

IN THE KEYS

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# **SOCIAL SECURITY (AMENDMENT) BILL 2008**

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## **Explanatory Memorandum**

1. This Bill is promoted by the Department for Health and Social Security. Its purpose is to regularise the position with respect to certain schemes of social security provision introduced by the Department and to place similar provision in the future on a statutory basis.

2. *Clause 1* inserts a new section 1A into the Social Security Act 2000 enabling the Department to make orders providing for social security provision which does not correspond to the social security legislation of Great Britain (which is covered by section 1 of the 2000 Act). The new section 1A also allows orders made under it to apply existing social security legislation, which applies to the Island by means of orders under section 1 of that Act, for the purposes of the order, with or without modification. It also makes a necessary consequential amendment to section 2 of the 2000 Act to make orders under the new section 1A subject to the same procedure in Tynwald as orders under the present section 1. It also makes minor amendments to section 3 of the 2000 Act. These reflect the fact that not all social security provision in Great Britain is now the responsibility of the Secretary of State, following the transfer of child benefit and guardian's allowance to the Commissioners for Her Majesty's Revenue and Customs (formerly the Board of Inland Revenue) by Part 2 of the Tax Credits Act 2002, and the introduction of various tax credits by the Tax Credits Act 1999 and Part 1 of the Tax Credits Act 2002 (Acts of Parliament).

3. *Clause 2* makes transitional provision in respect of a series of social security schemes previously approved by Tynwald but which were not within the scope of section 1 of the 2000 Act. The clause includes an express saving to prevent any person being prosecuted in relation to things done or omitted to be done in relation to any of these schemes before the Act resulting from this Bill comes into operation.

4. *Clause 3* provides for the short title.

5. It is not envisaged that the Bill will give rise to any additional public expenditure or public revenue, as it simply clarifies the basis on which social security provision which has no parallel in Great Britain may be made in the Island.

**6.** In the view of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

## **Arrangement of Sections**

### Section

1. Amendment of the Social Security Act 2000
2. Transitional provision
3. Short title

## A BILL

to amend the Social Security Act 2000; and for connected purposes.

**B**E IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1. (1) The Social Security Act 2000 is amended as follows.

Amendment  
of the Social  
Security Act  
2000

(2) After section 1 (application to the Island of Acts of Parliament) insert —

[c. 5]

5 “Power to make other provision in respect of social security”  
**1A.** (1) If it appears to the Department to be expedient, having regard to social conditions in the Island, to make social security provision which does not correspond to legislation of the United Kingdom to which section 1 applies, it may by order make that provision.

10 (2) An order under subsection (1) may provide for —

(a) the application of any legislation to which section 1 applies subject to such exceptions, adaptations and modifications as may be specified;

15 (b) the repeal or amendment of any provision of an enactment (other than this Act) which is inconsistent with, or is unnecessary or requires modification in consequence of the provision made under subsection (1).

20 (3) Provision made under subsection (2)(a) may —

- (a) specify the exceptions, adaptations and modifications of the legislation to which section 1 applies for the purposes of the order; or
- (b) set out the legislation to which section 1 applies as it is applied for the purposes of the order.”. **5**
- (3) In section 2(1) (Tynwald procedure) after “1(1) or (6)” insert “or 1A(1)”.
- (4) In section 3 (interpretation) —
- (a) after the definition of “benefit” insert — **10**
- ““the Commissioners for Her Majesty’s Revenue and Custom” means the Commissioners established by section 1 of the Commissioners for Revenue and Customs Act 2005 (an Act of Parliament);”;
- [c.11] **15**
- (b) in paragraph (a) of the definition of “social security” after “Secretary of State” insert “or the Commissioners for Her Majesty’s Revenue and Customs”.
- 2.** (1) Upon the coming into operation of this Act each of the schemes listed in subsection (2) — **20**
- Transitional provision
- (a) shall be deemed to have been made under an Act of Tynwald;
- (b) shall continue in force on and after the day on which Royal Assent to this Act is announced to Tynwald;
- (c) shall have effect as an order under section 1A of the Social Security Act 2000; and **25**
- any right, payment, decision, act or matter that accrued or was made or done under that scheme before the day on which this Act come into operation shall be deemed to have accrued or been made or done under the authority of an Act of Tynwald, but subject to the qualification in subsection (3). **30**
- (2) The Schemes are —
- [G.C.152/90] (a) the T.V. Licence (Refunds) Scheme 1990;
- [G.C.53/01] (b) the Pension Supplement Scheme 2001;
- [G.C.25/02] (c) the Retirement Pension (Premium) Scheme 2002; **35**

(d) the Jobseeker's Enhanced Allowance Scheme 2002 (insofar as it continues to exist);

**5** (e) the Family Income Supplement and Disability Working Allowance (Child Care Charge Adjustment) Scheme 2004; [G.C.15/04]

(f) the Carer's Bereavement Payment Scheme 2008; and [G.C.18/08]

(g) the Nursing Care Contribution Scheme 2008. [G.C.30/08]

**10** (3) Nothing in subsection (1) creates a criminal offence in relation to anything done or omitted to be done before the coming into operation of this Act.

**3.** This Act may be cited as the Social Security (Amendment) Act 2008. Short title

IN THE KEYS

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**Social Security (Amendment)**

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**A BILL**

*to amend the Social Security Act  
2000; and for connected purposes.*

Approved by the Council of Ministers for  
introduction in the House of Keys.

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MR. WATTERSON

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OCTOBER 2008

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