



SOCIAL SECURITY LEGISLATION (BENEFITS) (APPLICATION) (NO. 3) ORDER 2016

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Statutory Document No. 2016/0194



Social Security Act 2000

SOCIAL SECURITY LEGISLATION (BENEFITS) (APPLICATION) (NO. 3) ORDER 2016

Approved by Tynwald:

Coming into Operation:

9 August 2016

The Treasury makes the following Order under sections 1(1) and (2), (4)(b) and (5)(c) of the Social Security Act 2000.

1 Title

This Order is the Social Security Legislation (Benefits) (Application) (No. 3) Order 2016.

2 Commencement

This Order comes into operation on 9 August 2016¹.

3 Interpretation

- (1) In this Order “**the applied legislation**” means the —
 - (a) the Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay (Amendment) Regulations 2015²; and
 - (b) the Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations 2016³.
- (2) Unless the context otherwise requires or it is expressly provided, a reference in the applied legislation to a provision of any such legislation or of any other legislation applied to the Island by an order under section 1 of the Social Security Act 2000 shall be construed as a reference to that legislation as it has effect in the Island.

¹ Under section 2(1) of the Social Security Act 2000 an order under section 1(1) of that Act shall be laid before Tynwald as soon as may be after it is made and unless it is approved by Tynwald at the sitting at which it is laid or the next following sitting, it ceases to have effect, but without prejudice to anything done under it or the making of a new order.

² S.I. 2015/2065.

³ S.I. 2016/556.

4 Application to the Island of the applied legislation

- (1) The applied legislation, incorporating the exceptions, adaptations and modifications subject to which it applies to the Island, is set out in the Schedules and applies to the Island as part of the law of the Island.
- (2) The applied legislation mentioned in —
 - (a) article 3(1)(a) is set out in Schedule 1; and
 - (b) article 3(1)(b) is set out in Schedule 2.

MADE 22nd June 2016

W E TEARE
Minister for the Treasury

SCHEDULE 1

[Article 4(2)(a)]

This Schedule sets out the text of the Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay (Amendment) Regulations 2015 (S.I. 2015/2065) as applied by this Order, with such exceptions, adaptations and modifications made where necessary, which appear in *bold italic* type.

STATUTORY INSTRUMENTS

2015 No. 2065

TERMS AND CONDITIONS OF EMPLOYMENT

STATUTORY PATERNITY PAY, STATUTORY ADOPTION PAY AND STATUTORY
SHARED PARENTAL PAY (AMENDMENT) REGULATIONS 2015

Made - - - - *17th December 2015*

Laid before Parliament *22nd December 2015*

Coming into force - - *1st February 2016*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 171ZJ(1) and (5), 171ZS(1) and (5) and 171ZZ4(1) and (5) of the Social Security Contributions and Benefits Act 1992. The Social Security Advisory Committee has agreed that proposals in respect of these Regulations need not be referred to it.

1. Citation [...]

(1) These Regulations may be cited as the Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay (Amendment) Regulations 2015.

(2) *Omitted.*

2. Amendments to the [...] Paternity Allowance and [...] Adoption Allowance (General) Regulations 2002

(1) The [...] *Paternity Allowance* and [...] *Adoption Allowance* (General) Regulations 2002⁴ are amended in accordance with paragraph (2).

(2) After regulation 35 (continuous employment and stoppages of work) insert —

“35A. Meaning of “week”

(1) This regulation applies where a person (“P”) has been in employed earner’s employment with the same employer in each of 26 consecutive weeks (but no more than 26 weeks), ending with —

⁴ S.I. 2002/2822 (see SD 43/04).

- (a) in relation to P's entitlement to [...] paternity *allowance* (birth), the week immediately preceding the 14th week before the expected week of the child's birth, or
- (b) in relation to P's entitlement to [...] paternity *allowance* (adoption), the week in which P is notified that P has been matched with the child for the purposes of adoption.

(2) For the purpose of determining whether P's employment amounts to a continuous period of at least 26 weeks (see sections 171ZA(2)(b) and **171ZB**(2)(b) of the Act), the first of those 26 weeks is a period commencing on the first day of P's employment with the employer ("the start date") and ending at midnight on —

- (a) the first Saturday after the start date, or
- (b) where the start date is a Saturday, that day."

3. Amendments to the Statutory Shared Parental Pay (General) Regulations 2014

Omitted.

Nick Boles
Minister of State for Skills
Department for Business, Innovation and Skills

17th December 2015

SCHEDULE 2

[Article 4(2)(b)]

This Schedule sets out the text of the Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations 2016 (S.I. 2016/556) as applied by this Order, with such exceptions, adaptations and modifications made where necessary, which appear in *bold italic* type.

