<sup>9</sup>

- (5) Where a disposal was made prior to the date that this Order comes into force, the reference in paragraph (4) to a benefit under this Law, or to increasing the amount of such a benefit, shall be construed to include a reference to similar benefits under legislation in force at the time of the disposal or under the obligations of a parish at that time to meet the costs of the relief and maintenance of persons.
- (6) Paragraph (4) does not include –
- (a) any property disposed of by the partner of an eligible person prior to commencement of the partnership; or
  - (b) any property the market value of which was less than £5,000 at the time of the disposal.

### **3 Meaning of “carer”**

- (1) In this Order, a person (“person A”) is the carer of another person (“person B”) if –
- (a) person B requires the assistance described in paragraph (2);
  - (b) person A has the main responsibility for providing such assistance to person B;
  - (c) person A provides person B with such assistance for a period of, or periods totalling, not less than 35 hours per week;
  - (d) such assistance is provided by person A to person B in Jersey; and
  - (e) person A does not receive earnings for the provision of assistance to person B.
- (2) The assistance required by person B must be either or both of the following –
- (a) frequent attention with bodily functions; or
  - (b) continual supervision to avoid substantial danger to person B or to others.
- (3) The requirements in paragraph (1)(b) and (c) shall be treated as being satisfied if they have ceased to be satisfied temporarily by virtue of –
- (a) person B receiving alternative care for a period or periods not exceeding in the aggregate 28 days per year; or
  - (b) person A or person B –
    - (i) receiving medical treatment as an in-patient in a hospital or similar institution in Jersey, or



- 
- (ii) receiving specialist medical treatment as an in-patient or out-patient in a hospital or similar institution outside Jersey, for a period or periods not exceeding in the aggregate 56 days per year.
- (4) The requirement in paragraph (1)(d) shall be treated as being satisfied if it has ceased to be satisfied temporarily by reason of –
- (a) person A providing such assistance to person B outside Jersey, during a period in which person B is receiving specialist medical treatment as an out-patient in a hospital or similar institution outside Jersey; or
  - (b) person A providing such assistance to person B outside Jersey, for any other period or periods not exceeding in the aggregate 28 days per year.

#### **4 Meaning of “deemed income”**

- (1) Deemed income is an amount of such value as a determining officer reasonably considers could be realised from the value of any asset (after taking into account any amount that is so realised), the value of such asset from which income is deemed being –
- (a) in the case of a person’s owned principal residence in Jersey, such sum that is deducted from the value of the asset under Article 13(2);
  - (b) in the case of all the person’s assets other than the person’s owned principal residence in Jersey, such sum that is deducted from the value of those assets under Article 13(4), but only to the extent that such sum exceeds £25,000.
- (2) No income shall be deemed for the purposes of paragraph (1)(a) where a principal residence is occupied by any of the following –
- (a) the eligible person;
  - (b) the eligible person’s partner; or
  - (c) an adult who lived with, and was a carer for, the eligible person for a period of at least 12 months (or such lesser period that a determining officer considers reasonable in all the circumstances of the case) before –
    - (i) the date the eligible person moved into an approved home, or
    - (ii) the date of the eligible person’s death, where the eligible person received long-term care in his or her principal residence,and who has continued to live in the principal residence since that date.

#### **5 Meaning of “dependent”**

“Dependent” means a person to whom any of the following applies –

- (a) the person lives with an eligible person (or, if the eligible person is living in an approved home did so before the eligible person moved into such a home) as part of a family unit and –
  - (i) is under 25 years and is excepted from the requirement to be engaged in full time remunerative work by virtue of Article 3(1)(e) of the Income Support (Jersey) Law 2007<sup>10</sup> (persons undergoing education or training on any course approved by the Minister) and does not meet the criteria for the rate payable in respect of the personal care element of the impairment component under paragraph 6(3)(b) or (c) of Schedule 1 to the Income Support (Jersey) Regulations 2007<sup>11</sup>, or
  - (ii) is under 19 years and is excepted from the requirement to be engaged in full time remunerative work by virtue of Article 3(1)(g) of the Income Support (Jersey) Law 2007 (persons available for, and actively seeking, full time remunerative work) and does not meet the criteria for the rate payable in respect of the personal care element of the impairment component under paragraph 6(3)(b) or (c) of Schedule 1 to the Income Support (Jersey) Regulations 2007; or
- (b) is a child and the eligible person or the eligible person's partner has parental responsibility for, or otherwise cares for, him or her as part of a family unit.

