



Statutory Document No. 82/06

THE SOCIAL SECURITY ACT 2000

THE SOCIAL SECURITY LEGISLATION (APPLICATION)
(No. 5) ORDER 2006

Approved by Tynwald *21st March 2006*

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. (1) This Order may be cited as the Social Security Legislation (Application) (No. 5) Order 2006 and shall, subject to section 2(1) of the Social Security Act 2000, come into force as provided for in paragraph (2).

(2) This Article and Articles 2 and 3 shall come into force forthwith and each provision of the applied legislation, as modified, shall be deemed to have come into force on the same day as that provision came into force in Great Britain.

Interpretation

2. (1) In this Order “the applied legislation” means The Social Security (Hospital In-Patients) Regulations 2005(b).

(a) 2000 c.5; (b) S.I. 2005/3360.

(2) Unless the context otherwise requires -

- (a) any reference in any of the applied legislation to any provision in an instrument of a legislative character which is not itself a provision of any of the applied legislation shall be construed as if the provision so referred to had been in force in the Island from the date on which that instrument of a legislative character had effect in Great Britain;
- (b) reference in any legislation applied by this Order to any provision of any such legislation or of any other legislation applied to the Island by an order under section 1 of the Social Security Act 2000 or section 1 of the Pension Schemes Act 1995(a) (Acts of Tynwald) shall be construed as a reference to that legislation as it has effect in the Island.

Application to the Island of the applied legislation

3. The applied legislation, as modified and shown in the Schedule to this Order, shall apply to the Island as part of the law of the Island.

(a) 1995 c.11.

SCHEDULE

This Schedule sets out the text of the Social Security (Hospital In-Patients) Regulations 2005 (S.I. 2005/3360) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type

STATUTORY INSTRUMENTS

2005 No. 3360

SOCIAL SECURITY

The Social Security (Hospital In-Patients) Regulations 2005

Citation and commencement

1. These Regulations may be cited as the Social Security (Hospital In-Patients) Regulations 2005 and shall come into force for the purposes of –

- (a) this regulation and regulation 2 on 10th April 2006,
- (b) regulation 3 –
 - (i) in so far as it relates to a particular beneficiary other than a beneficiary in receipt of incapacity benefit or severe disablement allowance, on 10th April 2006 if it is his day for payment or, if not, on his day for payment next following 10th April 2006 (“day for payment” has the same meaning as in regulation 22(3) of, and Schedule 6 to, the Social Security (Claims and Payments) Regulations 1987),
 - (ii) in so far as it relates to a particular beneficiary in receipt of incapacity benefit or severe disablement allowance, on 10th April 2006,
- (c) *omitted*;
- (d) regulation 6, in so far as it relates to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 10th April 2006 (“benefit week” has the same meaning as in the Jobseeker’s Allowance Regulations 1996), and
- (e) regulation 9 –
 - (i) in so far as it relates to a beneficiary specified in paragraphs (b) *and* (d), on the dates specified in those paragraphs for that beneficiary, and
 - (ii) otherwise, on 10th April 2006.

Hospital in-patients entitled to an increase in benefit for a dependant

2. (1) Paragraphs (2) and (3) apply where a beneficiary is entitled to an increase in benefit for an adult or child dependant under Part IV of the Social Security Contributions and Benefits Act 1992.

(2) Where the beneficiary has received free in-patient treatment for a period of not less than 52 weeks, the increase shall not be payable unless the beneficiary applies to the Department to pay the increase on behalf of the beneficiary to –

- (a) the dependant, or
- (b) some other person who is approved by the *Department* and who satisfies the *Department* that he will apply the increase for the benefit of the dependant.

(3) Where both the beneficiary and the dependant are in-patients and each has received free in-patient treatment for a period of not less than 52 weeks, the increase shall not be payable unless the beneficiary applies to the Department to pay the increase on behalf of the beneficiary to –

- (a) the dependant, or
- (b) some other person who is approved by the *Department* and who satisfies the *Department* that he will apply the increase for the benefit of a child or the beneficiary.

