



Statutory Document No. 119/03

## THE SOCIAL SECURITY ACT 2000

### THE SOCIAL SECURITY LEGISLATION (APPLICATION) (No. 3) ORDER 2003

*Approved by Tynwald 19<sup>th</sup> March 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. This Order may be cited as the Social Security Legislation (Application) (No. 3) Order 2003 and shall, subject to section 2(1) of the Social Security Act 2000, come into force with effect from 7<sup>th</sup> April 2003.

#### **Amendment of the Disability Working Allowance (General) Regulations 1991 (as they have effect in the Isle of Man) (G.C. 129/92)**

2. (1) Amend the Social Security Legislation (Application) (No. 3) Order 1992 (which set out the Disability Working Allowance (General) Regulations 1991(b) as they were to have effect in the Isle of Man, incorporating those exceptions, adaptations and modifications specified in Part 4 of the Schedule to that Order) in accordance with the following paragraph.

(2) After regulation 53 (benefit to be payable at the rate of 70% of the difference between the claimant's income and his applicable amount) insert -

#### **“Entitlement to disability working allowance under section 129(2C) of the Contributions and Benefits Act**

53A. The prescribed amount for the purpose of section 129(2E)(a)(ii) of the Contributions and Benefits Act 1992 (the required amount for the purpose of section 129(2C)) shall be £15.00 per week.”

---

(a) 2000 c.5; (b) S.I. 1991/2887.

**Amendment of the Jobseeker's Allowance Regulations 1996 (as they have effect in the Isle of Man) (S.D. 634/96)**

3. (1) Amend the Schedule to the Social Security Legislation (Application) (No. 8) Order 1996(a) (which set out the Jobseeker's Allowance Regulations 1996(b) as they were to have effect in the Island) in accordance with the following paragraphs.

(2) In regulation 51(c) (remunerative work) omit "or of a child or young person to whom paragraph 18 of Schedule 6 applies,".

(3) In regulation 53 (persons treated as not engaged in remunerative work) -

(a) in paragraph (a) for "paragraph 2 of Schedule 7" substitute "paragraph 20 of Schedule 7"; and

(b) in paragraph (f) for "paragraph 27 or 28 of Schedule 7" substitute "paragraph 39 or 40 of Schedule 7".

(4) In regulation 76 (definition of a "person of a prescribed description") after paragraph (2) add the following paragraph -

"(3) A person of a prescribed description for the purposes of the definition of "family" in section 35(1) of the Act includes a child or young person in respect of whom section 145A of the Benefits Act applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act."

(5) In regulation 77(1) (circumstances in which a person is to be treated as responsible or not responsible for another) at the end add "and this includes a child or young person to whom paragraph (3) of regulation 76 applies."

(6) After regulation 84 (polygamous marriages) insert the following regulation -

**"Modification of personal allowances of boarders**

84A. (1) Where the claimant and any other members of the family are boarders, paragraphs 1 and 2 of Schedule 1 (applicable amounts) shall have effect as if for the amounts for the time being there specified there were substituted -

(a) a weekly amount for board and lodging which, subject to paragraph (4), shall be determined in accordance with paragraph (3) but shall not exceed a maximum amount; and

(b) a weekly amount for personal allowances.

(2) Where an award is to be made in respect of a period of less than one week, the allowance applicable to the claimant under this paragraph shall include the weekly amount to which paragraph (1)(a) applies if the weekly charge for board and lodging falls due during that period.

---

(a) S.D. 634/96; (b) S.I. 1996/207.

(3) The weekly amount for board and lodging referred to in paragraph (1)(a) shall be the full weekly amount of the charge for board and lodging, or for lodging, increased, where the charge is not inclusive of all meals, by the weekly amount (calculated on a daily basis) of the meals not so included, in respect of each member of the family -

- (a) if the meals can be obtained within the board and lodging establishment; or
- (b) otherwise -
  - (i) for breakfast,
  - (ii) for midday meals,
  - (iii) for evening meals,

by such amount as specified in Schedule 4A, so however that in a case where meals are normally obtained free of charge or at a reduced cost such lesser increase, if any, shall be made in respect of meals as may be reasonable in the circumstances.

(4) Where board and lodging, or lodgings, is received wholly or partly in return for services the amount applicable for board and lodging shall be if full free board and lodging (inclusive of all meals) is received, an amount in respect of each of the claimant and any partner of the claimant who provides services.

(5) In this regulation "boarder" means a person, other than a householder, who

- (a) pays a charge which is inclusive of his accommodation and at least some cooked or prepared meals which are both prepared and consumed in the accommodation or in associated premises; or
- (b) is living in a hotel, guest-house, hostel or lodging-house, or in some similar establishment,

but excluding any person whose accommodation and meals (if any) are provided by a close relative or other than on a commercial basis."

(7) In paragraph (2) of regulation 88 (calculation of income and capital of members of claimant's family and of a polygamous marriage) for "paragraphs 1 to 13 and 19 of Schedule 6" substitute "paragraphs 1 to 5 and 11 of Schedule 6".

(8) In paragraph (4) of regulation 88ZA (calculation of income and capital of a joint-claim couple) -

- (a) in sub-paragraph (a) for "paragraphs 1 to 4 and 13 to 16 of Schedule 6" substitute "paragraphs 1 to 5 and 8 of Schedule 6"; and
- (b) in sub-paragraph (b) for "paragraphs 1 to 6 of Schedule 6A" substitute "paragraphs 1 and 5 of Schedule 6A".

(9) In regulation 94(2)(b) (calculation of earnings derived from employed earner's employment and income other than earnings) -

- (a) for "paragraph 1 of Schedule 7" substitute "paragraph 43 of Schedule 7"; and
- (b) for "other than paragraph 1 of that Schedule" substitute "other than paragraph 43 of that Schedule".

(10) In regulation 99 (calculation of net earnings of employed earners) -

- (a) in paragraph (2) for "paragraphs 1 to 16 and 19 of Schedule 6" substitute "paragraphs 1 to 8, 10 and 11 of Schedule 6"; and
- (b) in paragraph (3) for "paragraphs 5 to 8 and 11 of Schedule 6" substitute "paragraph 11 of Schedule 6".

(11) In regulation 100(2)(b) (earnings of self-employed earners) for "paragraph 27 or 28 of Schedule 7" substitute "paragraph 39 or 40 of Schedule 7".

(12) In regulation 101 (calculation of net profit of self-employed earners) -

- (a) in paragraph (2) for "paragraphs 1 to 16 of Schedule 6" substitute "paragraphs 1 to 5, 8 and 11 of Schedule 6"; and
- (b) in paragraph (3) for "paragraphs 5 to 8 and 11 of Schedule 6" substitute "paragraph 5 of Schedule 6".

(13) In regulation 105(2)(h) (notional income) for "paragraph 42(a) of Schedule 8" substitute "paragraph 33(a) of Schedule 8".

(14) In regulation 106 (modifications in the calculation of capital and income in respect of children and young persons) -

- (a) in paragraphs (1) and (5) for "£10,000" substitute "£11,000"; and
- (b) in paragraph (6) -
  - (i) for "paragraphs 14 to 16" substitute "paragraphs 6 to 8", and
  - (ii) for "paragraphs 17 and 18 of Schedule 6" substitute "paragraph 9 of Schedule 6".

(15) In regulation 110 (income to be treated as capital) -

- (a) omit paragraph (1); and
- (b) in paragraph (4) for "paragraphs 1, 2, 4 to 8, 11 or 17 of Schedule 8" substitute "paragraphs 1 to 3, 5 to 8, 11 or 26 of Schedule 8".

(16) In paragraphs (1)(c) and (2)(e) of regulation 113 (notional capital) for "paragraph 42(a) of Schedule 8" substitute "paragraph 33(a) of Schedule 8".

(17) In regulation 116(1) and (1A) (calculation of tariff income from capital) (in each place) for "£10,000" substitute "£11,000".

