



STATUTORY INSTRUMENTS.

S.I. No. 551 of 2019



SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (NO. 11) (JOBSEEKER'S BENEFIT
(SELF-EMPLOYED)) REGULATIONS 2019

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SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (NO. 11) (JOBSEEKER'S BENEFIT (SELF-EMPLOYED)) REGULATIONS 2019

I, REGINA DOHERTY, Minister for Employment Affairs and Social Protection, in exercise of the powers conferred on me by sections 4 (as adapted by the Social Protection (Alteration of Name of Department and Title of Minister) Order 2017 (No. 366 of 2017)), 68C, 68D and 68K (inserted by section 5 of the Social Welfare Act 2019 (No. 34 of 2019)) of the Social Welfare Consolidation Act 2005 (No. 26 of 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. 11) (Jobseekers Benefit (Self-Employed)) Regulations 2019.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2019 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2019.

Commencement

2. These Regulations come into operation on 1 November 2019.

Definitions

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

Jobseekers Benefit (Self-Employed)

4. The Principal Regulations are amended by the insertion of the following Chapter after Chapter 5:

“CHAPTER 5A

Jobseekers Benefit (Self-Employed)

Weeks not to be treated as weeks of unemployment

52A. (1) For the purposes of Chapter 12A of Part 2, a week shall not be

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 12th November, 2019.*

treated as a week of unemployment if it is a week in respect of which a person

–

- (a) fails to prove to the satisfaction of the Minister that he or she is not engaged in self-employment, is capable of work and is available for employment, or
- (b) follows any occupation from which he or she derives any remuneration or profit, unless such occupation -
 - (i) could ordinarily have been followed by him or her in addition to his or her usual employment and outside the ordinary working hours of that employment and –
 - (I) the total remuneration or profit from any week of such occupation does not exceed €144, or where the remuneration or profit is in respect of a period longer than a week, such remuneration or profit does not on the weekly average exceed that amount, or
 - (II) not less than 117 employment contributions have been paid in respect of him or her in respect of the period of 3 years immediately preceding that week or in respect of the last 3 complete contribution years immediately preceding that week,

or

- (ii) constitutes employment as a retained fire fighter.

(2) Where the provisions of sub-paragraph (1)(b)(ii) are satisfied in respect of any week they shall continue to be regarded as satisfied in respect of any subsequent week which forms part of the same claim.

(3) For the purposes of Chapter 12A of Part 2 and notwithstanding the provisions of sub-article (1)(b), any week where a person is undergoing a course of rehabilitation training provided by an organisation (being an organisation approved of by the Minister for Health and Children for the purposes of the provision of such training) shall be treated as a week of unemployment and the person shall be deemed to be available for employment in any such week.

Night workers

52B. (1) Where a person is employed to work continuously from a time on any day until a time on the next following day, that person shall, for the purposes of jobseeker's benefit (self-employed), be regarded as being employed by virtue of that employment –

- (a) only on the first day where the employment on the first day is longer than that on the second day and in that case that first day shall not be treated as a day of unemployment, and
- (b) only on the second day in any other circumstances, and in that case that second day shall not be treated as a day of unemployment.

- (2) Where by virtue of the provisions of sub-article (1), a person –
- (a) is to be treated as having been employed on 1 day only of 2 days, and
 - (b) throughout that part of the other of those 2 days during which that person is not employed, or is deemed in accordance with regulations to be available for employment,
- that person shall, for the purposes of Chapter 12A of Part 2, be deemed to be so available for employment, throughout that other of those 2 days.

Special provision relating to delay or failure in claiming

52C. Notwithstanding anything contained in article 52A, a person who, in respect of any period of interruption of employment, would have been entitled to jobseeker's benefit (self-employed) for any week but for any delay or failure on his or her part to make or prosecute a claim, shall, for the purposes of section 68H be treated as having been entitled to jobseeker's benefit (self-employed) for that week, but a person shall not be so treated where he or she shows that he or she did not intend, by failing to acquire or establish a right to jobseeker's benefit (self-employed) for that week, to avoid the necessity of requalifying for jobseeker's benefit (self-employed) under the said section.

