*Number* 5 *of* 2006

# SOCIAL WELFARE LAW REFORM AND PENSIONS ACT 2006

**REVISED**

**Updated to 1 January 2018**

This Revised Act is an administrative consolidation of the *Social Welfare Law Reform and Pensions Act 2006*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Finance Act 2017* (41/2017), enacted 25 December 2017, and all statutory instruments up to and including *Legal Metrology (Measuring Instruments) Act 2017 (Commencement) Order 2018* (S.I. No. 1 of 2018), made 4 January 2018, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

*Number* 5 *of* 2006

# SOCIAL WELFARE LAW REFORM AND PENSIONS ACT 2006

**REVISED**

**Updated to 1 January 2018**

## Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

## Related legislation

***Pensions Acts 1990 to 2015***: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Social Welfare and Pensions Act 2015* (47/2015), s. 1(3)). The Acts in this group are:

- *Pensions Act 1990* (25/1990)
- *Pensions (Amendment) Act 1996* (18/1996)
- *Pensions (Amendment) Act 2002* (18/2002)
- *Social Welfare (Miscellaneous Provisions) Act 2003* (4/2003), s. 24
- *Social Welfare (Miscellaneous Provisions) Act 2004* (9/2004), ss. 22, 23
- *Equality Act 2004* (24/2004), Part 4
- *Social Welfare and Pensions Act 2005* (4/2005), ss. 27-39
- *Social Welfare Law Reform and Pensions Act 2006* (5/2006), ss. 38-44
- *Social Welfare and Pensions Act 2007* (8/2007), s. 37
- *Social Welfare And Pensions Act 2008* (2/2008), ss. 26-29
- *Social Welfare (Miscellaneous Provisions) Act 2008* (22/2008), s. 24
- *Social Welfare And Pensions Act 2009* (10/2009), Part 5
- *Social Welfare And Pensions (No. 2) Act 2009* (43/2009), Part 3
- *Social Welfare and Pensions Act 2010* (37/2010), Part 5
- *Social Welfare and Pensions Act 2011* (9/2011), Part 4
- *Social Welfare and Pensions Act 2012* (12/2012), Part 3
- *Social Welfare and Pensions (Miscellaneous Provisions) Act 2013* (20/2013), Part 4
- *Social Welfare and Pensions Act 2013* (38/2013), Part 4
- *Social Welfare and Pensions (No. 2) Act 2013* (49/2013), Part 3
- *Social Welfare and Pensions Act 2014* (16/2014), Part 3
- *Social Welfare and Pensions (No. 2) Act 2014* (41/2014), s. 4
- *Equality (Miscellaneous Provisions) Act 2015* (43/2015), s. 2
- *Social Welfare and Pensions Act 2015* (47/2015), Part 3

## Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

**Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1989, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

**Acts which affect or previously affected this revision**

- *Social Welfare Act 2017* (38/2017)
- *Financial Services and Pensions Ombudsman Act 2017* (22/2017)

All Acts up to and including *Finance Act 2017* (41/2017), enacted 25 December 2017, were considered in the preparation of this revision.

**Statutory instruments which affect or previously affected this revision**

- *Social Welfare Law Reform and Pensions Act 2006 (Section 39) (Commencement) Order 2007* (S.I. No. 631 of 2007)
- *Social Welfare Law Reform and Pensions Act 2006 (Section 42) (Commencement) Order 2006* (S.I. No. 136 of 2007)
- *Social Welfare Law Reform and Pensions Act 2006 (Section 40) (Commencement) Order 2006* (S.I. No. 437 of 2006)
- *Social Welfare Law Reform and Pensions Act 2006 (Item 6 of Schedule 8) (Commencement) Order, 2006* (S.I. No. 357 of 2006)
- *Social Welfare Law Reform and Pensions Act 2006 (Sections 4, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25) (Commencement) Order 2006* (S.I. No. 334 of 2006)
- *Social Welfare Law Reform and Pensions Act 2006 (Part 3) (Commencement) Order 2006* (S.I. No. 291 of 2006)
- *Social Welfare Law Reform and Pensions Act 2006 (Sections 4(4), 4(5), 31 and 33) (Commencement) Order 2006* (S.I. No. 246 of 2006)
- *Social Welfare Law Reform and Pensions Act 2006 (Sections 26 and 27) (Commencement) Order 2006* (S.I. No. 206 of 2006)
- *Social Welfare Law Reform and Pensions Act 2006 (Sections 5 and 6) (Commencement) Order 2006* (S.I. No. 205 of 2006)
- *Social Welfare Law Reform and Pensions Act 2006 (Section 39 (in so Far as it Inserts Section 3B into the Pensions Act 1990)) (Commencement) Order 2006* (S.I. No. 169 of 2006)

All statutory instruments up to and including *Legal Metrology (Measuring Instruments) Act 2017 (Commencement) Order 2018* (S.I. No. 1 of 2018), made 4 January 2018, were considered in the preparation of this revision.

*Number* 5 *of* 2006

# SOCIAL WELFARE LAW REFORM AND PENSIONS ACT 2006

**REVISED**

**Updated to 3 January 2018**

ARRANGEMENT OF SECTIONS

PART 1

SHORT TITLE, CONSTRUCTION, COLLECTIVE CITATION AND COMMENCEMENT


Section

1. Short title, construction, collective citation and commencement.

PART 2

AMENDMENTS TO THE SOCIAL WELFARE ACTS

2. Definition (*Part 2*).

3. Child benefit — new rates.

4. Renaming of certain social welfare schemes.

5. Reckonable income — amendment to definition.

6. Rates of self-employed contributions and related matters.

7. Carer's benefit — extension of duration of payment.

8. Decision by deciding officer — homemakers.

9. Old age (contributory) pension — improvement.

10. Conditions for receipt of old age (contributory) pension — amendment.

11. Old age contributory pension — automatic entitlement for invalidity pension recipients.

12. Old age (contributory) pension — automatic entitlement for retirement pension recipients.

13. Retirement pension — improvement.

14. Conditions for receipt of retirement pension — amendment.

15. Pre-retirement allowance — payment of allowance.

16. State pension (non-contributory).

17. State pension (non-contributory) — consequential amendments to Principal Act.

18. Amendment to widowed parent grant.

19. Amendment to description of social assistance.

20. Blind pension — amendments.

21. Amendment to widow's (non-contributory) pension and widower's (non-contributory) pension.

22. Amendment to one-parent family payment.

23. Amendment to transitional provisions — relevant payments.

24. State pension (non-contributory) — assessment of means.

25. Assessment of means — insertion of new Part 5.

26. Orphan's (non-contributory) pension — amendment.

27. One-parent family payment — increase in income threshold.

28. Early childcare supplement — provision.

29. Early childcare supplement — consequential amendments to Principal Act.

30. Respite care grant — increase in rate.

31. Family income supplement — improvement.

32. Provisions relating to entitlement — amendment.

33. Means assessment — amendments.

34. Supplementary welfare allowance — improvement in means assessment.

35. Personal public service number — additional specified bodies.

36. Recovery of payments from financial institutions — amendment.

37. Miscellaneous amendments to Principal Act.

PART 3

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38. Definition (*Part 3*).

39. Notice of intention by Pensions Board to prosecute.

40. Indemnity.

41. Index-linked benefits.

42. Review of actuarial work.

43. Functions of Pensions Ombudsman. *(Repealed)*

44. Miscellaneous amendments to Principal Act.

PART 4

MISCELLANEOUS AMENDMENTS TO OTHER ACTS

45. Amendment to Combat Poverty Agency Act 1986.

46. Amendment to Freedom of Information Act 1997.

47. Amendment to Taxes Consolidation Act 1997.

48. Amendment to Carer's Leave Act 2001.

SCHEDULE 1

Renaming of certain Social Welfare Schemes

SCHEDULE 2

Rates of Assistance

SCHEDULE 3

State Pension (non-contributory) — Consequential Amendments to Principal Act

SCHEDULE 4

State Pension (non-contributory) — Assessment of Means

SCHEDULE 5

Blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension and orphan's (non-contributory) pension, one-parent family payment and carer's allowance — Assessment of Means

SCHEDULE 6

Early Childcare Supplement — Consequential Amendments to Principal Act

SCHEDULE 7

Miscellaneous Amendments to Principal Act

SCHEDULE 8

Miscellaneous Amendments to Pensions Act 1990

SCHEDULE 9

Amendments to Carer's Leave Act 2001

ACTS REFERRED TO

| | |
|---|---|
| Army Pensions Acts 1923 to 1980 | |
| Blind Persons Act 1920 | 10 & 11, Geo. 5, c. 49 |
| Carer's Leave Act 2001 | 2001, No. 19 |
| Combat Poverty Agency Act 1986 | 1986, No. 14 |
| Comhairle Act 2000 | 2000, No. 1 |
| Companies Acts 1963 to 2005 | |
| Connaught Rangers (Pensions) Acts 1936 to 1964 | |
| Credit Union Act 1997 | 1997, No. 15 |
| Freedom of Information Act 1997 | 1997, No. 13 |
| Income Tax Acts | |

| | |
|---|---|
| Military Service Pensions Acts 1924 to 1964 | |
| Pensions (Amendment) Act 2002 | 2002, No. 18 |
| Pensions Act 1990 | 1990, No. 25 |
| Pensions Acts 1990 to 2005 | |
| Social Welfare Acts | |
| Social Welfare Act 2005 | 2005, No. 30 |
| Social Welfare and Pensions Act 2005 | 2005, No. 4 |
| Social Welfare Consolidation Act 2005 | 2005, No. 26 |
| Taxes Consolidation Act 1997 | 1997, No. 39 |

*Number* 5 *of* 2006

**SOCIAL WELFARE LAW REFORM AND PENSIONS ACT 2006**

AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE ACTS, THE PENSIONS ACT 1990, THE COMBAT POVERTY AGENCY ACT 1986, THE FREEDOM OF INFORMATION ACT 1997, THE TAXES CONSOLIDATION ACT 1997 AND THE CARER'S LEAVE ACT 2001.

[24*th March*, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

# PART 1

## Short Title, Construction, Collective Citation and Commencement

Short title, construction, collective citation and commencement.

**1**.— (1) This Act may be cited as the Social Welfare Law Reform and Pensions Act 2006.

(2) The Social Welfare Acts and *sections 1* to *37* of this Act shall be read together as one.

(3) *Sections 38* to *44* of this Act and the Pensions Acts 1990 to 2005 may be cited together as the Pensions Acts 1990 to 2006.

(4) *Sections 4*, *5*, *6*, *9* to *14*, *16* to *27*, *31* and *33* and *Part 3* of this Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes or different provisions.

**Annotations**

**Editorial Notes:**

The commencement dates for this Act are complex. The table linked from the Act at www.irishstatutebook.ie/eli/isbc/2006_5.html sets out the commencement status of the sections in order.

**E1** Power pursuant to subs. (4) exercised (17.09.2007) by *Social Welfare Law Reform and Pensions Act 2006 (Section 39) (Commencement) Order 2007* (S.I. No. 631 of 2007).

**Commencement.**

2. The 17th day of September 2007 is appointed as the day on which section 39 (in so far as it inserts section 3A into the Pensions Act 1990 (No. 25 of 1990)) of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006) comes into operation.

**E2** Power pursuant to subs. (4) exercised (2.04.2007) by *Social Welfare Law Reform and Pensions Act 2006 ( Section 42) (Commencement) Order 2007* (S.I. No. 136 of 2007).

**Commencement.**

2. The 2nd day of April 2007 is appointed as the day on which section 42 of the Social Welfare Law Reform and Pensions Act 2006 comes into operation.

**E3** Power pursuant to section exercised (28.07.2006, 28.09.2006, 29.09.2006, 2.10.2006, 4.10.2006, 5.10.2006) by*Social Welfare Law Reform and Pensions Act 2006 (Sections 4, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25) (Commencement) Order 2006* (S.I. No. 334 of 2006)

**Commencement.**

2. (a) The 28th day of July, 2006 is appointed as the day on which sections 4(1), in so far as it relates to orphan's (contributory) allowance and orphan's (non-contributory pension, 4(4) and 4(5) and items 8 to 14 of Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006), come into operation.

(b) The 28th day of September, 2006 is appointed as the day on which sections 4(1) in so far as it relates to retirement pension, 4(6), 9, 10, 11, 12, 13 and 14 and item 3 of Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006), come into operation.

(c) The 29th day of September, 2006 is appointed as the day on which sections 4(1) in so far as it relates to old age (contributory) pension, 4(3), 16, 17, 18, 19, 20, 21, 22 23, 24 and 25 and items 1 and 2 of Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006, come into operation.

(d) The 2nd day of October, 2006 is appointed as the day on which sections 4(1), in so far as it relates to disability benefit and unemployability supplement, 4(2) and 4(9 and items 7 and 15 of Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006 , come into operation.

(e) The 4th day of October, 2006 is appointed as the day on which section 4(1), in so far as it applies to unemployment assistance, and 4(8) and items 4 and 5 of Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006 , come into operation.

(f) The 5th day of October, 2006 is appointed as the day on which section 4(1), in so far as it applies to unemployment benefit, and 4(7) and item 6 of Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006 , come into operation.

**E4** Power pursuant to section exercised (8.05.2006, 28.07.2006) by *Social Welfare Law Reform and Pensions Act 2006 (Sections 4(4), 4(5), 31 and 33) (Commencement) Order 2006* (S.I. No. 246 of 2006).

**Commencement.**

2. (a) The 8th day of May is appointed as the day on which sections 31 and 33 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006), come into operation; and

(b) the 28th day of July 2006 is appointed as the day on which sections 4(4) and 4(5) and items 8, 9, 10, 11, 12, 13 and 14 of Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006), come into operation.