(18) In regulation 130 (interpretation of Chapter VIII: students) for the definition of "grant income" substitute -

"grant income" means -

- (a) any income by way of a grant;
- (b) in the case of a student other than one to whom sub-paragraph (c) refers, any contribution which has been taken into account (whether or not it has been paid);
- (c) in the case of a student who satisfies the condition for a disability premium in paragraph 15 of Schedule 3, any contribution which has been taken into account and which has been paid,

and any such contribution which is paid by way of a covenant shall be treated as part of the student's grant income;".

(19) In regulation 131 (calculation of grant income) -

(a) for paragraph (1) substitute -

"(1) The amount of a student's weekly grant income to be taken into account shall be -

- (a) the whole of his apportioned weekly grant income less £27.55, where that gross amount is more than £27.55; or
- (b) nil, where it is not."; and

(b) omit paragraphs (2), (3) and (5).

(20) For regulation 132 (including its heading) (calculation of covenant income where a contribution is assessed) substitute the following -

**"Calculation of covenant income where a contribution is or is not assessed**

132. (1) Where a student is in receipt of income by way of a grant during a period of study, the amount of his covenant income to be taken into account for that period shall be -

- (a) where a contribution has been assessed, the whole of his covenant income less the amount of the contribution; and
- (b) where a contribution has not been assessed, the whole of his covenant income.

(2) A student's covenant income shall be apportioned -

- (a) in a case where it is attributable to the period of study, equally between the weeks in that period;
- (b) in any other case, equally between the weeks in the period in respect of which it is payable."

(21) For regulation 133 (including its heading) (covenant income where no grant income or no contribution is assessed) substitute -

**“Covenant income where no grant income assessed**

133. Where a student is not in receipt of income by way of a grant, the amount of his weekly covenant income shall be -

- (a) his weekly apportioned covenant income less £27.55, where that gross amount is more than £27.55; and
- (b) nil, where it is not.”.

(22) In regulation 134 (relationship with other income to be disregarded under Schedule 7 to the Jobseeker's Allowance Regulations) -

- (a) for “paragraph 15 of Schedule 7” substitute “paragraph 18 of Schedule 7”; and
- (b) omit all the words after “and any other income”.

(23) In regulation 135 (other amounts to be disregarded) for paragraph (1) substitute -

“(1) For the purpose of ascertaining weekly income other than grant income and covenant income, any amount or amounts (as apportioned equally between the weeks of the student's period of study) which an adjudication officer is satisfied are intended for any expenditure necessary as a result of the student's attendance on his course -

- (a) shall be disregarded; but
- (b) only if, and to the extent that, the necessary expenditure exceeds (or is likely to exceed) £27.55.”.

(24) In regulation 163(3) (calculation of earnings of share fishermen) -

- (a) in paragraph (4)(b) of the substituted regulation 101 for “paragraphs 4 and 15 of Schedule 6” substitute “paragraphs 4 and 7 of Schedule 6”; and
- (b) in paragraph (5) of that substituted regulation for “paragraphs 9, 10 or 12 of Schedule 6” substitute “paragraph 11 of Schedule 6”.

(25) Omit Parts IV and V of Schedule 2 (applicable amounts of boarders).

(26) After Schedule 4 (applicable amounts for persons in residential accommodation) insert the following Schedule -

**“SCHEDULE 4A**

*Weekly Amounts of Board and Lodging Specified in Part VII*

1. The weekly amounts specified in column (2) of the table below in respect of each person or couple specified in column (1) shall be the weekly amounts for the purposes of regulation 84A in Part VII of these Regulations (modification of personal allowances in respect of boarders).

Table

Column (1) <i>Person or couple</i>	Column (2) <i>Amount</i>
2. (a) single claimant;  (b) couple;	2. (a) the full weekly amount of the charge for board and lodging, subject to a maximum amount of £101.85.  (b) the full weekly amount of the charge for board and lodging, subject to a maximum of £151.10.
3. Personal allowances specified in regulation 84A(1)(b) -  (a) single claimant;  (b) couple;	3. -  (a) £21.45.  (b) £42.90.
4. Meal allowance -  (a) amount payable under regulation 84A(3)(a);  (b) daily amount payable under regulation 84A(3)(b) -  (i) for breakfast,  (ii) for midday meals,  (iii) for evening meals,	(4)  (a) the actual cost of such meals calculated on a daily basis.  (b) -  (i) £1.90;  (ii) £2.65;  (iii) £2.65.
5. The allowance for personal expenses for the claimant referred to in regulation 84A(1)(b) where the family contains a dependant aged not less than 18;	(5) £6.85.

6. The amounts specified in paragraphs 2 to 4 above, when aggregated, are subject to an overall maximum of £123.30 in the case of a single claimant and £194.00 in the case of a couple.”.

(27) For Schedule 6 (earnings to be disregarded) substitute the following Schedule -

SUMS TO BE DISREGARDED IN THE CALCULATION OF EARNINGS

*Earnings paid to a claimant after his employed earner's employment has been terminated and where it has not been terminated but the claimant is not in remunerative work*

1. In the case of a claimant who has been engaged in remunerative work as an employed earner or, had the employment been in the Isle of Man, would have been so engaged -

(a) any earnings paid or due to be paid in respect of that employment which has terminated -

(i) by way of retirement, but only if on retirement he is entitled to a retirement pension under the Benefits Act, or would be so entitled if he satisfied the contribution conditions;

(ii) otherwise than by retirement except earnings to which regulation 98(1)(b) to (d), (f) or (g) applies (earnings of employed earners);

(b) where -

(i) the employment has not been terminated, but

(ii) the claimant is not engaged in remunerative work,

any earnings in respect of that employment except earnings to which regulation 98(1)(c) or (d) applies (payments of holiday pay and retainers); but this sub-paragraph shall not apply where the claimant has been suspended from his employment.

*Earnings paid to a claimant formerly in part-time employed earner's employment*

2. In the case of a claimant who, before the date of claim -

(a) has been engaged in part-time employment as an employed earner or, where the employment has been outside the Isle of Man would have been so engaged had the employment been in the Isle of Man, and

(b) has ceased to be engaged in that employment, whether or not that employment has been terminated,

any earnings in respect of that employment except any payment to which regulation 98(1)(b) to (d), (f) and (g) applies (earnings of employed earners); but this paragraph shall not apply where the claimant has been suspended from his employment.

*Employment compensation awards*

3. Any payment to which regulation 98(1)(f) applies -

- (a) which is due to be paid more than 52 weeks after the date of termination of the employment in respect of which the payment is made; or
- (b) which is a compensatory award within the meaning of section 59(b) of the Employment Act 1991 (an Act of Tynwald) for so long as such an award remains unpaid and the employer is insolvent within the meaning of section 74 of that Act.

*Earnings paid to a claimant in respect of his former self-employment*

4. In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in the Isle of Man, would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 95(2) (royalties etc.) applies.

*Two or more payments of the same kind and from the same source which are to be taken into account in the same benefit week, because it has not been practicable to treat the payments as paid on the first day of the benefit week in which they were due to be paid*

5. Notwithstanding the foregoing provisions of this Schedule, where two or more payments of the same kind and from the same source are to be taken into account in the same benefit week, because it has not been practicable to treat the payments under regulation 96(1)(b) (date on which income treated as paid) as paid on the first day of the benefit week in which they were due to be paid, there shall be disregarded from each payment the sum that would have been disregarded if the payment had been taken into account on the date on which it was due to be paid.

*Earnings which are prohibited from being transferred to the Isle of Man*

6. Any earnings derived from employment which are payable in a country outside the Isle of Man for such period during which there is a prohibition against the transfer to the Isle of Man of those earnings.

*Charges in converting foreign currency earnings into sterling*

7. Where a payment of earnings is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

*Earnings due to be paid before the date of claim which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source*

8. Any earnings which are due to be paid before the date of claim and which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.

