

S.I. No. 364/1993 - Social Welfare (Social Assistance) Regulations, 1993.

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SOCIAL WELFARE (SOCIAL ASSISTANCE) REGULATIONS, 1993.

The Minister for Social Welfare, in exercise of the powers conferred on him by sections 3, 4, 120, 121, 126, 129, 153, 155, 162, 164, 169, 207, 211 and 243 of the Social Welfare (Consolidation) Act, 1993 (No. 27 of 1993), and Rule 1 of Part I and Rule 2 of Part II of the Third Schedule of the said Act and after consultation with An Post, hereby makes the following Regulations:—

PART I GENERAL

1 Citation. **1.** These Regulations may be cited as the Social Welfare (Social Assistance) Regulations, 1993.

2 Definitions. **2.** In these Regulations—

"the Act of 1990" means the Social Welfare Act, 1990 (No. 5 of 1990);

"activity" means participation by a person—

(a) aged 21 years or over in a course of education approved by the Minister as being at second level or aged 23 years or over in a course of education approved by the Minister as being at third level, at a centre approved by the Minister in consultation with the Minister for Education leading to a certificate recognised by the Minister for Education, or

(b) in a course of education, training or development approved by a company, known as an Area Partnership, in consultation with the Minister, or

(c) aged 21 years or over in such other course of education as the Minister may from time to time approve;

"allowance" means, save where the context otherwise requires, lone parent's allowance, deserted wife's allowance, prisoner's wife's allowance or carer's allowance under Part III, as the case may be;

"beneficiary" means a person entitled to assistance, pension or allowance under Part III, as the case may be;

"carer" means a carer as defined in section 163;

"claimant" means a person who has made a claim for assistance, pension or allowance under Part III, as the case may be;

"continuous period of unemployment" shall be construed in accordance with subsection (3) of section 120;

"court" means a court to which either the Courts of Justice Acts, 1924 to 1961, or the Courts (Supplemental Provisions) Acts, 1961 to 1991 applies;

"local office" means an office of the Department of Social Welfare or other place appointed by the Minister as a local office for the purpose of the Principal Act;

"nursing home" has the meaning assigned in section 2 of the Health (Nursing Homes) Act, 1990 (No. 23 of 1990);

"prescribed relative allowance" has the meaning assigned to it by section 163;

"the Principal Act" means the Social Welfare (Consolidation) Act, 1993 ;

"prison" or "place of detention" means a place to which either the Prisons Acts, 1826 to 1977, or the Criminal Justice Act, 1960 (No. 27 of 1960) applies or, in relation to another State, any analogous place in which a person is detained by order of a responsible authority in that State;

"relevant pensioner" has the meaning assigned to it by section 163;

"responsible authority" means any court, Commission or Tribunal properly constituted according to the laws of a State in which a person has been committed to a prison or to a place of detention.

3 Interpretation. **3.** In these Regulations—

(a) a reference to a Part or Chapter, section or Schedule is to a Part or Chapter or section of or Schedule to the Principal Act, unless it is indicated that a reference to some other enactment is intended,

(b) a reference to an article is to an article of these Regulations, unless it is indicated that a reference to some other Regulations is intended, and

(*c*) a reference to a sub-article is to the sub-article of the article in which the reference occurs, unless it is indicated that a reference to some other article is intended.

4 Commencement. **4.** These Regulations shall come into operation on the 10th day of December, 1993.

5 Revocations. **5.** The Regulations specified in column (1) of the Schedule to these Regulations are hereby revoked to the extent specified in column (2) of the said Schedule.

PART II UNEMPLOYMENT ASSISTANCE AND PRE-RETIREMENT ALLOWANCE

6 Day of unemployment. **6.** For the purposes of unemployment assistance, a day shall be treated as a day of unemployment if it is a day in respect of which a person—

(*a*) proves unemployment in accordance with article 7, and

(*b*) does not work for wages or other remuneration, whether paid in money or otherwise.

