



ST HELENA

REVISED EDITION OF THE LAWS, 2017

FAMILY, EDUCATION AND WELFARE

SOCIAL SECURITY ORDINANCE, 2010¹

Ordinance 10 of 2010

In force 1 April 2011

Amended by Ordinance 3 of 2011, 10 of 2015 (in force 1 August 2015)

Subsidiary legislation:

SOCIAL SECURITY REGULATIONS, 2011

Legal Notice 3 of 2011

Amended by L.N. 12/2012, L.N. 37/2012, L.N. 39/2012, L.N. 30 /2013, L.N. 43/2013, L.N. 5/2015, L.N. 23/2015, L.N. 25/2015, L.N. 3/2016, L.N. 9/2017, L.N.19/2017, L.N. 21/2017 (in force 1 December 2017)

SOCIAL SECURITY ORDINANCE, 2010

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AN ORDINANCE to provide for a Basic Island Pension and for Income Related Benefits and for connected and incidental matters.

PART I PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the Social Security Ordinance, 2010, and comes into force on 1st April 2011.

Interpretation

2. In this Ordinance, unless the context otherwise requires—

“adjudication officer” means a person appointed as such under section 3;

“adult” means a person over the age of 18 years, but includes a person over the age of 16 years who is no longer in full time education;

“financial year” means any year commencing on 1st April and ending on 31st March of the following year;

“household” means one or more persons (whether or not related), who live together in a dwelling and maintain a common living, sharing normal domestic tasks and expenditures, including the purchase, cooking and eating of food, and for purposes of determination of any benefit under this Ordinance, includes only such persons who are physically present in St Helena and who actually reside in such dwelling; and **“member”** in relation to a household is to be construed accordingly;

“physically present in St Helena” in relation to any person, means being present on the island with the right to live and work in St Helena, and in determining such presence, there is not be taken into account any period during which the person is off the island—

- (a) for less than 90 days at any one time; or
- (b) for purposes of undergoing overseas medical referral, authorised and arranged by the Government of St Helena;

“qualifying years” has the meaning assigned to it in section 5;

Appointment of adjudication officers

3. The Governor must appoint such number of adjudication officers as are necessary or desirable for the administration of this Ordinance.

PART II BASIC ISLAND PENSION

Entitlement to Basic Island Pension

4. (1) Every individual to whom this subsection applies is, subject to section 7, entitled to a benefit, to be known as a Basic Island Pension, in an amount determined in accordance with regulations made under section 17.

(2) Subsection (1) applies to any individual who—

- (a) is aged 65 years or older;
- (b) is physically present in St Helena; and
- (c) has completed at least 20 qualifying years in St Helena, as described in section 5.

Determination of qualifying years

5. (1) For purposes of section 4, a qualifying year in relation to an individual means any financial year during which the individual—

- (a) was over the age of 15 years;
- (b) was physically present in St Helena for a period exceeding (or 2 or more periods exceeding, in aggregate) 6 months in such year; and
- (c) for the whole year—
 - (i) was engaged in employment (including self-employment) in St Helena and (in the case of self-employment) filed a tax return in respect of that year;
 - (ii) worked on a family farm or in a family business, regardless of whether or not the person was paid for such work;
 - (iii) had a child under the age of 5 years or was caring for his or her disabled child; or
 - (iv) was in receipt of a disability pension or carer's allowance paid by the Government of St Helena, or, had the current rules for payment of such disability pension or carer's allowance applied at the time, would have been entitled to such a pension or allowance.

(2) For the purposes of subsection (1), a person is to be treated as physically present in St Helena, and engaged in employment in St Helena, at any time when the person was ordinarily resident in St Helena and was employed as a member of the crew of the ***RMS St Helena***.

Application and determination of benefit

6. (1) A person who believes he or she is or may become entitled to a Basic Island Pension under this Part may apply in the prescribed form to an adjudication officer for payment of such benefit.

(2) The adjudication officer must consider any such application and may for this purpose conduct an investigation and request additional information.

(3) If the adjudication officer is satisfied that section 4(1) applies to the applicant, the adjudication officer must provide the applicant with a written notification of award setting out the amount of the Basic Island Pension to which the applicant is entitled.

