



Statutory Document No. 191/98

THE SOCIAL SECURITY ACT 1982

THE SOCIAL SECURITY LEGISLATION (APPLICATION) (NO. 2) ORDER 1998

Approved by Tynwald 28th April 1998.

Coming into operation in accordance with Article 1

In exercise of the powers conferred on the Department of Health and Social Security by section 1 of the Social Security Act 1982(a), and of all other enabling powers, the following Order is hereby made:-

Citation and commencement

1. (1) This Order may be cited as the Social Security Legislation (Application) (No. 2) Order 1998 and shall, subject to section 1(6) of the Social Security Act 1982, come into force as provided in paragraph (2).

(2) This Article and Articles 2 and 3 shall come into force forthwith and each provision of the applied legislation, as modified, shall come into force or be deemed to have come into force, as the case may be, on the same day as that provision came into force in Great Britain.

Interpretation

2. (1) In this Order "the applied legislation" means -

- (a) the Social Security (Adjudication) and Commissioners Procedure and Child Support Commissioners (Procedure) Amendment Regulations 1997(b);
- (b) the Social Security (National Insurance Number Information: Exemption) Regulations 1997(c);
- (c) the Social Security (Penalty Notice) Regulations 1997(d).

(a) 1982 c.9; (b) S.I. 1997/955; (c) S.I. 1997/2676; (d) S.I. 1997/2813.

Price: £1.50

(2) Unless the context otherwise requires -

- (a) any reference in any of the applied legislation to any provision in an instrument of a legislative character which is not itself a provision of any of the applied legislation shall be construed as if the provision so referred to had been in force in the Island from the date on which that instrument of a legislative character had effect in Great Britain;
- (b) reference in any legislation applied by this Order to any 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 1982 or section 1 of the Pension Schemes Act 1995(a), shall be construed as a reference to that legislation as it has effect in the Island.

Application to the Island of the applied legislation

3. The applied legislation, as modified and shown as Schedules to this Order, shall apply to the Island as part of the law of the Island.

(a) 1995 c.11.

SCHEDULE 1

This Schedule sets out the text of the Social Security (Adjudication) and Commissioners Procedure and Child Support Commissioners (Procedure) Amendment Regulations 1997 (S.I.1997/955) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type

STATUTORY INSTRUMENTS

1997 No. 955

SOCIAL SECURITY

FAMILY LAW

CHILD SUPPORT

The Social Security (Adjudication) and Commissioners Procedure and Child Support Commissioners (Procedure) Amendment Regulations 1997

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Social Security (Adjudication) and Commissioners Procedure and Child Support Commissioners (Procedure) Amendment Regulations 1997 and shall come into force on 28th April 1997.

(2) In these Regulations -

"the Adjudication Regulations" means the Social Security (Adjudication) Regulations 1995; and

"the Commissioners Procedure Regulations" means the Social Security Commissioners Procedure Regulations 1987.

Amendment of regulation 1 of the Adjudication Regulations

2. In paragraph (2) of regulation 1 of the Adjudication Regulations (citation, commencement and interpretation) there shall be inserted after the definition of "disability question" the following definition-

"full statement of the tribunal's decision" means the statement referred to in regulations 23(3A) *and* 29(6A);".

Amendment of regulation 24 of the Adjudication Regulations

3. (1) Regulation 24 of the Adjudication Regulations (application for leave to appeal to a Commissioner from an appeal tribunal) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph (1) there shall be substituted the following paragraph-

"(1) Subject to the following provisions of this regulation, an application to the chairman of an appeal tribunal for leave to appeal to a Commissioner from a decision of an appeal tribunal shall -

(a) be made in accordance with regulation 3 and Schedule 2; and

(b) have annexed to it a copy of the full statement of the tribunal's decision."

(3) In paragraph (3) the words "made under paragraph (1)(a) shall be recorded in the record of the proceedings of the tribunal, and on an application under paragraph (1)(b)" shall be omitted.

Amendment of regulation 32 of the Adjudication Regulations

4. For paragraph (1) of regulation 32 of the Adjudication Regulations (application for leave to appeal to a Commissioner from a disability appeal tribunal) there shall be substituted the following paragraph -

"(1) Subject to the following provisions of this regulation, an application to the chairman of a disability appeal tribunal for leave to appeal to a Commissioner from a decision of a disability appeal tribunal shall -

(a) be made in accordance with regulation 3 and Schedule 2; and

(b) have annexed to it a copy of the full statement of the tribunal's decision."

