



Statutory Document No. 120/03

THE SOCIAL SECURITY ACT 2000

THE CHILD BENEFIT (TAX CREDITS ACT 2002)
(APPLICATION) ORDER 2003

Approved by Tynwald 19th 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. (1) This Order may be cited as the Child Benefit (Tax Credits Act 2002) (Application) Order 2003 and shall, subject to section 1(6) of the Social Security Act 2000, come into force as provided for in paragraphs (2) and (3).

(2) This Article and Articles 2 and 3 shall come into force forthwith.

(3) Each provision of the applied legislation, as modified, shall come into force, as the case may be, on the same day as that provision comes, or came, as the case may be, into force in Great Britain.

Interpretation

2. (1) In this Order "the applied legislation" means -

(a) sections 1(3)(e), 55 and 60; and

(b) paragraphs 24, 26, 28 and 34 of Schedule 3, and Schedule 6,

of the Tax Credits Act 2002 (an Act of Parliament)(b).

(a) 2000 c.5; (b) 2002 c.21.

(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;
- (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) 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 sections 1(3)(e), 55 and 60 of, and Schedules 3 and 6 to, the Tax Credits Act 2002 (an Act of Parliament) 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.

Tax Credits Act 2002**2002 Chapter 21****CONTENTS****PART 1****TAX CREDITS***General*

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PART I

TAX CREDITS

*General***Introductory**

1. (3) The following are abolished -

- (e) increases in benefits in respect of children under sections 80 and 90 of the Social Security Contributions and Benefits Act 1992 (c.4).

PART 2

CHILD BENEFIT AND GUARDIAN'S ALLOWANCE

*Minor amendments***Continuing entitlement after death of child**

55. (1) Insert the section set out in subsection (2) -

- (a) in the Social Security Contributions and Benefits Act 1992 (c.4) after section 145 (as section 145A),
- (b) *omitted*.

(2) The section is -

“Entitlement after death of child

145A. (1) If a child dies and a person is entitled to child benefit in respect of him for the week in which his death occurs, that person shall be entitled to child benefit in respect of the child for a prescribed period following that week.

(2) If the person entitled to child benefit under subsection (1) dies before the end of that prescribed period and, at the time of his death, was

- (a) a member of a married couple and living with the person to whom he was married, or
- (b) a member of an unmarried couple,

that other member of the married couple or unmarried couple shall be entitled to child benefit for the period for which the dead person would have been entitled to child benefit under subsection (1) above but for his death.

(3) If a child dies before the end of the week in which he is born, subsections (1) and (2) apply in his case as if references to the person entitled to child benefit in respect of a child for the week in which his death occurs were to the person who would have been so entitled if the child had been alive at the beginning of that week (and if any conditions which were satisfied, and any facts which existed, at the time of his death were satisfied or existed then).

(4) Where a person is entitled to child benefit in respect of a child under this section, section 77 applies with the omission of subsections (4) to (6).

(5) In this section -

“married couple” means a man and a woman who are married to each other and are neither -

- (a) separated under a court order, nor
- (b) separated in circumstances in which the separation is likely to be permanent, and

“unmarried couple” means a man and a woman who are not a married couple but are living together as husband and wife.”

Other supplementary provisions

Repeals

60. Schedule 6 (repeals) has effect.

SCHEDULE 3

TAX CREDITS: CONSEQUENTIAL AMENDMENTS

Social Security Contributions and Benefits Act 1992 (c.4)

- 24. The Social Security Contributions and Benefits Act 1992 has effect subject to the following amendments.
- 26. In section 37(2) (widowed mother’s allowance), for “81(2)” substitute “77(5)”.
- 28. In section 39A(3) (widowed parent’s allowance), for “81(2)” substitute “77(5)”.
- 34. In section 114(4) (cost of providing for children), for “81” substitute “82”.

