

Children Development Co-Savings (Childcare Leave) Regulations 2008

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No. S 547

CHILDREN DEVELOPMENT CO-SAVINGS ACT (CHAPTER 38A)

CHILDREN DEVELOPMENT CO-SAVINGS (CHILDCARE LEAVE) REGULATIONS 2008

In exercise of the powers conferred by section 20 of the Children Development Co-Savings Act, the Minister for Community Development, Youth and Sports hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Children Development Co-Savings (Childcare Leave) Regulations 2008 and shall come into operation on 31st October 2008.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

“authorised officer” means any person authorised by the Director or the Board;

“basis period” has the same meaning as in section 2(1) of the Income Tax Act (Cap. 134);

“Board” means the Self-employed Reimbursement Board referred to in regulation 3;

“childcare leave” means childcare leave under section 12B of the Act, and includes —

(a) any childcare leave taken under section 87A of the Employment Act (Cap. 91); and

(b) any leave of absence for childcare purposes referred to in section 12B(6)(b) of the Act,

which is treated, under section 12B(3) or (6) of the Act, as childcare leave under section 12B of the Act;

“Director” means the Director of the Ministry of Community Development, Youth and Sports appointed by the Minister for the purposes of these Regulations;

“holiday” has the same meaning as in section 42 of the Employment Act (Cap. 91);

“leave period”, in relation to a self-employed person, means the period referred to in section 12B(16)(c) when he ceases to be actively engaged in his trade, business, profession or vocation;

“net income” means the income derived by a self-employed person from his trade, business, profession or vocation less all outgoings and expenses incurred by him in the production of that income;

“working day”, in relation to an employee, means a day on which he is required to work, under the terms of his contract of service;

“year of assessment” has the same meaning as in section 2(1) of the Income Tax Act (Cap. 134).

(2) The number of working days of an employee in a week shall be deemed to be the number of days on which he is required to work, under the terms of his contract of service, in a week with no holidays.

Authorities responsible for assessment of claims

3.—(1) For the purposes of section 20(2)(d) of the Act —

- (a) the Director shall be responsible for the assessment and determination of a claim by an employer under regulation 5; and
- (b) the Self-employed Reimbursement Board shall be responsible for the assessment and determination of a claim by a self-employed person under regulation 6.

(2) The Board shall consist of —

- (a) one officer nominated by the Comptroller of Income Tax, who shall be the Chairman of the Board;
- (b) one officer nominated by the Permanent Secretary to the Ministry of Community Development, Youth and Sports; and
- (c) one officer nominated by the Permanent Secretary to the Ministry of Manpower.

Claim by employees

4.—(1) Every employee who wishes to take childcare leave under section 12B(1) of the Act shall —

- (a) make a declaration as to his eligibility for childcare leave in such form as the Minister may provide; and
- (b) submit the form to his employer together with his application for childcare leave.

(2) Every employer shall, upon receiving from his employee the form and application referred to in paragraph (1) —

- (a) satisfy himself as to whether the employee is entitled under section 12B(1) of the Act to childcare leave; and
- (b) if he is so satisfied —
 - (i) grant the childcare leave to the employee, unless he has reasonable cause not to do so; and
 - (ii) make payment to the employee, for every day of childcare leave taken by the employee, in accordance with sections 11, 12B and 12C of the Act and this regulation.

(3) An employer may —

- (a) for the purpose of paragraph (2)(a), require the employee to furnish or provide access to such information or document as may be necessary to ascertain his entitlement to childcare leave; and
- (b) if the employee fails to furnish or provide access to such information or document, refuse to grant childcare leave to the employee.

Claim by employers

5.—(1) Every employer who is entitled to claim reimbursement from the Government under section 12C of the Act shall apply to the Director for such reimbursement.

(2) An application by an employer under paragraph (1) in respect of the childcare leave taken by an employee in a relevant period shall be —

- (a) made in such form as the Director may provide;
- (b) made within 3 months after —
 - (i) in a case where the employee has taken his entitlement of childcare leave for the relevant period, the last day of childcare leave taken by the employee for the relevant period;
 - (ii) in a case where the employee ceases to be entitled to childcare leave at any time during the relevant period, the day the employee ceases to be entitled to childcare leave; or
 - (iii) in any other case, the last day of the relevant period; and
- (c) accompanied by the following information and documents:
 - (i) the dates on which the employee took the childcare leave;
 - (ii) the employee's monthly gross rate of pay in each month in the relevant period in which the employee has taken childcare leave; and
 - (iii) such other information or document as may be specified in the form provided by the Director or as may be required by the Director.

(3) Subject to paragraph (4), the amount of reimbursement that an employer is entitled to claim from the Government in respect of the childcare leave taken by an employee in a relevant period shall be calculated in accordance with the following formula: