



Relate

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One-parent family social welfare payments

The main payment available to one-parent families is the One-Parent Family Payment (OFP). A number of changes have been made to the OFP in recent years. These changes have dealt, in particular, with the means test and the upper age limit for a child in respect of whom a payment may be claimed. Some changes that were due to come into effect in January 2015 are not being implemented. Further changes are due to come into effect in July 2015.

The Jobseeker's Allowance Transition (JST) payment was introduced as a temporary measure to provide for parents who lose the OFP because of the changes to the upper age limit for children. The maximum weekly amounts of OFP and JST are the same – currently €188 a week and the same amount is payable in respect of each dependent child – currently €29.80 a week. The conditions attached are different in many respects.

Here we outline the current rules which apply to each of these payments with particular emphasis on the age limits and the means test. We also list some other payments to which lone parents may be entitled.

Who qualifies for the OFP?

You may qualify for the One-Parent Family Payment (OFP) if you are caring for a child or children without the support of a spouse or partner and you meet a number of other conditions. The vast majority of OFP recipients are women. Of the over 78,000 OFP recipients at the end of 2013, fewer than 1,500 were men. OFP recipients mainly have one or two children.

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Status

To qualify for OFP you must be widowed, a surviving civil partner, divorced, separated, have had a civil partnership dissolved, or unmarried. You may also qualify if you are the spouse or civil partner of a prisoner who is serving a term of imprisonment of not less than six months or has been in custody for at least six months without being sentenced. You must be aged under 66.

The child or children must be living with you and you must not be cohabiting. If you marry or enter a civil partnership, you cease to be eligible for the OFP.

In practice, the majority of widows, widowers and surviving civil partners qualify for a Widow's, Widower's or Surviving Civil Partner's Contributory Pension. No major changes have been made to this payment in recent years. This pension is payable regardless of any other income you may have. You may continue to receive this pension unless you marry again, enter a civil partnership or cohabit. Increases for a Qualified Child (IQC) are payable until the child reaches the age of 18 or 22 if in full-time education.

Age limit

The main change that has been introduced in the OFP over the past few years is that you may qualify for the payment only if your youngest child is below a certain age limit. In the past, the OFP was payable while you had a child aged under 18 or under 22 if the child was in full-time education. This has been gradually reduced. There are different age limits depending on when your claim for the payment was made. At present, the age limit for payment of OFP is as follows:

- Claims made before 27 April 2011: the age limit is 16
- Claims made between 27 April 2011 and 2 May 2012: the age limit is 10
- Claims made on or after 3 May 2012: the age limit is seven

These age limits apply since 3 July 2014. On 2 July 2015, the age limit will be reduced to seven in all cases. There were 70,304 recipients of the OFP in November 2014. Approximately 30,000 of these lone parents will lose their OFP in July 2015.

The age limit applies to the youngest child in the family. If you have more than one child, the OFP is payable up to the age of 18 or 22 if in full-time education in respect of the older children. It ceases to be payable at all once the youngest child reaches the age limit.

Exceptions to the age limits

There are two exceptions to the age limits:

- If the Domiciliary Care Allowance (DCA) is being paid in respect of a child, then the age limit is 16. This means you can qualify for OFP until that child reaches the age of 16. DCA ceases to be payable at age 16. The child may then be eligible for Disability Allowance.
- If you have been recently bereaved, the OFP is payable for two years from the death of your spouse, civil partner or cohabitant or until your youngest child reaches 18. (As already stated, the majority of widows and widowers qualify for a Contributory Pension so this issue does not arise for them.)

Habitually resident

You must be habitually resident in Ireland. The OFP is regarded as a family benefit for the purposes of the EU regulations on social security. This means that EU/EEA and Swiss nationals living and working in Ireland do not have to meet the habitual residence condition.

Means test

The OFP is means tested and a number of changes have been made to the means test in recent years. Your means from virtually all sources, including maintenance, savings and property are taken into account. Your family home is not taken into account.

Earnings disregard

Some of your earnings from work are not taken into account. The earnings disregard has been gradually reduced from its pre-2012 level of €146.50 a week.

At present, the first €90 a week of earnings is disregarded. It had been planned to reduce this to €75 a week from January 2015 and to €60 a week from January 2016 but these reductions are not going ahead. The Social Welfare and Pensions (No 2) Act 2014 removes the provisions in the previous legislation which provided for these reductions. The original plan was to bring the disregard into line with the disregard used for Jobseeker's Allowance (JA) – this is currently €20 a day up to a maximum of €60 a week. The earnings disregard for OFP is not related to the number of days worked.

