



STATUTORY INSTRUMENTS.

S.I. No. 690 of 2023

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (NO. 12) (STATE PENSION
(CONTRIBUTORY) – LONG-TERM CARER’S QUALIFYING
CONTRIBUTION) REGULATIONS 2023

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (NO. 12) (STATE PENSION (CONTRIBUTORY) – LONG-TERM CARER’S QUALIFYING CONTRIBUTION) REGULATIONS 2023

I, HEATHER HUMPHREYS, Minister for Social Protection, in exercise of the powers conferred on me by section 4 (amended by section 10 of the Social Welfare Act 2020 (No. 30 of 2020)), and subsections (1)(c) and (4) of section 108A 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. 12) (State Pension (Contributory) – Long-Term Carer’s Qualifying Contribution) Regulations 2023.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payment and Control) Regulations 2007 to 2023 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2023.

Definitions

2. In these Regulations—

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

“Regulations of 2019” means the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 2) (State Pension (Contributory)) Regulations 2019. (S.I. No. 40 of 2019).

Commencement

3. These Regulations come into operation on 1 January 2024.

State pension (contributory) – long-term carer’s qualifying contributions.

4. The Principal Regulations are amended—

(a) in article 59, (amended by article 3 of the Regulations of 2019) by the insertion of the following definitions:

“ ‘long-term carer’s qualifying contribution’ has the meaning assigned to it by section 108A;

‘qualified child’ has the meaning assigned to it by section 186C;

‘qualifying contribution’ has the meaning assigned to it by section 108(2);

‘qualified person’ has the meaning assigned to it by section 186D;”,

- (b) by the insertion of the following articles after article 60E:

“Classes of person in respect of whom a long-term carer may provide care.

60F. The following persons shall be regarded as persons to whom full time care and attention may be provided by a long-term carer:

- (a) a person, in respect of whom carer’s benefit, carer’s allowance, carer’s support grant or domiciliary care allowance is or was in payment at the time of the provision of the full-time care and attention, or
- (b) in the case of any person to which paragraph (a) does not apply, who may be a relevant person within the meaning of section 224(2), or a qualified child, in respect of whom full-time care and attention is or was provided where the circumstances of article 60I(b) apply.

Circumstances in which a long-term carer may be regarded as providing full-time care and attention to a relevant person or a qualified child.

60G. (1) A carer or qualified person may be regarded as providing full time care and attention to a relevant person within the meaning of section 224(2) or a qualified child where —

- (a) either the long-term carer, or the person to whom full time care and attention is or was being provided, is or was undergoing medical or other treatment of a temporary nature in an institution for a period not longer than 13 weeks, except in the case of a qualified child where the circumstances specified in article 140E apply, in which event, 13 weeks shall be read as 26 weeks,
- (b) the person to whom full time care and attention is or was being provided is or was 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
- (c) subject to sub-article (2), where it is shown to the satisfaction of the Minister that adequate provision is being made or was made, as the case may be, for the care of the person to whom continuous supervision and regular assistance is or was being provided, a long-term carer —
 - (i) may engage or have engaged, as the case may be, in employment,
 - (ii) may engage or have engaged, as the case may be, in self-employment, or
 - (iii) may undertake or have undertaken such training or courses of education, as the case may be, as the Minister may from time to time determine, or as the case may be, have so previously determined.

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

(3) In this article, “institution” means—

- (a) a hospital, convalescent home or home for persons suffering from physical or mental disability, or accommodation ancillary thereto, and any other similar establishment providing residence, maintenance or care for the persons therein, or
- (b) a private dwelling wherein a person is boarded out under an arrangement with the Executive.

Application to be regarded as a long-term carer.

60H. For the purposes of subsection (4)(b) of section 108A, an application to have a period or periods of full-time care and attention provided to a relevant person within the meaning of section 224(2) or a qualified child, qualify for long-term carer’s contributions shall be—

- (i) in writing, and making a declaration in such form for the time being approved by the Minister, or
- (ii) by way of an electronic application, in such form for the time being approved by the Minister, transmitted by means of the internet.

Evidence demonstrating the nature, extent and duration of long-term caring.

60I. For the purposes of section 108A(4)(c)-

- (a) in the case of any period or periods where a person, or as the case may be, a qualified person was in receipt of carer's benefit or carer's allowance, carer's support grant, or as the case may be, domiciliary carer's allowance shall be regarded as evidence of that person's full-time care and attention to a relevant person within the meaning of section 224(2) or a qualified child, and
- (b) in the case of any period or periods to which paragraph (a) does not apply, a person (who may or may not be a person who also has a period or periods to which paragraph (a) applies), may apply to have any period or periods in respect of the full-time care and attention to a relevant person or a qualified child qualify for long-term carer's contributions and shall furnish such certificates, documents, information and evidence as may be relevant or required by the Minister for the purposes of deciding such application.

