



Children's Commissioner for Jersey

Promoting and Protecting Children's Rights

19th October 2020

Comment on the Draft Social Security (Amendment of Law No. 14) (Jersey) Regulations 202-

The United Nations Convention on the Rights of the Child (UNCRC) **Article 18(3)** requires States to take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 26 requires States to recognise for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realisation of this right in accordance with their national law.

The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Issues of particular concern to the UNCRC Committee are:

- Services to which children, pregnant women and mothers are entitled.
- The availability of childcare and other facilities to parents and other care-givers.
- Financial support for parents and other care-givers to take advantage of childcare opportunities.
- The right of working parents to benefit from social security and childcare services and facilities.

I note that the Social Security Department currently provides, in accordance with legislation, a range of benefits that support children and young people:

a) A **Maternity Allowance** is available for up to 18 weeks to support mothers to have time off work whilst they have their baby. The current full allowance is £187 per week, but the amount paid does vary depending on the amount of social security contribution the mother has paid. The allowance can be paid for up to 18 weeks (6 weeks before the baby is born, the week of the birth and 11 weeks after birth).

b) A one-off **Maternity Grant** or a one-off **adoptive parent grant** of £561.75 is available to families, who have paid social security contributions, to help with the costs of having a baby.

The **Social Security (Jersey) Law 1974 (Social Security Law)** provides for contribution dependent maternity allowance payable for 18 weeks, and a one-off maternity grant, and an adoptive parent grant (payable for multiple births). The maternity allowance may be taken before or after the birth of a child. There is currently no equivalent of the maternity allowance available for an adoptive parent. The policy provides for payment of an adoption grant, subject to contributions but this is not in legislation.

It is the findings of the Legislative Gap Analysis report¹ that Legislation (rather than policy) should underpin support for adoptive parents on an equivalent basis as maternity allowance.

I very much welcome and support this amendment which will introduce legislation related to maternity and adoption grants. The amendment aligns with, and complements, the family friendly changes already made and are to be seen as progressive realisation of children's rights in relation to Articles 18 and 26. I am pleased to see that discriminatory elements of the Social Security (Jersey) Law 1974 is being removed and that the benefits will be paid to surrogate birth mothers as well as same sex parents. This amendment protects the adoption grant in legislation rather than relying on policy. This amendment is a demonstration that the Government of Jersey is making every effort to improve the enjoyment of economic, social and cultural rights, contained in the UNCRC, even when resources are scarce.

¹ Legislative Gap Analysis Welsh Observatory of Children's human Rights. S. Hoffman 2020 <https://www.childcomjersey.org.je/media/1389/legislative-gap-analysis-oct-2020.pdf>