



Statutory Document No. 41/03

THE SOCIAL SECURITY ACT 2000
THE SOCIAL SECURITY LEGISLATION (APPLICATION) (No. 2)
ORDER 2003

Approved by Tynwald *20th February 2003*

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. (1) This Order may be cited as the Social Security Legislation (Application) (No. 2) Order 2003 and shall, subject to section 2(1) of the Social Security Act 2000, come into force as provided for 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 on 1st March 2003.

Interpretation

2. (1) In this Order "the applied legislation" means the Social Security (Contributions) (Amendment No. 5) Regulations 2002(b).

(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;

(a) 2000 c.5; (b) S.I. 2002/2929.

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- (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 2000 or section 1 of the Pension Schemes Act 1995(a) (Acts of Tynwald) 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 in the Schedule to this Order, shall apply to the Island as part of the law of the Island.

(a) 1995 c.11.

SCHEDULE

This Schedule sets out the text of the Social Security (Contributions) (Amendment No. 5) Regulations 2002 (S.I. 2002/2929) 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

2002 No. 2929

SOCIAL SECURITY

The Social Security (Contributions) (Amendment No. 5) Regulations 2002

Citation and commencement

1. These Regulations may be cited as the Social Security (Contributions) (Amendment No. 5) Regulations 2002 and shall come into force on *1st March 2003*.

Interpretation

2. In these Regulations "the principal Regulations" means the Social Security (Contributions) Regulations 2001 and "regulation" and "Schedule" mean a regulation of or Schedule to the principal Regulations, as the case may be.

Amendments to the principal Regulations

3. *Omitted.*

3A. *In regulation 50 (Class 3 contributions not paid within prescribed periods) -*

- (a) *at the start of that paragraph insert - "Subject to paragraph (2A),"; and*
- (b) *after paragraph (2) add -*

"(2A) This regulation shall not empower a contributions decision-maker to direct that a Class 3 contribution which a person was entitled to pay under regulation 48, 146(2)(b) or 147, but which he failed to pay in the appropriate period specified for its payment, may be paid within any further period where the payment of that contribution is solely for the purpose mentioned in regulation 49(2)(aa)."

3B. *In paragraph (1) of regulation 145 (conditions as to residence or presence in the Isle of Man) -*

- (a) *in sub-paragraph (e) for the words from "; and" to "that -" substitute the words "
either that -"; and*

(a) A substituted regulation 50 was provided for by regulation 7 of the Social Security (Contributions) (Amendment No. 3) Regulations 2002 (S.I. 2002/2366).

(b) for sub-paragraph (f) substitute -

“(f) as respects entitlement of a person to pay Class 3 contributions on or after 1st March 2003 in respect of any year for the purposes of section 22(2)(a)(iii) of the Act, that that person is ordinarily resident in the Island throughout the whole of that year.”.

4. In paragraph 1(2) of Schedule 4 for the definition of "employer" substitute -

"employer" means, subject to paragraph 3, the secondary contributor determined -

- (a) by section 7 of the Act, or
- (b) under regulation 5 of and Schedule 3 to the Social Security (Categorisation of Earners) Regulations 1978, or
- (c) under regulation 122;".

5. In paragraph 4 of Schedule 4 for "is required to pay" substitute "pays".

6. After paragraph 4 of Schedule 4 insert -

"Intermediaries

4A. (1) Where any payment of *remuneration* of an employee is made by an intermediary of the employer, the employer shall be treated, for the purposes of this Schedule other than -

- (a) paragraph 7(1),
- (b) paragraph 7(3)(a),
- (c) the references to a subsequent payment of *remuneration* or of monetary earnings in paragraph 7(3) and (8), and
- (d) paragraph 7(11),

as making the payment of *that remuneration* to the employee.

(2) For the purposes of this paragraph, a payment of *remuneration* of an employee is made by an intermediary of the employer if it is made -

- (a) either -
 - (i) by a person acting on behalf of the employer and at the expense of the employer, or
 - (ii) by a person connected with him, or
- (b) by trustees holding property for any persons who include, or class of persons which includes, the employee.

(3) Section 119C of the *Income Tax Act 1970 (an Act of Tynwald)* (connected persons) applies for the purposes of this paragraph."

7. (1) Amend paragraph 7 of Schedule 4 as follows.

