



Number 12 of 2020

Social Welfare (Covid-19) (Amendment) Act 2020



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SOCIAL WELFARE (COVID-19) (AMENDMENT) ACT 2020

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[No. 12.]

*Social Welfare (Covid-19)
(Amendment) Act 2020.*

[2020.]

ACTS REFERRED TO

Emergency Measures in the Public Interest (Covid-19) Act 2020 (No. 2)

Social Welfare Consolidation Act 2005 (No. 26)



Number 12 of 2020

SOCIAL WELFARE (COVID-19) (AMENDMENT) ACT 2020

An Act to amend and extend the Social Welfare Acts; to provide for a new benefit to mitigate the adverse economic effects of the spread of the disease known as Covid-19; to provide for the attribution of paid social insurance contributions in respect of payments arising directly from the economic impacts of that disease; and to provide for related matters. [5th August, 2020]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and construction

1. (1) This Act may be cited as the Social Welfare (Covid-19) (Amendment) Act 2020.
- (2) The Social Welfare Acts and this Act shall be construed together as one Act.

Operation of section 8

2. The amendments effected by *section 8* shall be deemed to have come into operation on the 13th day of March 2020.

Definition

3. In this Act, “Principal Act” means the Social Welfare Consolidation Act 2005.

PART 2

AMENDMENTS TO PRINCIPAL ACT

Amendment of section 2 of Principal Act

4. Section 2 of the Principal Act is amended by the insertion of the following definitions:

“ ‘Act of 2020’ means the Emergency Measures in the Public Interest (Covid-19) Act 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;

‘Covid-19 pandemic unemployment payment’ means the payment referred to in section 68L;

‘temporary wage subsidy’ has the same meaning as it has in section 28 of the Act of 2020;”.

Amendment of section 4 of Principal Act

5. Section 4 of the Principal Act is amended in subsection (4) by the insertion, in paragraph (a)—
- (a) of “38C(2), 38E,” after “2(2),” and
 - (b) of “68N, 68O, 68P,” after “68C,”.

Amendment of section 7 of Principal Act

6. Section 7 of the Principal Act is amended by the insertion of the following subsections after subsection (4):
- “(5) Benefit to be paid or provided for out of the Social Insurance Fund shall include such sums as the Minister may estimate on the basis that may be agreed between the Minister and the Minister for Public Expenditure and Reform in respect of the payments, commonly known as the pandemic unemployment payments, made under section 202 on and after 13 March 2020 to the relevant date to address the adverse economic effects of the spread of the disease known as Covid-19 and such payments shall be treated as having been paid under—
 - (a) Chapter 12 of Part 2, insofar as those payments relate to persons to whom that Chapter applies,
 - (b) Chapter 12A of Part 2, insofar as those payments relate to self-employed contributors to whom that Chapter applies, or
 - (c) Chapter 2 of Part 3, insofar as those payments relate to persons to whom that Chapter applies.
 - (6) In subsection (5), ‘relevant date’ means the date on which Chapter 12B (inserted by *section 11* of the *Social Welfare (Covid-19) (Amendment) Act 2020*) comes into operation.”.

Amendment of section 21 of Principal Act

7. Section 21 of the Principal Act is amended in subsection (1)(e) by the insertion of

“Covid-19 pandemic unemployment payment,” after “jobseeker’s benefit (self-employed),”.

Attribution of contributions in respect of certain payments made to address the effects of Covid-19

8. Part 2 of the Principal Act is amended by the insertion of the following Chapter after Chapter 6:

“CHAPTER 6A

Attribution of contributions in respect of certain payments made to address the effects of Covid-19

