



SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (APPLICATION) (AMENDMENT) ORDER 2018

Index

| Article | Page |
|--|------|
| 1 Title | 3 |
| 2 Commencement | 3 |
| 3 Interpretation..... | 3 |
| 4 Social Security Contributions and Benefits Act 1992 (Application) Order 1994 amended..... | 4 |
| 5 Section 124 amended..... | 4 |
| 6 Section 124A substituted..... | 4 |
| 7 Section 124D omitted..... | 7 |
| 8 Section 128 amended..... | 7 |
| 9 Section 128A inserted | 7 |

Statutory Document No. 2018/0098



Social Security Act 2000

SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992 (APPLICATION) (AMENDMENT) ORDER 2018

Approved by Tynwald: 17 April 2018

Coming into Operation in accordance with article 2

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

1 Title

This Order is the Social Security Contributions and Benefits Act 1992 (Application) (Amendment) Order 2018.

2 Commencement

If approved by Tynwald, this Order comes into operation on the day after it is approved by Tynwald¹.

3 Interpretation

Reference in articles 5 to 9 to a numbered section is to the entry relating to the section of the Social Security Contributions and Benefits Act 1992² bearing that number in the Schedule³ to the Social Security Contributions and Benefits Act 1992 (Application) Order 1994⁴.

¹ Under section 2(1) of the Social Security Act 2000 an order under section 1(1) or (6) of that Act shall be laid before Tynwald as soon as may be after it is made and unless it is approved by Tynwald at the sitting at which it is laid or the next following sitting, it ceases to have effect, but without prejudice to anything done under it or the making of a new order.

² 1992 c.4.

³ The Schedule sets out the Social Security Contributions and Benefits Act 1992 (c.4) as it has effect in the Island.

⁴ SD 505/94.

4 Social Security Contributions and Benefits Act 1992 (Application) Order 1994 amended

The Schedule to the Social Security Contributions and Benefits Act 1992 (Application) Order 1994 is amended in accordance with articles 5 to 9.

5 Section 124 amended

- (1) Section 124⁵ (income support) is amended as follows.
- (2) In subsection (1) —
 - (a) for “sections 124A to 124E” substitute **124** section 124E below **124**;
 - (b) after paragraph (f) add —
 - 124**; and
 - (g) he satisfies the IOM residential condition for income support as set out in section 124A below **124**; and
 - (c) omit “and” immediately preceding paragraph (f) accordingly.

6 Section 124A substituted

For section 124A⁶ (entitlement to income support to be dependent on being an Isle of Man worker) substitute —

124A. IOM residential condition for income support

- (1) A person satisfies the IOM residential condition for income support for the purposes of section 124(1)(g) above if any of subsections (2) to (8) below applies to that person.

But see subsection (9) and section 124AB(3) below.

Born in IOM
- (2) This subsection applies to a person who was born in the Island.

Continuous IOM ordinary residence for at least 5 years
- (3) This subsection applies to a person who has at any time been ordinarily resident in the Island for a continuous period of at least 5 years.

Interrupted IOM ordinary residence for at least 10 years
- (4) This subsection applies to a person who has at any time been ordinarily resident in the Island for 3 or more periods which, when added together, amount to at least 10 years.

⁵ Section 124 substituted by SD150/99 and amended by SD 539/99, SD 880/02, SD 654/05 and SD 600/00.

⁶ Section 124A inserted by SD 150/99 and amended by SD 880/02, SD 02/01, SD 539/99, SD 654/00, SD 2016/0305 and section 78(3)(b) of the Civil Partnership Act 2011.

Spouse or civil partner of person to whom any of subsections (2) to (4) applies

- (5) This subsection applies to a person (P) if—
- (a) P is the spouse or civil partner of a person to whom any of subsections (2) to (4) above applies; and
 - (b) P has the right to live in the Island (see subsection (10) below).

Surviving spouse or surviving civil partner of person to whom any of subsections (2) to (4) applied

- (6) This subsection applies to a person (P) if —
- (a) P was the spouse or civil partner of a person (S);
 - (b) S was a person to whom any of subsections (2) to (4) above applied during P's and S's marriage or civil partnership;
 - (c) P's and S's marriage or civil partnership was ended by S's death;
 - (d) P was ordinarily resident in the Island immediately before S died; and
 - (e) P has been ordinarily resident in the Island since S's death.