**E5** Power pursuant to subs. (4) exercised (24.07.2006) by *Social Welfare Law Reform and Pensions Act 2006 (Section 40) (Commencement) Order 2006* (S.I. No. 437 of 2006).

**Commencement.**

2. The 24th day of July 2006 is appointed as the day on which section 40 of the Social Welfare Law Reform and Pensions Act 2006 comes into operation.

**E6** Power pursuant to subs. (4) exercised (30.06.2006) by *Social Welfare Law Reform and Pensions Act 2006 (Item 6 of Schedule 8) (Commencement) Order 2006* (S.I. No. 357 of 2006).

**Commencement.**

2. Item 6 of Schedule 8 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006) comes into operation on 30 June 2006.

**E7** Power pursuant to section exercised (24.4.2006, 29.05.2006, 30.05.2006) by *Social Welfare Law Reform and Pensions Act 2006 (Sections 26 and 27) (Commencement) Order 2006* (S.I. No. 206 of 2006).

**Commencement.**

(a) The 24th day of April 2006 is appointed as the day on which section 26 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006), comes into operation;

(b) The 29th day of May 2006 is appointed as the day on which section 27 of the Social Welfare Law Reform and Pensions Act 2006, in so far as it relates to one-parent family payment (other than where payable in respect of a widow or widower comes into operation; and

(c) The 30th day of May is appointed as the day on which section 27 of the Social Welfare Law Reform and Pensions Act 2006, in so far as it relates to one-parent family payment payable in respect of a widow or widower, comes into operation.

**E8** Power pursuant to subs. (4) exercised (24.05.2006) by *Social Welfare Law Reform and Pensions Act 2006 (Part 3) (Commencement) Order 2006* (S.I. No. 291 of 2006).

**Commencement.**

2. Part 3 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006) comes into operation as follows -

(a) sections 38, 41 and 43 and

(b) section 44 (in so far as it relates to items 1, 2, 3, 4, 5, 7, 8 9 and 10 of Schedule 8 of the Social Welfare Law Reform and Pensions Act 2006),

on 24 May 2006.

**E9** Power pursuant to subs. (4) exercised (12.04.2006) by *Social Welfare Law Reform and Pensions Act 2006 (Section 39 (in so far as it Inserts Section 3B into the Pensions Act 1990)) (Commencement) Order 2006* (S.I. No. 169 of 2006)

**Commencement.**

2. The 12th day of April 2006 is appointed as the day on which, section 39 (in so far as it inserts section 3B into the Pensions Act 1990 ) of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006), comes into operation.

**E10** Power pursuant to section exercised (1.01.2006) by*Social Welfare Law Reform and Pensions Act 2006 (Sections 5 and 6) (Commencement) Order 2006* (S.I. No. 205 of 2006).

**Commencement.**

The 1st day of January, 2006 is appointed as the day on which sections 5 and 6 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006), come into operation.

# PART 2

## Amendments to the Social Welfare Acts

Definition (*Part 2*).

**2**.— In this Part "Principal Act" means the Social Welfare Consolidation Act 2005.

Child benefit — new rates.

**3**.— (1) Schedule 4 to the Principal Act is amended by substituting the following for Part 6:

"PART 6

AMOUNTS OF CHILD BENEFIT

| Amount for each of first 2 children | Amount for each child in excess of 2 |
|---|---|
| (1) | (2) |
| €150.00 | €185.00 |

".

(2) This section comes into operation on 1 April 2006.

Renaming of certain social welfare schemes.

**4**.— (1) Each provision of the Principal Act and each instrument mentioned in *column (2)* of *Schedule 1* to this Act is amended in the manner specified in *column (3)* of that Schedule opposite the mention of that provision or instrument in *column (2)*.

(2) Every reference in any Act or in any instrument made under any Act to disability benefit shall be read as a reference to illness benefit.

(3) Every reference in any Act or in any instrument made under any Act to old age (contributory) pension shall be read as a reference to State pension (contributory).

(4) Every reference in any Act or in any instrument made under any Act to orphan's (contributory) allowance shall be read as a reference to guardian's payment (contributory).

(5) Every reference in any Act or in any instrument made under any Act to orphan's (non-contributory) pension shall be read as a reference to guardian's payment (non-contributory).

(6) Every reference in any Act or in any instrument made under any Act to retirement pension shall be read as a reference to State pension (transition).

(7) Every reference in any Act or in any instrument made under any Act to unemployment benefit shall be read as a reference to jobseeker's benefit.

(8) Every reference in any Act or in any instrument made under any Act to unemployment assistance shall be read as a reference to jobseeker's allowance.

(9) Every reference in any Act or in any instrument made under any Act to unemployability supplement shall be read as a reference to incapacity supplement.

Reckonable income — amendment to definition.

**5**.— Section 2(1) of the Principal Act is amended in paragraph (*a*) of the definition of "reckonable income" by substituting "195, 216C," for "195,".

Rates of self-employed contributions and related matters.

**6**.— Section 21(1) of the Principal Act is amended—

(*a*) in paragraph (*a*), by substituting "paragraphs (*b*), (*ea*)" for "paragraph (*b*)",

(*b*) in paragraph (*c*), by substituting "paragraphs (*ea*) and (*f*)" for "paragraph (*f*)", and

(*c*) by inserting the following after paragraph (*e*):

"(*ea*) where in any contribution year a self-employed contributor avails of childcare services relief within the meaning of section 216C of the Taxes Consolidation Act 1997, he or she shall be liable for a contribution of €253 in respect of that amount for which childcare services relief is claimed under that section;".

Carer's benefit — extension of duration of payment.

**7**.— (1) Section 103 of the Principal Act is amended by substituting "104 weeks" for "65 weeks".

(2) This section applies to a person who was in receipt of carer's benefit on or after 7 December 2005.

Decision by deciding officer — homemakers.

**8**.— Section 108 of the Principal Act is amended by inserting the following after subsection (2):

"(2A) A deciding officer may, for the purpose of determining whether a person satisfies the conditions in section 109, decide the question as to whether a person is a homemaker, in accordance with subsection (2).".

Old age (contributory) pension — improvement.

**9**.— Section 108 of the Principal Act is amended by inserting the following after subsection (8):

"(9) The amount payable by way of old age (contributory) pension for any day on or after which a person has attained pensionable age but before the day on which the person first receives payment of old age (contributory) pension, shall be one-seventh of the appropriate weekly rate, subject to the total amount being paid at any time by virtue of this subsection being rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and being rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.".

Conditions for receipt of old age (contributory) pension — amendment.

**10**.— The following paragraph is substituted for paragraph (*b*) of section 109(17) of the Principal Act:

"(*b*) where the amount calculated in accordance with paragraph (*a*) is a multiple of 5 cent but not also a multiple of 10 cent, be rounded up to the nearest 10 cent, and where the amount is not a multiple of 5 cent or 10 cent, be rounded to the nearest 10 cent.".

Old age contributory pension — automatic entitlement for invalidity pension recipients.

**11**.— The Principal Act is amended—

(*a*) by inserting the following section after section 113 but in Chapter 15:

"Entitlement for invalidity pension recipients.

113A.— (1) Notwithstanding this Chapter and regulations made under this Chapter old age (contributory) pension shall be payable in accordance with this section in the case of a person who—

(*a*) has attained pensionable age, and

(*b*) immediately before attaining pensionable age is in receipt of a payment under Chapter 17 of this Part.

(2) Only one pension shall be payable to or in respect of a person under this Chapter.

(3) Subject to subsection (4), old age (contributory) pension payable under this section shall be payable in accordance with the rate specified in section 111.

(4) Where a person in receipt of invalidity pension under Chapter 17 of this Part attains pensionable age and becomes entitled to a pension under this section and to a pension from another Member State, the weekly rate of pension payable shall be the greater of—

(*a*) the amount of pension payable, calculated in accordance with Chapter 2 or 3, as the case may be, of Title III of Regulation (EEC) No. 1408/71 [1] of the Council of the European Communities, or

(*b*) the rate of invalidity pension otherwise payable in accordance with Chapter 17 of this Part.

(5) The weekly rate of old age (contributory) pension payable under this section shall be increased by—

(*a*) the amount set out in column (3) at reference 3 in Part 1 of Schedule 2 for any period during which the beneficiary has a qualified adult, subject to the restriction that a beneficiary shall not be entitled for the same period to an increase of pension under this subsection in respect of more than one person,

(*b*) the amount set out in column (4) at reference 3 in Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary,

(*c*) the amount set out in column (6) at reference 3 in Part 1 of Schedule 2 where the beneficiary is living alone,

(*d*) the amount set out in column (7) at reference 3 in Part 1 of Schedule 2 where the beneficiary has attained the age of 80 years, and

(*e*) the amount set out in column (8) at reference 3 in Part 1 of Schedule 2 where the beneficiary is ordinarily resident on an island.",

and

(*b*) in section 300, by inserting the following subsection after subsection (8):

"(9) In the case of an award made under section 113A, any question which arises in relation to whether old age (contributory) pension is or is not payable, or in relation to who is entitled to receive an old age (contributory) pension, shall be referred to a deciding officer for decision.".

Old age (contributory) pension — automatic entitlement for retirement pension recipients.

**12**.— The Principal Act is amended—

(*a*) by inserting the following section after section 113A (inserted by *section 11* of this Act) but in Chapter 15:

"Entitlement for retirement pension recipients.

113B.— (1) Notwithstanding this Chapter and regulations made under this Chapter and subject to subsection (2), old age (contributory) pension shall be payable in accordance with this section in the case of a person who—

(*a*) has attained pensionable age, and

(*b*) immediately before attaining pensionable age is in receipt of a payment under Chapter 16 of this Part.

(2) Only one pension shall be payable to or in respect of a person under this Chapter.

(3) In the case of a person who is in receipt of retirement pension under Chapter 16 of this Part, the weekly rate of pension payable shall be the greater of—

(*a*) the rate payable in accordance with this Chapter, or

[1] OJ No. L149, 05.07.1971, p. 2.

(*b*) an amount equal to the rate of retirement pension payable in accordance with Chapter 16 of this Part.",

and

(*b*) in section 300, by inserting the following subsection after subsection (9) (inserted by *section 11* of this Act):

"(10) In the case of an award made under subsection 113B, any question which arises in relation to whether old age (contributory) pension is or is not payable, or in relation to who is entitled to receive an old age (contributory) pension, shall be referred to a deciding officer for decision.".

Retirement pension — improvement.

**13**.— Section 114 of the Principal Act is amended by inserting the following subsection after subsection (7):

"(8) The amount payable by way of retirement pension for any day on or after which a person has attained the age of 65 years but before the day on which the person first receives payment of retirement pension, shall be one-seventh of the appropriate weekly rate, subject to the total amount being paid at any time under this subsection being rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and being rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.".

Conditions for receipt of retirement pension — amendment.

**14**.— The following paragraph is substituted for paragraph (*b*) of section 115(8) of the Principal Act:

"(*b*) where the amount calculated in accordance with paragraph (*a*) is a multiple of 5 cent but not also a multiple of 10 cent, be rounded up to the nearest 10 cent, and where the amount is not a multiple of 5 cent or 10 cent, be rounded to the nearest 10 cent.".

Pre-retirement allowance — payment of allowance.

**15**.— Section 149 of the Principal Act is amended—

(*a*) in subsection (5), by substituting "subsections (6) and (8)" for "subsection (6)", and

(*b*) by inserting the following after subsection (6):

"(7) Notwithstanding the provisions of this Chapter and subject to subsection (8), pre-retirement allowance shall not be payable to a person in respect of any period of retirement which begins on or after such date as may be prescribed.

(8) Subsection (7) shall not apply where a continuous period of retirement, as read in accordance with subsection (5), began before the date prescribed for the purposes of subsection (7).".

State pension (non-contributory).

**16**.— (1) The Principal Act is amended—

(*a*) by substituting the following for section 153:

"Entitlement to pension.

153.— Subject to this Act, a person shall be entitled to State pension (non-contributory) where—

(*a*) the person has attained pensionable age,

(*b*) the means of the person as calculated in accordance with the Rules contained in Part 3 of Schedule 3 do not exceed the appropriate highest

amount of means at which pension may be paid to that person in accordance with section 156, and

(*c*) the person is habitually resident in the State at the date of the making of the application for State pension (non-contributory).";

(*b*) by deleting sections 154 and 155;

(*c*) by substituting the following for section 156:

"Rate of pension and increase for qualified child.

156.— (1) Subject to section 159, the rate (in this Chapter referred to as 'the scheduled rate') of State pension (non-contributory) shall be the weekly rate set out in column (2) at reference 4 in Part 1 of Schedule 4 increased by the appropriate amount set out in column (4) of that Part in respect of each qualified child who normally resides with the claimant or beneficiary.

(2) (*a*) The pension shall be payable where the weekly means of the claimant or beneficiary—

(i) do not exceed €20.00, at the scheduled rate, and

(ii) subject to paragraph (*b*), exceed €20.00, at the scheduled rate reduced by €2.50 for each amount (if any) of €2.50 by which those weekly means exceed €20.00, any fraction of €2.50 in those weekly means being treated for this purpose as €2.50.

(*b*) Where the rate calculated under paragraph (*a*)(ii) at which, but for this paragraph, the pension would be payable is less than €2.50, the pension shall not be payable.";

(*d*) in section 157, by substituting the following for subsection (2):

"(2) An increase under subsection (1)(*a*) shall not be payable where the spouse is—

(*a*) in receipt of any benefit, pension, assistance or allowance under Part 2 or this Part, or

(*b*) entitled to or in receipt of an allowance in respect of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme, or

(*c*) entitled to or in receipt of an allowance in respect of participation in a scheme administered by the Minister and known as—

(i) Back to Education Allowance, or

(ii) Back to Work Allowance, or

(iii) Back to Work Enterprise Allowance, or

(iv) Part-Time Job Incentive.";

(*e*) by substituting the following for section 159:

"Rate of pension for persons in receipt of other payments.

