



STATUTORY INSTRUMENTS.

S.I. No. 448 of 2012



SOCIAL WELFARE (RENT ALLOWANCE) (AMENDMENT)
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2012

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I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 4 (adapted by section 28 of the Housing (Private Rented Dwellings) Act 1982 (No. 6 of 1982)) and 295(2) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), and by section 28 (inserted by section 20 of the Housing (Miscellaneous Provisions) Act 2002 (No. 9 of 2002)) of the Housing (Private Rented Dwellings) Act 1982 (adapted by the Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011 (S.I. No. 418 of 2011)), 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 (Rent Allowance) (Amendment) (Miscellaneous Amendments) Regulations 2012.

(2) These Regulations and the Social Welfare (Rent Allowance) Regulations 1998 to 2011 shall be construed together as one and may be cited together as the Social Welfare (Rent Allowance) Regulations 1998 to 2012.

Interpretation.

2. In these Regulations “Principal Regulations” means the Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998).

Definitions.

3. Article 3 of the Principal Regulations is amended by inserting the following definition:

“‘Act of 2005’ means the Social Welfare Consolidation Act 2005;”.

Calculation of means.

4. Article 8(1)(a) of the Principal Regulations is amended—

(a) by substituting the following subparagraph for subparagraph (ii):

“(ii) any sums received by way of death benefit in respect of an orphan, guardian’s payment (contributory), guardian’s payment (non-contributory) or domiciliary care allowance under the Act of 2005,”

(b) by deleting subparagraph (iii),

(c) in subparagraph (vi) by substituting “the Health Service Executive” for “a health board”,

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“Iris Oifigiúil” of 16th November, 2012.*

(d) in subparagraph (vii) by substituting “grants of money to them,” for “grants of money to them, and”, and

(e) by deleting subparagraph (viii).

Increases in social welfare payments not to be reckoned as means.

5. Article 9 of the Principal Regulations is amended by substituting the following paragraph for paragraph (a):

“(a) any benefit, pension, allowance or assistance under Part 2 or Part 3 of the Act of 2005 is also in payment to or in respect of the person or the spouse, civil partner or cohabitant of the person or to both of them, and”.

Allowance to be disregarded in calculating means for other purposes.

6. The Principal Regulations are amended by substituting the following article for article 10:

“Allowance to be disregarded in calculating means for other purposes.

10. No account shall be taken of an allowance in the calculation of a person’s means for the purposes of assistance under Part 3 of the Act of 2005.”.

Offences.

7. The Principal Regulations are amended by substituting the following article for article 16:

“Offences.

16. A person who fails to comply with sub-article (2) of article 12 of these Regulations shall be guilty of an offence and shall be liable on summary conviction to the penalties provided for in section 257(1)(a) of the Act of 2005, as applied under section 23 of the Act of 1982.”.

Application of certain provisions of the Social Welfare Acts.

8. The Principal Regulations are amended—

(a) by inserting the following article after article 20:

“Application of the Act of 2005.

21. The provisions of the Act of 2005 mentioned in column (1) of Schedule B shall apply to an allowance and in such application shall be modified so that the said provisions shall read as set out in column (2) of the said Schedule.”,

(b) in Schedule A by revoking the application of sections 213 and 218 of the Act of 1993 to an allowance, and

(c) by inserting the following Schedule after Schedule A:

“SCHEDULE B

Section of Act to be applied (1)	Modification (2)
Section 251 of the Act of 2005	<p>251. (1) Where, for the purpose of—</p> <ul style="list-style-type: none"> (a) obtaining or establishing entitlement to payment of any allowance for himself or herself or for any other person, or (b) obtaining or establishing entitlement to payment of any allowance for himself or herself or for any other person which is in excess of that which he or she was entitled to, or (c) avoiding the making by himself or herself or any other person of any repayment under these Regulations, <p>or for any other purpose connected with an allowance, any person-</p> <ul style="list-style-type: none"> (i) knowingly makes any statement or representation (whether written or verbal) which is to his or her knowledge false or misleading in any material respect, or knowingly conceals any material fact, or (ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he or she knows to be false in a material particular, <p>he or she shall be guilty of an offence.</p>
Section 251 of the Act of 2005	<p>(6) Regulations made under section 23 of the Act of 1982 may provide for offences consisting of contraventions of or failures to comply with those regulations and, where those offences are provided for, a person guilty of any such offence is liable on summary conviction to the penalties provided for in section 257(1)(a) of the Act of 2005.</p>
Section 257 of the Act of 2005	<p>257. (1) A person guilty of an offence under section 212 of the Act of 1993 or 251 of the Act of 2005 (as applied and modified by these regulations) shall be liable—</p> <ul style="list-style-type: none"> (a) on summary conviction, to a fine not exceeding €1,500 or imprisonment for a term not exceeding 6 months, or to both, or (b) on conviction on indictment, to a fine not exceeding €13,000 or imprisonment for a term not exceeding 3 years, or to both. <p>(2) A person convicted of an offence under subsection (1) in relation to an allowance shall be disqualified for receipt of such allowance for a period of 3 months immediately following the date of the conviction.</p> <p>(3) This section shall apply with the necessary modifications in the case of a person to whom an allowance is paid under Regulations made under section 23 of the Act of 1982 or for the benefit of any person.</p>

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



GIVEN under my Official Seal,
9 November 2012.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
12 November 2012.

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 provide for a number of miscellaneous amendments to the Social Welfare (Rent Allowance) Regulations 1998, which relate to the rent allowance scheme for tenants of formerly controlled rented dwellings, as a consequence of the abolition of certain schemes and changes to the operation of other schemes. These Regulations provide for amendments arising from—

- the transfer of administrative responsibility for the Domiciliary Care Allowance scheme from the Health Service Executive to the Department of Social Protection, and
- the abolition of the Infectious Diseases Maintenance Allowance scheme.

These Regulations abolish the disregard of income from employment by the Health Service Executive as a Home Help in the assessment of means for Rent Allowance purposes, in line with a similar amendment that was made in the Social Welfare Act 2011 in relation to the assessment of means for social assistance payments generally.

These Regulations also bring the provisions relating to offences and penalties for those offences into line with the provisions for offences and penalties contained in the Social Welfare Consolidation Act 2005.

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