7 Prescribed manner for proving unemployment. **7.** A person shall prove unemployment for the purposes of section 120 (1) (*b*) by attending at a local office at such time as the Minister may direct for the purpose of making a written declaration, in such form as the Minister may determine or by making such declaration in such other manner as the Minister may determine, that

(*a*) he has been continuously unemployed since the date of his application for unemployment assistance, or

(*b*) he has been unemployed or expects to be unemployed during each day in respect of which unemployment assistance is claimed.

8 Calculation of means. **8.** (1) The yearly value of any property mentioned in Rule 1 (1) of Part I of the Third Schedule shall be ascertained as follows—

(*a*) the yearly value of the first £400 of the capital value of the property shall be taken to be one-twentieth part of the capital value, and

(*b*) the yearly value of so much of the capital value of the property as exceeds £400 shall be taken to be one-tenth part of the capital value.

(2) The yearly value of any advantage mentioned in Rule 1 (3) of Part I of the Third Schedule shall be ascertained by deducting expenses necessarily incurred from the gross income.

(3) The yearly value of any property mentioned in Rule 1 (4) of Part I of the Third Schedule shall be ascertained as follows—

(a) where the property is of the same nature as the property mentioned in Rule 1 (1) of Part I of the Third Schedule, the yearly value shall be ascertained in the manner prescribed in sub-article (1), and

(b) where the property is of the same nature as the property mentioned in Rule 1 (3) of Part I of the Third Schedule, the yearly value shall be ascertained in the manner prescribed in sub-article (2).

9 Disregarding of 9. (1) Subject to sub-article (2), in the case of a beneficiary who— means.

(a) has attained the age of 55 years but has not attained pensionable age, and

(b) has been in receipt of unemployment assistance, unemployment benefit or unemployment assistance and unemployment benefit for not less than 390 days in any continuous period of unemployment in the immediately preceding period, and

(c) is in receipt of unemployment assistance at a rate less than the scheduled rate,

unemployment assistance may be payable—

(i) where his weekly means do not exceed £2, at the scheduled rate, and

(ii) where his weekly means do not exceed £2, at the scheduled rate reduced by £2 for each amount (if any) of £2 by which his weekly means exceed £2, any fraction of £2 in those means being treated for this purpose as £2:

Provided that, if the rate calculated pursuant to this sub-paragraph at which, but for this proviso, the unemployment assistance would be payable is—

(i) equal to or greater than 10p but less than £1, the assistance shall be payable at the weekly rate of £1, and

(ii) less than 10p, the assistance shall not be payable.

10 Earnings disregarded.

10. (1) For each week in respect of which a person earns moneys in respect of current personal employment under a contract of service, the amount prescribed for the purposes of paragraph (*m*) or Rule 1 (2) of Part I of the Third Schedule shall be:

one sixth of the weekly rate appropriate to the case plus £15 in respect of each day in that week (excluding Sunday) in which such moneys are so earned by him and in the case of moneys so earned by him on a Sunday, £15.

(2) For the purposes of sub-article (1) the "weekly rate appropriate to the case" means the rate of unemployment assistance, calculated in accordance with the provisions of Chapter 2 of Part III, which the person would otherwise have received if he did not have income from current personal employment under a contract of service.

11 Night workers. **11.** 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 be regarded, for the purposes of Chapter 2 of Part III, as being employed by virtue of such employment—

(*a*) where the first day is a Monday, Tuesday, Wednesday, Thursday or Friday and the employment on the first day is longer than that on the second, or where the first day is a Saturday — he shall be regarded as being employed only on the first day, and that day shall not be treated as a day of unemployment, or

(*b*) in any other case — he shall be regarded as being employed only on the second day, and that day shall not be treated as a day of unemployment.

12 Persons deemed to be available for employment.

12. (1) Where by virtue of the provisions of article 11 a person—

(*a*) is to be treated as having been employed on one day only of two days, and

(*b*) throughout that part of the other of those two days during which that person is not employed,