

# Social Security News

Issue 207 November 2023

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.

Tel: 01624 685520

Email: [library@tyrwald.org.im](mailto:library@tyrwald.org.im)

Website: <https://www.tyrwald.org.im/links/secondary-legislation>

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 -

Tel: 01624 685025

Email: [darrin.oldam@gov.im](mailto:darrin.oldam@gov.im)

## In this issue:

**SD2023/0245** applies to the Island the Social Security (Special Rules for End of Life) Act 2022 (of Parliament). The application of that Act to the Island realigns the relevant benefit provisions in the IOM with those having effect in Great Britain as regards attendance allowance and disability living allowance for the terminally ill.

**SD2023/0249** amends the provisions of the Social Security Contributions and Benefits Act 1992 (of Parliament) as it applies to the Island which provide for the circumstances in which a person is to be regarded as being terminally ill for the purposes of incapacity benefit.

**SD2023/0261** amends the Social Security Contributions and Benefits Act 1992 (of Parliament) as it applies to the Island by reinstating Part XA which provides for the payment of the lump-sum winter bonus.



**Isle of Man**  
Government  
*Reiljys Ellan Vannin*

The Treasury  
*Yn Tashtey*

## Social Security (Special Rules for End of Life) Act 2022 (Application) Order 2023

SD2023/0245

This Order applies to the Island the Social Security (Special Rules for End of Life) Act 2022 (of Parliament), subject to the exceptions, adaptations and modifications specified in the Order.

The applied legislation is deemed to have had effect from the date on which it came into effect in Great Britain (i.e., 3 April 2023).

This measure follows Tynwald's approval in July of this year of the Social Security Act 2000 (Amendment) Order 2023, which amended Schedule 1 to the Social Security Act 2000 (of Tynwald) by adding to it an entry relating to the Social Security (Special Rules for End of Life) Act 2022 ("the 2022 Act"), thus enabling this Order to be made.

A person who is regarded as "terminally ill" is automatically entitled, upon a claim being made, to either –

- the higher rate of attendance allowance (AA), if they have reached state pension age, or
- the highest rate care component of disability living allowance (DLA), if they are under state pension age (this includes a child).

They don't have to have any care needs to qualify.

Furthermore –

- the normal qualifying period (i.e., 6 months following the date from which a person meets the qualifying care conditions for AA and 3 months following the date from which a person meets the qualifying care conditions for DLA) during which benefit is not normally payable doesn't apply to them, nor does the "past presence" test; and
- their claim will be fast-tracked: an award of benefit will usually be made to them within 10 days of receiving their claim.

The above are collectively known as the "Special Rules".

Under the legislation as it is currently applied to the IOM a person is considered to be "terminally ill" if they are suffering from a progressive disease and their death in consequence of that disease can reasonably be expected within 6 months. The fact that a person is terminally ill (as described above) is certified by a medical practitioner or a specialist nurse.

Through the enactment of The Social Security (Special Rules for End of Life) Act 2022 ("the 2022 Act") the UK Government has replaced the so-called "six-month rule" with a "twelve-month rule" for each of the benefits which have provisions relating to terminal illness.

In the UK, Section 1 of the 2022 Act (which amends the "six-month rule" for AA and DLA) was brought into effect from 3 April 2023, by virtue of The Social Security (Special Rules for End of Life) Act 2022 (Commencement) Regulations 2023 (SI 2023/383).

This Order realigns the relevant benefit provisions in the IOM with those having effect in Great Britain as regards attendance allowance and disability living allowance for the terminally ill.

## Social Security Contributions and Benefits Act 1992 (Application) (Amendment) (No. 2) Order 2023

SD2023/0249

This Order amends the Social Security Contributions and Benefits Act 1992 as it applies to the Island ("the 1992 Act") as to the circumstances in which a person is to be regarded as being terminally ill for the purposes of incapacity benefit. It came into effect on the 22 September 2023.

Under section 30B of the 1992 Act a higher, long-term rate of incapacity benefit may become payable to a person diagnosed as being terminally ill earlier during their period of incapacity for work than would otherwise be the case.

Under sections 40 and 41 of the 1992 Act certain widows and widowers who do not qualify for incapacity benefit under the normal entitlement conditions and who are diagnosed as being terminally ill may also qualify for incapacity benefit (payable at the long-term rate) when they would not otherwise do so.

Currently a person is considered to be "terminally ill" for these purposes if they have a progressive disease and it is expected that they will die as a result of that disease within the following 6 months. It falls to a medical practitioner or specialist nurse to determine whether a person is "terminally ill" for these purposes. This Order amends the definition of when a person is "terminally ill" to extend that period from 6 to 12 months.

## Social Security Legislation (Benefits) (Application) (Amendment) (No. 2) Order 2023 SD2023/0261

This Order amends the Social Security Contributions and Benefits Act 1992 (of Parliament) as it applies to the Island ("the 1992 Act") so as to reinstate provision under which the lump-sum winter bonus is payable (i.e., Part XA).

Part XA provides for the payment for any year of a winter bonus and includes provision specifying the qualifying conditions for the bonus, the circumstances in which those conditions are met and the amount of the bonus.

To qualify for a winter bonus in any year a person must be entitled to income support for any day in the week commencing with the first Monday in January.

Also –

- they or their partner must be liable to pay housing costs for where they live, or be treated as if they are liable to pay housing costs for where they live, and
- they must qualify for either a pensioner premium, disability premium, incapacity premium or disabled child premium or an allowance for a child aged under 5 as part of their income support applicable amount.

'Housing costs' for this purpose means: rent, mortgage interest payments, rates, property maintenance and buildings insurance.

A person may be treated as responsible for the payment of housing costs if they are –

- severely disabled,
- a carer for a severely disabled person who lives with them, or
- responsible for paying the heating bills for their home.

Where a person is under state pension age they must also have been entitled to a Christmas bonus from social security in the immediately preceding year to qualify for the winter bonus.

If a qualifying person shares responsibility for the payment of housing costs with a person who is not their partner, they will be eligible for a prorated winter bonus according to the number of people with whom they share that responsibility.

People who live a hotel, guest house, other lodgings or residential care don't qualify for the winter bonus.

Winter bonuses are paid to qualifying persons automatically, usually in January each year. Claims are not required to be made.

The winter bonus is disregarded as income and capital for income support purposes and is not taxable.

This Order also makes provision relating to the administration of the winter bonus and that it is to be paid for out of general revenue.

It also makes consequential and minor amendments to the 1992 Act and other social security legislation, including omitting redundant references to the variable rate winter bonus and the additional winter bonus, which are no longer available.