



STATUTORY INSTRUMENTS.

S.I. No. 97 of 2020

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (NO. 4) (ILLNESS BENEFIT PAYMENTS
ARISING FROM COVID-19) REGULATIONS 2020

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (NO. 4) (ILLNESS BENEFIT PAYMENTS ARISING FROM COVID-19) REGULATIONS 2020

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)), 40(7) and 40A (inserted by sections 5 and 6 respectively of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 (No. 1 of 2020)), of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), after consulting with the Minister for Health, and 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. 4) (Illness Benefit payments arising from COVID-19) Regulations 2020.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2020 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2020.

Commencement

2. These Regulations shall have effect from 9 March 2020.

Regulations in respect of Illness Benefit payments arising from COVID-19

3. The Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007) are amended by the insertion of the following chapter after Chapter 1A:

“CHAPTER 1B

Illness Benefit payments arising from COVID-19

Definitions

28I. In this Chapter –

‘medical officer of health’ has the same meaning as it has in the Health Act 1947;

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 3rd April, 2020.

‘Covid-19’ means a disease caused by infection with the virus SARS-CoV-2 and specified as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981) or any variant of the disease so specified as an infectious disease in those Regulations.

Persons deemed incapable of work

28J. For the purpose of Chapter 8 of Part 2, and for no other purpose, a person who is not incapable of work shall, if it is so decided under the provisions of the Principal Act, be deemed to be incapable of work by reason of a specified infectious disease by virtue of –

- (a) being certified in accordance with article 28Q by a registered medical practitioner as being a person who is a probable source of infection of Covid-19,
- (b) having been notified by a medical officer of health that he or she is a probable source of infection of Covid-19, or
- (c) being a person in respect of whom an order under section 38A(1) of the Health Act 1947 is in force.

Minimum contribution conditions

28K. Where a claimant is a person to whom section 40(7) applies and who would be entitled to illness benefit but for the fact that he or she does not satisfy the contribution conditions contained in section 41(1), he or she shall be entitled to benefit if, immediately before claiming illness benefit, he or she –

- (a) is an employed contributor who –
 - (i) has qualifying contributions in respect of not less than 1 contribution week in the 4 weeks immediately before claiming illness benefit, and
 - (ii) has not engaged in employment since the date of his or her claim for illness benefit,

or
- (b) is a self-employed contributor, or has verified that he or she was self-employed immediately before claiming illness benefit by making a declaration, in such form as the Minister may determine or consider appropriate having regard to the circumstances, whether in writing, by means of an electronic communication or in another manner, that he or she –
 - (i) was engaged in self-employment immediately before claiming illness benefit,
 - (ii) has not engaged in self-employment since the date of his or her claim for illness benefit, and

- (iii) will have reckonable income in the current contribution year and will be liable for the payment of a self-employment contribution under section 21.

Additional conditions

28L. Where a claimant is a person to whom section 40(7) applies and has claimed illness benefit he or she must –

- (a) not be carrying out his or her employment or self-employment,
- (b) be following medical advice, and
- (c) be following relevant guidelines set out by the Executive in relation to the specified infectious disease.

Persons not entitled to illness benefit

28M. Where a claimant is entitled to illness benefit in respect of any day of incapacity arising from their being a person to whom subsection 40(7) applies, he or she –

- (a) shall not be entitled to benefit in respect of any day of incapacity for work, if he or she is entitled to full wages, salary, or paid sick leave under a contract of employment, in respect of any such day, and
- (b) shall be entitled to a reduced rate or reductions in the rate of illness benefit in respect of any day of incapacity for work, if he or she is entitled to reduced wages, salary, or paid sick leave, for those same days, which is less than the rate of illness benefit to which he or she would otherwise be entitled.

Information to be given when making a claim

28N. Where a claim for illness benefit is made by an employed contributor in respect of any day of incapacity arising from being a person to whom subsection 40(7) applies, his or her employer shall, on being so required by an officer of the Minister, furnish to the Minister the following information relating to the employee –

- (a) the nature of his or her employment,
- (b) the total amount of paid sick leave paid to the employee from his or her employment with the employer in respect of any period,
- (c) the total number of hours worked by the employee in that employment in any period, and
- (d) any other relevant information that may be required by the said officer.

Rate of benefit

28O. The weekly rate of benefit to be paid for the purposes of section 40(11) shall be the rate of Illness Benefit as set out in Column 2 of Part 1 of Schedule 2, increased by €147.

Duration of increased rate of benefit

28P. For the purpose of section 47(11) the prescribed period shall be –

- (a) a maximum of ten weeks in the case of a person to whom section 40(7)(a)(i) applies, and
- (b) two weeks in the case of any other person to whom section 40(7) applies.

Manner of certification or notification

28Q. (1) For the purposes of section 40(7)(a) the prescribed manner for certification of the nature and extent of a relevant person's incapacity by a medical practitioner shall be in the form for the time being approved by the Minister.

(2) For the purposes of sections 40(7)(b) and 40(7)(d) the prescribed manner for notification by a medical officer of health that a relevant person is a probable source of infection of a specified infectious disease shall be in the form for the time being approved by the Minister.

(3) For the purposes of section 40(7)(c) the prescribed manner for notification by a person who declares they are a probable source of infection of a specified infectious disease shall be in the form for the time being approved by the Minister.

Disqualifications

28R. A person may be disqualified from receiving illness benefit in respect of absences from employment arising from their being a person to whom section 40(7) applies where—

- (a) the person fails without good cause to comply with instructions relating to the infectious disease issued by a registered medical practitioner or the Executive, or
- (b) the person engages in employment, self-employment or training. ”.

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



GIVEN under my Official Seal,
27 March, 2020.

PASCHAL DONOHOE,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
30 March, 2020.

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.)

The Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 introduced amendments to the Social Welfare Consolidation Act 2005 to provide for special arrangements for the payment of Illness Benefit to those who are diagnosed with Covid-19 by a medical practitioner or who are certified by the medical practitioner to be a probable source of infection of Covid-19.

These Regulations set out the details of the new arrangements and prescribe such matters as the special rate of payment which applies, the minimum social insurance contribution conditions required in order to qualify for the payment and the duration for which the payment can be made.

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