## **6 Meaning of “income”**

- (1) In this Order, “income” includes any of the following –
  - (a) sums payable to a person (whether under a contract of service or a contract for services or in respect of any other office, employment or arrangement whereby the person is rewarded for work done or services rendered) by way of wages, salary, fees, bonuses, commission, overtime pay or any other emolument including the value of any loan, perquisite or any other benefit in kind;
  - (b) benefits or grants received pursuant to the law of any country or territory;
  - (c) qualifying maintenance payments received;
  - (d) pensions from state and occupational schemes;
  - (e) income from annuities and trusts;
  - (f) interest from bank and building society accounts;
  - (g) dividends and rental income;
  - (h) any other periodical payment to which a person is entitled.
- (2) There shall be deducted from the amount of a person's income for a year –
  - (a) sums equivalent to the person's liability to pay in respect of that year for social security contributions; income tax and long-term care contributions (disregarding liability for sums in respect of which the person is in default of payment);

- 
- (b) charitable and reasonable voluntary payments receivable by the person in that year;
  - (c) sums receivable by the person in that year from the Minister for Health and Social Services under the terms of a foster placement agreement under Regulation 16(3) of the Children (Placement) (Jersey) Regulations 2005<sup>12</sup>;
  - (d) a sum equivalent to the person's reasonable expenses payable in that year related to ownership and maintenance of immovable property owned by the person where the person is receiving rental income from the property;
  - (e) to the extent that the person has earned income, a sum not exceeding 50% of the standard rate of benefit for that year within the meaning of Article 13(2) of the Social Security (Jersey) Law 1974<sup>13</sup>;
  - (f) a sum of £254.94 per week where the person or the partner of the person (but not both) is living in a principal residence;
  - (g) a sum of £382.41 per week where the person and the person's partner are living together in a principal residence;
  - (h) a sum of £127.47 per week for each dependent;
  - (i) a sum equivalent to the reasonable expenses in that year of occupying a principal residence by any of the following –
    - (i) the person,
    - (ii) the person's partner, and
    - (iii) the person's dependents,including the reasonable costs of rent and mortgage payments;
  - (j) a sum of such other amount as a determining officer considers necessary towards the reasonable expenses of the person in that year in relation to a member of the person's family (including any person who is no longer a member of the person's family following a breakdown);
  - (k) in the case of partner 2 where partner 2 is an eligible person, a sum that is equal to the amount payable by partner 1 for that year out of either partner's income for the purpose of complying with the condition in Article 9(b) and, where applicable, Article 9(c);
  - (l) the weekly amount of any payment to which the person's household is entitled under Article 4 of the Income Support (Transitional Provisions) (Jersey) Order 2008<sup>14</sup> in circumstances where Article 6 does not apply by virtue of Article 7 of that Order.<sup>15</sup>

## **7 Meaning of "loan"**

- (1) "Loan" means a loan to a person secured, or to be secured –
  - (a) on immovable property under the Social Security Hypothecs (Jersey) Law 2014<sup>16</sup>; or

- (b) on intangible movable property under the Security Interests (Jersey) Law 2012<sup>17</sup>.
- (2) In respect of a loan referred to in paragraph (1)(a), the immovable property must include a person's owned principal residence.
- (3) In respect of a loan referred to in paragraph (1)(b), the intangible movable property must derive from a person's entitlement to occupy a principal residence in the case of share transfer property or by virtue of a consent under Regulation 1(1)(j) of the former Housing (General Provisions) (Jersey) Regulations 1970 (repealed by the Control of Housing and Work (Jersey) Law 2012) a condition of which is that the principal residence is owned by a company.
- (4) In this Article, "share transfer property" means a principal residence which a person is entitled to use and occupy by virtue of the ownership by that person of shares in a company.

