



Statutory Document No. 138/04

THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992

THE INCOME SUPPORT (GENERAL) (ISLE OF MAN)
(AMENDMENT) (No. 2) REGULATIONS 2004

Approved by Tynwald

18th March 2004

Coming into operation 12th April 2004

In exercise of the powers conferred on the Department of Health and Social Security by sections 123 and 124 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 interpretation

1. These Regulations may be cited as the Income Support (General) (Isle of Man) (Amendment) (No. 2) Regulations 2004 and shall come into operation on 12th April 2004.
2. In these Regulations "the Income Support Regulations" means the Income Support (General) (Isle of Man) Regulations 2000(c).

Amendment of the Income Support Regulations

3. Amend the Income Support Regulations in accordance with the following regulations.
4. After paragraph (4) of regulation 7 (income support entitlement to continue during a temporary absence from the Isle of Man) insert -

"(4A) Where a claimant is entitled to income support for a period immediately preceding a period of temporary absence from the Isle of Man of his, his partner's or both of them for the sole purpose of attending a course, scheme or assessment arranged by the Department or any other Government Department and approved by the Department, the claimant's entitlement to income support shall continue during the period of temporary absence provided that he continues to satisfy the other conditions of entitlement to income support."

(a) 1992 c.4; (b) S.D. 505/94; (c) S.D. 26/00.

5. In regulation 21A(1) (circumstances in which a person is treated as not liable for housing costs) renumber sub-paragraph (l) as sub-paragraph (j).

6. In regulation 28 (miscellaneous outgoings in respect of the home for which housing costs are applicable) -

(a) at the start of paragraph (1) insert “Subject to paragraph (2),”; and

(b) for paragraph (2) substitute -

“(2) The amount applicable under this regulation shall be the amount of the outgoing mentioned in paragraph (1) less any discount available in respect of that amount which was available at any time, whether or not advantage is taken of that discount.”.

7. In regulation 55 (income to be treated as capital) after paragraph (9) insert -

“(9A) For the avoidance of doubt, any personal allowance credit under Part 1 of the Income Tax Act 2003 (an Act of Tynwald) shall be treated as capital.”.

8. In regulation 69 (interpretation of Chapter VIII of Part VI of the Income Support Regulations: students’ capital and income) after “Chapter” insert “and in paragraphs 54 to 61 of Schedule 7”.

9. For regulations 70 to 78 substitute -

“Apportionment of a student’s grant income

70. (1) A student’s grant income shall be apportioned -

(a) subject to paragraph (2), in a case where it is attributable to the period of study, equally between the weeks in the period -

(i) beginning with the benefit week the first day of which coincides with, or immediately follows, the first day of the period of study, and

(ii) ending with the benefit week the last day of which coincides with, or immediately precedes, the last day of the period of study;

(b) in any other case, equally between the weeks in the period -

(i) beginning with the benefit week the first day of which coincides with, or immediately follows, the first day of the period for which it is payable, and

(ii) ending with the benefit week the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable.

(2) In the case of a student on a sandwich course -

(a) any periods of experience within the period of study shall be excluded; and

(b) the student’s grant income shall be apportioned equally between the weeks in the period -

- (i) beginning with the benefit week the first day of which immediately follows the last day of the period of experience, and
- (ii) ending with the benefit week the last day of which coincides with, or immediately precedes, the last day of the period of study.

Apportionment of a student's covenant income

71. A student's covenant income shall be apportioned -

- (a) in a case where it is attributable to the period of study, equally between the weeks in that period; or
- (b) in any other case, equally between the weeks in the period in respect of which it is payable.

Refund of tax from a student's income to be treated as capital

72. Any amount by way of a refund of tax deducted from a student's income shall be treated as capital.

73. to 78. Omitted.”.

10. In Part III of Schedule 2 (qualifying conditions for premiums) -

(a) in paragraph 14A (higher carer premium) -

- (i) in sub-paragraph (1)(a) for “subject to paragraph (2)” substitute “subject to sub-paragraphs (2) and (3)”, and
- (ii) after sub-paragraph (2) add -

“(3) Sub-paragraphs (3) to (4) of paragraph 14 (carer premium) shall apply in respect of the higher carer premium subject to the modification that, unless the context excludes it, for “carer premium” there were substituted “higher carer premium”.”; and

(b) for paragraph 16 (attendance premium) substitute -

“Attendance premium

16. -

- (1) The condition is that any of conditions A to F mentioned in this paragraph is satisfied.

Condition A

The condition is that -

- (a) the claimant or his partner (if he has one) has made a claim for attendance allowance (or is treated as having done so);
- (b) neither of them is entitled to attendance allowance in respect of his claim; but
- (c) either or both of them would be entitled to attendance allowance in respect of his claim were the condition in section 65(1)(b) of the Contributions and Benefits Act not to apply.

