



STATUTORY INSTRUMENTS.

S.I. No. 24 of 2013

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (NO. 1) (OVERPAYMENTS)
REGULATIONS 2013

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (NO. 1) (OVERPAYMENTS) REGULATIONS 2013

I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 4 (amended by section 96 of the Ministers and Secretaries (Amendment) Act 2011 (No. 10 of 2011)) and 341(7) (amended by section 13 of the Social Welfare Act 2012 (No. 43 of 2012)) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), and by section 342 (amended by section 10 of the Social Welfare and Pensions Act 2011 (No. 9 of 2011)) of the Social Welfare Consolidation Act 2005, 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 (Consolidated Claims, Payments and Control) (Amendment) (No. 1) (Overpayments) Regulations 2013.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2012 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2013.

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 2011” means the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 4) (Overpayments) Regulations 2011 (S.I. No. 461 of 2011).

Commencement.

3. These Regulations come into operation on 28 January 2013.

Recovery of overpayment by means of deduction from social welfare payment.

4. The Principal Regulations are amended by substituting the following article for article 245 (amended by article 4 of the Regulations of 2011):

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 29th January, 2013.

“Recovery of overpayment by means of deduction from social welfare payment.

245. (1) Where a person is required in accordance with section 335, 336, 337 or 338 to repay an amount of any—

- (a) benefit,
- (b) assistance,
- (c) family income supplement, or
- (d) continued payment for qualified children,

and that person is or becomes entitled to a payment specified in paragraphs (a) to (d), recovery of such benefit, assistance, supplement or payment may, without prejudice to any other method of recovery, take the form of—

- (i) withholding all or part of—
 - (I) any arrears of such benefit, assistance, supplement or payment, or
 - (II) any grant or gratuity under Part 2 or Part 3 of the Principal Act,

to which that person is or becomes entitled,

- (ii) making deductions from ongoing payments of any such benefit, assistance, supplement or payment to which that person is or becomes entitled, having regard to the total amount to be recovered and the person’s ability to repay, or
- (iii) any combination of the methods specified in paragraphs (i) or (ii).

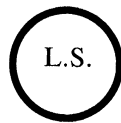
(2) Where repayment of any amount of benefit, assistance, supplement or payment is made by way of weekly deduction from the weekly rate of any such benefit or assistance in accordance with sub-article (1)(ii), it shall not, without the prior written consent of the person liable to repay that amount, exceed the percentage of such weekly rate of benefit or assistance specified in section 341(7A).

(3) In this article ‘weekly rate’ has the meaning assigned to it in section 341(7B).”.

Reduction or cancellation of sum to be repaid.

5. Article 246(3) (amended by article 5 of the Regulations of 2011) of the Principal Regulations is amended by substituting “paragraphs (a) to (d) of article 245(1)” for “paragraphs (a) to (f) of article 245(1)”.

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



GIVEN under my Official Seal,
25 January 2013.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
25 January 2013.

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.)

Section 13 of the Social Welfare Act 2012 makes changes in relation to the recovery of social welfare overpayments by way of weekly deductions from a person's on-going social welfare entitlements. Section 13 allows for the deduction of an amount of up to 15% of the personal weekly rate of social welfare payment payable to that person for the purposes of recovering an overpayment. These changes come into operation by way of Commencement Order.

These Regulations provide for consequential amendments to the overpayments recovery provisions contained in Part 9 of the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007). The provisions contained in section 13 of the Social Welfare Act 2012 and in these Regulations come into operation on 28th January 2013.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

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