

Statutory Document No. 0059/13



Social Security Act 2000

SOCIAL SECURITY LEGISLATION (BENEFITS) (APPLICATION) ORDER 2013

Approved by Tynwald: 19 March 2013
Coming into Operation: 1 April 2013

The Department of Social Care makes the following Order under section 1A of the Social Security Act 2000.

1 Title

This Order is the Social Security Legislation (Benefits) (Application) Order 2013.

2 Commencement

If approved by Tynwald, this Order comes into operation on 1 April 2013.

3 Interpretation

- (1) In this Order “the applied legislation” means the Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008¹.
- (2) Unless the context otherwise requires or it is expressly provided –
 - (a) 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 Security Act 2000 is a reference to that legislation as it has effect in the Island; and
 - (b) words and expressions appearing in the applied legislation are to be construed according to the Interpretation Act 1978 (of Parliament)².

4 Application to the Island of the applied legislation

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

¹ SI 2008/3051.

² 1978 c.30.

- (2) The applied legislation mentioned in article 3(1) is set out in the Schedule.

MADE 11TH FEBRUARY 2013

C R ROBERTSHAW
Minister for Social Care

SCHEDULE

[ARTICLE 3(1)]

This Schedule sets out the text of the Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (SI 2008/3051) as applied by this Order, with such exceptions, adaptations and modifications made where necessary, which appear in *bold italic* type.

STATUTORY INSTRUMENTS

2008 No. 3051

SOCIAL SECURITY

The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008

Made - - - - - *23rd November 2008*

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

- sections 2A, 2B, 189(1), (4) to (6) and (7A) and 191 of the Social Security Administration Act 1992³,
- sections 123(1)(a), 124(1)(e), 137(1), and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992⁴,

³ 1992 c. 5 (“the 1992 Act”). Sections 2A and 2B were inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c.30) (“the 1999 Act”); section 2A(2) was amended by S.I. 2002/1457; section 189(1) and (4) to (6) was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 (c. 14); section 189(1) was amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and Schedule 6 to the Tax Credits Act 2002 (c. 21); section 189(7A) was inserted by paragraph 82 of Schedule 12 to the 1999 Act; section 191 is cited because of the meaning it gives to the word “prescribed”.

⁴ 1992 c. 4. Section 124(1)(e) was inserted by paragraph 30(5) of Schedule 2 to the Jobseekers Act 1995 (c. 18); section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”; section 175(1) and (4) was amended by section 2 of, and paragraph 29(1) and (2) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

- sections 6(2) and (4), 7(4), 8(2)(d)(ii), 19(8)(a), 35(1) and 36(2) and (4) of, and paragraphs 8 and 10(1)(a) and (2)(a) of Schedule 1 to, the Jobseekers Act 1995⁵,
- sections 2(4)(a), 4(6)(a) and 24(1) of the Welfare Reform Act 2007⁶.

The Secretary of State referred the proposals for these Regulations to the Social Security Advisory Committee⁷.

A draft of these Regulations was laid before Parliament in accordance with section 37(2) of the Jobseekers Act 1995⁸ and approved by a resolution of each House of Parliament.

Citation [...]

1. (1) These Regulations may be cited as the Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008.

(2) to (4) *Omitted*.

2. to 10. *Omitted*.

Amendment of the Jobseeker's Allowance Regulations 1996

11. (1) The Jobseeker's Allowance Regulations 1996⁹ are amended as follows.

(2) In regulation 5 (exceptions to requirement to be available immediately: carers etc.)¹⁰—

- (a) in paragraph (1) at the beginning, insert “Subject to paragraph (1A),”;
- (b) after paragraph (1), insert—

“(1A) In order to be regarded as available for employment, a person who has caring responsibilities in relation to a child is not required to take up employment or attend for interview within the periods referred to in paragraph (1) if those responsibilities make it unreasonable for him to do so, providing he is willing and able—

- (a) to take up employment on being given 28 days notice; and
- (b) to attend for interview in connection with the opportunity of any such employment on being given 7 days notice.

(1B) For the purposes of paragraph (1A), it is for the claimant to show that it is unreasonable for him to take up employment or attend for interview within the periods referred to in paragraph (1).”.

⁵ Section 36(4) was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), section 2, Schedule 3, paragraph 63; section 35(1) is an interpretation provision and is cited because of the meaning it gives to the word “prescribed” and “regulations”; sections 35(1) and 36(4) were amended by section 2 of, and paragraphs 62 and 63 respectively of, Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

⁶ 2007 c. 5. Section 24(1) is cited for the meaning of “prescribed” and “regulations”.