(4) If the adjudication officer determines that—
 (a) an applicant is not entitled to the Basic Island Pension; or
 (b) the applicant has failed or refuses to give written authority to the adjudication officer to obtain any information under section 11(1),
 the adjudication officer must inform the applicant in writing, set out the reasons for the determination and notify the applicant of the right of appeal under section 14.

Withdrawal or adjustment of entitlement to benefit

7. (1) An adjudication officer may withdraw or adjust the payment of any Basic Island Pension if the officer becomes aware (whether by notice under section 11 or otherwise) that the circumstances on which the individual's entitlement to such pension, or the amount of it, is based is incorrect or has changed.

(2) An adjudication officer may suspend payment of any Basic Island Pension to an individual if the individual fails to provide any information requested by the adjudication officer.

(3) If an individual who is entitled to the Basic Island Pension ceases to be physically present on St Helena as required by section 4(2)(b), the entitlement ceases with effect from the date that the person has been absent from St Helena for a continuous period of 90 days or more.

(4) An individual's entitlement to the Basic Island Pension ceases with immediate effect if the individual is convicted of an offence and is sentenced to immediate imprisonment for a period exceeding 30 days.

PART III INCOME RELATED BENEFITS

Income Related Benefit

8. (1) Every household on St Helena to which this subsection applies is entitled to a benefit, to be known as an Income Related Benefit, in an amount determined in accordance with regulations made under section 17.

- (2) Subsection (1) applies to a household if—
 (a) the income level of the household during the relevant period is less than the household poverty line for that period, as determined in accordance with regulations made under section 17;
 (b) the applicant applying for the benefit, or to whom the benefit is paid, on behalf of such household is not employed full time on St Helena; and
 (c) every adult member of such household is either—

- (i) employed full time on St Helena (other than the applicant referred to in paragraph (b));
- (ii) aged 65 years or older;
- (iii) registered as unemployed;
- (iv) in receipt of a disability pension or carer's allowance; or
- (v) the carer of one or more children aged under 5 years or his or her disabled child.

(3) For purposes of section 8(2)(c)(v)—

- (a) only one person may at any one time qualify as the carer of a child; and
- (b) if more than one child of the same parents reside in the same household, only one parent may at any one time qualify as carer of such children.

Application and determination of benefit

9. (1) Subject to subsection (2), an individual who is a member of a household which is or may be entitled to a benefit under section 8, may apply on behalf of such household to an adjudication officer in the prescribed form for payment of such benefit.

(2) Subsection (1) applies to an individual who is—

- (a) an adult;
- (b) not in full time employment; and
- (c) at the time of the application on the island and living in the household,

and where, subject to subsection (6), no other member of the same household has applied for the benefit under this section in respect of the same period.

(3) The adjudication officer must consider any such application and may for this purpose conduct an investigation and request additional information.

(4) If the household is entitled to the benefit under section 8 and subsection (1) applies to the applicant, the adjudication officer must, subject to subsection (5), provide the applicant with a written notification of award setting out the amount of the benefit to which the applicant is entitled for the benefit of the household.

(5) If the adjudication officer determines that——

- (a) a household is not entitled to the benefit;
- (b) subsection (1) does not apply to the applicant;
- (c) the applicant has failed or refuses to give written authority to the adjudication officer to obtain any information under section 11(1); or
- (d) there is sufficient reason why any benefit to which the household is entitled should rather be paid to another member of the household as provided for in subsection (6),

the adjudication officer must inform the applicant in writing setting out the reasons for the determination and notify the applicant of the right of appeal under section 14.

(6) If an applicant has submitted an application on behalf of a household under subsection (1) and the adjudication officer is of the view that the benefits to which such household is entitled should not be paid to the applicant, the adjudication officer must inform another member of the household, who qualifies under subsection (2), to submit a separate application under subsection (1) on behalf of the household.

(7) The applicant to whom the benefit is paid on behalf of the household is for the purposes of sections 10(a), 11(2), 13, 14 and 15 deemed to be the person entitled to the benefit.

