



Statutory Document No. 37/07

THE SOCIAL SECURITY ACT 2000

THE SOCIAL SECURITY LEGISLATION (APPLICATION) (No. 3) 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. 3) 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 the provisions of the applied legislation (as modified) shall be deemed to have come into force on the same day as they did so in Great Britain.

Interpretation

2. (1) In this Order "the applied legislation" means –

- (a) the Paternity Allowance and Adoption Allowance (General) (Amendment) Regulations 2006(b); and
- (b) the Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations 2006(c).

(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;

(a) 2000 c.5; (b) S.I. 2006/2236; (c) S.I. 2006/2379.

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- (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 to 5 of the Paternity Allowance and Adoption Allowance (General) (Amendment) Regulations 2006 (S.I. 2006/2236) 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. 2236

SOCIAL SECURITY

The Paternity *Allowance* and Adoption *Allowance* (General) (Amendment) Regulations 2006

Citation and Commencement

1. These Regulations may be cited as the Paternity *Allowance* and Adoption *Allowance* (General) (Amendment) Regulations 2006 and shall *be deemed to have* come into force on 1st October 2006.

Application

2. The amendments to the Paternity *Allowance* and Adoption *Allowance* (General) Regulations 2002¹ provided for by regulations 4 *and* 5 apply in relation to an entitlement to—

- (a) *omitted*;
- (b) adoption *allowance* in respect of children expected to be placed for adoption, where the placement is expected to occur on or after 1st April 2007.

Amendments to the Paternity *Allowance* and Adoption *Allowance* (General) Regulations 2002

3. The Paternity *Allowance* and Adoption *Allowance* (General) Regulations 2002 shall be amended as follows.

4. In regulation 21 (adoption *allowance* period), in paragraph (5), for "26" substitute "39".

5. After regulation 27 (cases where there is no *entitlement* to adoption *allowance*) insert—

"Working for not more than 10 days during an adoption *allowance* period

27A. In the case where an employee does any work under a contract of service with his employer on any day for not more than 10 such days during his adoption *allowance* period, whether consecutive or not, *he* shall continue to be *entitled to adoption allowance in respect of any such day or days.*"

¹ S.I. 2002/2822 (see S.D. 43/04).

**Amendment to the Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates)
Regulations 2002**

6. *Omitted.*

SCHEDULE 2

This Schedule sets out the text of regulations 1, 2 and 4 of the Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations 2006 (S.I. 2006/2379) 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. 2379

SOCIAL SECURITY

The Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations 2006

Citation, application, commencement and interpretation

1. (1) These Regulations may be cited as the Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations 2006.

(2) *Regulation 4(2A) and (3) of these Regulations shall apply only to women whose expected week of confinement begins on or after 24th June 2007 and the remainder shall apply to all women whose expected week of confinement begins on or after 1st April 2007.*

(2A) These Regulations shall be deemed to have come into force on 1st October 2006.

(3) In these Regulations—

"the Maternity Allowance Regulations" means the Social Security (Maternity Allowance) Regulations 1987²;

"the Overlapping Benefits Regulations" means the Social Security (Overlapping Benefits) Regulations 1979³.

Amendment of the Overlapping Benefits Regulations

2. (1) The Overlapping Benefits Regulations are amended as follows.

(2) For regulation 14(1) (provisions for adjusting benefit for part of a week) substitute—

"14. (1) Where an adjustment falls to be made under these regulations for part of a week, benefit (whether under the Contributions and Benefits Act or otherwise) shall be deemed to be payable at a rate equal to one-seventh of the appropriate weekly rate for each day of the week in respect of any such benefit."

Amendment of the Statutory Maternity Pay Regulations

3. *Omitted.*

² S.I. 1987/416 (see G.C. 108/88).

³ S.I. 1979/597 (see G.C. 207/79).

Amendment of the Maternity Allowance Regulations

4. (1) The Maternity Allowance Regulations are amended as follows.

(2) For regulation 2(1)(a) (disqualification for the receipt of a maternity allowance) substitute—

"(a) during the maternity allowance period she does any work in employment as an employed or self-employed earner, for more than 10 days, whether consecutive or not, falling within that period and the disqualification shall be for such part of the maternity allowance period as may be reasonable in the circumstances, provided that the disqualification shall, in any event, be for the number of days on which she so worked in excess of 10 days;"

(2A) After regulation 2 insert –

"Maternity allowance period

2A. Subject to regulation 3, the maternity allowance period shall be a period of 39 consecutive weeks."

(3) In regulation 3(2A) (modification of the maternity allowance period) for "26 weeks" substitute "39 weeks".

