



STATUTORY INSTRUMENTS.

S.I. No. 514 of 2011

SOCIAL WELFARE (CONSOLIDATED SUPPLEMENTARY WELFARE
ALLOWANCE) (AMENDMENT) (NO. 3) (ADMINISTRATIVE
RESPONSIBILITY FOR SUPPLEMENTARY WELFARE ALLOWANCE)
REGULATIONS 2011

(Prn. A11/1819)

SOCIAL WELFARE (CONSOLIDATED SUPPLEMENTARY WELFARE ALLOWANCE) (AMENDMENT) (NO. 3) (ADMINISTRATIVE RESPONSIBILITY FOR SUPPLEMENTARY WELFARE ALLOWANCE) REGULATIONS 2011

I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 4, 188, 190, 191, 195 (as amended by section 18 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)), 241(1), 242 (as amended by section 29 of the Social Welfare and Pensions Act 2007 (No. 8 of 2007)), 244 (as amended by section 20 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)), 251, 294, 295, 330 (as amended by section 18 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005) (adapted by the Social and Family Affairs (Alteration of Name of Department and Title of Minister) Order 2010 (S.I. No. 186 of 2010)) and by section 198 (as amended by section 18 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008) and further amended by section 11 of the Social Welfare and Pensions Act 2010 (No. 37 of 2010)) 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 Supplementary Welfare Allowance) (Amendment) (No. 3) (Administrative Responsibility for Supplementary Welfare Allowance) Regulations 2011.

(2) These Regulations and the Social Welfare (Consolidated Supplementary Welfare Allowance) Regulations 2007 to 2010 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Supplementary Welfare Allowance) Regulations 2007 to 2011.

Definitions.

2. In these Regulations “Principal Regulations” means the Social Welfare (Consolidated Supplementary Welfare Allowance) Regulations 2007 (S.I. No. 412 of 2007).

Commencement.

3. These Regulations come into operation on 1 October 2011.

Amendments to Principal Regulations.

4. The Principal Regulations are amended—

(a) in sub-article 16(3) by substituting “under Chapter 9 of Part 3 of the Principal Act” for “from the Executive”;

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 11th October, 2011.

(b) by substituting the following article for article 18:

“18. Every claim for supplementary welfare allowance (including any increase thereof) shall be made to the Minister in the form for the time being approved by the Minister or in such other manner as the Minister may accept as sufficient in all the circumstances.”;

(c) in sub-article 22(1) by substituting “the Minister” for “the Executive”;

(d) in article 23 by substituting the following sub-article for sub-article (1):

“Provision of information.

23. (1) Every claimant or beneficiary and every person by whom any supplementary welfare allowance is receivable on behalf of a claimant or beneficiary shall—

(a) furnish in such manner and at such times as an officer of the Minister may determine, such certificates, documents and information affecting the right to supplementary welfare allowance or to the receipt thereof as the said officer may require, and

(b) notify the Minister of any change in circumstances which may affect the right to supplementary welfare allowance, or to the receipt thereof, as soon as is reasonably practicable thereafter.”;

(e) by deleting sub-article 24(2);

(f) by substituting the following article for article 25:

“25. (1) Supplementary welfare allowance shall be paid in accordance with a determination under the provisions of the Principal Act as soon as is reasonably practicable thereafter in such manner as the Minister may determine in any particular class of case.

(2) Subject to sub-article (3) the manner of payment under sub-article (1) shall comprise of—

(a) a cheque issued directly to the claimant or beneficiary,

(b) an order payable at a post office designated by the claimant or beneficiary, or where the Minister considers it appropriate, at a post office designated by the Minister,

(c) a direct credit transfer to an account nominated by the claimant or beneficiary and where the said allowance is so paid, the claimant or beneficiary shall be deemed to have received such payment,

(d) a cash payment at a post office.

(3) The Minister may arrange for the payment of supplementary welfare allowance otherwise than in accordance with sub-article (2) where the circumstances so warrant.”;

- (g) in article 27 by substituting “the Minister” for “the Executive” in each place it occurs;
- (h) in sub-article 28(1) by substituting “the Minister may, subject to such conditions as he or she thinks fit,” for “the Executive may, subject to such conditions as it thinks fit,”;
- (i) in sub-article 28(2) by substituting “the Minister” for “the Executive”;
- (j) in article 29 by substituting “The Minister may, where it appears” for “The Executive may, where it appears to it”;
- (k) in sub-article 30(1) by substituting “the Minister may, where he or she considers that the circumstances so warrant, appoint the qualified adult to receive and deal with on behalf of the claimant or beneficiary so much of the allowance as the Minister considers reasonable.” for “the Executive may, where it considers that the circumstances so warrant, appoint the qualified adult to receive and deal with on behalf of the claimant or beneficiary so much of the allowance as the Executive considers reasonable.”;
- (l) in article 31 by substituting “the Minister” for “the Executive” in each place it occurs.