⁷ See section 172(1) of the 1992 Act.

⁸ 1995 c. 18.

⁹ S.I. 1996/207 (see SD 634/96).

¹⁰ Regulation 5(1) was substituted by S.I. 2002/3072 (see SD 152/03) and amended by S.I. 2006/1402 (see SD 31/07).

- (c) in paragraph (5)¹¹—
 - (i) for “(1) or (2)” substitute “(1), (1A) or (2)”; and
 - (ii) omit “one week, 48 hour and 24 hour”.

(3) and (4) *Omitted*.

(5) In regulation 11(1) (part-time students)¹²—

- (a) *omitted*;
- (b) for “(1), (2) or (3)” substitute “(1), (1A), (2) or (3)”.

(6) *Omitted*.

(7) In regulation 13 (additional restrictions on availability for certain groups)—

- (a) and (b) *omitted*;
- (c) after paragraph (5), insert—

“(6) This paragraph applies to a person who has caring responsibilities in relation to a child if an employment officer determines that, due to the type and number of employment vacancies within daily travelling distance of the person’s home, he would not satisfy the condition in paragraph (4)(b).

(7) *If paragraph (6) applies*, paragraph (4) has effect [...] as if sub-paragraph (b) were omitted.”.

(8) In regulation 14 (circumstances in which a person is to be treated as available)—

- (a) after sub-paragraph (1)(s)¹³, add—
 - “(t) he is looking after a child for whom he has caring responsibilities during the child’s school holidays or another similar vacation period and it would be unreasonable for him to make other arrangements for the care of that child;
 - (u) he is looking after a child for whom he has caring responsibilities at a time when the child—
 - (i) is excluded from school or another educational establishment, and
 - (ii) is not receiving education pursuant to arrangements made by *the Department of Education and Children* and there are no other arrangements for the care of that child it would be reasonable for him to make”;

(b) in paragraph (2) at the beginning, insert “Subject to paragraph (2ZB),” *and*

¹¹ Regulation 5(5) was amended by S.I. 2002/3072 (see SD 152/03).

¹² Regulation 11(1) was amended by S.I. 1996/1517 (see SD 640/98).

¹³ Regulation 14(1)(s) was inserted by S.I. 2006/1402 (see SD 31/07).

- (c) after paragraph (2), insert—

“(2ZA) A person who has caring responsibilities in relation to a child may be treated as available for employment for more than one week, but for no more than 8 weeks, on the occurrence of any of the circumstances set out in paragraph (2)(a) or (b), or any combination of those circumstances, but on no more than one occasion in any period of 12 months.

(2ZB) Where a claimant has been treated as available for employment under paragraph (2ZA) in any period of 12 months, the first week in which he is so treated shall count towards the 4 periods allowable under paragraph (2).”;

- (d) *omitted*.

(9) In regulation 17(1) (laid-off and short-time workers) for “(1) or (2)” substitute “(1), (1A) or (2)”.

(10) In regulation 19(1)(o) (circumstances in which a person is to be treated as actively seeking employment), for “14(2)” substitute “14(2) or (2ZA)”.

(11) In regulation 30 (circumstances in which a claimant is to be regarded as having good cause for failing to comply with a notification under regulation 23)¹⁴—

- (a) after paragraph (a) insert—

“(aa) where, if regulation 5(1A) applies in his case, he was required to attend on a date less than 7 days from receipt by him of the notification;”;

- (b) in paragraph (c), for “(r) or (s) or 14(2)” substitute “(r) to (u) or 14(2) or (2ZA)”.

(12) In regulation 72 (good cause for the purposes of section 19(5)(a) and (6)(c) and (d))¹⁵—

- (a) after paragraph (2)(f) add—

“(g) any child care expenses which were, or would be, necessarily incurred by the person as a result of his being in the employment or of carrying out the jobseeker’s direction if those expenses did, or would, represent an unreasonably high proportion of—

(i) in the case of employment, the remuneration which it is reasonable to expect that he would derive from that employment; or

(ii) in any other case, the income which he received, or would receive, while carrying out the jobseeker’s direction.”.

- (b) after paragraph (2) insert—

“(2A) For the purposes of paragraph (2)(d), where the person has caring responsibilities in relation to a child, in considering whether those responsibilities would, or did, make it unreasonable for him to undertake a particular employment

¹⁴ Regulation 30 was amended by SIs 2000/1978, 2002/3072 and 2006/1402 (see SDs 41/01, 152/03 and 31/07).

