



STATUTORY INSTRUMENTS.

S.I. No. 38 of 2012

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (NO. 1) (OVERLAPPING BENEFITS)
REGULATIONS 2012

(Prn. A12/0253)

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (NO. 1) (OVERLAPPING BENEFITS) REGULATIONS 2012

I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 4 and 247 of the Social Welfare Consolidation Act 2005 (No. 26 of 2005) (adapted by the Social and Family Affairs (Alteration of Name of Department and Title of Minister) Order 2010 (S.I. No. 186 of 2010)), hereby make the following Regulations:

Citation and construction.

1. (1) These Regulations may be cited as the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 1) (Overlapping Benefits) Regulations 2012.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2011 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2012.

Definition.

2. In these Regulations “Principal Regulations” means the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007).

Commencement.

3. These Regulations come into operation—

- (a) in so far as they relate to illness benefit, injury benefit, maternity benefit, health and safety benefit and adoptive benefit, on 1 February 2012,
- (b) in so far as they relate to jobseeker’s benefit, on 2 February 2012, and
- (c) in so far as they relate to incapacity supplement, on 3 February 2012.

Overlapping benefits.

4. Chapter 5 of Part 7 of the Principal Regulations is amended by—

- (a) deleting article 223, and
- (b) inserting the following articles after article 223:

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 10th February, 2012.

“Payment of maternity, health and safety or adoptive benefit at reduced rate with other social welfare payments.

223A. (1) Notwithstanding subsection (1) and (2) of section 247, where in respect of any period maternity benefit, health and safety benefit or adoptive benefit and any payment specified in sub-article (7) would be payable to or in respect of a person, such maternity benefit, health and safety benefit or adoptive benefit, as the case may be, and such payment specified in sub-article (7) may, subject to article 223E, be paid, in the manner provided for in this article, to or in respect of that person during that period.

(2) Subject to sub-articles (3) to (7), where maternity benefit, health and safety benefit or adoptive benefit is payable in accordance with sub-article (1) in respect of any period—

- (a) no increase in that benefit shall be paid in respect of a qualified child during that period, and
- (b) such maternity benefit, health and safety benefit or adoptive benefit (exclusive of any increase in respect of a qualified child, where appropriate) shall be reduced by half during that period.

(3) Where in respect of any period a person is in receipt of—

- (a) widow’s (contributory) pension, widower’s (contributory) pension, surviving civil partner’s (contributory) pension or a payment referred to in paragraph (a) of the definition of ‘relevant payment’ in section 178(1) at a rate less than that specified in Part 1 of Schedule 2 to the Principal Act, or
- (b) widow’s (non-contributory) pension, widower’s (non-contributory) pension, surviving civil partner’s (non-contributory) pension, one-parent family payment or a payment referred to in paragraph (b) or (c) of the definition of ‘relevant payment’ in section 178(1) at a rate less than that specified in Part 1 of Schedule 4 to the Principal Act by reason of means,

and during that period that person is also entitled to maternity benefit, health and safety benefit or adoptive benefit, the amount payable to that person by way of such maternity benefit, health and safety benefit or adoptive benefit shall be calculated in accordance with sub-articles (4) and (5).

(4) The amount of maternity benefit, health and safety benefit or adoptive benefit payable to or in respect of a person to whom sub-article (3) applies shall be the aggregate of—

- (a) the difference between the amount of such reduced pension or payment specified in paragraph (a) or (b) of sub-article

(3) and the maximum scheduled rate of such pension or payment, as the case may be, appropriate to that person's circumstances, and

(b) one-half of the rate of maternity benefit, health and safety benefit or adoptive benefit, as the case may be, (exclusive of any increase in respect of a qualified child, where appropriate) payable to that person,

but the amount of benefit so payable shall not exceed—

(i) in the case of maternity benefit, the rate of such benefit payable in accordance with section 49 and, where paragraph (b) of section 49(1) applies, the rate of such maternity benefit shall be inclusive of any increase in respect of a qualified child,

(ii) in the case of health and safety benefit, the rate of such benefit appropriate to that person's circumstances (inclusive of any increase in respect of a qualified child), and

(iii) in the case of adoptive benefit, the rate of such benefit payable in accordance with section 60 and, where paragraph (b) of section 60(1) applies, the rate of such adoptive benefit shall be inclusive of any increase in respect of a qualified child.