159.— In the case of a person who is in receipt of blind pension under Chapter 5 of this Part, widow's (non-contributory) pension or widower's (non-contributory) pension under Chapter 6 of this Part, one-parent family payment under Chapter 7 of this Part, a payment referred to in paragraph (*b*) or (*c*) of the definition of 'relevant payment' in section 178 or farm assist under Chapter 11

of this Part, immediately before becoming entitled to State pension (non-contributory), the weekly rate of pension payable shall be the greater of—

(*a*) an amount equal to the rate of blind pension which was payable in accordance with sections 161B, 161C and 161D immediately before becoming entitled to State pension (non-contributory) and the rate payable in accordance with sections 156, 157 and 158, or

(*b*) an amount equal to the rate of widow's (non-contributory) pension or widower's (non-contributory) pension which was payable in accordance with section 164 immediately before becoming entitled to State pension (non-contributory) and the rate payable in accordance with sections 156, 157 and 158, or

(*c*) an amount equal to the rate of one-parent family payment which was payable in accordance with section 174 immediately before becoming entitled to State pension (non-contributory) and the rate payable in accordance with sections 156, 157 and 158, or

(*d*) an amount equal to the rate of farm assist which was payable in accordance with sections 215 and 216 immediately before becoming entitled to State pension (non-contributory) and the rate payable in accordance with sections 156, 157 and 158.";

(*f*) by substituting the following for section 160:

"Disqualifi-cations.

160.— (1) Subject to subsections (2) and (3), a person in receipt of or entitled to widow's (contributory) pension, widower's (contributory) pension or old age (contributory) pension or a person in respect of whom an increase of old age (contributory) pension is payable by virtue of section 112(1) shall be disqualified for receipt of State pension (non-contributory).

(2) Notwithstanding subsection (1), a person may be paid State pension (non-contributory) for any period during which the rate of pension payable would be greater than the rate of widow's (contributory) pension, widower's (contributory) pension, old age (contributory) pension or the increase thereof, as the case may be, payable.

(3) Notwithstanding subsection (1), in any case where State pension (non-contributory) is so paid, entitlement to widow's (contributory) pension, widower's (contributory) pension, old age (contributory) pension or the increase thereof, as the case may be, shall continue but the amount of any such pension or increase payable during any such period shall not be paid to or in respect of the person.";

and

(*g*) by substituting the Schedule set out in *Schedule 2* to this Act for Schedule 4.

(2) Notwithstanding section 153 (as substituted by *subsection (1)(a)* of this section) of the Principal Act, a person shall be entitled to a State pension (non-contributory) where—

(*a*) the person has attained pensionable age, and

(*b*) on the coming into operation of *subsection (1)* of this section, the person is in receipt of old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, one-parent family payment or a payment referred to in paragraph (*b*) or (*c*) of the definition of "relevant payment" in section 178 of the Principal Act.

(3) A decision made by a deciding officer or an appeals officer under the Principal Act in relation to the award of old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension or one-parent family payment before the coming into operation of this section, shall be deemed to be a decision to award State pension (non-contributory) to the person concerned on and from such coming into operation, where the person has attained pensionable age.

(4) Where, immediately before the coming into operation of this section, a person has applied for old age (non-contributory) pension, blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension or one-parent family payment and that application has not been finally determined, any such application shall be deemed to be an application for State pension (non-contributory), where the person has attained pensionable age.

State pension (non-contributory) — consequential amendments to Principal Act.

**17**.— Each provision of the Principal Act and each instrument mentioned in *column (1)* of *Schedule 3* to this Act is amended in the manner specified in *column (2)* of that Schedule opposite the mention of that provision or instrument in *column (1)*.

Amendment to widowed parent grant.

**18**.— Section 137(2) of the Principal Act is amended in paragraph (*b*)(ii) of the definition of "widowed parent" by substituting the following for clause (V):

"(V) one-parent family payment, or

(VI) State pension (non-contributory),".

Amendment to description of social assistance.

**19**.— The following paragraph is substituted for paragraph (*f*) of section 139(1) of the Principal Act:

"(*f*) widowed parent grant (paid by virtue of receipt of one-parent family payment or State pension (non-contributory) under this Part),".

Blind pension — amendments.

**20**.— The Principal Act is amended by substituting the following for Chapter 5 of Part 3:

"CHAPTER 5

Blind Pension

Interpretation.

161.— In this Chapter—

' spouse ' includes a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State;

' weekly means ' shall, subject to Rule 1(1) of Part 5 of Schedule 3, be the yearly means divided by 52.

Entitlement to pension.

161A.— Subject to this Act, a person shall be entitled to pension (in this Act referred to as 'blind pension') where—

(*a*) the person has attained the age of 18 years but has not attained pensionable age,

(*b*) the person is so blind that he or she either cannot perform any work for which eyesight is essential or cannot continue his or her ordinary occupation,

(*c*) the means of the person as calculated in accordance with the Rules contained in Part 5 of Schedule 3 do not exceed the appropriate highest

amount of means at which pension may be paid to that person in accordance with section 161B, and

(*d*) the person is habitually resident in the State at the date of the making of the application for that pension.

Rate of pension.

161B.— (1) The rate (in this Chapter referred to as 'the scheduled rate') of blind pension shall be the weekly rate set out in column (2) at reference 5 in Part 1 of Schedule 4 increased by the appropriate amount set out in column (4) of that Part in respect of each qualified child who normally resides with the claimant or beneficiary.

(2) (*a*) The pension shall be payable where the weekly means of the claimant or beneficiary—

(i) do not exceed €7.60, at the scheduled rate, and

(ii) subject to paragraph (*b*), exceed €7.60 at the scheduled rate reduced by €2.50 for each amount (if any) of €2.50 by which those weekly means exceed €7.60, any fraction of €2.50 in those weekly means being treated for this purpose as €2.50.

(*b*) Where the rate calculated under paragraph (*a*)(ii) at which, but for this paragraph, the pension would be payable is less than €2.50, the pension shall not be payable.

Increases including increases for one of a couple.

161C.— (1) Subject to subsection (2), the weekly rate of blind pension payable in accordance with section 161B shall be increased—

(*a*) by the amount calculated in accordance with Part 3 of Schedule 4 where the beneficiary is living with, or is wholly or mainly maintaining, his or her spouse, where that spouse has not attained pensionable age, subject to the restriction that the beneficiary shall not be entitled for the same period to an increase of pension under this paragraph in respect of more than one person,

(*b*) by the amount set out in column (6) of Part 1 of Schedule 4 where the beneficiary is living alone, and

(*c*) by the amount set out in column (8) of Part 1 of Schedule 4 where the beneficiary is ordinarily resident on an island.

(2) An increase under subsection (1)(*a*) shall not be payable where the spouse is—

(*a*) in receipt of any benefit, pension, assistance or allowance under Part 2 or this Part, or

(*b*) entitled to or in receipt of an allowance in respect of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme, or

(*c*) entitled to or in receipt of an allowance in respect of participation in a scheme administered by the Minister and known as—

(i) Back to Education Allowance, or

(ii) Back to Work Allowance, or

(iii) Back to Work Enterprise Allowance, or

(iv) Part-Time Job Incentive.

Amount of increases payable in respect of a qualified child normally residing with beneficiary.

161D.— The increase payable under section 161B(1) in respect of a qualified child who normally resides with the beneficiary and the spouse of the beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is entitled to any benefit, assistance, allowance (other than supplementary welfare allowance) or any other pension under this Act.

Disqualifications.

161E.— (1) Subject to subsections (2) and (3), a person in receipt of or entitled to widow's (contributory) pension or widower's (contributory) pension or a person in respect of whom an increase of old age (contributory) pension is payable by virtue of section 112(1) shall be disqualified for receipt of blind pension.

(2) Notwithstanding subsection (1), a person may be paid blind pension for any period during which the rate of pension payable would be greater than the rate of widow's (contributory) pension, widower's (contributory) pension or an increase of old age (contributory) pension in respect of a qualified adult, as the case may be, payable.

(3) Notwithstanding subsection (1), in any case where blind pension is so paid, entitlement to widow's (contributory) pension, widower's (contributory) pension or an increase of old age (contributory) pension in respect of a qualified adult, as the case may be, shall continue but the amount of any such pension or increase payable during any such period shall not be paid to or in respect of the person.

(4) A blind person in respect of whom a pension is payable under this Chapter shall not be a qualified child for the purposes of this Act.".

Amendment to widow's (non-contributory) pension and widower's (non-contributory) pension.

**21**.— The Principal Act is amended—

(*a*) in section 163, by substituting the following for subsection (1):

"(1) Subject to this Act, a pension shall be payable to a widow or widower who has not attained pensionable age.",

and

(*b*) by deleting section 165.

Amendment to one-parent family payment.

**22**.— The Principal Act is amended—

(*a*) in section 173, by substituting the following for subsection (1):

"(1) Subject to this Act and to regulations made under this Act, a payment (in this Act referred to as 'one-parent family payment') shall be payable to a qualified parent who has not attained pensionable age.",

and

(*b*) in section 174, by deleting subsections (3) and (4).

Amendment to transitional provisions — relevant payments.

**23**.— Section 178 of the Principal Act is amended by inserting the following subsections after subsection (6):

"(7) Notwithstanding the provisions of Part V of the Act of 1996, for the purposes of a relevant payment referred to in subsection (1)(*b*) or (*c*), means shall be calculated in accordance with Part 5 of Schedule 3.

(8) A person shall not be entitled to a relevant payment referred to in subsection (1)(*b*) or (*c*) where that person has attained pensionable age.".

State pension (non-contributory) — assessment of means.

**24**.— The Principal Act is amended by substituting the Part set out in *Schedule 4* to this Act for Part 3 of Schedule 3.

Assessment of means — insertion of new Part 5.

**25**.— The Principal Act is amended by inserting the Part set out in *Schedule 5* to this Act after Part 4 of Schedule 3.

Orphan's (non-contributory) pension — amendment.

**26**.— Section 169(2)(*a*)(i) of the Principal Act is amended by substituting "orphan" for "claimant or beneficiary".

One-parent family payment — increase in income threshold.

**27**.— Section 173(3) (as amended by section 9 of the Social Welfare Act 2005) of the Principal Act is amended by substituting "€375" for "€293".

Early childcare supplement — provision.

**28**.— (1) The Principal Act is amended by inserting the following after Part 4:

"PART 4A

EARLY CHILDCARE SUPPLEMENT

Entitlement to early childcare supplement.

223A.— Subject to this Part, a person who is a qualified person for the purposes of Part 4 shall, so long as he or she remains so qualified, be paid out of moneys provided by the Oireachtas a payment (in this Act referred to as 'early childcare supplement') in accordance with section 223B in respect of each qualified child (within the meaning of section 219) until such time as the qualified child attains the age of 6 years.

Amount of early childcare supplement.

223B.— (1) Subject to this Act, the maximum amount of early childcare supplement payable under section 223A in respect of each qualified child shall not exceed €1,000 in any year, payable in equal quarterly instalments of €250, and only one such supplement shall be payable in any year in respect of a qualified child.

(2) Regulations which may be made under section 242(1)(*a*) providing for the time and manner of payment of early childcare supplement shall be subject to the prior consent of the Minister for Finance and the Minister for Health and Children.

(3) Notwithstanding subsection (1), where in any quarter a qualified child attains the age of 6 years, early childcare supplement shall be paid in respect of the quarter in which the child attains that age.

(4) In this Part—

'quarter' means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December;

'quarterly' shall be read accordingly.".

(2) This section comes into operation on 1 April 2006.

Early childcare supplement — consequential amendments to Principal Act.

**29**.— (1) Each provision of the Principal Act mentioned in *column (1)* of *Schedule 6* to this Act is amended in the manner specified in *column (2)* of that Schedule opposite the mention of that provision in *column (1)*.

(2) The following section is substituted for section 240 of the Principal Act:

"Definition.

240.— Except where otherwise provided, in this Part—

'benefit' means—

(*a*) any benefit described in section 39(1),

(*b*) any assistance described in section 139(1),

(*c*) child benefit,

(*d*) early childcare supplement,

(*e*) respite care grant,

(*f*) family income supplement,

(*g*) continued payment for qualified children, or

(*h*) EU payments within the meaning of Part 8.".

(3) Section 300(2) of the Principal Act is amended by inserting the following after paragraph (*c*):

"(*ca*) Part 4A (early childcare supplement),".

(4) This section comes into operation on 1 April 2006.

**Annotations**

**Modifications (not altering text):**

**C1** Reference to family income supplement construed (1.01.2018) by *Social Welfare Act 2017* (38/2017), s. 8(2), commenced as per subs. (3).

**Renaming of family income supplement**

**8.** ...

(2) Any reference in any Act, or in any instrument made under any Act, passed or made before the commencement of this section to "family income supplement" shall be construed as a reference to "working family payment".

(3) This section comes into operation on 1 January 2018.

Respite care grant — increase in rate.

**30**.— Section 225(1) of the Principal Act is amended by substituting "€1,200" for "€1,000".

Family income supplement — improvement.

**31**.— Section 227 of the Principal Act is amended in the definition of "weekly family income" by inserting the following after paragraph (*a*):

"(*aa*) any allowable pension payment within the meaning of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) (No. 1) (Refunds) Regulations 2003 (S.I. No. 698 of 2003),".

**Annotations**

**Modifications (not altering text):**

**C2** Reference to family income supplement construed (1.01.2018) by *Social Welfare Act 2017* (38/2017), s. 8(2), commenced as per subs. (3).

