



Statutory Document No. 107/02

THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992

THE FAMILY INCOME SUPPLEMENT (GENERAL) (AMENDMENT)
REGULATIONS 2002

Approved by Tynwald 19th March 2002

Coming into operation in accordance with Article 1(1)

In exercise of the powers conferred on the Department of Health and Social Security by section 123 and section 128 of the Social Security Contributions and Benefits Act 1992(a) (as that Act has effect in the Isle of Man(b)), and of all other enabling powers, the following Regulations are hereby made:-

Citation and commencement

1. These Regulations may be cited as the Family Income Supplement (General) (Amendment) Regulations 2002 and shall come into operation on 8th April 2002.

Amendment of the Family Income Supplement (General) Regulations 1998

2. (1) The Family Income Supplement (General) Regulations 1998(c) shall be amended in accordance with the following paragraphs.

(2) In regulation 6 (further provision as to remunerative work) -

- (a) for the words "30 hours" substitute the words "24 hours";
- (b) after the words "'16 hours'" insert the words "in paragraph (4) of that regulation"; and
- (c) for the words "'30 hours'" substitute the words "'24 hours'".

(a) 1992 c.4; (b) S.D. 505/94; (c) S.D. 363/98.

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(3) For paragraph (7) of regulation 31 (notional income) substitute the following paragraphs -

“(7) Where -

- (a) a claimant in employment as an employed earner or a self-employed earner performs any activity which involves the provision of labour and/or the performance of any service, whether in connection with the manufacture of goods, or the provision of services, or any combination thereof (“work”), for another person; and
- (b) that person makes no payment in respect of the work or pays less than that paid for comparable work,

the adjudication officer shall treat the claimant as having earnings for such work, which shall be calculated -

- (c) in the case of a claimant who is in employment as an employed earner, as would be reasonable for such work at an hourly rate not less than the rate of the minimum wage applicable under the Minimum Wage Act 2001 (and any regulations made thereunder); and
- (d) in the case of a claimant who is in employment as a self-employed earner (other than as a child-minder), as if he were a person to whom the terms of the Minimum Wage Act 2001 (and any regulations made thereunder) applied,

but this paragraph shall not apply to a claimant who is engaged by a charitable or voluntary organisation or is a volunteer if the adjudication officer is satisfied in any of those cases that it is reasonable for the claimant to provide his work free of charge.

(7B) For the purposes of paragraph (7) “the rate of the minimum wage” means the rate of the minimum wage provided for by regulation 11 or 13, as the case may be, of the Minimum Wage Regulations 2001.”.

(4) In paragraph (1) of regulation 52 (determination of the appropriate prescribed amount for families) in sub-paragraph (b) for the words “30 hours” substitute the words “24 hours”.

(5) In regulation 54 (conditions for prescribed amounts of housing costs) -

(a) for paragraph (2) substitute the following paragraph -

“(2) The condition is that the claimant is resident in public sector housing and is liable for rent under regulation 56 and rates under regulation 59 in respect of that property.”; and

(b) after paragraph (3) add the following paragraph -

“(4) In this regulation -

- (a) "public sector housing" means housing owned by -
 - (i) the Department;
 - (ii) the Department of Local Government and the Environment;
 - (iii) a local authority; or
 - (iv) an approved housing association (within the meaning of Part II of the Housing (Miscellaneous Provisions) Act 1976 (an Act of Tynwald)); and
- (b) "private sector housing" means housing of a type other than public sector housing (as defined in sub-paragraph (a))."

(6) In regulation 56(3) (prescribed rent costs) for the words "paragraph 1 of Part II" substitute the words "paragraph 2(1) of Part II".

(7) For regulation 57 (prescribed mortgage costs) substitute the following regulation -

"Prescribed loan interest costs

57. (1) There shall be applicable under this regulation, in respect of any mortgage or other loan taken out for either of the following purposes -

- (a) acquiring an interest in the dwelling occupied as the home; or
- (b) paying off another loan to the extent that the other loan would have qualified under sub-paragraph (a) above had the loan not been paid off,

the amount, calculated on a weekly basis, which is payable and attributable to interest on the loan.

(2) For the purposes of this regulation, references to a loan include also a reference to money borrowed under a hire purchase agreement for the purpose specified in sub-paragraph (a) or (b) of paragraph (1) above.

(3) Where a loan is applied only in part for the purpose specified in sub-paragraph (a) or (b) of paragraph (1) above, only the interest which is payable and attributable to that portion of the loan which is applied for that purpose shall be applicable under this regulation.

(4) Where -

- (a) a person has taken out a mortgage for business purposes which is discharged on his interest in the home; and
- (b) he intends to sell his interest in the home to discharge his business liabilities,

the amount, calculated on a weekly basis, attributable to interest on that loan shall be applicable under this paragraph for a period not exceeding 6 months where this is essential to enable the interest in the home to be realised on reasonable terms.”.

