



Statutory Document No. 47/04

THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992

**THE SOCIAL SECURITY (ADOPTION ALLOWANCE)
(EARNINGS) REGULATIONS 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 sections 171ZN(2), (3) and (4) and 175 of the Social Security Contributions and Benefits Act 1992(a) (as those sections have effect in the Isle of Man(b)), and of all other enabling powers, the following regulations are hereby made:-

Citation, commencement and interpretation

1. (1) These regulations may be cited as the Social Security (Adoption Allowance) (Earnings) Regulations 2004 and shall come into force on 12th April 2004.

(2) In these regulations -

“certificate of small earnings exception” means a certificate issued pursuant to regulation 44(1) of the Contributions Regulations;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;

“the Contributions Regulations” means the Social Security (Contributions) Regulations 2001(c);

“test period” means the period of 66 weeks specified in section 171ZL(2)(b) of the Contributions and Benefits Act.

Specified payments

2. (1) Subject to paragraph (2), for the purposes of section 171ZN(2) of the Contributions and Benefits Act, the payments specified for a person in any week falling within the test period shall be all payments made to him (or for his benefit) as an employed earner.

(a) 1992 c.4; (b) S.D. 505/94; (c) S.I. 2001/1004.

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(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).

Aggregation of specified payments

3. In a case where a person, either in the same week or in different weeks falling within the test period, is engaged in two or more employments as an employed earner, any payments which are made (or treated in accordance with these regulations as made) to him for his benefit in respect of those employments shall be aggregated for the purpose of determining the average weekly amount of specified payments applicable in his case.

The specified period

4. For the purposes of section 171ZN(2) and (3) of the Contributions and Benefits Act, the specified period shall be the test period.

Determination of average weekly amount of specified payments

5. (1) For the purposes of section 171ZN(2) of the Contributions and Benefits Act, a person's average weekly amount of specified payments shall, subject to paragraph (2), be determined by dividing by 13 the payments made (or treated in accordance with these regulations as made) to him or for his benefit as an employed earner in the 13 weeks (whether consecutive or not) falling within the specified period in which such payments are greatest.

(2) Where a person receives a back-dated pay increase after the end of the period specified in regulation 4 above which includes a sum in respect of any week falling within that period, his average weekly amount of specified payments shall be determined as if such sum had been paid in that week.

(3) Where a person is normally paid other than weekly, the payments made or treated as made to him or for his benefit for the purposes of paragraph (1) shall be calculated by dividing the payments made to him in any week by the nearest whole number of weeks in the period in respect of which he is paid.

Made

19/01/2004



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of these Regulations)

1. These Regulations, which come into force on 12th April 2004, provide for the calculation of the average weekly earnings figure used to determine the rate of adoption allowance payable to a person.
2. Under Part 12ZB of the Social Security Contributions and Benefits Act 1992 (an Act of UK Parliament, as it has effect in the Island - "the Contributions and Benefits Act"), the rate of adoption allowance payable to a person is the lower of -
 - the *variable rate* of adoption allowance that would be payable (equal to 90% of their average weekly earnings in the specified period); and
 - a fixed amount, called "*the standard rate*".
3. Section 171ZN(2) of that Act provides that a person's "average weekly earnings" shall be taken to be *the average weekly amount* (as determined in accordance with regulations) of *specified payments* which were made to that person or for their benefit as an employed earner during *the specified period*, where "specified" means prescribed by, or determined in accordance with, regulations.
4. Regulation 1 provides for the citation, commencement and interpretation of the regulations.
5. Regulation 2 provides that "specified payments" are those payments made to or for the benefit of a person as an employed earner, excluding earnings in respect of which Class 1 National Insurance contributions are not payable.
6. Regulation 3 provides that any payments specified under regulation 2 which are payable in any week falling within the *test period* (see below) shall be added together for the purpose of calculating a person's weekly earnings figure for that week.
7. Regulation 4 specifies that the specified period shall be the *test period*. The test period is the period of 66 weeks immediately before the date the person is notified that they have been matched with a child for adoption.
8. Regulation 5 provides that the average weekly amount of specified payments is found by identifying the 13 weeks in the 66-week test period in which the person's earnings from employed earner's employment were the greatest and then dividing that figure by 13. Adjustments are made in respect of back-dated pay increases and where a person is normally paid other than weekly.

