



Statutory Document No. 48/04

THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992

**THE SOCIAL SECURITY (ADOPTION ALLOWANCE)
(WORK ABROAD) REGULATIONS 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 119 of the Social Security Contributions and Benefits Act 1992(a) (as that section has 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) (Work Abroad) Regulations 2004 and shall come into force on 12th April 2004.

(2) In these 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);

“Order” means an order made under, or an agreement which has effect by virtue of, section 179 of the Social Security Administration Act 1992 (reciprocity with countries outside the Isle of Man in relation to benefits).

Special provision for certain persons who have been employed abroad

2. These regulations apply, subject to regulation 6, for the purpose of determining entitlement to an adoption allowance in respect of a person who -

(a) has been absent from the Isle of Man;

(b) has returned to the Isle of Man; and

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

Price: £0.70 Band: A

- (c) throughout the whole period of his absence was ordinarily resident in the Isle of Man.

3. (1) Where a person has paid (or is treated as having actually paid) Class 1 contributions under the Contributions and Benefits Act either -

- (a) to the full extent of his liability under regulation 146 of the Contributions Regulations; or
- (b) in respect of the first 52 weeks of his employment abroad by virtue of an Order,

and the employment by reference to which the liability arose continued throughout the first 52 weeks after the commencement of that liability, he shall be treated in accordance with paragraph (2).

(2) A person to whom paragraph (1) applies shall be treated -

- (a) for any week in which he was in fact engaged in gainful employment, as having been engaged in employment as an employed earner; and
- (b) for -
 - (i) any such week, and
 - (ii) for any weeks following the period of that liability, and
 - (iii) before the date of his return to the Isle of Man insofar as those weeks are relevant to his claim for an adoption allowance,

as having received an amount of specified payments for the purposes of section 171ZN(2) (adoption allowance) of the Contributions and Benefits Act equal to an amount 90% of which is equal to the weekly rate that is in force on the last day of that week prescribed under paragraph 4A of Schedule 4 to that Act (standard rate of adoption allowance).

4. (1) Where -

- (a) a person would have been liable to pay Class 1 contributions under regulation 146 of the Contributions Regulations but for the provisions of an Order; and
- (b) in relation to his case the Order does not provide for periods of insurance, employment or residence in the other country to which the Order relates to be taken into account in determining entitlement to benefit; and
- (c) the employment by reference to which he would have been liable under that regulation continued throughout the first 52 weeks,

he shall be treated in accordance with paragraph (2).

(2) A person to whom paragraph (1) applies shall be treated -

- (a) for any week during his absence in which he was in fact engaged in gainful employment, as having been engaged in employment as an employed earner; and

- (b) for each week of his absence, as having received an amount of specified payments for the purposes of section 171ZN(2) (adoption allowance) of the Contributions and Benefits Act equal to an amount 90% of which is equal to the weekly rate that is in force on the last day of that week prescribed under paragraph 4A of Schedule 4 to that Act (standard rate of adoption allowance).

5. (1) Where -

- (a) a person would have been liable to pay Class 1 contributions under regulation 146 of the Contributions Regulations but for the provisions of an Order; and
- (b) the employment by reference to which he would have been liable under regulation 146 continued throughout the first 52 weeks from the time the liability would have commenced; and
- (c) the Order provides for aggregation of periods of insurance, employment or residence only if an insurance period has been completed since his return to the Isle of Man, and an insurance period has not been so completed,

any period of insurance or employment in the other country to which that Order relates which falls in the 66 weeks immediately preceding the week in which he is notified that he has been matched with a child for the purposes of adoption in accordance with Part 12ZB of the Contributions and Benefits Act (and any regulations made under that Part) shall be treated in accordance with paragraph (2).

(2) A period of insurance or employment to which paragraph (1) applies shall be treated as -

- (a) a period in respect of which the person mentioned in that paragraph was engaged in employment as an employed earner; and
- (b) a period in each week of which that person received an amount of specified payments for the purposes of section 171ZN(2) (adoption allowance) of the Contributions and Benefits Act equal to an amount 90% of which is equal to the weekly rate that is in force on the last day of that week prescribed under paragraph 4A of Schedule 4 to that Act (standard rate of adoption allowance).

6. Regulations 2 to 5 (except in a case to which regulation 3(1)(a) applies) shall not apply in relation to a claim for adoption allowance for any day in respect of which the person concerned is entitled to a corresponding benefit under the social security scheme of the country in which he was employed.

7. Where a person satisfies the requirements of paragraph 4(1)(a) or 5(1)(a) but the employment did not continue for 52 weeks, he shall be treated, in respect of those weeks in which his employment did continue -

- (a) as having been engaged in employment as an employed earner; and
- (b) as having received an amount of specified payments for the purposes of section 171ZN(2) (adoption allowance) of the Contributions and Benefits Act equal to an amount 90% of which is equal to the weekly rate that is in force on the last day of that week prescribed under paragraph 4A of Schedule 4 to that Act (standard rate of adoption allowance).

Made

19/01/2004



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the regulations)

1. These regulations make provision, with effect from 12th April 2004, for enabling persons who have returned to the Isle of Man after spending a period of time abroad to qualify for an adoption allowance in certain circumstances provided they remained ordinarily resident in the Isle of Man during that time.
2. *Inter alia*, to qualify for adoption allowance a person must have been in employed earner's employment (defined as being gainful employment in the Isle of Man under a contract of service or in an office) in any 26 of the 66 weeks before the week in which they are told that they have been matched with a child for adoption.
3. Because a person to whom these regulations apply might otherwise fail to satisfy that employment condition, the regulations provide that such a person shall be treated as having been in employed earner's employment in the Isle of Man if they were in gainful employment outside the Isle of Man at the time.
4. The rate of adoption allowance payable to a person is the lower of -
 - an amount equal to 90% of their weekly earnings averaged over a certain period (called *the variable rate*); and
 - a fixed amount (called *the standard rate*).
5. These regulations also provide that a person to whom they apply will be treated as having average weekly earnings equal to 111.12% of that standard rate for any week in which they are treated as having been in employed earner's employment. This level of earnings is required to qualify a person for the standard rate of adoption allowance, as the rate of adoption allowance is set at 90% of earnings.