Exemption from disqualification for course of study

52D. (1) A person shall not be disqualified for receiving jobseeker's benefit (self-employed) —

- (a) in accordance with section 68K(5)(a) while participating in a course provided or approved by an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013 (No. 11 of 2013) and known as Youthreach,
- (b) in accordance with section 68K(5)(c) while attending a course of study, where that person is a mature student, or
- (c) in accordance with section 68K, where that person is participating in an activity within the meaning of article 120 and article 120(4) applies to that person.

(2) In this article—

“approved course”, “approved higher education course” and “approved post-leaving certificate course” shall be construed in accordance with section 8 of the Student Support Act 2011 (No. 4 of 2011) and Regulation 4 of the Student Support Regulations 2015 (S.I. No. 154 of 2015);

“course of study” has the meaning given to it in section 148;

“mature student” means a student who on 1 January—

- (a) in the year of entry for the first time to an approved post leaving certificate course,

- (b) in the year of entry for the first time to an approved higher education course (other than a course known for the time being as a post-leaving certificate course), or
 - (c) in the year of re-entry to an approved course,
- is at least 23 years old.

Disqualification

52E. (1) The amount prescribed for the purposes of section 68K (3) shall be €50,000.

(2) The amount prescribed in sub article (1) is calculated as the net cash value received by the person from the sale of the business after all expenses and debts associated with the business have been paid.

Refusal to engage with activation measures – prescribed schemes, courses etc.

52F. (1) The following schemes and programmes of employment and work experience are prescribed for the purposes of section 68J –

- (a) the scheme provided by the Minister and known as Community Employment, and
- (b) such other scheme or programme of employment or work experience as may be approved by or on behalf of the Minister from time to time.

(2) The following courses of training and development are prescribed for the purposes of section 68J –

- (a) a course of training or development provided by or on behalf of An tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS),
- (b) a course of training or development provided by or on behalf of an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013,

or

- (c) such other course of training or development as may be approved by or on behalf of the Minister from time to time.

(3) The following courses of education are prescribed for the purposes of section 62J –

- (a) a course of education provided by or on behalf of an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013,

or

- (b) such other course of education as may be approved by or on behalf of the Minister from time to time.

Prescribed manner for proving unemployment

52G. (1) A person shall prove unemployment for the purposes of subsections (1)(f) and (3) of section 68C by—

- (a) attending at an office of the Minister at such time as the Minister may direct for the purpose of making—
 - (i) a written declaration in such form as the Minister may determine, or
 - (ii) where the Minister considers it appropriate, a declaration by means of an electronic communication by way of the transmission of a signature in electronic form,

or

- (b) making a declaration in such other manner as the Minister may consider appropriate having regard to the circumstances, including by way of an electronic communication transmitted by means of the internet, that he or she has —
 - (i) not engaged in self-employment since the date of his or her claim for jobseeker’s benefit (self-employed),and
 - (ii) that they have lost their self-employment involuntarily and not as a consequence of a planned temporary or seasonal closure of the business.”.

Persons regarded as receiving full-time education

5. Article 14 of the Principal Regulations is amended in paragraph (a) of sub-article (2) by the substitution of “An tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS)” for “An Foras Áiseanna Saothair”.

Persons regarded as available for employment

6. Article 15 of the Principal Regulations is amended in sub-article (1) by the substitution of “Chapters 12 and 12A” for “Chapter 12”.

Persons regarded as genuinely seeking employment

7. Article 16 of the Principal Regulations is amended –
- (a) in sub-article (1) by the substitution of “Chapters 12 and 12A” for “Chapter 12”,
 - (b) in paragraph (e) of sub-article (2) by the insertion of “or re-establishing” after “establishing”,
- and
- (c) in sub-article (5) by the insertion of “, 52G” after “articles 52”.

Jobseeker's benefit - refusal to engage with activation measures – prescribed schemes, courses etc.