*Earnings of children and young persons*

9. Any earnings of a child or young person.

*Earnings from employment as a member of any territorial or reserve force*

10. In the case of a claimant who -
- (a) has been engaged in employment as a member of any territorial or reserve force prescribed in Part I of Schedule 6 to the Social Security (Contributions) Regulations 2001; and
  - (b) by reason of that employment has failed to satisfy any of the conditions for entitlement to a jobseeker's allowance other than the condition in section 2(1)(c) (earnings not in excess of prescribed amount) or section 3(1)(a) (income not in excess of applicable amount),
- any earnings from that employment paid in respect of that period in which the claimant was not entitled to a jobseeker's allowance.

*Any other earnings*

11. In any case other than one to which another paragraph of this Schedule applies, £22.50; but notwithstanding regulation 88 (calculation of income and capital of members of claimant's family), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £22.50.

*Interpretation of "part-time employment"*

12. In this Schedule "part-time employment" means employment in which the person is not to be treated as engaged in remunerative work under regulation 52 or 53 (persons treated, or not treated, as engaged in remunerative work)."

(28) For Schedule 6A (earnings of joint-claim couples to be disregarded) substitute the following Schedule -

"SCHEDULE 6A

*Regulation  
88ZA(4)(b)*

SUMS TO BE DISREGARDED IN THE CALCULATION OF EARNINGS OF MEMBERS OF JOINT-CLAIM COUPLES

*Earnings generally*

1. In any case other than one to which paragraph 2 applies, £22.50; but notwithstanding regulation 88ZA (calculation of income and capital of members of a joint-claim couple), if this paragraph applies to one member of a joint-claim couple, it shall not apply to the other member except where, and to the extent that, the earnings of the member which are to be disregarded under this paragraph are less than £22.50.

*Earnings from employment as a member of a territorial or reserve force*

2. In the case of a member of a joint-claim couple who -

- (a) has been engaged in employment as a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979; and
- (b) by reason of that employment, the joint-claim couple have failed to satisfy any of the conditions of entitlement to a joint-claim jobseeker's allowance, other than the condition in section 3A(1)(a) (income not in excess of applicable amount),

any earnings from that employment paid in respect of the period in which the joint-claim couple were not entitled to a joint-claim jobseeker's allowance.

*Meaning of "part-time employment"*

- 3. In this Schedule, "part-time employment" shall bear the meaning prescribed in paragraph 12 of Schedule 6."

*Income other than earnings to be disregarded*

(29) For Schedule 7 (income other than earnings to be disregarded) substitute the following Schedule -

"SCHEDULE 7

*Regulation 103(2)*

SUMS TO BE DISREGARDED IN THE CALCULATION OF INCOME  
OTHER THAN EARNINGS

*Benefits and pensions*

*Attendance allowance and the care component of disability living allowance*

- 1. Except in the case of a person in residential accommodation pursuant to Part III of the National Assistance (Isle of Man) Act 1951 (an Act of Tynwald), any -
  - (a) attendance allowance; or
  - (b) the care component of disability living allowance,
 but, where the claimant's applicable amount falls to be calculated in accordance with Schedule 4 (persons in residential accommodation), only to the extent that it exceeds the amount for the time being specified as -
  - (c) the higher rate of attendance allowance for the purposes of section 64(3) of the Benefits Act; or (as the case may be)
  - (d) the highest rate of the care component of disability living allowance for the purposes of section 72(4)(a) of that Act.

*The mobility component of disability living allowance*

- 2. The mobility component of any disability living allowance.

*Mobility supplement*

3. Any mobility supplement or any payment intended to compensate for the non-payment of such a supplement.

*Child benefit*

4. Any payment of child benefit under Part IX of the Benefits Act.

*Christmas bonus*

5. Any payment under Part X of the Benefits Act (Christmas bonus).

*Winter bonus*

6. Any payment under Part XA of the Benefits Act (winter bonus).

*Payments of maternity and funeral expenses under the Benefits Act*

7. Any payment made in order to meet maternity or funeral expenses made pursuant to Part VIII of the Benefits Act.

*Concessionary payments for the non-payment of certain benefits*

8. Any concessionary payment made to compensate for the non-payment of -
  - (a) any payment specified in paragraph 1 or 2;
  - (b) a jobseeker's allowance or income support.

*Disablement or industrial death benefit, etc.*

9. The first £27.55 of any disablement or industrial death benefit payable under the Benefits Act, if paid periodically, or any analogous payment.

*Widowed mother's allowance and widowed parent's allowance*

10. The first £27.55 of -
  - (a) any widowed mother's allowance paid pursuant to section 37 of the Benefits Act;
  - (b) any widowed parent's allowance paid pursuant to section 39A of the Benefits Act.

*War pensions and war widows' and war widowers' pensions, etc.*

11. -
  - (1) Subject to paragraphs 19 and 51, any of the following -

(a) subject to paragraph (2) below, the basic component of a war disablement pension payable under Part II of Schedule 1 to the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983;

(b) the first £27.55 of -

- (i) a war widow's pension or war widower's pension;
- (ii) a pension payable to a person as a widow or widower under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884 or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (iii) a payment made to compensate for the non-payment of such a pension as is mentioned in either (i) or (ii) above;
- (iv) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in (i) to (iii) above;
- (v) a pension paid to victims of Nationalist Socialist persecution under any special provision made by the law of the Federal Republic of Germany (or any part of it) or the Republic of Austria.

(2) For the purposes of sub-paragraph (1)(a), if the claimant is resident in accommodation -

- (a) registered under section 2 of the Nursing and Residential Homes Act 1988 (an Act of Tynwald); or
- (b) pursuant to Part III of the National Assistance (Isle of Man) Act 1951 (an Act of Tynwald),

no more than £27.55 shall be disregarded under this paragraph.

12. Any special war widow's payment made under -

- (a) the Naval and Marine Pay and Pensions (Special War Widows Payment) Order 1990 made under section 3 of the Naval and Marine Pay and Pensions Act 1865;
- (b) the Royal Warrant dated 19<sup>th</sup> February 1990 amending the Schedule to the Army Pensions Warrant 1977;

- (c) the Queen's Order dated 26<sup>th</sup> February 1990 made under section 2 of the Air Force (Constitution) Act 1917;
  - (d) the Home Guard War Widows Special Payments Regulations 1990 made under section 151 of the Reserve Forces Act 1980;
  - (e) the Orders dated 19th February 1990 amending Orders made on 12<sup>th</sup> December 1980 concerning the Ulster Defence Regiment made in each case under section 140 of the Reserve Forces Act 1980; and
  - (f) any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under the provisions mentioned in sub-paragraphs (a) to (e) above.
13. Where the claimant is in receipt of any benefit under Parts II, III or V of the Benefits Act or a pension under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act or the rate of that pension under that Order where the dependant in respect of whom the increase is paid is not a member of the claimant's family.
14. Any supplementary pension under article 29(1A) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows or widowers).
15. In the case of a pension awarded at the supplementary rate under article 27(3) of the Personal Injuries (Civilians) Scheme 1983 (pensions to widows or widowers), the sum specified in paragraph 1(c) of Schedule 4 to that Scheme.
16. -
- (1) Any payment which is -
    - (a) made under any of the Dispensing Instruments to a widow or widower of a person -
      - (i) whose death was attributable to service in a capacity analogous to service as a member of the armed forces of the Crown; and
      - (ii) whose service in such capacity terminated before 31<sup>st</sup> March 1973; and
    - (b) equal to the amount specified in article 29(1A) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (pensions to widows or widowers).
  - (2) In this paragraph "the Dispensing Instruments" means the Order in Council of 19<sup>th</sup> December 1881, the Royal Warrant of 27<sup>th</sup> October 1884 and the Order of His Majesty of 14<sup>th</sup> January 1922 (exceptional grants of pay, non-effective pay and allowances).

