

# Social Security News

Issue 199 October 2022

This News Bulletin is intended to brief those with a special interest in social security matters of the changes in the law following each sitting of Tynwald at which the changes are approved.

Copies of the Orders referred to in this bulletin may be obtained from:

Tynwald Library, Legislative Buildings, Douglas, IM1 3PW.

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Social Security legislation is available [online](#).

The relevant document number is shown against the item.

For more details on the Orders described in this newsletter.

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## In this issue:

**SD2022/0203** applies the following 2 statutory instruments of the United Kingdom Parliament to the Island.

- Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (SI 2022/344)
- Child Benefit and Tax Credits (Amendment) Regulations 2022 (SI 2022/346)

**SD2022/0273** amends Part XC and Part XD of the Social Security Contributions and Benefits Act 1992 to provide for a second round of energy support payments and family support payments to be made to qualifying persons.

**SD2022/0283** amends the interpretation provision in Part XD of the Social Security Contributions and Benefits Act 1992, as it is applied to the Island, specifically the definition of the "relevant day" for the purposes of "FSP2" ("FSP2" being the second round of family support payments to be paid to qualifying persons in October 2022).



**Isle of Man**  
Government

*Reillys Ellan Vannin*

The Treasury

This Order applies to the Island 2 statutory instruments of the United Kingdom Parliament the provisions of which are summarised in the following paragraphs.

The applied legislation is deemed to have had effect in the Island from the date from which it has had effect in Great Britain (i.e., 22 March 2022).

### **Social Security (Habitual Residence and Past Presence) (Amendment) Regulations 2022 (SI 2022/344)**

These Regulations amend existing legislation to enable persons who –

- were living in Ukraine immediately before 1 January 2022;
- who left Ukraine in connection with the Russian invasion which took place on 24th February 2022; and
- have been granted leave to enter or remain in the Isle of Man under or outside the Isle of Man immigration rules, or they have a right of abode in the Island

to access disability and carers benefits provided the other relevant conditions for benefit are met.

The amendments are made to the Social Security (Invalid Care Allowance) Regulations 1976, the Social Security (Attendance Allowance) Regulations 1991 and the Social Security (Disability Living Allowance) Regulations 1991 (as they are each applied to the Island). The amendments have the effect of exempting a person claiming a carer's allowance, attendance allowance or disability living allowance who has leave to enter or remain in the Isle of Man, or has a right of abode in the Island, who was living in Ukraine immediately before 1 January 2022 and who left Ukraine in the circumstances mentioned from the "past presence test". The "past presence test" normally has to be fulfilled by a person in order for them to be entitled to a disability or carers benefit. It normally requires a person to have been present in the Island (or the UK, by virtue of reciprocal arrangements) for at least 104 weeks in the 156 weeks immediately before that day to be eligible for benefit.

These amendments also remove the condition that a person must be ordinarily resident in the Island in order to qualify for disability or carers benefits in the case of persons who have leave to enter or remain in the Isle of Man and were in Ukraine immediately before 1 January 2022 and who left Ukraine in the circumstances mentioned.

### **Child Benefit and Tax Credits (Amendment) Regulations 2022 (SI 2022/346)**

These Regulations amend the Child Benefit (General) Regulations 2006 as they are applied to the Island ("the Child Benefit Regulations") to enable persons who were living in Ukraine immediately before 1 January 2022 and who left Ukraine because of the Russian invasion to qualify for child benefit when they would not otherwise do so.

Normally a person is not entitled to child benefit for any week unless they are in the Island in that week and were in the Island (or the UK, by virtue of reciprocal arrangements) for more than 182 days in the previous 52 weeks. However, regulations may prescribe circumstances in which a person is to be treated as having been in the Island for more than 182 days in the previous 52 weeks for those purposes. The amendments made by these Regulations extend the circumstances in which a person claiming child benefit may qualify for child benefit when they would not otherwise do so because of the requirement to have been in the Island for more than 182 days in the previous 52 weeks.

Regulation 2 inserts new paragraph (4A) into regulation 24 of the Child Benefit Regulations, as a result of which a person may qualify for child benefit when they would not otherwise do so for any week if they are in the Island in that week and were living in Ukraine immediately before 1 January 2022 and left Ukraine in the circumstances mentioned.

**Social Security Contributions and Benefits Act 1992 (Application) (Amendment) (No. 3) Order 2022**  
SD2022/0273

This Order amends the Order which applied to the Island the Social Security Contributions and Benefits Act 1992 (of Parliament).

Part XC of the Act is amended to provide for a further energy support payment to be paid to qualifying persons in 2022 (referred to as "ESP2"), and sets out the conditions and circumstances, including the relevant period and relevant day, under which it will be paid and the amount of such payment.

To be entitled to an ESP2 a person must, among other things, be entitled to an income-related benefit for a period which includes 3 October 2022 and be continuously entitled to an income-related benefit for the period from 5 September 2022 to 2 October 2022.

Part XC is further amended to revoke provision for variable rate energy support payments.

Part XD of the Act is amended to provide for a further family support payment to be paid to qualifying persons in 2022 (referred to as "FSP2"), and sets out the conditions, including the relevant day, under which it will be paid and the amount of such payment.

To be entitled to an FSP2 a person must, among other things, be entitled to child benefit for a period which includes 10 October 2022.

**Social Security Contributions and Benefits Act 1992 (Application) (Amendment) (No. 5) Order 2022**  
SD2022/0283

This Order amends the Order which applied to the Island the Social Security Contributions and Benefits Act 1992 (of Parliament).

It amends the interpretation provision in Part XD of the Social Security Contributions and Benefits Act 1992, as it is applied to the Island, specifically the definition of the "relevant day" for the purposes of "FSP2" ("FSP2" being the second round of family support payments to be paid to qualifying persons in October 2022).

This amendment was originally to have been achieved by virtue of Article 5(4) of the Social Security Contributions and Benefits Act 1992 (Application) (Amendment) (No. 3) Order 2022 ("the No. 3 Order"). However, after the No. 3 Order was made it was discovered that Article 5(4) is erroneous. Article 5(4) of the No. 3 Order is revoked by this Order.