



Statutory Document No. 45/04

THE SOCIAL SECURITY ACT 2000
**THE SOCIAL SECURITY LEGISLATION (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 Legislation (Application) (Amendment) Order 2004 and shall, subject to section 2(1) of the Social Security Act 2000, come into force on 12th April 2004.

Amendment of Schedule 25 to the Social Security Subsidiary Legislation (Application) Order 1975 (G.C. 156/75)

2. (1) Amend Schedule 25 to the Social Security Subsidiary Legislation (Application) Order 1975(b) (which specifies those exceptions, adaptations and modifications subject to which the Social Security (Benefit) (Members of the Forces) Regulations 1975(c) have effect in the Isle of Man) in accordance with the following paragraph.

(2) In the exceptions, adaptations and modifications to which regulation 4 (maternity benefit) is subject, at the end add -

“(c) After regulation 4 insert -

“Adoption allowance

4A. A person shall not be disqualified for receiving adoption allowance because he is absent from the Island -

- (a) while he is a serving member of the forces (other than while he is a person mentioned in paragraph (a) or (b) of regulation 2 above); or

(a) 2000 c.5; (b) G.C. 156/75; (c) S.I. 1975/493.

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- (b) for any period falling within the 26 weeks immediately following his ceasing to be such a person.”.”.

Amendment of Schedule 37 to the Social Security Subsidiary Legislation (Application) Order 1975 (G.C. 156/75)

3. (1) Amend Schedule 37 to the Social Security Subsidiary Legislation (Application) Order 1975 (which specifies those exceptions, adaptations and modifications subject to which the Social Security (Credits) Regulations 1975(a) have effect in the Isle of Man) in accordance with the following paragraph.

(2) After the exceptions, adaptations and modifications to which regulation 7 (credits for approved training) is subject insert -

“8D. **Credits for adoption** After regulation 8C (credits on termination of bereavement benefits) insert -

“Credits for adoption

8D. For the purposes of entitlement to any benefit by virtue of a person’s earnings, he shall be entitled to be credited with earnings equal to the lower earnings limit then in force in respect of each week for the whole of which he was paid an adoption allowance.”.”.

Amendment of Schedule 10 to the Social Security Subsidiary Legislation (Application) (No. 2) Order 1979 (G.C. 207/79)

4. (1) Amend Schedule 10 to the Social Security Subsidiary Legislation (Application) (No. 2) Order 1979(b) (which sets out those exceptions, adaptations and modifications subject to which the Social Security (Overlapping Benefits) Regulations 1979(c) have effect in the Isle of Man) in accordance with the following paragraph.

(2) After the exceptions, adaptations and modifications to which regulation 2 (interpretation) is subject insert -

“4. **Adjustment of certain personal benefits where other benefits are payable** (a) For the heading substitute -

“Adjustment of personal benefit under Parts II, III, 12ZA or 12ZB of the Contributions and Benefits Act where another personal benefit under any of those Parts or graduated retirement benefit is payable”.

(b) In paragraph (1)(a) for “Parts II and III” substitute “Parts II, III, 12ZA and 12ZB”.

(a) S.I. 1975/556; (b) G.C. 207/79; (c) S.I. 1979/597.

(c) For paragraph (5)(a) substitute -

“(a) one of the benefits is a contributory benefit, adoption allowance or paternity allowance, and one is a non-contributory benefit, the non-contributory benefit shall be adjusted by deducting from it the amount of the contributory benefit, adoption allowance or paternity allowance (as the case may be) and only the balance (if any) shall be payable;”.

Amendment of the Schedule to the Social Security Legislation (Application) (No. 8) Order 1996 (S.D. 634/96)

5. (1) Amend the Schedule to the Social Security Legislation (Application) (No. 8) Order 1996(a) (which sets out the Jobseeker's Allowance Regulations 1996(b) as they have effect in the Isle of Man) in accordance with the following paragraphs.

(2) In regulation 3E (entitlement to a joint-claim jobseeker's allowance without having to make a claim) after paragraph (2)(h) insert -

“(ha) who has claimed a paternity allowance payable in accordance with section 171ZA (paternity allowance (birth)) or 171ZB (paternity allowance (adoption)) of the Contributions and Benefits Act;

(hb) who has claimed an adoption allowance payable in accordance with section 171ZL (adoption allowance) of the Contributions and Benefits Act;”.

(3) In regulation 15 (circumstances in which a person is not to be regarded as being available for employment) after paragraph (c) add -

“(ca) if he is in receipt of a paternity allowance in accordance with section 171ZA (paternity allowance (birth)) or 171ZB (paternity allowance (adoption)) of the Contributions and Benefits Act; or

(cb) if he is in receipt of an adoption allowance in accordance with section 171ZL (adoption allowance) of the Contributions and Benefits Act”.

