



Statutory Document No. 156/02

THE SOCIAL SECURITY ACT 2000

THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992
(APPLICATION) (AMENDMENT) ORDER 2002

Approved by Tynwald 16th April 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 1 of the Social Security Act 2000(a), and of all other enabling powers, the following Order is hereby made:-

Citation and commencement

1. This Order may be cited as the Social Security Contributions and Benefits Act 1992 (Application) (Amendment) Order 2002 and shall, subject to section 2(1) of the Social Security Act 2000, come into operation on 1st May 2002.

Amendment of the principal Order (S.D. 505/94)

2. (1) The Schedule to the Social Security Contributions and Benefits Act 1992 (Application) Order 1994 (which set out the Social Security Contributions and Benefits Act 1992(b) as it was to have effect in the Island) shall be amended in accordance with the following paragraphs.

(2) For the first title to section 128 ("Family credit") substitute the title "*Family income supplement*".

(3) For subsection (1) of section 128 (which was inserted by Article 2(3) of the Social Security Contributions and Benefits Act 1992 (Application) (Amendment) Order 1998(c)) substitute the following subsection -

"128. (1) Subject to regulations under section 5(1)(a) of the Administration Act, a person in the Isle of Man is entitled to family income supplement if, when the claim is made or is treated as made -

(a) 2000 c.5; (b) 1992 c.4; (c) S.D. 338/98.

- (a) he is a member of a family;
- (b) his income does not exceed a prescribed amount at such date as may be prescribed; and
- (c) except in such circumstances as may be prescribed, neither he nor any member of his family is entitled to a disability working allowance.”.

(4) For subsection (2) of section 128 (which was substituted by Article 2(2) of the Social Security Contributions and Benefits Act 1992 (Application) (Amendment) Order 2001) substitute the following subsection -

“(2) For the purposes of this section, a family consists of the following members of a household, namely, a man or woman engaged and normally engaged in remunerative full-time work and -

- (a) if that person is not one of a married or unmarried couple, any child or person of a prescribed description for whom that person is responsible; or
- (b) if that person is one of a married couple, the other member of that couple and any child or person of a prescribed description for whom either of them is responsible; or
- (c) if that person is one of an unmarried couple, either of whom is responsible for any child or person of a prescribed description, the other member of that couple and any child or person of a prescribed description for whom either of them is responsible; or
- (d) if that person is one of a married couple, neither of whom is responsible for any child or person of a prescribed description, the other member of that married couple.”.

(5) In paragraph (b) of subsection (6) of section 128 after the words “income support” insert the words “, an income-based jobseeker’s allowance”.

(6) For section 148 (entitlement to the Christmas bonus) substitute the following section -

“Entitlement to Christmas Bonus

148. (1) Any person who in any year -

- (a) is present or ordinarily resident in the Isle of Man, the United Kingdom or any other member State of the European Union at any time during the relevant week; and
- (b) is entitled to a payment of a qualifying benefit in respect of a period which includes a day in that week or is to be treated as entitled to a payment of a qualifying benefit in respect of such a period,

shall, subject to the following provisions of this Part of this Act (and, in particular, to subsection (1A) below) and to section 1 of the Administration Act, be entitled to payment under this subsection in respect of that year.

(1A) In addition to satisfying the conditions in subsection (1) above, in the case of a person who -

- (a) on the last day of the relevant week had not attained the age of 60; and
- (b) is entitled to, or is to be treated as entitled to, a payment of either income support or an income-based jobseeker's allowance (and no other qualifying benefit) in respect of a period which includes a day in the relevant week,

for entitlement to payment under subsection (1) above in respect of any year it shall be a requirement that he also satisfies the condition in subsection (1B) below (by virtue of subsection (1C) below or otherwise).

(1B) Subject to subsection (1C) below, the additional condition referred to in subsection (1A) above is that the person was -

- (a) entitled to, or treated as having been entitled to, a payment of either income support or an income-based jobseeker's allowance in respect of the whole of the period of 13 weeks immediately preceding the first day of the relevant week; or
- (b) entitled to, or treated as having been entitled to, (or one of those situations followed by the other) two or more of the following benefits (one benefit being immediately followed by another) -
 - (i) income support,
 - (ii) income-based jobseeker's allowance,
 - (iii) disability working allowance,
 - (iv) family income supplement,

in respect of the whole of the period of 13 weeks immediately preceding the first day of the relevant week.