**Renaming of family income supplement**

**8.** ...

(2) Any reference in any Act, or in any instrument made under any Act, passed or made before the commencement of this section to "family income supplement" shall be construed as a reference to "working family payment".

(3) This section comes into operation on 1 January 2018.

Provisions relating to entitlement — amendment.

**32**.— Section 247 of the Principal Act is amended by inserting the following subsection after subsection (11):

"(12) Where a person is in receipt of an invalidity pension under this Act by virtue of the application of Articles 38 and 39 of Regulation (EEC) No. 1408/71 of the Council of the European Communities and subsequently becomes entitled to a survivor's pension or old age pension from another Member State under Chapter 3 of that Regulation, the person's entitlement to invalidity pension under this Act shall, notwithstanding anything contained in that Regulation, be reduced only within the limit of the amount of that survivor's pension or old age pension.".

Means assessment — amendments.

**33**.— Schedule 3 to the Principal Act is amended—

(*a*) in Part 1, by inserting the following definition before the definition of "fisherman":

" 'blind person' means a person who—

(*a*) has attained the age of 18 years, and

(*b*) is so blind that the person either cannot perform any work for which eyesight is essential or cannot continue with his or her ordinary occupation;",

(*b*) in Part 4, in Rule 1(2)(*b*)(v), by inserting the following after subclause (I)(A):

"(AA) any allowable pension payment within the meaning of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) (No. 1) (Refunds) Regulations 2003,",

and

(*c*) in Table 2—

(i) by substituting the following for reference 2:

"

| | |
|---|---|
| 2. | any moneys received—<br>(*a*) by way of child benefit under Part 4 or a payment corresponding to that benefit from another Member State, or<br>(*b*) by way of early childcare supplement under Part 4A; |

",

(ii) in reference 3, by inserting "or home care grant" after "domiciliary care allowance",

(iii) by inserting the following after reference 3:

"

| | |
|---|---|
| 3A. | any allowance received under a scheme administered by the Minister for Education and Science and known as the Home Tuition Scheme where that allowance is used towards defraying the cost of home tuition; |

",

and

(iv) by inserting the following after reference 18:

"

| | |
|---|---|
| 18A. | any allowable pension payment within the meaning of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) (No. 1) (Refunds) Regulations 2003; |

".

Supplementary welfare allowance — improvement in means assessment.

**34**.— Schedule 3 to the Principal Act is amended in Rule 1 of Part 4 by substituting the following for paragraph (5):

"(5) (*a*) the weekly value of any benefit or privilege, calculated in the manner that may be prescribed, enjoyed by the person, who has not attained the age that may be prescribed, by virtue of residing with a parent or step-parent, and

(*b*) the weekly value of any benefit or privilege, other than benefit or privilege under paragraph (*a*), enjoyed by the person.".

Personal public service number — additional specified bodies.

**35**.— Schedule 5 to the Principal Act is amended—

(*a*) by inserting "the Commission for Taxi Regulation," after "the Central Statistics Office,",

(*b*) by inserting "the National Council for Special Education," after "the National Cancer Registry Board,", and

(*c*) by substituting the following for "the Private Residential Tenancies Board;":

"the Private Residential Tenancies Board,

the Private Security Authority,

the Teaching Council;".

Recovery of payments from financial institutions — amendment.

**36**.— Section 340(3) of the Principal Act is amended by inserting the following after paragraph (*c*):

"(*ca*) a credit union within the meaning of the Credit Union Act 1997,".

Miscellaneous amendments to Principal Act.

**37**.— Each provision of the Principal Act mentioned in *column (1)* of *Schedule 7* to this Act is amended in the manner specified in *column (2)* of that Schedule opposite the mention of that provision in *column (1)*.

## PART 3

### Amendments to the Pensions Act 1990

Definition (*Part 3*).

**38**.— In this Part " Principal Act " means the Pensions Act 1990.

Notice of intention by Pensions Board to prosecute.

**39**.— (1) The following sections are inserted after section 3 of the Principal Act:

"Notice by Board of intention to prosecute.

3A.— (1) Where the Board has reasonable grounds for believing that a person to whom section 3(1) or (4) or 18(5) applies has committed an offence under this Act and is liable to summary prosecution by the Board, the Board may give to the person a notice in writing in the prescribed form stating that—

(*a*) the person is alleged to have committed that offence,

(*b*) the person may during a period of 21 days beginning on the date of the notice—

(i) remedy as far as practicable to the satisfaction of the Board any default that constitutes the offence, and

(ii) make to the Board a specified payment of a prescribed amount accompanied by the notice,

and

(*c*) a prosecution of the person to whom the notice is given in respect of the alleged offence will not be instituted during the period specified in the notice and, if the default is remedied to the satisfaction of the Board and the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a notice is given under subsection (1)—

(*a*) the person to whom it applies may, during the period specified in the notice, make to the Board the payment specified in the notice, accompanied by the notice,

(*b*) the Board may receive the payment and issue a receipt for it, and any payment so received shall not in any circumstances be recoverable by the person who made it, and

(*c*) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice and, if the default is remedied to the satisfaction of the Board and the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence to which this section applies, the onus of showing that a payment pursuant to a notice under this section has been made shall lie on the defendant.

(4) All payments made to the Board under this section shall be paid into or disposed of for the benefit of the Exchequer in the manner that the Minister for Finance may direct.

(5) (*a*) A notice under subsection (1) may be given to the person to whom it applies—

(i) by delivering it to the person, or

(ii) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been provided, at that address, or

(iii) by sending it by post in a prepaid letter addressed to the person at the address at which the person ordinarily resides or, in a case in which an address for service has been provided, to that address.

(*b*) Where a notice is to be given to a person who is the owner or occupier of land and the name of the person cannot be ascertained by reasonable inquiry, it may be addressed to the person by using the words 'the owner' or, where appropriate, 'the occupier'.

(*c*) For the purposes of this section, a company within the meaning of the Companies Acts 1963 to 2005 shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(6) Any amount prescribed for the purposes of subsection (1)(*b*)(ii) shall not in any case exceed the maximum fine which may be imposed on summary conviction for the offence concerned.

Prosecutions.

3B.— (1) Every document purporting to be a copy of, or extract from, any document kept by the Board and purporting to be certified by an officer of the Board authorised in that behalf by the Board, whose official position it shall not be necessary to prove, to be a true copy of, or extract from, that document shall, without proof of the signature of that officer, unless the contrary is proved, be admissible in evidence in all legal proceedings as of equal validity with the original document.

(2) In any legal proceedings (including proceedings relating to an offence) a certificate signed by an officer of the Board authorised in that behalf, whose official position it shall not be necessary to prove is, without proof of that officer's signature, admissible, unless the contrary is proved—

(*a*) if it certifies that the officer has examined the relevant records and that it appears from those records that a specified notice was given or sent to a stated person at, or left at, the address and on the date stated therein, as evidence that the notice was given or sent to that person at, or left at, that address on that date,

(*b*) if it certifies that the officer has examined the relevant records and that it appears from those records that a specified notice was given or sent to a stated person, or left at the address and on the date stated therein, as evidence that the notice was received by that person at that address on a date 3 days after the date on which the document was given or sent to the person at, or left at, that address,

(*c*) if it certifies a document as a copy of the registration details of a scheme with the Board by the trustees of that scheme in accordance with section 60, as evidence of the registration,

(*d*) if it certifies that the officer has examined the relevant records and that it appears from those records that during a specified period a document or any other thing was not received from a specified person, as evidence that the person did not during that period provide that document or thing and that the document or thing was not received by the Board, or

(*e*) if it certifies a document to be a copy of an authorisation by the Board under section 16, authorising the delegation of functions to the chief executive or a member of staff of the Board, including but not limited to the function of instituting proceedings on behalf of the Board, as evidence that the functions are so delegated.

(3) In this section—

'officer of the Board' means a member of the Board, the chief executive or member of staff of the Board;

'notice' means any request, notice or other document.".

**Annotations**

**Modifications (not altering text):**

**C3** Reference to Pensions Board and chief executive of the Pensions Board construed by *Pensions Act 1990* (25/1990), s. 9A as inserted (7.03.2014) by *Social Welfare and Pensions (Miscellaneous Provisions) Act 2013* (20/2013), s. 26, S.I. No. 103 of 2014.

**Change of name of Pensions Board and chief executive**

**9A.** (1) The name of the Pensions Board is changed, and on and after the commencement of section 26 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013 it shall be known, in the English language, as the Pensions Authority or, in the Irish language, as An tÚdarás Pinsean.

(2) References in this Act or in any other enactment to the Pensions Board shall, on and after the commencement of section 26 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013, be construed as references to the Pensions Authority.

(3) The position, heretofore known as the chief executive of the Pensions Board shall, on and after the commencement of section 26 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013, be known as the Pensions Regulator.

(4) References in this Act or in any other enactment to the chief executive of the Pensions Board shall, on and after the commencement of section 26 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013, be construed as references to the Pensions Regulator.

(5) In this section, 'enactment' has the same meaning as it has in the Interpretation Act 2005.

Indemnity.

**40**.— The following section is inserted after section 26 of the Principal Act:

"Indemnity.

26A.— The Minister may, in the manner and to the extent and subject to the terms and conditions that the Minister may determine from time to time in consultation with the Minister for Finance, indemnify any person who is or was a member, chief executive officer or officer of, or member of any committee of, the Board in respect of any act by or omission of that person in the performance of his or her functions under this Act unless the act or omission is shown to have been in bad faith.".

Index-linked benefits.

**41**.— The Principal Act is amended—

(*a*) in section 40, by inserting the following after the definition of "funding standard":

" 'index-linked benefits' means benefits which, under the rules of a scheme, are increased while in payment at a rate wholly or partly linked to increases in an index of the cost of living or of wages or salaries or increases in salaries actually or notionally payable to serving employees in the relevant employment;",

(*b*) in section 41(2)(*c*) (as amended by the Social Welfare and Pensions Act 2005), by inserting ", (3A), (3B)" after "subsections (3)",

(*c*) in section 46(1)—

(i) in paragraph (*a*), by deleting "and",

(ii) in paragraph (*b*), by substituting "section 44(*a*)(v), and" for "section 44(*a*)(v).", and

(iii) by inserting the following after paragraph (*b*):

"(*c*) notwithstanding anything contained in the rules of a relevant scheme, may assume that the liabilities of the scheme in respect of index-linked benefits on winding up in respect of any persons who are receiving benefits or have reached normal pensionable age are equal to the actuarial value of benefits with fixed rate increases where those fixed rate increases are calculated in accordance with any applicable guidance issued by the Society of Actuaries in Ireland in relation to the preparation of actuarial funding certificates in accordance with section 42.",

and

(*d*) in section 48 (inserted by the Pensions (Amendment) Act 2002), by inserting the following after subsection (3):

"(3A) In purchasing an annuity in substitution for an index-linked benefit in a relevant scheme which has been wound up or in making a payment or payments under subsection (3), the trustees of a scheme which does not have sufficient resources to discharge all of the liabilities of the scheme for benefits specified in subparagraphs (i), (ii) and (iii) of subsection (1)(*b*) may, notwithstanding anything contained in the rules of the scheme and without the consent of the member concerned, discharge the liability of the scheme for an index-linked benefit by purchasing an annuity with fixed rate increases or deem the actuarial value of an index-linked benefit to be equal to the actuarial value of a benefit with fixed rate increases, provided that such fixed rate increases are calculated in accordance with any applicable guidance issued by the Society of Actuaries in Ireland in relation to the preparation of actuarial funding certificates in accordance with section 42.

(3B) If the liabilities of a scheme for index-linked benefits are reduced under subsection (3A) any resources which remain in the scheme after discharging the liabilities of the scheme for all benefits specified in subparagraphs (i), (ii) and (iii) of subsection (1)(*b*) shall be applied in increasing the benefits payable to and in respect of those persons specified in subparagraph (ii) of subsection (1)(*b*) who were entitled to index-linked benefits under the rules of the scheme at the date of the winding up.".

Review of actuarial work.

**42**.— The following section is inserted after section 51 of the Principal Act:

"Review of actuarial work.

51A.— (1) The Minister may make regulations requiring any actuary appointed to a scheme to have his or her actuarial work in relation to the scheme reviewed for compliance with this Act and any regulations made under this Act.

(2) The review under subsection (1) shall be carried out in accordance with professional guidance issued by the Society of Actuaries in Ireland for that purpose or with any applicable guidance issued by any other person (including the Minister) and specified in the regulations.

(3) The professional guidance issued by the Society of Actuaries in Ireland or any other guidance referred to in subsection (2) shall include provisions relating to prescribed matters which matters may include but not necessarily be limited to the following:

(*a*) the appointment of a reviewing actuary;

(*b*) the frequency of reviews;

(*c*) the timescale for reviews.

(4) Any information relating to the scheme that is required for the purposes of the review in accordance with subsection (1) shall be made available by the actuary to the scheme to the person conducting the review.

(5) In this section 'actuarial work' means:

(*a*) actuarial valuation reports prepared by an actuary in accordance with section 56;

(*b*) actuarial funding certificates prepared by an actuary in accordance with section 42;

(*c*) funding proposals certified by an actuary in accordance with section 49, and

(*d*) annual statements made by an actuary in accordance with section 55.".

Functions of Pensions Ombudsman.

**43**.—F1**[**...**]**

**Annotations**

**Amendments:**

**F1** Repealed (1.01.2018) by *Financial Services and Pensions Ombudsman Act 2017* (22/2017), s. 5(1) and sch. 1 part 1, S.I. No. 524 of 2017.

**Editorial Notes:**

**E11** Previous affecting provision: reference to Pensions Ombudsman construed (1.01.2018) by *Financial Services and Pensions Ombudsman Act 2017* (22/2017), s. 29(3), S.I. No. 524 of 2017; section repealed as per F-note above.