### 8 Rates for long-term care benefit comprising standard care costs

The rates for long-term care benefit under Article 4(1)(a) of the Law comprising standard care costs are as follows –

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>level of standard care</b>	<b>description of level of standard care</b>	<b>weekly cost for standard care in a care home</b>	<b>weekly cost for standard care in a group home</b>	<b>weekly cost for standard care in a principal residence</b>
1	Person requires long-term care on a daily basis but can be left alone for periods of at least 3 hours a day.	£353.15	£601.86	actual costs of care, not exceeding the amount shown opposite in column 3
2	Person requires long-term care on a daily basis but cannot be left alone for periods exceeding 3 hours a day and the description for level 3 or 4 does not	£539.07	£601.86	as above

	apply.			
3	Person requires long-term care throughout the day or night but care is not required 24 hours a day.	£779.24	£601.86	as above
4	Person requires long-term care 24 hours a day, or if not 24 hours a day, with a greater degree of specialist care required than that required for level 3.	£979.86	£601.86	as above <sup>18</sup>

### 9 Conditions for receiving a long-term care benefit comprising standard care costs

A person shall receive a long-term care benefit in the form of a weekly grant for standard care costs at the rate shown in the table in Article 8 for the person's appropriate level of standard care for a person in a care home, group home or principal residence, as the case may be, if the person has attained the age of 18 years and –

- (a) meets the conditions in Article 3(2)(a), (b), (d) and (e) of the Law;
- (b) has paid the amount required under Article 10 towards the costs of the person's appropriate level of standard care;
- (c) where the person receives long-term care in an approved home, the person pays £312.76 towards the weekly costs of living in the home and any amount up to £34.09 per week for such incidental expenses as may arise from time to time; and
- (d) where the person chooses to receive long-term care in respect of which the weekly costs for either or both of the following –
  - (i) the person's appropriate level of standard care, as shown in the table in Article 8,
  - (ii) the weekly costs of living in an approved home as referred to in sub-paragraph (c),

exceed the costs which are shown in that table or referred to in subparagraph (c), as the case may be, the person pays such weekly sums as exceed that amount.<sup>19</sup>

#### **10 Amount required to be paid towards standard care costs**

- (1) For the purposes of Article 9(b), the sum that is required to be paid by a single person is £52,120.<sup>20</sup>
- (2) For the purposes of Article 9(b), if a person is a partner, the sum that is required to be paid by the person is whichever of the following happens first –
  - (a) the person pays £52,120; or
  - (b) the person and the person's partner pay an aggregate sum of £78,180.<sup>21</sup>
- (3) If at any time, following the date a partner becomes an eligible person, his or her partnership breaks down and the sum referred to in paragraph (2)(b) has not been paid by the time of the breakdown, each person is subsequently treated as a single person for the purposes of this Article except in respect of a person who enters into a new partnership at a time when neither that person nor the new partner is an eligible person (in which case paragraph (2) applies to the subsequent partnership).
- (4) If, at the time of the death of a partner the surviving partner was an eligible person or the surviving partner subsequently becomes an eligible person, the surviving partner continues to be treated as a partner of that partnership for the purposes of this Article unless the surviving partner enters into a new partnership at a time when neither the surviving partner nor the new partner is an eligible person (in which case paragraph (2) applies to the subsequent partnership).
- (5) If an amount referred to in paragraph (1) or (2) is increased, a person is deemed to have paid the same proportion of the increased amount as the proportion paid by the person of the amount that was in force immediately before the increase.
- (6) For the purpose of assessing when the person has paid the amount required under paragraph (1) or (2), regardless of the actual weekly amount paid by the person, the person shall be deemed to have paid per week –
  - (a) the amount shown in column 3 of the table in Article 8 for the person's appropriate level of standard care if the person is in a care home or the person's principal residence; or
  - (b) the amount shown in column 4 of the table in Article 8 for the person's appropriate level of standard care if the person is in a group home.
- (7) A payment made by a person for the purpose of paying in whole or in part the amount required under paragraph (1) or (2) shall not be taken into account unless, at the time of the payment, the person is an eligible person.