Half of all earnings between €90 a week and €425 a week are also disregarded. You do not qualify at all if you have earnings of more than €425 a week. (In the JA means test, 60% of your earnings above the disregard of €60 a week are taken into account.)

Getting maintenance from the other parent

If you are separated or divorced or your civil partnership has been dissolved, you must have been living apart from your partner for at least three months and you must have made and continue to make appropriate efforts to get maintenance from your spouse or former spouse or from your civil partner if the civil partner is the parent of the child. Spouses and civil partners have a legal obligation to maintain each other and to maintain their children.

If you are not married, you are also expected to seek maintenance from the other parent. The other parent does not have a legal obligation to maintain you but does have a legal obligation to maintain the child.

Any maintenance payments you receive are assessed in the means test in the following way: the amount of maintenance you receive is reduced by up to €95.23 a week in respect of rent or mortgage costs; you must be able to show that this is actually being used for this purpose; half of the rest of the maintenance is then taken into account in the means test. If you do not have any housing costs, half of your means from maintenance is assessed.

Liable relatives

As stated above, you are required to make efforts to get maintenance from the other parent. If you do not succeed, the Department of Social Protection (DSP) may itself try to get a contribution from the other parent under what are known as the "liable relatives" provisions. You are expected to make a court claim for maintenance if the liable person is working – this includes making a claim in another EU country if this is relevant. If you do not know where the liable person is, you are expected to make enquiries. The Maintenance Recovery Unit of the DSP deals with liable relatives.

The liable relative is means tested to see what their appropriate contribution should be. The means test operates as follows:

Net income is assessed – that is, income from all sources less PRSI and income tax. The liable relative is then entitled to retain amounts as follows:

- A personal allowance of the maximum weekly personal rate of the OFP (currently €188 a week) plus €19.05
- An allowance for each dependent child living with them. This is the same amount as the Increase for a Qualified Child (IQC) payable with social welfare benefits – currently €29.80 a week for each child.
- An allowance in respect of rent or mortgage costs of up to €95.20 a week or €413 a month; if the liable relative is living with a partner who is employed and not receiving a social welfare payment, the allowances are halved

When all these are taken into account, the remaining income (plus any assessed income from capital) is regarded as being available as the liable relative's contribution to your maintenance. The maximum contribution is the weekly amount of your OFP. If the liable relative is paying some maintenance directly to you, then the maximum amount is reduced by the amount of that payment. The assessed amount is usually collected directly from the liable relative but, alternatively, it can be paid to you. Paying it directly to you could mean that the amount of OFP you receive may be reduced (see above for how maintenance payments are treated in the means test.)

Jobseeker's Allowance Transition

The Jobseeker's Allowance Transition (JST) payment was introduced in July 2013 as a temporary arrangement to provide for people who lost their OFP because the youngest child reached the age limit and who still have a child aged under 14. It was a recognition that lone parents with children under the age of 14 face particular difficulties accessing childcare.

The main features of the JST payment are:

- The usual Jobseekers Allowance (JA) means test applies; this means that the earnings disregard is lower and a higher proportion of remaining earnings are taken into account. So, if you have income from work it is more difficult to qualify for JST than for OFP. If you have no earnings, this is not relevant.
- Some of the conditions attached to JA do not apply; you are not required to be available for and genuinely seeking full-time work and you are exempt from the requirement to be unemployed for four days out of seven
- JST ends when your youngest child reaches 14; at that stage you are assessed for JA with all the normal conditions applying

Who qualifies for JST

You may be eligible for JST if:

- You have a child living with you who is aged under 14; a number of the lone parents who lose their OFP in July 2015 will not meet this criterion as their youngest child will be over the age of 14
- Your OFP was stopped within the three years before you claim JST because your youngest child reached the age limit. If your OFP was stopped for any other reason, you are not eligible.
- You have previously been receiving JST. In effect you can make a new claim for JST provided, of course, you still have a child aged under 14.

JST may be payable until your youngest child reaches the age of 14 provided you meet the conditions for the OFP. So, for example, if you marry or cohabit, you are no longer eligible for the JST.

Available for and genuinely seeking work

One of the main conditions for receipt of JA is that you be available for and genuinely seeking full-time work. If you qualify for JST you are not required to be available for and genuinely seeking full-time work until your youngest child reaches the age of 14. This means that you may seek part-time work.

You are required to engage with the Department of Social Protection activation process and to participate in any recommended education or training course or employment programme. As is the case with all JA recipients, failure to participate in such programmes may result in your payment being reduced and ultimately, you may be disqualified from payment.

Unemployed for four out of seven days

Another condition for receiving JA is that you must be unemployed for four of the seven days in a week. JST recipients are not required to meet this condition. This means that you could, for example, work five half days a week and still get some JST. Your earnings are, of course, taken into account in the means test.

Means test

The means test for JST is the same as that for JA. If you have no other income, you qualify for the same rate of JST as you were receiving in OFP. However, if you have earnings, you may get less in JST or possibly not qualify at all.

The means test for JA involves an earnings disregard. It is €20 a day up to a maximum of €60 a week. After that, 60% of your earnings are taken into account. (As set out above, the earnings disregard for OFP is €90 a week regardless of the number of days worked and the remaining income is assessed at 50%.)

Other payments payable with OFP and JST

If you are receiving either OFP or JST, you may be entitled to payments such as Rent Supplement and Fuel Allowance provided you meet the other conditions. Fuel Allowance is paid to all former OFP recipients on JST even if your claim is under 15 months. You are generally eligible to participate in the various employment support and back to education schemes.

In general, you may receive only one weekly social welfare or similar payment at a time. However, there are some exceptions.

Family Income Supplement (FIS)

Lone parents who are working may qualify for Family Income Supplement (FIS) if they meet the usual conditions. Nearly half of all FIS recipients are lone parents but not all of them are getting the OFP. The OFP is taken into account in the means test for FIS.

In general, if you qualify for FIS, the payment is awarded for a year. The amount is not changed during that year provided you continue to meet the hours worked requirement, that is, at least 19 hours a week. It is not changed if your income reduces or increases during the year. However, if you were getting the OFP and FIS and you no longer qualify for OFP because your youngest child reaches the upper age limit, your entitlement to FIS can be reassessed at the time you cease to get the OFP.

FIS is not payable with JST.

Back to Work Family Dividend

If you were getting OFP and you find work or increase your hours, you may qualify for the new Back to Work Family Dividend (BTWFD). It will be payable to people with children who have been long-term unemployed or receiving OFP and who return to work. You will be paid the equivalent of any Increases for Qualified Children that were being paid on your jobseeker or one-parent family payment (up to a maximum of four children) for the first year in employment. Half that amount will be paid weekly for the second year. If you qualify for the dividend you may also qualify for FIS. Self-employed people do not qualify for FIS.

It is intended that the BTWFD scheme will start in April 2015 when the necessary legislation is in place. However applications will be accepted from Monday 5 January 2015. No payments will be made until April 2015 when the scheme is expected to be fully operational. All eligible claims will be backdated to the date of application.

Community Employment

If you have been receiving OFP for at least 52 weeks, you are eligible to go on a Community Employment (CE) scheme. Since 16 January 2012, new CE participants may not also get an OFP. Prior to that, they could retain their OFP while being on a CE scheme. There are still some lone parents who are availing of both. People who started CE before 16 January 2012 and who have continuous service since that date may retain their primary social welfare payment (provided they remain eligible for it) together with their CE personal rate allowance beyond December 2014, which was the previous cut-off date. This will

remain the case until they finish their time on CE. If you are on JST you are eligible to participate in a CE scheme but you cannot get paid JST with your CE payment.

Half-rate Carer's Allowance

If you are receiving OFP and you meet the conditions for a Carer's Allowance, you may get the Carer's Allowance at half the usual rate while retaining your OFP. You may not get the half-rate Carer's Allowance with JST.

In November 2014, 1,650 lone parents were getting half-rate Carer's Allowance with Domiciliary Care Allowance (DCA). They will retain both payments after July 2015. 800 lone parents were getting half-rate Carer's Allowance without getting DCA. They will lose their OFP in July and will then be eligible for full-rate Carer's Allowance.

Civil Registration (Amendment) Act 2014

The main legislation governing the registration of births, marriages, civil partnerships and deaths is the Civil Registration Act 2004. It has been amended a number of times. The Civil Registration (Amendment) Act 2014 which was passed in December 2014 provides for further changes. Some of the changes are not yet in effect. Some of the changes apply only to events which occur after the relevant parts of the Act are brought into effect while some can apply retrospectively.

The following is a summary of the main changes.

Registration of births

In general, parents are responsible for registering births and must go to the offices of the Registrar of Births, Marriages and Deaths to do so within three months of the birth.