Amendment of regulation 39 of the Adjudication Regulations

5. For paragraph (1) of regulation 39 of the Adjudication Regulations (application for leave to appeal to a Commissioner from *an adjudicating medical authority*) there shall be substituted the following paragraph -

"(1) Subject to the following provisions of this regulation, an application to the chairman of a medical *board* for leave to appeal to a Commissioner from a decision of a medical *board* shall-

(a) be made in accordance with regulation 3 and Schedule 2; and

(b) have annexed to it a copy of the full statement of the tribunal's decision."

Amendment of Schedule 2 to the Adjudication Regulations

6. (1) Schedule 2 to the Adjudication Regulations (time limits for making applications, appeals or references) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 7, in column (3), for the words "a copy of the record of the decision was given to the applicant" there shall be substituted the words "a copy of the full statement of the tribunal's decision was given or sent to the applicant".

(3) In paragraph 8, in column (3), for the words "a copy of the record of the decision was given to the applicant" there shall be substituted the words "a copy of the full statement of the tribunal's decision was given or sent to the applicant".

(4) In paragraph 9, in column (3), for the words "a copy of the record of the decision was given to the applicant" there shall be substituted the words "a copy of the full statement of the tribunal's decision was given or sent to the applicant".

Amendment of regulation 2 of the Commissioners Procedure Regulations

7. In regulation 2 of the Commissioners Procedure Regulations (interpretation) there shall be inserted after the definition of "*Department*" the following definition -

""full statement of the tribunal's decision" has the same meaning as in the Social Security (Adjudication) Regulations 1995;"

Amendment of regulation 4 of the Commissioners Procedure Regulations

8. (1) Regulation 4 of the Commissioners Procedure Regulations (notice of application to a Commissioner for leave to appeal) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), for the words "a copy of the decision against which leave to appeal is being sought" there shall be substituted the words "a copy of the full statement of the tribunal's decision against which leave to appeal is being sought".

(3) In paragraph (2), the words ", otherwise than by a decision recorded in the record of the proceedings of the tribunal *or board*," shall be omitted.

Amendment of regulation 6 of the Commissioners Procedure Regulations

9. In regulation 6 of the Commissioners Procedure Regulations (notice of appeal) there shall be substituted for the word "decision" the words "full statement of the tribunal's decision".

Amendment of the Child Support Commissioners Procedure Regulations

10. - 13. *Omitted.*

SCHEDULE 2

This Schedule sets out the text of the Social Security (National Insurance Number Information: Exemption) Regulations 1997 (S.I.1997/2676) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type

STATUTORY INSTRUMENTS

1997 No. 2676

SOCIAL SECURITY

The Social Security (National Insurance Number Information: Exemption) Regulations 1997

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Social Security (National Insurance Number Information: Exemption) Regulations 1997 and shall come into force on 1st December 1997.

(2) For the purposes of any regulation introduced by these Regulations, "the Administration Act" means the Social Security Administration Act 1992(a).

Amendment of the Social Security (Attendance Allowance) Regulations 1991

2. In the Social Security (Attendance Allowance) Regulations 1991(b) after regulation 1 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act

1A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply to any claim for attendance allowance made or treated as made before 9th February 1998."

Amendment of the Council Tax Benefit Regulations 1992

3. *Omitted.*

(a) 1992 c.5; (b) S.I.1991/2740.

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

4. In the Social Security (Disability Living Allowance) Regulations 1991(a) after regulation 1 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act

1A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply -

- (a) to a person under the age of 16;
- (b) to any claim for disability living allowance made or treated as made before 9th February 1998."

Amendment of the Disability Working Allowance (General) Regulations 1991

5. In the Disability Working Allowance (General) Regulations 1991(b) after regulation 2 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act

2A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply -

- (a) to a child or young person in respect of whom disability working allowance is claimed;
- (b) to any claim for disability working allowance made or treated as made before 9th February 1998;
- (c) to a partner in respect of whom a claim for disability working allowance is made or treated as made before 5th October 1998."

Amendment of the Family Credit (General) Regulations 1987

6. *Omitted.*

Amendment of the Social Security (Guardian's Allowances) Regulations 1975

7. In the Social Security (Guardian's Allowances) Regulations 1975(c) after regulation 1 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act

1A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply to guardian's allowance."