- (8) Any over payment by a person of the amount that the person is required to pay under paragraph (1) or (2) shall be refunded.

**11 Co-payment benefits – grants to meet the costs referred to in Article 9(b) and (c)**

- (1) An eligible person is entitled to grants of such amounts as are required for the purpose of making payments to meet the costs referred to in Article 9(b) or (c) to the extent that the person has insufficient means to pay those amounts.
- (2) In determining whether a person has insufficient means for the purposes of paragraph (1) there shall be taken into account –
- (a) the person’s annual income;
  - (b) the value of the person’s assets as determined in accordance with Article 13; and
  - (c) the person’s annual deemed income.
- (3) After a valuation has been made of a person’s assets for the purposes of Article 11(2)(b), that valuation will be treated as diminishing to the extent that such value is realized by any means for the purposes of making payments to meet the conditions in either or both of Article 9(b) and (c) (including where the value is used as security for the loan of any periodical payment under Article 12).
- (4) An assessment of a person’s deemed income for the purposes of paragraph (2)(c) shall not be made in respect of a person’s owned principal residence or other assets to the extent that the person has value in such assets that is greater than nil value, such value being determined in accordance with Article 13 and then applying paragraph (3).
- (5) If the person (“first person”) is in a partnership, the means of the partner shall also be taken into account in assessing the first person’s means for the purposes of paragraph (1) except to the extent that any assets are jointly owned and included as part of the first person’s assets.
- (6) If, at a time when a person’s means are valued for the purposes of paragraph (1) (including a partner, where applicable), the person has made any payments referred to in Article 9(d) after 1st July 2014, the person’s income and assets shall be assessed as if such payments had not been made.

**12 Co-payment benefits – loans to meet the costs referred to in Article 9(b), (c) and (d)**

- (1) An eligible person is entitled to receive a loan under paragraph (2) or (3) in the form of periodical payments that accrue from time to time for the purpose of making payments to meet the conditions referred to in Article 9(b), (c) and (d).

- (2) Where the value of a person's owned principal residence, as determined in accordance with Article 13 is greater than nil value, a periodical payment may be loaned to the extent that –
- (a) the person's income and the value of the person's other assets as determined in accordance with Article 13, are insufficient to make the payments referred to in Article 9(b), (c) and, if applicable, Article 9(d), the value of such other assets being treated as diminishing to the extent that such value is realized by any means for the purpose of making such payments (including where the value is used as security for the loan of any periodical payment under this Article);
  - (b) if the loan is for the purpose of paying amounts referred to in Article 9(d), each such amount does not exceed £312.76 per week;
  - (c) at the time of the payment, value remains in the owned principal residence as determined in accordance with Article 13 that is not being used to secure the loan of one or more other periodical payments under this Article disregarding all payments of amounts referred to in Article 9(d); and
  - (d) the overall amount of the aggregate periodical payments loaned for the purpose of paying the amounts referred to in Article 9(b) and (c) does not exceed the value of the owned principal residence as determined in accordance with Article 13.<sup>22</sup>
- (3) Where –
- (a) the value of a person's owned principal residence, as determined in accordance with Article 13, is nil value; or
  - (b) the value of a person's owned principal residence, as determined in accordance with Article 13 is greater than nil value but the condition in paragraph (2)(d) cannot be met,
- a loan may be made for either or both of the purposes referred to in paragraph (4) provided the conditions in paragraph (5) are met.
- (4) Those purposes are –
- (a) payment of the amounts required under Article 9(b) and (c) to the extent that the person is assessed as having deemed income from the person's principal residence to pay those amounts (except to the extent that such deemed income is otherwise realised); and
  - (b) payment of amounts referred to in Article 9(d).
- (5) A loan under paragraph (3) is subject to the following conditions –
- (a) to the extent that the person has income, the income is used to pay amounts required under Article 9(b) and (c) and, to the extent that weekly income is available after payment of those amounts, if applicable Article 9(d);
  - (b) to the extent that the person has other assets the value of which is in excess of £25,000 and equal to or less than the value of those other assets determined in accordance with Article 13, the value of those assets is realised for the purpose of either or both of the following –



