



Statutory Document No. 31/07

THE SOCIAL SECURITY ACT 2000

THE SOCIAL SECURITY LEGISLATION (APPLICATION) (No. 2) ORDER 2007

Approved by Tynwald

20th February 2007

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. 2) Order 2007 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 –

- (a) the Social Security (Young Persons) Amendment Regulations 2006(b); and
- (b) the Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006(c).

(a) 2000 c.5; (b) S.I. 2006/718; (c) S.I. 2006/1402.

(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 Schedules to this Order, shall apply to the Island as part of the law of the Island.

(a) 1995 c.11.

SCHEDULE 1

This Schedule sets out the text of regulations 1 and 3 of the Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718) 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

2006 No. 718

SOCIAL SECURITY

The Social Security (Young Persons) Amendment Regulations 2006

Citation and commencement

1. (1) These Regulations may be cited as the Social Security (Young Persons) Amendment Regulations 2006.

(2) These Regulations shall *be deemed to have* come into force on 10th April 2006.

Amendment of the Income Support (General) Regulations 1987

2. *Omitted.*

Amendment of the Jobseeker's Allowance Regulations 1996

3. (1) The Jobseeker's Allowance Regulations 1996¹ shall be amended in accordance with the provisions of this regulation.

(2) In regulation 1(3) (citation, commencement and interpretation) in the opening words of the definition of "full-time student", after "training allowance" there shall be inserted "or a person who is a qualifying young person or child within the meaning of section 142 of the Benefits Act (child and qualifying young person)".

(3) In regulation 3C(1)(c) (entitlement of a new joint-claim couple to a jobseeker's allowance), for the words after "16 and are" there shall be substituted "not qualifying young persons within the meaning of section 142 of the Benefits Act (child and qualifying young person)".

(4) For regulation 54(2) *and (2A)*² (relevant education), there shall be substituted—

"(2) A child or young person shall be treated as receiving full-time education where he is a qualifying young person or child within the meaning of section 142 of the Benefits Act (child and qualifying young person)."

(5) *Omitted.*

(6) In regulation 76 (persons of a prescribed description)—

¹ S.I. 1996/207 (see S.D. 634/96).

² Paragraphs (2) and (2A) inserted by article 2(2) of the Social Security Legislation (Application) (No. 9) Order 2004 (see S.D. 723/04).

(a) for paragraph (1) there shall be substituted –

“(1) Subject to paragraph (2), a person of a prescribed description for the purposes of the definition of “family” in section 35(1) of the Act is a person who falls within the definition of qualifying young person in section 142 of the Benefits Act (child and qualifying young person), and in these Regulations (except in Part 4) such a person is referred to as a “young person”.”; and

(b) paragraph (2)(a) shall be omitted.

(6A) In regulation 77 (circumstances in which a person is to be treated as responsible or not responsible for another) –

(a) for paragraph (1) substitute –

“(1) Subject to the following provisions of this regulation, a person is to be treated as responsible for a child or a young person for whom he is receiving child benefit (including a child or young person to whom paragraph (3) of regulation 76 applies).”;

(b) in paragraph (3) omit “aged 16 or over but under 19”; and

(c) omit paragraph (3A).

(7) In regulation 117 (interpretation for liable relatives) in the definition of "young claimant", for "19" there shall be substituted "20".

(8) *Omitted.*

(9) In Schedule A1 (categories of members of a joint-claim couple who are not required to satisfy the conditions in section 1(2B)(b))—

(a) in paragraph 2 (member studying full-time) –

(i) in sub-paragraph (1)(a),

(ii) in sub-paragraph (1A)(b)(i), and

(iii) in sub-paragraph (2)(b)(i),

for the words "aged 16 or over but under 19 and is receiving full-time education for the purposes of" there shall be substituted "a qualifying young person within the meaning of";

(b) *omitted.*

(10) In Schedule 1, *Part II* for paragraph 2 (applicable amounts), *substitute –*

<i>“2. Child or young person:</i>	<i>£22.50.”.</i>
-----------------------------------	------------------

(10A) In Schedule 3 –

(a) in Part II (qualifying conditions for premiums) –

(i) in paragraph 7(1) (types of premiums applicable in addition to any other premium) after head (a) insert –