Amendment of the Housing Benefit (General) Regulations 1987

8. *Omitted.*

(a) S.I.1991/2890; (b) S.I.1991/2887; (c) S.I.1975/515.

Amendment of the Social Security (Incapacity Benefit) Regulations 1994

9. In the Social Security (Incapacity Benefit) Regulations 1994(a) after regulation 2 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act

2A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply -

- (a) to a child in respect of whom an increase of incapacity benefit is claimed;
- (b) to an adult dependant in respect of whom a claim for an increase of incapacity benefit is made or treated as made before 5th October 1998."

Amendment of the Income Support (General) Regulations 1987

10. *Omitted.*

Amendment of the Social Security (Invalid Care Allowance) Regulations 1976

11. In the Social Security (Invalid Care Allowance) Regulations 1976(b) after regulation 2 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act

2A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply -

- (a) to a child in respect of whom an increase of invalid care allowance is claimed;
- (b) to any claim for invalid care allowance made or treated as made before 9th February 1998;
- (c) to an adult dependant in respect of whom a claim for an increase of invalid care allowance is made or treated as made before 5th October 1998."

Amendment of the Jobseeker's Allowance Regulations 1996

12. In the Jobseeker's Allowance Regulations 1996(c) after regulation 2 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act

2A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply -

- (a) to a child or young person in respect of whom jobseeker's allowance is claimed;
- (b) to any claim for jobseeker's allowance made or treated as made before 5th October 1998."

(a) S.I.1994/2946; (b) S.I.1976/409; (c) S.I.1996/207.

Amendment of the Social Security (Maternity Allowance) Regulations 1987

13. In the Social Security (Maternity Allowance) Regulations 1987(a) after regulation 1 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act

1A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply to an adult dependant in respect of whom a claim for an increase of maternity allowance is made or treated as made before 5th October 1998."

Amendment of the Social Security (Severe Disablement Allowance) Regulations 1984

14. In the Social Security (Severe Disablement Allowance) Regulations 1984(b) after regulation 2 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act

2A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply -

- (a) to a child in respect of whom an increase of severe disablement allowance is claimed;
- (b) to an adult dependant in respect of whom a claim for an increase of severe disablement allowance is made or treated as made before 5th October 1998."

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979

15. (1) The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979(c) shall be amended in accordance with the following provisions of this regulation.

(2) After regulation 1 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act for the purposes of retirement pension

1A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply -

- (a) to a child in respect of whom an increase of retirement pension is claimed;
- (b) to an adult dependant in respect of whom a claim for an increase of retirement pension is made or treated as made before 5th October 1998."

(3) After regulation 16 there shall be inserted the following regulation -

"Disapplication of section 1(1A) of the Administration Act for the purposes of widowed mother's allowance

16A. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply to a child in respect of whom an increase of widowed mother's allowance is claimed."

(a) S.I.1987/416; (b) S.I.1984/1303; (c) S.I.1979/642.

SCHEDULE 3

This Schedule sets out the text of the Social Security (Penalty Notice) Regulations 1997 (S.I.1997/2813) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type

STATUTORY INSTRUMENTS

1997 No. 2813

SOCIAL SECURITY

The Social Security (Penalty Notice) Regulations 1997

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Social Security (Penalty Notice) Regulations 1997 and shall come into force on *1st May 1998*.

Notice

2. (1) Where the *Department* gives to a person a written notice under section 115A(2) of the Social Security Administration Act 1992, the notice shall contain the information that -

- (a) the penalty only applies to an overpayment which is recoverable under section 71 *or* 71A of the Social Security Administration Act 1992(a);
- (b) the penalty only applies where it appears to the *Department* that the making of the overpayment was attributable to an act or omission by the person and that there are grounds for instituting proceedings for an offence relating to the overpayment;
- (c) the penalty is 30 per cent. of the amount of the overpayment, is payable in addition to repayment of the overpayment and is recoverable by the same methods as those by which the overpayment is recoverable;
- (d) a person who agrees to pay a penalty may withdraw the agreement within 28 days (including the date of the agreement) by notifying the *Department* in the manner specified by the *Department*; if the person withdraws the agreement, so much of the penalty as has already been recovered shall be repaid and he will no longer be immune from proceedings for an offence;
- (e) if it is decided on review or appeal (or in accordance with regulations) that the overpayment is not recoverable or due, so much of the penalty as has already been recovered shall be repaid;

(a) 1992 c.5.