- 
- (i) producing the equivalent to the amount of deemed income that a determining officer has assessed as realisable from a person's principal residence or other assets for the purpose of paying amounts referred to in Article 9(b), (c) and, if applicable Article 9(d), or
- (ii) to the extent not referred to in clause (i), payment of the amounts referred to in Article 9(d);
- (c) if the loan is for the purpose of paying amounts referred to in Article 9(d), each such amount does not exceed £312.76 per week;
- (d) in the case of –
- (i) a single person or a person whose partner is deceased, the amount determined in accordance with sub-clause (A) is less than the amount determined in accordance with sub-clause (B) as follows –
- (A)  $((C+D) \text{ minus } E) \times 260$ ,
- (B)  $F + G$ ,
- where –
- C is the person's weekly deemed income from the owned principal residence,
- D is each weekly amount referred to in Article 9(d),
- E is the amount of the person's weekly income in excess of that required to meet the weekly costs referred to in Article 9(b) and (c),
- F is the value of the person's owned principal residence minus £197,000,
- G is the value of the person's other assets minus £25,000,
- (ii) partner 1, the amount determined in accordance with clause (i)(A) is less than the amount determined in accordance with clause (i)(B), subject to the following modifications –
- (A) in sub-clause (A) for "260" there is substituted "520",
- (B) E refers to the weekly incomes of partners 1 and 2, and
- (C) G refers to the other assets of partners 1 and 2 minus £25,000,
- (iii) partner 2, the amount determined in accordance with sub-clause (A) is less than the amount determined in accordance with sub-clause (B) as follows –
- (A)  $((C+D) \text{ minus } E) \times (260 \text{ minus } F) + ((G + H) \text{ minus } I) \times J$ ,
- (B)  $K+L$
- where –

C is partner 1 and partner 2's weekly deemed income from the owned principal residence,

D is each weekly amount referred to in Article 9(d) payable in respect of partners 1 and 2,

E is the amount of partner 1 and partner 2's weekly income in excess of that required to meet the costs for each partner referred to in Article 9(b) and 9(c),

F is the total number of weeks for which partner 1 has been an eligible person,

G is partner 2's weekly deemed income from the owned principal residence,

H is each weekly amount referred to in Article 9(d) payable in respect of partner 2,

I is the amount of partner 2's weekly income required to meet the costs referred to in Article 9(b) and (c),

J is the total number of weeks for which partner 1 has been an eligible person,

K is the value of the owned principal residence minus £197,000,

L is the value of partner 1 and partner 2's other assets minus £25,000.<sup>23</sup>

- (6) For the purpose of the calculations in paragraph (5), where any element of the calculation is of zero or a negative value, that element shall be treated as zero value.
- (7) For the purposes of assessing the amount of a person's income and the value of a person's assets (including deemed income, where applicable) for the purposes of this Article, if the person ("first person") is in a partnership, subject to paragraph (5)(d)(ii) and (iii), the income and assets of the partner shall be taken into account except to the extent that any assets are jointly owned and included as part of the first person's assets.
- (8) In this Article "value" of an owned principal residence or other asset means value of the residence or asset after deducting –
- (a) the amount secured by any existing charge, hypothec or similar on the residence or other asset; and
  - (b) where the residence or other asset is owned in part by a third party, an amount that is equivalent to the proportion owned by the third party.