“(aa) a minority care premium to which paragraph 16A applies;”, and

(ii) after paragraph 16 (disabled child premium) insert –

“Minority care premium

16A. The condition is that, in the week in question, the claimant –

- (a) is substantially engaged in caring for a child or young person; but**
- (b) is not entitled to child benefit in respect of that child or young person.**

More than one person may satisfy this condition in respect of the same child or young person.”; and

- (b) in Part III (amount of premiums) in paragraph 20 after the entry in sub-paragraph (6) (disabled child premium) insert -**

<i>“(6A) Minority care premium</i>	<i>(6A) £20.00 in respect of each child or young person in respect of whom the condition specified in paragraph 16A is satisfied.”;</i>
---	--

- (c) in Part IIIA (qualifying conditions for premiums for joint-claim couples) –**

- (i) in paragraph 20C(1) (types of premiums for joint-claim couples applicable in addition to any other premium) before head (a) insert –**

“(za) a minority care premium to which paragraph 20IB applies;”, and

- (ii) after paragraph 20IA (higher disability premium) insert –**

“Minority care premium

20IB. The condition is that, in the week in question–

- (a) either or both members of a joint-claim couple are substantially engaged in caring for a child or young person; but**
- (b) that member or both of them (as the case may be) are not entitled to child benefit in respect of that child or young person.**

More than one person may satisfy this condition in respect of the same child or young person.”; and

- (d) in Part IIIB (amount of premiums for joint-claim couples) in paragraph 20 after the entry in sub-paragraph (6) (disabled child premium) insert -**

<i>“(6A) Minority care premium</i>	<i>(6A) £20.00 in respect of each child or young person in respect of whom the condition specified in paragraph 20IB is satisfied.”;</i>
---	---

(10B) For Schedule 4 (applicable amounts for persons in residential accommodation) substitute –

“SCHEDULE 4

**Applicable Amounts for Persons in Residential Care
and Nursing Homes**

1.

(1) *Subject to paragraphs 2 and 3, the weekly applicable amount of a claimant to whom regulation 86 applies (persons in residential accommodation) shall be the aggregate of such of the amounts in the table below and in subparagraph (2) as apply in his case.*

<i>Column (1) Person</i>	<i>Column (2) Amount</i>
<i>(a) in respect of a person in a home run by the Department:</i>	<i>(a) the actual weekly charge for the home subject to a maximum of £318.71;</i>
<i>(b) in respect of a person in a voluntary/charitable/commercial residential home:</i>	<i>(b) the actual weekly charge for the home subject to a maximum of £346.85;</i>
<i>(c) in respect of a person in a nursing home:</i>	<i>(c) the actual weekly charge for the home subject to a maximum of £559.44.</i>

(2) *The claimant’s weekly applicable amount shall include an amount in respect of personal expenses for the claimant and each member of his family living with him made up of the aggregate of the following amounts -*

- (a) for the claimant, £26.00 and (if he has a partner) for his partner, £26.00; and*
- (b) for any child or young person, £22.50.*

2. *In the case of a claimant to whom paragraph 1B(8) of Schedule 2 applies (claimant enters residential accommodation on a trial basis to see if it suits his needs), his weekly applicable amount shall be the aggregate of the amounts applicable to him under -*

- (a) regulation 83(1)(c) (applicable housing costs); and*
- (b) paragraph 1.*

3. *Notwithstanding paragraphs 1 and 2, an alternative applicable amount may be determined as being appropriate by the Department generally or in a claimant’s particular case.”.*

(10C) In Schedule 4A (weekly amounts of board and lodging specified in Part IV of the Jobseeker’s Allowance Regulations 1996) for paragraph 3 substitute –

<i>“3. Child or young person:</i>	<i>£22.50.”.</i>
-----------------------------------	------------------

(10D) In Schedule 4B (applicable amounts for persons with a mental or physical disability or illness living in certain accommodation free of charge) for sub-paragraph (b) substitute –

“(b) in respect of every child or young person who is a member of the claimant’s family and who is also living in the same accommodation as the claimant, a further £22.50.”.