Miscellaneous amendments to Principal Act.

**44**.— Each provision of the Principal Act mentioned in *column (2)* of *Schedule 8* to this Act is amended in the manner specified in *column (3)* of that Schedule opposite the mention of that provision in *column (2)*.

## PART 4

### Miscellaneous Amendments to other Acts

Amendment to Combat Poverty Agency Act 1986.

**45**.— (1) The Combat Poverty Agency Act 1986 is amended in section 7(4) by substituting "five years" for "three years".

(2) The amendment effected by *subsection (1)* of this section shall apply only to members of the Combat Poverty Agency appointed after the coming into operation of this section.

Amendment to Freedom of Information Act 1997.

**46**.— The Third Schedule to the Freedom of Information Act 1997 is amended in Part I by inserting at the end thereof—

"

| | | |
|---|---|---|
| No. 25 of 1990 | Pensions Act 1990. | Section 145 (inserted by the Pensions (Amendment) Act 2002). |

| | | |
|---|---|---|
| No. 1 of 2000 | Comhairle Act 2000. | Section 18. |

".

Amendment to Taxes Consolidation Act 1997.

**47**.— (1) The Taxes Consolidation Act 1997 is amended in Chapter 1 of Part 7 by inserting the following section after section 194:

"Early childcare supplement.

194A.— Early childcare supplement payable under Part 4A (inserted by the *Social Welfare Law Reform and Pensions Act 2006*) of the Social Welfare Consolidation Act 2005 shall be exempt from income tax and shall not be reckoned in computing income for the purposes of the Income Tax Acts.".

(2) This section comes into operation on 1 April 2006.

Amendment to Carer's Leave Act 2001.

**48**.— (1) Each provision of the Carer's Leave Act 2001 mentioned in *column (1)* of *Schedule 9* to this Act is amended to the extent specified in *column (2)* of that Schedule opposite the mention of that provision in *column (1)*.

(2) The amendments effected by *subsection (1)* of this section shall apply to employees who commence carer's leave on or after the coming into operation of this section.

*Section 4.*

## SCHEDULE 1

### RENAMING OF CERTAIN SOCIAL WELFARE SCHEMES

| Item No. | Provision or Instrument Affected | Amendment |
|---|---|---|
| (1) | (2) | (3) |
| 1. | Sections 2(4), 21(1)(*e*), 25(1)(*b*)(i), 25(1)(*b*)(ii), 25(3), 25(4), 26(2), 35(1), 35(4), 35(7), 39(1)(*h*), 108(1), 108(4)(*a*)(i), 108(4)(*b*)(ii), 108(6), 108(9) (inserted by *section 9* of this Act), 109(1), 109(4)(*a*), 109(5)(*a*), 109(6)(*a*), 109(8)(*a*), 109(9), 109(11), 109(12), 109(14), 109(15), 109(16), 109(17), 109(17)(*a*), 110(1), 111, 112(1), 112(2), 112(3), 112(4), 112(5), 112(6), 113(5), 113A (inserted by *section 11(a)* of this Act), 113B (inserted by *section 12(a)* of this Act), 114(4)(*a*)(i), 114(4)(*b*)(ii), 134(3)(*a*), 144(2)(*a*), 160 (as amended by *section 16(1)(f)* of this Act), 161E (inserted by *section 20* of this Act), 217(1), 241(2)(*a*), 244(1)(*c*)(i), 248(1)(*e*) and 300(9) (inserted by *section 11(b)* of this Act)<br><br>Column (1) at reference 3 of Part 1 of Schedule 2<br><br>Paragraph 3(1)(*a*) of Schedule 6<br><br>Social Welfare (Agreement with Republic of Austria on Social Security) Order 1989 (S.I. No. 307 of 1989)<br><br>Social Welfare (Agreement with Canada on Social Security) Order 1991 (S.I. No. 317 of 1991)<br><br>Social Welfare (Agreement with the United States of America on Social Security) Order 1993 (S.I. No. 243 of 1993)<br><br>Social Welfare (Agreement with New Zealand on Social Security) Order 1994 (S.I. No. 57 of 1994)<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Understanding with Québec on Social Security) Order 1995 (S.I. No. 120 of 1995)<br><br>Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996)<br><br>Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998)<br><br>Social Welfare (Agreement with Switzerland on Social Security) Order 1999 (S.I. No. 206 of 1999)<br><br>Social Welfare (Revised Agreement with Australia on Social Security) Order 2005 (S.I. No. 799 of 2005) | Substitute "State pension (contributory)" for "old age (contributory) pension" in each place where it occurs. |
| 2. | Sections 35(3), 109(4)(*b*), 109(5)(*b*), 109(6)(*b*), 109(16), 124(1)(*b*) and 124(1)(*c*)<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998)<br><br>Social Welfare (Agreement with Switzerland on Social Security) Order 1999 (S.I. No. 206 of 1999) | Substitute "a State pension (contributory)" for "an old age (contributory) pension" in each place where it occurs. |

| Item No. (1) | Provision or Instrument Affected (2) | Amendment (3) |
|---|---|---|
| | Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) | |
| 3. | Sections 25(3), 25(4), 26(3), 35(5), 39(1)(*i*), 113B(2) (inserted by *section 12(b)* of this Act), 114(1), 114(6), 114(8) (inserted by *section 13* of this Act), 115(1), 115(4), 115(5), 115(6), 115(7), 115(8), 115(8)(*a*), 116, 117(1), 117(2), 117(3), 124(1)(*b*), 124(1)(*c*), 134(3)(*b*) (in the definition of "pensioner"), 144(2)(*a*), 217(1), 241(2)(*a*), 244(1)(*c*)(i), 247(6)(*b*), 248(1)(*f*), 249(5) and 300(10) (inserted by *section 12(b)* of this Act)<br><br>Column (1) at reference 3 of Part 1 of Schedule 2<br><br>Paragraph (3)(1)(*b*) of Schedule 6<br><br>Social Welfare (Agreement with Republic of Austria on Social Security) Order 1989 (S.I. No. 307 of 1989)<br><br>Social Welfare (Agreement with Canada on Social Security) Order 1991 (S.I. No. 317 of 1991)<br><br>Social Welfare (Agreement with the United States of America on Social Security) Order 1993 (S.I. No. 243 of 1993)<br><br>Social Welfare (Agreement with New Zealand on Social Security) Order 1994 (S.I. No. 57 of 1994)<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Understanding with Québec on Social Security) Order 1995 (S.I. No. 120 of 1995)<br><br>Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996)<br><br>Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998)<br>Social Welfare (Agreement with Switzerland on Social Security) Order 1999 (S.I. No. 206 of 1999)<br><br>Social Welfare (Revised Agreement with Australia on Social Security) Order 2005 (S.I. No. 799 of 2005) | Substitute "State pension (transition)" for "retirement pension" in each place where it occurs. |
| 4. | Sections 2(2)(*a*)(iv), 2(2)(*a*)(v), 2(2)(*a*)(vi), 2(2)(*a*)(vii), 2(3)(*a*)(v), 2(3)(*b*)(iv), 7(2)(*g*), 41(11)(*a*), 67(8), 139(1)(*a*), 140(1) (in the definition of "beneficiary"), 140(3), 141(1), 141(1)(*c*), 141(2)(*a*), 141(2)(*b*), 141(2)(*c*), 141(2)(*d*), 141(7), 141(8), 141(9), 142(1), 142(1)(*a*)(i), 142(1)(*a*)(ii), 142(2)(*a*), 142(2)(*b*), 142(3), 143, 144(1), 144(2)(*b*), 144(4), 145(1), 145(2)(*a*), 145(3), 146, 147(1), 147(2), 147(4), 147(6), 148(1), 149(1)(*c*)(i), 217(2), 225(2)(*b*), 233(1), 233(2)(*a*), 234(1)(*a*)(i)(I),234(1)(*a*)(i)(I)(B),234(1)(*a*)(i)(II),234(1)(*a*)(ii), 234(1)(*b*), 235(1), 235(2), 241(2)(*c*), 244(1)(*c*)(i), 247(6)(*c*), 248(1)(*h*), 249(6), 287(1), 331 and 332(1)(*b*)<br><br>Rule 2(*a*) of Part 3 of Schedule 1 | Substitute "jobseeker's allowance" for "unemployment assistance" in each place where it occurs. |

| Item No. (1) | Provision or Instrument Affected (2) | Amendment (3) |
|---|---|---|
| | Paragraphs (2)(*b*)(iii), (2)(*b*)(iv)(I), (2)(*b*)(v), (2)(*b*)(ix), (2)(*b*)(x), (4), (6), (7) and (10) of Rule 1 of Part 2 of Schedule 3<br><br>Rule 1(2)(*b*)(v)(D) of Part 4 of Schedule 3<br><br>Column (1) at reference 1 in Part 1 of Schedule 4<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Agreement with New Zealand on Social Security) Order 1994 (S.I. No. 57 of 1994)<br><br>Social Welfare (Social Welfare Tribunal) Regulations 1996 (S.I. No. 262 of 1996)<br><br>Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996)<br><br>Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998)<br><br>Social Welfare (Revised Agreement with Australia on Social Security) Order 2005 (S.I. No. 799 of 2005) | |
| 5. | Sections 142(1)(*b*)(i), 142(3), 145(1), 233(2)(*b*) and 332(1)(*b*) | Substitute "allowance" for "assistance" in each place where it occurs. |
| 6. | Sections 2(2)(*a*)(iv), 2(2)(*a*)(v), 2(2)(*a*)(vi), 2(2)(*a*)(vii), 2(3)(*a*)(iii), 2(3)(*b*)(iv), 7(2)(*g*), 25(4), 29(4)(*a*), 39(1)(*e*), 62(1), 62(4), 62(5), 62(6), 62(9), 62(11), 63(1), 64(1), 64(1)(*c*)(ii), 64(2), 64(3), 64(4), 64(6), 64(8), 65, 66(1), 66(2), 66(3), 66(4), 67(1), 67(2), 67(5), 67(6)(*a*), 67(8), 67(9), 68(1), 68(4), 68(5), 68(6), 68(7), 141(8), 142(1)(*a*)(i), 144(2)(*a*), 147(6), 149(1)(*c*)(i), 217(1), 225(2)(*b*), 233(1), 233(2)(*a*), 234(1)(*a*)(i)(I), 234(1)(*a*)(i)(I)(A), 234(1)(*a*)(i)(II), 234(1)(*a*)(ii), 234(1)(*b*), 235(1), 241(2)(*c*), 244(1)(*c*)(i), 247(6)(*a*), 248(1)(*b*), 331 and 332(1)(*b*)<br><br>Column (1) at reference 1 of Part 1 of Schedule 2<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Social Welfare Tribunal) Regulations 1996 (S.I. No. 262 of 1996)<br><br>Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) | Substitute "jobseeker's benefit" for "unemployment benefit" in each place where it occurs. |
| 7. | Sections 69(1), 76(5), 77(3), 85(1), 85(1)(*b*), 85(3) and 248(1)(*k*)<br><br>Social Welfare (Occupational Injuries) Regulations 1967 (S.I. No. 77 of 1967) | Substitute "incapacity supplement" for "unemployability supplement" in each place where it occurs. |
| 8. | Sections 21(1)(*e*), 26(2), 39(1)(l), 130(1), 130(2), 131(1), 132, 133(1), 241(2)(*a*), 248(2)(*f*) and 285(1)<br><br>Rule 5 of Part 3 of Schedule 1<br><br>Column (1) at reference 6 in Part 1 of Schedule 2 | Substitute "guardian's payment (contributory)" for "orphan's (contributory) allowance" in each place where it occurs. |

| Item No. (1) | Provision or Instrument Affected (2) | Amendment (3) |
|---|---|---|
| | Social Welfare (Agreement with Republic of Austria on Social Security) Order 1989 (S.I. No. 307 of 1989)<br><br>Social Welfare (Agreement with Canada on Social Security) Order 1991 (S.I. No. 317 of 1991)<br><br>Social Welfare (Agreement with the United States of America on Social Security) Order 1993 (S.I. No. 243 of 1993)<br><br>Social Welfare (Agreement with New Zealand on Social Security) Order 1994 (S.I. No. 57 of 1994)<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Understanding with Québec on Social Security) Order 1995 (S.I. No. 120 of 1995)<br><br>Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996)<br><br>Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998)<br><br>Social Welfare (Agreement with Switzerland on Social Security) Order 1999 (S.I. No. 206 of 1999)<br><br>Social Welfare (Revised Agreement with Australia on Social Security) Order 2005 (S.I. No. 799 of 2005) | |
| 9. | Sections 83(3), 134(1)(*a*)(vi) and 134(3)<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996)<br><br>Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998)<br><br>Social Welfare (Agreement with Switzerland on Social Security) Order 1999 (S.I. No. 206 of 1999) | Substitute "a guardian's payment (contributory)" for "an orphan's (contributory) allowance" in each place where it occurs. |
| 10. | Section 133(1) | Substitute "payment" for "allowance" in each place where it occurs. |
| 11. | Sections 139(1)(*e*), 169(1), 171(1), 241(2)(*c*), 248(2)(*f*), 249(13)(*c*), 285(1), 285(2) and 287(1)<br><br>Rules 1(2), 1(2)(*b*)(vii), 1(2)(*b*)(xi), 5(1) and 5(1)(*a*) of Part 5 (inserted by *section 25* of this Act) of Schedule 3<br><br>Column (1) at reference 9 of Part 1 of Schedule 4<br><br>Social Welfare (Agreement with New Zealand on Social Security) Order 1994 (S.I. No. 57 of 1994)<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998) | Substitute "guardian's payment (non-contributory)" for "orphan's (non-contributory) pension" in each place where it occurs. |

| Item No. (1) | Provision or Instrument Affected (2) | Amendment (3) |
|---|---|---|
| | Social Welfare (Revised Agreement with Australia on Social Security) Order 2005 (S.I. No. 799 of 2005) | |
| 12. | Sections 168(1), 169(2)(*a*) and 170(2)<br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br>Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998) | Substitute "a guardian's payment (non-contributory)" for "an orphan's (non-contributory) pension" in each place where it occurs. |
| 13. | Section 169(2)(*a*) | Substitute "A guardian's payment (non-contributory)" for "An orphan's (non-contributory) pension". |
| 14. | Sections 168(2), 168(3), 168(4), 168(5), 169(2)(*b*) and 171(1) | Substitute "payment" for "pension" in each place where it occurs. |
| 15. | Sections 2(3)(*a*)(i), 2(3)(*b*)(ii), 25(4), 29(4)(*a*), 39(1)(*a*), 40(1), 40(2), 40(3), 40(3)(*e*), 40(4), 40(6), 41(1), 41(1)(*c*)(ii), 41(2), 41(3), 41(4), 41(5), 41(7), 41(10), 41(11), 41(12), 42, 43(1), 43(2), 43(3), 43(4), 44(1), 44(1)(*b*), 44(2), 44(3), 44(4), 44(5), 44(7), 44(8), 44(9), 44(10), 45(1), 45(2), 46(1), 46(2), 46(3), 49(1)(*b*), 60(1)(*b*), 119(4)(*b*), 144(2)(*a*), 217(1), 241(2)(*d*), 241(5), 244(1)(*c*)(i), 247(7), 248(1)(*a*) and 286(1)<br>Column (1) at reference 1 of Part 2 of Schedule 2<br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br>Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996)<br>Social Welfare (Agreement with Switzerland on Social Security) Order 1999 (S.I. No. 206 of 1999) | Substitute "illness benefit" for "disability benefit" in each place where it occurs. |

*Section 16*.