(5) In sub-article (4) 'scheduled rate' means—

(a) the rate of widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension or payment referred to in paragraph (a) of the definition of 'relevant payment' in section 178(1), appropriate to the person's circumstances, as set out in Part 1 of Schedule 2 to the Principal Act, or

(b) the rate of widow's (non-contributory) pension, widower's (non-contributory) pension, surviving civil partner's (non-contributory) pension, one-parent family payment or payment referred to in paragraph (b) or (c) of the definition of 'relevant payment' in section 178(1), appropriate to the person's circumstances, as set out in Part 1 of Schedule 4 to the Principal Act,

as the case may be.

(6) Notwithstanding sub-articles (1) to (5), maternity benefit, health and safety benefit or adoptive benefit shall not be payable to or in respect of a person in respect of any period during which that person

is in receipt of a payment specified in sub-article (7) and is also in receipt of a blind pension payable in accordance with article 224.

(7) The following payments are specified for the purposes of sub-articles (1) and (6)—

- (a) death benefit by way of widow's pension, widower's pension or surviving civil partner's pension,
- (b) widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension,
- (c) a payment referred to in paragraphs (a) to (c) of the definition of 'relevant payment' in section 178(1),
- (d) widow's (non-contributory) pension, widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension, or
- (e) one-parent family payment.

Payment of illness, jobseeker's, injury benefit etc. with other social welfare payments in certain circumstances.

223B. (1) Notwithstanding subsection (1) and (2) of section 247, where—

- (a) in respect of any period of incapacity for work commencing on or after 1 February 2012 in the case of illness benefit or injury benefit,
- (b) in respect of any period of interruption of employment commencing on or after 2 February 2012 in the case of jobseeker's benefit, or
- (c) in respect of any period of incapacity for work commencing on or after 3 February 2012 in the case of incapacity supplement,

a person is in receipt of—

- (i) widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension or a payment referred to in paragraph (a) of the definition of 'relevant payment' in section 178(1) at a rate less than that specified in Part 1 of Schedule 2 to the Principal Act, or
- (ii) widow's (non-contributory) pension, widower's (non-contributory) pension, surviving civil partner's (non-contributory) pension, one-parent family payment or a payment referred to in paragraph (b) or (c) of the definition of 'relevant payment' in section 178(1) at a

rate less than that specified in Part 1 of Schedule 4 to the Principal Act by reason of means,

and during that period that person becomes entitled to illness benefit, jobseeker's benefit, injury benefit or incapacity supplement, such reduced pension or payment specified in subparagraph (i) or (ii) and such illness benefit, jobseeker's benefit, injury benefit or incapacity supplement, as the case may be, may be paid, in the manner provided for in this article, to or in respect of that person during that period.

(2) Where illness benefit, jobseeker's benefit, injury benefit or incapacity supplement is payable in accordance with sub-article (1) in respect of any period the aggregate of—

- (a) the amount of such reduced pension or payment specified in subparagraph (i) or (ii) of sub-article (1), and
- (b) such illness benefit, jobseeker's benefit, injury benefit or incapacity supplement,

shall not exceed the maximum rate of such illness benefit, jobseeker's benefit, injury benefit or incapacity supplement, as the case may be, appropriate to the person's circumstances.

(3) Notwithstanding sub-articles (1) and (2) and article 224, where in respect of any period a person is in receipt of—

- (a) a reduced pension or payment specified in subparagraph (i) or (ii) of sub-article (1), and
- (b) a blind pension payable in accordance with article 224,

illness benefit, jobseeker's benefit, injury benefit or incapacity supplement, as the case may be, payable at a reduced rate in accordance with sub-article (2) may also be paid to that person during that period.

Continuation of payment of illness benefit or incapacity supplement at reduced rate with other social welfare payments in certain circumstances.

223C. Where, on the 5 April 1990, a person was in receipt of—

- (a) a payment specified in paragraph (a) to (h) of sub-article (1) of article 4 of the Social Welfare (Overlapping Benefits) Regulations 1953 (S.I. No. 14 of 1953) (inserted by the Social Welfare (Overlapping Benefits) (Amendment) Regulations 1987 (S.I. No. 344 of 1987)), and
- (b) disability benefit or unemployability supplement by virtue of sub-article (1B) of the said article 4,

that person shall continue to be entitled to such disability benefit or unemployability supplement (now referred to as illness benefit and

incapacity supplement, respectively) until the end of that period of incapacity for work.