SCHEDULE 6
REPEALS AND REVOCATIONS

<i>Title and reference</i>	<i>Extent of repeal or revocation</i>
<p>Social Security Contributions and Benefits Act 1992 (c.4)</p>	<p>In section 20(1), the words “(with increase for child dependants)” (in each place) and, in paragraph (f)(i), the words “and child”.</p> <p>In section 30B(3), the word “80,”.</p> <p>In section 56(1), the words “(and in particular to those of section 81 below)”.</p> <p>Section 60(6).</p> <p>In sections 61(1) and (2), the words “on account of a child or an adult”.</p> <p>In section 63(c) and (f)(i), the words “and child”.</p> <p>In section 77(1), the words following paragraph (b).</p> <p>In section 78(4)(d), the word “80,”.</p> <p>Sections 80 and 81.</p> <p>In section 89(1), the words “section 80 and” and, in the heading, the words “child or”.</p> <p>In section 90, the words “child or”.</p> <p>In section 91(1)(b), the words “for an adult dependant”.</p> <p>In Schedule 4, in Part 4, in column (1), the entries relating to widowed mother’s allowance, widowed parent’s allowance and child’s special allowance and column (2).</p> <p>In Schedule 5, in paragraph 2(5)(b), the word “80”.</p>

Social Security Administration Act 1992 (c.5)	In section 3(3), the words “(together with any increase under section 80(5) of the Contributions and Benefits Act)”. Section 154(2)(a) and (c).
Social Security (Incapacity for Work) Act 1994 (c. 18)	Section 2(4).

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 applies to the Island (in part) the provisions of the Tax Credits Act 2002 (chapter 21) (an Act of Parliament) ("the Act") appropriate to the Isle of Man.
2. The provisions applied by this Order shall come into force on 7th April 2003.
3. The Tax Credits Act 2002 replaces children's tax credit, working families' tax credit and disabled person's tax credit from 7th April 2003 by working tax credit and child tax credit. These new tax credits, and the ones they replace, provide for payments by or on behalf of the Inland Revenue, on an income-related basis, to people in work and/or with dependent children.
4. However, the Isle of Man will continue to provide financial support for working families and disabled people through family income supplement and disability working allowance. There is no intention at this point to introduce the UK model of tax credits on the Island, though this is a policy issue currently before the Department. There are, however, certain provisions within the tax credits legislation which amend social security benefits and child benefit in particular. For the purpose of reciprocity, it is necessary to apply these provisions to the Island.

5. Section 1(3)(e) - Abolition of increases in non income-related benefits in respect of child dependants

Child dependency increases within retirement pension, incapacity benefit, bereavement benefits and carer's allowance are discontinued. The entitlement of beneficiaries in receipt of these increases on 6th April 2003 will be safeguarded so long as they continue to satisfy the entitlement conditions. Entitlement to child dependency increases within income-related benefits in the Isle of Man will be unaffected by this change and will continue.

6. Section 55 - Continuing entitlement after death of child

- 6.1 Under the current legislation, entitlement to child benefit ceases immediately a child dies. Also, if a child dies within days or hours of its birth, the family may not become entitled to child benefit for that child. Under current legislation, the child must be alive on the first day of a benefit week (Monday) for the family to become entitled.
- 6.2 Section 55 extends entitlement to child benefit after the death of the child in question for a period to be specified in regulations. The period to be so specified will be eight weeks. The section also provides for a person to receive child benefit during that extension period in cases where they would normally have been excluded from entitlement because the child did not survive until the Monday following its birth.

6.3 Section 55 also provides that the surviving partner of a person entitled to child benefit for a child who has died can claim child benefit for the extension period if:

- the child benefit claimant dies as well as the child; and
- the claimant and the surviving partner were a married or unmarried couple who were living together at the time of the claimant's death.

6.4 Entitlement to guardian's allowance is extended in the same way as entitlement to child benefit.

7. Section 60 and Schedules 3 and 6.

Section 60 provides that the repeals contained within Schedule 6 shall have effect. Schedule 3 contains minor consequential amendments resulting from the abolition of child dependency increases provided for in section 1(3)(e).