Application of Chapter 6A

38C. (1) This Chapter applies to a person who, on or after 13 March 2020 was—

- (a) entitled to, and in receipt of, a payment made to address the adverse economic effects of Covid-19 made by the Minister under section 202 and commonly known as the pandemic unemployment payment,
 - (b) entitled to, and in receipt of, the Covid-19 pandemic unemployment payment,
 - (c) entitled to, and in receipt of, a payment under Chapter 12 or 12A of this Part, but who would otherwise be entitled to a payment referred to in paragraph (a) or (b),
 - (d) entitled to, and in receipt of, a payment under Chapter 2 of Part 3, but who would otherwise be entitled to a payment referred to in paragraph (a) or (b),
 - (e) an employed contributor whose employer is, or was, in receipt of the temporary wage subsidy, or
 - (f) an employed contributor whose employer was, before the coming into operation of Part 7 of the Act of 2020, in receipt of a subsidy in respect of him or her paid to his or her employer under a scheme provided by the Revenue Commissioners on behalf of the Minister and commonly known as the Covid-19 employer refund scheme.
- (2) The Minister may, with the consent of the Minister for Public Expenditure and Reform, make regulations, having regard to the matters specified in section 38E(5), to provide for the application of this Chapter to a person specified in those regulations.

Section 13: supplemental provisions for purposes of Chapter

38D. (1) In any contribution week, where an employed contributor referred to in section 38C(1)(e)—

- (a) is, or was, also a specified employee within the meaning of section 28 of the Act of 2020, or
 - (b) was also an employee in receipt of the subsidy referred to in section 38C(1)(f),
- subsection (2) shall, in addition to section 13, also apply to any such employed contributor.
- (2) For the purposes of subsection (1), the following shall apply in respect of an employed contributor referred to in that subsection—
 - (a) an employment contribution shall not be payable by that employed contributor in respect of reckonable earnings from the employment concerned in any contribution week referred to in subsection (1), and
 - (b) an employment contribution shall be payable by the employer of that employed contributor at the rate of 0.5 per cent of any reckonable earnings paid to that employed contributor which are additional to the temporary wage subsidy.

Attribution of contributions: certain payments relating to Covid-19

38E. (1) A person—

- (a) who was an employed contributor in the week immediately before his or her becoming a person referred to in paragraph (a), (b), (c), (d), (e) or (f) of section 38C(1), and
 - (b) to whom section 13 applied in that week,
- shall be deemed to have made an employment contribution in accordance with section 13 in respect of each week in which he or she is, or was, a person referred to in paragraphs (a), (b), (c), (d), (e) or (f) of section 38C(1).
- (2) The amount of an employment contribution attributed under this section shall, notwithstanding any other enactment, be of the same amount of the contribution made by the employed contributor referred to in subsection (1) in the week immediately before his or her becoming a person referred to in paragraph (a), (b), (c), (d), (e) or (f) of section 38C(1).
 - (3) Notwithstanding subsection (1), the Minister may, in respect of a person to whom subsection (1) applies, by regulation, with the consent of the Minister for Public Expenditure and Reform and having regard to the matters specified in subsection (5), prescribe the maximum number of contribution weeks in respect of which employment contributions have been deemed, under subsection (1), to have been made.

- (4) The Minister may, with the consent of the Minister for Public Expenditure and Reform, and having regard to the matters specified in subsection (5), by regulation prescribe the number of self-employment contributions to be attributed to a self-employed contributor and in respect of which such contributions shall be deemed to have been made by the self-employed contributor in respect of any contribution week commencing on or after 13 March 2020.
- (5) When making regulations under this section, the Minister shall have regard to the following:
 - (a) the potential impact of Covid-19 on the entitlements of employed contributors and self-employed contributors;
 - (b) the manner in which self-employed contributions are paid by self-employed contributors and employment contributions are paid by employed contributors;
 - (c) the impact, or potential impact of, Covid-19 and the attribution of any such employment contributions and self-employment contributions on the Social Insurance Fund;
 - (d) the policies and objectives of the Government to protect the health and welfare of members of the public;
 - (e) the need to ensure the most beneficial, effective and efficient use of resources.

Exchange of information in relation to Chapter

38F. Notwithstanding section 261 or any other enactment in relation to the confidentiality of information relating to employers and insured persons or other persons entitled to benefits or assistance under this Act, information relevant to the payment of the temporary wage subsidy or the payment referred to in section 38C(1)(f) insofar as it relates to the effective operation of this Chapter, may be exchanged between the Minister and the Revenue Commissioners.”.

Amendment of section 39 of Principal Act

9. Section 39 of the Principal Act is amended in subsection (1) by the insertion of the following paragraph after paragraph (ea):

“(eb) Covid-19 pandemic unemployment payment.”.