## **12A Circumstances where benefits are reduced<sup>24</sup>**

- (1) In this Article –
- "claimant" means a person receiving a benefit in the form of a grant or loan under any of Articles 9, 11 and 12 who for any reason –
- (a) is temporarily absent from an approved home in which the claimant has been receiving long-term care; or

- (b) temporarily does not receive the approved care package in respect of which the claimant is entitled to benefits;

“period of absence” refers to the period that a claimant is temporarily absent from an approved home or temporarily does not receive the approved care package, as the case may be;

“week” includes part of a week;

“weekly costs” means the costs referred to in Article 9(b) and, where applicable Articles 9(c) (disregarding the amount for incidental expenses) and 9(d).

- (2) A benefit is not reduced in respect of a period of absence that does not exceed 2 weeks.
- (3) In respect of a period of absence that exceeds 2 weeks and is not more than 6 weeks, the benefit which would be payable under this Order were it not for the period of absence shall be reduced in accordance with paragraph (4) for the third week of the period of absence and for each subsequent week up to and including the sixth week of the period of absence.
- (4) For the purposes of paragraph (3), the amount of benefit shall be calculated and paid as if each of the weekly costs chargeable to the claimant were reduced by 10% (whether or not such costs were, in fact, reduced).
- (5) In respect of a period of absence that is more than 6 weeks, the benefit which would be payable under this Order were it not for the period of absence shall be reduced by 100% for the seventh week and each subsequent week of the period of absence.

### **13 Determining the value of a person’s assets**

- (1) In determining the value of a person’s assets there shall be deducted –
- (a) the amount secured by any existing charge, hypothec or similar on the asset; and
- (b) where an asset is owned in part by a third party, an amount that is equivalent to the proportion owned by the third party.
- (2) After making any deduction in accordance with paragraph (1), in determining the value of a person’s owned principal residence there shall be deducted from the value of that residence –
- (a) the sum of £394,000 where the value of the residence is equal to or exceeds that sum and the value of all the other assets of the person is equal to or exceeds £25,000;
- (b) the sum that is equal to the value of the residence where its value is equal to or less than £394,000;
- (c) the sum that is determined in accordance with paragraph (3) where the value of the residence exceeds £394,000 and the value of all the other assets of the person is less than £25,000 (including where there are no such other assets).

- (3) For the purposes of paragraph (2)(c), the sum shall be –
  - (a) £419,000 minus the value of all the other assets of the person (or zero if there are no such other assets); or
  - (b) if deduction of the sum in paragraph (a) from the value of the residence produces a negative figure, the full value of the residence.
- (4) After making any deduction in accordance with paragraph (1), in determining the value of all the other assets of a person there shall be deducted from the value of those assets –
  - (a) the sum of £25,000 where the value of all the other assets of the person is equal to or exceeds £25,000 and the value of the person's owned principal residence is equal to or exceeds £394,000;
  - (b) the sum equal to the value of all the other assets where the value of those assets is equal to or less than £25,000;
  - (c) a sum determined in accordance with paragraph (5) where the value of all the other assets exceeds £25,000 and the value of the person's owned principal residence is less than £394,000 (or where the person has no such residence).
- (5) For the purposes of paragraph (4)(c) the sum shall be –
  - (a) £419,000 minus the value of the person's owned principal residence in Jersey (or zero if there is no such residence); or
  - (b) if deduction of the sum in paragraph (a) from the value of all the other assets produces a negative figure, the full value of the assets.
- (6) For the purpose of determining the value of –
  - (a) all the other assets of a person for the purposes of paragraph (2)(a), (b) or (c), the gross value of the assets shall be used after making any deduction in accordance with paragraph (1);
  - (b) a person's owned principal residence for the purposes of paragraph (3)(a), (b) or (c), the gross value of the residence shall be used after making any deduction in accordance with paragraph (1).
- (7) For the purpose of making an assessment under this Article, to the extent that, at the time of making the assessment, a person has used the value of any assets to make any payments referred to in Article 9(d) after 1st July 2014, those assets shall be assessed as if such payments had not been made.