*Other income*

*Attendance and travelling allowances paid to local authority members*

17. Any allowance payable to a member of a local authority under Schedule 2 to the Local Government Act 1985 (an Act of Tynwald).

*Charitable, voluntary or personal injury payments*

18. -

- (1) Subject to sub-paragraph (3) and paragraphs 19, 50 and 51, £27.55 of any relevant payment made or due to be made at regular intervals, except any payment to which sub-paragraph (2) applies.

- (2) Subject to sub-paragraphs (3) and (7) and paragraph 50, any relevant payment made or due to be made at regular intervals which is intended and used for an item other than -

- (a) food,
- (b) ordinary clothing or footwear,
- (c) household fuel, rent or
- (d) any housing costs to the extent that they are met under regulation 83(1)(c) or 84(1)(d) (housing costs) or any accommodation charges to the extent that they are met under regulation 86 (persons in residential care and nursing homes),

of a single claimant or, as the case may be, of the claimant or any other member of his family.

- (3) Sub-paragraphs (1) and (2) shall not apply -

- (a) to a payment which is made by a person for the maintenance of any member of his family or of his former partner or of his children;

- (b) to a payment made -

- (i) to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes); or

- (ii) to a member of the family of such a person where the payment is made by virtue of that person's involvement in the trade dispute.

- (4) For the purposes of sub-paragraph (1), where a number of relevant payments fall to be taken into account in any one week they shall be treated as though they were one such payment.

- (5) For the purposes of sub-paragraph (2), the expression "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.
- (6) In this paragraph, "relevant payment" means -
- (a) a charitable payment;
  - (b) a voluntary payment;
  - (c) a payment (not falling within sub-paragraph (a) or (b) above) from a trust whose funds are derived from a payment made in consequence of any personal injury to the claimant;
  - (d) a payment under an annuity purchased -
    - (i) pursuant to any agreement or court order to make payments to the claimant; or
    - (ii) from funds derived from a payment made, in consequence of any personal injury to the claimant; or
  - (e) a payment (not falling within sub-paragraphs (a) to (d) above) received by virtue of any agreement or court order to make payments to the claimant in consequence of any personal injury to the claimant.
- (7) Sub-paragraph (2) shall apply to a claimant in a residential care home or nursing home only if his applicable amount falls to be calculated in accordance with regulation 86.

19. The total of a claimant's income or, if he is a member of a family, the family's income and the income of any person which he is treated as possessing under regulation 88(4) (calculation of income and capital of members of claimant's family) to be disregarded under paragraph 11(1)(a) or 18(1) shall in no case exceed £27.55 per benefit week.

*Charity or voluntary work expenses*

20. Any payment in respect of any expenses incurred, or to be incurred, by a claimant who is -
- (a) engaged by a charitable or voluntary organisation; or
  - (b) a volunteer,
- if he otherwise derives no remuneration or profit from the employment and is not to be treated as possessing any earnings under regulation 105(13) (notional income).

### *Education*

21. Any sum in respect of a course of study attended by a child or young person payable under section 112 of the Isle of Man Education Act 1949 (an Act of Tynwald).

### *Employment expenses*

22. In the case of employment as an employed earner, any payment in respect of expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment.

### *Hospital in-patients and former hospital in-patients*

23. Any payment or repayment made under the National Health Service (Isle of Man) (Expenses in Attending Hospitals) Regulations 1989.
24. Any resettlement benefit which is paid to the claimant by virtue of regulation 3 of the Social Security (Hospital In-Patients) Amendment (No. 2) Regulations 1987.

### *Housing costs payable to the claimant by another person*

25. Any payment made to the claimant by a person who normally resides with the claimant, which is a contribution towards that person's living and accommodation costs, except where that person is residing with the claimant in circumstances to which paragraph 26 or 27 refers.
26. Where the claimant occupies a dwelling as his home and the dwelling is also occupied by another person and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family -
- (a) £4.40 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family; and
  - (b) a further £10.15, where the aggregate of any such payments is inclusive of an amount for heating.
27. Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to -
- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £22.50, 100% of such payments; or
  - (b) where the aggregate of any such payments exceeds £22.50, £22.50 and 50% of the excess over £22.50.

*Income from disregarded capital*

28. -

- (1) Any income derived from capital to which the claimant is or is treated under regulation 115 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraph 1 to 3, 6 to 8, 11 or 26 of Schedule 8.
- (2) Income derived from capital disregarded under paragraph 2, 3 or 5 to 8 of Schedule 8 but only to the extent of any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued.

*Income in kind*

29. -

- (1) Subject to sub-paragraph (2), except where regulation 105(10)(a)(i) (notional income) applies or in the case of a payment made -
  - (a) to a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes); or
  - (b) to a member of the family of such a person where the payment is made by virtue of that person's involvement in the trade dispute,any income in kind.
- (2) The exception under sub-paragraph (1) shall not apply where the income in kind is received from the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust or the Independent Living Funds.

*Income treated as capital*

30. Any payment of income which under regulation 110 (income treated as capital) is to be treated as capital.

*Insurance payments paid to the claimant*

31. -

- (1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments on a loan taken out to acquire an interest in a dwelling or for repairs and improvements to the dwelling, occupied as the home, and used to meet such repayments to the extent that it does not exceed the aggregate of -
  - (a) the amount, calculated on a weekly basis, of any interest on that loan which is in excess of the amount met in accordance with Schedule 2 (housing costs);

- (b) the amount of any payment, calculated on a weekly basis, due on the loan attributable to the repayment of capital; and
- (c) any amount due by way of premiums on -
  - (i) that policy, or
  - (ii) a policy of insurance taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home.

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 105(10)(a)(ii) (notional income).

32. -

- (1) Except where paragraph 31 or 33 applies, and subject to sub-paragraph (2), any payment made to the claimant which is intended to be used and is used as a contribution towards -
  - (a) any payment due on a loan if secured on the dwelling occupied as the home which does not qualify under Schedule 2 (housing costs);
  - (b) any interest payment or charge which qualifies in accordance with paragraphs 3 to 6 of Schedule 2 to the extent that the payment or charge is not met;
  - (c) any payment due on a loan which qualifies under paragraph 3 or 5 of Schedule 2 attributable to the payment of capital;
  - (d) any amount due by way of premiums on -
    - (i) an insurance policy taken out to insure against the risk of being unable to make the payments referred to in (a) to (c) above, or
    - (ii) an insurance policy taken out to insure against loss or damage to any building or part of a building which is occupied by the claimant as his home.

(2) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 105(10)(a)(ii) (notional income).

33. -

- (1) Subject to sub-paragraph (2), any payment received under an insurance policy, other than an insurance policy referred to in paragraph 30, taken out to insure against the risk of being unable to maintain repayments under a regulated agreement as defined for the purposes of the Consumer Credit Act 1974 or under a hire-purchase agreement or a conditional sale agreement as defined for the purposes of the Hire-Purchase Acts 1939-1973 (Acts of Tynwald).

- (2) A payment referred to in sub-paragraph (1) shall only be disregarded to the extent that the payment received under that policy does not exceed the amounts, calculated on a weekly basis, which are used to -
- (a) maintain the repayments referred to in sub-paragraph (1); and
  - (b) meet any amount due by way of premiums on that policy.

*Residential care home or nursing home accommodation cost met by a person other than the claimant or any other member of his family*

34. Any payment which falls to be treated as notional income made under regulation 105(11) (payments made in respect of a person in a residential care or nursing home).

*Payments made to jurors and witnesses*

35. Any payment made to a juror or a witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the Act or the Benefits Act.

*Overseas income*

36. Any income which is payable in a country outside the Isle of Man for such period during which there is prohibition against the transfer to the Isle of Man of that income.
37. Where a payment of income is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
38. The first £5 of any income derived from capital held in a country outside the Isle of Man for such period during which there is prohibition against the transfer to the Isle of Man of that capital.