## SCHEDULE 2

### RATES OF ASSISTANCE

## "SCHEDULE 4

### RATES OF ASSISTANCE

### PART 1

### RATES OF PERIODICAL SOCIAL ASSISTANCE AND INCREASES

| Description of assistance | Weekly rate | Increase for qualified adult (where payable) | Increase for each qualified child (where payable) | Increase for pre-scribed relative under section 183 (where payable) | Increase where the person is living alone (where payable) | Increase where the person has attained the age of 80 years (where payable) | Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable) |
|---|---|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
| | € | € | € | € | € | € | € |
| 1. Unemployment Assistance: | | | | | | | |
| (*a*) in the case of a person to whom section 142(1)(*a*) applies | 165.80 | 110.00 | 16.80 | — | — | — | — |
| (*b*) in the case of a person to whom section 142(1)(*b*) applies | 165.80 | 110.00 | 16.80 | — | — | — | — |
| 2. Pre-Retirement Allowance | 165.80 | 110.00 | 16.80 | — | — | — | — |
| 3. Disability Allowance | 165.80 | 110.00 | 16.80 | — | 7.70 | — | 12.70 |
| 4. State Pension (Non-Contributory) | 182.00 | — | 19.30 | 114.90 | 7.70 | 10.00 | 12.70 |
| 5. Blind Pension | 165.80 | — | 16.80 | 114.90 | 7.70 | — | 12.70 |
| 6. Widow's (Non-Contributory) Pension, Widower's (Non-Contributory) Pension and a payment referred to in paragraph (*b*) or (*c*) of the definition of 'relevant payment' in section 178 | 165.80 | — | — | 114.90 | — | — | — |
| 7. One-Parent Family Payment | 165.80 | — | 19.30 | — | — | — | — |
| 8. Carer's Allowance: | | | | | | | |
| (*a*) in the case of a person to whom section 181(1)(*a*) applies | 270.00 | — | 16.80 | — | — | 10.00 | 12.70 |
| additional increase for a beneficiary who has attained pensionable age | 30.00 | — | — | — | — | — | — |
| (*b*) in the case of a person to whom section 181(1)(*b*) applies | 180.00 | — | 16.80 | — | — | 10.00 | 12.70 |

| Description of assistance | Weekly rate | Increase for qualified adult (where payable) | Increase for each qualified child (where payable) | Increase for pre-scribed relative under section 183 (where payable) | Increase where the person is living alone (where payable) | Increase where the person has attained the age of 80 years (where payable) | Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable) |
|---|---|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
| | € | € | € | € | € | € | € |
| additional increase for a beneficiary who has attained pensionable age | 20.00 | — | — | — | — | — | — |
| 9. Orphan's (Non-Contributory) Pension | 138.00 | — | — | — | — | — | — |
| 10. Supplementary Welfare Allowance | 165.80 | 110.00 | 16.80 | — | — | — | — |
| 11. Farm Assist | 165.80 | 110.00 | 16.80 | — | — | — | — |

## PART 2

### INCREASE OF STATE PENSION (NON-CONTRIBUTORY) FOR ONE OF A COUPLE WHERE SPOUSE HAS NOT ATTAINED PENSIONABLE AGE

| Means of claimant or pensioner | Weekly rate of increase |
|---|---|
| | € |
| Where the weekly means of the claimant or pensioner do not exceed €20.00 | 120.30 |
| exceed €20.00 but do not exceed €22.50 | 118.60 |
| exceed €22.50 but do not exceed €25.00 | 117.00 |
| exceed €25.00 but do not exceed €27.50 | 115.30 |
| exceed €27.50 but do not exceed €30.00 | 113.70 |
| exceed €30.00 but do not exceed €32.50 | 112.00 |
| exceed €32.50 but do not exceed €35.00 | 110.40 |
| exceed €35.00 but do not exceed €37.50 | 108.70 |
| exceed €37.50 but do not exceed €40.00 | 107.10 |
| exceed €40.00 but do not exceed €42.50 | 105.40 |
| exceed €42.50 but do not exceed €45.00 | 103.80 |
| exceed €45.00 but do not exceed €47.50 | 102.10 |
| exceed €47.50 but do not exceed €50.00 | 100.50 |
| exceed €50.00 but do not exceed €52.50 | 98.80 |
| exceed €52.50 but do not exceed €55.00 | 97.20 |
| exceed €55.00 but do not exceed €57.50 | 95.50 |

| Means of claimant or pensioner | Weekly rate of increase |
|---|---|
| | € |
| exceed €57.50 but do not exceed €60.00 | 93.90 |
| exceed €60.00 but do not exceed €62.50 | 92.20 |
| exceed €62.50 but do not exceed €65.00 | 90.60 |
| exceed €65.00 but do not exceed €67.50 | 88.90 |
| exceed €67.50 but do not exceed €70.00 | 87.30 |
| exceed €70.00 but do not exceed €72.50 | 85.60 |
| exceed €72.50 but do not exceed €75.00 | 83.90 |
| exceed €75.00 but do not exceed €77.50 | 82.30 |
| exceed €77.50 but do not exceed €80.00 | 80.60 |
| exceed €80.00 but do not exceed €82.50 | 79.00 |
| exceed €82.50 but do not exceed €85.00 | 77.30 |
| exceed €85.00 but do not exceed €87.50 | 75.70 |
| exceed €87.50 but do not exceed €90.00 | 74.00 |
| exceed €90.00 but do not exceed €92.50 | 72.40 |
| exceed €92.50 but do not exceed €95.00 | 70.70 |
| exceed €95.00 but do not exceed €97.50 | 69.10 |
| exceed €97.50 but do not exceed €100.00 | 67.40 |
| exceed €100.00 but do not exceed €102.50 | 65.80 |
| exceed €102.50 but do not exceed €105.00 | 64.10 |
| exceed €105.00 but do not exceed €107.50 | 62.50 |
| exceed €107.50 but do not exceed €110.00 | 60.80 |
| exceed €110.00 but do not exceed €112.50 | 59.20 |
| exceed €112.50 but do not exceed €115.00 | 57.50 |
| exceed €115.00 but do not exceed €117.50 | 55.90 |
| exceed €117.50 but do not exceed €120.00 | 54.20 |
| exceed €120.00 but do not exceed €122.50 | 52.50 |
| exceed €122.50 but do not exceed €125.00 | 50.90 |
| exceed €125.00 but do not exceed €127.50 | 49.20 |
| exceed €127.50 but do not exceed €130.00 | 47.60 |
| exceed €130.00 but do not exceed €132.50 | 45.90 |
| exceed €132.50 but do not exceed €135.00 | 44.30 |
| exceed €135.00 but do not exceed €137.50 | 42.60 |
| exceed €137.50 but do not exceed €140.00 | 41.00 |
| exceed €140.00 but do not exceed €142.50 | 39.30 |
| exceed €142.50 but do not exceed €145.00 | 37.70 |
| exceed €145.00 but do not exceed €147.50 | 36.00 |
| exceed €147.50 but do not exceed €150.00 | 34.40 |
| exceed €150.00 but do not exceed €152.50 | 32.70 |
| exceed €152.50 but do not exceed €155.00 | 31.10 |
| exceed €155.00 but do not exceed €157.50 | 29.40 |
| exceed €157.50 but do not exceed €160.00 | 27.80 |
| exceed €160.00 but do not exceed €162.50 | 26.10 |

| Means of claimant or pensioner | Weekly rate of increase |
|---|---|
| | € |
| exceed €162.50 but do not exceed €165.00 | 24.50 |
| exceed €165.00 but do not exceed €167.50 | 22.80 |
| exceed €167.50 but do not exceed €170.00 | 21.20 |
| exceed €170.00 but do not exceed €172.50 | 19.50 |
| exceed €172.50 but do not exceed €175.00 | 17.80 |
| exceed €175.00 but do not exceed €177.50 | 16.20 |
| exceed €177.50 but do not exceed €180.00 | 14.50 |
| exceed €180.00 but do not exceed €182.50 | 12.90 |
| exceed €182.50 but do not exceed €185.00 | 11.20 |
| exceed €185.00 but do not exceed €187.50 | 9.60 |
| exceed €187.50 but do not exceed €190.00 | 7.90 |
| exceed €190.00 but do not exceed €192.50 | 6.30 |
| exceed €192.50 but do not exceed €195.00 | 4.60 |
| exceed €195.00 but do not exceed €197.50 | 3.00 |
| exceed €197.50 | Nil |

## PART 3

### INCREASE OF BLIND PENSION FOR ONE OF A COUPLE WHERE SPOUSE HAS NOT ATTAINED PENSIONABLE AGE

| Means of claimant or pensioner | Weekly rate of increase |
|---|---|
| | € |
| Where the weekly means of the claimant or pensioner do not exceed €7.60 | 110.00 |
| exceed €7.60 but do not exceed €10.10 | 108.30 |
| exceed €10.10 but do not exceed €12.60 | 106.70 |
| exceed €12.60 but do not exceed €15.10 | 105.00 |
| exceed €15.10 but do not exceed €17.60 | 103.40 |
| exceed €17.60 but do not exceed €20.10 | 101.70 |
| exceed €20.10 but do not exceed €22.60 | 100.00 |
| exceed €22.60 but do not exceed €25.10 | 98.40 |
| exceed €25.10 but do not exceed €27.60 | 96.70 |
| exceed €27.60 but do not exceed €30.10 | 95.10 |
| exceed €30.10 but do not exceed €32.60 | 93.40 |
| exceed €32.60 but do not exceed €35.10 | 91.80 |
| exceed €35.10 but do not exceed €37.60 | 90.10 |
| exceed €37.60 but do not exceed €40.10 | 88.40 |
| exceed €40.10 but do not exceed €42.60 | 86.80 |
| exceed €42.60 but do not exceed €45.10 | 85.10 |
| exceed €45.10 but do not exceed €47.60 | 83.50 |
| exceed €47.60 but do not exceed €50.10 | 81.80 |
| exceed €50.10 but do not exceed €52.60 | 80.10 |

| Means of claimant or pensioner | Weekly rate of increase |
|---|---|
| | € |
| exceed €52.60 but do not exceed €55.10 | 78.50 |
| exceed €55.10 but do not exceed €57.60 | 76.80 |
| exceed €57.60 but do not exceed €60.10 | 75.20 |
| exceed €60.10 but do not exceed €62.60 | 73.50 |
| exceed €62.60 but do not exceed €65.10 | 71.90 |
| exceed €65.10 but do not exceed €67.60 | 70.20 |
| exceed €67.60 but do not exceed €70.10 | 68.50 |
| exceed €70.10 but do not exceed €72.60 | 66.90 |
| exceed €72.60 but do not exceed €75.10 | 65.20 |
| exceed €75.10 but do not exceed €77.60 | 63.60 |
| exceed €77.60 but do not exceed €80.10 | 61.90 |
| exceed €80.10 but do not exceed €82.60 | 60.20 |
| exceed €82.60 but do not exceed €85.10 | 58.60 |
| exceed €85.10 but do not exceed €87.60 | 56.90 |
| exceed €87.60 but do not exceed €90.10 | 55.30 |
| exceed €90.10 but do not exceed €92.60 | 53.60 |
| exceed €92.60 but do not exceed €95.10 | 51.90 |
| exceed €95.10 but do not exceed €97.60 | 50.30 |
| exceed €97.60 but do not exceed €100.10 | 48.60 |
| exceed €100.10 but do not exceed €102.60 | 47.00 |
| exceed €102.60 but do not exceed €105.10 | 45.30 |
| exceed €105.10 but do not exceed €107.60 | 43.70 |
| exceed €107.60 but do not exceed €110.10 | 42.00 |
| exceed €110.10 but do not exceed €112.60 | 40.30 |
| exceed €112.60 but do not exceed €115.10 | 38.70 |
| exceed €115.10 but do not exceed €117.60 | 37.00 |
| exceed €117.60 but do not exceed €120.10 | 35.40 |
| exceed €120.10 but do not exceed €122.60 | 33.70 |
| exceed €122.60 but do not exceed €125.10 | 32.00 |
| exceed €125.10 but do not exceed €127.60 | 30.40 |
| exceed €127.60 but do not exceed €130.10 | 28.70 |
| exceed €130.10 but do not exceed €132.60 | 27.10 |
| exceed €132.60 but do not exceed €135.10 | 25.40 |
| exceed €135.10 but do not exceed €137.60 | 23.80 |
| exceed €137.60 but do not exceed €140.10 | 22.10 |
| exceed €140.10 but do not exceed €142.60 | 20.40 |
| exceed €142.60 but do not exceed €145.10 | 18.80 |
| exceed €145.10 but do not exceed €147.60 | 17.10 |
| exceed €147.60 but do not exceed €150.10 | 15.50 |
| exceed €150.10 but do not exceed €152.60 | 13.80 |
| exceed €152.60 but do not exceed €155.10 | 12.10 |
| exceed €155.10 but do not exceed €157.60 | 10.50 |

| Means of claimant or pensioner | Weekly rate of increase |
|---|---|
| | € |
| exceed €157.60 but do not exceed €160.10 | 8.80 |
| exceed €160.10 but do not exceed €162.60 | 7.20 |
| exceed €162.60 but do not exceed €165.10 | 5.50 |
| exceed €165.10 but do not exceed €167.60 | 3.80 |
| exceed €167.60 but do not exceed €170.10 | 2.20 |
| exceed €170.10 | Nil |

## PART 4

### AMOUNTS OF CHILD BENEFIT

| Amount for each of first two children<br>(1) | Amount for each child in excess of 2<br>(2) |
|---|---|
| €150.00 | €185.00 |

".

