



Statutory Document No. 157/02

THE SOCIAL SECURITY ACT 2000

THE SOCIAL SECURITY ADMINISTRATION ACT 1992 (APPLICATION)  
(AMENDMENT) ORDER 2002

*Approved by Tynwald 16<sup>th</sup> April 2002*

*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 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 Administration Act 1992 (Application) (Amendment) Order 2002 and shall, subject to section 2(1) of the Social Security Act 2000, come into operation on 1<sup>st</sup> May 2002.

**Amendment of the principal Order**

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

(2) In subsection (11) of section 71 (benefits which may be recovered under that section) after paragraph (e) insert the following paragraphs -

- “(ea) Christmas bonus under Part X of the Contributions and Benefits Act;
- (eb) winter bonus under Part XA of the Contributions and Benefits Act;”.

---

(a) 2000 c.5; (b) S.D. 506/94; (c) 1992 c.5.

Price: £1.15 Band: A

(3) For subsection (3) of section 105 (failure to maintain) substitute the following subsections -

“(3) Subject to subsection (4) below, for the purposes of this Part -

- (a) a man shall be liable to maintain his wife and any children of whom he is the father;
- (b) a woman shall be liable to maintain her husband and any children of whom she is the mother;
- (c) a person shall be liable to maintain another person throughout any period in respect of which the first-mentioned person has, on or after 23<sup>rd</sup> May 1980 (the date of the passing of the Social Security Act 1980) and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of section 33 of the Immigration Act 1971 (as extended to the Island by the Immigration (Isle of Man) Order 1991) to be responsible for the maintenance and accommodation of the other person; and
- (d) “child” includes a person who has attained the age of 16 but not the age of 19 and in respect of whom either parent, or some person acting in the place of either parent, is receiving income support or an income-based jobseeker's allowance.

(3A) Any reference in subsection (3) above to children of whom the man or the woman is the father or the mother shall be construed in accordance with section 5 of the Family Law Reform Act 1991 (an Act of Tynwald).

(3B) A document bearing a certificate which -

- (a) is signed by a person authorised in that behalf by the Department; and
- (b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in subsection (3)(c) above,

shall be conclusive of the undertaking in question for the purposes of this section; and a certificate purporting to be so signed shall be deemed to be so signed until the contrary is proved.”.

(4) After section 114 (offences relating to contributions) insert the following sections -

*“Recovery of outstanding contributions by way of a warrant enforceable in the same manner as a High Court execution*

**Recovery of outstanding contributions following the decision of a contributions decision-maker**

114A. (1) Where -

- (a) under section 7A(1)(c) of the Social Security Act 1998, a contributions decision-maker determines that a person is or was liable to pay contributions of any particular class under the Contributions and Benefits Act; and
- (b) 30 days after the date on which notice of the contributions decision-maker's decision was issued, some or all of those contributions remain outstanding at the time,

the Department may issue to the appropriate Coroner a warrant in the form specified in Schedule 4A to this Act.

(2) A warrant issued under subsection (1) above shall be enforceable in the same manner as an execution of the High Court.

(3) Without prejudice to the generality of subsection (2) above, the Administration of Justice Act 1981 (an Act of Tynwald) shall apply, with the necessary modifications, to the enforcement of a warrant issued under this section as it applies to the enforcement of an execution of the High Court.

(4) A warrant issued under subsection (1) above shall -

- (a) be sufficient evidence for the purposes of this section that the sum mentioned in the warrant is unpaid and due; and
- (b) be deemed to be authentic and no proof shall be required of the signature or the status as an officer of the Department of the person signing it.

(5) This section is without prejudice to any other remedy available for the recovery of outstanding contributions.

**Power to set aside warrants**

114B. (1) Where the Chief Registrar is, on the application of the person named in a warrant issued under section 114A above, satisfied that -

- (a) the sum due under the warrant has been paid in full; or
- (b) there is an error on the face of the warrant,

the Chief Registrar may, on such terms as he thinks fit, set aside the warrant.

(2) If, on application under subsection (1) above, the Chief Registrar is satisfied that there is an error on the face of the warrant but the applicant is not prejudiced by that error, the Chief Registrar may dismiss the application as he thinks fit.

(3) If the Chief Registrar is in any doubt as to a question of law arising under this section, he may refer the question to the Social Security Commissioner for his opinion.

(4) An application under subsection (1) above shall be made in writing to the Chief Registrar within fourteen days of the date the warrant first came to the applicant's notice; and on receipt of the application the Chief Registrar shall forthwith -

- (a) stay the enforcement of the warrant; and
- (b) notify the Department accordingly.

(5) An application under subsection (1) above shall be in such form and contain such information as the Chief Registrar may require.

