



STATUTORY INSTRUMENTS.

**S.I. No. 378 of 2009**

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND  
CONTROL) (AMENDMENT) (No. 6) (NOMINATED PERSONS)  
REGULATIONS 2009

**(Prn. A9/1314)**

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND  
CONTROL) (AMENDMENT) (No. 6) (NOMINATED PERSONS)  
REGULATIONS 2009

The Minister for Social and Family Affairs, in exercise of the powers conferred on her by section 244 (as amended by section 20 of the Social Welfare and Pensions Act 2008 (No. 2 of 2008)) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), hereby makes the following Regulations:

1. (1) These Regulations may be cited as the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 6) (Nominated Persons) Regulations 2009.

(2) The Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2009 and these Regulations shall be read together as one and these Regulations shall be included in the collective citation the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2009.

2. The Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007) are amended—

(a) in article 201—

(i) by substituting the following sub-article for sub-article (1):

“(1) A claimant or beneficiary may nominate a person who is over the age of 18 years to receive payment of benefit on his or her behalf and subject to the consent of the Minister, such benefit may be payable to the person so nominated.”, and

(ii) by inserting the following sub-article after sub-article (3):

“(4) A person nominated under sub-article (1) shall pay the claimant or beneficiary the full amount of the payment without deduction of any kind.”,

(b) by substituting the following article for article 202—

*“Persons unable to manage financial affairs.*

202. (1) Subject to sub-article (6) this article applies to a claimant or beneficiary who—

(a) is under 16 years of age, or

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 22nd September, 2009.*

- (b) subject to sub-article (2) is certified by a registered medical practitioner in the prescribed form, to be a person who is unable for the time being to manage his or her own financial affairs.

(2) For the purpose of this article, the circumstances in which a person is deemed to be unable to manage his or her own financial affairs may include one or more of the following:

- (a) an inability to understand the basis of possible entitlements to benefit;
- (b) an inability to understand and complete the claim form;
- (c) an inability to understand and deal with correspondence and enquiries concerning the claim;
- (d) an inability to manage benefit payments received.

(3) In the case of a claimant or beneficiary to whom sub-article (1) applies the Minister may subject to sub-article (6) appoint a person over the age of 18 years belonging to one of the following classes of persons to exercise on behalf of the claimant or beneficiary any right or power otherwise exercisable under the Principal Act by the claimant or beneficiary—

- (a) the spouse (within the meaning of section 3(10) of the Principal Act) of the claimant or beneficiary;
- (b) a parent, step parent or foster parent of the claimant or beneficiary;
- (c) a legal guardian of the claimant or beneficiary;
- (d) a child or step-child of the claimant or beneficiary;
- (e) a brother or sister, step-brother or step-sister; half-brother or half-sister of the claimant or beneficiary;
- (f) a son-in-law or daughter-in-law of the claimant or beneficiary;
- (g) a niece or nephew of the claimant or beneficiary;
- (h) a grandchild of the claimant or beneficiary;
- (i) a grandparent of the claimant or beneficiary;
- (j) an aunt or uncle of the claimant or beneficiary;