8. Article 50A of the Principal Regulations is amended –

(a) by the substitution of the following sub-article for sub-article (1)

–

“(1) The following schemes and programmes of employment and work experience are prescribed for the purposes of section 62B –

(a) the scheme provided by the Minister and known as Community Employment, and

(b) such other scheme or programme of employment or work experience as may be approved by or on behalf of the Minister from time to time.”

(b) by the substitution of the following sub-article for sub-article (2)

–

“(2) The following courses of training and development are prescribed for the purposes of section 62B –

(a) a course of training or development provided by or on behalf of An tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS),

(b) a course of training or development provided by or on behalf of an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013,

or

(c) such other course of training or development as may be approved by or on behalf of the Minister from time to time.”,

and

(c) by the substitution of the following paragraph for paragraph (a) of sub-article (3) –

“(a) a course of education provided by or on behalf of an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013.”.

Jobseeker's allowance - refusal to engage with activation measures – prescribed schemes, courses etc.

9. Article 120A of the Principal Regulations is amended –

- (a) by the substitution of the following sub-article for sub-article (1)

–

“(1) The following schemes and programmes of employment and work experience are prescribed for the purposes of section 141B –

- (a) the scheme provided by the Minister and known as Community Employment, and
- (b) such other scheme or programme of employment or work experience as may be approved by or on behalf of the Minister from time to time.”

- (b) by the substitution of the following sub-article for sub-article (2)

–

“(2) The following courses of training and development are prescribed for the purposes of section 141B –

- (a) a course of training or development provided by or on behalf of An tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS),
- (b) a course of training or development provided by or on behalf of an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013,

or

- (c) such other course of training or development as may be approved by or on behalf of the Minister from time to time.”,

and

- (c) by the substitution of the following paragraph for paragraph (a) of sub-article (3) –

“(a) a course of education provided by or on behalf of an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013.”.

Full-time education

10. Article 160 of the Principal Regulations is amended in paragraph (a) of sub-article (2) by the substitution of “An tSeirbhís Oideachais Leanúnaigh agus Scileanna (SOLAS)” for “An Foras Áiseanna Saothair”.

Back to work family dividend – prescribed employment schemes and courses of education etc.

11. Article 177A of the Principal Regulations is amended in paragraph (c) of sub-article (1) by the substitution of “Youth Employment Support Scheme” for “Youth Developmental Internship”.

Consequential amendments

12. The Principal Regulations are amended in the manner specified in the Schedule.

SCHEDULE

Article 12

Amendments consequential on Jobseeker's Benefit (Self-Employed)

Item No.	Provision affected	Amendment
1	Article 9	Is amended by the insertion of "jobseeker's benefit (self-employed)," after "jobseeker's benefit,".
2	Article 120	Is amended in sub-article (2) by the substitution of the following paragraph for paragraph (d): "(d) has been in receipt of jobseeker's allowance, jobseeker's benefit, jobseeker's benefit (self-employed), or jobseeker's allowance and jobseeker's benefit, or jobseeker's allowance and jobseeker's benefit (self-employed), for a period of not less than 156 days or 26 weeks."
3	Article 182	Is amended in paragraph (b) by the insertion of "jobseeker's benefit (self-employed)," after "jobseeker's benefit,".
4	Article 186	Is amended in paragraph (a) of sub-article (8) by the insertion of "and jobseeker's benefit (self-employed) under Chapter 12A of Part 2" after "Chapter 12 of Part 2".
5	Article 188A	Is amended in sub-article (2) by the insertion of the following paragraph after paragraph (b): "(ba) jobseeker's benefit (self-employed),".
6	Article 196	Is amended in paragraph (b) of sub-article (1) by the insertion of "jobseeker's benefit (self-employed)," after "jobseeker's benefit,".
7	Article 199	Is amended in paragraph (a) of sub-article (3) by the insertion of "and jobseeker's benefit (self-employed) under Chapter 12A of Part 2" after "Chapter 12 of Part 2".
8	Article 203	Is amended in sub-article (1) by the insertion of the following paragraph after paragraph (b): "(ba) jobseeker's benefit (self-employed), by virtue of sections 68G(1) and 69G(3),".
9	Article 204	Is amended by the insertion of the following paragraph after paragraph (b): "(ba) in respect of jobseeker's benefit (self-employed), so much of the benefit as is payable by virtue of section 68G(3), together with one-half of the