(4) For the purposes of this regulation, a person shall be regarded as receiving or having received free in-patient treatment for any period for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient –

- (a) in a hospital or similar institution *maintained or administered under the National Health Service (Isle of Man) Acts 1948 to 1974 (Acts of Tynwald)*; or
- (b) *pursuant to arrangements made by the Isle of Man Department of Health and Social Security under those Acts in a hospital or similar institution not so maintained or administered;*

and such a person shall *be regarded as being maintained free of charge in such a hospital or similar institution for any period unless his accommodation and services are provided under section 6(2) of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald)*.

(5) For the purposes of paragraph (4), a period during which a person is regarded as receiving or having received free in-patient treatment shall be deemed to begin on the day after the day on which he enters a hospital or similar institution referred to in that paragraph and to end on the day on which he leaves such a hospital or similar institution.

(6) For the purposes of this regulation -

- (a) where an increase in a person's benefit is payable in respect of an adult or child dependant the increase shall be treated as a separate benefit, and
- (b) where a beneficiary's spouse or civil partner ("dependant") is temporarily absent from *the Island* for the purpose of being treated for incapacity which commenced before he left *the Island* the absence shall be disregarded for the purpose of determining whether the beneficiary is residing with the dependant and is entitled to an increase in benefit for him.

Amendment of the Social Security (General Benefit) Regulations 1982

3. In the Social Security (General Benefit) Regulations 1982, in regulation 2 (exceptions from disqualifications from imprisonment etc.) –

- (a) in paragraph (3) for sub-paragraphs (a) and (b) substitute –

- “(a) he is detained or liable to be detained under section *54C of the Criminal Jurisdiction Act 1993 (an Act of Tynwald) (Power to make hospital and limitation directions)*; or
- (b) he is detained or liable to be detained under section *53 of the Mental Health Act 1998 (an Act of Tynwald) (removal to hospital of persons serving sentences of custody)*”.
- (b) in paragraph (4) –
 - (i) for “each of the conditions specified in paragraph (3)(a) and (b)” substitute “paragraph (3)(a) or (b)”, and
 - (ii) *omitted*.
- (c) in paragraph (8) omit sub-paragraphs (e) and (f).

Amendment of the Income Support (General) Regulations 1987

4. Omitted.

Amendment of the Housing Benefit (General) Regulations 1987 and the Council Tax Benefit (General) Regulations 1992

5. Omitted.

Amendment of the Jobseeker’s Allowance Regulations 1996

- 6. (1) The Jobseeker’s Allowance Regulations 1996 are amended as follows.
- (2) In regulation 85 (special cases) –
 - (a) omit paragraph (3) (periods for which a person has been a patient), and
 - (b) in paragraph (4) (interpretation), in the definition of “patient”, for “the Social Security (Hospital In-Patients) Regulations 1975” substitute “regulation 2(4) and (5) of the Social Security (Hospital In-Patients) Regulations 2005”.
- (3) In regulation 86C (joint-claim couples: special cases) omit paragraph (3) (periods for which a person has been a patient).
- (4) In Schedule 2 (housing costs) in paragraph *9(6) (reduction in amounts applicable for certain occupants of the home) for subparagraph (d) substitute –*
 - “(d) *where the non-dependant is not residing with the claimant because he has been a patient for a period in excess of 52 weeks, or a prisoner –*
 - “(i) “patient” has the meaning given in paragraph *I(13)(b)* and “prisoner” has the meaning given in regulation 85(4), and
 - (ii) in calculating any period of 52 weeks as a patient, any two or more distinct periods separated by one or more intervals each not exceeding 28 days shall be treated as a single period; or”.
- (5) In Schedule 5 (applicable amounts in special cases) –
 - (a) omit paragraph 1 in columns (1) and (2) and the heading to paragraph 1 “Person other than claimant who is a patient”, and
 - (b) after paragraph 1 *insert –*

“Claimant who is a patient

1A. A claimant who has been a patient for a continuous period of more than 52 weeks.

1B. A claimant who has been a patient for a continuous period of more than 4 weeks.

1A. The amount applicable under regulation 83 less any amount applicable by virtue of paragraph 13, or paragraphs 15 and 15A of Schedule 1.

1B. The amount applicable under regulation 83 less any amount applicable by virtue of paragraph 17B of Schedule 3.”

(c) omit paragraph 16.