(1C) For the purposes of subsection (1B) above only, any period falling within the period of 13 weeks immediately preceding the first day of the relevant week during which the person (referred to as "the claimant" in this subsection) was the partner of a person who at that time was entitled to, or is to be treated as having been entitled to, (or one of those situations followed by the other) payment of one of the following benefits -

- (a) income support;
- (b) income-based jobseeker's allowance;
- (c) disability working allowance; or
- (d) family income supplement,

shall be treated as if it were a period in respect of which the claimant was entitled to the same benefit.

This subsection shall have no effect on the entitlement (if any) to a payment under subsection (1) above of the person who was the partner of the claimant at the time.

(2) Subject to the following provisions of this Part of this Act, any person who is a member of a couple and is entitled to a payment under subsection (1) above in respect of a year shall also be entitled to payment under this subsection in respect of that year if -

- (a) the other member of the couple satisfies the condition mentioned in subsection (1)(a) above; and either -
- (b) he is entitled, or treated as entitled, to an increase in the payment of the qualifying benefit in respect of the other member of the couple; or
- (c) the only payment of a qualifying benefit to which he is entitled, or is treated as entitled, is -
 - (i) income support,
 - (ii) income-based jobseeker's allowance,
 - (iii) disability working allowance, or
 - (iv) family income supplement.

(3) A payment under subsection (1) or (2) above -

- (a) is to be made by the Department; and
- (b) is to be of £10 or such larger sum as the Department may by order specify.

(4) Where the only qualifying benefit to which a person is entitled, or is treated as entitled, in respect of a period which includes a day in the relevant week is a payment of an income-based jobseeker's allowance, he shall not be entitled to a payment under subsection (1) or (2) above if, on any day in the relevant week, he -

- (a) does not satisfy, and cannot be treated as satisfying, section 1(2)(c) of the Jobseekers Act 1995; or
- (b) is, by virtue of section 19 of the Jobseekers Act 1995, denied a jobseeker's allowance.

(4A) In the case of a person to whom subsection (1A) above applies, where the only qualifying benefit to which he is entitled, or is treated as entitled, in respect of a period which includes a day in the relevant week is a payment of an income-based jobseeker's allowance or income support, he shall not be entitled to a payment under subsection (1) or (2) above if, in respect of any period which includes a day falling in the period of 13 weeks immediately preceding the first day of the relevant week, he claimed a jobseeker's allowance, but in respect of that day he -

- (a) did not satisfy, and cannot be treated as having satisfied, section 1(2)(c) of the Jobseekers Act 1995; or
- (b) was, by virtue of section 19 of the Jobseekers Act 1995, denied a jobseeker's allowance.

(5) Only one sum shall be payable in respect of any person.”.

(7) In section 149 (supplementary provisions regarding the Christmas bonus) -

- (a) for subsection (1) substitute the following subsection -

“149. (1) For the purposes of section 148 above, the Channel Islands and Gibraltar shall be treated as though they were part of the United Kingdom.”;

- (b) for subsection (2) substitute the following subsections -

“(2) A person shall be treated for the purposes of section 148(1)(b) above as entitled to a payment of a qualifying benefit other than income support or an income-based jobseeker's allowance if he would be so entitled but for the fact that he or, if he is a member of a married or unmarried couple, the other member, is entitled to receive some other payment out of public funds.

(2A) A person shall be treated for the purposes of section 148(1)(b), (1A)(b), (2)(c)(i) or (ii) above as entitled to a payment of a qualifying benefit which is income support or an income-based jobseeker's allowance if he would be so entitled but for the fact that his income or, if he is a member of a married or unmarried couple, the income of the other member of the couple, was exceptionally of an amount which resulted in his having ceased to be entitled to that benefit.”; and

- (c) for subsection (3) substitute the following subsections -

“(3) A person shall be treated for the purposes of section 148(2)(b) above as entitled in respect of the other member of the couple to an increase in a payment of a qualifying benefit if he would be so entitled -

- (a) but for the fact that he or the other member is entitled to receive some other payment out of public funds; or

- (b) but for the operation of any provision of section 83(2) or (3) above or paragraph 6(4) of Schedule 7 to this Act or any regulations made under paragraph 6(3) of that Schedule whereby entitlement to benefit is affected by the amount of a person's earnings in a given period.