Withdrawal or adjustment of entitlement to benefit

10. An adjudication officer may—
- (a) withdraw or adjust the payment of any Income Related Benefit if the officer becomes aware (whether by notice under section 11 or otherwise) that the circumstances on which the applicant's entitlement to such benefit, or the amount of it, is based is incorrect or has changed; or
 - (b) withdraw the payment of any Income Related Benefit to an applicant if a separate application for the Income Related Benefit has been approved in respect of the same household as provided for in section 9(6).

PART IV INFORMATION AND RECOVERY

Duty to provide information

11. (1) A person who applies for any benefit under this Ordinance must provide written authority to the adjudication officer to obtain any information required to determine the entitlement to such benefit or the amount of it.

(2) A person who is or becomes entitled to the payment of any benefit must notify the adjudication officer of any change in circumstance which might affect the entitlement to such benefit or the amount of it.

Confidentiality provisions

12. No person may divulge any personal information of an applicant or any information relating to a household which was provided in respect of an application under this Ordinance, except—

- (a) to a person who requires it in order to perform a function under this Ordinance;
- (b) when required to do so by law or by an order of court;
- (c) with the consent of the applicant concerned; or
- (d) in any other prescribed circumstances.

Recovery of amounts incorrectly paid

13. (1) Any amount overpaid to a person under this Ordinance as a result of incomplete or inaccurate information provided by the person in an application, or due to failure by the person to provide details of any change in circumstances under section 11, is recoverable from the person.

(2) The amount of any payment recoverable under subsection (1) from a person may, without affecting any right of recovery by civil action, be recovered from any future payment of any benefits under this Ordinance to that person, but the amount so deducted from any such future payment for any period must not exceed 5% of the gross amount of benefits payable to the person for that period, before taking into account such deduction.

Review and appeal

14. (1) A person who is aggrieved by a decision of an adjudication officer—
 (a) to refuse an application for payment of any benefit;
 (b) with respect to the rate or amount of entitlement to such benefit; or
 (c) to withdraw, adjust or suspend the payment of such benefit,
 may, within 14 days of being informed of the adjudication officer's decision, request that the decision be reviewed by the Director of Health and Social Welfare.

(2) A person who is aggrieved by the decision of the Director of Health and Social Welfare under subsection (1), may, within 14 days of being informed of that decision, appeal to the Magistrates' Court against the decision.

PART V MISCELLANEOUS

Offences and penalties

15. It is an offence for a person to—
 (a) make any false representation or provide any false information, knowing it to be false, for the purpose of obtaining any benefit under this Ordinance,
 (b) fail to notify an adjudication officer of any change in circumstance which may affect the entitlement to a benefit;
 (c) fail to truthfully answer all questions put to the person during an investigation or to provide additional information as requested by an adjudication officer;
 (d) accept payment of any benefit while knowing that it is not due to the person.
 Penalty: A fine of £5,000 or imprisonment for 2 years, or both.

Payment of benefits from Consolidated Fund

16. The benefits provided for in this Ordinance are to be charged on the Consolidated Fund.

Regulations

17. The Governor in Council may make regulations for the further and better execution of this Ordinance, and without limiting this power, such regulations may provide for—
 (a) the calculation of rates of the benefits under this Ordinance;
 (b) the dates on which or intervals at which benefits are to be paid;
 (c) any forms to be used and procedures to be followed for purposes of this Ordinance;
 (d) special transitional benefits to ensure that a person's benefits under this Ordinance are not less than such benefit payable to the person before commencement of this Ordinance;
 (e) defining the expressions 'family farm', 'family business', 'disabled child', 'disability pension', 'carer's allowance', and 'registered as unemployed'.

SOCIAL SECURITY ORDINANCE, 2010

SOCIAL SECURITY REGULATIONS, 2011

(Section 17)

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**PART I
PRELIMINARY**

Citation and commencement

1. These Regulations may be cited as the Social Security Regulations, 2011, and come into force on 1st April 2011.

Interpretation

2. (1) In these Regulations, unless the context otherwise—
“child” means a person who is not an adult;
“disabled person” means any person in respect of whom a disability pension is paid;
“old age pension” means any pension, whether paid by the Government of St Helena or any other government or any employer or private pension provision, which is paid by virtue of old age.