Condition B

The condition is that -

- (a) the claimant or his partner (if he has one) has made a claim for the care component of disability living allowance (or is treated as having done so);
- (b) neither of them is entitled to the care component of disability living allowance in respect of his claim; but
- (c) either or both of them would be entitled to the care component of disability living allowance in respect of his claim were the condition in section 72(2)(a) of the Contributions and Benefits Act not to apply.

Condition C

1. The condition is that -

- (a) the claimant or his partner (if he has one) is entitled to attendance allowance under the Contributions and Benefits Act at the lower rate;
- (b) were the condition in section 65(3) of the Contributions and Benefits Act not to apply, the decision to award attendance allowance at the rate referred to in (a) would be superseded under section 10(1)(a) of the Social Security Act 1998 on the grounds mentioned in paragraph 2 of this condition; and
- (c) as a result of that supersession, the claimant or his partner or both of them would be entitled to attendance allowance at the higher rate.

2. The grounds are that a relevant change of circumstances in respect of the original decision has occurred relevant to the question of entitlement of the claimant or his partner to a particular rate of attendance allowance.

Condition D

1. The condition is that -

- (a) the claimant or his partner (if he has one) is entitled to the care component of disability living allowance under the Contributions and Benefits Act at the lowest rate;
- (b) were the condition in section 72(2)(a) of the Contributions and Benefits Act not to apply, the decision to award the care component of disability living allowance at the rate referred to in (a) would be superseded under section 10(1)(a) of the Social Security Act 1998 on the grounds mentioned in paragraph 2 of this condition; and
- (c) as a result of that supersession, the claimant or his partner or both of them would be entitled to the care component of disability living allowance at the middle rate.

2. The grounds are that a relevant change of circumstances in respect of the original decision has occurred relevant to the question of entitlement of the claimant or his partner to a particular rate of the care component of disability living allowance.

Condition E

1. The condition is that -
 - (a) the claimant or his partner (if he has one) is entitled to the care component of disability living allowance under the Contributions and Benefits Act at the middle rate;
 - (b) were the condition in section 72(2)(a) of the Contributions and Benefits Act not to apply, the decision to award the care component of disability living allowance at the rate referred to in (a) would be superseded under section 10(1)(a) of the Social Security Act 1998 on the grounds mentioned in paragraph 2 of this condition; and
 - (c) as a result of that supersession, the claimant or his partner or both of them would be entitled to the care component of disability living allowance at the highest rate.
2. The grounds are that a relevant change of circumstances in respect of the original decision has occurred relevant to the question of entitlement of the claimant or his partner to a particular rate of the care component of disability living allowance.

Condition F

1. The condition is that -
 - (a) the claimant or his partner (if he has one) is entitled to the care component of disability living allowance under the Contributions and Benefits Act at the lowest rate;
 - (b) were the condition in section 72(2)(a) of the Contributions and Benefits Act not to apply, the decision to award the care component of disability living allowance at the rate referred to in (a) would be superseded under section 10(1)(a) of the Social Security Act 1998 on the grounds mentioned in paragraph 2 of this condition; and
 - (c) as a result of that supersession, the claimant or his partner or both of them would be entitled to the care component of disability living allowance at the highest rate.
 2. The grounds are that a relevant change of circumstances in respect of the original decision has occurred relevant to the question of entitlement of the claimant or his partner to a particular rate of the care component of disability living allowance.
- (2) In this paragraph -
- (a) in relation to attendance allowance, “the lower rate” and “the higher rate” mean the lower and the higher rates of attendance allowance specified in section 65(3) of the Contributions and Benefits Act; and

(b) in relation to disability living allowance -

- (i) "the care component of disability living allowance" has the meaning provided in section 72 of the Contributions and Benefits Act, and
- (ii) "the lowest rate", "the middle rate" and "the highest rate" of the care component of disability living allowance mean the rates of disability living allowance specified in section 72(4) of the Contributions and Benefits Act."

11. In Part IV of Schedule 2 in paragraph 20 (weekly amounts of premiums) for subparagraph (9) substitute -

<p>“(9) Attendance premium -</p> <p>(a) where the claimant or his partner satisfies condition A in paragraph 16 or both of them do so:</p> <p>(b) where the claimant or his partner satisfies condition B in paragraph 16 or both of them do so:</p> <p>(c) where the claimant or his partner satisfies condition C in paragraph 16 or both of them do so:</p> <p>(d) where the claimant or his partner satisfies condition D in paragraph 16 or both of them do so:</p>	<p>(9) -</p> <p>(a) an amount equivalent to the rate of attendance allowance to which either or both of them (as the case may be) would be entitled were section 65(1)(b) not to apply;</p> <p>(b) an amount equivalent to the rate of the care component of disability living allowance to which either or both of them (as the case may be) would be entitled were section 72(2)(a) not to apply;</p> <p>(c) an amount equivalent to the difference between -</p> <ul style="list-style-type: none"> (i) the rate of attendance allowance to which either or both of them (as the case may be) would be entitled were section 65(1)(b) not to apply, and (ii) the rate of attendance allowance to which either or both of them (as the case may be) is entitled; <p>(d) an amount equivalent to the difference between -</p> <ul style="list-style-type: none"> (i) the rate of the care component of disability living allowance to which either or both of them would be entitled were section 72(2)(a) not to apply, and
--	--

