



Government Circular No. 04/08

DEPARTMENT OF HEALTH AND SOCIAL SECURITY
**THE BENEFITS SCHEMES (MISCELLANEOUS AMENDMENTS)
SCHEME 2008**

Approved by Tynwald on 12th March 2008

Coming into operation on 6th April 2008

Citation and commencement

1. This Scheme may be cited as the Benefits Schemes (Miscellaneous Amendments) Scheme 2008 and shall come into force on 6th April 2008.

Revocation of the Jobseeker's Enhanced Allowance Scheme 2002, etc.

2. The following shall be revoked –

- (a) the Jobseeker's Enhanced Allowance Scheme 2002(a);
- (b) paragraphs 2 and 3 of the Benefits Schemes (Miscellaneous Amendments) Scheme 2003(b);
- (c) the Jobseeker's Enhanced Allowance (Amendment) Scheme 2004(c); and
- (d) paragraph 2 of the Benefits Schemes (Miscellaneous Amendments) Scheme 2007(d).

Amendment of the Pension Supplement Scheme 2001

3. (1) Amend the Pension Supplement Scheme 2001(e) in accordance with the following subparagraphs.

(2) For paragraph 1 (general conditions of entitlement to the pension supplement) substitute –

(a) G.C. 08/02; (b) G.C. 22/03; (c) G.C. 03/04; (d) G.C. 4/07; (e) G.C. 53/01.

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“General conditions of entitlement

1. Subject to the other provisions of this Scheme, a person is entitled to a pension supplement if he satisfies all of the following conditions—

- (a) the ordinary residence condition;
- (b) the age condition;
- (c) qualifying benefit condition A or qualifying benefit condition B; and
- (d) qualifying contribution condition A or qualifying contribution condition B.

Where these expressions appear elsewhere in this Scheme, they shall have the meanings assigned to them in paragraph 1A.

1A. The conditions mentioned in paragraph 1 are as follows—

The ordinary residence condition

The person is ordinarily resident in the Isle of Man.

The age condition

The person has attained the age of 45.

For the purposes of this condition, a person who on 5th April 1999 has not attained the age of 45 but who –

- (a) satisfies the ordinary residence condition; and
- (b) was entitled to any benefit which was a qualifying benefit under any analogous Scheme having effect at the time,

shall be taken to satisfy the age condition.

Qualifying benefit condition A

The person is entitled to one of the following qualifying benefits –

- (a) the basic pension in a Category A or Category B retirement pension under sections 43 to 52 of the Contributions and Benefits Act;
- (b) the basic pension in a widowed mother’s allowance or a widow’s pension under section 39 of the Contributions and Benefits Act; or
- (c) the basic pension in a widowed parent’s allowance under section 39A of the Contributions and Benefits Act.

Qualifying benefit condition B

The person is entitled to –

- (a) either of the following qualifying benefits –
 - (i) long-term incapacity benefit, or

- (ii) short-term incapacity benefit, where that benefit is payable to a person at the rate at which long-term incapacity benefit would be payable to him by virtue of section 30B(4) of the Contributions and Benefits Act (persons terminally ill; or entitled to the highest rate of the care component of disability living allowance and previously entitled to short-term incapacity benefit for 196 days); and

- (b) the highest rate care component of disability living allowance.

Qualifying contribution condition A

The person or a relevant person in relation to him has relevant contributions in respect of each of not less than 10 tax years in his or the relevant person's (as the case may be) working life.

Qualifying contribution condition B.

The condition is that each of the following four sets of circumstances applies.

1. The person is awarded incapacity benefit under the Contributions and Benefits Act.
2. That date of that award fell in or after the 1999-00 tax year.
3. The person or a relevant person in relation to him has relevant contributions (other than Class 3 contributions) in respect of each of the 5 tax years immediately preceding the tax year in which that award of incapacity benefit was made.
4. The person is entitled to be credited with earnings under regulation 8B of the Credits Regulations in relation to that award for such number of tax years which, when added to the number of tax years in respect of which he or a relevant person in relation to him has relevant contributions in his or that other person's working life (as the case may be), amounts to not less than 10."

(3) In paragraph 2 (treatment of contribution credits, etc. for the purposes of determining whether qualifying contribution condition A or qualifying contribution condition B is satisfied) –

- (a) in each place in each of the following provisions for the words "the conditions in paragraph 1(3) or (4)(a) are satisfied" substitute "qualifying contribution condition A or qualifying contribution condition B is satisfied"–

- (i) sub-paragraph (1)(a) and (b),

- (ii) sub-paragraph (2), and

- (iii) sub-paragraph (3); and

- (b) in sub-paragraph (4) (in each place) for "paragraph 1(4)(a)" substitute "qualifying contribution condition B".

(4) Omit paragraph 3 (transitional provisions).

(5) For paragraph 5 (rate of pension supplement payable) substitute –

“Rate of pension supplement payable: persons who satisfy qualifying benefit condition A

5. (1) A person who –

- (a) is entitled to a supplement;
- (b) satisfies qualifying benefit condition A; and
- (c) is entitled to a qualifying benefit mentioned in qualifying benefit condition A payable at the standard rate,

shall be entitled to a supplement at the rate of 50% of the basic rate (for the time being) of Category A retirement pension under section 44(3)(a) and (4) of the Contributions and Benefits Act per week.