*Section 17.*

## SCHEDULE 3

### STATE PENSION (NON-CONTRIBUTORY) — CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

| Provision or Instrument Affected<br>(1) | Amendment<br>(2) |
|---|---|
| Section 4(4)(*a*) | Substitute "Rule 2(3) of Part 3, Rule 2 of Part 4 and Rule 2(3) of Part 5" for "Rule 2(3) of Part 3 and Rule 2 of Part 4". |
| Section 4(5) | Substitute "Rule 7 of Part 3, Rule 2(*a*) of Part 4 or Rule 7 of Part 5" for "Rule 7 of Part 3 or Rule 2(*a*) of Part 4". |
| Sections 2(4), 7(2)(*e*), 7(2)(*f*), 134(3) (in the definition of "pensioner"), 139(1)(*c*), 144(2)(*a*), 157(1), 217(1), 241(2)(*c*), 244(1)(*c*)(i), 248(1)(*i*), 249(8) and (9) and 287(1)<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) | Substitute "State pension (non-contributory)" for "old age (non-contributory) pension" in each place where it occurs. |
| Sections 124(1)(*c*), 134(3) (in the definition of "qualified adult") and 249(7)<br><br>Social Welfare (Consolidated Payments Provisions) Regulations 1994 (S.I. No. 417 of 1994)<br><br>Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) | Substitute "a State pension (non-contributory)" for "an old age (non-contributory) pension" in each place where it occurs. |

| Provision or Instrument Affected<br>(1) | Amendment<br>(2) |
|---|---|
| The definition of "weekly means" in sections 162(1), 172(1) and 179(1) | Substitute "Part 5" for "Part 3". |
| Sections 162(2)(*a*), 172(2)(*a*), 179(3) and 186(2)(*b*)(i) | Substitute "Part 5" for "Part 3". |
| Section 221 | Substitute "Part 4" for "Part 6" in each place where it occurs. |
| Section 246(3) | Substitute "153(*c*)" for "154(*c*)". |
| Table 1 of Schedule 3 | Substitute "Rule 1(1)(*a*) of Part 2, Rule 1(1)(*a*) of Part 3 and Rule 1(1)(*a*) of Part 5" for "Rule 1(1)(*a*) of Part 2 and Rule 1(1)(*a*) of Part 3". |
| Social Welfare (Rent Allowance) Regulations 1998 (S.I. No. 188 of 1998) | Substitute "State pension (non-contributory)" for "old age pension" in each place where it occurs. |

*Section 24*.

## SCHEDULE 4

### State Pension (non-contributory) — Assessment of Means

"PART 3

Section 153.

### STATE PENSION (NON-CONTRIBUTORY)

1. Subject to paragraphs (2) and (3), in calculating the means of a person, account shall be taken of the following:

(1) other than in the circumstances and subject to the conditions and for the periods that may be prescribed, the weekly value of property belonging to the person (not being property personally used or enjoyed by the person or a farm of land leased by him or her) which is invested or is otherwise put to profitable use by the person or which, though capable of investment or profitable use is not invested or put to profitable use and the weekly value, calculated in accordance with Table 1 to this Schedule, constitutes the weekly means of a person from that property, but no account shall be taken under any other provision of these Rules of any appropriation of the property for the purpose of current expenditure;

(2) all income in cash (including the net cash value of such non-cash benefits as may be prescribed), and the income received by a qualified child or qualified children that may be prescribed which the person may reasonably expect to receive during the year succeeding the date of calculation, but—

(*a*) excluding the amounts at references 1 to 19 in Table 2 to this Schedule, and

(*b*) excluding—

(i) any moneys received by way of maintenance payments (including maintenance payments made to or in respect of a qualified child) in so far as they do not exceed the annual housing costs actually incurred by the person subject to the maximum amount that may be prescribed, together with one-half of any amount of maintenance payment in excess of the

amount disregarded in respect of housing costs actually incurred (if any),

(ii) any income arising from a grant or allowance in pursuance of a scheme for promoting the welfare of the blind prepared under section 2 of the Blind Persons Act 1920,

(iii) any moneys received under a scheme administered by the Minister for Agriculture and Food and known as the Early Retirement Scheme from Farming operated under Council Regulation (EEC) No. 2079/92 of 30 July 1992 [2], or Council Regulation (EC) No. 1257/99 of 17 May 1999 [3],

(iv) any moneys received in respect of rent from a person who resides with the claimant or beneficiary and but for the residence of the person the claimant or beneficiary would reside alone,

(v) any sums arising from the investment or profitable use of property (not being property personally used or enjoyed by the person or a farm of land leased by him or her),

(vi) the prescribed amount of any earnings from employment, subject to the circumstances and conditions that may be prescribed,

(vii) in the case of a blind person, the amount that may be prescribed of his or her earnings from employment of a rehabilitative nature,

(viii) in the case of a blind person, his or her wages or profit from any form of self-employment, except and in so far as the annual amount of those earnings is calculated to exceed an amount made up as follows—

€400, plus €265 if the person's spouse is living with or is wholly or mainly maintained by him or her or, being a single person, widow or widower, is maintaining wholly or mainly a person over the age of 16 years having the care of one or more than one qualified child who normally resides or reside with the person, plus €133 for each qualified child normally residing with the person of whom account has not already been taken in accordance with this paragraph in calculating the means of another person,

(ix) in the case of a person who has a qualified child who normally resides with him or her, his or her wages or profit from any form of self-employment, except and in so far as the annual amount of those earnings is calculated to exceed €133 for each such child of whom account has not already been taken in accordance with this paragraph in calculating the means of another person,

(x) an amount of €2,540 together with one-half of any amount in excess of €2,540 received under the following schemes:

(I) the Rural Environment Protection Scheme administered by the Minister for Agriculture and Food;

(II) the Special Areas of Conservation Scheme administered by the Minister for Community, Rural and Gaeltacht Affairs,

[2]OJ No. L215, 30.07.92, p. 91.

[3]OJ No. L160, 26.06.99, p. 80.

and that income shall, in the absence of other means for ascertaining it, be taken to be that actually received during the year immediately before the date of calculation but where that income is attributable to a period before the year immediately preceding the date of calculation but is received in a subsequent year, it shall be regarded for the purposes of this paragraph as having been received in the year to which it is attributable;

(3) the yearly value of any advantage accruing to the person from—

(*a*) the use or enjoyment of property (other than a domestic dwelling or a farm building owned and occupied, furniture and personal effects) which is personally used or enjoyed by the person, and

(*b*) a farm of land leased by the person.

2. (1) Subject to paragraph (2), if it appears that any person has, whether before or after the commencement of this Act, directly or indirectly deprived himself or herself of any income or property in order to qualify himself or herself for the receipt of the pension in question, or for the receipt of the pension at a higher rate than that to which he or she would otherwise be entitled, that income or the value of that property shall for the purposes of these Rules be taken to be part of the means of that person.

(2) Paragraph (1) shall not apply to any assignment—

(*a*) which is an assignment to a child or children of the assignor, and

(*b*) which is an assignment of property consisting of a farm of land (together with or without the stock and chattels thereon) and of which the assignor is the owner and the occupier or the occupier only.

(3) In the case of a person to whom paragraph (1) applies, where the income or the value of the property taken to be part of his or her means for the purposes of that paragraph has reduced since the date of calculation, the calculation may be revised, subject to the conditions and in the circumstances that may be prescribed, but regulations made under this paragraph shall not cause the income or the value of the property taken to be part of his or her means to be increased.

(4) For the purposes of this Rule, 'assignment' includes any form of conveyance, transfer or other transaction by which a person parts with the ownership or possession of property.

3. (1) Notwithstanding this Schedule and subject to paragraph (2), the gross proceeds derived from the sale of the principal residence of the claimant or beneficiary or, in the case of a married couple who are living together, the spouse of the claimant or beneficiary where the spouse has attained pensionable age, shall not, subject to the limit and under the conditions and circumstances and for the periods that shall be prescribed, be taken into account in calculating the means of the claimant, beneficiary or pensioner.

(2) Paragraph (1) shall not apply to any sums arising from the investment or profitable use of the gross proceeds derived from the sale of the principal residence.

4. (1) The following apply when calculating the means of a person who is one of a couple living together:

(*a*) the means of the person shall be taken to be one-half of the total means of the couple;

(*b*) the person is deemed to be entitled to one-half of all property to which the person or the other member of the couple is entitled or to which the person and the other member of the couple are jointly entitled;

(*c*) for the purposes of this Rule, the means of each member of the couple shall first be determined in accordance with these Rules (each being regarded as an applicant for a pension or a pension at a higher rate, as the case may be) and the total means shall be the sum of the means of each member as so determined;

(*d*) where one member of the couple dies, nothing which was reckoned for the purposes of pension, or would (if the deceased member had been entitled to receive any pension) have been so reckoned, as means of the deceased member shall be so reckoned as means of the surviving member for the purpose of reducing the pension of the surviving member if any payment in respect of that pension was made before the death of the deceased member or becomes payable in respect of a period before or part of which was before that death.

(2) In this Rule 'couple' means a married couple who are living together or a man and woman who are not married to each other but are cohabiting as husband and wife.

(3) In calculating the means of a person who is one of a married couple living apart from his or her spouse, any sum paid by him or her to his or her spouse under a separation order shall be deducted in calculating his or her means.

5. (1) Notwithstanding these Rules, where—

(*a*) a State pension (non-contributory) is in course of payment to or in respect of a person or the spouse of the person or both of them, and

(*b*) a pension or pensions (in this Rule referred to as 'the other pension'), not being a State pension (non-contributory), is in course of payment to or in respect of the person or the spouse of the person or both of them,

in calculating the means of the person or of the spouse or of both of them for the purposes of State pension (non-contributory), any portion of the amount of an increase in the other pension or the aggregate increase, where more than one increase in the other pension has occurred, which, if it were reckoned as means, would result in a reduction in the amount of the pension or combined pensions (as the case may be) which would be greater than the amount by which the other pension has been increased, shall not be reckoned as means.

(2) Any amount excluded from the calculation of means in accordance with reference 16 in Table 2 to this Schedule shall be subject to Rule 5(1).

6. Notwithstanding this Schedule, the amount of any allowance, special allowance, dependent's allowance, disability pension or wound pension under the Army Pensions Acts 1923 to 1980, or pension under the Military Service Pensions Acts 1924 to 1964, arising out of service in the period commencing on 23 April 1916 and ending on 30 September 1923, or pension under the Connaught Rangers (Pensions) Acts 1936 to 1964, shall be disregarded in the calculation of means for the purposes of Chapter 4 of Part 3.

7. The Minister may by regulations vary Rule 1(1) and Table 1 to this Schedule in relation to the calculation of the weekly value of property belonging to a person.".

*Section 25*.

## SCHEDULE 5

BLIND PENSION, WIDOW'S (NON-CONTRIBUTORY) PENSION, WIDOWER'S (NON-CONTRIBUTORY) PENSION AND ORPHAN'S (NON-CONTRIBUTORY) PENSION, ONE-PARENT FAMILY PAYMENT AND CARER'S ALLOWANCE — ASSESSMENT OF MEANS

"PART 5

Sections 161A, 168, 172 and 179.

