

Social Security News

Issue 203 February 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 and Regulations referred to in this bulletin may be obtained from:

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

Tel: 01624 685520

Email: library@tyrwald.org.im

Website: <https://www.tynwald.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 and Regulations described in this newsletter.

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In this issue:

SD2022/0322 amends the Income Support (General) (Isle of Man) Regulations 2000 so that persons detained in custody under a sentence of imprisonment may be entitled to income support in respect of their continuing liability to pay housing costs for up to 26 weeks while they are absent from their home.

SD2022/0323 amends the Income Support (General) (Isle of Man) Regulations 2000. They are amended to provide for the circumstances in which entitlement to income support may continue while a person is temporarily outside the Island and the circumstances in which a person may qualify for income support even though they are outside the Island when they claim income support.

SD2023/0019 relates to the annual uprating of state pensions as well as other social security benefits and allowances applying in the Island. It provides for new rates of benefits and allowances to apply from the week commencing 10 April 2023.



Isle of Man
Government

Reillys Ellan Vannin

The Treasury

SD2023/0020 provides that where a question has arisen about the effect of the Social Security Benefits Up-rating Order 2023 on a benefit already in payment, the altered rates will not apply until that question is determined by an adjudication officer, the social security appeals tribunal or the Social Security Commissioner. It also restricts the application of the increases specified in the Social Security Benefits Up-rating Order 2023 in certain cases where the beneficiary is not ordinarily resident in the Isle of Man.

SD2023/0021 amends the Pension Supplement Scheme 2001. The changes made reduce the percentages by which the rate of basic retirement pension and other qualifying benefits are multiplied in calculating the rate of pension supplement payable from the week commencing 10 April 2023, in order to avoid what would otherwise be automatic increases in the rates payable.

SD2023/0022 amends the Pension (Top-up) Order 2016, so that persons entitled to a pension top-up immediately before 10 April 2023 will benefit from a 10.1% increase in the rate of their top-up (the same percentage increase as for the basic state pension) from the week commencing 10 April 2023.

SD2023/0023 amends provision in the Income Support (General) (Isle of Man) Regulations 2000 under which the capital value of the former home of a person in an adult care home is taken into account as income of that person for the purposes of a claim for income support. Also increases the amounts to be disregarded in the case of payments made to the claimant under a contractual liability in respect of the occupation of the claimant's home by another person.

SD2023/0024 amends the Employed Person's Allowance (General) Regulations 2011 in two respects. It increases the maximum amount of maintenance to be disregarded when calculating a person's income and also increases the amount of income received by a claimant from sub-letting their home which is to be disregarded when calculating the amount of employed person's allowance payable.

SD2023/0025 amends the Maternity and Funeral Expenses (General) (Isle of Man) Regulations 2007 in two respects. It increases the amount of a maternity payment and also increases the maximum amount allowable for non-specified funeral expenses when calculating the amount of a funeral payment.

SD2023/0026 amends 3 sets of social security regulations as they apply to the Island relating to the amount a person may earn without it affecting their entitlement to certain social security benefits. The benefits concerned are carer's allowance, incapacity benefit (in certain circumstances) and unemployability supplement (an industrial injuries benefit).

Income Support (General) (Isle of Man) (Amendment) (No. 4) Regulations 2022 SD2022/0322

These Regulations amend the Income Support (General) (Isle of Man) Regulations 2000 ("the Regulations").

As a result of the amendments, persons detained in custody under a sentence of imprisonment imposed by a court may be entitled to income support in respect of their continuing liability to pay housing costs for up to 26 weeks while they are absent from their home.

However, any time spent on remand pending trial or sentence immediately before they are sentenced to a term of imprisonment while they are treated as occupying their home is offset against the maximum of 26 weeks.

During the period of absence from their home only the housing costs element of income support may be payable, usually up to a maximum of £124.00 per week (currently). And this may be payable only where both the prisoner (tenant) and their landlord confirm an intention for the tenant to return to the accommodation as soon as their term of imprisonment ends.

