



Statutory Document No. 49/04

THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992

**THE FAMILY INCOME SUPPLEMENT (GENERAL)  
(AMENDMENT) REGULATIONS 2004**

*Approved by Tynwald*

*19<sup>th</sup> February 2004*

*Coming into operation on 12<sup>th</sup> April 2004*

In exercise of the powers conferred on the Department of Health and Social Security by section 123 and section 128 of the Social Security Contributions and Benefits Act 1992(a) (as that Act has effect in the Isle of Man(b)) and of all other enabling powers, the following Regulations are hereby made:-

**Citation, commencement and effect**

1. (1) These Regulations may be cited as the Family Income Supplement (General) (Amendment) Regulations 2004 and shall come into operation on 12<sup>th</sup> April 2004.

(2) They shall have effect in relation to claims for family income supplement made on or after 12<sup>th</sup> April 2004.

**Amendment of the Family Income Supplement (General) Regulations 1998**

2. Amend the Family Income Supplement (General) Regulations 1998(c) in accordance with the following regulations.

3. In regulation 2(1) (interpretation of the regulations) in the appropriate places in the alphabetical order insert the following definitions -

““adoption allowance” means an adoption allowance under section 171ZL of the Contributions and Benefits Act;”;

““adoption leave” has the same meaning as it has in regulation 9(4) of the Social Security Benefit (Computation of Earnings) Regulations 1996;”;

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(a) 2000 c.5; (b) S.D. 505/94; (c) S.D. 363/98.

““maternity allowance” means a maternity allowance under section 35 of the Contributions and Benefits Act;”.

4. In regulation 5 (remunerative work) -

(a) in paragraph (4) -

(i) after sub-paragraph (c) add the following sub-paragraphs -

“(d) in the case of a woman on maternity leave at the date of the claim, the hours worked shall be calculated on the basis of a declaration made by her of the average hours worked per week prior to the commencement of her maternity leave; or

(e) in the case of a person on adoption leave at the date of the claim, the hours worked shall be calculated on the basis of a declaration made by him of the average hours worked per week prior to the commencement of his adoption leave”; and

(b) in paragraph (6) after sub-paragraph (d) add the following sub-paragraphs -

“(e) cannot satisfy the requirements of sub-paragraph (a) or (b) at the date of claim because she is on maternity leave at that date but -

(i) prior to the commencement of her maternity leave, she worked, on average, not less than 16 hours a week, and

(ii) she is entitled to a maternity allowance at the date of the claim; or

(f) cannot satisfy the requirements of sub-paragraph (a) or (b) at the date of claim because he is on adoption leave at that date but -

(i) prior to the commencement of his adoption leave, he worked, on average, not less than 16 hours a week, and

(ii) he is entitled to an adoption allowance at the date of the claim”.

5. In regulation 15 (treatment of child care charges) -

(a) after paragraph (2) insert the following paragraphs -

“(2ZA) A person is not engaged in remunerative work for the purposes of paragraph (1) where that person is treated as being in remunerative work by virtue only of either -

(i) paragraph (6)(c) of regulation 5 (recognised, customary or other holiday) in circumstances where the absence from work arises from the need to care for a recently adopted child or young person,

(ii) paragraph (6)(e) of that regulation (woman on maternity leave), or

(iii) paragraph (6)(f) of that regulation (person on adoption leave),

unless immediately prior to the adoption of the child or young person or the birth of the child (as the case may be) that person was paying, or had incurred, relevant childcare charges for another child or other children of his or her household.

(2A) Where paragraph (2ZA) applies, in the definition of "relevant childcare charges" the references to a child of the claimant's family do not include references to any child born or child or young person adopted (as the case may be) during the period of absence or maternity or adoption leave."

6. After regulation 65 (death of a claimant) insert the following regulation -

**"Surrendering an award following the birth of a child or the adoption of a child or young person**

65A. (1) An existing award of family income supplement shall cease to have effect if the claimant or his partner elects, by notice to the Department, to surrender it following the birth of a child or the adoption of a child or young person.

