

S.P. 36/21



**St Helena
Government**

ST HELENA GOVERNMENT

**SOCIAL SECURITY
(AMENDMENT) BILL, 2021**



ST HELENA

A BILL

FOR

AN ORDINANCE

to amend the Social Security Ordinance, 2010, to substitute the term “household” with the term “family” in the legislation; and for connected and incidental purposes.

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

Short title, commencement and interpretation

1. (1) This Ordinance may be cited as the Social Security (Amendment) Ordinance, 2021, and comes into force on a date or dates fixed by the Governor by Order.

(2) An Order under subsection (1) may—

- (a)** appoint different dates for different provisions or for different purposes of the same provision; and
- (b)** contain such transitional or consequential provisions as appear to the Governor to be necessary or convenient.

(3) In this Ordinance “the principal Ordinance” means the Social Security Ordinance, 2010.

Amendment of section 2 - interpretation

2. Section 2 of the principal Ordinance is amended as follows—

- (a)** in the definition of the term “physically present in St Helena” by repealing the words “in relation to any person” and substituting the words “applies only to a person in receipt of a Basic Island Pension and in relation to such person”;
- (b)** by repealing the word “household” and the definition of this word; and
- (c)** by inserting, in the appropriate alphabetical sequence, the following definitions—
 - “**better life allowance**” means the allowance paid by the Government of St Helena to a person who is assessed as disabled in the manner provided by the department of the Government of St Helena charged with responsibility for the assessment of a disability in respect of a person;”;
 - and
 - “**carer’s allowance**” means the allowance paid by the Government of St Helena to a person who cares for a person—

- (a) who is assessed in the manner provided by the department of the Government of St Helena charged with responsibility for the assessment of physical or mental impairment or a long-term health condition; or
 - (b) who, in the manner specified by the department of the Government of St Helena charged with responsibility for the assessment of a physical or mental impairment or a long-term health condition in a person, satisfies the abovementioned department that the person has a physical or mental impairment or a long-term health condition;”;
- “**child**” means a person who is not an adult;”
- “**claimant**” in the Schedule means a person in receipt of an income related benefit;”;
- “**family**” includes—
- (a) an adult who has no spouse, cohabiting partner or life partner or child;
 - (b) an adult and the spouse, cohabiting partner or life partner of the adult;
 - (c) an adult and the spouse, cohabiting partner or life partner of the adult and a dependent child of the adult and the spouse, cohabiting partner or life partner of the adult who is under 16 or 18 years of age and who is enrolled in full time education and who as a family unit, reside together in a single dwelling in St Helena; or
 - (d) an adult who does not have a spouse, cohabiting partner or life partner and a dependent child of the adult who is under 16 or 18 years of age and who is enrolled in full time education who as a family unit, reside together in a single dwelling in St Helena,
- and the meaning of the word “member” in relation to family is to be construed accordingly;”;
- “**family rate**” means the income related benefit rate prescribed in Regulations;”;
- “**income level**” means the income of a family calculated as prescribed in Regulations;”;
- “**income related benefit**” means the benefit to which a family is entitled which is paid to the family by the Government of St Helena and which is calculated as prescribed in Regulations;”;
- “**job readiness**” is the description of the circumstances attributable to capability of a person’s ability to be employed specified in the Schedule;”;
- “**occupational therapy allowance**” means an allowance paid by the Government of St Helena to a person who is in supported employment organised by the Government of St Helena;” and
- “**pension**” includes a pension paid by the Government of St Helena or any other Government or employer or private pension scheme;”.

Amendment of section 3 - appointment of adjudication officers

3. Section 3 of the principal Ordinance is repealed and substituted with the following section—

“Appointment of adjudication officer

3. (1) An adjudication officer is required to perform the functions necessary or desirable for the administration of this Ordinance and must be appointed by the Governor in writing.

(2) An appointment made under subsection (1) must be published by Notice in the Gazette.”.

Amendment of section 8 - Income related benefit

4. The principal Ordinance is amended in section 8 as follows—
- (a) in subsection (1) by repealing the word “household” and substituting the word “family”;
 - (b) by repealing subsection (2) and (3) and substituting the following subsections—

“(2) A family is entitled to the payment of an income related benefit and an application may be made for such benefit in the manner prescribed if—

- (a) the income level of the family at the time that the application for an income related benefit is made is less than the family rate for that period;
- (b) an adult member of the family is—
 - (i) registered in the prescribed manner as unemployed;
 - (ii) receiving a better life allowance, occupational therapy allowance, or carer’s allowance;
 - (iii) the carer of—
 - (aa) a child who is under 5 years of age;
 - (bb) more than 1 child under 5 years of age; or
 - (cc) a disabled child who is the child of a member of the family;
 - (iv) 65 years of age or older; or
 - (v) employed in St Helena.

(3) For the purpose of subsection (1)(b)(iii)—

- (a) only 1 person may at any time is considered to be the carer of a child of a family; and
- (b) if the children of the same parents reside with the parents in the same family then only 1 of the parents is considered to be the carer of the children of the family.”.