#### **14 Matters relating to valuations of property and assessments of income**

- (1) Except where provided otherwise in this Order, an asset shall be valued at its full market value at the time of valuation.
- (2) Where an owned principal residence in Jersey is deemed to be a person's asset in the circumstances described in Article 2(4)(b)(ii), the asset shall be deemed to be owned by the person at its full market value.
- (3) A person must inform a determining officer if there is any change in the circumstances of the person or the person's partner that could affect the

amounts of benefits which are payable to the person or the person's partner.

- (4) A determining officer may require any of a person's income or assets (including deemed income) to be assessed at any time for the purposes of determining any benefits a person is entitled to receive under this Order or the amount of any payment which a person is required to make for the purpose of complying with Article 9(b) (c), and, if applicable, Article 9(d).

## **15 Repayment of loans**

- (1) Where a benefit has been given to a person in the form of a loan as referred to in Article 12, the principal sum with interest is repayable when the latest of sub-paragraph (a) or (b) occurs –
- (a) the principal residence is sold at a time when an eligible person who owns the principal residence, or is a partner of such a person, is receiving long-term care under the Law (other than where the proceeds from sale are used to buy another owned principal residence); or
- (b) none of the following occupy a principal residence –
- (i) the eligible person,
- (ii) the eligible person's partner,
- (iii) an adult who lived with, and was a carer for, the eligible person for a period of at least 12 months (or such lesser period that a determining officer considers reasonable in all the circumstances of the case) before –
- (A) the date the eligible person moved into an approved home, or
- (B) the date of the eligible person's death, where the eligible person received long-term care in his or her principal residence,
- and who has continued to live in the principal residence since that date.
- (2) For the purposes of paragraph (1) interest shall be payable at 0.5% above the Bank of England base rate calculated on a daily basis and compounded annually.
- (3) The Minister may, in exceptional circumstances, defer payment of all or any part of a loan and all or any part of any interest payment.

## **16 Citation**

This Order may be cited as the Long-Term Care (Benefits) (Jersey) Order 2014.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Long-Term Care (Benefits) (Jersey) Order 2014	R&O.43/2014	1 July 2014
Long-Term Care (Benefits) (Amendment) (Jersey) Order 2014	R&O.74/2014	1 July 2014

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
None	

**Table of Endnote References**


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<sup>1</sup>	<i>chapter 26.600</i>
<sup>2</sup>	<i>chapter 10.800</i>
<sup>3</sup>	<i>chapter 12.260</i>
<sup>4</sup>	<i>chapter 26.600</i>
<sup>5</sup>	<i>chapter 18.315.50, revision date 1 January 2006</i>
<sup>6</sup>	<i>chapter 18.150</i>
<sup>7</sup>	<i>chapter 24.750</i>
<sup>8</sup> Article 1	<i>amended by R&amp;O. 74/2014</i>
<sup>9</sup> Article 2(4)	<i>amended by R&amp;O.74/2014</i>
<sup>10</sup>	<i>chapter 26.550</i>
<sup>11</sup>	<i>chapter 26.550.30</i>
<sup>12</sup>	<i>chapter 12.200.50</i>
<sup>13</sup>	<i>chapter 26.900</i>
<sup>14</sup>	<i>chapter 26.550.80</i>
<sup>15</sup> Article 6(2)	<i>amended by R&amp;O.74/2014</i>
<sup>16</sup>	<i>chapter 26.850</i>
<sup>17</sup>	<i>chapter 13.776</i>
<sup>18</sup> Article 8	<i>amended by R&amp;O.74/2014</i>
<sup>19</sup> Article 9	<i>amended by R&amp;O.74/2014</i>
<sup>20</sup> Article 10(1)	<i>amended by R&amp;O.74/2014</i>
<sup>21</sup> Article 10(2)	<i>amended by R&amp;O.74/2014</i>
<sup>22</sup> Article 12(2)	<i>amended by R&amp;O.74/2014</i>
<sup>23</sup> Article 12(5)	<i>amended by R&amp;O.74/2014</i>
<sup>24</sup> Article 12A	<i>inserted by R&amp;O.74/2014</i>