(2) The award shall terminate with effect from -

- (a) the day on which the notice is given to the Department, if that day is a Monday, or
- (b) the Monday following the day on which the notice is given to the Department, if that day is other than a Monday."

7. In Schedule 2 (income other than earnings to be disregarded in determining family income supplement entitlement) omit paragraph 9 (maternity allowance).

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Made 19/01/2004

*Clare Christian*

Minister for Health and Social Security

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## EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Family Income Supplement (General) Regulations 1998 (“the Family Income Supplement Regulations”) by extending the categories of person who can qualify for family income supplement to include those on maternity or adoption leave if they are also entitled to a maternity or an adoption allowance (as the case may be) at the time and were working on average at least 16 hours per week before taking leave. The legislation comes into force on 12<sup>th</sup> April 2004.
2. Regulation 1 provides for the citation, commencement and effect of the regulations and regulation 2 provides for their introduction.
3. Regulation 3 inserts necessary definitions into regulation 2 of the Family Income Supplement Regulations.
- 4.1 To qualify for family income supplement, a person must be a member of a married couple, a lone parent or a member of an unmarried couple with child(ren) and engaged and normally engaged in remunerative work.
- 4.2 A person is treated by regulations as being engaged and normally engaged in remunerative work where -
  - they work for at least 16 hours per week;
  - their work is done for (or in the expectation of) payment; and
  - they are employed when they claim benefit.
- 4.3 The person must also -
  - have worked at least 16 hours in the week they claim family income supplement or in either of the previous two weeks; or
  - be expected to work by their employer for at least 16 hours in the week in which they claim benefit.

The work in question must also be work they normally do and be likely to last for at least 4 weeks after the week in which they make their claim.
- 4.4 Prior to these regulations, a person on maternity leave or adoption leave from work when they claimed family income supplement would not qualify for benefit, because they would not satisfy the conditions set out in paragraph 4.3 above. However, regulation 4(a) amends regulation 5 of the Family Income Supplement Regulations to ensure that such a person is treated as engaged in remunerative work for the purposes of family income supplement, and so can qualify for benefit, if -
  - before their period of leave began, they worked on average at least 16 hours per week; and
  - they are entitled to a maternity allowance or an adoption allowance (as the case may be) at the time they claim benefit.

- 4.5 This second condition will restrict the period a person can remain entitled to family income supplement while on such leave, because maternity allowance and adoption allowance are payable for a maximum of 26 weeks.
- 4.6 Regulation 4(b) provides that the question of whether a person works for at least 16 hours per week shall be determined on the basis of their declaration as to how many hours per week they were working on average before their leave began.
- 5.1 A person's reckonable income may be reduced for the purpose of entitlement to family income supplement - so increasing their potential entitlement to benefit - where they are incurring child care charges for a child under the age of 13, but only if the person is -
- a lone parent who is in remunerative work;
  - a member of a couple both of whom are in remunerative work;
  - a member of a couple where one of them is in remunerative work and the other is incapacitated or is taking part in a course of training or education to further their employment prospects.
- 5.2 Regulation 5 provides that a person on maternity or adoption leave shall not have any child care charges which they are incurring taken into account in determining their family income supplement entitlement where those charges are for the newly-born child or for the recently adopted child or young person (as the case may be), unless the person was incurring such charges for another child or young person in their family before the birth or adoption of the new one.
6. Regulation 6 inserts a new regulation into the Family Income Supplement Regulations to provide that an existing award of family income supplement shall come to an end if the claimant or their partner elects to surrender it after the birth of a child or the adoption of a child or young person. The person will then be able to make a new claim for family income supplement, which will take into account their new circumstances by including an amount in respect of the newly-born child, or the child or young person recently adopted.
7. Regulation 7 omits paragraph 9 of Schedule 2 to the Family Income Supplement Regulations. That Schedule provides that certain types of income other than earnings shall be disregarded in determining a person's entitlement to family income supplement. Paragraph 9 provided for any maternity allowance payable to a person to be disregarded for that purpose. Now that people may gain entitlement to family income supplement while on maternity leave when they make their claim, this provision is no longer appropriate.