Former spouse or civil partner of person to whom any of subsections (2) to (4) applied

- (7) This subsection applies to a person (P) if —
- (a) P was the spouse or civil partner of a person (S);
 - (b) S was a person to whom any of subsections (2) to (4) above applied during P's and S's marriage or civil partnership;
 - (c) P and S lived together for an unbroken period of 3 years after P and S married or formed a civil partnership;
 - (d) P's and S's marriage or civil partnership was ended by divorce, dissolution or annulment;
 - (e) P was ordinarily resident in the Island immediately before P's and S's marriage or civil partnership ended; and
 - (f) P has been ordinarily resident in the Island since P's and S's marriage or civil partnership ended.

Child of person to whom any of subsections (2) to (4) applies and who was serving in HM Forces, etc. when the child was born

- (8) This subsection applies to a person (P) if —
- (a) P is the child of a person (F);
 - (b) F —
 - (i) is a person to whom any of subsections (2) to (4) above applies; or

- (ii) immediately before F's death, was a person to whom any of subsections (2) to (4) above applied; and
 - (c) at the time of P's birth, F was —
 - (i) serving; or
 - (ii) married to, or a civil partner of, a person serving, in HM armed forces.
- (9) If a person —
 - (a) fails to satisfy the IOM residential condition for income support for the purposes of section 124(1)(g) above; but
 - (b) satisfies the other conditions of entitlement to income support set out in section 124(1) above,that person is to be regarded as satisfying that condition if that person satisfies an adjudication officer that there is a special reason which would render that person's disqualification from entitlement to income support exceptionally harsh or oppressive.
- (10) For the purposes of subsection (5)(b) above, a person (P) has the right to live in the Island if —
 - (a) P —
 - (i) has the right of abode; or
 - (ii) has indefinite leave to enter or remain, in the Isle of Man under the Immigration Act 1971⁷ as that Act of Parliament is extended to the Isle of Man by the Immigration (Isle of Man) Order 2008⁸; or
 - (b) P has the right to reside in the Isle of Man by virtue of any EU obligation within the meaning of the European Communities (Isle of Man) Act 1973.

124AB. Payment of travelling expenses and maintenance, etc. of person leaving the Island who is not entitled to income support because the person does not satisfy the IOM residential condition for income support

- (1) This section applies if —
 - (a) a person (P) is not entitled to income support only because P does not satisfy the IOM residential condition for income support for the purposes of section 124(1)(g) above; and
 - (b) P is willing to leave the Island.

⁷ 1971 c.77.

⁸ S.I. 2008/680.

- (2) The Department may pay —
 - (a) the travelling expenses of P and any other member of P's family from the Island to the country in which P previously last resided; and
 - (b) such sum as the Department thinks is reasonable for the maintenance of P and any other member of P's family on the journey.
- (3) The Department may also pay, in such circumstances and for such period as the Department determines as being appropriate, a sum equivalent to the amount of income support to which P would be entitled if P satisfied the IOM residential condition for income support for the purposes of section 124(1)(g) above.
 - This subsection is subject to section 124A(9) above. **22**.

7 Section 124D omitted

Section 124D⁹ (exemption from Isle of Man worker condition) is omitted.

8 Section 128 amended

- (1) Section 128¹⁰ (employed person's allowance) is amended as follows.
- (2) In subsection (2), for paragraph (c) substitute —
 - 23**(c) the person satisfies the IOM residential condition for employed person's allowance as set out in section 128A below **22**.
- (3) Subsections (7)¹¹ to (8) are omitted.

9 Section 128A inserted

After section 128 insert —

24 128A. IOM residential condition for employed person's allowance

- (1) A person satisfies the IOM residential condition for the purposes of section 128(2)(c) above if any subsections (2) to (8) below applies to that person.
 - But see also subsection (9) below.
 - Born in IOM*
- (2) This subsection applies to a person who was born in the Island.
 - Continuous IOM ordinary residence for at least 5 years*

⁹ Section 124D inserted by SD 02/01 and amended by SD 880/02.

¹⁰ Section 128 substituted for sections 128 and 129 by SD 987/11.

¹¹ Subsections (7) and (7A) substituted for subsection (7) by SD 2016/0305.

- (3) This subsection applies to a person who has at any time been ordinarily resident in the Island for a continuous period of at least 5 years.