Existing provisions under which persons on remand awaiting trial or sentence may be eligible to income support in respect of their continuing liability to pay housing costs for up to 52 weeks while they are temporarily absent from their home are retained but are transposed (repositioned) within the regulations.

The amendments include -

- in Schedule 1 to the Regulations which sets out the prescribed categories of persons who are eligible to claim income support, replacing the category of “persons in custody” (i.e., a person remanded in, or committed in, custody for trial or for sentencing only) with “prisoners” (which includes persons detained in custody under a sentence of imprisonment imposed by a court);
- substituting provisions specifying the applicable amount of income support in the case of prisoners; and
- inserting new provision under which a prisoner may be treated as still occupying the dwelling they normally occupy as their home for up to 26 weeks’ absence on account of detention under a sentence imposed by a court, subject to certain conditions being satisfied.

Other related amendments are made to the Regulations.

Income Support (General) (Isle of Man) (Amendment) (No. 5) Regulations 2022 SD2022/0323

These Regulations further amend the Income Support (General) (Isle of Man) Regulations 2000 (“the income support regulations”).

Newly substituted regulations 7 and 7A of the income support regulations set out, respectively, the circumstances in which entitlement to income support may continue while a person is temporarily outside the Island and the circumstances in which a person may qualify for income support even though they are outside the Island when they claim income support.

The following table sets out the position in relation to each cohort and circumstance following the amendments made by these Regulations.

Cohort/circumstances	Period Income Support continues to be paid
<p>1. Individuals getting income support (“IS”) immediately prior to leaving the IOM whose absence from the IOM is for any other reason than those in 2 to 4 below (so, for example, they have gone on holiday or for cosmetic treatment).</p> <p>Their absence from the IOM is unlikely to exceed 52 weeks and they continue to satisfy the other conditions of entitlement to income support.</p>	<p>The first 4 weeks.</p> <p>Any two or more periods of temporary absence from the Isle of Man separated by a break of not more than 56 days is treated as one continuous period of temporary absence from the Isle of Man.</p>

Cohort/circumstances	Period Income Support continues to be paid
<p>2. Individuals getting income support immediately prior to leaving the IOM whose absence is to accompany a child or young person of theirs solely in connection with arrangements made for the treatment of that child or young person for a disease or bodily or mental disablement and those arrangements relate to treatment outside the IOM by (or under the supervision of) a person appropriately qualified to carry out that treatment.</p> <p>Their absence from the IOM is unlikely to exceed 52 weeks and the individual continues to satisfy the other conditions of entitlement to income support.</p>	<p>Throughout that period of temporary absence if referred for treatment by NHS.</p> <p>The first 8 weeks if no referral by NHS.</p>
<p>3. Individuals getting income support immediately prior to leaving the IOM whose absence from the IOM is for the purpose of that individual receiving treatment from an appropriately qualified person.</p> <p>Their absence from the IOM is unlikely to exceed 52 weeks and the individual continues to satisfy the other conditions of entitlement to income support.</p>	<p>Throughout that period of temporary absence if referred for treatment by NHS.</p> <p>The first 8 weeks if no referral by NHS.</p>
<p>4. Individuals getting income support immediately prior to leaving the IOM whose absence from the IOM is for the sole purpose of attending a course, scheme or assessment arranged by the Treasury or by another Government Department.</p> <p>Their absence from the IOM is unlikely to exceed 52 weeks and the individual continues to satisfy the other conditions of entitlement to income support.</p>	<p>Throughout that period of temporary absence.</p>
<p>5. Individuals <u>not</u> getting income support immediately prior to leaving the IOM, but who makes a successful claim for income support whilst they are undergoing medical treatment outside the IOM, whose absence from the IOM is for the sole purpose of receiving medical treatment from an appropriately qualified person.</p> <p>The individual is in receipt of none of the following benefits in Great Britain –</p> <ul style="list-style-type: none"> • employment and support allowance • incapacity benefit • income support • universal credit <p>They are not in receipt of any other benefit or payment analogous to income support or any of the other benefits mentioned above in any country or territory outside the Isle of Man.</p>	<p>Throughout that period of absence if referred for treatment by NHS.</p> <p>The first 8 weeks of that period of absence if no referral by NHS.</p>