(2) The following expressions are defined for purposes of the Ordinance:
“carer’s allowance” means an allowance paid by the Government of St Helena to any person who cares for a person who has a physical or mental impairment or a long-term health condition;
“disability pension” means any allowance paid by the Government of St Helena to any person who has a physical or mental impairment or a long-term health condition to provide for the additional needs brought on by such impairment or condition.

PART II BASIC ISLAND PENSION

Application for Basic Island Pension

3. An individual who wishes to apply for a Basic Island Pension under section 6 of the Ordinance must submit an application, in the form set out in Form A in the Schedule, to an adjudication officer.

Determination of benefit

4. (1) The rate of the Basic Island Pension for purposes of determining the entitlement to any benefit under Part II of the Ordinance is £67.30 per week.

(2) The amount of an individual’s entitlement to the Basic Island Pension under section 4 of the Ordinance is, if the total number of the qualifying years recorded by the individual equals or exceeds—

- (a) 30 years - 100% of the Basic Island Pension amount as fixed under paragraph (1);
- (b) 25 years but ~~is~~ less than 30 years - 75% of such amount;
- (c) 20 years but ~~is~~ less than 25 years - 50% of such amount,

reduced by so much of the total amount of any other old age pensions payable to the individual as exceeds £20.

(3) If an individual, who is entitled to a Basic Island Pension, is at any time, for a continuous period of more than 42 days, either hospitalised on St Helena or admitted to, and remains in, residential care where all living costs are met by the care provider, payment to the individual under paragraph (2) will after that 42 day period be reduced to £10 per week for so long as that individual remains hospitalised or in residential care, and the balance of his or her entitlement under paragraph (2) will be payable to the hospital or care provider.

PART III INCOME RELATED BENEFIT

Application for Income Related Benefit

5. (1) An applicant who wishes to apply on behalf of a household for an Income Related Benefit under section 9 of the Ordinance must submit an application, in the form set out in Form B in the Schedule, to an adjudication officer.

(2) All income and assets for every adult and child member of the household must be declared (and where possible verified) for the purpose of the application.

Determination of benefit

6. (1) The amount of a household's entitlement to an Income Related Benefit under section 8 must be calculated as the amount (if any) by which the household poverty line determined under regulation 7(3) exceeds the household income level as determined under regulation 8.

(2) If an individual who is a member of the household is at any time either hospitalised on St Helena or admitted to and remains in residential care where all living costs are met by the care provider, for a continuous period of more than 42 days, the benefit must—

- (a) if the individual is the applicant - be withdrawn; ~~or~~
- (b) in any other case - be recalculated and the individual is, for purposes of calculating the amounts under regulations 7 and 8, deemed not to be a member of such household for so long as that individual so remains hospitalised or in residential care after such 42 day period.

Household poverty line

7. (1) The poverty line in respect of every household is to be determined with reference to—

- (a) the number of adults in the household;
- (b) the number of children in the household; and
- (c) *Repealed*
- (d) the value of the rent or the loan repayment payable in respect of the dwelling where the household resides.

(2) The minimum income level for purposes of determining the poverty line under paragraph (3) is £65.10 per week.

(3) Subject to sub-regulation (4), the poverty line of a household is to be calculated as the total of the following amounts:

- (a) in respect of the applicant - 100% of the minimum income level referred to in paragraph (2);
- (b) for each additional adult in the household - £38.00 per additional adult;
- (c) for each of the first 3 children in the household - 40% of such minimum income level per child;
- (d) for each additional child - 30% of such minimum income level per additional child;
- (e) *Repealed*
- (f) *Repealed*
- (g) if the dwelling where the household resides constitutes Government Landlord Housing - the full amount of the rental amounts for the relevant week;
- (h) if the dwelling where the household resides is rented but does not constitute

Government Landlord Housing - so much of such rental amounts for the relevant week as does not exceed £33.36;

- (i) if a loan has been incurred for purposes of purchasing the dwelling where the household resides - the total amount of the interest on the loan which is payable during such week.

