



STATUTORY INSTRUMENTS.

S.I. No. 447 of 2012

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (No. 10) (MISCELLANEOUS
AMENDMENTS) REGULATIONS 2012

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (No. 10) (MISCELLANEOUS
AMENDMENTS) REGULATIONS 2012

I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 3, 4 (amended by section 96 of the Ministers and Secretaries (Amendment) Act 2011 (No. 10 of 2011)), 100(3) (amended by section 12 of the Social Welfare and Pensions Act 2007), 109(9), 177 (amended by section 9 of the Social Welfare and Pensions Act 2011 (No. 9 of 2011)), 220, 242, 243, 247, 346(2) and 358 of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), by Rules 1(2)(b)(vi), 1(2)(b)(viii), 1(5) and 1(8) of Part 2 of Schedule 3, Rule 1(2) of Part 3 of Schedule 3 and Rules 1(2) and 1(4) of Part 5 of Schedule 3 to the Social Welfare Consolidation Act 2005 and by sections 2(2), 62(7), 109(8), 232(2), 241 and 297 of that Act, with the consent of the Minister for Public Expenditure and Reform, 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. 10) (Miscellaneous Amendments) Regulations 2012.

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

Definitions.

2. In these Regulations—

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

“Regulations of 2011” means the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 6) (Civil Partnership) Regulations 2011 (S.I. No. 604 of 2011).

Deletion of references to domiciliary care allowance administered by the Executive.

3. The Principal Regulations are amended—

- (a) in article 8 by substituting the following sub-article for sub-article (2) (amended by article 6 of the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 5) (Assessment of Earnings) Regulations 2007 (S.I. No. 700 of 2007)):

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 16th November, 2012.*

“(2) In calculating or estimating the weekly income under sub-article (1), any sums received by way of—

- (a) disablement benefit under section 75,
- (b) death benefit under section 83,
- (c) guardian’s payment (contributory),
- (d) guardian’s payment (non-contributory),
- (e) a payment under section 186A,
- (f) domiciliary care allowance,
- (g) child benefit, or
- (h) a payment from the Executive in respect of a child who is boarded out,

shall be disregarded.”, and

(b) in article 174—

- (i) in paragraph (a), by substituting “guardian’s payment (non-contributory), domiciliary care allowance,” for “guardian’s payment (non-contributory),”, and
- (ii) by deleting paragraph (b).

Deletion of references to early childcare supplement.

4. Part 7 of the Principal Regulations is amended—

- (a) in article 178 in the definition of “benefit”, by deleting paragraph (d),
- (b) by deleting articles 194 and 195,
- (c) in article 196—
 - (i) by deleting paragraph (f) of sub-article (1), and
 - (ii) by deleting the table to sub-article (1),
- (d) in article 199(3) by—
 - (i) substituting the following paragraph for paragraph (c):
 - “(c) child benefit under Part 4.”, and
 - (ii) deleting paragraph (d),
- (e) by substituting the following article for article 200 (amended by article 8 of the Social Welfare (Consolidated Claims, Payments and Control)

(Domiciliary Care Allowance) (Amendment) (No. 3) Regulations 2009 (S.I. No. 162 of 2009)):

“Payments no longer due.

200. (1) A claimant or beneficiary who receives payment of child benefit or domiciliary care allowance in the manner provided for in article 192(2) shall—

(a) in accordance with article 188(1)(b), notify the Minister of any change in circumstances which would affect his or her right to such benefit or allowance or to the receipt thereof, and

(b) return to the Minister or an officer of the Minister any payments in respect of such benefit or allowance to which that claimant or beneficiary was not entitled.

(2) Where a person fails to comply with this article, he or she shall be liable to repay, on demand, a sum equivalent to the child benefit or domiciliary care allowance received to which that person was not entitled.”,

and

(f) in article 211 in the definition of “benefit”, by deleting paragraph (d).

One-parent family payment — amendments.

5. The Principal Regulations are amended—

(a) by substituting the following article for article 126 (amended by article 12 of the Regulations of 2011):

“Circumstances in which person is to be regarded as being an unmarried person.

126. (1) A person is to be regarded for the purposes of Chapter 7 of Part 3 as being an unmarried person if—

(a) not being a married person or a party to a civil partnership, he or she is the parent of a relevant child, and

(b) he or she makes such reasonable efforts, as may be required from time to time by an officer of the Minister, to obtain maintenance from a liable relative.

(2) For the purposes of this article a parent shall include, in the case of a child who has been adopted—

(a) under an adoption order within the meaning of section 3(1) of the Adoption Act 2010, or

(b) under such other form of adoption as the Minister considers appropriate in the circumstances,

the adopter.”,

(b) by substituting the following article for article 128:

“Residence of child.

128. (1) Subject to this article, for the purposes of Chapter 7 of Part 3 of the Principal Act a relevant child or a qualified child, as the case may be, shall be regarded as normally residing with—

- (a) a qualified parent, or
- (b) another person to whom one-parent family payment is payable in accordance with the said Chapter 7,

where—

- (i) the child is resident with that parent or other person, and
- (ii) that parent or other person has the main care and charge of the child.