Cohort/circumstances	Period Income Support continues to be paid
<p>6. Lone parents, single persons looking after a child and persons temporarily looking after another person <u>not</u> getting income support immediately prior to leaving the IOM, but who make a successful claim for income support whilst they are outside the IOM, whose absence is to accompany a child or young person of theirs solely in connection with arrangements made for the treatment of that child or young person for a disease or bodily or mental disablement and those arrangements relate to treatment outside the IOM by (or under the supervision of) a person appropriately qualified to carry out that treatment.</p> <p>The individual is in receipt of neither income support or universal credit in Great Britain</p> <ul style="list-style-type: none"> • employment and support allowance • incapacity benefit • income support • universal credit <p>They are not in receipt of any other benefit or payment analogous to income support or either of the benefits mentioned above in any country or territory outside the Isle of Man.</p>	<p>Throughout that period of absence if referred for treatment by NHS.</p> <p>The first 8 weeks of that period of absence if no referral by NHS.</p>

Social Security Benefits Uprating Order 2023

SD2023/0019

This Order relates to the annual uprating of state pensions as well as other social security benefits and allowances applying in the Island. It provides for new rates of benefits and allowances to apply from the week commencing 10 April 2023, as follows.

Rates of the Manx state pension (including “protected payments”) as well as rates of Retirement Pension (including additional state pension and graduated retirement benefit) are increased by 10.1%.

The rates of most other National Insurance funded benefits, as well as the Nursing Care Contribution, are also increased by 10.1%, with the following exceptions –

- Maternity allowance: the maximum rate payable to employed earners is increased by 16.8%, as is the standard rate payable to women who have been self-employed and have paid class 2 N.I. contributions during the relevant period;
- Adoption allowance and paternity allowance: the maximum rate payable is increased by 16.8% (note that adoption allowance and paternity allowance are only available to employed earners);
- Carer’s allowance: the weekly rate is increased by £15.00 (10.7%); and
- Bereavement support payment: the lump-sum payment is increased from £3,000 to £3,500.

The rates of benefits paid out of general revenue - i.e., child benefit, disability benefits and income-related benefits - are, generally speaking, increased by 9.8%. Exceptions are as follows –

- Disability living allowance: the higher rate of the mobility component is increased by 10.1%, in order that it continues to be aligned with the equivalent UK rate (which is of particular importance to *Motability* customers);

- Income-related benefits:
 - the rates of the carer premium for income support and income-based jobseeker’s allowance are increased by just over 17%, in order that recipients of those benefits are able to fully benefit from the £15.00 a week increase in the rate of carer’s allowance;
 - the maxima allowable towards housing costs for the income-related benefits are increased by 5.0 per cent, rounded to the nearest 50p;
 - the maxima allowable towards child care costs for the income-related benefits are increased by 6.7%, rounded to the nearest whole pound.

Social Security Benefits Up-rating Regulations 2023

SD2023/0020

These Regulations provide that where a question has arisen about the effect of the Social Security Benefits Up-rating Order 2023 (“the Up-rating Order”) on a benefit already in payment, the altered rates will not apply until that question is determined by an adjudication officer, the social security appeals tribunal or the Social Security Commissioner.

The Regulations also apply the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975 (as they have effect in the Island) so as to restrict the application of the increases specified in the Up-rating Order in certain cases where the beneficiary is not ordinarily resident in the Isle of Man. It should be noted that beneficiaries living in certain countries do not receive annual increases in their state pensions.

Pension Supplement (Amendment) Order 2023

SD2023/0021

This Order amends the Pension Supplement Scheme 2001 (“the Scheme”). Despite its revocation, the Scheme continues to have effect in the case of certain persons, including those who were entitled to a supplement under the Scheme immediately before 6 April 2019.

The changes made reduce the percentages by which the rate of basic retirement pension and other qualifying benefits are multiplied in calculating the rate of pension supplement payable from the week commencing 10 April 2023.