Compulsory registration of father's name

At present, when registering a birth, it is not compulsory to register the name of the father if the parents are not married to each other. Of the 69,209 births registered in 2013, there were 2,675 births where the father's name was not registered. The new Act provides that, once the relevant sections of the Act are in effect, it will be compulsory to register the father's name except where there are compelling reasons not to do so. This means that, if the father is not involved in registering the birth, the mother will be required to give information about the father to the Registrar. The Registrar will then contact the father to verify this information. The compelling reasons for not putting information about the father on the register are where the mother makes a statutory declaration that:

- She does not know who the father is or
- She does not know the whereabouts of the father or
- She believes that providing the information is not in the best interests of the safety of the child; if this is so, the mother must provide evidence to that effect

If the Registrar is satisfied that there is a compelling reason for not registering information about the father, the birth will be registered without that information. If the Registrar is not satisfied, the birth will be registered without the surname of the child and without information in relation to the father. The Registrar will also tell the mother that they are not satisfied that there is a compelling reason for not registering information about the father and ask her to provide that information. The mother may appeal the Registrar's decision to a Superintendent Registrar within 28 days. She may appeal the decision of the Superintendent Registrar to the Circuit Court. This appeal may be heard in private.

The registration of the father's name in these circumstances does not automatically mean that the father has guardianship rights and does not change the current law in relation to guardianship. The issue of the guardianship rights of unmarried fathers will be dealt with in the proposed legislation on child and family relationships (see *Relate*, October 2014)

Where the spouse is not the father of the child

The Act also includes provisions about what happens if the mother makes a statutory declaration that her spouse is not the father of her child. The Registrar will be obliged to contact the spouse and verify this. If the Registrar is not satisfied that the spouse is not the father, the birth may be registered with the spouse named as the father. The mother can appeal this decision to a Superintendent Registrar and subsequently to the Circuit Court.

Re-registration of births

At present, it is possible to re-register births:

- Where the parents who are not married to each other wish to register the father's name and this was not done initially and
- Where the parents marry each other after the birth

The new Act provides that a birth may be re-registered by the mother in cases where her spouse is registered as the father and he is not, in fact, the father. This requires statutory declarations from the mother, the father and the spouse. Again, there are appeal provisions if the Registrar refuses to re-register the birth.

The Act also provides for re-registration of births on foot of court orders about paternity. Applications for such re-registration may be made by the mother, the father or the child if they are aged 18 or over.

Registration of stillbirths

The Act removes the requirement that stillbirths must be registered within 12 months.

Registration of deaths

At present, a death must be registered by a relative who knows the particulars of the death or, if there is no relative capable of doing so, by another qualified informant. This includes a range of people, for example, a person who was present at the death and the authorities in a hospital where the death occurred. The Act provides that the duty to register the death will be on a relative, civil partner, cohabitant, next of kin, personal representative or religious superior of the deceased who knows the particulars. If there is no such person, then a similar range of qualified informants may register the death.

Notification of early neonatal deaths

An early neonatal death is the death of a child within seven days of birth. The doctor attending such a child will be obliged to notify such a death to the Superintendent Registrar in the area in which the death occurred as soon as practicable. The normal registration of death procedures must also be complied with.

Deaths abroad

The Act provides for new procedures for recording the deaths of Irish citizens who die abroad but who were ordinarily resident in Ireland in the five years before the death. At present there is no facility for officially recording such deaths. Such deaths which occurred before this part of the Act comes into effect may be recorded. A separate record of deaths abroad will be maintained.

The recording of such deaths will not be compulsory. The Registrar will maintain a record of deaths notified by a relative, civil partner or cohabitant of the person who died abroad or notified by other people who have knowledge of the death. The usual information about the person must be supplied together with an official death certificate from the country in which the death occurred (if that country issues such certificates) and evidence that the deceased was ordinarily resident in Ireland.

Marriages and civil partnerships

In general, people intending to marry or enter civil partnerships must give three months' notice of that intention to the Registrar. It is possible to apply to the courts for an order shortening this period. The Act provides that, where one of the parties is a foreign national, (that is, they are not an Irish citizen or a citizen of an EU/EEA member state) the notification to the Registrar or the court order must be accompanied by documents in relation to the immigration status of the foreign national concerned. The precise documents required will be decided by the Registrar.

Marriages and civil partnerships of convenience

The Act includes provisions which aim to make it more difficult to enter into a marriage or a civil partnership of convenience. A marriage of convenience is a marriage where, at the time of entry into the marriage, at least one of the parties is a foreign national (that is, they are not an Irish citizen or a citizen of an EU/EEA member state) and enters into the marriage solely to get an immigration advantage for at least one of the parties. A civil partnership of convenience is similarly defined.

If a Registrar forms the view that a proposed marriage or civil partnership is a marriage or civil partnership of convenience, or receives an objection to that effect which they consider should be investigated, the issue must be referred to a Superintendent Registrar. If they agree, then no registration form will be issued and the Department of Justice and Equality will be notified.