*Payments in respect of persons in care*

39. Any payment made by the Department to the claimant with whom a person is accommodated by virtue of arrangements made under section 93 or 95 of the Children and Young Persons Act 1966 (an Act of Tynwald).
40. Any payment made by the Department or voluntary organisation to the claimant in respect of a person who is not normally a member of the claimant's household but is temporarily in his care.
41. The whole of any assistance provided in accordance with the provisions of section 1 of the Children and Young Persons Act 1969 (an Act of Tynwald).

*Payments made to disabled persons to assist them to obtain or retain their employment*

42. Any payment (other than a training allowance) made, whether by the Department or by any other person, under the Disabled Persons (Employment) Act 1946 (an Act of Tynwald) or in accordance with arrangements made under any Scheme to assist disabled persons to obtain or retain employment despite their disability.

*Payments to holders of the Victoria Cross or the George Cross*

43. Any payment to the claimant as holder of the Victoria Cross or George Cross or any analogous payment.

*Persons in residential accommodation who meet the cost of their spouse's accommodation elsewhere out of their pension income*

44. -

- (1) Subject to sub-paragraphs (2) and (3), where a claimant -
- (a) is a person to whom regulation 86 (persons in residential accommodation) applies; or
  - (b) is a person to whom regulation 86 temporarily does not apply but who remains liable to pay a retaining fee in respect of the residential accommodation from which he is temporarily absent; and
  - (c) is not residing with his spouse; and
  - (d) at least 50 per cent. of any occupational pension of his, or any income from a personal pension scheme or a retirement annuity contract of his, is being paid to, or in respect of, his spouse for that spouse's maintenance,

an amount equal to 50 per cent. of the pension, pensions or income concerned.

- (2) Where a claimant is entitled to pensions or income referred to in sub-paragraph (1) from more than one source, all such pensions and income to which he is entitled shall be aggregated for the purposes of that sub-paragraph.
- (3) This paragraph shall not have effect in respect of that part of any pension or income referred to in sub-paragraph (1) to which a spouse is legally entitled whether under a court order or not.

*Payments made to persons in a residential care or nursing home used to meet the cost of maintaining the claimant in that home*

45. -

- (1) Subject to sub-paragraphs (2) and (3), in the case of a claimant in a residential care home or nursing home, any payment, whether or not the payment is charitable or voluntary, made to the claimant which is intended to be used and is used to meet the cost of maintaining the claimant in that home.
- (2) This paragraph shall not apply to a claimant for whom accommodation in a residential care home or nursing home is provided by the Department.
- (3) The amount to be disregarded under this paragraph shall not exceed the difference between -
  - (a) the claimant's applicable amount less any of the amounts referred to in paragraph 3 of Schedule 4 (personal expenses) which would be applicable to the claimant if his applicable amount fell to be calculated in accordance with that Schedule, and
  - (b) the weekly charge for the accommodation.

*Sports awards*

46. -

- (1) Any payment of a sports award except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).
- (2) The items specified for the purposes of sub-paragraph (1) are -
  - (a) food;
  - (b) ordinary clothing or footwear;
  - (c) household fuel;
  - (d) any housing costs to the extent that they are met under regulation 83(1)(c) or 84(1)(d) (housing costs); or
  - (e) any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes), of the claimant or, where the claimant is a member of a family, any other member of his family.
- (3) For the purposes of sub-paragraph (2) -

“food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award is made;

“ordinary clothing and footwear” means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities.

*Tax*

47. Any amount paid by way of tax on income which is taken into account under regulation 47 (calculation of income other than earnings).

*Trade disputes*

48. In the case of a person who is, or would be, prevented from being entitled to a jobseeker's allowance by section 14 (trade disputes), any payment up to the amount of the prescribed sum within the meaning of section 15(2)(d) made by a trade union.

*Trust income*

49. Up to £27.55 of any income from any trust to which the claimant is entitled, including that by virtue of regulation 49 (notional income).

50. -

- (1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust ("the Trusts"), the Fund, the Eileen Trust or the Independent Living Funds.

- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of -

(a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;

(b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of -

(a) the person who is suffering from haemophilia or who is a qualifying person;

(b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where -

(a) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; and

(b) the payment is made either -

(i) to that person's parent or step-parent, or

(ii) where that person at the date of the payment is a child, a young person or a full-time student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where -

(a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and

(b) the payment is made either -

(i) to that person's parent or step-parent, or

(ii) where that person at the relevant date was a child, a young person or a full-time student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

*Payments from the same source and of the same kind paid in the same benefit week*

51. Notwithstanding paragraph 19, where two or more payments of the same kind and from the same source are to be taken into account in the same benefit week there shall be disregarded from each payment the sum which would otherwise fall to be disregarded under this Schedule; but this paragraph shall only apply in the case of a payment which it has not been practicable to treat under regulation 96(1)(b) (date on which income is treated as paid) as paid on the first day of the benefit week in which it is due to be paid.

52. Any payment which is due to be paid before the date of claim which would otherwise fall to be taken into account in the same benefit week as a payment of the same kind and from the same source.”.

(30) For Schedule 8 (capital to be disregarded) substitute the following Schedule -

“SCHEDULE 8

Regulation 108(2)

CAPITAL TO BE DISREGARDED

*The claimant's current home, former home and future home, etc.*

*The claimant's home*

1. The dwelling occupied as the home but, notwithstanding regulation 88 (calculation of income and capital of members of claimant's family), only one dwelling shall be disregarded under this paragraph.

*The former home of the claimant following divorce or estrangement*

2. Where a claimant has ceased to occupy what was formerly the dwelling occupied as the home following his estrangement or divorce from his former partner, that dwelling for a period of 26 weeks from the date on which he ceased to occupy that dwelling.

*The former home of the claimant which the claimant is taking steps to dispose of*

3. Any premises where the claimant is taking reasonable steps to dispose of those premises, for a period of 26 weeks from the date on which he first took such steps, or such longer period as is reasonable in the circumstances to enable him to dispose of those premises.

*The proceeds from the sale of the claimant's former home to be used to purchase a new home for the claimant*

4. Any sum directly attributable to the proceeds of sale of any premises formerly occupied by the claimant as his home which is to be used for the purchase of other premises intended for such occupation within 26 weeks of the date of sale or such longer period as is reasonable in the circumstances to enable the claimant to complete the purchase.

*Premises occupied by a partner or relative of a single claimant or any member of the family as his home where that person is aged 60 or over or is incapacitated or by the former partner of a claimant as his home (other than where the former partner is a person from whom the claimant is estranged or divorced)*

5. Any premises occupied in whole or in part by -
  - (a) a partner or relative of a single claimant or any member of the family as his home where that person is aged 60 or over or is incapacitated; or
  - (b) the former partner of a claimant as his home; but this provision shall not apply where the former partner is a person from whom the claimant is estranged or divorced.

*The claimant's future home*

6. Any premises acquired for occupation by the claimant which he intends to occupy as his home within 26 weeks of the date of acquisition or such longer period as is reasonable in the circumstances to enable the claimant to obtain possession and commence occupation of the premises.

*The intended future home of the claimant which the claimant is taking steps to obtain possession of*

7. Any premises which the claimant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.

*The intended future home of the claimant which requires repair or alteration to be made habitable*

8. Any premises which the claimant intends to occupy as his home to which essential repairs or alterations are required in order to render them fit for such occupation, for a period of 26 weeks from the date on which the claimant first takes steps to effect those repairs or alterations, or such longer period as is reasonable in the circumstances to enable those repairs or alterations to be carried out and the claimant to commence occupation of the premises.

*Other capital*

*Payments in kind made by certain charities*

9. Any payment in kind made by a charity or under the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund or the Independent Living (1993) Fund.

*Any future interest in property of any kind (other than land or premises in respect of which the claimant has granted a subsisting lease or tenancy)*

10. Any future interest in property of any kind, other than land or premises in respect of which the claimant has granted a subsisting lease or tenancy, including sub-leases or sub-tenancies.