(2) A person who –

- (a) is entitled to a supplement;
- (b) satisfies qualifying benefit condition A; and
- (c) is entitled to a qualifying benefit mentioned in qualifying benefit condition A payable at a rate which is less than the standard rate,

shall be entitled to a supplement at the rate at the rate of –

50% of the basic rate (for the time being) of Category A retirement pension under section 44(3)(a) and (4) of the Contributions and Benefits Act

multiplied by the rate at which the qualifying benefit in question is payable to him then divided by the standard rate of that qualifying benefit.

(3) In sub-paragraphs (1) and (2) “standard rate” means the higher of the two amounts mentioned for the time being in section 44(4) of the Contributions and Benefits Act (weekly rate of basic pension in a Category A retirement pension).

(4) In calculating the rate of qualifying benefit payable for the purposes of sub-paragraphs (1) and (2), the following shall be ignored -

- (a) any increase of Category A retirement pension the person is entitled to for invalidity under section 47(1) of the Contributions and Benefits Act;
- (b) any increase of Category A retirement pension the person is entitled to for an adult dependant under any of sections 82 to 85 of the Contributions and Benefits Act; and
- (c) any adjustment to any qualifying benefit the person is entitled to under section 73 of the Administration Act and regulations made under that section (overlapping benefits).

(5) Any supplement calculated under this paragraph shall be rounded to the nearest penny, taking any $\frac{1}{2}$ p as nearest to the next whole penny above.”

(6) For paragraph 6 (calculation of pension supplement) substitute –

“Rate of pension supplement payable: persons who satisfy qualifying benefit condition B

6. A person who –

- (a) is entitled to a supplement; and
- (b) satisfies qualifying benefit condition B,

shall be entitled to a supplement at the rate of £40.68 per week or such other amount as may be specified by Order made by the Department.”.

(7) In sub-paragraph (1) of paragraph 13 (interpretation of the Pension Supplement Scheme 2001) –

(a) in the appropriate places insert the following definitions –

““disability living allowance” means a disability living allowance under section 71 of the Contributions and Benefits Act;” and

““highest rate care component of disability living allowance” means the rate of the care component of a disability living allowance under section 72(4)(a) of the Contributions and Benefits Act;” and

(b) for the definition of “qualifying benefit” substitute –

““qualifying benefit” means any of those benefits mentioned in qualifying benefit condition A or qualifying benefit condition B;”.

(8) In paragraph 14 (modification of the contribution conditions, etc. in the Pension Supplement Scheme for the purposes of determining entitlement to the pension supplement in relation to serving members of the forces) in sub-paragraph (2)(b), in inserted paragraph 2(2A), for “the conditions in paragraph 1(3) or (4)(a) are satisfied” substitute “qualifying contribution condition A or qualifying contribution condition B is satisfied”.

Transitional provisions

4. In the case of a person who, immediately before 6th April 2008, is awarded a jobseeker’s enhanced allowance, paragraph 2 shall have effect on the day immediately following the last day of the period of that award.

5. (1) Subject to sub-paragraph (2), in the case of a person who, immediately before 6th April 2008, is -

- (a) entitled to a pension supplement under the Pension Supplement Scheme 2001; and
- (b) awarded either –
 - (i) long-term incapacity benefit; or
 - (ii) short-term incapacity benefit, where that benefit is payable to a person at the rate at which long-term incapacity benefit would be payable to him by virtue of section 30B(4) of the Contributions and Benefits Act,
- (c) but not awarded the highest rate care component of disability living allowance,

paragraph 3 shall have effect on the day immediately following the last day of the period of that award.

(2) In the case of a person to whom the circumstances in sub-paragraph (1) apply, paragraph 6 of the Pension Supplement Scheme 2001 (rate of supplement payable) shall have effect as if for sub-paragraph (1)(b) there were substituted –

“(b) for the purposes of paragraph 5(4), £40.68 per week”.

Made on 20th February 2008



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Scheme)

1. This Scheme revokes, with effect from 6th April 2008, the Jobseeker's Enhanced Allowance Scheme 2002. It also amends, from the same date, the Pension Supplement Scheme 2001 so as to no longer allow persons receiving the long-term rate of incapacity benefit to qualify for a supplement by virtue of that fact unless they are also receiving the highest rate of the care component of disability living allowance. Awards of jobseeker's enhanced allowance and awards of pension supplement by virtue of entitlement to incapacity benefit alone at the time the changes are made will not be affected.
2. **Introduction**
- 2.1 Paragraph 1 provides for the citation of the Scheme and that it shall come into operation on 6th April 2008.
3. **Revocation of the Jobseeker's Enhanced Allowance Scheme 2002 (G.C. 08/02)**
- 3.1 Jobseeker's enhanced allowance is payable to unemployed persons who are both ordinarily resident in the Isle of Man and entitled to a contribution-based jobseeker's allowance. They must also have been continuously in employed earner's employment in the Isle of Man (with some exceptions) for not less than 16 hours per week throughout the 104 weeks immediately prior to the commencement of their claim.