Interrupted IOM ordinary residence for at least 10 years

- (4) This subsection applies to a person who has at any time been ordinarily resident in the Island for 3 or more periods which, when added together, amount to at least 10 years.

Spouse or civil partner of person to whom any of subsections (2) to (4) applies

- (5) This subsection applies to a person (P) if —

- (a) P is the spouse or civil partner of a person to whom any of subsections (2) to (4) above applies; and
- (b) P has the right to live in the Island (see subsection (10) below).

Surviving spouse or surviving civil partner of person to whom any of subsections (2) to (4) applied

- (6) This subsection applies to a person (P) if —

- (a) P was the spouse or civil partner of a person (S);
- (b) S was a person to whom any of subsections (2) to (4) above applied during P's and S's marriage or civil partnership;
- (c) P's and S's marriage or civil partnership was ended by S's death;
- (d) P was ordinarily resident in the Island immediately before S died; and
- (e) P has been ordinarily resident in the Island since S's death.

Former spouse or civil partner of person to whom any of subsections (2) to (4) applied

- (7) This subsection applies to a person (P) if —

- (a) P was the spouse or civil partner of a person (S);
- (b) S was a person to whom any of subsections (2) to (4) above applied during P's and S's marriage or civil partnership;
- (c) P and S lived together for an unbroken period of 3 years after P and S married or formed a civil partnership;
- (d) P's and S's marriage or civil partnership was ended by divorce, dissolution or annulment;
- (e) P was ordinarily resident in the Island immediately before P's and S's marriage or civil partnership ended; and
- (f) P has been ordinarily resident in the Island since P's and S's marriage or civil partnership ended.

Child of person to whom any of subsections (2) to (4) applies and who was serving in HM Forces, etc. when the child was born

- (8) This subsection applies to a person (P) if —
- (a) P is the child of a person (F);
 - (b) F —
 - (i) is a person to whom any of subsections (2) to (4) above applies; or
 - (ii) immediately before F's death, was a person to whom any of subsections (2) to (4) above applied; and
 - (c) at the time of P's birth, F was —
 - (i) serving; or
 - (ii) married to, or a civil partner of, a person serving, in HM armed forces.
- (9) If a person —
- (a) fails to satisfy the IOM residential condition for employed person's allowance for the purposes of section 128(2)(c) above; but
 - (b) satisfies the other conditions set out in section 128(2) and (3) above,
- that person is to be regarded as satisfying that condition if that person satisfies an adjudication officer that there is a special reason which would render that person's disqualification from entitlement to employed person's allowance exceptionally harsh or oppressive.
- (10) For the purposes of subsection (5)(b) above, a person (P) has the right to live in the Island if —
- (a) P —
 - (i) has the right of abode; or
 - (ii) has indefinite leave to enter or remain, in the Isle of Man under the Immigration Act 1971¹² as that Act of Parliament is extended to the Isle of Man by the Immigration (Isle of Man) Order 2008¹³;
 - (b) P has the right to reside in the Isle of Man by virtue of any EU obligation within the meaning of the European Communities (Isle of Man) Act 1973. .

¹² 1971 c.77.

¹³ S.I. 2008/680.

MADE 14TH MARCH 2018

A L CANNAN
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 as it has effect in the Island (“the Contributions and Benefits Act”). The changes made replace the current requirement under sections 124 and 124A and section 128 of the Contributions and Benefits Act for a person to be an “Isle of Man worker” under control of employment legislation (subject to certain modifications and exceptions) to qualify for income support or employed person’s allowance.

That requirement is replaced with a new IOM residential condition set out in section 124A (in relation to income support) and section 128A (in relation to employed person’s allowance), which is satisfied by a person who was —

- a) born in the Island;
- b) ordinarily resident in the Island for a continuous period of at least 5 years; or
- c) ordinarily resident in the Island for 3 or more periods which, when added together, amount to at least 10 years.

The condition is also met by a person who (subject to other conditions) is —

- d) the spouse or civil partner of a person mentioned in paragraph a), b) or c) above;
- e) the surviving spouse or civil partner of such a person;
- f) the former spouse or civil partner of such a person; or
- g) the child of a person mentioned in paragraph a), b) or c) above who was (or whose spouse or civil partner was) serving in HM Forces when they were born.

Provision in the Contributions and Benefits Act for the removal of persons from the Island who are not entitled to income support because they do not satisfy the current “Isle of Man worker” condition is also omitted by the Order.