(4) In regulation 48 (linking jobseeking periods) after paragraph (2)(c) insert -

“(ca) any period throughout which the claimant was entitled to a paternity allowance under section 171ZA (paternity allowance (birth)) or 171ZB (paternity allowance (adoption)) of the Contributions and Benefits Act;

(cb) any period throughout which the claimant was entitled to an adoption allowance under section 171ZL (adoption allowance) of the Contributions and Benefits Act;”.

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

(5) In regulation 96 (date on which income is treated as having been paid) in paragraph (2) after “maternity allowance,” insert “paternity allowance, adoption allowance,”.

(6) In regulation 97 (calculation of weekly amount of income for jobseeker’s allowance entitlement) in paragraph (4) after “maternity allowance,” insert “paternity allowance, adoption allowance,”.

(7) In regulation 150 (amount of jobseeker’s allowance payable for part-weeks) in paragraph (1) in the explanation of what “B” is in the calculation in that paragraph, after “maternity allowance,” insert “paternity allowance, adoption allowance,”.

(8) In regulation 153 (modification in the calculation of the income of a person who is entitled to a jobseeker’s allowance for part of a week only) in paragraph (b) after “maternity allowance,” insert “paternity allowance, adoption allowance,”.

Amendment of Schedule 1 to the Social Security Legislation (Application) (No. 4) Order 1998 (S.D. 360/98)

6. (1) Amend Schedule 1 to the Social Security Legislation (Application) (No. 4) Order 1998(a) (which sets out the Social Security (Claims and Payments) Regulations 1987(b) as they have effect in the Isle of Man) in accordance with the following paragraphs.

(2) In regulation 16 (date from which, and the rate at which, certain benefits are to be payable) in paragraph (4) after “maternity allowance,” insert “paternity allowance, adoption allowance,”.

(3) In regulation 19(3) (prescribed time for claiming specified benefits to be 3 months beginning on the day of entitlement) after sub-paragraph (e) insert -

“(ea) paternity allowance;

(eb) adoption allowance;”.

(4) In regulation 24 (intervals at which certain benefits are to be payable) in paragraph (4) after “Maternity allowance” insert “, paternity allowance and adoption allowance”.

(5) In Schedule 1 -

(a) in Part I (claim for one benefit which may be treated as if it were a claim for another benefit or for another benefit in addition to the one claimed) at the end add -

“Adoption allowance | Paternity allowance.

Paternity allowance | Adoption allowance.”; and

(b) in Part II (claim for child benefit which may be treated as if it were a claim for another benefit or for another benefit in addition to child benefit) after “Maternity allowance claimed after confinement” insert -

“Adoption allowance after placement of a child for adoption

Paternity allowance after confinement, or placement of a child for adoption (as the case may be)”.

(a) S.D. 360/98; (b) S.I. 1987/1968.

(6) In Schedule 9 (deductions from benefit and direct payments to third parties in respect of certain costs) in paragraph 1(1) (interpretation of Schedule 9), in the definition of “specified benefit”, for paragraph (j) (“state maternity allowance”) substitute -

- “(j) maternity allowance under Part II of the Contributions and Benefits Act;
- (ja) paternity allowance under Part 12ZA of the Contributions and Benefits Act;
- (jb) adoption allowance under Part 12ZB of the Contributions and Benefits Act;”.

Amendment of Schedule 2 to the Social Security Legislation (Application) (No. 8) Order 2002 (S.D. 374/02)

7. (1) Amend Schedule 2 to the Social Security Legislation (Application) (No. 8) Order 2002(a) (which sets out the Social Security (Contributions) Regulations 2001(b) as they have effect in the Isle of Man) in accordance with the following paragraph.

(2) In regulation 43 (exception from liability to pay Class 2 contributions) in paragraph (1) for sub-paragraph (c) substitute -

- “(c) in respect of which the earner is in receipt of an adoption allowance, a maternity allowance or a paternity allowance;”.

Amendment of Schedule 5 to the Social Security Legislation (Application) (No. 4) Order 2003 (S.D. 152/03)

8. (1) Amend Schedule 5 to the Social Security Legislation (Application) (No. 4) Order 2003(c) (which sets out the Employment Act 2002 (Commencement No. 3 and Transitional and Saving Provisions) Order 2002(d) as it has effect in the Isle of Man) in accordance with the following paragraph.

(2) In Schedule 3 (transitional and saving provisions) -

(a) as paragraph 1 insert -

“1. Part 12ZA of the 1992 Act, inserted by section 2 of the Act (paternity allowance), shall have effect only in relation to a person who satisfies the prescribed conditions of entitlement in respect of a child -

- (a) born on or after 12th April 2004, or whose expected week of birth begins on or after that date; or
- (b) matched for the purposes of adoption with a person who is notified of having been matched on or after 12th April 2004, or placed for adoption on or after that date.”; and

(b) as paragraph 2 insert -

“2. Part 12ZB of the 1992 Act, inserted by section 4 of the Act (adoption allowance), shall have effect only in relation to a person with whom a child is, or is expected to be, placed for adoption on or after 12th April 2004.”.

