



STATUTORY INSTRUMENTS.

S.I. No. 623 of 2021



SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (NO. 15) (CARERS) REGULATIONS 2021

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (NO. 15) (CARERS) REGULATIONS 2021

I, HEATHER HUMPHREYS, Minister for Social Protection, in exercise of the powers conferred on me by sections 4 (as adapted by the Employment Affairs and Social Protection (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 447 of 2020)), 99(3), 100(6) and 225(3) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), and by Rule 1(2)(b)(x) of Part 5 of Schedule 3 to 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. 15) (Carers) Regulations 2021.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2021 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2021.

Interpretation

2. In these Regulations “Principal Regulations” means the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007).

Definitions

3. Article 3 of the Principal Regulations is amended by the insertion of the following definitions:

“‘adoptive leave’ means adoptive leave under the Adoptive Leave Act 1995;

‘health and safety leave’ means health and safety leave under the Maternity Protection Act 1994;

‘parental leave’ means parental leave under the Parental Leave (Amendment) Act 2019;”.

Carer's Benefit

4. The Principal Regulations are amended –

(a) by the substitution of the following article for article 56:

“Circumstances in which carer is to be regarded as providing full-time care and attention.

56. A carer may, for the purposes of Chapter 14 of Part 2, be regarded as providing full-time care and attention to a relevant person where–

(a) that carer would qualify for payment of benefit but for the fact that either the carer or the relevant person is undergoing medical or other treatment of a temporary nature in an institution for a period of not longer than 13 weeks, or

(b) the relevant person is attending –

(i) a non-residential course of rehabilitation training provided by an organisation (being an organisation recognised by the Minister for Health and Children for the purposes of the provision of such training), or

(ii) a non-residential place of day care approved by the Minister for Health and Children,

and

(c) that carer provides care for not less than 35 hours in a period of 7 consecutive days, and care is provided on any 5 days, whether consecutive or not, within a period of 7 consecutive days.”,

(b) in article 57 by the deletion of “outside the home” in each place where it occurs,

(c) by the insertion of the following article after article 57:

“57A Conditions and circumstances under which a carer on leave from employment shall satisfy the condition on engagement in remunerative full-time employment as an employed contributor.

57A. (1) The condition specified in section 100(1)(a) shall be regarded as being satisfied in respect of a person who was absent from his or her employment within the relevant period referred to in section 100(1)(a), by reason of being on such leave as:

(a) adoptive leave,

(b) health and safety leave,

(c) maternity leave,

(d) parental leave,

(e) parent's leave, or

(f) paternity leave,

if he or she was engaged in remunerative full-time employment as an employed contributor for 8 weeks, whether consecutive or not, within the relevant period.

(2) The relevant period in sub-article (1) shall be the period of 26 weeks prior to the relevant period of 26 weeks under section 100(1)(a), or a period which comprises two or more periods which, taken together, amount to a period of 26 weeks) in the 52 weeks prior to the relevant period of 26 weeks under section 100(1)(a).”, and

(d) in sub-article (6) of article 181 by the substitution of the following paragraphs for paragraph (a):

“(a) the number of hours worked by the employee in that employment in such periods as may be specified by the said officer,

(aa) the amount of the claimant's gross earnings derived from that employment in respect of any period,

(ab) certification that the claimant has availed of -

(i) adoptive leave,

(ii) health and safety leave,

(iii) maternity leave,

(iv) parental leave,

(iv) parent's leave, or

(v) paternity leave,

as the case may be, and the periods of such leave, and”.

Carer's Support Grant

5. The Principal Regulations are amended –

(a) in article 167 by the substitution of the following paragraphs for paragraph (d):

“(d) for the purposes of carer's support grant payable in respect of full-time care and attention provided on or after 1 June 2006, the carer is undertaking such training or course of education as the Minister may determine from time to time, subject to the limits with respect to duration imposed by article 169,

and

(e) the number of hours providing such care is not less than 35 hours in a period of 7 consecutive days, and care is provided on any 5 days, whether consecutive or not, within a period of 7 consecutive days.”, and

(b) by the substitution of the following article for article 169:

“Conditions and circumstances under which a carer may engage in employment, self-employment, training and education.

169. For the purposes of a carer’s support grant payable in respect of full-time care and attention provided on or after 1 June 2006, where it is shown to the satisfaction of a deciding officer or an appeals officer that adequate provision has been made for the care of the relevant person, a carer may engage in employment or self-employment or any training or course of education provided that the aggregate duration of such employment or self-employment and any training or course of education referred to in article 167(d) shall not exceed 18.5 hours per week.”.

Earnings disregard – blind pension

6. Article 3 of the Social Welfare (Consolidated Claims, Payment and Control) (Amendment) (No. 8) (Earnings Disregard) Regulations 2021 (S.I. No. 78 of 2021) is amended by the substitution of the following paragraph for paragraph (b):

“(b) in article 150(3)(e) (as amended by article 4(b) of Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 3) (Earnings Disregard) Regulations 2019 (S.I. No. 42 of 2019)) by the substitution of ‘140’ for ‘120’.”

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



GIVEN under my Official Seal,
2 November, 2021.

MICHAEL MCGRATH,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
25 November, 2021.

HEATHER HUMPHREYS,
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 remove the provisions that only employment, self-employment, training and education performed outside the home is taken into account in relation to assessing a carer's eligibility for Carer's Benefit and Carer's Support Grant. The total number of hours that a carer is permitted to engage in these activities is 18.5 hours per week, regardless of where that activity takes place.

These regulations also prescribe the types of leave from employment that are permitted and the relevant period in relation to Carer's Benefit.

In addition these regulations correct a technical error in the Social Welfare (Consolidated Claims, Payment and Control) (Amendment) (No. 8) (Earnings Disregard) Regulations 2021 (S.I. No. 78 of 2021) in relation to the earnings disregard for Blind Pension.

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