*The assets of a claimant's self-employed business*

11. -

- (1) The assets of any business owned in whole or in part by the claimant and for the purposes of which he is engaged as a self-employed earner or, if he has ceased to be so engaged, for such periods as may be reasonable in the circumstances to allow for disposal of any such asset.

(2) The assets of any business owned in whole or in part by the claimant where -

- (a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but
- (b) he intends to become engaged (or, as the case may be, re-engaged) as a self-employed earner in that business as soon as he recovers or is able to become engaged, or re-engaged, in that business;

for a period of 26 weeks from the date on which the claim for jobseeker's allowance is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.

*Payments in respect of maternity and funeral expenses under the Benefits Act*

12. Any payment made in order to meet maternity or funeral expenses made pursuant to Part VIII of the Benefits Act.

*Arrears of certain benefits or concessionary payments made to compensate for the non-payment of one of those benefits*

13. -

(1) Subject to sub-paragraph (3), any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of -

- (a) any payment specified in paragraph 7, 9 or 10 of Schedule 7 (care or mobility-related benefits or payments);
- (b) a jobseeker's allowance or any other income-related benefit,

but only for a period of 52 weeks from the date of the receipt of the arrears or of the concessionary payment.

(2) In sub-paragraph (1)(b) "any other income-related benefit" has the same meaning as in regulation 113(1A).

(3) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (4) as the "relevant sum") and is -

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999, and
- (b) received by the claimant in full on or after 1<sup>st</sup> February 2002,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of jobseeker's allowance, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (3), "the award of jobseeker's allowance" means -

(a) the award either of an income-based jobseeker's allowance or of income support in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received, and

(b) where that award is followed by one or more further awards which in each case may be either of an income-based jobseeker's allowance or of income support and which, or each of which, begins immediately after the end of the previous award, such further awards until the end of the last such award, provided that for any such further awards the claimant -

(i) is the person who received the relevant sum, or

(ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death, or

(iii) in the case of a joint-claim jobseeker's allowance, is a member of a joint-claim couple either or both of which received the relevant sum.

*Sums paid to the claimant for the repair, improvement or replacement of his home or for the repair or improvement of any other personal possession of his*

14. Any sum -

(a) paid to the claimant in consequence of damage to, or loss of the home or any personal possession and intended for its repair or replacement; or

(b) acquired by the claimant (whether as a loan or otherwise) on the express condition that it is to be used for effecting essential repairs or improvements to the home,

and which is to be used for the intended purpose, for a period of 26 weeks from the date on which it was so paid or acquired or such longer period as is reasonable in the circumstances to enable the claimant to effect the repairs, replacement or improvements.

*Any personal possessions except those acquired by the claimant in order to reduce his capital in order to secure or increase entitlement to any income-related benefit*

15. -

- (1) Any personal possessions except those which had or have been acquired by the claimant with the intention of reducing his capital in order to secure entitlement to a jobseeker's allowance or any other income-related benefit or to increase his entitlement to the amount of any such benefit.
- (2) In sub-paragraph (1) "any other income-related benefit" has the same meaning as in regulation 113(1A).

*Annuities*

16. The value of the right to receive any income under an annuity and the surrender value (if any) of such an annuity.

*The right to receive any income from earnings or other income held in a foreign country, the transfer of which to the Isle of Man is prohibited*

17. The value of the right to receive any income which is disregarded under paragraph 14 of Schedule 6 or paragraph 24 of Schedule 7.

*Life assurance policies*

18. The surrender value of any life policy.

*Capital which falls to be made by instalments*

19. Where any payment of capital falls to be made by instalments, the value of the right to receive any outstanding instalments.

*Capital of children and young persons treated as income*

20. Any capital which under regulations 104 or 106(1) (capital treated as income and modifications in respect of children and young persons) is to be treated as income.

*Foreign currency conversion charges, etc.*

21. Where a payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.

*Foreign investments which the claimant cannot realise due to a prohibition on its movement*

22. The capital value of an investment which a claimant holds in a country outside the Isle of Man where that claimant cannot realise the assets of that investment due to the prohibition of movement of that capital.

*Hospital attendance expenses*

23. Any payment or repayment made under the National Health Service (Isle of Man) (Expenses in Attending Hospitals) Regulations 1989 but only for a period of 52 weeks from the date of receipt of the payment or repayment.

*Payments made to jurors or witnesses in court*

24. Any payment made to a juror or a witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the Benefits Act.

*Trust funds*

*Life interests and life rents*

25. The value of the right to receive any income under a life interest or from a life rent.

*Personal injury trust funds*

26. Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant, the value of the trust fund and the value of the right to receive any payment under that trust.

*Miscellaneous trust funds*

27. -

- (1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust ("the Trusts"), the Fund, the Eileen Trust or the Independent Living Funds.
- (2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of -
  - (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;
  - (b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia or who is or was a qualifying person provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of -

- (a) the person who is suffering from haemophilia or who is a qualifying person;
  - (b) any child or young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (4) Any payment by a person who is suffering from haemophilia or who is a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where -
- (a) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; and
  - (b) the payment is made either -
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the date of the payment is a child, a young person or a full-time student who has not completed his full-time education and has no parent or step-parent, to his guardian,
- but only for a period from the date of the payment until the end of two years from that person's death.
- (5) Any payment out of the estate of a person who suffered from haemophilia or who was a qualifying person, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where -
- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and
  - (b) the payment is made either -
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the relevant date was a child, a young person or a full-time student who had not completed his full-time education and had no parent or step-parent, to his guardian,
- but only for a period of two years from the relevant date.
- (6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.

*Trust funds established to make payments to (or in respect of) the sufferers of variant Creutzfeldt-Jakob disease*

28. -

- (1) Subject to sub-paragraph (2), the amount of any trust payment made to a claimant or a member of a claimant's family who is -
  - (a) a diagnosed person;
  - (b) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;
  - (c) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
  - (d) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death.
  
- (2) Where a trust payment is made to -
  - (a) a person referred to in sub-paragraph (1)(a) or (b), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending on the date on which that person dies;
  - (b) a person referred to in sub-paragraph (1)(c), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending two years after that date;
  - (c) a person referred to in sub-paragraph (1)(d), that sub-paragraph shall apply for the period beginning on the date on which the trust payment is made and ending -
    - (i) two years after that date; or
    - (ii) on the day before the day on which that person -
      - (aa) ceases receiving full-time education; or
      - (bb) attains the age of 19,whichever is the latest.
  
- (3) Subject to sub-paragraph (4), the amount of any payment by a person to whom a trust payment has been made, or of any payment out of the estate of a person to whom a trust payment has been made, which is made to a claimant or a member of a claimant's family who is -
  - (a) the diagnosed person's partner or the person who was the diagnosed person's partner at the date of the diagnosed person's death;

- (b) a parent of a diagnosed person, a person acting in the place of the diagnosed person's parents or a person who was so acting at the date of the diagnosed person's death; or
- (c) a member of the diagnosed person's family (other than his partner) or a person who was a member of the diagnosed person's family (other than his partner) at the date of the diagnosed person's death,

but only to the extent that such payments do not exceed the total amount of any trust payments made to that person.

(4) Where a payment as referred to in sub-paragraph (3) is made to -

- (a) a person referred to in sub-paragraph (3)(a), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending on the date on which that person dies;
- (b) a person referred to in sub-paragraph (3)(b), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending two years after that date;
- (c) a person referred to in sub-paragraph (3)(c), that sub-paragraph shall apply for the period beginning on the date on which that payment is made and ending -
  - (i) two years after that date; or
  - (ii) on the day before the day on which that person -
    - (aa) ceases receiving full-time education; or
    - (bb) attains the age of 19,

whichever is the latest.