(8) After the newly substituted regulation 57 insert the following regulation -

“The calculation of loan interest

57A. The weekly amount of prescribed loan interest for the purposes of regulation 57 above shall be calculated by applying the formula -

$$\frac{A \times B}{52}$$

where -

“A” = the amount of the outstanding loan taken out for either of the purposes referred to in paragraph (1) of that regulation in respect of which interest is payable and attributable; and

“B” = the lender’s current interest rate.”.

(9) In paragraph (1) of regulation 58 (prescribed maintenance and insurance costs) for the words “paragraph 3” (which appear near the end of that paragraph) substitute the words “paragraph 1(3)”.

(10) In paragraph (4) of regulation 62 (reduction in prescribed amounts applicable for certain occupants of the home) for the words “paragraph 2” (which appear near the end of that paragraph and which were substituted by regulation 3(6)(b)(ii) of the Income-related Benefits (Miscellaneous Amendments) Regulations 2001) substitute the words “paragraph 2(2)”.

(11) In regulation 63(1) (prescribed amount for non-householder’s contribution) for the words “paragraph 4” substitute the words “paragraph 1(4)”.

(12) In regulation 64(1) (modification of prescribed amounts of housing costs for boarders) for the words “paragraph 4” substitute the words “paragraph 1(4)”.

(13) After regulation 66 (change of circumstances: young person leaving full-time education) insert the following regulation -

“Change in composition of the claimant’s household

66A. (1) Where an award of family income supplement is payable and any of the events specified in paragraph (2) occurs during the period of that award, that event shall be a change of circumstances affecting the award and the award shall be superseded and shall cease with effect from the date the change of circumstances occurs.

(2) The events referred to in paragraph (1) are where -

- (a) each member of a married couple, neither of whom is responsible for, and a member of the same household as, a child, young person or disabled adult, ceases to be treated under these Regulations as being a member of the same household as the other member of that married couple;
- (b) each member of a married couple, either of whom is responsible for, and a member of the same household as, a child, young person or disabled adult, ceases to be treated under these Regulations as a member of the same household as the other member of that married couple;
- (c) each member of an unmarried couple, either of whom is responsible for, and a member of the same household as, a child, young person or disabled adult, ceases to be treated under these Regulations as a member of the same household as the other member of that former unmarried couple;
- (d) a lone parent becomes a member of a married or unmarried couple;
- (e) a person becomes a non-dependant of the claimant;
- (f) a person ceases to be a non-dependant of the claimant.”.

(14) In regulation 69 (prescribed circumstances for entitlement to family income supplement) for the words “section 123(1)” substitute the words “section 128(1)”.

(15) After paragraph 44 in Schedule 2 (sums to be disregarded in the calculation of income other than earnings) add the following paragraph -

“45. Any payment under Part XA of the Contributions and Benefits Act (the winter bonus).”.

Made

18 / 12 / 02

Ellen Christian

Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which shall come into effect on 8th April 2002, make a number of miscellaneous amendments to the Family Income Supplement (General) Regulations 1998, as follows.

Regulation 2(1) provides for introduction to the Regulations;

Regulation 2(2) and (4) reduces - from 30 hours to 24 hours - the minimum number of hours in any week in which a person entitled to family income supplement must be engaged in remunerative work in order to gain an addition (of £20.00 from 8th April 2002) to their prescribed weekly amount of family income supplement;

Currently, if a person entitled to family income supplement carries out any work for which they are paid less than what would normally be paid for that work (or no amount is paid for the work done), then the adjudication officer deciding on that person's entitlement shall treat them as if they were in fact in receipt of earnings at a rate which is reasonable for the work done.

Following the introduction of a statutory minimum wage on the Island, regulation 2(3) provides that any such notional earnings attributed to a person shall be at a rate not less than the rate of the minimum wage appropriate to that person for that week. For this purpose, regulation 2(3) also provides that any person who is engaged in self-employment (other than as a child-minder) - and who would therefore not be subject to the minimum wage - shall be treated as if they were;

Regulation 2(5) clarifies what types of housing costs are to be included in a person's prescribed amount of family income supplement;

Regulation 2(6), (9) to (12) and (14) make minor clarificatory amendments;

Regulation 2(7) and (8) amend the method for calculating the weekly amount of loan interest housing costs to be included in a person's prescribed amount of family income supplement, in line with that for other income-related benefits;

Regulation 2(13) provides that a person who has been awarded family income supplement shall now be obliged to immediately notify the Department if any of the following changes in their domestic circumstances occur during the period of that award of benefit -

- a person who was a lone parent at the start of their award of family income supplement is then joined in the household by another person, who becomes their partner;
- a person who was a member of a married couple at the start of their award of family income supplement then separates from their spouse;
- a person who was a member of an unmarried couple with responsibility for child(ren), young person(s) or disabled adult(s) at the start of their award of family income supplement then separates from their partner;

- a person who is a non-dependant of a person who has been awarded family income supplement either joins or leaves the property where the person who has been awarded family income supplement is living.

The benefit entitlement of the person awarded family income supplement will then be superseded to take into account that change; and

Regulation 2(15) provides that the winter bonus shall not be taken into account as being income of a person for the purpose of calculating their prescribed amount for family income supplement.