		benefit as is payable by virtue of sections 68E and 68G(1),”
10	Article 217	Is amended in paragraph (d) by the insertion of “or jobseeker’s benefit (self-employed),” after “jobseeker’s benefit”.
11	Article 218	Is amended in sub-article (1) by the insertion- (a) in paragraph (a) of “jobseeker’s benefit (self-employed),” after “jobseeker’s benefit”, and (b) in paragraph (b) of “68G,” after “section 43, 66,”.
12	Article 222	Is amended by the insertion- (a) in sub-article (2) of “jobseeker’s benefit (self-employed),” after “jobseeker’s benefit”, and (b) in sub-article (3) of the following paragraph after paragraph (e): “(ea) jobseeker’s benefit (self-employed),”.
13	Article 223	Is amended by the insertion- (a) in sub-article (1): (i) in paragraph (b) of “or jobseeker’s benefit (self-employed)” after “of jobseeker’s benefit”, (ii) of “jobseeker’s benefit (self-employed),” after “entitled to illness benefit, jobseeker’s benefit,”, and (iii) of “jobseeker’s benefit (self-employed),” after “and such illness benefit, jobseeker’s benefit,”, (b) in sub-article (2): (i) of “jobseeker’s benefit (self-employed),” after “Where illness benefit, jobseeker’s benefit,”, (ii) in paragraph (b) of “jobseeker’s benefit (self-employed),” after “such illness benefit, jobseeker’s benefit,”, and (iii) of “jobseeker’s benefit (self-employed),” after “the maximum rate of such illness benefit, jobseeker’s benefit,”, and (c) in sub-article (3) of “jobseeker’s benefit (self-employed),” after “illness benefit, jobseeker’s benefit,”.
14	Article 232	Is amended in the definition of “benefit” by the insertion of “jobseeker’s benefit (self-employed) under Chapter 12A of Part 2” after “Chapter 12 of Part 2”.
15	Article 233A	Is amended in the definition of “benefit” by the insertion of the following paragraph after paragraph (a): “(aa) jobseeker’s benefit (self-employed),”.
16	Schedule 1	Is amended by the insertion of “jobseeker’s benefit (self-employed),” after “jobseeker’s benefit,”.

17	Schedule 5	Is amended by the substitution of “Benefit, Jobseeker’s Benefit and Jobseeker’s Benefit (Self-Employed)” for “Benefit and Jobseeker’s Benefit”.
18	Schedule 6	Is amended by the substitution of “Benefit, Jobseeker’s Benefit and Jobseeker’s Benefit (Self-Employed)” for “Benefit and Jobseeker’s Benefit”.
19	Schedule 6A	Is amended by the substitution of “Benefit, Jobseeker’s Benefit and Jobseeker’s Benefit (Self-Employed)” for “Benefit and Jobseeker’s Benefit”.
20	Schedule 7	Is amended by the substitution of “Illness Benefit, Jobseeker’s Benefit and Jobseeker’s Benefit (Self-Employed)” for “Illness and Jobseeker’s Benefit”.

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



GIVEN under my Official Seal,
30 October, 2019.

PASCHAL DONOHOE,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
30 October, 2019.

REGINA DOHERTY,
Minister for Employment Affairs and Social Protection.

EXPLANATORY NOTE

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

The Social Welfare Act 2019 amended the Social Welfare Consolidation Act 2005 to provide for the new social insurance scheme - Jobseeker's Benefit (self-employed) - to provide an income safety net to people setting up or running their own businesses.

These Regulations, which come into effect from 1st November 2019, amend the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007) by inserting a new Chapter 5A into Part 2 and amends other articles consequential to the introduction of Jobseekers Benefit (self-employed).

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