(5) In this paragraph, a reference to a person -

- (a) being the diagnosed person's partner;
- (b) being a member of the diagnosed person's family; or
- (c) acting in the place of the diagnosed person's parents,

at the date of the diagnosed person's death shall include a person who would have been such a person or a person who should have been so acting, but for the diagnosed person being in residential accommodation, a residential care home or a nursing home on that date.

(6) In this paragraph -

"diagnosed person" means a person who has been diagnosed as suffering from, or who, after his death, has been diagnosed as having suffered from, variant Creutzfeldt-Jakob disease;

“relevant trust” means a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments in accordance with its provisions;

“trust payment” means a payment under a relevant trust.

*Occupational and personal pension scheme benefits*

29. The value of the right to receive an occupational or personal pension.
30. The value of any funds held under a personal pension scheme or retirement annuity contract.

*Arrears of special war widow's payment*

31. Any arrears of special war widow's payment which is disregarded under paragraph 46 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 53, 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

*Payments made to assist disabled persons obtain or retain employed earner's employment*

32. Any payment (other than a training allowance) made, whether by the Department or by any other person under the Disabled Persons (Employment) Act 1946 (an Act of Tynwald) or in accordance with arrangements made under any Scheme to assist disabled persons to obtain or retain employment.

*Capital administered on behalf of a person derived from a personal injury award, or from compensation for the death of one or both parents where the person concerned is under the age of 18.*

33. Any sum of capital administered on behalf of a person where such sum derives from -
  - (a) an award of damages for a personal injury to that person; or
  - (b) compensation for the death of one or both parents, where the person concerned is under the age of 18.

*Payments to holders of the Victoria Cross or George Cross*

34. Any payment to the claimant as holder of the Victoria Cross or George Cross.

*The right to receive rent*

35. The value of the right to receive any rent except where the claimant has a reversionary interest in the property in respect of which rent is due.

*Sports awards*

36. -

(1) Any payment of a sports award for a period of 26 weeks from the date of receipt of that payment except to the extent that it has been made in respect of any one or more of the items specified in sub-paragraph (2).

(2) The items specified for the purposes of sub-paragraph (1) are -

- (a) food;
- (b) ordinary clothing or footwear;
- (c) household fuel;
- (d) any housing costs to the extent that they are met under regulation 83(1)(c) or 84(1)(d) (housing costs); or
- (e) any accommodation charges to the extent that they are met under regulation 86 (persons in residential care or nursing homes),

of the claimant or, where the claimant is a member of a family, any other member of his family.

(3) For the purposes of sub-paragraph (2) -

“food” does not include vitamins, minerals or other special dietary supplements intended to enhance the performance of the person in the sport in respect of which the award is made;

“ordinary clothing and footwear” means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities.

*Ex-gratia payments to former prisoners-of-war held by the Japanese in the Second World War*

37. Where an ex-gratia payment of £10,000 has been made, pursuant to the Tynwald resolution dated 20<sup>th</sup> June 2000 for that purpose, in consequence of the imprisonment or internment of -

- (a) the claimant;
- (b) the claimant's partner;
- (c) the claimant's deceased spouse; or
- (d) the claimant's partner's deceased spouse,

by the Japanese during the Second World War, £10,000.

38. Where an ex-gratia payment of £10,000 has been made by the Secretary of State on or after 1<sup>st</sup> February 2001 in consequence of the imprisonment or internment of -

- (a) the claimant;
- (b) the claimant's partner;
- (c) the claimant's deceased spouse; or
- (d) the claimant's partner's deceased spouse,

by the Japanese during the Second World War, £10,000.

*Payments to victims for suffering during the Second World War*

39. The amount of a payment, other than a war pension within the meaning in section 25 of the Social Security Act 1989, to compensate for the fact that the claimant, the claimant's partner, the claimant's deceased spouse or the claimant's partner's deceased spouse -

- (a) was a slave labourer or a forced labourer;
- (b) had suffered property loss or had suffered personal injury; or
- (c) was a parent of a child who had died,

during the Second World War.”.

**Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 and the Social Security Commissioners (Procedure) Regulations 1999 (S.D. 602/00)**

4. (1) Amend Schedule 1 the Social Security Legislation (Application) (No. 16) Order 2000(a) (which set out the Social Security and Child Support (Decisions and Appeals) Regulations 1999(b) as they were to have effect in the Island) in accordance with the following paragraphs.

(2) In regulation 1(3) (interpretation of the Decisions and Appeals Regulations) for the definition of “party to the proceedings” substitute -

““party to the proceedings” means -

- (a) in the case of an appeal to which section 12 applies (appeal against a decision of an adjudication officer), the Department and any person who is one of the principal parties for the purposes of sections 13 and 14 other than one mentioned in section 14(3)(aa) or (bb);

---

(a) S.D. 602/00; (b) S.I. 1999/991.

- (b) in the case of an appeal under section 11 of the 1997 Act (appeal against a certificate of recoverable benefit), the Department and any other person who has a right of appeal to an appeal tribunal under subsection (2) of that Act;
- (c) in the case of an appeal to which section 11A applies (appeal against a decision of a contributions decision-maker), any person mentioned in section 14(3)(aa) or (bb).”.

(3) In paragraph (a) of regulation 25 (other persons with a right of appeal) for “the Department” substitute “an adjudication officer”.

(4) In regulation 58(1) for “section 12 or 13” substitute “section 11A, 12 or 13”.

5. (1) Amend Schedule 2 the Social Security Legislation (Application) (No. 16) Order 2000 (which set out the Social Security Commissioners (Procedure) Regulations 1999(a)) (as they were to have effect in the Island) in accordance with the following paragraph.

(2) Omit regulation 3A.

**Amendment of the Disability Working Allowance (General) Regulations 1991 (as they have effect in the Isle of Man) (see G.C. 129/92 and S.D. 82/01)**

6. (1) Amend article 2(2)(b) of the Social Security Legislation (Application) (No. 3) Order 2001(b) (which specified those exceptions, adaptations and modifications subject to which regulation 8 of the Disability Working Allowance (General) Regulations 1991(c) was to have effect in the Isle of Man at the time that Order came into operation) in accordance with the following paragraph.

(2) In that article, in the substituted version of regulation 8(1)(b) (a “disabled adult” to be a person of a prescribed description for the purposes of the Disability Working Allowance (General) Regulations 1991) -

(a) for “invalid care allowance” substitute “a carer’s allowance”; and

(b) omit “and the claimant is under the age of 65”.

**Amendment of the Regulatory Reform (Carer’s Allowance) Order 2002 (as it has effect in the Isle of Man) (S.D. 623/02)**

7. (1) Amend the Schedule to the Social Security Legislation (Application) (No. 11) Order 2002(d) (which set out the Regulatory Reform (Carer’s Allowance) Order 2002(e) as it was to have effect in the Isle of Man) in accordance with the following paragraph.

(2) After paragraph (1) of article 3 (amendment of section 70 of the Social Security Contributions and Benefits Act 1992) add the following paragraph -

“(2) Subsections (5) and (6) of that section are hereby repealed.”.

---

(a) S.I. 1999/1495; (b) S.D. 82/01; (c) S.I. 1991/2887; (d) S.D. 623/02; (e) S.I. 2002/1457.

---

Made

17/02/2003

*Clare Christian*

Minister for Health and Social Security

---

### EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order amends -

- the Disability Working Allowance (General) Regulations 1991 (“the Disability Working Allowance Regulations”);
- the Jobseeker's Allowance Regulations 1996 (“the Jobseeker's Allowance Regulations”);
- the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (“the Decisions and Appeals Regulations”);
- the Social Security Commissioners (Procedure) Regulations 1999 (“the Commissioners (Procedure) Regulations”); and
- the Regulatory Reform (Carer's Allowance) Order 2002 (which amended the Social Security Contributions and Benefits Act 1992),

(as those Regulations and that Order have effect in the Isle of Man).