Amendment of section 9 - application and determination of benefit

5. The principal Ordinance is amended by repealing section 9 and substituting the following section—

“Application and determination of benefit

9. (1) Subject to subsection (2) an application may be made in the prescribed form to an adjudication officer for receipt of an income related benefit by a person who is a member of a family which is entitled to receive the income related benefit.

(2) A person making an application pursuant to subsection (1)—

- (a) must be an adult;
- (b) at the time that the application is made, must be residing with the family on whose behalf the application is made; and
- (c) must in writing in the manner specified by an adjudication officer authorise an adjudication officer to be provided with any information required by the adjudication officer in respect of an application for an income related benefit which is necessary for the determination of such application regarding the entitlement of a family to an income related benefit and to the amount to be paid to the family in respect thereof.

(3) The receipt of an income related benefit must not be approved by an adjudication officer if at the time an application is made pursuant to subsection (1) the receipt of the income related benefit for the family in respect of which the application is made is already approved for the same period for which the application is made.

(4) An adjudication officer may cause an investigation to be conducted in respect of any application made pursuant to this section and may request additional information that is relevant to an application and necessary for the consideration of the application.

(5) Where an application for an income related benefit is approved, an adjudication officer—

- (a) must cause the person who made the application for the income related benefit to be notified of the approval for the payment of the income related benefit in writing and the notification must specify the details of the disbursement of the funds to be paid in respect of the approval; and
- (b) may, in the discretion of the adjudication officer, decide that the funds to be advanced to the family in respect of which the application for the income related benefit was made, be paid to a person who is a member of the family but who is not the person who submitted the application for the income related benefit and may require the person to whom the benefit is to be paid on behalf of the family to submit any administrative paperwork necessary to facilitate the processing for the benefit approved.

(6) Where an application for an income related benefit is refused, the adjudication officer who considered the application for the income related benefit must, in writing, cause the person who made the application for the income related benefit to be notified of the reasons why the application was refused and that an appeal may be made in respect of the refusal.

(7) An income related benefit may be paid to a person absent from the person's employment only in the following circumstances—

- (a) self-certified absence due to the ill-health of the person for a maximum of 3 days at a time and a maximum of 6 days over the course of 1 year; or
- (b) a period of absence longer than that specified in paragraph (a) due to the ill-health of the person where the person has the written instruction of a medical practitioner to take sick leave from employment; or
- (c) for a maximum of ten days compassionate leave.

(8) The number of days for which an income benefit will be paid in accordance with subsection (7) will be determined by the adjudication officer in the discretion of the adjudication officer who must exercise reasonable judgement after considering the circumstances of the person to whom the income related benefit is to be paid.

(9) A person to whom a benefit is paid on behalf of a family is the person referred to in section 10(a), 11(2), 13, 14 and 15 as the person entitled to the benefit or entitled to the payment of a benefit.

Insertion of section 9A - job readiness

6. The principal Ordinance is amended by inserting after section 9 the following section—

“Job readiness

9A. (1) An adult member of a family will be categorized for job readiness pursuant to the Schedule as follows—

- (a) a person in category 1 must actively be seeking employment;
 - (b) a person in category 2 must provide evidence of a medical assessment that the person’s temporary situation prevents the person from actively participating in employment and the medical assessment must include a date from which the person may be expected to commence seeking active participation in employment and at such time the person may be re-categorised pursuant to paragraph (a);
 - (c) a person in category 3 is not considered to be actively seeking employment; and
 - (d) a person in category 4 is employed but falls below the family rate.
- (2) A person specified in subsection (1)(b)—
- (a) who is undertaking a course of unpaid training for employment or unpaid employment experience is entitled to the payment of an income related benefit; and
 - (b) who is in paid training for employment or paid employment experience is entitled to the payment of an income related benefit for such period as is prescribed in Regulations.”.

Insertion of Schedule

7. The principal Ordinance is amended by inserting after section 17—

SCHEDULE

Categories of Job Readiness

Category	Job Readiness	Conditions
1	Job ready. No significant barriers to employment exist. Claimant is capable of taking a job immediately.	Claimant must actively seek employment and attend fortnightly meetings with the Benefits Office
2	Not job ready. Some barriers to employment exist (e.g., health issues) that need addressing before a claimant is 100% job ready.	Claimant must be undertaking appropriate activity in order to become job ready.

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| 3 | Claimant is permanently unable to be employed; over 65 years of age in receipt of Better Life Allowance or Occupational Therapy Allowance or is the carer of one or more children aged under 5 or his or her disabled child. | No conditions attached. |
| 4 | Claimant is employed but family income is below the IRB family rate. | Claimant must provide evidence of all earnings for the previous 90 days and thereafter every 90 days for re-assessment. |

EXPLANATORY NOTE

(This note is not part of the Ordinance)

The Social Security (Amendment) Bill 2021 will in respect of an income related benefit, replace the term "household" with the term "family" and make provision for incidental amendments consequential thereto.