(6) In Schedule 5A (applicable amounts of joint-claim couples in special cases) –

(a) omit paragraph 1 in columns (1) and (2), and

(b) under the heading “Patients” ***insert*** –

1A. A claimant who has been a patient for a continuous period of more than 52 weeks

1A. The amount applicable under regulation 86A less any amount applicable by virtue of paragraphs 20E, 20F or 20G and 20I, or paragraph 20IA of Schedule 1.”

Amendment of the Social Fund Winter Fuel Payment Regulations 2000

7. Omitted.

Amendment of the State Pension Credit Regulations 2002

8. Omitted.

Revocation of the Social Security (Hospital In-Patients) Regulations 1975 and other Regulations

9. (1) The Social Security (Hospital In-Patients) Regulations 1975 shall be revoked.

(2) The provisions in the subordinate legislation set out in the Schedule shall be revoked.

SCHEDULE

Regulation 9

Revocations

<i>Subordinate legislation revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Social Security (Hospital In-Patients) Amendment Regulations 1977	S.I. 1977/1693	The whole of the Regulations
The Social Security (Hospital In-Patients) Amendment Regulations 1979	S.I. 1979/223	The whole of the Regulations
The Social Security (Severe Disablement Allowance) Regulations 1984	S.I. 1984/1303	In Schedule 2, the entry relating to the Social Security (Hospital In-Patients) Regulations 1975
The Social Security (Dependency, Claims and Payments and Hospital In-Patients) Amendment Regulations 1984	S.I. 1984/1699	Regulation 2
The Social Security (Claims and Payments, Hospital In-Patients and Maternity Benefit) Amendment Regulations 1986	S.I. 1986/903	Regulation 3
The Social Security (Hospital In-Patients) Amendment Regulations 1987	S.I. 1987/31	The whole of the Regulations
The Social Security (Hospital In-Patients) Amendment (No. 2) Regulations 1987	S.I. 1987/1683	The whole of the Regulations
The Social Security (Hospital In-Patients, Attendance Allowance and Disability Living Allowance) (Amendment) Regulations 1999	S.I. 1999/1326	Regulation 2
The Social Security (Benefits for Widows and Widowers) (Consequential Amendments) Regulations 2000	S.I. 2000/1483	Regulation 2
The Social Security (Hospital In-Patients and Miscellaneous Amendments) Regulations 2003	S.I. 2003/1195	Regulations 2 and 6
The Social Security (Hospital In-Patients) Amendment Regulations 2004	S.I. 2004/101	The whole of the Regulations
The Social Security (Miscellaneous Amendments) Regulations 2004	S.I. 2004/565	Regulation 6(2)(c)
The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005	S.I. 2005/2877	In Schedule 3, paragraph 3



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations revoke the Social Security (Hospital In-Patients) Regulations 1975 (“the 1975 Regulations”) and amend other regulations so that, except in specified cases, a person’s benefit is no longer adjusted when the person has been receiving free medical treatment as a hospital in-patient for 52 weeks.
2. Regulation 2 saves provisions in the 1975 Regulations which remove or transfer any increase in benefit for an adult dependant if the beneficiary, or the beneficiary and dependant, have received free medical treatment as a hospital in-patient for 52 weeks or more.
3. Regulation 3 extends provisions in the Social Security (General Benefit) Regulations 1982 which disqualify claimants from receiving certain contributory and non-contributory benefits if they are sentenced to a period of imprisonment and during that period they are detained in hospital under mental health legislation. It updates the references to mental health legislation.
4. Regulation 6(2) amends the definition of “patient” in the Jobseeker’s Allowance Regulations to allow for the introduction of these regulations. Paragraph (3) abolishes for most purposes, the rule that absences from hospital of up to 28 days are ignored when calculating a 52 week period as an in-patient; but paragraph (4) maintains the rule for stopping non-dependant deductions from housing costs where the non-dependant has been a hospital in-patient for 52 weeks. Paragraph (5)(a) abolishes, for most cases, the adjustment of jobseeker’s allowance when a claimant has received free medical treatment as a hospital in-patient for 52 weeks. But if the claimant is entitled to a mobility premium, paragraph (5)(b) removes entitlement to the premium after 4 weeks as such an in-patient.
5. Regulation 9 revokes the 1975 Regulations and other regulations.