All the provisions of the Order shall come into force on 7<sup>th</sup> April 2003, and their effect is as set out in the following paragraphs.

#### *Introduction*

2. Article 1 makes provision for the citation and the commencement of the Order.

### *Amendments to the Disability Working Allowance Regulations*

- 3.1 Article 2 amends the Disability Working Allowance Regulations as a consequence of new section 129(2C) of the Social Security Contributions and Benefits Act 1992.

That section provides that a person may qualify for disability working allowance via an additional qualifying route. That route requires (*inter alia*) -

- a medical practitioner to certify that the person will continue to have their disability for at least the next 6 months; and
- the effect of that disability will reduce the expected level of the person's earnings by at least 20% or a minimum amount to be prescribed in *Regulations*, whichever is the higher amount.

Article 2 inserts regulation 53A into the Disability Working Allowance Regulations, which specifies that minimum amount to be £15.00.

- 3.2 Article 6 further amends the Disability Working Allowance Regulations in relation to the conditions which must be satisfied in order for a person to receive an increase in the amount of disability working allowance payable to them because they are living with, and responsible for, a "disabled adult" rather than a child or young person still at school.

For an additional amount to be payable -

- the "disabled adult" must be aged 16 or over; and
- be entitled to the middle or highest rate of the care component of disability living allowance or attendance allowance.

Also, no other person must be entitled to a carer's allowance (formerly invalid care allowance) because they are caring for the disabled adult in question and, previously, the claimant had to be under the age of 65.

Article 6 now removes that age restriction, which is in line with the recent removal of the condition that in order to receive invalid care allowance (as it was then called) after the age of 65, the person had to have been entitled to that benefit before they reached that age.

### *Amendments to the Jobseeker's Allowance Regulations*

- 4.1 Article 3 amends the Jobseeker's Allowance Regulations as follows.

- 4.2 Paragraph (2) alters the definition of "remunerative work" in the Jobseeker's Allowance Regulations to reflect the fact that any earnings of a child or young person who -

- has left school and works at least 16 hours a week
  - but in respect of whom child benefit remains payable for a short while,
- are now no longer to be treated as the earnings of the claimant.

Previously only the first £20 per week of such earnings was ignored.

- 4.3 Paragraphs (4) and (5) modify the existing definition of "person of a prescribed description" (i.e., a person aged 16 to 18 in non-advanced education and in respect of whom child benefit is payable) as a consequence of the recent change extending the period of entitlement to child benefit to 8 weeks after the date of death of the child in question, rather than ending as soon as the child dies.
- 4.4 Paragraph (25) omits Parts IV and V of Schedule 2 (which specify the applicable personal allowances of jobseeker's allowance payable to those in board and lodging accommodation). Former Part IV now appears as regulation 84A (see paragraph (6)) and Part V appears as Schedule 4A to the Jobseeker's Allowance Regulations (see paragraph (26)): both more appropriate locations for those provisions. The effect of the provisions is not changed.
- 4.5 Paragraphs (17) increases the level of capital which a person may possess before their entitlement to income-based jobseeker's allowance is affected - from £10,000 to £11,000 - and paragraph (14)(a) makes a corresponding increase to the amount of capital payable by instalments (either alone or with any other capital they hold) able to be possessed by such a child or young person before it is treated as income of the claimant.
- 4.6 Paragraphs (18) to (21), (22)(b) and (23) replace the existing provisions relating to the income of students claiming jobseeker's allowance, in a simplified and updated form. No person will be detrimentally affected by these changes. The Jobseeker's Allowance Regulations prescribe that full-time students are not generally able to qualify for jobseeker's allowance, because they are not regarded as being available for employment.

However, they may qualify for benefit -

- while undertaking an employment-related course (but for no longer than 2 weeks); or
- while waiting to return to their course after having taken time out to care for another person or because they were ill.

However, students who are not undergoing full-time courses may qualify for jobseeker's allowance provided they satisfy the usual qualifying conditions for that benefit (in particular, they are available for and actively seeking work).

- 4.7 Paragraph (18) amends the existing definition of student "grant income" as follows.

Previously, if a student claiming jobseeker's allowance is awarded a grant and the body which did so took into account a contribution assumed to be made by another person (e.g. their parent(s) or spouse) towards the cost of the student's education in determining the amount of grant to be awarded, then the amount of grant income to which the student is treated as being entitled for the purpose of determining their jobseeker's allowance entitlement included the amount of that assumed contribution - *even if it was not paid to the student.*

However, by virtue of paragraph (18), where the student in question satisfies the condition for a disability premium in jobseeker's allowance, then the amount of grant income to which they are treated as receiving shall only include such a contribution *if the student actually receives that amount*.

- 4.8 The remaining paragraphs (19) to (21), (22)(b) and (23) provide substituted versions of the existing legislation which prescribes the manner in which student's grant income and covenant income, etc. is to be calculated for the purposes of determining their entitlement (if any) to jobseeker's allowance, omitting references to provisions which are now redundant.
- 4.9 Paragraphs (27) to (30) provide new versions of Schedules 6, 6A, 7 and 8 to the Jobseeker's Allowance Regulations (which specify those earnings, other income and capital respectively belonging to persons which are not to be taken into account in calculating their entitlement to jobseeker's allowance). Included in the new versions of those Schedules are paragraph headings, for ease of reading.
- 4.10 Paragraphs (27) and (28) substitute for the existing Schedules 6 and 6A (sums to be disregarded in the calculation of earnings for non-joint-claim couples and for joint-claim couples) and incorporate an above-inflation increase of £2.50 in the amount of weekly earnings which a person may receive before their benefit is reduced, where those earnings are not wholly disregarded under any other paragraph of Schedule 6 or 6A. The new figure stands at £22.50. It is proposed to make further above-inflation increases in the next 2 years, at the end of which the amount of income disregarded in ascertaining a person's entitlement to jobseeker's allowance would (other than in exceptional cases) be the same, whether it be in the form of earnings or income from another source.
- 4.11 Paragraph (29) provides a substituted version of the existing Schedule 7 (sums to be disregarded in the calculation of income other than earnings), incorporating inflationary increases to the amounts of income of the claimant which fall to be disregarded under that Schedule and paragraph (30) similarly replaces the existing Schedule 8 (capital to be disregarded).
- 4.12 The remaining paragraphs of article 3 amend the Jobseeker's Allowance Regulations as a consequence of the new versions of Schedules 6, 6A, 7 and 8.
- 4.13 Other than the aforementioned increases to the amount of person's income and capital which falls to be disregarded, the effect of the provisions of Schedules 6, 6A, 7 and 8 is not changed.

#### *Amendments of the Decisions and Appeals Regulations*

- 5.1 Article 4 makes minor amendments to the Decisions and Appeals Regulations as a consequence of changes to other legislation.
- 5.2 Paragraph (2) inserts a new definition of who is to be a party to any appeal proceedings in relation to decisions as to -
- entitlement etc. to benefit;
  - the recoverability of the amount of benefit paid to the victim of an accident; and

- National Insurance contributions matters.

5.3 Paragraph (3) makes further minor changes to the Decisions and Appeals Regulations in relation to those persons (in addition to the claimant) who have the right of appeal to the appeal tribunal against a decision on a benefit matter and paragraph (4) does so in respect of the procedure for applying for leave to appeal to the Social Security Commissioner from a decision of the appeal tribunal.

*Amendment of the Commissioners (Procedure) Regulations*

6 Article 5 omits one of the regulations in the Commissioners (Procedure) Regulations which is redundant.

*Amendment of the Regulatory Reform (Carer's Allowance) Order 2002*

7. Article 7 inserts provisions repealing subsections (5) and (6) of section 70 of the Social Security Contributions and Benefits Act 1992, which are no longer necessary following the removal of the condition that a person must have been entitled to invalid care allowance (to be called "carer's allowance" from 1<sup>st</sup> April 2003) before they reached the age of 65 in order to qualify for that benefit after that date.