Amendment of section 40 of Principal Act

10. Section 40 of the Principal Act is amended by the deletion of subsection (12).

Covid-19 pandemic unemployment payment

11. Part 2 of the Principal Act is amended by the insertion of the following new Chapter after

Chapter 12A:

“CHAPTER 12B

*Covid-19 pandemic unemployment payment***Covid-19 pandemic unemployment payment**

- 68L.** (1) Subject to this Act, a person shall be entitled to the Covid-19 pandemic unemployment payment in respect of any week where—
- (a) the person has attained the age of 18 years and has not attained pensionable age,
 - (b) on or after 13 March 2020, the person was—
 - (i) an employed contributor in the week immediately before he or she ceased to earn an income from the employment concerned and lost his or her employment as a direct consequence of Covid-19 (including the adverse effects of Covid-19 on the business of his or her employer and the adverse effects of measures required to be taken by his or her employer in order to comply with, or as a consequence of, Government policy to prevent, limit, minimise or slow the spread of infection of Covid-19), or
 - (ii) in insurable self-employment in the week immediately before the date on which he or she can demonstrate to the Minister that the reckonable income or reckonable emoluments ceased, or reduced, as a direct consequence of Covid-19 (including the adverse effects of Covid-19 on such self-employment and the adverse effects of measures required to be taken by him or her in order to comply with, or as a consequence of, Government policy to prevent, limit, minimise or slow the spread of infection of Covid-19), to the extent that he or she would be available to take up full-time employment,
 - (c) the person is not—
 - (i) an employed contributor whose employer is, or was, in receipt of the temporary wage subsidy, or
 - (ii) an employed contributor referred to in section 38C(1)(f) whose employer was, before the coming into operation of Part 7 of the Act of 2020, in receipt of a subsidy referred to in section 38C(1)(f),
 - (d) the person is not engaged in insurable employment,
 - (e) the person satisfies the contribution conditions in section 68M,
 - (f) he or she is capable of work,

- (g) he or she is genuinely seeking, but is unable to obtain, employment suitable for him or her having regard to his or her age, physique, education, normal occupation, place of residence and family circumstances, and
 - (h) the person was not in receipt of the payment known as the pandemic unemployment payment paid under section 202 in respect of that week.
- (2) Entitlement to the Covid-19 pandemic unemployment payment shall, having regard to the date referred to in subsection (1), take effect from the date on which the claimant was last in employment or self-employment referred to in subsection (1)(b).
- (3) The conditions specified in subsection (1)(b)(i) will not be satisfied where a claimant—
- (a) has lost the employment concerned through his or her own misconduct or has voluntarily left his or her employment,
 - (b) refuses an offer to return to the employment concerned,
 - (c) has refused an offer of suitable employment,
 - (d) has failed or neglected to avail himself or herself of any reasonable opportunity of obtaining suitable employment, or
 - (e) has failed or neglected to avail himself or herself of any offer of support from, or proposed by, the Minister to enable himself or herself to improve his or her prospects of obtaining employment.
- (4) Subject to this Act, a person who was, immediately before the coming into operation of *section 11* of the *Social Welfare (Covid-19) (Amendment) Act 2020*, in receipt of the payment known as the pandemic unemployment payment paid under section 202, shall, subject to this Chapter, be paid the Covid-19 pandemic unemployment payment.
- (5) An employer or a self-employed contributor shall provide the Minister with such prescribed information for the purposes of determining entitlement to the Covid-19 pandemic unemployment payment.

Contribution conditions

68M. The contribution conditions for the Covid-19 pandemic unemployment payment are that—

- (a) in the case of a person referred to in section 68L(1)(b)(i), he or she has qualifying contributions in respect of not less than one contribution week in the 4 weeks immediately before claiming the Covid-19 pandemic unemployment payment, or

- (b) in the case of a person referred to in section 68L(1)(b)(ii), he or she is a self-employed contributor.

Duration of Covid-19 pandemic unemployment payment

68N. (1) The Covid-19 pandemic unemployment payment shall cease on a day as may be prescribed by the Minister under subsection (2).

- (2) For the purposes of subsection (1), the Minister may, with the consent of the Minister for Public Expenditure and Reform, and having regard to the matters specified in subsection (3) make regulations—

- (a) specifying a date on or after which an application for the Covid-19 pandemic unemployment payment shall not be made, and
- (b) specifying a date on which the Covid-19 pandemic unemployment payments shall cease to be made.