- (k) a person who has been appointed to be a care representative of the claimant or beneficiary pursuant to section 21 of the Nursing Homes Support Scheme Act 2009 (No. 15 of 2009);
  - (l) a person, other than the registered medical practitioner who certified the claimant or beneficiary under sub-article (1) (b), who appears to the Minister to have a good and sufficient interest in the welfare of the claimant or beneficiary.
- (4) (a) Where a claimant or beneficiary within the meaning of sub-article (1) is or is likely to be resident in an institution for a continuous period of at least four weeks and where no other suitable person is available and willing to be appointed under sub-article (3), the Minister may appoint a representative of the institution to exercise on behalf of the claimant or beneficiary any right or power otherwise exercisable under the Principal Act by the claimant or beneficiary.
- (b) Where a representative of an institution is appointed pursuant to paragraph (a), payment of benefit may be made directly to a central account of the Executive.
- (5) The Minister shall not appoint a person under this article to act on behalf of the claimant or beneficiary if that person has been—
- (a) adjudicated a bankrupt unless the bankruptcy has been discharged or the adjudication annulled,
  - (b) convicted of an offence involving fraud or dishonesty, or
  - (c) convicted of an offence against the person or property of the claimant or beneficiary concerned.
- (6) This article does not apply to a claimant or beneficiary within the meaning of sub-article (1)(b) who—
- (a) is a ward of court, or
  - (b) has appointed a person to be his or her attorney under an enduring power of attorney and—
    - (i) the attorney is not prohibited or restricted by the terms of the power from performing any matter to which this article applies, and
    - (ii) the enduring power of attorney has been registered and the registration has not been cancelled.

(7) An appointment made under sub-article (3) or (4) shall terminate on the day on which the Minister receives notice that a Committee of the estate of the claimant or beneficiary has been appointed.

(8) Anything required to be done by a claimant or beneficiary in relation to benefit may be done as respects a claimant or beneficiary, who is unable to act, by the person appointed under this article to act on his or her behalf.

(9) In this article, "institution" has the same meaning as in section 224(1).”,

(c) by inserting the following article after article 202:

*“Obligations of appointed person.*

202A. (1) Where a person is appointed under article 202(3) or (4) he or she shall have a duty to act in the best interests of the claimant or beneficiary and shall—

- (a) act in a personal capacity and shall not delegate responsibility to any other person,
- (b) subject to paragraph (c), receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary,
- (c) in the case of a person appointed under article 202(4)(a) where payment of benefit is made directly to the Executive pursuant to article 202(4)(b), deal with the balance of any sum payable by way of benefit after deductions specified in the Health (Charges for in-patient Services) Regulations 2005 (S.I. No. 276 of 2005) (as amended by the Health (Charges for in-patient Services) (Amendment) Regulations 2008 (S.I. No. 521 of 2008)), have been made in respect of in-patient care in the institution,
- (d) subject to sub-article (e) make payments only on items or services which are of benefit to the claimant or beneficiary including all reasonable expenses for assuring the personal welfare of the person concerned,
- (e) not spend money on items or services to which the claimant or beneficiary has an entitlement where those items or services are available and accessible to the person concerned,
- (f) ensure that the balance of any benefit is lodged to an interest bearing account for the benefit of the claimant or beneficiary,

- (g) keep a record of all sums received by way of benefit which have been lodged to an interest bearing account on behalf of the claimant or beneficiary,
- (h) keep a record of all other transactions made in relation to sums received by way of benefit on behalf of the claimant or beneficiary, and
- (i) produce the records specified at paragraphs (g) and (h) when requested to do so by the claimant or beneficiary or by his or her nearest relative or by an officer of the Minister.

(2) For the purpose of this article “nearest relative” means a person over the age of 18 years belonging to one of the classes of persons listed in sub-article 202 (3)(a) to (j) who was caring for the claimant or beneficiary immediately before his or her admission to an institution.”, and

(d) by substituting the following article for article 209:

“209. A person who fails to comply with article 188(1), 198(3), 201(3) or 202A shall be guilty of an offence and shall be liable on summary conviction to the penalties provided for in section 257(a).”.



GIVEN under the Official Seal of the Minister for Social and Family Affairs.  
17 September 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 provide for the payment of social welfare benefits and pensions to a person other than the claimant or beneficiary. A person may be either nominated by the claimant or beneficiary to act as agent and receive the payment on his or her behalf or be appointed by the Minister.

Under the legislation the Minister may appoint a person to act as agent on behalf of a claimant who is under 16 years or who is unable to manage his or her own financial affairs. These Regulations specify the circumstances in which such appointments may be made and, also, set out the duties and responsibilities of the appointed person.

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