



STATUTORY INSTRUMENTS.

S.I. No. 76 of 2021

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (NO. 6) (CARER'S ALLOWANCE)
REGULATIONS 2021

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (NO. 6) (CARER'S ALLOWANCE) REGULATIONS 2021

I, HEATHER HUMPHREYS, Minister for Social Protection, in exercise of the powers conferred on me by sections 4 (as adapted by the Employment Affairs and Social Protection (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 447 of 2020)), 179(2) and 186A(6) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), 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. 6) (Carer's Allowance) Regulations 2021.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2021 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2021.

Circumstances in which carer is to be regarded as providing full-time care and attention

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

(a) in article 132 –

(i) by the substitution of “136(1)(d)” for “136(c)”, and

(ii) by the deletion of “outside his or her home”,

and

(b) by the substitution of the following articles for article 136:

“Circumstances in which carer is to be regarded as providing full-time care and attention.

136. (1) For the purposes of Chapter 8 of Part 3 of the Principal Act and this Chapter, a carer may –

(a) continue to be regarded as providing full-time care and attention to a relevant person where he or she would qualify for payment of an allowance but for the fact that either the carer or the relevant person is undergoing medical or other treatment of a temporary nature in an institution for a period not longer than 13 weeks,

- (b) continue to be regarded as providing full-time care and attention to a relevant person where –
 - (i) subject to subparagraph (ii), he or she would qualify for payment of an allowance but for the fact that the relevant person has been permanently admitted to an institution, and
 - (ii) the maximum period for payment of the allowance, under subparagraph (i), does not exceed 12 weeks,
- (c) be regarded as providing full-time care and attention to a relevant person where the relevant person is attending –
 - (i) a non-residential course of rehabilitation training provided by an organisation (being an organisation recognised by the Minister for Health for the purposes of the provision of such training), or
 - (ii) a non-residential place of day care approved by the Minister for Health, or
- (d) be regarded as providing full-time care and attention to a relevant person where, subject to sub-article (2), it is shown to the satisfaction of a deciding officer or an appeals officer that adequate provision has been made for the care of the relevant person, and may –
 - (i) engage in employment,
 - (ii) engage in self-employment, or
 - (iii) undertake such training or courses of education as the Minister may from time to time determine,

and
- (e) be regarded as providing full-time care and attention to a relevant person, where the number of hours providing such care is not less than 35 hours in a period of 7 consecutive days, and care is provided on any 5 days, whether consecutive or not, within a period of 7 consecutive days.

(2) The aggregate duration of the activities referred to in subparagraphs (i), (ii) and (iii) of sub-article (1)(d) shall not exceed 18.5 hours per week.

Circumstances and conditions under which a payment under section 186A may be made.

136A. A payment under section 186A, in these regulations referred to as a “Half-Rate Carer’s Allowance”, may be made to a carer who –

- (a) is not a person to whom subsection 186A(5)(d) refers,
- (b) has attained the age of 18 years,
- (c) is not resident in an institution, and
 - (i) is a person entitled to or is in receipt of any benefit, pension, assistance or allowance under Part 2 or Part 3 of

- the Principal Act, or
- (ii) is the spouse, civil partner or cohabitant of a person who is entitled to or is in receipt of any benefit, pension, assistance or allowance under Part 2 or Part 3 of the Principal Act (other than Supplementary Welfare Allowance under section 197), and, in respect of whom an increase for a qualified adult is in payment.

Circumstances in which carer in receipt of a Half-Rate Carer’s Allowance may engage in employment, self-employment, education or training.

136B. (1) A carer in receipt of a Half-Rate Carer’s Allowance may, for the purposes of section 186A and this Chapter, and subject to sub-article (2), engage in employment, self-employment, education or training, where it is shown to the satisfaction of a deciding officer or an appeals officer that adequate provision has been made for the care of the relevant person.

(2) The aggregate duration of the employment, self-employment, education or training referred to in sub-article (1) shall not exceed 18.5 hours per week.”.



GIVEN under my Official Seal,
23 February, 2021.

HEATHER HUMPHREYS,
Minister for Social Protection.

EXPLANATORY NOTE

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

Article 132 of the Social Welfare (Consolidated Claims, Payment and Control) Regulations 2007 set out the conditions to be satisfied by a carer. The condition relating to engaging in employment, self-employment, education and training in article 132 are ameliorated by sub-article 136(1)(d) which provides for specific circumstances in which a person can be engaged in employment, and self-employment, and be regarded as providing full-time care and attention for the purposes of the carer's allowance scheme. This is a technical change, to amend an incorrect reference to 136(c).

These Regulations also update Article 136 to reflect the circumstances where a carer meets as well as continues to meet the conditions set out in Section 179 of the Social Welfare (Consolidation) Act 2005. Article 136 is amended to set a minimum hours condition for which a carer can be regarded as providing full-time care and attention.

In addition these regulations set out that the payment referred to in Section 186A of the Social Welfare Consolidation Act 2005 is a payment called Half-Rate Carer's Allowance Payment, set out the payments with which a Half-Rate Carer's Allowance Payment can be made and set out the conditions whereby a carer in receipt of a Half-Rate Carers Allowance Payment can engage in employment, self-employment or training.

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