



STATUTORY INSTRUMENTS.

S.I. No. 11 of 2019

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL)
(AMENDMENT) (NO. 1) (DOMICILIARY CARE ALLOWANCE - NORMAL
RESIDENCE OF QUALIFIED CHILD) REGULATIONS 2019

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RESIDENCE OF QUALIFIED CHILD) REGULATIONS 2019

I, REGINA DOHERTY, Minister for Employment Affairs and Social Protection, in exercise of the powers conferred on me by sections 4 (adapted by the Social and Family Affairs (Alteration of Name of Department and Title of Minister) Order 2017 (S.I. No. 366 of 2017)), and 186D(2) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005) 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) (Domiciliary Care Allowance - Normal Residence of Qualified Child) Regulations 2019.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2018 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2019.

Normal residence of qualified child

2. Article 140C (inserted by article 3 of the Social Welfare (Consolidated Claims, Payments and Control) (Domiciliary Care Allowance) (Amendment) (No. 3) Regulations 2009) (S.I. No. 162 of 2009) of the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 is amended-

(a) in sub-article (2) by the insertion of “in sub-article (3)” after “provided for”, and

(b) by the insertion of the following sub-articles after sub-article (2):

“(3) Notwithstanding sub-article (2), and subject to articles 140D and 140E, where, in accordance with the terms of a joint custody agreement, a qualified child resides with and is cared for, in turn, by two persons who are living apart, and one or other of those persons would be a qualified person but for the residence condition in sub-article (2), domiciliary care allowance shall be payable in accordance with sub-article (4).

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 29th January, 2019.*

(4) For the purposes of sub-article (3), the qualified child shall be regarded as residing with the person nominated in writing to an officer of the Minister, by both persons, as the qualified person for the purposes of this sub-article, and the allowance shall be paid to that person, and where no such nomination is provided, domiciliary care allowance shall be paid to the person to whom child benefit is payable in respect of that child.”.



GIVEN under my Official Seal,
23 January 2019

REGINA DOHERTY,
Minister for Employment Affairs and Social Protection.

EXPLANATORY NOTE

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

Article 140C(2) of the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 provides that, for the purposes of Domiciliary Care Allowance, a qualified child must reside for at least five days in any one week with the person caring for him or her.

In some joint custody cases, where a qualified child resides with and is cared for, in turn, by parents who are living apart, the child is not resident with either parent for at least 5 days in a week, and consequently neither parent can qualify for Domiciliary Care Allowance.

These Regulations provide for an exception to the residence condition in Article 140C(2) to allow for the award of Domiciliary Care Allowance in these particular circumstances. In such cases the allowance will be paid to the parent nominated in writing by both parents, or where no such nomination occurs, to the parent who is in receipt of child benefit in respect of that child.

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