(2) A relevant child or a qualified child, as the case may be, who is resident in an institution shall be regarded as normally residing with a qualified parent or another person to whom one-parent family payment is payable in accordance with Chapter 7 of Part 3 of the Principal Act where—

- (a) that parent or other person contributes towards the cost of the child’s maintenance in the institution, and
- (b) the child would, in accordance with sub-article (1), be regarded as normally residing with that parent or other person, if the child were not resident in an institution.

(3) A relevant child or a qualified child, as the case may be, may, in such circumstances as an officer of the Minister considers appropriate, be regarded as normally residing with—

- (a) a qualified parent, or
- (b) another person to whom one-parent family payment is payable in accordance with Chapter 7 of Part 3 of the Principal Act,

who is resident in an institution.

(4) In this article “institution” means—

- (a) a hospital, convalescent home or home for persons suffering from physical or mental disability or accommodation ancillary thereto,
- (b) any other similar establishment providing residence, maintenance or care for the persons therein, or
- (c) any prison, place of detention or other establishment to which articles 218 and 219 apply.”,

and

- (c) in article 130 by substituting “that person” for “the qualified parent”.

Transfer of responsibility for certain functions administered by FÁS.

6. The Principal Regulations are amended—

- (a) in article 16(2) by substituting the following paragraph for paragraph (d):

“(d) acting on advice given by an officer of the Minister or other placement service concerning the availability of employment, and”,

and

- (b) by substituting the following article for article 175 (amended by article 15 of the Regulations of 2011):

“Persons regarded as being in remunerative full-time employment.

175. (1) A person shall be regarded as being engaged in remunerative full-time employment as an employee for the purposes of Part 6 of the Principal Act where he or she is engaged in remunerative employment which is expected to continue for a period of a minimum of 3 months, and where—

- (a) the number of hours worked by him or her per fortnight is not less than 38, or
- (b) the aggregate number of hours worked by him or her and his or her spouse, civil partner or cohabitant, as the case may be, is not less than 38 per fortnight.

(2) Notwithstanding sub-article (1), remunerative full-time employment shall not include participation on—

- (a) the work placement programme within the meaning of section 142B(3),
- (b) a scheme provided by the Minister and known as Community Employment, or

(c) a scheme administered by the Minister and known as—

- (i) the Rural Social Scheme,
- (ii) the national internship scheme,
- (iii) Tús.”.

Deletion of references to infectious diseases maintenance allowance and disabled person’s maintenance allowance.

7. The Principal Regulations are amended in article 231 by deleting sub-articles (3) and (4).

Deletion of references to contributions under the Health Contributions Act 1979.

8. The Principal Regulations are amended in the manner specified in the Schedule to these Regulations.

Amendment of article 62 — partial satisfaction of contribution conditions for State pension (contributory).

9. Article 62 (amended by article 5 of the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 8) (Reduced Rates) Regulations 2012 (S.I. No. 321 of 2012)) of the Principal Regulations is amended in the sub-article immediately following sub-article (4) and referred to as sub-article (6), by substituting “(5) In the case of a person to whom sub-article (3) applies” for “(6) In the case of a person to whom sub-article (3) applies” and that sub-article will be referred to as sub-article (5).

SCHEDULE

AMENDMENTS TO PRINCIPAL REGULATIONS

Provision affected (1)	Amendment (2)
Article 57(5)	Delete paragraph (d).
Article 145(3)	Delete paragraph (c).
Article 147(3)	Delete paragraph (c).
Article 148(3)	Delete paragraph (b).
Article 149(3)	Delete paragraph (c).
Article 150(3)	Delete paragraph (c).
Article 151A	<p>Substitute the following subsection for subsection (2):</p> <p>“(2) For the purposes of sub-article (1), the amount shall be the aggregate of—</p> <p>(a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),</p> <p>(b) any contributions payable under section 13(2)(b) and Regulations made under section 14, and</p> <p>(c) any payment to a trade union.”.</p>
Article 153	<p>(a) Substitute the following sub-article for sub-article (1):</p> <p>“(1) This article applies to a person to whom article 7(2) and (4) apply.”.</p> <p>(b) In sub-article (4) delete paragraph (c).</p>
Article 153A	<p>(a) Substitute the following sub-article for sub-article (1):</p> <p>“(1) This article applies to a person to whom article 7, other than sub-articles (2) and (4), applies”.</p> <p>(b) In sub-article (4) delete paragraph (d).</p>
Article 251(1)(b)	Delete subparagraph (iv).

The Minister for Public Expenditure and Reform consents to the foregoing Regulations.



GIVEN under my Official Seal,
9 November 2012.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
12 November 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 a number of miscellaneous amendments to the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 as a consequence of the abolition of certain schemes and changes to the operation of other schemes. In particular, these Regulations provide for various amendments arising from—

- the transfer of administrative responsibility for the Domiciliary Care Allowance scheme from the Health Services Executive to the Department of Social Protection;
- the abolition of the Early Childcare Supplement scheme;
- changes in the qualifying criteria for the One-Parent Family Payment;
- the transfer of administrative responsibility for certain employment and community services from FÁS to the Department of Social Protection;
- the abolition of the Infectious Diseases Maintenance Allowance scheme;
- the abolition of the Disabled Person's Maintenance Allowance scheme; and
- the abolition of the Health Contribution payable in accordance with the Health Contribution Act 1979.

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