(4) A person must not be included in the calculation of the household poverty line under paragraph (3) if—

- (a) he or she is aged 21 or under;
- (b) his or her total income from sources other than apprenticeship stipends, education grants, carer's allowances, better life allowances, occupational therapy payments and disability payments from the St Helena Government is equal to or exceeds the minimum income level referred to in sub-regulation (2); and
- (c) that income is disregarded under Item 1 of regulation 8 in calculating the income level of the household.

Household income level

8. The income level of a household is to be calculated as the total of the following amounts as reflected in the second column:

Income	Taken into account in the calculation
1. Any income, including earnings, self-employment earnings, apprenticeship stipends, and education grants (which include scholarships, stipends, and training bursaries) received by a person aged 21 or under who lives in a household where at least one other member is over the age of 21 years.	Disregarded in full.
2. Carer's allowances, better life allowances and occupational therapy allowances.	Disregarded in full.
3. Any disability pension paid by the Government of St Helena.	Disregarded in full.
4. Any one off payment from whatever source.	Disregarded in full.
5. Any new income received by the applicant or a member of the household from whatever source where: (i) The Safeguarding Directorate has determined that exceptional hardship would be caused if the new income were to be taken into account immediately; and (ii) No member of the household has previously had income disregarded on this ground in the past 12 months.	Disregarded for 2 weeks.
6. Earnings (full or part time, casual or regular and irrespective of employer), other	The first £10 for each person with earnings shall be disregarded and the remainder taken into

than earnings disregarded under Item 1.	account.
7. Self employment earnings, other than self employment earnings disregarded under Item 1.	The last six months earnings (as required to be declared for tax purposes) shall be used to calculate an average weekly sum, of which the first £10 shall be disregarded with the remainder taken into account.
8. Pension, any type of pension benefit, including basic island pension, United Kingdom state pension, St Helena Government pension, other employer pension or any personal pension	Taken into account in full.
9. Any other income, however received, including regular payments from children, children paying for services including electricity, telephone or other services.	Taken into account in full.

PART IV PAYMENT OF BENEFITS

Payment of benefits

9. (1) The benefits under these Regulations must be paid weekly and are payable to an applicant with effect from the first week following the later of—

- (a) the date on which the application is received by an adjudication officer under regulation 3 or 5; or
- (b) the date on which the applicant qualifies for such benefit under section 4 or 9 of the Ordinance, as the case may be.

(2) The benefits are payable in St Helena either in cash or by payment into a bank account.

(3) Any change in the entitlement to the benefits or the amount of them takes effect—

- (a) in the case of an increase in the amount of such benefit - from the date of the change;
- (b) in any other case - from the week following the date of the change.

PART V TRANSITIONAL BENEFITS

Special transitional benefits

10. (1) For purposes of this Part—

“**effective date**” means the date on which the Ordinance comes into force;

“**existing benefit**”, in relation to any person, means any Income Related Benefit correctly awarded to such person immediately before the effective date under policy provisions pertaining to social grants;

“**new benefit**”, in relation to any person, means any benefit to which—

- (a) the person is entitled under Part II; or
- (b) any household of which the person is a member is entitled under Part III.

(2) If—

(a) an existing benefit was awarded to any member or members of a household immediately before the effective date; and

(b) the total amount of new benefits (if any) payable in respect of all members of such household is less than the total amount of such existing benefits,

the household is entitled to transitional payments equal to the difference between the total amount of such new benefits and the total amount of existing benefits which would have been so payable in respect of all such members.

(3) If there is any change in circumstances which would have resulted in a reduction in the existing benefits referred to in paragraph (2)(a), had the policy rules pertaining to such benefit continued to apply after the effective date, the amount of transitional payments are to be calculated with reference to the reduced amount of such existing benefits.

(3) The transitional payment must be made to the applicant in relation to the household as referred to in section 9 of the Ordinance and section 9(7) applies in respect of the transitional payment as it applies in respect of the Income Related Benefit.

(4) If a member of a household to whom an existing benefit was awarded before the effective date, as referred to in paragraph (2)(a), ceases to be physically present on St Helena, the entitlement of the household to the transitional payment calculated with reference to such existing benefit ceases, regardless of whether or not the member returns to St Helena at any time thereafter.

