



Statutory Document No. 46/04

THE SOCIAL SECURITY ACT 2000
**THE SOCIAL SECURITY LEGISLATION (APPLICATION)
(AMENDMENT) (No. 2) ORDER 2004**

Approved by Tynwald 19/02/2004

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) (No. 2) 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 1 to the Social Security Legislation (Application) (No. 20) Order 2000 (S.D. 735/00)

2. (1) Amend Schedule 1 to the Social Security Legislation (Application) (No. 20) Order 2000(b) (which sets out the Social Security (Maternity Allowance) (Earnings) Regulations 2000(c) as they have effect in the Isle of Man) in accordance with the following paragraphs.

(2) In regulation 1(2) (interpretation of the Social Security (Maternity Allowance) (Earnings) Regulations 2000) -

- (a) in the definition of "certificate of small earnings exception" for "regulation 24(1)" substitute "regulation 44(1)"; and
- (b) in the definition of "the Contributions Regulations" for "1979" substitute "2001".

(3) In regulation 2 (specified payments for employed earners) for paragraph (2) substitute -

"(2) The payments specified shall not include any sum excluded from the computation of a person's earnings under regulation 25 or 27 of, or Schedule 3 to, the Contributions Regulations (certain payments to be disregarded as earnings for the purposes of earnings-related contributions)."

(a) 2000 c.5; (b) S.D. 735/00; (c) S.I. 2000/688.

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(4) In regulation 3 (specified payments for self-employed earners) for “section 166(1)(b) of the Contributions and Benefits Act” substitute “paragraph 4(b) of Schedule 4 to the Contributions and Benefits Act”.

(5) For regulation 4 (aggregation of specified payments) substitute -

“Aggregation of specified payments

4. (1) In a case where a woman, either in the same week or in different weeks falling within the test period, is engaged in two or more employments (whether in each case as an employed earner or as a self-employed earner, or as an employed earner in some of those employments and as a self-employed earner in others) any payments which are made (or treated in accordance with these regulations as made) to her for her benefit -

- (a) in respect of any or each of those employed earner’s employments only shall, for the purposes of section 35A(1)(c)(i), be aggregated for the purpose of determining the average weekly amount of specified payments applicable in her case and any payments in respect of any employment or employments as a self-employed earner shall be disregarded;
- (b) in respect of each of those employments shall, for the purposes of section 35A(1)(c)(ii) and (iii), be aggregated for the purpose of determining the average weekly amount of specified payments applicable in her case.”.

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 Maternity Allowance (Earnings) Regulations 2000 (which provide the method by which a woman's average weekly earnings are to be calculated in determining the rate of maternity allowance which applies in her case), following the introduction on 12th April 2004 of a higher standard rate of maternity allowance for employed earners. This Order also comes into force on 12th April 2004.
2. The higher standard rate shall only apply to those women who qualify for maternity allowance on the basis of their employment as an employed earner - rather than as a self-employed earner - and whose average weekly earnings used to determine their entitlement to maternity allowance are derived from employed earner's employment.
3. A woman satisfies the employment condition for maternity allowance if she was in employed earner's or self-employed earner's employment in at least 26 of the 66 weeks immediately preceding the expected week of birth of her child(ren) (called "*the test period*").
4. The rate of maternity allowance payable to her is the lower of -
 - 90% of her average weekly earnings in the specified period ("*the variable rate*"); and
 - "*the standard rate*".

So, a woman will qualify for the standard rate of maternity allowance if her average weekly earnings are equal to or more than 111.12% of the standard rate of maternity allowance and will qualify for the variable rate if her earnings are less than that amount.

5. Previously, a woman's average weekly earnings were found by identifying the 13 weeks in the 66-week test period in which her total earnings from employed earner's and self-employed earner's employment were the greatest - and then dividing that figure by 13. However, to qualify for the higher standard rate, her average weekly earnings are to be based on her earnings from employed earner's employment only.
6. Article 1 provides for the citation and commencement of the order and article 2(1) provides for its introduction.
7. Article 2(2) to (4) updates certain definitions and other text appearing in the Social Security (Maternity Allowance) (Earnings) Regulations 2000.
8. Article 2(5) provides that, for the purpose of determining what rate of maternity allowance applies in the case of a woman who has more than one job in any week - either as an employed earner or as a self-employed earner or as one or more of both types of employment - then her average weekly earnings are to be based only on any earnings she had from employed earner's employment in that week; any earnings she had from self-employment will be disregarded.

