



STATUTORY INSTRUMENTS

**S.I. No. 162 of 2009**

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND  
CONTROL) (DOMICILIARY CARE ALLOWANCE) (AMENDMENT)  
(No. 3) REGULATIONS 2009

**(Prn. A9/0614)**

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (DOMICILIARY CARE ALLOWANCE) (AMENDMENT) (No. 3) REGULATIONS 2009

The Minister for Social and Family Affairs in exercise of the powers conferred on her 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)), 186C (as amended by section 19 of the Social Welfare (Miscellaneous Provisions Act 2008 (No. 22 of 2008)), 186D, 186E, 186F, 186G (all inserted by section 15 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)), 241 (as amended by section 16 of the Social Welfare and Pensions Act 2008), 242 (as amended by section 29 of the Social Welfare and Pensions Act 2007 (No. 8 of 2007)) 243, 244 (as amended by sections 10 of the Social Welfare (Miscellaneous Provisions) Act 2008), and 249 (as amended by section 16 of the Social Welfare and Pensions Act 2008) of the Social Welfare (Consolidation) Act 2005 (No. 26 of 2005) hereby makes the following Regulations:

*Citation and construction.*

1. (1) These Regulations may be cited as the Social Welfare (Consolidated Claims, Payments and Control) (Domiciliary Care Allowance) (Amendment) (No. 3) Regulations 2009.

(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 2009.

*Definitions.*

2. In these Regulations—

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

“Regulations of 2008” means the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 3) (Prescribed Time) Regulations 2008 (S.I. No. 243 of 2008);

“Regulations of 2009” means the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 2) (Early Childcare Supplement) Regulations 2009 (S.I. No. 54 of 2009).

*Domiciliary care allowance.*

3. The Principal Regulations are amended by the insertion after Chapter 5 and before Chapter 6 in Part 3 of the following Chapter:

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 5th May, 2009.*

## “Chapter 5A

*Domiciliary Care Allowance**Interpretation*

140A. In this Chapter—

‘institution’, ‘qualified child’ and ‘qualified person’ have the meanings assigned to them in section 186B of the Principal Act.

*Prescribed manner for certification of disability and duration of full-time care and attention*

140B. The prescribed manner of certification by a registered medical practitioner of—

- (a) the nature and extent of the qualified child’s disability, and
- (b) the likely duration of full-time care and attention required,

shall be in the form for the time being approved by the Minister.

*Normal residence of qualified child*

140C. (1) Subject to sub-article (2) the person with whom a qualified child normally resides shall be determined in accordance with Article 13 of the Principal Regulations.

(2) Except as provided for in Article 140D a qualified child who resides with a person for less than 5 days in any one week shall not be regarded as normally residing with that person for the purposes of domiciliary care allowance.

*Payment in respect of temporary part-time residence in an institution*

140D. (1) Notwithstanding article 140C for the purposes of section 186E(1), domiciliary care allowance shall be payable in respect of a qualified child who is temporarily resident with a qualified person for not less than 2 days and not more than 4 days in any one week in which the child would otherwise be regarded as residing in an institution.

(2) In the case a qualified child to whom sub-article (1) applies, the monthly amount of domiciliary care allowance payable shall be 50 per cent of the amount set out in Part 5 of Schedule 4 to the Principal Act.

(3) The amount payable in accordance with sub-article (1) shall be rounded up to the nearest 10 cent.

*Payment in respect of temporary full-time residence in an institution*

140E. For the purpose of section 186E (3), domiciliary care allowance shall continue to be payable in respect of a qualified child who has been admitted to an institution on a full-time basis for the purpose of receiving medical or other treatment of a temporary nature for not more than 13 weeks in a 12 month period.

*Medical examination and disqualification*

140F. (1) An officer of the Minister may, giving not less than 7 days notice in writing, require that a qualified person shall submit such medical or other evidence in respect of the qualified child in the form for the time being approved by the Minister.

(2) An officer of the Minister may, giving not less than 7 days notice in writing, require that a qualified child shall attend for or submit to such medical or other examination at such time and place as may be specified in the notice.