<p>(e) where the claimant or his partner satisfies condition E in paragraph 16 or both of them do so:</p> <p>(f) where the claimant or his partner satisfies condition E in paragraph 16 or both of them do so:</p>	<p>(ii) the rate of the care component of disability living allowance to which either or both of them (as the case may be) is entitled;</p> <p>(e) an amount equivalent to the difference between -</p> <p>(i) the rate of the care component of disability living allowance to which either or both of them would be entitled were section 72(2)(a) not to apply, and</p> <p>(ii) the rate of the care component of disability living allowance to which either or both of them (as the case may be) is entitled.</p> <p>(f) an amount equivalent to the difference between -</p> <p>(i) the rate of the care component of disability living allowance to which either or both of them would be entitled were section 72(2)(a) not to apply, and</p> <p>(ii) the rate of the care component of disability living allowance to which either or both of them (as the case may be) is entitled.”.</p>
---	---

12. In Schedule 5 (applicable amounts of income support in special cases) -

- (a) omit paragraph 15; and
- (b) for paragraph 19 (modified amount of income support in respect of certain lone parents incurring relevant child care charges) substitute -

“Lone parents incurring relevant child care charges who are engaged in work, or are over compulsory school age and in relevant education, or are either full-time students or attending training courses

19. In the case of a lone parent incurring relevant child care charges (as defined in regulation 15(2) of the Family Income Supplement (General) Regulations 1998) and is -
- (a) engaged in work; or
 - (b) over compulsory school age and in relevant education; or
 - (c) a full-time student; or
 - (d) attending a training course approved by the Department;
19. The amount applicable to the claimant under Part IV plus the actual cost of the child care charges being incurred, subject to a maximum of -
- (a) in the case of a lone parent whose family includes only one child in respect of whom such charges are being incurred, £71.25 per week;
 - (b) in the case of any other lone parent, £115.55 per week.”.

13. In Schedule 7 (income other than earnings to be disregarded for the purpose of income support entitlement) -

- (a) in paragraph 18 (charitable, voluntary or personal injury payments) -
 - (i) in sub-paragraph (1) for “sub-paragraph (3)” substitute “sub-paragraphs (3) and (3A)”,
 - (ii) in sub-paragraph (2), for “sub-paragraphs (3) and (7)” substitute “sub-paragraphs (3), (3A) and (7)”, and
 - (iii) after sub-paragraph (3) insert -

“(3A) No part of a student’s covenant or grant income shall be disregarded under sub-paragraph (1) or (2).”;
- (b) for the heading to paragraph 45 substitute -

“Persons in residential accommodation not residing with their spouse who maintain their spouse out of their private pension income”; and
- (c) after paragraph 53 add -

“Student income

Grant income

54. Up to £28.30 of a student’s apportioned weekly grant income.

Contribution assessed in ascertaining amount of grant payable

55. Where -

(a) a student is in receipt of income by way of a grant during a period of study; and

(b) a contribution has been assessed,

the amount of the contribution.

Covenant income where no grant income is received

56. Where a student is not in receipt of income by way of a grant, up to £28.30 of his apportioned weekly covenant income.

Expenditure necessary for a student’s attendance on his course

57. For the purpose of ascertaining weekly income other than grant income and covenant income, any amount or amounts (as apportioned equally between the weeks of the student’s period of study) which an adjudication officer is satisfied are intended for any expenditure necessary as a result of the student’s attendance on his course.

This paragraph only applies if, and to the extent that, the necessary expenditure exceeds (or is likely to exceed) £28.30.

Income payable under a Deed of Covenant which commences or takes effect after the first day of the summer vacation

58. Where -

(a) a claim is made in respect of any period in the normal summer vacation and

(b) any income is payable under a Deed of Covenant which commences or takes effect after the first day of that vacation,

that income.

Partner’s contribution

59. Where -

(a) the claimant or his partner is a student; and

(b) for the purposes of assessing a contribution to the student’s grant, the other partner’s income has been taken into account,

an amount equal to that contribution for the purposes of assessing that other partner’s income.

