



## INCOME SUPPORT (GENERAL) (ISLE OF MAN) (AMENDMENT) REGULATIONS 2016

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Statutory Document No. 2016/0197



*Social Security Contributions and Benefits Act 1992*

## **INCOME SUPPORT (GENERAL) (ISLE OF MAN) (AMENDMENT) REGULATIONS 2016**

*Approved by Tynwald:  
Coming into Operation in accordance with regulation 2*

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The Treasury makes the following Regulations under sections 123(1)(a), 124(1)(e), 137(1) and 175 of the Social Security Contributions and Benefits Act 1992<sup>1</sup> as it has effect in the Island<sup>2</sup>.

### **1 Title**

These Regulations are the Income Support (General) (Isle of Man) (Amendment) Regulations 2016.

### **2 Commencement**

If approved by Tynwald, these Regulations come into operation on the day after the day on which they are approved by Tynwald<sup>3</sup>.

### **3 Income Support (General) (Isle of Man) Regulations 2000 amended**

The Income Support (General) (Isle of Man) Regulations 2000<sup>4</sup> are amended in accordance with regulations 4 to 6.

### **4 Regulation 2 amended**

- (1) Regulation 2 (interpretation) is amended as follows.
- (2) In paragraph (1) in the appropriate places insert the following definitions —

☒ “revise”, in relation to a decision, is to be construed in accordance with section 9 of the Social Security Act 1998

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<sup>1</sup> 1992 c.4.

<sup>2</sup> See SD 505/94.

<sup>3</sup> See section 176 of the Social Security Contributions and Benefits Act 1992 as it has effect in the Island.

<sup>4</sup> SD 26/00.

and related expressions are to be construed accordingly;<sup>5</sup>  
and

<sup>6</sup>“supersession”, in relation to a decision, is to be construed in accordance with section 10 of the Social Security Act 1998 and related expressions are to be construed accordingly;<sup>5</sup>.

## 5 Regulation 7 amended

- (1) Regulation 7 (temporary absence from the Isle of Man) is amended as follows.
- (2) In paragraph (2)(c)<sup>5</sup> for the words from “paragraph 19” to the end substitute <sup>6</sup>paragraph 18A or 19 of that Schedule (persons who have applied for a revision or supersession, or are appealing against, a decision which embodies a determination that they are not incapable of work);<sup>5</sup>.

## 6 Schedule 1 amended

- (1) Schedule 1 (prescribed categories of person) is amended as follows.
- (2) After paragraph 18 insert —

<sup>6</sup>*Persons who have applied for a revision or supersession of a decision which embodies a determination that they are not incapable of work*

### 18A.

- (1) A person (P) in whose case sub-paragraphs (2) to (5) apply.
- (2) It has been determined that P is not incapable of work for the purposes of section 171B of the Contributions and Benefits Act (own occupation test).
- (3) P’s medical practitioner continues to supply evidence of P’s incapacity for work in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976<sup>6</sup>.
- (4) P has made an application for the revision or supersession of a decision which embodies the determination specified in sub-paragraph (2) (“the decision”).
- (5) None of the following events has occurred —
  - (a) the decision is revised;
  - (b) the decision is superseded; or
  - (c) it is decided that the decision is not to be revised or superseded.

<sup>5</sup> Paragraph (2)(c) substituted by SD 104/02.

<sup>6</sup> S.I. 1976/615 (see GC 187/77).

18B.

- (1) A person (P) in whose case sub-paragraphs (2) and (3) apply but only for the period specified in sub-paragraph (4).
  - (2) It has been determined that P is not incapable of work for the purposes of section 171C of the Contributions and Benefits Act (personal capability assessments).
  - (3) P has made an application for the revision or supersession of a decision which embodies the determination specified in sub-paragraph (2) (“the decision”).
  - (4) That period—
    - (a) begins on the day on which the decision takes effect; and
    - (b) ends on the first day on which any of the events specified in sub-paragraph (5) occurs.
  - (5) Those events are —
    - (a) the decision is revised;
    - (b) the decision is superseded; or
    - (c) it is decided that the decision is not to be revised or superseded. **22**.
- (3) After paragraph 22 add —
- 23.** *Persons who have a personal characteristic or a severe learning disability as a result of which they have no reasonable prospects of securing remunerative work*
- (1) A person (P) to whom sub-paragraph (2) or (3) applies.
  - (2) This sub-paragraph applies to P if —
    - (a) P has a personal characteristic which is outside of P’s control; and
    - (b) because P has that characteristic an adjudication officer is satisfied that P has no reasonable prospects of securing remunerative work.
  - (3) This sub-paragraph applies to P if —
    - (a) P is suffering from a severe learning disability; and
    - (b) because P suffers from that disability an adjudication officer is satisfied that C has no reasonable prospects of securing remunerative work.
  - (4) For the purposes of paragraph (2), the following is not a “**personal characteristic**” —
    - (a) a fluctuating health condition;
    - (b) an addiction;
    - (c) a conviction for a criminal offence under any legislation;

- (d) the making of an anti-social behaviour order (within the meaning given in section 28 of the Criminal Justice Act 2001);
  - (e) a body piercing; or
  - (f) a tattoo.
- (5) In paragraph (3) “**severe learning disability**” means a condition which –
- (a) results from –
    - (i) the arrested or incomplete physical development of the brain, or
    - (i) severe damage to the brain; and
  - (b) involves severe impairment of intelligence and social functioning.
- (4) For the purpose of sub-paragraphs (2) and (3), in determining whether or not P has no reasonable prospects of securing remunerative work an adjudication officer must take into account whether or not P has been entitled to a jobseeker’s allowance for the immediately preceding period of 182 days. **22**.

**MADE 22<sup>nd</sup> June 2016**

**W E TEARE**  
*Minister for the Treasury*

*EXPLANATORY NOTE*

*(This note is not part of the Regulations)*

These Regulations amend the Income Support (General) (Isle of Man) Regulations 2000 (“the Income Support Regulations”) to insert three new prescribed categories of persons who may qualify for income support –

- persons who have applied for a revision or supersession of a decision which embodies a determination that they are not incapable of work where that determination is made in accordance with the “own occupation test” or the “personal capability assessment” (new paragraphs 18A and 18B of Schedule 1 to the Income Support Regulations); and
- persons who have a personal characteristic or a severe learning disability as a result of which they have no reasonable prospects of securing remunerative work (new paragraph 23 of Schedule 1 to the Income Support Regulations).

They also make consequential amendment of the Income Support Regulations.