

Isle of Man

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SD 0012/13

**SOCIAL SECURITY ADMINISTRATION
ACT 1992 (APPLICATION) (AMENDMENT)
ORDER 2013**

SD 0012/13



SOCIAL SECURITY ADMINISTRATION ACT 1992 (APPLICATION) (AMENDMENT) ORDER 2013

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Statutory Document No. 0012/13



Social Security Act 2000

SOCIAL SECURITY ADMINISTRATION ACT 1992 (APPLICATION) (AMENDMENT) ORDER 2013

Approved by Tynwald *19 February 2013*
Coming into operation in accordance with article 2

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

1 Title

This Order is the Social Security Administration Act 1992 (Application) (Amendment) Order 2013.

2 Commencement

If approved by Tynwald, this Order comes into operation —

- (a) on the day after its approval for the purposes of making estimates under section 162 of the Social Security Administration Act 1992 (of Parliament) as amended in its application to the Island by article 7; and
- (b) for all other purposes on 6th April 2013.

3 Interpretation

In this Order—

- (a) “the principal Order” means the Social Security Administration Act 1992 (Application) Order 1994; and
- (b) “the Act” means the Social Security Administration Act 1992 of Parliament; and
- (c) “section” without more means a section of the Act.

4 Principal Order amended

The Schedule to the Principal Order is amended in accordance with articles 5 and 7 and (in consequence of the provision made by article 6) in accordance with the Schedule to this Order.

5 Recovering unpaid contributions: s. 121 and Sch. 4A amended

- (1) In the entry relating to section 121 in subsection (4) —
- (a) omit “or under subsection (1) above”; and
 - (b) for “as a penalty” to the end of the subsection substitute —
 - as if it were a sum in respect of which a contributions decision-maker had issued a decision under section 114A(1) when the order of the court was made.
- (2) The Schedule shows the text of section 121 as modified by this article.
- (3) For the purposes of a recovery under section 121(4), the text of the warrant set out in Schedule 4A to the Act (as it applies to the Island) is modified by the insertion after “section 114A” of (as applied by section 121(4)).

6 Review of contributions: ss. 143 and 145 applied

Sections 143 and 145 apply as part of the law of the Island subject to the modifications set out in the Schedule, and the text set out there is to be inserted at the appropriate numerical point in the Schedule to the Principal Order.

7 NHS allocation: s. 162 amended

- (1) The entry relating to section 162 (NHS allocation) is amended as follows.
- (2) In subsection (5)—
- (a) in the opening words for everything after “means” substitute —
 - in relation to any tax year, the amount estimated in the preceding tax year to be the sum of the product of the additional rate and —
 - (b) in paragraph (a) —
 - (i) omit “estimated to be that”;
 - (ii) for “were paid” substitute will be paid;
 - (iii) for “exceeded” substitute will exceed; and
 - (iv) for “did not exceed” substitute will not exceed;
 - (c) in paragraph (b)—
 - (i) omit “estimated to be that”;
 - (ii) for “were paid” substitute will be paid; and
 - (d) in paragraphs (d) and (e) for “estimated to be” substitute of; and
 - (e) for paragraph (f) substitute—
 - (f) in the case of Class 4 contributions, 2.15% of the amount of that part of the profits or gains, or earnings, in respect of which those contributions will be paid, that —


- (i) will exceed the lower limit specified in paragraph (a) of subsection (3) of section 15, and in paragraph (a) of subsection (1A)¹ of section 18, of the Social Security Contributions and Benefits Act 1992; but
 - (ii) will not exceed the upper limit specified in those subsections.²
- (3) For subsection (6) substitute —
- (6)** In subsections (5) and (5A) “estimated” means estimated by the Treasury after consulting the Department.

In estimating for the purposes of those subsections the amounts of earnings, contributions payable and profits (as the case requires), by reference to which the appropriate national health service allocation is to be determined, assume that the rates, thresholds, and earnings limits will be the same for the year in respect of which the estimate is to be made as when the estimate is made.
 - (6ZA)** If it appears at any time in a year, in respect of which an estimate has been made under subsection (5) or (5A), that the estimate is significantly inaccurate, the Treasury may, after consultation with the Department —
 - (a) revise the estimate; and
 - (b) direct the Department to make such adjustments to the payments of the national health service allocation to the Department of Health as appear appropriate in consequence of the revision.²
- (4) In subsection (6A) at the end insert **2** for the year in which the estimate is being made².

8 Revocation

Article 2(7) of the Social Security Administration Act 1992 (Application) (Amendment) Order 2001² is revoked.

MADE 23 JANUARY 2013


WE TEARE
Minister for the Treasury

¹ Subs (1A) inserted by section 3(3) of the National Insurance Contributions Act 2002 from 6.4.10 and has effect for the tax year 2010 - 11 and subsequent years (SD802/09).

² SD 290/01.

