



STATUTORY INSTRUMENTS.

S.I. No. 616 of 2011



SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (No. 7) (QUALIFIED ADULT)
REGULATIONS 2011

(Prn. A11/2217)

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (No. 7) (QUALIFIED ADULT) REGULATIONS 2011

I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 3 and 4 (amended by section 96 of the Ministers and Secretaries (Amendment) Act 2011 (No. 10 of 2011)) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), and by section 2(2) 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. 7) (Qualified Adult) Regulations 2011.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2011 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2011.

Definition.

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

Calculation of income limit for increase for qualified adult in certain cases.

3. Article 8 of the Principal Regulations is amended by inserting the following sub-articles after sub-article (1):

“(1A) In calculating or estimating weekly income under sub-article (1) for the purposes of the payment of an increase in—

- (a) State pension (contributory) for a qualified adult payable under Chapter 15 of Part 2 of the Principal Act, or
- (b) State pension (transition) for a qualified adult payable under Chapter 16 of Part 2 of the Principal Act,

if it appears that a person in respect of whom such an increase for a qualified adult is being claimed has directly or indirectly deprived himself or herself of any income or property in order that—

- (i) an increase in that pension for a qualified adult would be paid in respect of that person, or

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 2nd December, 2011.

- (ii) an increase in that pension for a qualified adult would be paid in respect of that person at a higher rate than that which should otherwise have been paid,

that income or the value of that property shall for the purposes of sub-article (1) be taken to be part of the weekly income.

(1B) Sub-article (1A) shall not apply to any assignment—

- (a) which is an assignment to a child or children of the assignor, and
- (b) which is an assignment of property consisting of a farm of land (together with or without the stock and chattels thereon) and of which the assignor is the owner and the occupier or the occupier only.

(1C) For the purposes of sub-article (1A), where the income or the value of the property taken to be part of a person's means for the purposes of that sub-article has reduced since the date of calculation, the calculation may be revised, but such a revision shall not cause the income or the value of the property taken to be part of that person's means to be increased.

(1D) For the purposes of sub-article (1B), 'assignment' includes any form of conveyance, transfer or other transaction by which a person parts with the ownership or possession of property.”.

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



GIVEN under my Official Seal,
25 November 2011

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
29 November 2011

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.)

In general, a recipient of a weekly social welfare payment, such as State pension (contributory) or State pension (transition), can qualify for an increase in that weekly payment in respect of a spouse, civil partner or a cohabitant (known as an increase for a qualified adult) where the recipient is wholly or mainly maintaining that person.

One of the conditions in which a spouse, civil partner or a cohabitant is regarded as being wholly or mainly maintained by a recipient is that the weekly income of that spouse, civil partner or a cohabitant must not exceed €100. In this case, the increase for a qualified adult is paid at full rate. However, where the weekly income of that spouse, civil partner or a cohabitant is between €100 and €310, the increase for a qualified adult is paid at reduced rates according to the level of that income.

The purpose of this Regulation is to ensure that in the case where a spouse, civil partner or a cohabitant of a recipient of State pension (contributory) or State pension (transition) who deliberately deprives himself or herself of any income or property in order that—

- (a) an increase for a qualified adult is paid, or
- (b) an increase for a qualified adult is paid at a higher rate than that which should otherwise have been paid,

then the recipient will not gain by such an action. In these circumstances, the amount of the income or the value of the property that the spouse, civil partner or a cohabitant has deprived himself or herself of will be taken into account in assessing the weekly income.

BAILE ÁTHA CLIATH
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CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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