STATUTORY INSTRUMENTS

2016 No. 556

SOCIAL SECURITY

THE SOCIAL SECURITY (DISABILITY LIVING ALLOWANCE AND PERSONAL
INDEPENDENCE PAYMENT) (AMENDMENT) REGULATIONS 2016

Made - - - - *3rd May 2016*

Laid before Parliament *9th May 2016*

Coming into force - - *29th June 2016*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 73(1)(b) and 189(1), (4) and (5) of the Social Security Administration Act 1992 and sections 86, 93 and 94(1), (2), (3)(a) and (4) of, and paragraphs 1(1) and 3(1)(a) and (c) of Schedule 10 to, the Welfare Reform Act 2012.

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations need not be referred to it.

1. Citation [...]

(1) These Regulations may be cited as the Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations 2016.

(2) *Omitted.*

2. Amendment of the Social Security (Disability Living Allowance) Regulations 1991

(1) The Social Security (Disability Living Allowance) Regulations 1991⁵ are amended as follows.

(2) In regulation 8 (hospitalisation) —

- (a) for the title, substitute “Hospitalisation of persons aged 18 or over”;
- (b) in paragraph (1), after “Subject to” insert “paragraph (2B) and”;

⁵ S.I. 1991/2890 (see GC 129/92). See amendments made by S.I. 1999/3126 (see SD 204/00) and S.I. 2000/1401 (see SD 736/00).

(c) at the end add —

“(2B) This regulation does not apply to a person who was under the age of 18 on the day on which he entered the hospital or other similar institution referred to in paragraph (1) to begin his current period as an in-patient.”.

(3) In regulation 10 (exemption from regulation 8 and 9) —

(za) *in paragraph (1) for “paragraphs (2) and (3)” substitute “the following provisions of this regulation”;*

(a) omit paragraph (2);

(b) in paragraph (3) omit “or, as the case may be, paragraph (2)”;

(c) in paragraph (5) for “paragraphs (1) and (2)” substitute “paragraph (1)”.

(4) In regulation 12A⁶ (hospitalisation in mobility component cases) —

(a) in the title, after “Hospitalisation” insert “of persons aged 18 or over”;

(b) in paragraph (1), after “Subject to” insert “paragraph (3) and”;

(c) at the end add —

“(3) This regulation does not apply to a person who was under the age of 18 on the day on which he entered the hospital or [...] similar institution referred to in paragraph (1) to begin his current period as an in-patient.”.

(5) In regulation 12B⁷ (exemption from regulation 12A) —

(a) omit paragraph (1)(b) and the word “or” preceding it;

(b) in paragraph (7), omit “or, as the case may be, paragraph (1)(b)”.

3. Amendment of the Social Security (Personal Independence Payment) Regulations 2013

Omitted.

4. Amendment of the Personal Independence Payment (Transitional Provisions) Regulations 2013

Omitted.

Signed by authority of the Secretary of State for Work and Pensions.

Justin Tomlinson
Parliamentary Under Secretary of State,
Department for Work and Pensions

3rd May 2016

⁶ Regulation 12A inserted by regulation 2 of S.I. 1996/1436 (see SD 498/97).

⁷ Regulation 12B inserted by regulation 2 of S.I. 1996/1436 (see SD 498/97).

EXPLANATORY NOTE

(This note is not part of the Order)

Section 1 of the Social Security Act 2000 (of Tynwald) enables the Treasury by Order to apply to the Island, as part of the law of the Island and incorporating such exceptions, adaptations and modifications as may be specified by the Order, any legislation to which that section applies.

Section 1 of that Act applies to (*inter alia*) the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992 and to any statutory instrument made or having effect as if made under either of those Acts of the UK Parliament.

This Order applies to the Island the legislation referred to in article 3(1) of the Order, the provisions of which are summarised in the following paragraphs.

Statutory Paternity Pay, Statutory Adoption Pay and Statutory Shared Parental Pay (Amendment) Regulations 2015 (S.I. 2015/2065)

These regulations amend the Paternity Allowance and Adoption Allowance (General) Regulations 2002. They make provision as to the meaning of a “week” for the purposes of determining whether a person has been in employed earner’s employment with an employer for a continuous period of at least 26 weeks for the purposes of entitlement to paternity allowance (birth) and paternity allowance (adoption).

Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations 2016 (S.I. 2016/556)

These Regulations amend the Social Security (Disability Living Allowance) Regulations 1991 (“the DLA Regulations”).

Regulations 8 and 12A of the DLA Regulations make it a requirement, for receipt of disability living allowance care component and mobility component respectively, that the person in respect of whom it is paid is not maintained free of charge while undergoing medical or other treatment as an in-patient in a National Health Service hospital or similar institution.

The provisions in the DLA Regulations are amended by regulation 2(2) and (4) of these Regulations. The effect is that these provisions will no longer apply to any person who was under the age of 18 on the day on which they entered the hospital or similar institution to begin their current period as an in-patient.

Regulation 2(3) and (5) of these Regulations make consequential amendments to regulations 10 and 12B of the DLA Regulations, in particular to remove the current exemptions for persons under the age of 16. The current exemptions are more limited than those provided by these Regulations, as they apply only for the first 84 days in hospital, and do not apply if the person was in hospital on the first day of entitlement.