



STATUTORY INSTRUMENTS.

S.I. No. 511 of 2014



SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND
CONTROL) (AMENDMENT) (NO. 6) (OVERPAYMENTS)
REGULATIONS 2014

SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) (AMENDMENT) (NO. 6) (OVERPAYMENTS) REGULATIONS 2014

I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 4 (amended by section 96 of the Ministers and Secretaries (Amendment) Act 2011 (No. 10 of 2011)) and 341 (amended by section 16 of the Social Welfare and Pensions Act 2014 (No. 16 of 2014)) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), and by section 342 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. 6) (Overpayments) Regulations 2014.

(2) These Regulations and the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2014 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 to 2014.

Overpayments

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

(a) by substituting the following article for article 245:

“Recovery of overpayment by means of deduction from social welfare and other payments

245. (1) Where a person is required in accordance with section 335, 336, 337 or 338 to repay an amount of any benefit, assistance, family income supplement or continued payment for qualified children (in this article referred to as the ‘relevant benefit’) and that person is or becomes entitled to—

(a) a payment of any relevant benefit, or

(b) a payment under—

(i) section 34A or 36,

(ii) regulations made under section 34, 34A, 35 or 37,

(iii) section 32 of the Redundancy Payments Act 1967, or

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 18th November, 2014.

- (iv) section 6 of the Protection of Employees (Employers' Insolvency) Act 1984,

recovery of the relevant benefit may, without prejudice to any other method of recovery, take the form of—

- (i) withholding all or part of—
- (I) any arrears of any relevant benefit,
 - (II) any grant or gratuity under Part 2 or Part 3 of the Principal Act, or
 - (III) any payment specified in paragraph (b),
- to which that person is or becomes entitled,
- (ii) making deductions from ongoing payments of any relevant benefit to which that person is or becomes entitled, having regard to the total amount to be recovered and the person's ability to repay, or
- (iii) any combination of the methods specified in paragraphs (i) and (ii).

(2) Where, in accordance with sub-article (1)(ii), repayment of any relevant benefit is made by way of weekly deduction from the weekly rate of any benefit or assistance, it shall not, without the prior written consent of the person liable to repay that amount, exceed the percentage of such weekly rate of benefit or assistance specified in section 341(7A).

(3) In this article—

'assistance' has the meaning assigned to it in section 2(1);

'benefit' has the meaning assigned to it in section 2(1);

'family income supplement' means family income supplement under Part 6 of the Principal Act;

'continued payment for qualified children' means continued payment for qualified children under Part 7 of the Principal Act;

'weekly rate' has the meaning assigned to it in section 341(7B).",

and

- (b) in article 246, by substituting the following sub-article for sub-article (3):

“(3) Other than in the case of a person to whom section 342A applies, the amount of an overpayment to be repaid may be reduced by the amount of any relevant benefit (within the meaning of article 245(1)) to which the person would otherwise have been entitled in the period to which the overpayment relates had he or she not been in receipt of the relevant benefit which gave rise to the overpayment.”.

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



GIVEN under my Official Seal,
13 November 2014.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.

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.)

Section 341 of the Social Welfare Consolidation Act 2005 provides, inter alia, for the recovery, subject to prescribed conditions and circumstances, of amounts of social welfare payments which have been overpaid by way of deduction from any other social welfare payment to which that person is or becomes entitled.

Section 16 of the Social Welfare and Pensions Act 2014 extends the powers for the recovery of social welfare overpayments to include the power to recover from certain lump sum payments made by the Minister for Social Protection to that person, i.e. refunds of PRSI contributions, lump sum payments made under the Redundancy Payments Act 1967 and under the Protection of Employees (Employers' Insolvency) Act 1984.

Article 245 of the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 prescribes the conditions and circumstances relating to the recovery of overpayments by deduction from any other social welfare payment to which that person is or becomes entitled, including—

- the withholding of all or part of any arrears of social welfare payments due or any grants or gratuities payable to that person, and
- making deductions from ongoing social welfare payments, having regard to the total amount to be recovered and the person's ability to repay.

These Regulations amend article 245 of the 2007 Regulations in the light of the provisions contained in section 16 of the Social Welfare and Pensions Act 2014 in order to allow also for the recovery of social welfare overpayments by the withholding of all or part of any—

- refunds of PRSI contributions,
- lump sum payments made under the Redundancy Payments Act 1967, or
- lump sum payments made under the Protection of Employees (Employers' Insolvency) Act 1984.

These Regulations also make a consequential amendment to article 246(3) of the 2007 Regulations arising from the amendments being made to article 245.

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