



Statutory Document No. 42/04

THE SOCIAL SECURITY ACT 2000
**THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992
(APPLICATION) (AMENDMENT) ORDER 2004**

Approved by Tynwald

19th February 2004

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 Contributions and Benefits Act 1992 (Application) (Amendment) Order 2004 and shall, subject to section 2(1) of the Social Security Act 2000, come into operation on 12th April 2004.

Amendment of the Schedule to the Social Security Contributions and Benefits Act 1992 (Application) Order 1994 (S.D. 505/94)

2. (1) Amend the Schedule to the Social Security Contributions and Benefits Act 1992 (Application) Order 1994(b) (which sets out the Social Security Contributions and Benefits Act 1992)(c) as it has effect in the Isle of Man) in accordance with the following paragraphs.

(2) In section 3 (“earnings” and “earner” for the purpose of certain provisions of the Social Security Contributions and Benefits Act 1992) -

- (a) in subsection (1) after “Parts II to V” insert “and Part 12ZB (adoption allowance)”; and
- (b) in subsection (2) after “Parts II to V” insert “and Part 12ZB (adoption allowance)”.

(a) 2000 c.5; (b) S.D. 505/94; (c) 1992 c.4.

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(3) In subsection (1) of section 35 (maternity allowance) -

(a) for paragraph (b) substitute -

“(b) she has been engaged in employment either -

(i) as an employed earner for any part of a week for at least 26 of the 66 weeks immediately preceding the expected week of confinement, or

(ii) as a self-employed earner for any part of a week for at least 26 of those 66 weeks, unless she also satisfies the condition in sub-paragraph (i) above, or

(iii) as -

(aa) a self-employed earner for any part of a week for so many weeks; and

(bb) as an employed earner for any part of a week for so many other weeks,

falling in those 66 weeks as in aggregate amount to at least 26, unless she also satisfies the condition in sub-paragraph (i) or (ii) above; and”;

(b) for paragraph (c) substitute -

“(c) her average weekly earnings (within the meaning of section 35A below) -

(i) in the case of a woman who satisfies the condition in paragraph (b)(i) above, from employed earner’s employment, or

(ii) in the case of a woman who satisfies the condition in paragraph (b)(ii) above, from employed or self-employed earner’s employment or from both (as the case may be), or

(iii) in the case of a woman who satisfies the condition in paragraph (b)(iii) above, from employed or self-employed earner’s employment or from both (as the case may be),

are not less than the maternity allowance threshold for the tax year in which the beginning of the period of 66 weeks mentioned in paragraph (b) above falls;”.

(4) In section 35A (appropriate weekly rate of maternity allowance) -

(a) for subsection (1)(b) substitute -

“(b) the weekly rate of maternity allowance for the time being specified in -

(i) sub-paragraph (a) of paragraph 4 of Part I of Schedule 4, where she satisfies the conditions in section 35(1)(b)(i) and (c)(i) above, or

(ii) sub-paragraph (b) of paragraph 4 of that Part where she satisfies the conditions in section 35(1)(b)(ii) and (c)(ii) above, or

- (iii) sub-paragraph (b) of paragraph 4 of that Part where she satisfies the conditions in section 35(1)(b)(iii) and (c)(iii) above;";
- (b) in subsections (5)(c)(i) and (5A) for "paragraph 4" substitute "paragraph 4(b); and
- (c) in subsection (5)(d) at the end add -

"and for aggregating payments in respect of employed earner's employment only and disregarding those in respect of self-employed earner's employment".

(5) In section 119 (regulations modifying certain provisions in respect of persons outside the Isle of Man) after "I to V" insert ", 12ZA and 12ZB".

Made

19/01/2004



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order amends the Social Security Contributions and Benefits Act 1992 (an Act of UK Parliament, as it has effect in the Isle of Man ("the Contributions and Benefits Act")) as a consequence of the introduction on 12th April 2004 of -
 - the payment of an adoption allowance or a paternity allowance by the DHSS to persons who are absent from work following the adoption or birth of a child; and
 - there being two alternative standard rates of maternity allowance.
2. This Order shall also come into force on that date.

The meaning of "earnings" and "earner" for the purposes of adoption allowance

3. Article 2(2) provides for -

- what constitutes "earnings";
- who an "earner" is; and
- how a person's earnings are to be calculated,

for the purposes of adoption allowance. (Provision already exists in new Part 12ZA in respect of paternity allowance in this regard.)

Rate of maternity allowance payable: the lower of the variable rate and the standard rate

4.1 The rate of maternity allowance payable to a woman is that equal to the lower of 2 rates in her case: the variable rate and the standard rate.

4.1.1 *The variable rate*

The variable rate of maternity allowance which applies to a woman is calculated as being that equal to 90% of her average weekly earnings in the 13 weeks in the 66 weeks immediately before the week in which she expects to give birth ("*the test period*") in which her earnings were the highest.

4.1.2 For this purpose, women are treated as having earnings from any self-employment they have in any week equal to -

- 111.12% of the standard rate of maternity allowance, if they paid a Class 2 contribution for that week; or
- the maternity allowance threshold (currently £30 per week), if they were granted exception from paying a Class 2 contribution for that week.

The standard rate

4.1.3 Immediately prior to 12th April 2004, the standard rate of maternity allowance applicable was £100 per week - the same rate applied to employed earners and self-employed earners.

4.1.4 However, to keep pace with the amount of statutory maternity pay payable by employers to women in the United Kingdom on maternity leave, from that date a new standard rate of maternity allowance will be introduced in the Isle of Man. Its amount will be over 50% more than the current standard rate. The new rate will only apply to those women who satisfy the employment condition for maternity allowance by virtue of their having been in employed earner's employment and who satisfy its earnings condition because their earnings from that type of employment were sufficiently high. The existing standard rate shall apply to those women who fail to meet the conditions for the new standard rate, the amount of which will remain unchanged.

4.2 Article 2(3) and (4) amends the Contributions and Benefits Act in order to specify the circumstances in which a person shall qualify for whichever of the two standard rates of maternity allowance applies in their case, where the variable rate of maternity allowance would be higher than the standard rate -

- *Qualifying for the higher standard rate of maternity allowance*

the higher standard rate will be payable to those women who have been in employed earner's employment for at least 26 out of the 66 weeks before the week in which they expect to give birth and whose average weekly earnings from that type of employment for any 13 of those 66 weeks was at least equal to 111.12% of the higher standard rate;

- *Qualifying for the lower standard rate of maternity allowance*

the lower standard rate will be payable to those women who fail to qualify for the higher rate but who have been in self-employed earner's employment for at least 26 of those 66 weeks and who have paid Class 2 National Insurance contributions in respect of their self-employment for any 13 out of those 66 weeks.

- The lower rate will also be payable to those women who do not satisfy either of the 2 qualifying conditions above, but who have been in self-employed earner's employment for so many weeks and in employed earner's employment for so many other weeks in those 66 weeks as adds up to at least 26. Their average weekly earnings in any of those 13 weeks must also have been at least 111.12% of the lower standard rate or they must have paid Class 2 National Insurance contributions in respect of their self-employment for at least 13 weeks.

4.3 Those women whose average earnings were less than 111.12% of the higher standard rate (for employed earners) will qualify for the variable rate of maternity allowance, at the rate of 90% of their average earnings. Women who were granted exception from paying a Class 2 contribution (for self-employed earners) will qualify for maternity allowance at the rate of 90% of the maternity allowance threshold i.e., £27 at current levels.