SCHEDULE

[Articles 5(2) and 6]

SECTIONS 121, 143 AND 145 OF THE ACT AS APPLIED TO THE ISLAND

121 Unpaid contributions - supplementary

- (1) Omitted
- (2) In the Isle of Man, where a person is convicted of an offence mentioned in section 119(1)³ above and an order is made under the Criminal Justice Act 1963 (an Act of Tynwald) placing the offender on probation or discharging him absolutely or conditionally, sections 119 and 120 above, shall apply as if it were a conviction for all purposes.
- (3) Where a body corporate fails to pay any sum which it is liable to pay under sections 119 and 120 above, that sum (or such part of it as remains unpaid) shall be a debt due to the [Treasury⁴] jointly and severally from any directors of the body corporate who knew, or could reasonably be expected to have known, of the failure to pay the contributions or premiums in question.
- (4) In the Isle of Man, any sum which a person is liable to pay under section 119 or 120 above ...⁵ shall be recoverable from him *[as if it were a sum in respect of which a contributions decision-maker had issued a decision under section 114A on the date of the order of the court]*⁶.
- (5) Sums recovered by the [Treasury] under the provisions mentioned in subsection (4) above, so far as representing contributions of any class, are to be treated for all purposes of the Contributions and Benefits Act and this Act (including in particular the application of section 162 below) as contributions of that class received by the [Treasury].
- (6) Without prejudice to subsection (5) above, in so far as such sums represent primary Class 1 or Class 2 contributions, they are to be treated as contributions paid in respect of the person in respect of whom they were originally payable; and enactments relating to earnings factors shall apply accordingly.
- (7) Sums recovered by the [Treasury] under the provisions mentioned in subsection (3) above, so far as representing state scheme premiums, are to be treated for all purposes as premiums paid to the [Treasury] in respect of the persons in respect of whom they were originally payable.

³ Reference ceased to have effect from 6.4.99 by virtue of paragraph 87 of Schedule 7 to the Social Security Act 1998 (SD 92/00).

⁴ References to "the Treasury" substituted for DHSS by article 3(10) of SD 339/10 from 1.8.10

⁵ Words omitted by article 5(2)(a) of SD 0012/13.

⁶ Words in italics substituted by article 5(2)(b) of SD 0012/13.



143 Power to alter contributions with a view to adjusting level of *Manx* National Insurance Fund

- (1) Without prejudice to section 141 above, the Treasury may at any time, if *it thinks* it expedient to do so with a view to adjusting the level at which the *Manx* National Insurance Fund stands for the time being and having regard to the sums which may be expected to be paid from the Fund in any future period, make an order amending Part I of the Contributions and Benefits Act by altering any one or more of the following figures —
 - (a) the percentage rate specified as the main primary percentage in section 8(2)(a);
 - (b) the percentage rate specified as the secondary percentage in section 9(2);
 - (c) the figure specified in section 11(1) as the weekly rate of Class 2 contributions;
 - (d) the figure specified in section 13(1) as the amount of a Class 3 contribution;
 - (e) the percentage rate specified as the main Class 4 percentage in section 15(3ZA)(a).
- (2) [Omitted].
- (3) An order under subsection (1) above may if it contains an amendment altering the figure specified in section 11(1) of the Contributions and Benefits Act as the weekly rate of Class 2 contributions and the Treasury *thinks* it expedient in consequence of that amendment, amend section 11(4) of that Act by altering the figure there specified as the amount of earnings below which regulations under that subsection may except an earner from liability for Class 2 contributions.
- (4) [Omitted].

145 Power to alter primary and secondary contributions

- (1) For the purpose of adjusting amounts payable by way of primary Class 1 contributions, the Treasury may at any time make an order altering the percentage rate specified as the main primary percentage in section 8(2)(a) of the Contributions and Benefits Act.
- (2) For the purpose of adjusting amounts payable by way of secondary Class 1 contributions, the Treasury may at any time make an order altering the percentage rate specified as the secondary percentage in section 9(2) of the Contributions and Benefits Act.
- (3) [Omitted].
- (4) Without prejudice to section 141 or 143 above, the Treasury may make such order —

SCHEDULE

- (a) amending section 11(1) of the Contributions and Benefits Act by altering the figure specified in that subsection as the weekly rate of Class 2 contributions;
 - (b) amending section 13(1) of that Act by altering the figure specified in that subsection as the amount of a Class 3 contribution,
- as the Treasury *thinks* fit in consequence of the coming into force of an order made or proposed to be made under subsection (1) above.



EXPLANATORY NOTE

(This note is not part of the Order)

This Order further modifies the Social Security Administration Act 1992 (c. 5 of Parliament) in its application to the Island. It provides for the application, subject to modifications, of sections 143 and 145 (which relate to reviews of levels of national insurance contributions). It also amends some provisions which already apply, namely section 121 (enforcement of unpaid contributions) and section 162 (the method of computing the contribution to the National Health Service from the Manx National Insurance Fund) and modifies Schedule 4B (which sets out the form of a coroner's warrant under section 114A) where such a warrant is issued to secure payment of sums due under section 121(4).