



STATUTORY INSTRUMENTS

S.I. No. 138 of 2008

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (No. 2) (EARNINGS DISREGARD)
REGULATIONS 2008

(Prn. A8/0608)

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (No. 2) (EARNINGS DISREGARD) REGULATIONS 2008

The Minister for Social and Family Affairs, in exercise of the powers conferred on him by sections 4 (as amended by section 17 and Schedule 3 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006)) and 173(3) (as amended by section 8 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), and Rule 1(2)(b)(vii) and Rule 1(4) (as amended by section 8 of the Social Welfare and Pensions Act 2008) of Part 5 (as inserted by section 25 and Schedule 5 of the Social Welfare Law Reform and Pensions Act 2006) of Schedule 3 to the said Act, hereby makes the following regulations:

Citation and construction.

1. (1) These Regulations may be cited as the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 2) (Earnings Disregard) Regulations 2008.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007) shall be construed together as one and may be cited as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2008.

Commencement.

2. These Regulations come into operation on 8 May 2008.

Definitions.

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

Earnings disregard — Widow’s (non-contributory) pension and widower’s (non-contributory) pension.

4. The Principal Regulations are amended in article 149 by the substitution of the following sub-article for sub-article (3):

“(3) For the purposes of sub-article (2) the amount shall be the aggregate of—

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th May, 2008.

- (b) any contributions payable under section 13(2)(b) and Regulations made under section 14,
- (c) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979),
- (d) any payment to a trade union, and
- (e) the first €100 of weekly earnings.”.

Assessment of earnings — one-parent family payment

5. The Principal Regulations are amended by the substitution of the following articles for article 151:

“Income limit — one-parent family payment.

151. (1) For the purposes of section 173(3), in assessing the income of a person for one-parent family payment, the weekly earnings from employment or weekly income from self-employment shall be calculated or estimated as follows—

- (a) insofar as it comprises earnings from employment by reference to the weekly amount of such earnings calculated by dividing the gross amount of such earnings in the last complete income tax year by 52,
- (b) insofar as it comprises income from any form of self-employment, by reference to the weekly amount of such income, calculated or estimated by dividing the income in the last complete income tax year by 52.

(2) Where a deciding officer or an appeals officer considers that the periods referred to in sub-article (1) would not suffice in determining either the amount of weekly earnings from employment or weekly income from self-employment, he or she may, for the purpose of this article, have regard to any other period which appears to the officer to be appropriate for that purpose.

(3) Where the gross weekly earnings (including wages and profit from self-employment) calculated in accordance with sub-articles (1) and (2) above exceed the amount specified in section 173(3) a one-parent family payment shall not be payable.

Earnings disregard — one-parent family payment.

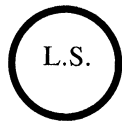
151A. (1) For the purposes of Rule 1(4)(a) of Part 5 of Schedule 3 to the Principal Act, in the case of a person whose gross weekly earnings from employment or gross weekly income from self-employment do not exceed the amount specified in section 173(3), an amount, calculated in accordance with sub-article (2) shall be disregarded.

(2) For the purposes of sub-article (1), the amount shall be the aggregate of—

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),
- (b) any contributions payable under section 13(2)(b) and Regulations made under section 14,
- (c) any contributions payable under sections 5 of the Health Contributions Act 1979 (No. 4 of 1979), and
- (d) any payment to a trade union.”.

Maintenance Arrangements

6. The Principal Regulations are amended by the substitution in article 143 (1) for “Rule 1(2)(b)(ii) of Part 3” of “Rule 1(2)(b)(i) of Part 3”.



GIVEN under the Official Seal of the Minister for Social and Family Affairs,
2 May 2008

MARTIN CULLEN.
Minister for Social and Family Affairs.

EXPLANATORY NOTE

(This Note is not part of the Instrument and does not purport to be a legal interpretation.)

These regulations provide for the amendment of the provisions governing the means test for the purposes of the one-parent family payment and widow's (non-contributory) pension and widower's (non-contributory) pension.

Article 4 provides that social insurance contributions are to be disregarded in the calculation of average weekly earnings for the purposes of widow's (non-contributory) pension and widower's (non-contributory) pension. This brings the arrangements formally into line with other working age schemes.

Article 5 provides for the calculation of weekly earnings for the purposes of entitlement to the one parent family payment scheme and provides for the disregard of superannuation contributions, social insurance contributions, health contributions and trade union subscriptions where the gross income does not exceed the amount specified in the Act.

The regulation also provides for a technical amendment to the Principal Regulations.

These regulations come into operation on 8 May 2008.

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