



Statutory Document No. 129/07

THE SOCIAL SECURITY ACT 2000
**THE SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992
(APPLICATION) (AMENDMENT) (No. 2) ORDER 2007**

Approved by Tynwald 20th March 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. This Order may be cited as the Social Security Contributions and Benefits Act 1992 (Application) (Amendment) (No. 2) Order 2007 and shall, subject to section 2(1) of the Social Security Act 2000, come into force on 1st April 2007.

Amendment of the Social Security Contributions and Benefits Act 1992 (Application) Order 1994 (S.D. 505/94)

2. (1) Amend the Schedule to the Social Security Contributions and Benefits Act 1992 (Application) Order 1994(b) (which sets out the Social Security Contributions and Benefits Act 1992(c) as it has effect in the Isle of Man) in accordance with the following paragraph.

(2) After section 150D (interpretation of sections 150B and 150C: winter bonus and additional winter bonus) insert –

“PART 10B

Persons subject to immigration control

Persons subject to immigration control - exclusion from benefits

150E. (1) No person is entitled to —

- (a) attendance allowance,

(a) 2000 c.5; (b) S.D. 505/94; (c) 1992 c.4.

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- (b) severe disablement allowance,
- (c) carer's allowance,
- (d) disability living allowance,
- (e) income support,
- (f) family income supplement,
- (g) disability working allowance,
- (h) a payment in respect of maternity expenses,
- (i) an exceptional needs grant or a budgeting loan,
- (j) child benefit, or
- (k) a winter bonus or an additional winter bonus,

under this Act while he is a person to whom this section applies.

(2) This section applies to a person subject to immigration control unless he falls within such category or description, or satisfies such conditions, as may be prescribed.

(3) Regulations under subsection (2) above may provide for a person to be treated for prescribed purposes only as not being a person to whom this section applies.

(4) "A person subject to immigration control" means a person who is not a national of an EEA State and who—

- (a) requires leave to enter or remain in the Isle of Man but does not have it;
- (b) has leave to enter or remain in the Isle of Man which is subject to a condition that he does not have recourse to public funds;
- (c) has leave to enter or remain in the Isle of Man given as a result of a maintenance undertaking; or
- (d) has leave to enter or remain in the Isle of Man only as a result of any legislative provision providing that, while an appeal against a decision to vary (or to refuse to vary) any limited leave to enter or remain in the Isle of Man is pending, the leave to which the appeal relates (and any conditions subject to which it was granted) continues to have effect.

(5) In subsection (4)(c) above "maintenance undertaking", in relation to any person, means a written undertaking given by another person in pursuance of the immigration rules to be responsible for that person's maintenance and accommodation.

(6) In subsection (5) above reference to "the immigration rules" is to the rules laid down by the Lieutenant-Governor under section 3(2) of the Immigration Act 1971 as that Act is extended to the Isle of Man under section 36 of that Act.

Made

6th February 2007



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order inserts section 150E into the Social Security Contributions and Benefits Act 1992, as that Act has effect in the Isle of Man (“the Contributions and Benefits Act”), and comes into force on 1st April 2007. The effect of new section 150E is to insert explicit provision into the Contributions and Benefits Act which provides that, ordinarily, persons subject to immigration control are not to be entitled to certain social security benefits payable under that Act (called “public funds”).
2. Under subsection (1) of section 150E a person cannot become entitled to any of the following benefits while they are a person to whom that section applies –
 - attendance allowance,
 - severe disablement allowance,
 - carer’s allowance,
 - disability living allowance,
 - income support,
 - family income supplement,
 - disability working allowance,
 - a payment in respect of maternity expenses,
 - an exceptional needs grant or a budgeting loan,
 - child benefit, or
 - a winter bonus or an additional winter bonus.

3. Section 150E applies to a person subject to immigration control unless they fall within such category or description, or satisfy such conditions, as may be prescribed by regulations. As a consequence, a person subject to immigration control may still qualify for a public fund benefit in certain circumstances (see subsection (2) of section 150E).
4. Regulations may also provide for a person not to be treated as a person to whom section 150E applies, but only for the purposes set out in those regulations (see subsection (3) of section 150E).
5. Under subsection (4) of section 150E “a person subject to immigration control” means a person who is not a national of an EEA State and who—
 - requires leave to enter or remain in the Isle of Man but does not have it; or
 - has leave to enter or remain in the Isle of Man which is subject to a condition that they do not have recourse to public funds; or
 - has leave to enter or remain in the Isle of Man as a result of another person giving a written undertaking to maintain and accommodate the person subject to immigration control; or
 - has leave to enter or remain in the Isle of Man while their appeal against an immigration decision is pending.