(2) In sub-paragraph (1) add at the end "(the "section 6(4)(a) amount")".

(3) For sub-paragraph (3) substitute -

"(3) If the employer -

- (a) on making any payment of *remuneration* to an employee does not deduct from *that remuneration* the full section 6(4)(a) amount, or
- (b) is treated as making a payment of *remuneration* by paragraph 4A,

he may recover, in a case falling within paragraph (a) the amount not so deducted or, in a case falling within paragraph (b) the section 6(4)(a) amount, by deduction from any subsequent payment of *remuneration* made by the employer to that employee during the same year.

This sub-paragraph is subject to sub-paragraphs (4) and (5)."

(4) In sub-paragraph (4) insert at the end the following paragraph -

"; or

- (e) the employer is treated as making a payment of *remuneration* by paragraph 4A."

(5) In sub-paragraph (5)(b) after "sub-paragraphs" insert "in a case falling within paragraph (a) of any of those sub-paragraphs".

(6) In sub-paragraph (6) for the words from "amount" to the end substitute "section 6(4)(a) amount".

(7) For sub-paragraph (8) substitute -

"(8) Where, in the circumstances specified in sub-paragraph (6), the employer -

- (a) does not deduct from the earnings referred to in that sub-paragraph the full section 6(4)(a) amount, or
- (b) is treated as making a payment of *remuneration* by paragraph 4A,

he may recover, in a case falling within paragraph (a) the amount not so deducted or, in a case falling within paragraph (b) the section 6(4)(a) amount, by deduction from any subsequent payment of monetary earnings to that employee, or ex-employee (as the case may be) during the same year.

This sub-paragraph is subject to sub-paragraph (5)."

(8) In sub-paragraph (9)(c) for the words from "amount" to the end substitute "section 6(4)(a) amount".

Clare Christian

Minister for Health and Social Security

EXPLANATORY NOTE

(This is not part of the Order)

1. Section 1 of the Social Security Act 2000 enables the Department by Order to apply to the Island, as part of the law of the Island and incorporating such exceptions, adaptations and modifications as may be specified by the Order, any legislation to which that Act applies.
2. *Inter alia*, the Act applies to the Social Security Acts 1975 to 1998, the Jobseekers Act 1995, the Welfare Reform and Pensions Act 1999 and the Child Support, Pensions and Social Security Act 2000 (all Acts of Parliament) and to any statutory instrument made (or having effect as if made) under any of those Acts.
3. This Order applies to the Island the appropriate provisions of the Social Security (Contributions) (Amendment No. 5) Regulations 2002, which make a number of miscellaneous amendments to existing Social Security contributions legislation. The effect of the legislation is summarised in the following paragraph.
4. **The Social Security (Contributions) (Amendment No. 5) Regulations 2002 (S.I. 2002/2929)**

These Regulations, which come into force on 1st March 2003, further amend the Social Security (Contributions) Regulations 2001 ("the Contributions Regulations").

The principal effects of these Regulations are -

- to amend the definition of "employer" so as to be the same as the secondary contributor (usually the contractual employer) provided for in the primary legislation (section 6 of the Social Security Contributions and Benefits Act 1992 ("the Act")); and

- to provide that where a payment of remuneration is made by an intermediary of an employer, it is attributed, for the purposes of the collection provisions in Schedule 4 to the Contributions Regulations, to the employer (who is already liable under the charging provision in section 6 of the Act).

Regulation 1 provides for the citation and commencement of the Regulations, and Regulation 2 for their interpretation.

Regulations 3A and 3B are inserted into the Regulations as they were originally made. They make clear the purpose of the operation of regulations 50 and 145 of the Contributions Regulations, which provide for circumstances in which people are liable or entitled to pay contributions. In particular they clarify the policy intent that Class 3 contributions (voluntary non-employed contributions) may not be paid for any period prior to the contributor taking up residence on the Island.

Regulation 4 amends the definition of "employer" for the purposes of the collection provisions in Schedule 4 to the Contributions Regulations.

Regulation 5 makes a consequential amendment to paragraph 4 of that Schedule.

Regulation 6 provides for payments of remuneration by intermediaries to be attributed to the employer for the purposes of those collection provisions.

Regulation 7 amends the provisions providing for the employer to reimburse themselves for contributions paid on behalf of employees, out of earnings, to cover such attributed payments.