5. The Principal Regulations are amended by deleting article 39 and Schedule 3.

6. The Principal Regulations are amended in the manner specified in Schedule 1.

Amendment of Part 7 of Principal Regulations.

7. The Principal Regulations are amended by substituting the following Part for Part 7:

“PART 7

DETERMINATIONS AND APPEALS

Determination of designated person.

40. (1) A determination by a designated person for the purposes of determining a claim to supplementary welfare allowance shall be in writing and signed by him or her.

(2) Where any determination made by a designated person is not in favour of the person making the claim, the designated person shall attach to the determination a note of the reasons for the said determination.

(3) The Minister shall, as soon as may be after the making of the determination, cause a memorandum of—

- (a) the determination, and
- (b) where in accordance with sub-article (2) of this article the determination is not in favour of the person, the reasons for the said determination,

to be issued to the person making the claim.

Submission of appeal under section 323.

41. (1) In Part 7 “Review Officer” is a person designated by the Minister under section 323 as the person to whom the appeal shall lie. Any person (in this and the following articles referred to as the “appellant”) who is dissatisfied with the determination by a designated person of a claim by him or her for supplementary welfare allowance under section 200, 201 and 202 and wishes to appeal against such determination shall give notice in that behalf, in writing to a review officer.

(2) (a) Subject to paragraph (b), the time within which an appeal may be made shall be any time up to the expiration of 21 days from the date of the notification of the determination to the appellant.

(b) A notice of appeal referred to in paragraph (a) may be accepted after the end of the period referred to therein, with the approval of the designated person.

(3) The notice of appeal referred to shall contain a statement of the facts and contentions upon which the appellant intends to rely.

(4) The appellant shall send to the review person with the notice of appeal such documentary evidence as the appellant wishes to submit in support of his or her appeal, and the notice shall contain a list of any such documents.

(5) Any person wishing to withdraw an appeal may do so by sending a written notice to that effect to the review officer.

Notice of appeal and information to be supplied.

42. The review officer shall cause notice of appeal to be sent to the Minister who shall as soon as possible furnish to the review officer—

- (a) a statement from the designated officer or on his or her behalf showing the extent to which the facts and contentions advanced by the appellant in relation to his or her appeal are admitted or disputed, and
- (b) any information, document or item in the power and control of the designated officer that is relevant to the appeal.

Further information to be supplied and amendment of pleadings.

43. The review officer may at any time—

- (a) require the appellant or the designated officer to furnish him or her in writing, further particulars regarding the appeal,
- (b) allow the amendment of any notice of appeal, statement or particulars at any stage of the proceedings, and
- (c) fix the time for furnishing any such statement or particulars upon such terms as he or she may think fit.

Determination of Review Officer.

44. (1) The determination of the review officer shall be in writing and signed by him or her.

(2) In any case where the determination of the review officer is not in favour of the appellant, he or she shall attach to his or her determination a note of the reasons for the said determination.

(3) The review officer shall cause a memorandum of—

- (a) the determination, and
- (b) where in accordance with sub-article (2) the determination is not in favour of the appellant, the reasons therefor, to be issued to—
 - (i) the appellant, and
 - (ii) the Minister.

Method of sending documents.

45. Any notice or other document required or authorised to be issued to any person for the purpose of this Part shall be deemed to be duly issued, if by post addressed to him or her at his ordinary address or at his or her place of business.”.

SCHEDULE 1

Provision Affected (1)	Amendment (2)
Articles 8, 9(2)(b), 9(2)(c), 9(2)(d), 9(2)(e), 9(2)(i), 9(2)(j), 10, 12, 19, 38.	Substitute 'a designated person' for 'the Executive' in each place it occurs.

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



GIVEN under my Official Seal,
29 September 2011.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
30 September 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.)

These Regulations amend the Social Welfare Consolidated Supplementary Welfare Allowance Regulations 2007 following the transfer of responsibility for the administration of the Supplementary Welfare Allowance scheme from the Health Service Executive to the Department of Social Protection on 1st October 2011. The amendments required include replacing references to the Health Service Executive with the appropriate terms.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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