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 and incorporating such exceptions, adaptations and modifications as may be specified by the Order, any legislation to which that Act applies.
2. *Inter alia*, the Act applies to certain provisions of the Work and Families Act 2006 (an Act of Parliament) and to any statutory instrument made (or having effect as if made) under that Act.
3. This Order applies to the Island the appropriate provisions of the legislation referred to in Article 2(1), an explanation of which follows.

4. The Paternity Allowance and Adoption Allowance (General) (Amendment) Regulations 2006 (S.I. 2006/2236) (regulations 1 to 5 only)

4.1 These Regulations amend the Paternity Allowance and Adoption Allowance (General) Regulations 2002 (“the General Regulations”).

4.2 Regulation 1 provides for the citation and commencement of the Regulations.

4.3 Regulation 2 provides that the changes made by the Regulations shall apply in relation to entitlement to adoption allowance where the child being adopted is expected to be placed with their adopter(s) on or after 1st April 2007.

4.4 Regulation 3 introduces the amendments the Regulations make.

4.5 Regulation 4 amends regulation 21 of the General Regulations to establish that the adoption allowance period is 39 consecutive weeks.

4.6 Regulation 5 inserts new regulation 27A into the General Regulations. Regulation 27A provides that a person shall continue to be entitled to adoption allowance if they work for their employer for up to 10 days within the adoption allowance period.

5. The Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations 2006 (regulations 1, 2 and 4 only)

5.1 These Regulations amend the Social Security (Overlapping Benefits) Regulations 1979 (“the Overlapping Benefits Regulations”) and the Social Security (Maternity Allowance) Regulations 1987 (“the Maternity Allowance Regulations”).

5.2 In regulation 1 –

- paragraph (1) provides for the citation of the Regulations;
- paragraph (2) provides that the changes made by regulation 4(2A) and (3) shall apply to women whose expected week of confinement begins on or after 24th June 2007 and the remainder shall apply to women whose expected week of confinement begins on or after 1st April 2007;
- paragraph (2A) provides that the Regulations shall be deemed to have come into force on 1st October 2006; and
- paragraph (3) provides for the interpretation of the Regulations.

5.3.1 Currently, where it is necessary to calculate maternity allowance at a daily rate it is done on the basis of one-sixth of the weekly rate. Section 67 of the Social Security Act 1998 (another Act of the United Kingdom Parliament having effect in the Isle of Man) has now been brought into force, so that for women expecting babies on or after 1st April 2007 where it is necessary to calculate a daily rate of maternity allowance it will be done on the basis of one-seventh of the weekly rate. This aligns maternity allowance with all other social security benefits in this respect.

5.3.2 The Overlapping Benefits Regulations prescribe the way in which the amount of certain social security benefits is to be adjusted where more than one benefit is payable to a person at the same time. Regulation 2 now amends those Regulations by substituting a new regulation 14(1) as a consequence of the change referred to in paragraph 5.3.1. Now, where the benefits overlap for part of a week, then maternity allowance must also be calculated at a rate of one-seventh of the appropriate weekly rate of that benefit for each day of the week in determining the amount of benefit payable in respect of the period in question.

- 5.4 Regulation 4(2) amends the Maternity Allowance Regulations by substituting a new regulation 2(1)(a). The new regulation provides that if a woman works as an employed or self-employed earner for more than 10 days in the maternity allowance period, she will be disqualified from receiving maternity allowance for any additional days worked.
- 5.5 Regulation 4(2A) inserts new provision into the Maternity Allowance Regulations by way of new regulation 2A. That new regulation prescribes that the maternity allowance period is to be a period of 39 consecutive weeks and is consequential to changes made by section 1 of the Work and Families Act 2006 to section 35 of the Social Security Contributions and Benefits Act 1992 (“the Contributions and Benefits Act”) (as those Acts have effect in the Isle of Man).
- 5.6.1 Section 35(2) of the Contributions and Benefits Act provides that, ordinarily, the first week of the period during which maternity allowance is payable (“the maternity allowance period”) is 11 weeks before the week in which birth is expected to take place. However, that rule may be modified by Regulations in certain cases. Regulation 3 of the Maternity Allowance Regulations makes such modifications. Paragraph (2) of that regulation covers the case of a woman who –
- does not satisfy the conditions of entitlement to maternity allowance at the 11th week before the expected week of birth; but
 - later does so but before her labour begins; and
 - has stopped work.
- 5.6.2 Previously in such a case the maternity allowance period was the 26 weeks commencing with the week following that in which the woman stopped work. Regulation 4(3) now replaces reference to 26 weeks with that of 39 weeks.