(6) The Chief Registrar may adopt any procedure which he considers convenient and to afford a fair and equal opportunity to the applicant and the Department to present their respective cases to him in the determination of an application under subsection (1) above.

(7) An application under subsection (1) above may be determined without a hearing unless the applicant requests otherwise, but where a hearing is held then it shall be held informally and in private.

(8) A decision of the Chief Registrar to set aside a warrant in any case under subsection (1) above shall not prejudice the decision of a contributions decision-maker under section 7A(1)(c) of the Social Security Act 1998 as to whether in that case a person was liable to pay contributions of a particular class and, if so, the amount that the person was liable to pay.

(9) Where the Chief Registrar sets aside a warrant under subsection (1) above -

- (a) the Department shall not be prevented, other than in a case to which subsection (1)(a) above applies, from issuing a fresh warrant in place of the one set aside; and
- (b) no person shall be liable for anything done previously in good faith under the warrant."

(5) After section 122C (disclosure of information between the Assessor of Income Tax and the Collector of Customs and Excise) insert the following section -

**“Disclosure of information between the Department and the Department of Trade and Industry relating to the enforcement of the minimum wage**

122D. (1) Notwithstanding any other restriction upon the disclosure of information imposed by any enactment or otherwise, the Department may disclose any relevant information to an authorised officer of the Department of Trade and Industry for the purpose of investigating whether an employer has complied with his obligations under the Minimum Wage Act 2001 and any Regulations made thereunder.

(2) Information obtained pursuant to subsection (1) above shall not be disclosed to any person other than an authorised officer of the Department of Trade and Industry and only for the purpose mentioned in that subsection.

(3) In this section, “authorised officer” means an officer authorised for the purposes of the Minimum Wage Act 2001 and any Regulations made thereunder.”.

(6) In subsection (1) of section 150 (adjustment of Isle of Man benefits) -

(a) at the end of paragraph (d) add the word “and”; and

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

“(e) specified in section 150B(8)(b) of that Act.”.

(7) After Schedule 4 insert the following Schedule -

**“Schedule 4A**

**Form of warrant for the recovery of outstanding contributions**

This warrant is given under section 114A of the Social Security Administration Act 1992 (as that Act has effect in the Isle of Man).

To the Coroner for the Sheading of ..... .

I ....., being an authorised officer of the Department, direct you to enforce this warrant in the same manner as an execution of the High Court against ..... for outstanding National Insurance contributions amounting to £ ....., which the said person is liable to pay under Part I of the Social Security Contributions and Benefits Act 1992 (as that Act has effect in the Isle of Man).

Signed ..... (an authorised officer of the Department)

Date .....”.

*Am Christie*

Minister for Health and Social Security

---

### EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order makes various amendments to the Social Security Administration Act 1992 (as it has effect in the Island) (referred to in this note as "the Act"), with effect from 1<sup>st</sup> May 2002, as follows.
  - 2.1 Article 2(1) introduces the amendments;
  - 2.2 Article 2(2) extends the list of Social Security benefits which may be recovered from a person in accordance with the provisions of section 71 of the Act where an overpayment of benefit has arisen by virtue of that person's misrepresenting or failing to disclose a material fact affecting their entitlement to benefit so as to include the Christmas bonus and the winter bonus;
  - 2.2 Article 2(3) inserts into section 105 of the Act provision setting out in what circumstances one person is liable to maintain another for the purposes of income support. Under that section, where any person persistently fails to maintain himself (or another person whom he is liable to maintain) which results in their being paid income support or an income-based jobseeker's allowance, then that person shall be guilty of an offence under the Act. Previously these provisions were found in section 78 of the Act but extended to have effect for the purposes of section 105;
  - 2.3 Article 2(4) provides that where a contributions decision-maker determines that a person was liable to pay an amount of National Insurance contributions and 30 days after the issue of a notice informing that person of that decision some or all of those contributions remain outstanding, then the Department may issue to the appropriate Coroner a warrant against the person from whom the contributions are due, which the Coroner shall enforce as if it were an execution of the High Court. The form of the warrant is set out in Article 2(7).

This new procedure is similar to those which operate in respect of the recovery of certain overpayments of social security benefits and unpaid income tax.

Provision is also made (by way of new section 114B) bestowing a power on the Chief Registrar to set aside such a warrant where there is an error on its face or it appears that the contributions in question have been paid in full.

- 2.4 Article 2(5) allows the Department to disclose information it obtains suggesting that an employer is not complying with their obligations under the Minimum Wage Act 2001 (or Regulations made thereunder) to an authorised officer of the Department of Trade and Industry for further investigation by that officer; and
- 2.5 Article 2(6) inserts into section 150 of the Act provision for the Department to adjust (as and when it thinks fit) the amount of the annual winter bonus payable. The bonus currently stands at £150.00.