(10E) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—

(a) for paragraph 6 substitute –

“Winter bonus and additional winter bonus

6. A winter bonus or an additional winter bonus under Part XA of the Benefits Act.”;

(b) in paragraph 11(1)(b)(ii), for “widow or widower” substitute “widow, widower or surviving civil partner”;

(c) in paragraph 14, for “widows or widowers” substitute “widows, widowers or surviving civil partners”;

(d) in paragraph 15, for “widows or widowers” substitute “widows, widowers or surviving civil partners”; and

(e) in paragraph 16(1)—

(i) in paragraph (a), for “widow or widower” substitute “widow, widower or surviving civil partner”, and

(ii) in paragraph (b), for “widows or widowers” substitute “widows, widowers or surviving civil partners”.

(11) In Schedule 8 (capital to be disregarded) –

(a) in paragraph 2, after “estrangement or divorce from” insert “, or dissolution of his civil partnership with,” and in the heading to that paragraph for “divorce or estrangement” substitute “divorce, estrangement or dissolution of civil partnership”; and

(b) in paragraph 28(2)(c)(ii)(bb) and (4)(c)(ii)(bb) (trust funds established to make payments to (or in respect of) the sufferers of variant Creutzfeldt-Jakob disease) for “19” there shall be substituted “20”.

Amendments in relation to Housing Benefit

4. Omitted.

Amendment in relation to Council Tax Benefit

5. Omitted

Amendment of the State Pension Credit Regulations 2002

6. Omitted.

SCHEDULE 2

This Schedule sets out the text of regulations 1 and 2 of the Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 (S.I. 2006/1402) 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

2006 No. 1402

SOCIAL SECURITY

The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006

Citation and commencement

1. These Regulations may be cited as the Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 and shall *be deemed to have* come into force on 30th May 2006.

Amendment of the Jobseeker's Allowance Regulations 1996

2. (1) The Jobseeker's Allowance Regulations 1996 are amended in accordance with this regulation.

(2) In regulation 5(1) (exceptions for certain people to requirement to be available immediately)—

- (a) omit sub-paragraph (a); and
- (b) in sub-paragraph (b), after "voluntary work" insert "or who has caring responsibilities".

(3) In regulation 14 (circumstances in which a person is to be treated as available *for employment*)—

(a) in paragraph (1)—

- (i) after "to whom regulation 15(a), (b)", insert ", (bc)"; and
- (ii) after "circumstances apply, subject to", insert "paragraph (2B) and to";

(b) after paragraph (1)(q), *add* the following sub-paragraphs—

"(r) if he is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror;

(s) if, for a maximum of 96 hours before being released, he is in—

(i) police detention within the meaning in section 81(2) of the Police Powers and Procedures Act 1998 (of Tynwald) (c.9) (general interpretation),

(ii) *omitted.*";

(c) after paragraph (2A), insert the following paragraph—

"(2B) A person shall not be treated as available for employment under paragraph (1)(r)—

- (a) for more than eight weeks,
- (b) where he does not, before the period during which he is required to attend the court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is so required, or
- (c) where he is a prisoner as defined by regulation 85(4) (special cases)."; and

(d) after paragraph (6), insert the following paragraph—

"(7) In this regulation, "tribunal" means any tribunal listed in Schedule 2 to the Tribunals Act 2006 (of Tynwald)."

(4) In regulation 19 (circumstances in which a person is to be treated as actively seeking employment)—

- (a) in paragraph (1), for "paragraph (2)" substitute "paragraphs (2) and (2A)";
- (b) after paragraph (1)(t), *add* the following sub-paragraphs—

"(v) in any week during which he is, for not less than three days, required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror;

(w) if, for a maximum of 96 hours before being released, he is in—

- (i) police detention within the meaning in section 81(2) of the Police Powers and Procedures Act 1998 (of Tynwald) (c.9) (general interpretation),
- (ii) *omitted*.";

(c) after paragraph (2), insert the following paragraph—

"(2A) A person shall not be treated as actively seeking employment under paragraph (1)(v)—

- (a) for more than eight weeks,
- (b) where he does not, before the period during which he is required to attend the court or tribunal, give an employment officer notice, in writing where requested by the employment officer, that he is so required, or
- (c) where he is a prisoner as defined by regulation 85(4) (special cases)."; and

(d) in paragraph (3), insert at the appropriate place—

""tribunal" means any tribunal listed in Schedule 2 to the Tribunals Act 2006 (of Tynwald) (c. 1);"

(5) In regulation 30 (circumstances in which a claimant is to be regarded as having good cause for failing to comply with a notice under regulation 23)—

- (a) in paragraph (a), omit "(a) or"; and
- (b) in paragraph (c), after "(k) – (n)" insert ", (r) or (s)".

