



SOCIAL SECURITY LEGISLATION (BENEFITS) (APPLICATION) (NO. 2) ORDER 2019

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Statutory Document No. 2019/0093



Social Security Act 2000

SOCIAL SECURITY LEGISLATION (BENEFITS) (APPLICATION) (NO. 2) ORDER 2019

*Approved by Tynwald: 20th March 2019
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 Legislation (Benefits) (Application) (No. 2) Order 2019.

2 Commencement

This Order comes into operation on 6 April 2019¹.

3 Interpretation

- (1) In this Order “**the applied legislation**” means the Bereavement Support Payment Regulations 2017².
- (2) Unless the context otherwise requires or it is expressly provided, a reference in the applied legislation to a 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 shall be construed as a reference to that legislation as it has effect in the Island.

4 Application to the Island of the applied legislation

The applied legislation, incorporating the exceptions, adaptations and modifications subject to which it applies to the Island, is set out in the Schedule and applies to the Island as part of the law of the Island.

¹ Under section 2(1) of the Social Security Act 2000 an order under section 1(1) 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 to the making of a new order.

² S.I. 2017/410.

5 Revocations

The Social Security Legislation (Benefits) (Application) Order 2017³ and the Bereavement Support Payment Regulations 2017 as they were applied to the Island under that Order are revoked.

MADE 18/02/2019

A L CANNAN
Minister for the Treasury

³ SD 2017/0140.

SCHEDULE

[Article 4]

This Schedule sets out the text of the Bereavement Support Payment Regulations 2017 (S.I. 2017/410) as applied by this Order, with such exceptions, adaptations and modifications made where necessary, which appear in *bold italic* type.

STATUTORY INSTRUMENTS

2017 No. 410

SOCIAL SECURITY

The Bereavement Support Payment Regulations 2017

Made - - - - *15th March 2017*

Coming into force in accordance with regulation 1(2)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 30(1)(c), (2), (3), (4)(a) and (7), 32(1) and (3) and 54(5) and (6) of the Pensions Act 2014⁴.

These Regulations have not been referred to the Social Security Advisory Committee because they are made before the end of the period of six months beginning with the coming into force of the provisions of the Pensions Act 2014 under which they are made⁵.

A draft of these Regulations has been laid before Parliament in accordance with section 54(2)(a) of the Pensions Act 2014 and approved by a resolution of each House of Parliament.

1. Citation [...]

- (1) These Regulations may be cited as the Bereavement Support Payment Regulations 2017.
- (2) *Omitted.*

2. Period for which bereavement support payment is payable

- (1) The period for which bereavement support payment is payable is as follows.
- (2) The period starts —
 - (a) on the date the person's spouse or civil partner died, where the person claims the payment three months or less after that date; or

⁴ 2014 c.19.

⁵ See section 173(5) of the Social Security Administration Act 1992 (c.5) as that Act of Parliament has effect in Great Britain.

- (b) at the beginning of the period of three months preceding the date the person claims the payment, where the person claims the payment —
 - (i) more than three months after the date the person’s spouse or civil partner died; and
 - (ii) no more than three months after the date the period finishes under paragraph (3).

(3) The period finishes –

- (a) *if paragraphs (4) and (5) do not apply to the person, at the end of the relevant 18-month payment period; or*
- (b) *if paragraphs (4) and (5) apply to the person, on the date specified in paragraph (6).*

(4) *This paragraph applies to the person if the person –*

- (a) *was pregnant when their spouse or civil partner died;*
- (b) *was entitled to child benefit for one or more children when their spouse or civil partner died; or*
- (c) *after their spouse or civil partner died, becomes entitled to child benefit for one or more children who were residing with the person or their deceased spouse or civil partner immediately before the spouse or civil partner died.*

(5) *This paragraph applies to the person if at the end of the relevant 18-month payment period –*

- (a) *the person is entitled to child benefit for –*
 - (i) *the child with whom the person was pregnant when their spouse or civil partner died; or*
 - (ii) *the child or any of the children referred to in paragraph (4)(b) or (c) (as applicable); and*
- (b) *if sub-paragraph (a)(ii) applies, that child or any of those children have not attained the age of 6.*

(6) *The period finishes on the 6th birthday of the child or the younger or youngest of the children (as applicable) referred to in paragraph (5).*

(7) *In this regulation –*

“child” has the same meaning as in section 142 of SSCBA (definitions of “child” and “qualifying young person”);

“child benefit” means child benefit under section 141 of SSCBA (child benefit);

“the relevant 18-month payment period” means the period of 18 months beginning with the day after the date the person’s spouse or civil partner died; and

“SSCBA” means the Social Security Contributions and Benefits Act 1992.