- 3.2 Jobseeker's enhanced allowance is payable to persons at the same rate as their contribution-based jobseeker's allowance is payable to them. It is payable for up to 26 weeks, which may be interrupted by a period or periods of up to 52 weeks in total.
- 3.3 The amount of jobseeker's enhanced allowance payable to a person might be reduced – or even extinguished – if they receive any occupational or personal pension payments in excess of £50 per week.
- 3.4 The predecessor to Jobseeker's Enhanced Allowance, Enhanced Unemployment Benefit, was introduced in 1986 to compensate for the absence of statutory redundancy payments on the Island. However, following the enactment of the Redundancy Payments Act 1990 (of Tynwald), statutory redundancy payments have been available to qualifying employees and arguably the Enhanced Unemployment Benefit Scheme should have been discontinued from then. However, it was allowed to continue and, following the introduction of Jobseeker's Allowance on 7th October 1996, a mirror scheme, the Jobseeker's Enhanced Allowance Scheme 1996, replaced it. The 1996 Scheme was superseded by the present 2002 Scheme.
- 3.5 On average, less than 10% of registered jobseekers qualify for Jobseeker's Enhanced Allowance. Its existence is now viewed by the Department as a disincentive for beneficiaries to return to work. An income-based Jobseeker's Allowance is available for those persons who need supplementary assistance.
- 3.6 Paragraph 2 now revokes the Jobseeker's Enhanced Allowance Scheme 2002 and the provisions of subsequent Schemes which amended that Scheme.
4. **Amendment of the Pension Supplement Scheme 2001 (G.C. 53/01)**
- 4.1 Paragraph 3 amends the Pension Supplement Scheme 2001.
- 4.2 In order to qualify for a pension supplement under this Scheme, a person must -
- be ordinarily resident in the Isle of Man; and
 - be at least 45 years old; and
 - be entitled (or be treated as entitled) to payment of a qualifying benefit from the Department.
- 4.3 They must also satisfy one of two contribution conditions, which are (broadly)-
- they must have paid relevant contributions in the Isle of Man for at least 10 tax years in their working life; or
 - they must have –
 - paid at least 5 tax years' relevant contributions (but not contributions payable on a voluntary basis);
 - then been awarded incapacity benefit immediately afterwards; and
 - during that period of award of benefit, been entitled to National Insurance credits in respect of their incapacity for work for such number of tax years which, when added to the number of tax years of relevant contributions they have paid, adds up to at least 10.
- 4.4 Here "relevant contributions" means (broadly) contributions either –

- paid under Isle of Man social security contributions legislation;
- or (before the 1996/97 tax year) paid under United Kingdom social security contributions legislation, but only where the Isle of Man DHSS held that person's National Insurance account at the end of the tax year in respect of which the contributions were paid.

Contributions credited to someone's National Insurance record for periods of unemployment, incapacity for work, etc. may also be used to help a person satisfy the contribution conditions for the pension supplement, subject to certain conditions and limitations.

4.5 Paragraph 3 of this Scheme now amends the qualifying conditions for the pension supplement with the effect that people will no longer be able to qualify for a pension supplement by virtue of their being entitled to long-term incapacity benefit or short-term incapacity benefit payable at the long-term rate alone. Instead they will only be able to do so if they are also entitled to the highest rate of the care component of disability living allowance at the time.

4.6 Disability living allowance care component is payable to persons who need attention or supervision in their day-to-day lives. The highest rate of the care component is payable to persons who are so severely disabled physically or mentally that—

- they require frequent attention throughout the day in connection with their bodily functions or continual supervision throughout the day to avoid substantial dangers to themselves or other persons; and
- they either require prolonged or repeated attention at night in connection with their bodily functions or to avoid substantial dangers to themselves or other persons, they require another person to be awake at night for prolonged periods or at frequent intervals,

or they have a life expectancy of less than 6 months.

4.7 Entitlement to disability living allowance does not depend upon the payment of National Insurance contributions, nor is its payment means-tested. It is also not affected by the simultaneous receipt of any other social security benefit.

4.8 The rate of pension supplement in such cases shall be fixed at £40.68 (the rate payable in respect of the 2007-08 year) for 2008-09. In later years the rate may be such other amount as may be specified in an Order made by the Department.

5. Transitional provisions

5.1 Paragraph 4 provides that in the case of persons who, immediately before 6th April 2008, are awarded a jobseeker's enhanced allowance, the changes made by paragraph 2 of the Scheme shall have effect only on the day immediately following the last day of that award.

5.2 Paragraph 5(1) provides that in the case of persons who, immediately before 6th April 2008, are entitled to a pension supplement and are awarded either long-term incapacity benefit or short-term incapacity benefit payable at the long-term rate of benefit (but not the highest rate of the care component of disability living allowance), the changes made by paragraph 3 of the Scheme shall have effect only on the day immediately following the last day of that award. Paragraph 5(2) provides that in such circumstances the rate of supplement payable shall be £40.68 per week, the same as that for persons affected by the changes made by this Scheme.