(6) In Schedule A1 (categories of members of a joint-claim couple who are not required to satisfy the conditions in section 1(2B)(b)), for paragraph 15 (members required to attend court) substitute the following paragraph—

"Members required to attend a court or tribunal

15. (1) A member who is required to attend a court or tribunal as a justice of the peace, a party to any proceedings, a witness or a juror.

(2) In this paragraph, "tribunal" means any tribunal listed in Schedule 2 to the Tribunals Act 2006 (of Tynwald) (c. 1)."

Amendment of the Income Support (General) Regulations 1987

3. Omitted.

Made 19th December 2006



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Order)

1. Section 1 of the Social Security Act 2000 enables the Department by Order to apply to the Island, as part of the law of the Island, subject to such exceptions, adaptations and modifications as may be specified in the Order, any legislation to which the Act applies.
2. *Inter alia*, the Act applies to the Child Benefit Act 2005 and the Jobseekers Act 1995 and to any statutory instrument made or having effect as if made under either of those Acts.
3. This Order applies to the Island the legislation referred to in Article 2(1) of the Order, the provisions of which are summarised in the following paragraphs. The applied legislation is deemed to have come into force on the same day as the corresponding provisions came into force in Great Britain and, where necessary, have been applied to the Island administratively pending their application by order.

4. **The Social Security (Young Persons) Amendment Regulations 2006 (S.I. 2006/718) (regulations 1 and 3 only)**
 - 4.1 The Child Benefit Act 2005 and the Child Benefit (General) Regulations 2006 (as they have effect in the Isle of Man) change the entitlement conditions to child benefit, in particular in relation to the qualifying conditions relating to the person's age and the education they are undertaking. The changes made by these Regulations to the Jobseeker's Allowance Regulations 1996 (as they have effect in the Isle of Man ("the Jobseeker's Allowance Regulations")) are mainly consequential on those changes and are necessary to maintain the interrelationship between child benefit and jobseeker's allowance.
 - 4.2 *Introduction to the Regulations*
 - 4.2.1 Regulation 1 provides for the citation of the Regulations and for them to be deemed to have come into force on 10th April 2006.
 - 4.2.2 Regulation 3 amends the Jobseeker's Allowance Regulations and regulation 3(1) introduces the changes the Regulations make.
 - 4.3 *Changes to the Jobseeker's Allowance Regulations consequent to the Child Benefit Act 2005*
 - 4.3.1 Regulation 3(2) amends the definition of "full-time student".
 - 4.3.2 Regulation 3(3) and (9) amends the circumstances in which a joint-claim couple can be entitled to a jobseeker's allowance.
 - 4.3.3 Regulation 3(4) amends the circumstances in which a person is to be treated as receiving relevant education.
 - 4.3.4 Regulation 3(6) amends the definition of "young person".
 - 4.3.5 Regulation 3(6A) amends the circumstances in which a person is to be treated as responsible for a young person.
 - 4.3.6 Regulation 3(7) updates a reference to the new child benefit legislation in the provisions of the Jobseeker's Allowance Regulations relating to "liable relatives".
 - 4.3.7 Regulation 3(10), (10C) and (10D) sets out the personal allowances to be included in the applicable amount of a person claiming an income-based jobseeker's allowance in respect of a child or young person in their family.
 - 4.3.8 Regulation 3(10B) replaces the existing Schedule 4 to the Jobseeker's Allowance Regulations (which specifies the applicable amounts for persons in residential accommodation), updating certain provisions. There is no change in the amounts applicable under the Schedule.
 - 4.4 *Minority care premium*
 - 4.4.1 People who qualify for an income-based jobseeker's allowance may have their applicable amount increased by the amount of any premium they qualify for because special circumstances apply to them. Regulation 3(10A)(a)(ii) introduces a new premium into the Jobseeker's Allowance Regulations called the "minority care premium".