Conditions to be satisfied by non-resident long-term carer.

60J. (1) Subject to sub-article (2) the conditions prescribed for the purposes of paragraph (c)(ii) of section 108A are that –

- (a) a direct system of communication must exist between the long-term carer's residence and that of the relevant person, and
- (b) the relevant person relevant person is not already receiving full-time care and attention within his or her own residence from a person other than the applicant.

(2) For the purposes of paragraph (a) of sub-article (1) a system of communication shall include a telephone or alarm system.

(3) For the purposes of this article "relevant person" has the meaning given to it by section 224(2).",

Specified payments

60K. The following payments are specified for the purposes of section 108A(1)(d):

- (a) jobseeker's benefit;

- (b) jobseeker’s benefit (self-employed);
 - (c) jobseeker’s allowance;
 - (d) back to work family dividend.”,
- (c) in article 64 by the substitution of the following sub-article for sub-article (1):

“(1) The rate of State pension (contributory) payable to a relevant person referred to in article 63 shall be calculated in accordance with the formula –

$$\frac{A \times B}{C}$$

where –

A is the rate of State pension (contributory) which would be payable to the relevant person if all of the contributions specified at **C** in respect of that person during the relevant period were reckonable for State pension (contributory) purposes,

B is the number of –

- (i) employment contributions paid in respect of or credited to the relevant person,
- (ii) self-employment contributions paid by him or her,
- (iii) voluntary contributions paid by him or her, and
- (iv) long-term carer’s qualifying contributions determined in accordance with section 108A,

during the relevant period, which are reckonable for the purposes of the contribution conditions for entitlement to State pension (contributory), and

C is the total number of –

- (i) all of the employment contributions (other than employment contributions payable by a person who becomes an insured person by virtue of section 12(1)(b) only) paid in respect of or credited to the relevant person,
- (ii) all of the self-employment contributions paid by him or her,
- (iii) all of the voluntary contributions paid by him or her, and
- (iv) all of the long-term carer’s qualifying contributions determined in accordance with section 108A,

during the relevant period.”,

and

- (d) in article 64A (inserted by article 3 of the Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 2) (State Pension (Contributory)) Regulations 2019) (S.I. No. 40 of 2019)) by the substitution of the following sub-article for sub- article (1):

“(1) The rate of State pension (contributory) payable to a relevant person referred to in article 63A shall be calculated in accordance with the formula –

$$\frac{A \times B}{C}$$

where –

A is the rate of State pension (contributory) which would be payable to the relevant person if –

- (a) all of the contributions specified at C
- and
- (b) all of the home caring periods determined in accordance with section 108(2)

in respect of that person during the relevant period are reckonable for State pension (contributory) purposes,

subject to –

- (i) the number of credited contributions not exceeding 520,
- (ii) the number of home caring periods not exceeding 1040, and
- (iii) the aggregate number of credited contributions referred to in subparagraph (i) and home caring periods referred to in subparagraph (ii) not exceeding in any event 1040.

B is the number of –

- (i) employment contributions paid in respect of or credited to the relevant person,
- (ii) self-employment contributions paid by him or her,
- (iii) voluntary contributions paid by him or her,
- (iv) all of the home caring periods determined in accordance with section 108(2), and

- (v) long-term carer's qualifying contributions determined in accordance with section 108A,

during the relevant period, which are reckonable for the purposes of the contribution conditions for entitlement to State pension (contributory), and

C is the total number of –

- (i) all of the employment contributions (other than employment contributions payable by a person who becomes an insured person by virtue of section 12(1)(b) only) paid in respect of or credited to the relevant person,
- (ii) all of the self-employment contributions paid by him or her,
- (iii) all of the voluntary contributions paid by him or her,
- (iv) all of the home caring periods determined in accordance with section 108(2), and
- (v) all of the long-term carer's qualifying contributions determined in accordance with section 108A,

during the relevant period.”.



GIVEN under my Official Seal,
20 December, 2023.

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.)

The Social Welfare (Miscellaneous Provisions) Act 2023 inserts a new section 108A into the Social Welfare Consolidation Act 2005. Section 108A provides for the attribution to a person for State pension (contributory) purposes of long-term carer's qualifying contributions from 1 January 2024.

These Regulations amend the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007) to provide in accordance with subsections (1)(c) and (4) of section 108A for the terms and conditions to be satisfied in order to qualify for long-term carer's qualifying contributions in respect of some of the matters specified in those subsections.

The Regulations also amend articles 64, in respect of the pro-rata rate of State pension (contributory) payable where the claimant has a mixture of qualifying contributions and modified contributions, and 64A in respect of the calculation of the rate of State pension (contributory) payable to a person to whom section 109(16) applies, and who, in accordance with section 109(6B), has their pension calculated under the aggregated contributions method, to take account of the eligibility of any long-term care's qualifying contributions.

These Regulations come into effect on 1 January 2024.

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