For people who get a Category A or Category B retirement pension, the percentage is reduced from 37.892% to 34.411%. For people who get widowed mother’s allowance, widow’s pension or widowed parent’s allowance, the percentage is reduced from 41.828% to 37.994%.

As a result of these measures, the rates of pension supplement payable in 2023/24 will be the same as those payable in 2022/23 (for example, £53.75 per week with a 100% Category A retirement pension).

Pension (Top-up) (Amendment) Order 2023

SD2023/0022

This Order amends the Pension (Top-up) Order 2016.

The changes made mean that persons entitled to a pension top-up immediately before 10 April 2023 will benefit from a 10.1% increase in the rate of their top-up (the same percentage increase as for the basic state pension pension) from the week commencing 10 April 2023.

Income Support (General) (Isle of Man) (Amendment) Regulations 2023

SD2023/0023

These Regulations amend provision in the Income Support (General) (Isle of Man) Regulations 2000 under which the capital value of the former home of a person living in an adult care home is taken into account as income of that person for the purposes of their claim for income support.

Currently, the value of the former home is taken into account as income at the rate of 5% of the first £185,000 of its value and at 10% of any additional value above £185,000. The amendments made increase - from £185,000 to £200,000 - the value taken into account at 5% and provide that any value above £200,000 is to be taken into account at 10%.

As a result, where a person has moved out of their own home into a care home and their former home is worth more than £185,000 that person may qualify for more income support than they would currently do so.

The Regulations also increase by 9.8% the amounts to be disregarded in the case of payments made to the claimant under a contractual liability in respect of the occupation of the claimant's home by another person.

Employed Person's Allowance (General) (Amendment) Regulations 2023

SD2023/0024

These Regulations amend the Employed Person's Allowance (General) Regulations 2011 in two respects, as follows.

The maximum amount of maintenance paid (or due to be paid) by –

- the claimant's former partner (or the claimant's partner's former partner); or
- the parent of a child or young person, if that child or young person is a member of the claimant's family

which is to be disregarded when calculating the amount of employed person's allowance payable in any case is increased from £27.20 to £30.00 per week.

The amount of income received by a claimant from sub-letting their home which is to be disregarded when calculating the amount of employed person's allowance payable in any case is increased from £6.75 to £7.40 per week. The additional amount which is to be disregarded where the sub-letting charge is inclusive of amount for heating is increased from £15.75 to £17.30 per week.

Maternity and Funeral Expenses (General) (Isle of Man) (Amendment) Regulations 2023

SD2023/0025

These Regulations amend the Maternity and Funeral Expenses (General) (Isle of Man) Regulations 2007 in two respects, as follows.

They increase the amount of a maternity payment payable under those Regulations – from £300 to £350 – where a maternity payment has been paid to the claimant (or the claimant's partner) in the 3-year period before the date of their claim for another maternity payment, and from £600 to £700 in any other case.

They also increase – from £1,700 to £2,000 – the maximum amount allowable for non-specified funeral expenses when calculating the amount of a funeral payment payable. Where items and services have been provided on the death of the deceased under a pre-paid funeral plan or analogous arrangement, the maximum allowable for non-specified funeral expenses is increased from £170 to £200.

Social Security Legislation (Benefits) (Application) (Amendment) Order 2023

SD2023/0026

This Order amends 3 sets of social security regulations as they apply to the Island relating to the amount a person may earn without it affecting their entitlement to certain social security benefits. The benefits concerned are carer's allowance, incapacity benefit (in certain circumstances) and unemployability supplement (an industrial injuries benefit).

Currently, the weekly earnings limit for carer's allowance and the permitted work higher earnings limit for incapacity benefit is 16 x the Isle of Man single hourly rate of the minimum wage at the time. For unemployability supplement it is the annual equivalent.

This Order provides that from 10 April 2023 the weekly earnings limits for carer's allowance and the permitted work higher earnings limit for incapacity benefit are to be £180.00. The annual equivalent in the case of unemployability supplement is increased accordingly.