Student's income already taken into account in assessing entitlement to a grant

60. Any part of a student's income already taken into account for the purposes of assessing his entitlement to a grant.

Changes in the standard maintenance grant occurring during the summer vacation

61. Any change in the standard maintenance grant occurring in the recognised summer vacation appropriate to the student's course (unless the vacation forms part of his period of study).

This paragraph shall apply from the date on which the change occurred until the end of the vacation.”.

Made 15/02/2004



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which shall come into effect on 12th April 2004, make miscellaneous amendments to the Income Support (General) (Isle of Man) Regulations 2000 (“the Income Support Regulations”) as follows.

Introduction

2. Regulations 1 to 3 introduce the Regulations.

Continuing entitlement to income support while temporarily absent from the Isle of Man while attending a DHSS-approved Government course, scheme or assessment

3. Regulation 4 provides that a person who -

- is or whose partner is (or both of them are) temporarily absent from the Isle of Man while attending a course, scheme or assessment arranged by the DHSS or any other Government department and those arrangements are approved by the DHSS; and
- would satisfy the conditions of entitlement to income support but for their or their partner not being present in the Isle of Man,

shall remain entitled to income support during the period of that absence from the Isle of Man.

Personal allowance credit

4. Regulation 7 makes it clear that any personal allowance credit paid under Part 1 of the Income Tax Act 2003 (an Act of Tynwald) shall be treated as capital for the purposes of determining income support entitlement.

The higher carer premium and the attendance premium

- 5.1 Regulation 10 makes two amendments to the qualifying conditions for certain premiums in income support, found in Part III of Schedule 2 to the Income Support Regulations.
- 5.2 Regulation 10(a) clarifies that a person shall continue to be treated as satisfying the condition for the higher carer premium for the period of 8 weeks after the person they were caring for dies or the carer ceases to be entitled to carer's allowance for another reason. This is in line with the procedure for the lower rate of the carer premium.
- 5.3.1 Regulation 10(b) widens the circumstances in which the attendance premium is applicable.
- 5.3.2 Attendance allowance is payable to persons aged at least 65 years who are so severely physically or mentally disabled that they require another person to be in attendance with them during the day or both the night or the day and the night. The lower rate of attendance allowance is payable if the person requires such attention during the day or the night; the higher rate is payable if attention is required during both the day and the night.
- 5.3.3 However, to first qualify for attendance allowance (at either rate), a person must generally have needed such attention throughout the 6-month period prior to their claim. Also, where someone has established entitlement to the lower rate of attendance allowance, then to qualify for the higher rate they must have needed attention in both the day and at night for the preceding 6 months.
- 5.3.4 The care component of disability living allowance is payable to persons before under the age of 65 or over the age of 65 provided that they first became entitled to that benefit before their 65th birthday. There are 3 rates of benefit, which reflect the levels of attention/supervision/assistance the disabled person requires. A person only becomes entitled to a particular rate of the care component of disability living allowance if they have needed the prescribed level of attention for that rate for the previous 3 months.
- 5.3.5 Provision already exists for people receiving income support who would either qualify for attendance allowance or the care component of disability living allowance if it were not for their failing to satisfy the attendance condition for 6 months or 3 months (respectively) to qualify for an additional amount of income support, equal to the rate of attendance allowance or the care component of disability living allowance which they would otherwise qualify for.

- 5.3.6 However, there was no provision for people who -
- already qualified for the lower rate of attendance allowance or the lowest or middle rate of the care component of disability living allowance; and
 - would have qualified for a higher rate of either benefit but for their not having satisfied the condition for that higher rate for 6 or 3 months (as appropriate),
- from receiving any compensatory increase in their income support.
- 5.3.7 Regulation 10(b) now provides that such extra help will be made available, in the form of an attendance premium, of an amount equal to the difference between the higher and the lower rate of attendance allowance or between the middle and the lowest rate, the highest and the middle rate or the lowest and the highest rate (as the case may be) of the care component of disability living allowance.
6. Regulation 11 specifies the amounts of attendance premium to be included in a person's applicable amount of income support.

Students' capital and income

7. Regulation 9 substitutes most of the previous version of Chapter VIII of Part VI of the Income Support Regulations. That Chapter provides for the way in which the capital and income of students is to be calculated. The provisions disregarding certain types of student income in determining a person's entitlement to income support have been moved to Schedule 7 where other income disregards are specified, for ease of reference.
8. Regulation 8 provides that the interpretation provisions of Chapter VIII also apply to the student income disregards mentioned in paragraph 9 in their new position.
9. Regulation 13(c) supplements the list of items of income other than earnings which have no effect on a person's entitlement to income support by including certain types of student income previously found in Chapter VIII of Part VI of the Income Support Regulations.

Miscellaneous changes

10. The remaining regulations make minor changes to the Income Support Regulations of a clerical or drafting nature.