(a) S.D. 374/02; (b) S.I. 2001/1004; (c) S.D. 152/03; (d) S.I. 2002/2866 (C.91).

Made

19/01/2004



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order amends miscellaneous items of secondary legislation which have effect in the Isle of Man as a consequence of the introduction on 12th April 2004 of the payment of adoption allowance or paternity allowance to persons who are absent from work following the adoption or birth of a child. This Order also come into force on that date.

2. Specifically, changes are made to provide for the following.

Adoption allowance and employment in the armed forces

3. Persons shall not to be disqualified for receiving an adoption allowance while serving as a member of the Armed Forces, and in the 26 weeks after leaving the Forces (article 2).

National Insurance credits while receiving an adoption allowance

4. A person's National Insurance record shall be credited with earnings or contributions for future contributory benefit entitlement purposes for any week in which they were receiving an adoption allowance (article 3).

Overlapping benefits

5. The overlapping benefit rules shall apply to adoption allowance and paternity allowance. So, for example, where any contributory benefit is payable at the same time as adoption allowance or paternity allowance, then whichever benefit is the higher shall be paid, and the other shall not.

Jobseeker's allowance

- 6.1 A member of a joint-claim couple may qualify for a jobseeker's allowance without having to make a claim with their partner - when they would not otherwise qualify - where the other member of the couple has claimed an adoption allowance or a paternity allowance (article 5(2)).

- 6.2 A person shall be regarded as not being available for employment for the purpose of jobseeker's allowance entitlement while they are in receipt of an adoption allowance or a paternity allowance ([article 5\(3\)](#)).
- 6.3 Two or more jobseeking periods experienced by a person shall be "linked" where they are separated by a period during which that person was entitled to an adoption allowance or a paternity allowance ([article 5\(4\)](#)). This means that the earlier jobseeking period is treated as continuing, so that -
- it is the date on which the first jobseeking period commenced which will be used to determine whether the person is entitled to a contribution-based jobseeker's allowance;
 - the person will not have to serve another three "waiting days"; and
 - the number of days for which contribution-based jobseeker's allowance is paid in respect of the first jobseeking period will be added to those in respect of the second period to decide when entitlement is exhausted (benefit is payable for a maximum of 182 days).
- 6.4 For the purposes of determining a person's entitlement to a jobseeker's allowance, any adoption allowance or paternity allowance payable to a person shall be treated as if it had been paid on the day of the benefit week in respect of which it was payable ([article 5\(5\)](#)).
- 6.5 For the same purposes, the amount of any adoption allowance or paternity allowance payable to a person in respect of a part-week shall be taken into account only for the corresponding days to which they relate ([article 5\(6\)](#)).
- 6.6 For the purpose of determining whether - and if so, how much - income-based jobseeker's allowance a person is entitled to where it is payable for only part of a week, then any adoption allowance or paternity allowance also payable to that person for any day falling in that part-week shall be deducted from the amount of jobseeker's allowance that would otherwise be payable ([article 5\(7\)](#)) but if it falls outside that part-week but within that week, it shall be ignored ([article 5\(8\)](#)).

Claims for and payments of adoption allowance and paternity allowance

- 7.1 [Article 6\(2\)](#) provides for the date on which adoption allowance and paternity allowance shall be payable where entitlement arises on a day which is not the first day of a benefit week.
- 7.2 A claim for a paternity allowance or an adoption allowance must be made within 3 months of the person satisfying the qualifying conditions for that benefit ([article 6\(3\)](#)).
- 7.3 Adoption allowance and paternity allowance shall normally be payable on a Friday ([article 6\(4\)](#)).
- 7.4 A person's claim for an adoption allowance or a paternity allowance may be treated as one for or in addition to (as the case may be) a claim for child benefit, where it appears that they may be entitled to that benefit ([article 6\(5\)](#)).
- 7.5 Adoption allowance and paternity allowance are added to the list of benefits payable to a person from which deductions may be made and then paid over to third parties in respect of certain costs incurred by that person (e.g., for ongoing rent and fuel costs) ([article 6\(6\)](#)).

*Exception from liability to pay Class 2 contributions while
receiving adoption allowance or paternity allowance*

8. A person who receives an adoption allowance or a paternity allowance for any week shall not be liable to pay a Class 2 (self-employed) National Insurance contribution for that week (article 7).

Adoption allowance and paternity allowance to be payable only from a certain date

- 9.1. Paternity allowance (birth) shall only be payable to persons in respect of a child born on or after 12th April 2004 or whose expected week of birth begins on or after that date. Paternity allowance (adoption) shall only be payable to persons who are either told that they have been matched with a child for adoption on or after 12th April 2004 or if a child has been placed with them for adoption on or after that date (article 8(2)(a)).
- 9.2. Adoption allowance is payable to persons only if a child is placed with them (or is expected to be placed with them) for adoption on or after 12th April 2004 (article 8(2)(b)).