(3) Where a medical examination under sub-article (2) is deemed necessary a notice of the time and place of the examination referred to in sub-article (2) shall be sent to the qualified person.

(4) Subject to sub-article (5), a qualified person shall be disqualified for receiving domiciliary care allowance—

(a) where the evidence referred to in sub-article (1) is not submitted,

or

(b) if and for so long as the qualified child in respect of whom domiciliary care allowance is payable fails without good cause to attend for or submit to such medical or other examination in accordance with sub-article (2).

(5) A disqualification referred to in sub-article (4) shall not commence earlier than the day on which the failure to submit the medical or other evidence requested or the failure to attend for or submit to the medical examination occurs.”.

*Domiciliary care allowance — prescribed time for making claim*

4. The Principal Regulations are hereby amended in article 182 (as amended by article 3 of the Regulations of 2008) by the substitution of paragraph (b) of the following paragraph:

“(b) in the case of jobseeker’s benefit, jobseeker’s allowance, pre-retirement allowance, State pension (non-contributory), blind pension, carer’s allowance, farm assist and domiciliary care allowance the day in respect of which the claim is made,”

*Domiciliary care allowance — commencement of awards*

5. The Principal Regulations are amended by the insertion after article 194 of the following:

“194A. Where domiciliary care allowance is awarded it shall commence to accrue as follows—

(a) on the first day of the month following that in which the claim is made,

- (b) in the case of a claim made by a person who becomes a qualified person by and on the death of another person who had been entitled to domiciliary care allowance at the date of death, on the 1st day of the month following that in which the claim is made or, where a deciding officer or an appeals officer considers it appropriate, on the 1st day of the month following that in which the claimant became a qualified person.”

*Domiciliary care allowance — time of payment*

6. The Principal Regulations are amended in article 196(1) (as amended by article 5 of the Regulations of 2009) by the insertion after paragraph (f) of the following:

- “(g) in the case of domiciliary care allowance on the 3rd Tuesday of each month in respect of that month.”

*Domiciliary care allowance — absence from State*

7. The Principal Regulations are amended in article 217 by the insertion after paragraph (h) of the following:

- “(i) domiciliary care allowance for any period during which the qualified person is absent from the State on holidays in respect of the first 3 weeks of any such absence in a calendar year.”.

*Payment no longer due*

8. The Principal Regulations are amended in article 200 by the insertion of “, domiciliary care allowance,” after “child benefit” in each case where the latter words arise.

*Sum payable on Death*

9. The Principal Regulations are amended:

- (a) in article 205 by the insertion of “, domiciliary care allowance” after “child benefit”,

and

- (b) in article 206 by the substitution of the following:

*“Sum payable on death for child benefit and domiciliary care allowance*

206. (1) Subject to this Chapter, the Minister may pay a sum payable on death if a claim to such sum is made to him or her within 6 months of the date of death or such longer time as the Minister may determine, having regard to the circumstances of the particular case.

2. In this article “sum payable on death” in relation to a deceased person means—

- (a) where he or she was entitled to child benefit and domiciliary care allowance, any sum on account of such benefit which became payable

within 6 months before the date of his or her death but has not been paid,

- (b) where he or she applied for child benefit and domiciliary care allowance for which he or she was qualified and died before the claim was allowed, any sum which would have become payable on account of such benefit up to the date of his or her death, if the claim had been allowed immediately before his or her death.”.



GIVEN under the Official seal of the Minister for Social and Family  
Affairs,  
30 April 2009

MARY HANAFIN.  
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 set out the conditions for receipt of Domiciliary Care Allowance including the various medical procedures to be used certifying the extent of the qualified child's disability and the likely duration. The regulations include standard provisions in relation to the time limit for making a claim and the payment procedures.

The regulations also provide for the method to be used for deciding the normal residence of the qualified child and for the payment of a reduced rate of Domiciliary Care Allowance in respect of a qualified child who is resident on a part time basis in an institution.

The Regulations also provide for a medical review procedure which may require the submission of additional medical evidence or require that the child attend a medical examination.



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