



STATUTORY INSTRUMENTS.

S.I. No. 600 of 2011

SOCIAL WELFARE (RENT ALLOWANCE) (AMENDMENT) (CIVIL
PARTNERSHIP) REGULATIONS 2011

(Prn. A11/2128)

SOCIAL WELFARE (RENT ALLOWANCE) (AMENDMENT) (CIVIL PARTNERSHIP) REGULATIONS 2011

I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 4 (adapted by section 28 of the Housing (Private Rented Dwellings) Act 1982 (No. 6 of 1982)) and 295(2) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), and by section 28 (inserted by section 20 of the Housing (Miscellaneous Provisions) Act 2002 (No. 9 of 2002)) of the Housing (Private Rented Dwellings) Act 1982 (adapted by the Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011 (S.I. No. 418 of 2011)), 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 (Rent Allowance) (Amendment) (Civil Partnership) Regulations 2011.

(2) These Regulations and the Social Welfare (Rent Allowance) Regulations 1998 to 2008 shall be construed together as one and may be cited together as the Social Welfare (Rent Allowance) Regulations 1998 to 2011.

Definition.

2. In these Regulations “Principal Regulations” means the Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998).

Amendment of Part I of Principal Regulations.

3. Article 3 of the Principal Regulations is amended by—

(a) deleting the definition of “married person”, and

(b) inserting the following definitions:

“ ‘civil partner’ has the meaning assigned to it in section 2(1) of the Social Welfare Consolidation Act 2005;

‘civil partnership’ has the meaning assigned to it in section 2(1) of the Social Welfare Consolidation Act 2005;

‘cohabitant’ has the meaning assigned to it in section 2(1) of the Social Welfare Consolidation Act 2005;

‘couple’ means—

(a) a married couple who are living together,

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 25th November, 2011.

- (b) both civil partners of the same civil partnership who are living together, or
- (c) both cohabitants;”.

Amount of allowance.

4. Article 7 of the Principal Regulations is amended—

- (a) by substituting the following sub-articles for sub-articles (1) and (2) (amended by article 4 of the Social Welfare (Rent Allowance) (Amendment) Regulations 2008 (S.I. No. 600 of 2008)):

“(1) An allowance, in the case of—

- (a) a person who is one of a couple whose weekly means do not exceed €436.60, or
- (b) any other person whose weekly means do not exceed €230.30,

shall be a weekly amount equal to the amount by which the rent (calculated as a weekly rent) fixed by a Court, or by the Tribunal, or by a rent officer on or after the 25th day of July, 2002 exceeds the rent so calculated payable prior to that date.

(1A) Where the rent, calculated in accordance with sub-article (1), payable prior to the 25th day of July, 2002 was less than €13, the allowance shall be the amount by which the rent so calculated fixed by a Court, or by the Tribunal, or by a rent officer exceeds €13.

(2) An allowance, in the case of persons whose weekly means exceed the amounts specified in paragraph (a) or (b) of sub-article (1), as the case may be, shall be the amount of allowance that would arise if the provisions of sub-article (1) applied, reduced—

- (a) in the case of a person who is one of a couple, by 50 cent for each €1 of weekly means in excess of €436.60, but not exceeding €636.60, and by €1 for each €1 of weekly means in excess of €636.60, and
- (b) in any other case, by 50 cent for each €1 of weekly means in excess of €230.30, but not exceeding €430.30, and by €1 for each €1 of weekly means in excess of €430.30.”,

- (b) by substituting the following sub-article for sub-article (3):

“(3) For the purposes of sub-articles (1), (1A) and (2), any fraction of €1 of weekly means greater than 50 cent shall be taken to be €1 and any other such fraction shall be ignored.”,

- (c) in sub-article (4), by substituting “sub-articles (1), (1A) and (2)” for “sub-articles (1) and (2)”,
- (d) in sub-article (5)—
 - (i) by substituting “sub-articles (1), (1A), (2) and (4)” for “sub-articles (1), (2) and (4)”, and
 - (ii) in paragraph (a) by substituting “spouse, civil partner, cohabitant” for “spouse”, and
- (e) by substituting the following sub-article for sub-article (7):

“(7) Where the amount of an allowance under sub-articles (1), (1A) or (2) or, where appropriate, the sum of any such allowance and an allowance under sub-article (4) otherwise payable would be less than €1, no allowance shall be payable.”.

Calculation of means.

5. Article 8 of the Principal Regulations is amended—

- (a) in sub-article (1)(e) by substituting “spouse, civil partner or cohabitant, as the case may be,” for “spouse”,
- (b) in sub-article (5)(c) by substituting “spouse, civil partner or cohabitant, as the case may be,” for “spouse”,
- (c) by substituting the following sub-article for sub-article (7):

“(7) In the case of a couple, the means of—

 - (a) the claimant,
 - (b) his or her spouse or civil partner, or
 - (c) the cohabitant of that person,

shall be aggregated and shall be regarded as the means of the claimant.”, and
- (d) in sub-article (8)—
 - (i) by substituting “couple” for “married couple”,
 - (ii) in paragraph (b) by substituting “spouse, civil partner or cohabitant, as the case may be,” for “spouse”,
 - (iii) in paragraph (c) by substituting “spouse, civil partner or cohabitant, as the case may be,” for “spouse”.

Increases in social welfare payments not to be reckoned as means.

6. Article 9 of the Principal Regulations is amended in paragraph (a) by substituting “spouse, civil partner or cohabitant” for “spouse”.

Amendment of Schedule A.

7. In the modification of section 250 of the Social Welfare Consolidation Act 2005 as set out in column (2) of Schedule A to the Principal Regulations the reference to “spouse” is substituted by a reference to “spouse, civil partner or cohabitant”.

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



GIVEN under my Official Seal,
17 November 2011.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
21 November 2011.

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.)

Following the enactment of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act in July 2010, the Social Welfare and Pensions Act 2010 provided for a range of amendments to the Social Welfare Consolidation Act 2005 to comply with the new civil partnership legislation. These amendments to the Social Welfare Consolidation Act took effect from 1 January 2011.

These Regulations make the necessary amendments to the Social Welfare (Rent Allowance) Regulations 1998, which relates to the rent allowance scheme for tenants of formerly controlled rented dwellings, to ensure compliance with the civil partnership legislation by extending to civil partners, and to cohabitants in certain circumstances, the various rights and obligations that currently apply to spouses.

In addition, these Regulations convert to Euro equivalents a number of monetary amounts relating to the Rent Allowance scheme which were still denoted in punts.

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PUBLISHED BY THE STATIONERY OFFICE
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€2.54