(8) *Section 147 of SSCBA (interpretation of Part 9 and supplementary provisions) has effect for the purposes of this regulation as it does for the purposes of Part 9 of SSCBA.*

(9) For the purposes of this regulation, if a person is not entitled to child benefit for any week in a tax year only because the person's reckonable income in relation to that week is more than the upper income threshold in relation to that year, the person is to be treated as entitled to child benefit for that week.

3. Rate of bereavement support payment

(1) The [...] rate of bereavement support payment is **£119.90** for each *week* [...].

This is subject to paragraph (2).

(2) Where the person claims bereavement support payment 12 months or less after the date their spouse or civil partner died, **an additional sum of £3,000 is payable with the first payment of [...]** bereavement support payment [...].

(3) to (8) *Omitted.*

4. Persons entitled to the higher rate of bereavement support payment (*Omitted*)

5. Persons entitled to the standard rate of bereavement support payment (*Omitted*)

6. Prisoners who are not to be paid bereavement support payment

(1) Subject to regulation 7, a person is not to be paid bereavement support payment for any period during which the person is a prisoner⁶.

(2) [...] A person is a prisoner for the purposes of paragraph (1) where the person is —

- (a) a prisoner in *the Island* or elsewhere who is imprisoned or detained in legal custody in connection with, or as a result of, criminal proceedings;
- (b) a prisoner in *the Island* or elsewhere who is unlawfully at large;
- (c) a prisoner in *the Island* who is being detained —
 - (i) under section 53 of the Mental Health Act 1998⁷ (removal to hospital of persons serving sentences of *custody*); and
 - (ii) on or before the day which the *Department of Home Affairs* certifies to be the *expiration of a* person's *sentence* (if any) within the meaning in section 57(4) of that Act (further provisions as to prisoners under sentence);

(d) *omitted.*

(3) *Omitted.*

7. Paying bereavement support payment to persons who are remanded in custody

(1) Where a person is remanded in custody for an offence, regulation 6(1) does not apply unless a sentence described in paragraph (2) is later imposed on the person for the offence.

(2) [...] The sentences described for the purposes of paragraph (1) are —

- (a) a sentence of imprisonment or detention in legal custody as a result of criminal proceedings;
- (b) a sentence of detention where the provisions mentioned in regulation 6(2)(c)(i) [...] apply;

⁶ See section 32(2) of the Pensions Act 2014 (c.19) (see SD 2017/077) for the meaning of "prisoner".

⁷ AT 8 of 1998.

- (c) a suspended sentence within the meaning in *Schedule 1 to the Custody Act 1995*⁸ (suspended sentences of *custody*).

(3) *Omitted*.

8. Territory in which a person may be entitled to bereavement support payment
(Omitted)

Signed by authority of the Secretary of State for Work and Pensions.

15th March 2017

Caroline Nokes
Parliamentary Under-Secretary of State
Department for Work and Pensions

⁸ AT 1 of 1995.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 1 of the Social Security Act 2000 (of Tynwald) enables the Treasury 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 section applies.

Section 1 of that Act applies to (inter alia) the Pensions Act 2014 of the UK Parliament and to any statutory instrument made or having effect as if made under that Act.

Bereavement Support Payment Regulations 2017 (SI 2017/410)

This Order revokes the Bereavement Support Payment Regulations 2017⁹, as they were applied to the Island under the Social Security Legislation (Benefits) (Application) Order 2017¹⁰, and re-applies them to the Island from 6 April 2019. The Bereavement Support Payment Regulations 2017, as re-applied to the Island by this Order, are unchanged from their original application subject to the changes referred to below.

Normally bereavement support payment is payable only for the period of 18 months beginning with the day after the deceased spouse or civil partner died.

The Regulations as re-applied by the Order provide for a longer period of payment in the case of persons who are entitled to child benefit for a child or children under the age of 6 at the end of the 18-month payment period if the person was: pregnant with the child, or was entitled to child benefit for the child or children, when their spouse or civil partner died or, after their spouse or civil partner died, they became entitled to child benefit for the child or children, who were living with the person or with their spouse or civil partner immediately before they died.

In those cases, bereavement support payment will continue to be paid until the 6th birthday of the youngest of the children, or the only child, referred to for whom the person is entitled to child benefit.

The Regulations as re-applied reflect the rate of bereavement support payment payable from April 2019.

⁹ SI 2017/410.

¹⁰ SD 2017/0140.