(3A) A person shall be treated for the purposes of section 148(1B)(a), (b)(i) or (ii) or (1C)(a) or (b) above as entitled to a payment of income support or an income-based jobseeker's allowance in respect of any week or 2 weeks falling in the period of 13 weeks referred to therein if he would have been so entitled but for the fact that his income or, if he is a member of a married or unmarried couple, the income of the other member of the couple, was exceptionally of an amount which resulted in his having ceased to be entitled to that benefit in respect of that week or those 2 weeks, as the case may be.

(3B) A person shall be treated for the purposes of section 148(1B)(b)(iii) or (iv) or (1C)(c) or (d) above as entitled to a payment of disability working allowance or family income supplement in respect of any week or 2 weeks falling in the period of 13 weeks referred to therein if he would have been so entitled but for the fact that his income or, if he is a member of a married or unmarried couple, the income of the other member of the couple, was exceptionally of an amount which resulted in his having ceased to be entitled to that benefit in respect of that week or those 2 weeks, as the case may be.”.

(8) In section 150 (interpretation of Part X: Christmas bonus) -

- (a) in the list of qualifying benefits in subsection (1) -
 - (i) omit the definition in paragraph (l) (widowed father's allowance), and
 - (ii) omit the definition in paragraph (n) (mobility allowance); and
- (b) in subsection (2) -
 - (i) omit the definition of “mobility supplement”, and
 - (ii) immediately before the definition of “pensionable age” insert the following definition -
 - “partner” means, where a claimant -
 - (a) is a member of a married or unmarried couple, the other member of that couple;
 - (b) is married polygamously to two or more members of the same household, any such member;”.

(9) For Part XA (the winter bonus) substitute the following section -

"PART XA

Winter Bonus

Entitlement to Winter bonus

150B. (1) In any year -

- (a) any person who satisfies the condition in subsection (2) below; or
- (b) any person who satisfies, or any joint-claim couple who satisfy, the condition in subsection (3) below,

shall, subject to the following provisions of this section (and, in particular, to subsection (1A) below) and section 1 of the Social Security Administration Act 1992, be entitled to a payment (called a "winter bonus") under this subsection in respect of that year.

(1A) In addition to satisfying either of the conditions in subsection (2) or (3) below, in the case of -

- (a) a person; or
- (b) a joint-claim couple, either or both members of which,

on the last day of the relevant week had not attained the age of 60, for entitlement to a payment under subsection (1) above in respect of any year it shall be a requirement that he also satisfies or the couple also satisfy, as the case may be, the condition in subsection (4) below.

(2) The condition referred to in subsection (1)(a) above is that, in respect of a period which includes a day in the relevant week -

- (a) the person is entitled, or is treated under subsection (5)(a) below as entitled, to an allowance in respect of a child aged less than 5 years under paragraph 2(e) of Part I of Schedule 2 to the Income Support (General) Isle of Man Regulations 2000; or
- (b) subject to subsection (7) below, the person is entitled, or is treated under subsection (5)(a) below as entitled, to an allowance in respect of a child aged less than 5 years under paragraph 2(a) of Part II of Schedule 1 to the Jobseeker's Allowance Regulations 1996.

(3) The condition referred to in subsection (1)(b) above is that, in respect of period which includes a day in the relevant week -

- (a) the person satisfies, or is treated under subsection (5)(b) below as satisfying, the condition for a premium or premiums specified in one or more of the following paragraphs of Part III of Schedule 2 to the Income Support (General) (Isle of Man) Regulations 2000, notwithstanding paragraph 5 of that Part -

- (i) paragraph 8 (pensioner premium for persons under 75),
 - (ii) paragraph 9 (pensioner premium for persons 75 or over),
 - (iii) paragraph 10 (incapacity premium),
 - (iv) paragraph 11 (disability premium),
 - (v) paragraph 12 (higher disability premium),
 - (vi) paragraph 13 (disabled child premium); or
- (b) subject to subsection (7) below, the person satisfies, or is treated under subsection (5)(b) below as satisfying, the condition for a premium or premiums specified in one or more of the following paragraphs of Part II of Schedule 3 to the Jobseeker's Allowance Regulations 1996, notwithstanding paragraph 5 of that Part -
- (i) paragraph 10 (pensioner premium for persons under 75),
 - (ii) paragraph 11 (pensioner premium for persons 75 or over),
 - (iii) paragraph 13 (incapacity premium),
 - (iv) paragraph 15 (disability premium),
 - (v) paragraph 15A (higher disability premium),
 - (vi) paragraph 16 (disabled child premium); or
- (c) subject to subsection (7) below, the joint-claim couple satisfy, or are treated under subsection (6) below as satisfying, the condition for a premium or premiums specified in one or more of the following premiums of Part IIIA of Schedule 3 to the Jobseeker's Allowance Regulations 1996, notwithstanding paragraph 20B of that Part -
- (i) paragraph 20E (pensioner premium for persons under 75),
 - (ii) paragraph 20F (pensioner premium for persons 75 or over),
 - (iii) paragraph 20G (incapacity premium),
 - (iv) paragraph 20I (disability premium),
 - (v) paragraph 20IA (higher disability premium).