Transitional arrangements for payment of illness, injury, jobseeker's benefit etc. with other social welfare payments in certain circumstances.

223D. (1) Subject to article 223C, where, in respect of a period of incapacity for work which commenced before 1 February 2012, a person was in receipt of—

- (a) illness benefit by virtue of article 223 for less than 390 days, or less than 312 days in the case of a person to whom section 44(1) applies, and
- (b) a payment specified in sub-article (7) of article 223A,

that person shall, notwithstanding subsections (1) and (2) of section 247, continue to be entitled to such illness benefit and such specified payment during the unexpired portion of the period specified in paragraph (a) of this sub-article that occurs on or after 1 February 2012 and that forms part of the same period of incapacity for work, if that person continues, during the unexpired portion of the period specified in paragraph (a) of this sub-article, to satisfy the conditions for entitlement to such illness benefit and to such payment specified in sub-article (7) of article 223A.

(2) Where, in respect of a period of entitlement to injury benefit which commenced before 1 February 2012, a person was in receipt of—

- (a) injury benefit by virtue of article 223 for less than 156 days, and
- (b) a payment specified in sub-article (7) of article 223A,

that person shall, notwithstanding subsections (1) and (2) of section 247, continue to be entitled to such injury benefit and such specified payment during the unexpired portion of the period of 156 days that occurs on or after 1 February 2012, if that person continues, during the unexpired portion of that period of 156 days, to satisfy the conditions for entitlement to such injury benefit and to such payment specified in sub-article (7) of article 223A.

(3) Where, in respect of a period of interruption of employment which commenced before 2 February 2012, a person was in receipt of—

- (a) jobseeker's benefit by virtue of article 223, and
- (b) a payment specified in sub-article (7) of article 223A,

that person shall, notwithstanding subsections (1) and (2) of section 247, continue to be entitled to such jobseeker's benefit and such specified payment during the unexpired portion of that period of interruption of employment that occurs on or after 2 February 2012, if that

person continues, during the unexpired portion of that period of interruption of employment, to satisfy the conditions for entitlement to such jobseeker's benefit and to such payment specified in sub-article (7) of article 223A.

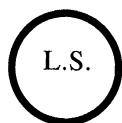
(4) Subject to article 223C, where, in respect of a period of entitlement to incapacity supplement which commenced before 3 February 2012, a person was in receipt of—

- (a) incapacity supplement by virtue of article 223 for less than 390 days, and
- (b) a payment specified in sub-article (7) of article 223A,

that person shall, notwithstanding subsections (1) and (2) of section 247, continue to be entitled to such incapacity supplement and such specified payment during the unexpired portion of the period of 390 days that occurs on or after 3 February 2012, if that person continues, during the unexpired portion of that period of 390 days, to satisfy the conditions for entitlement to such incapacity supplement and to such payment specified in sub-article (7) of article 223A.

Transitional arrangements for payment of maternity, health and safety benefit or adoptive benefit with other social welfare payments in certain circumstances.

223E. Where a person is in receipt of a payment specified in sub-article (7) of article 223A and on 31 January 2012 that person is also in receipt of maternity benefit, health and safety benefit or adoptive benefit by virtue of article 223 for less than the maximum period for which that benefit is payable in accordance with section 47, 54 or 58, as appropriate, that person shall, notwithstanding subsection (1) and (2) of section 247, continue to be entitled to such benefit as was payable in accordance with article 223 for the unexpired portion of that period that occurs on or after 1 February 2012, if that person continues, during that unexpired portion of that period, to satisfy the conditions for entitlement to maternity benefit, health and safety benefit or adoptive benefit, as the case may be.”.



GIVEN under my Official Seal,
31 January 2012.

JOAN BURTON,
Minister for Social Protection.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations provide for the discontinuation of entitlement to the payment of illness benefit, jobseeker's benefit, injury benefit and incapacity supplement at half-rate to recipients of widows, widowers and surviving civil partners pensions, one-parent family payment and analogous payments, with effect from week commencing 30 January 2012. These provisions will apply to new claimants for illness benefit, jobseeker's benefit, injury benefit and incapacity supplement, with the entitlement of existing recipients of such half-rate payments being protected for the balance of the period of entitlement to such payments.

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