¹⁵ Regulation 72(2) was amended by SI 2000/1978 (SD 41/01).

or carry out the jobseeker's direction, regard shall be had, in particular, to the following matters—

- (a) child care would not be, or was not, reasonably available to him, or
- (b) if it would be, or it was, available, it would be, or was, unsuitable due to his particular needs or those of the child.”;
- (c) in paragraph (3), after “(2)(f)” insert “and (g)”;
- (d) in paragraph (6)(a)¹⁶, after “(2)(f)” insert “or (g);”.

(13) After regulation 73 (good cause for the purposes of section 19(5)(b)) insert—

“Just cause for the purpose of sections 19(6)(b) and 20A(2)(e)

73A. (1) This regulation applies for the purposes of section 19 (circumstances in which a jobseeker's allowance is not payable) and section 20A (denial or reduction of joint-claim jobseeker's allowance).

(2) In determining whether a person has just cause for any act or omission for the purposes of section 19(6)(b) and section 20A(2)(e), the matters which are to be taken into account shall include the following—

- (a) any caring responsibilities for a child which made it unreasonable for the person to remain in his employment;
- (b) any child care expenses which were necessarily incurred by the person as a result of his being in the employment if those expenses represented an unreasonably high proportion of the remuneration which he derived from the employment.

(3) For the purposes of paragraph (2)(a), in considering whether the caring responsibilities made it unreasonable for the person to remain in his employment, regard shall be had, in particular, to the following matters—

- (a) child care would not be, or was not, reasonably available to him, or
- (b) if it would be, or it was, available, it would be, or was, unsuitable due to his particular needs or those of the child.

(4) For the purposes of paragraph (2)(b), in considering whether child care expenses represented an unreasonably high proportion of remuneration, the principle shall apply that the greater the level of remuneration the higher the proportion which it is reasonable should be represented by such expenses.”.

(14) In regulation 140(1)(b) (meaning of “person in hardship”)¹⁷, for “young person” in both places substitute “child or young person”.

12. and 13. *Omitted.*

¹⁶ Regulation 72(6) was amended by SIs 2000/1978 (SD 41/01) and 2004/1008 (SD 464/04).

¹⁷ Regulation 140(1) was amended by SIs 1996/1516 (see SD 634/96), 2000/239 (see SD 736/00), 2000/1978 (see SD 41/01) and 2005/2877 (see SD 866/05) and SDs 33/00, 657/00, 82/01 and 915/09.

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

Jonathan Shaw
Parliamentary Under-Secretary of State,
Department for Work and Pensions

23rd November 2008

SCHEDULE *Omitted.*

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

Section 1A of the Social Security Act 2000 (of Tynwald) enables the Department of Social Care to make, by order, social security provision not corresponding to legislation to which section 1 of that Act applies, having regard to social conditions in the Island. Such an order may provide for the application of legislation to which section 1 applies, subject to such exceptions, adaptations and modifications specified in the order.

This Order applies to the Island the legislation referred to in article 3(1) of the Order, the provisions of which are summarised in the following paragraphs.

Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2008 (SI 2008/3051) (regulations 1 and 11 only)

These Regulations amend the Jobseeker's Allowance Regulations 1996 as they have effect in the Island ("the Jobseeker's Allowance Regulations").

Regulation 11 makes various amendments to the Jobseeker's Allowance Regulations so as to make additional provision concerning the circumstances in which claimants who have caring responsibilities in relation to a child are required to be available for and actively seeking employment.

In particular, regulation 11(12) amends regulation 72(2) of the Jobseeker's Allowance Regulations concerning good cause for refusing or failing to carry out a jobseeker's direction, or to apply for or accept employment to which a jobseeker has been referred by an employment officer, by setting out the circumstances in which child care expenses must be taken into account. Those circumstances relate to where the person necessarily incurs, or would incur, unreasonable child care expenses as the result of the employment or direction. Regulation 11(12) also provides that for the purposes of determining good cause the availability and suitability of child care must be taken into account when considering whether a claimant's caring responsibilities for a child make it unreasonable for the person to undertake a particular employment or carry out the jobseeker's direction. It further provides that those matters must also be considered in relation to just cause for voluntarily leaving employment.

Regulation 11(13) inserts a new regulation 73A into the Jobseeker's Allowance Regulations. It provides that any caring responsibilities for a child or necessary child care expenses which represent an unreasonable amount of that person's earnings must be taken into account in determining whether or not a person has just cause for leaving employment.

Regulation 11(14) also amends the Jobseeker's Allowance Regulations so as to provide that a single person who is responsible for a child may be treated as a person in hardship for the purposes of Part 9 of those Regulations if the child will suffer hardship unless a jobseeker's allowance is paid to the person.