- 4.4.2 People with substantial caring responsibilities for a child or young person, but who are not entitled to child benefit in respect of that child or young person (normally because another person is), may qualify for the new premium. More than one person (other than a member of the person's family) may satisfy this condition in respect of the same child or young person.
- 4.4.3 Regulation 3(10A)(a)(i) provides that a person may qualify for a minority care premium in addition to any other premium.
- 4.4.4 Regulation 3(10A)(b) provides that the amount of the minority care premium is £20 per week for each child or young person being cared for.
- 4.4.5 Regulation 3(10A)(c) and (d) provides that joint-claim couples entitled to jobseeker's allowance may similarly qualify for a minority care premium.
- 4.5 *Changes to the Jobseeker's Allowance Regulations consequent to the Civil Partnership Act 2004, etc.*
- 4.5.1 Regulation 3(10E) and (11) makes further amendments to the list of items of capital disregarded in determining a person's entitlement to an income-based jobseeker's allowance consequent to -
- the application to the Isle of Man of certain provisions of the United Kingdom Parliament Civil Partnership Act 2004;
 - changes to the qualifying conditions for child benefit referred to above; and
 - the introduction of the payment of the additional winter bonus.
- 5. The Social Security (Income Support and Jobseeker's Allowance) Amendment Regulations 2006 (S.I. 2006/1402) (regulations 1 and 2 only)**
- 5.1 These Regulations further amend the Jobseeker's Allowance Regulations.
- 5.2 Unlike other social security benefits, entitlement to jobseeker's allowance requires a person claiming benefit to attend a social security office each fortnight (normally) to sign a declaration confirming they have been available for, and actively seeking, employment in the previous 14 days. Failure to attend, for whatever reason, can lead to loss of benefit and the ending of an ongoing claim.
- 5.3 Regulation 2 amends the Jobseeker's Allowance Regulations to change the circumstances in which someone is to be regarded as available for, and actively seeking, employment for jobseeker's allowance purposes.
- 5.4 *Persons claiming jobseeker's allowance with caring responsibilities*
- 5.4.1 For a person to be regarded as available for employment they must be willing and able to take up immediately any employer earner's employment, subject to certain exceptional circumstances. One of those exceptions is where a person claiming benefit has caring responsibilities for a person in their home or a close relative of theirs. In such a case the carer does not have to take up an offer of employment immediately, provided they can and will do so at 48 hours' notice.
- 5.4.2 Regulation 2(2) now extends that 48-hour period to one week, although the carer would have to attend an interview in connection with a job opportunity on being given 48 hours' notice. This change will allow carers longer to make alternative care arrangements and so make jobseeker's allowance more accessible to them.

- 5.5 *Persons required to attend court or tribunal proceedings and persons temporarily in police detention*
- 5.5.1 The Jobseeker's Allowance Regulations specify certain circumstances in which a person is to be regarded as available for employment.
- 5.5.2 Regulation 2(3)(b) extends that list to include anyone while they are—
- required to attend a court or one of the tribunals specified in Schedule 2 to the Tribunals Act 2006 as a justice of the peace, a party to any of the proceedings, a witness or a juror; or
 - detained by the police for up to 96 hours before being released.
- 5.5.3 However, regulation 2(3)(c) provides that a person required to attend a court or one of the tribunals shall not be treated as available for employment –
- for longer than eight weeks,
 - if they fail to give advance written notice to an employment officer that they are required to attend the court or tribunal, if asked to do so, or
 - where they become a prisoner (as defined by the Jobseeker's Allowance Regulations).
- 5.5.4 Regulation 2(4) makes similar provision to that made by regulation 2(3)(b) so as to allow persons to be treated as actively seeking employment while they are attending a court or tribunal or are temporarily detained by the police.
- 5.5.5 A jobseeker (or both members of a couple who are claiming jobseeker's allowance jointly) who fails to attend a social security office on a particular day specified by the DHSS in connection with their claim for jobseeker's allowance will lose entitlement to benefit unless within the following 5 working days they can show that they had *good cause* for not attending the office. Certain circumstances are to be taken automatically to constitute *good cause*. Regulation 2(5) and (6) now provides that the list of persons who are deemed to have good cause includes persons whilst they are attending a court or tribunal or are temporarily detained by the police.
- 5.6 *Minor amendment*
- 5.6.1 Regulation 2(3)(a)(i) updates a cross-reference in the legislation for persons regarded as available for work (i.e., not those on contractual paternity or adoption leave).