- (f) if the amount of the overpayment is revised on review or appeal, except as covered by a new agreement to pay the revised penalty, so much of the penalty as has already been recovered shall be repaid and the person will no longer be immune from proceedings for an offence;
- (g) the payment of a penalty does not give the person immunity from prosecution in relation to any other overpayment or any offence not relating to an overpayment.

(2) The notice shall set out -

- (a) the manner specified by the *Department* by which the person may agree to pay a penalty;
- (b) the manner specified by the *Department* by which the person may notify the withdrawal of his agreement to pay a penalty.

Made 27th March 1998

Clare Christian
Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. Section 1 of the Social Security Act 1982 enables the Department by Order to apply to the Island, as part of the law of the Island and incorporating the exceptions, adaptations and modifications, any legislation to which the Act applies.
2. Inter alia, the Act applies to the Social Security Acts 1975 to 1992 (of Parliament) and any statutory instrument made or having effect as if made under those Acts.
3. This Order applies to the Island the legislation referred to in Article 2(1) of the Order the provisions of which, as applied, are summarised in the following paragraphs. The applied legislation comes into force or is deemed to have come into force, as the case may be, on the same day as the corresponding provisions come or came into force in Great Britain unless stated otherwise. Where necessary the provisions have been applied in the Island administratively pending their application by Order.
4. The Social Security (Adjudication) and Commissioners Procedure and Child Support Commissioners (Procedure) Amendment Regulations 1997 (S.I.1997/955).

These Regulations amend the provisions of the Social Security (Adjudication) Regulations 1995 and the Social Security Commissioners Procedure Regulations 1987 in so far as they relate to applications for leave to appeal against a tribunal decision.

These Regulations require any application for leave to appeal to a Commissioner against the decision of a tribunal to be accompanied by a copy of the tribunal's statement of the reasons for its decision and of its findings on questions of fact material thereto. This requirement applies equally whether the application is made to the chairman of a tribunal or to a Commissioner, and whether the tribunal in question is a social security appeal tribunal, a disability appeal tribunal or a medical adjudicating authority (regulations 3 to 5 and 8). A notice of appeal must also be accompanied by a copy of this statement (regulation 9).

The Regulations also amend the time limit for making an application to the chairman of a social security appeal tribunal, a disability appeal tribunal or a medical adjudicating authority for leave to appeal to a Commissioner so that it begins with the date on which the tribunal's statement of the reasons for its decision and of its findings on questions of fact material thereto is given or sent to the applicant (regulation 6).

The Regulations reflect the changes made in the Social Security (Adjudication) and Child Support Amendment (No. 2) Regulations 1996 (S.I. 1996/2450), which amended the provisions on the form and promulgation of tribunal decisions.

5. The Social Security (National Insurance Number Information: Exemption) Regulations 1997 (S.I.1997/2676).

These Regulations further amend the Social Security (Attendance Allowance) Regulations 1991, the Social Security (Disability Living Allowance) Regulations 1991, the Disability Working Allowance (General) Regulations 1991, the Social Security (Guardian's Allowance) Regulations 1975, the Social Security (Incapacity Benefit) Regulations 1994, the Social Security (Invalid Care Allowance) Regulations 1976, the Jobseeker's Allowance Regulations 1996, the Social Security (Maternity Allowance) Regulations 1987, the Social Security (Severe Disablement Allowance) Regulations 1984, and the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979.

These Regulations provide that certain benefits and certain categories of person are exempt from section 1(1A) of the Social Security Administration Act 1992; section 1(1A) provides that, when benefit is claimed, information must be supplied relating to the national insurance number of the person claiming benefit and any other person in respect of whom benefit is claimed. These Regulations specify that some of the exemptions will apply for a limited period; where no time limit is specified the exemption applies indefinitely.

6. The Social Security (Penalty Notice) Regulations 1997 (S.I.1997/2813).

Section 115A of the Social Security Administration Act 1992 provides for a person who has caused an overpayment of social security benefit to pay a penalty in lieu of criminal proceedings. In this connection the Department may give the person a notice about the agreement to pay a penalty. These Regulations require such a notice to set out certain additional information relating to the operation of these provisions.