(4) The additional condition referred to in subsection (1A) above is that -

- (a) in the case of a person, he received a Christmas bonus in respect of himself under Part X in respect of the immediately preceding year; or

- (b) in the case of a joint-claim couple, either member of the couple received a Christmas bonus in respect of himself, the other member or both of them under Part X in respect of the immediately preceding year.

(5) A person shall be treated -

- (a) for the purposes of subsection (2) above, as entitled to an allowance mentioned therein; and
- (b) for the purposes of subsection (3)(a) or (b) above, as satisfying the condition for a premium mentioned therein,

in respect of a period which includes a day in relevant week if he would be so entitled or would satisfy that condition, as the case may be, but for the fact that his income or, if he is a member of a married or unmarried couple, the income of the other member of the couple, or the income of both of them was exceptionally of an amount which resulted in his ceasing to be entitled to that allowance or not satisfying the condition for that premium, as the case may be, in respect of the whole of that week.

(6) A joint-claim couple shall be treated, for the purposes of subsection (3)(c) above, as satisfying the condition for a premium mentioned therein in respect of a period which includes a day in the relevant week if they would satisfy that condition but for the fact that the income of either or both members of the couple was exceptionally of an amount which resulted in the couple not satisfying the condition for that premium in respect of the whole of that week.

(7) For the purposes of -

- (a) subsection (2)(b) above, a person shall not be treated as being entitled to an allowance in respect of a child aged less than 5 years mentioned therein;
- (b) subsection (3)(b) above, a person shall not be treated as satisfying the condition for a premium or premiums mentioned therein; and
- (c) subsection (3)(c) above, a joint-claim couple shall not be treated as satisfying the condition for a premium or premiums mentioned therein,

in respect of a period which includes a day in the relevant week if, on any day in the relevant week, he, or in the case of a joint-claim couple, either member of that couple -

- (d) does not satisfy, and cannot be treated as satisfying, section 1(2)(c) of the Jobseekers Act 1995; or
- (e) is, by virtue of section 19 of the Jobseekers Act 1995, denied a jobseeker's allowance.

(8) A payment under subsection (1) above -

- (a) shall be made by the Department; and
- (b) shall be of £150.00.

(9) Only one bonus under this section shall be payable in respect of any person or joint-claim couple.

(10) A sum payable under this section shall not be treated as income support or income-based jobseeker's allowance, as the case may be, for the purposes of any enactment or instrument under which entitlement to either of those benefits arises or is to be treated as arising, as the case may be.

(11) In this section -

- (a) "benefit week", in relation to an allowance referred to in subsection (2) above and in relation to a premium referred to in subsection (3) above
 - (i) under the Income Support (General) (Isle of Man) Regulations 2000, has the same meaning as in regulation 2(1) of those Regulations; and
 - (ii) under the Jobseeker's Allowance Regulations 1996, has the same meaning as in regulation 1(3) of those Regulations;
- (b) "joint-claim couple" has the meaning given in section 1(4) of the Jobseekers Act 1995 for "a joint-claim couple";
- (c) "pensionable age" has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995; and
- (d) "relevant week", in relation to any year, means the first complete benefit week falling in January."

Made 6/3/02

Mr. Christian

Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order, which shall come into operation on 1st May 2002, amends the Social Security Contributions and Benefits Act 1992 (as it has effect in Island) ("the Contributions and Benefits Act") in accordance with the following paragraphs.
2. Article 1 and Article 2(1) provide for the citation, commencement and introduction of the Order.
3. Article 2(2) to (5) amends section 128 of the Contributions and Benefits Act so as to clarify the conditions under which entitlement to family income supplement arises.
4. Article 2(6) to (8) replaces some of the provisions of Part X of the Contributions and Benefits Act (which relates to the Christmas bonus) in a consolidated, updated form.
5. Article 2(9) replaces section 150B of the Contributions and Benefits Act (which relates to the winter bonus) so as to make minor clarifications to its entitlement conditions.