The Superintendent Registrar must consider the following when deciding whether or not the marriage or civil partnership is one of convenience:

- If the parties speak a common language
- How long they have known each other and how often they met before the notification
- If they have lived together in the past or if they currently live together
- The extent to which each party is familiar with the personal details of the other
- The extent to which each party intends to continue an existing commitment to mutual emotional and financial support of the other party
- The immigration status of one or each of the parties who is a foreign national
- Other than in a case where money is paid as a dowry as appropriate to the culture of one or each, if money was paid as an inducement for the marriage
- If one or both have previously been suspected of trying to enter a marriage or civil partnership of convenience
- Any other information which gives reasonable grounds for considering the marriage or civil partnership to be one of convenience

Place where marriages are solemnised

Marriages may be solemnised only in places that are open to the public. The Act clarifies that this can include open-air venues. It provides that open to the public means a building

that is open to the public or a courtyard, garden, yard, field or piece of ground that is open to the public and lying near to and usually enjoyed with the building. Civil partnerships do not have to be solemnised but, if they are, the same conditions apply.

Marriage ceremonies performed at certain embassies or diplomatic missions

A number of foreign nationals living in Ireland have had their marriage or civil partnership ceremonies solemnised at their home country's embassy or diplomatic mission in Ireland. These were not valid marriages or civil partnerships. The Act validates those marriages which were solemnised before this Act was passed (4 December 2014) and those civil partnerships which were solemnised between 1 January 2011 and 4 December 2014. It also provides that any such marriages or civil partnerships where there were legal impediments or which have subsequently been dissolved are not retrospectively validated. This validation does not affect any property transactions carried out before the validation; give entitlement to any benefit or pension for the period before the validation; affect taxation or affect the constitutional rights of any other person affected.

Any such marriages or civil partnerships conducted after 4 December 2014 are not valid and will not be subsequently validated.

Insolvent pension schemes

The Social Welfare and Pensions (No 2) Act 2014 provides for some of the changes announced in Budget 2015, the change to the One-Parent Family Payment means tests (see above) and for a scheme to deal with certain insolvent occupational pension schemes.

The European Court of Justice (ECJ) has ruled that the rights of workers to certain occupational pensions must be protected under the EU employer insolvency directive. The case involving former Waterford Crystal workers is described in the July 2013 issue of *EU Supplement*. The workers concerned in that case have reached agreement with the Government on how their claims are to be dealt with. The 2014 Act provides for the resolution of any future such claims.

It provides that the Minister for Finance may draw down money from the Central Fund to pay for liabilities arising where there is a double insolvency, that is, where the pension scheme and the employer are each insolvent. This arrangement applies to pension schemes where the scheme

was wound up on or after 25 January 2007 (the date on which the ECJ first ruled on this issue) and before 25 December 2013 (the date when the Social Welfare and Pensions (No. 2) Act 2013 was passed) and there is not enough money in the scheme to fund a minimum level of benefits. The 2013 Act changed the way in which the resources of a defined benefit pension scheme are distributed in the event of the wind-up of a pension scheme where both the employer and the scheme are insolvent – see *Relate*, February 2014. It aims to ensure that all beneficiaries of the scheme, including pensioners, current employees and former employees who have not yet retired, receive at least 50% of their benefits and it protects pension benefits payments of up to €12,000 per annum. The 2013 Act applies to insolvencies arising after 25 December 2013. To date, no claim has been made in respect of any double insolvencies occurring since then.

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

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Pension schemes are required to meet what is known as the funding standard – this aims to ensure that they have enough money to meet liabilities. About 96% of defined benefit pension schemes either meet the funding standard, or have agreed, or are in the process of agreeing a funding proposal with the Pensions Authority. The remaining schemes are in dialogue with the Pensions Authority.

The number of defined benefits pension schemes in Ireland has reduced from 2,500 schemes in 1991 to 1,500 in 2003 and to 933 schemes with some 189,644 active scheme members at the end of 2013. The vast majority of defined benefit pension schemes are now closed to new members.

The Social Welfare and Pensions Act 2009 provided for the establishment of a Pensions Insolvency Payments Scheme (PIPS) to provide for the payment of pensions, in the event of the wind-up of a pension scheme where both the employer and the scheme are insolvent, at less cost than through traditional annuities, thereby making more scheme assets available for the pensions of those yet to retire. There have been a number of applications to the Pensions Authority for certification under this scheme. It is likely that some or all of these will apply for funding under the arrangements put in place in the 2014 Act.

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