SCHEDULE (Regulations 3 & 5)

FORM A (Regulation 3)

APPLICATION FOR BASIC ISLAND PENSION (Section 6 of the Social Security Ordinance, 2010)

For office use only

Social security no:

Date received at:

Initials :

Form to be completed in blue or black ink and in block letters

APPLICANT:

Name

Date of birth

Address:

Telephone number:

Fax:

E-mail:

Details of work record for years spent working on the Island from age 15:

From

To

Employer/self employed

Details of years spent on the Island looking after your own child under 5 years of age:

From

To

Name of child

Date of birth

Details of years spent off the Island:

From

To

Place

Reason

Did you at any stage receive a disability pension? Yes/No

If yes, please supply details:

From

To

Would you at any stage have qualified for a disability pension had the current rules for such disability pension applied at the time? Yes/No

If yes, please supply details:

From

To

Did you at any stage receive a carer's allowance? Yes/No

If yes please provide details:

From

To

Name of person receiving care

Would you at any stage have qualified for a carer's allowance had the current rules for such carer's allowance applied at the time? Yes/No

If yes please provide details:

From

To

Name of person receiving care

Please state details of any pension (private or public) received from St Helena or any other country:

Type of pension

Amount

How often
Method of payment

PAYMENT:

Please pay my basic pension into my bank account no :

OR

I would like to be paid by cash:

APPLICATION:

I _____
of _____
hereby apply for a basic pension.

DECLARATION:

(Please read this declaration carefully before you sign and date it)

- I hereby certify the foregoing information given by me is full and correct to the best of my knowledge and belief.
- I agree to report all changes of circumstances as and when they happen.
- I understand that failing to report a change of circumstances could result in an overpayment which i may have to pay back.
- I understand that it is a criminal offence to give incomplete or inaccurate information for the purpose of obtaining a basic pension and is liable to prosecution.

Signature:

Date:

Signed:

Adjudication Officer

Date:

__FORM B
(Regulation 5(1))

APPLICATION FOR INCOME RELATED BENEFIT
(Section 9 of the Social Security Ordinance, 2010)

For office use only
Social Security no:

Date received at:
Initials :

*Form to be completed in blue or black ink and in block letters

APPLICANT:

Name of applicant:

Date of birth:

Address:

Telephone number:

Fax:

E-mail:

DETAILS OF HOUSING LOAN:

Are you or anyone else in the household repaying a housing loan for the house in which you live? Yes/No

If yes, please state name of the person repaying the loan and the weekly repayments

Name _____ Weekly repayments _____

Capital £ _____ Interest £ _____

Details of rented accommodation:

Is the household living in rented accommodation? Yes/No

If yes, who in the household is paying the rent? Name: _____

What is the total rent paid weekly for the accommodation? £ _____

Is the accommodation: Private/Government

Please give details of current members of the household:

Applicant

Member 1

Full name

Date of birth

Employment status

Weekly income

Registered unemployed

Disability pension

Carer's allowance

Child maintenance

Student allowance

Pensions
(include source and weekly amounts)

Bank details
(address and amount)

Assets
(properties, shares, land and trust funds)

Other income

Member 2

Full name

Date of birth

Employment status

Weekly income

Registered unemployed

Disability pension

Carer's allowance

Child maintenance

Student allowance

Pensions
(include source and weekly amounts)

Bank details
(address and amount)

Assets
(properties, shares, land and trust funds)

Other income

Please tick this box if you are submitting extra sheets for additional members of the household.

PAYMENT:

Please pay my income related benefit into my bank account no.

OR

I would like to be paid by cash

APPLICATION:

I _____
of _____
hereby apply for income related benefit.

DECLARATION:

(please read this declaration carefully before you sign and date it)

- I hereby certify the foregoing information given by me to be full and correct.
- I agree to report all changes of circumstances as and when they happen.
- I understand that failing to report a change of circumstances could result in an over payment which I may have to pay back.
- I understand that it is a criminal offence to give incomplete or inaccurate information for the purpose of obtaining an income related benefit and is liable to prosecution.

Signature:

Date:

Signed:

Adjudication Officer

Date:
