

Statutory Document No. 2015/0019



Social Security Act 2000

**SOCIAL SECURITY LEGISLATION
(CONTRIBUTIONS) (APPLICATION)
(MISCELLANEOUS AMENDMENTS) ORDER 2015**

Approved by Tynwald: 17 February 2015
Coming into Operation: 6 April 2015

The Treasury makes the following Order under section 1 of the Social Security Act 2000.

1 Title

This Order is the Social Security Legislation (Contributions) (Application) (Miscellaneous Amendments) Order 2015.

2 Commencement and duration

If approved by Tynwald, this Order comes into operation on 6 April 2015 and ceases to have effect on 5 April 2017¹.

3 Social Security Contributions and Benefits Act 1992 (as applied) further modified

The Social Security Contributions and Benefits Act 1992 as applied to the Island by the Social Security Contributions and Benefits Act 1992 (Application) Order 1994² is further modified in accordance with articles 4 and 5, and in those articles a reference to a section is a reference to the section of that Act as it applies as part of the law of the Island by virtue of that Order.

4 Section 6 amended

In section 6(1)(b) (liability for secondary Class 1 contributions) for “sections 9, 9A and 9B” substitute **sections 9, 9C and 9D**.

¹ Tynwald approval is required by section 2(1) of the Social Security Act 2000

² SD 505/94

5 Sections 9C and 9D inserted

Before section 10 insert –

9C Secondary Class 1 contributions: excepted earnings

- (1) For the purposes of section 9(2)(b) earnings are excepted from liability for secondary Class 1 contributions (“excepted earnings”) if all the conditions in subsections (2) to (13) are satisfied.
- (2) The employed earner in respect of which the earnings are paid must be a “qualifying employee”.
- (2A) A “qualifying employee” is an individual who:
 - (a) is at least 16 years of age;
 - (b) is under pensionable age; and
 - (c) satisfies one of the criteria in subsection (2B).
- (2B) The criteria are that –
 - (a) immediately before beginning employment with the secondary contributor the individual has been receiving a “qualifying benefit” for a continuous period of not less than six months and has been provided with written confirmation of this by the Treasury; or
 - (b) on or after 6 April 2015 the individual has been provided with written confirmation by the Department of Home Affairs that the individual has been a detainee as defined in section 26 of the Custody Act 1995 for a continuous period of at least 30 days ending on or after 6 April 2015.
- (3) The qualifying employee’s employment in respect of which the earnings are paid (the “relevant employment”) must not be employment –
 - (a) with an office of the Government of the Island;
 - (b) with a Department or a Statutory Board;
 - (c) with the Civil Service Commission;
 - (d) with a local authority;
 - (e) with a joint committee of two or more local authorities;
 - (f) with a joint board being a body corporate established under an enactment and consisting of members appointed –
 - (i) by 2 or more local authorities; or
 - (ii) by the Department of Infrastructure and one or more local authorities;
 - (g) with the Manx Museum and National Trust;
 - (h) with Laxey Glen Flour Mills Ltd; or

- (i) as a constable.
- (4) The secondary contributor must have a place of business in the Island and satisfy the conditions in regulation 145(1)(b) of the Social Security (Contributions) Regulations 2001³ as they are applied to the Island by the Social Security Legislation (Application) (No. 8) Order 2002⁴.
- (5) The relevant employment must be undertaken in the Island.
- (6) The relevant employment must begin on or after 6 April 2015.
- (7) The relevant employment must be expected, on the day it begins, to last for at least 6 months.
- (8) The relevant employment must be one in which the qualifying employee is required to work a minimum of 16 hours per week.
- (9) The earnings must be paid during the period when this section is in operation.
- (10) The secondary contributor must make a claim for an employment to be treated as a relevant employment not later than 30 days after it begins.
- (11) The claim must contain such information and be made in such manner and form as the Treasury specifies.
- (12) The secondary contributor must pay within the prescribed time any contributions which the contributor is liable to pay to the Assessor.
- (13) The secondary contributor cannot be the same secondary contributor by whom the qualifying employee was employed prior to becoming a qualifying employee.
- (14) For the purposes of this section –
 - (a) the Social Security (United Kingdom) Order 1977⁵ shall be disregarded;
 - (b) a “qualifying benefit” is:
 - (i) jobseeker’s allowance;
 - (ii) incapacity benefit; or
 - (iii) a combination of both (i) and (ii);
 - (c) “pensionable age” has the meaning given under the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995⁶.
- (15) Where an employee is a qualifying employee in relation to more than one secondary contributor at the same time, the treatment of the employee’s earnings as excepted earnings will be confined to

³ SI 2001/1004

⁴ SD 374/02


⁵ GC 47/78

⁶ As applied to the Island by SD 501/97

the secondary contributor with whom the qualifying employee's employment began first.

- (16) An employee will cease to be a qualifying employee in respect of the secondary contributor:
- (a) on the last day of their relevant employment with that contributor;
 - (b) on the day the qualifying employee reaches pensionable age; or
 - (c) on 5 April 2017,
- whichever occurs first.
- (17) Where Treasury considers that an employment is a relevant employment, secondary Class 1 contributions will not be due in respect of earnings paid for that employment up to and including 5 April 2017 provided the conditions in subsections (2) to (13) continue to be satisfied.
- (18) Section 9D provides for administration in connection with excepted earnings and is to be read as one with this section.
- (19) This section and section 9D cease to have effect on 5 April 2017.

9D Secondary Class 1 contributions: excepted earnings – administration

- (1) Where the Treasury considers that an employment in respect of which a claim is made by a secondary contributor under section 9C(10) is a relevant employment, the Treasury will issue a certificate to the secondary contributor stating that secondary Class 1 contributions are not due in respect of that employment until 6 April 2017.
- (2) If at any time during the period for which the certificate is issued any of the conditions in section 9C are no longer satisfied, the employment ceases to be a relevant employment and the secondary contributor will be liable for secondary Class 1 contributions in respect of earnings paid for that employment from that time.
- (3) The secondary contributor must submit with his annual employer's return such information as the Assessor may require in order to demonstrate that (so far as is the case) the conditions in section 9C have been satisfied.
- (4) Despite section 9C(19), the secondary contributor must retain any certificate issued under subsection (1) until 5 April 2020.
- (5) The secondary contributor must notify the Treasury immediately if any of the conditions required for earnings to qualify as excepted earnings is no longer satisfied. .

6 Amendment of the Social Security (Contributions) Regulations 2001 as they are applied to the Island

- (1) The Social Security (Contributions) Regulations 2001, as they are applied to the Island, are amended as follows.
- (2) In paragraph 7(13)(b)(iv) of Schedule 4 to the Regulations (calculation of deduction), for the words “section 9B(1) or 9B(3)” substitute **section 9D(1)**.
- (3) In each of paragraphs 22(2)(b) and 22(2)(bb) of Schedule 4 to the Regulations (return by employer at end of year), for the words “section 9B(1) or 9B(3)” substitute **section 9D(1)**.

MADE 19th January 2015

W E TEARE
Minister for the Treasury

*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order amends the Social Security Contributions and Benefits Act 1992 (“the Act”) as it applies to the Island to provide that no secondary Class 1 contributions are payable if certain conditions, set out in the new sections 9C and 9D of the Act, are met.

Articles 1 and 2 deal with citation, commencement, and duration. The Order and the amendments made by it will cease to have effect on 5 April 2017.

Article 3 introduces the amendments to the Act.

Article 4 amends section 6 (liability for secondary Class 1 contributions) to reflect the introduction of the two new sections.

Article 5 sets out the conditions which must be met for earnings to be classified as excepted earnings and provides details of the administrative practice to be followed.

The Order also amends the Social Security (Contributions) Regulations 2001 as they are applied to the Island to provide for the recording of excepted earnings under the new sections (Article 6).