- (3) When making regulations under this section the Minister shall have regard to the following:

- (a) the policies and objectives of the Government to mitigate the economic effects of the spread of the disease known as Covid-19 through the supports available to both individuals and businesses;
- (b) the range of income support and in-work supports provided by the Government to protect and support the welfare of members of the public, including those affected by the adverse economic effects of the spread of the disease known as Covid-19;
- (c) the need to ensure the long-term sustainability of the Social Insurance Fund;
- (d) the need to ensure the most beneficial, effective and efficient use of resources.

Rate of payment

68O. (1) The weekly rates of the Covid-19 pandemic unemployment payment shall be the amounts corresponding to the amounts set out in Part 6 of Schedule 2 or such weekly rates as may be prescribed in regulations under this section.

- (2) For the purposes of subsection (1)—

- (a) the manner in which the average reckonable weekly income of a claimant is calculated shall be prescribed in regulations under this section, and
- (b) the Minister may make regulations providing for the manner in which the average reckonable weekly income of a claimant shall be calculated.

- (3) Notwithstanding anything in this Act, the Minister may, with the consent of the Minister for Public Expenditure and Reform, by

regulation increase or decrease the weekly rates referred to in subsection (1) and may provide that different rates of payment shall be payable in line with the provision of any such regulations.

- (4) When making regulations under this section the Minister shall have regard to the following:
- (a) the policies and objectives of the Government to mitigate the adverse economic effects of the spread of the disease known as Covid-19 through the supports available to both individuals and businesses;
 - (b) the need to ensure that the rates of payment complement the range of income supports, activation measures, in-work and business supports provided by the Government to assist the recovery and sustainability of employment;
 - (c) the need to ensure the most beneficial, effective and efficient use of resources.

Regulations for purposes of Chapter

- 68P.** (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, and having regard to the matters specified in subsection (2), make regulations for the purposes of giving full effect to this Chapter and such regulations may, in particular, but without prejudice to the generality of the foregoing, provide for all or any of the foregoing—
- (a) the matters referred to as prescribed in this Chapter,
 - (b) the manner in which entitlement to an increase in respect of a qualified adult paid with a benefit or assistance under this Act shall be treated where the qualified adult concerned has an entitlement in his or her own right to the Covid-19 pandemic unemployment payment,
 - (c) the manner in which entitlement to an increase in respect of a qualified child paid with a benefit or assistance under this Act shall be treated where the qualified child concerned has an entitlement in his or her own right to the Covid-19 pandemic unemployment payment,
 - (d) additional requirements in relation to the activation of persons in receipt of the Covid-19 pandemic unemployment payment as the Minister may consider appropriate, and
 - (e) such additional, incidental, consequential or supplementary matters as the Minister considers necessary or expedient for the purposes of giving effect to the relevant provisions.

- (2) When making regulations under this section, the Minister shall have regard to the following:
- (a) the potential impact of Covid-19 on the entitlements of employed contributors and self-employed contributors;
 - (b) the policies and objectives of the Government to protect the health and welfare of members of the public;
 - (c) the policies and objectives of the Government to mitigate the economic effects of Covid-19;
 - (d) the need to ensure the most beneficial, effective and efficient use of resources.”.

Amendment of section 241 of Principal Act

12. Section 241 of the Principal Act is amended in subsection (2) by the insertion in paragraph (c) of “Covid-19 pandemic unemployment payment,” after “jobseeker’s benefit (self-employed),”.

Amendment of Schedule 2 to Principal Act

13. Schedule 2 to the Principal Act is amended by the insertion of the following Part after Part 5:

“Part 6

COVID-19 PANDEMIC UNEMPLOYMENT PAYMENT

The weekly rates of Covid-19 pandemic unemployment payments, subject to any such rate specified in regulations under section 68O, are:

- (a) Band A: €203 in the case of a person whose average reckonable weekly income was less than €200, or
- (b) Band B: €350 in the case of a person whose average weekly reckonable income was €200 or more.

In this Part, ‘average reckonable weekly income’ means the average reckonable weekly income calculated in accordance with regulations made by the Minister under section 68O.”.