### BLIND PENSION, WIDOW'S (NON-CONTRIBUTORY) PENSION, WIDOWER'S (NON-CONTRIBUTORY) PENSION, ORPHAN'S (NON-CONTRIBUTORY) PENSION, ONE-PARENT FAMILY PAYMENT AND CARER'S ALLOWANCE

1. Subject to paragraphs (2) and (3), in calculating the means of a person, account shall be taken of the following:

(1) other than in the circumstances and subject to the conditions and for the periods that may be prescribed, the weekly value of property belonging to the person (not being property personally used or enjoyed by the person or a farm of land leased by him or her) which is invested or is otherwise put to profitable use by the person or which, though capable of investment or profitable use is not invested or put to profitable use and the weekly value, calculated in accordance with Table 1 to this Schedule, constitutes the weekly means of a person from that property, but no account shall be taken under any other provision of these Rules of any appropriation of the property for the purpose of current expenditure;

(2) all income in cash (including, in the case of widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension and one-parent family payment, the net cash value of such non-cash benefits as may be prescribed), and the income received by a qualified child or qualified children that may be prescribed which the person may reasonably expect to receive during the year succeeding the date of calculation, but—

(*a*) excluding the amounts at references 1 to 19 in Table 2 to this Schedule, and

(*b*) excluding—

(i) in the case of blind pension or one-parent family payment, any moneys received by way of a maintenance grant,

(ii) in the case of blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension or one-parent family payment, any moneys received by way of maintenance payments (including maintenance payments made to or in respect of a qualified child) in so far as they do not exceed the annual housing costs actually incurred by the person subject to the maximum amount that may be prescribed, together with one-half of any amount of maintenance payment in excess of the amount disregarded in respect of housing costs actually incurred (if any),

(iii) in the case of one-parent family payment, any moneys, subject to the limit that may be prescribed, received by way of repayment of expenses necessarily incurred in relation to travel and

meals while undergoing a course of education, training or development approved by the Minister,

(iv) in the case of a blind person, any income arising from a grant or allowance in pursuance of a scheme for promoting the welfare of the blind prepared under section 2 of the Blind Persons Act 1920,

(v) for the purposes of widow's (non-contributory) pension or widower's (non-contributory) pension, any moneys received in respect of rent from a person who resides with the claimant or beneficiary and but for the residence of the person the claimant or beneficiary would reside alone,

(vi) any sums arising from the investment or profitable use of property (not being property personally used or enjoyed by the person or a farm of land leased by him or her),

(vii) in the case of widow's (non-contributory) pension, widower's (non-contributory) pension or a payment referred to in paragraph (*b*) or (*c*) in the definition of 'relevant payment' in section 178, the prescribed amount of any earnings from employment, subject to the circumstances and conditions that may be prescribed,

(viii) in the case of one-parent family payment, subject to paragraph (4), any moneys received by way of earnings (including wages and profit from any form of self-employment),

(ix) in the case of a blind person, his or her earnings (including wages and profit from any form of self-employment) other than employment of a rehabilitative nature, except and in so far as the annual amount of those earnings is calculated to exceed an amount made up as follows—

€400, plus €265 if the person's spouse is living with or is wholly or mainly maintained by him or her or, being a single person, widow or widower, is maintaining wholly or mainly a person over the age of 16 years having the care of one or more than one qualified child who normally resides or reside with the person, plus €133 for each qualified child normally residing with the person of whom account has not already been taken in accordance with this paragraph in calculating the means of another person,

(x) in the case of a blind person, the amount that may be prescribed of his or her earnings from employment of a rehabilitative nature,

(xi) in the case of a person who is in receipt of orphan's (non-contributory) pension or carer's allowance and who has a qualified child who normally resides with him or her, his or her earnings (including wages and profit from any form of self-employment), except and in so far as the annual amount of those earnings is calculated to exceed €133 for each such child of whom account has not already been taken in accordance with this paragraph in calculating the means of another person,

and that income shall, in the absence of other means for ascertaining it, be taken to be that actually received during the year immediately before the date of calculation but where that income is attributable to a period before the year immediately preceding the date of calculation but is received in a subsequent year, it shall be regarded for the purposes of this paragraph as having been received in the year to which it is attributable;

(3) the yearly value of any advantage accruing to the person from—

(*a*) the use or enjoyment of property (other than a domestic dwelling or a farm building owned and occupied, furniture and personal effects) which is personally used or enjoyed by the person, and

(*b*) a farm of land leased by the person;

(4) (*a*) subject to subparagraph (*b*), in the case of one-parent family payment, the gross weekly earnings (including wages and profit from any form of self-employment), calculated or estimated in the manner that may be prescribed constitute the weekly means of that parent from earnings for the purposes of Chapter 7 of Part 3;

(*b*) in calculating the gross weekly earnings for the purposes of subparagraph (*a*), an amount of €146.50 together with half the gross weekly earnings in excess of that amount shall be disregarded;

(5) in the case of carer's allowance, in calculating the weekly means of a carer who is not one of a couple (other than means derived from a social security payment payable under the legislation of another state), that amount that may be prescribed shall be disregarded;

(6) in the case of carer's allowance, the amount that the Minister determines that the relevant person (as defined in section 179) could reasonably be expected to contribute to the support of the carer but in determining that amount, no account shall be taken of any sums received by the relevant person under Part 2, 3 or 4.

2. (1) Subject to paragraph (2), if it appears that any person has, whether before or after the commencement of this Act, directly or indirectly deprived himself or herself of any income or property in order to qualify himself or herself for the receipt of the pension or allowance in question, or for the receipt of the pension or allowance at a higher rate than that to which he or she would otherwise be entitled, that income or the value of that property shall for the purposes of these Rules be taken to be part of the means of that person.

(2) Paragraph (1) shall not apply to any assignment—

(*a*) which is an assignment to a child or children of the assignor, and

(*b*) which is an assignment of property consisting of a farm of land (together with or without the stock and chattels thereon) and of which the assignor is the owner and the occupier or the occupier only.

(3) In the case of a person to whom paragraph (1) applies, where the income or the value of the property taken to be part of his or her means for the purposes of that paragraph has reduced since the date of calculation, the calculation may be revised, subject to the conditions and in the circumstances that may be prescribed, but regulations made under this paragraph shall not cause the income or the value of the property taken to be part of his or her means to be increased.

(4) For the purposes of this Rule, 'assignment' includes any form of conveyance, transfer or other transaction by which a person parts with the ownership or possession of property.

3. (1) Notwithstanding this Schedule and subject to paragraph (2), for the purposes of blind pension, the gross proceeds derived from the sale of the principal residence of the claimant or beneficiary or, in the case of a married couple who

are living together, the spouse of the claimant or beneficiary where the spouse has attained pensionable age, shall not, subject to the limit and under the conditions and circumstances and for the periods that shall be prescribed, be taken into account in calculating the means of the claimant, beneficiary or pensioner.

(2) Paragraph (1) shall not apply to any sums arising from the investment or profitable use of the gross proceeds derived from the sale of the principal residence.

4. (1) In the case of a blind pension or a carer'sallowance, the following apply when calculating the means of a person who is one of a couple living together:

(*a*) the means of the person shall be taken to be one-half of the total means of the couple;

(*b*) the person is deemed to be entitled to one-half of all property to which the person or the other member of the couple is entitled or to which the person and the other member of the couple are jointly entitled;

(*c*) for the purposes of this Rule, the means of each member of the couple shall first be determined in accordance with these Rules (each being regarded as an applicant for a pension or a pension at a higher rate or carer's allowance, as the case may be) and the total means shall be the sum of the means of each member as so determined;

(*d*) where one member of the couple dies, nothing which was reckoned for the purposes of pension, or would (if the deceased member had been entitled to receive any pension) have been so reckoned, as means of the deceased member shall be so reckoned as means of the surviving member for the purpose of reducing the pension of the surviving member if any payment in respect of that pension was made before the death of the deceased member or becomes payable in respect of a period before or part of which was before that death.

(2) In the case of carer's allowance, in calculating the means of the other member of the couple for the purposes of paragraph (1) the following shall be disregarded—

(*a*) an amount, not exceeding the maximum amount set out in column (2), reference 3 of Part 1 of Schedule 2, of a social security payment payable under the legislation of another state, and

(*b*) an amount, not exceeding half the amount set out in column (4), reference 3 of Part 1 of Schedule 2, of a social security payment payable under the legislation of another state in respect of each qualified child for whom an increase is granted under section 181(1).

(3) In the case of carer's allowance, in calculating the weekly means of the couple (other than means derived from a social security payment payable under the legislation of another state), the amount that may be prescribed shall be disregarded.

(4) In this Rule 'couple' means a married couple who are living together or a man and woman who are not married to each other but are cohabiting as husband and wife.

(5) In calculating the means of a person who is one of a married couple living apart from his or her spouse, any sum paid by him or her to his or her spouse under a separation order shall be deducted in calculating his or her means.

5. (1) Notwithstanding these Rules, where—

(*a*) blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment or carer's allowance is in course of payment to or in respect of a person or the spouse of the person or both of them, and

(*b*) a pension or pensions (in this Rule referred to as 'the other pension'), not being a pension or pensions mentioned in paragraph (*a*), is in course of payment to or in respect of the person or the spouse of the person or both of them,

in calculating the means of the person or of the spouse or of both of them for the purposes of blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment or carer's allowance (as the case may require), any portion of the amount of an increase in the other pension or the aggregate increase, where more than one increase in the other pension has occurred, which, if it were reckoned as means, would result in a reduction in the amount of the pension or combined pensions (as the case may be) which would be greater than the amount by which the other pension has been increased, shall not be reckoned as means.

(2) Any amount excluded from the calculation of means in accordance with reference 16 in Table 2 to this Schedule shall be subject to Rule 5(1).

6. Notwithstanding this Schedule, the amount of any allowance, special allowance, dependent's allowance, disability pension or wound pension under the Army Pensions Acts 1923 to 1980, or pension under the Military Service (Pensions) Acts 1924 to 1964, arising out of service in the period commencing on 23 April 1916 and ending on 30 September 1923, or pension under the Connaught Rangers (Pensions) Acts 1936 to 1964, shall be disregarded in the calculation of means for the purposes of Chapters 5 to 8 of Part 3.

7. The Minister may by regulations vary Rule 1(1) and Table 1 to this Schedule in relation to the calculation of the weekly value of property belonging to a person.".

*Section 29*.

## SCHEDULE 6

### EARLY CHILDCARE SUPPLEMENT — CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT

| Provision Affected<br>(1) | Amendment<br>(2) |
|---|---|
| Sections 2(1) in the definition of "social welfare inspector", 250(1) and (7), 320(*b*) and 334(1) and reference 1 of Table 2 to Schedule 3 | Substitute "4, 4A" for "4" in each place where it occurs. |
| Sections 2(1) in the definition of "beneficiary" and "claimant", 244(1)(*c*)(iii), 285(1), 292(1), 302, 319, 334, 335, 336, 337, 338, 341(9) and 342 | Substitute "child benefit, early childcare supplement" for "child benefit" in each place where it occurs. |
| Sections 250(2)(*c*), 251(4) and 251(5) | Substitute "child benefit or early childcare supplement" for "child benefit" in each place where it occurs. |

| Provision Affected<br>(1) | Amendment<br>(2) |
|---|---|
| Section 287(1) | Substitute "unemployment assistance, child benefit and early childcare supplement" for "unemployment assistance and child benefit". |
| Section 341(8) | (*a*) Substitute "Any child benefit or early childcare supplement" for "Any child benefit".<br>(*b*) Insert "or early childcare supplement" after "of child benefit". |

*Section 37.*

## SCHEDULE 7

### MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

| Provision Affected<br>(1) | Amendment<br>(2) |
|---|---|
| Section 3(10) | Substitute "150(3), 152, 158, 161," for "150(3), 158". |
| Section 38(1) | Substitute "section 13(2)(*b*)" for "section 13(2)(*d*)". |
| Section 109(16) | Delete "and who does not have an entitlement to an old age (contributory) pension by virtue of Regulation (EEC) No. 1408/71 of the Council of the European Communities or by virtue of a reciprocal arrangement under the provisions of section 287". |
| Section 152 | Substitute the following for the definition of "spouse":<br>" 'spouse' includes a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State;". |
| Section 219(2) | Substitute "subsection (1)(*c*)" for "subsection (1)". |
| Section 250(2) | (*a*) Insert ", or an application for, or the use of, a personal public service number in accordance with sections 262 to 271 and any question arising on or in relation to that application or use," after "in relation to that benefit".<br>(*b*) In paragraph (*d*) delete "and".<br>(*c*) In paragraph (*e*) insert "and" after "benefit,".<br>(*d*) Insert the following after paragraph (*e*):<br>"(*f*) a person who has sought the allocation of a personal public service number within the meaning of section 262 or a person to whom such a number has been allocated,". |
| Section 328 | Substitute the following for that section: |

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| "Certificate by deciding officer, appeals officer or by an employee of the Executive. | 328.— A document purporting to be a certificate of a decision made under this Act by a deciding officer or an appeals officer or purporting to be a certificate of a determination made under this Act by an employee of the Executive and to be signed by him or her shall be prima facie evidence of the making of the decision or determination, as the case may be, and of the terms of that decision or determination, as the case may be, without proof of the signature of the officer or employee or of his or her official capacity.". |

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| Section 345 | Substitute "22" for "21" in each place where it occurs. |

*Section 44*.

## SCHEDULE 8

### MISCELLANEOUS AMENDMENTS TO PENSIONS ACT 1990

| Item | Provision Affected | Amendment |
|---|---|---|
| 1. | Section 2(1) | (*a*) In the definition of "scheme" insert "and section 121" after "Part VII".<br><br>(*b*) In the definition of "trustees", insert "59A," after "59,". |
| 2. | Section 5 | Insert the following after subsection (2):<br><br>"(2A) The power to make regulations under this section includes power to make provision by regulation to give effect to—<br><br>(*a*) any provision of the Treaties of the European Communities, or<br><br>(*b*) any act adopted by an institution of the European Communities which regulates any of the matters to which this Act applies.". |
| 3. | Section 35 | In subsection (1), substitute "section 34(3)(*b*) or (*d*)" for "section 34(3)(*b*)". |
| 4. | Section 43(1) | (*a*) In paragraph (*c*), substitute "2007, and" for "2007.".<br><br>(*b*) Insert the following after paragraph (*c*):<br><br>"(*d*) in the case of a scheme which has been excluded, in whole or in part, from the application of this Part by virtue of regulations made under section 52 and which is no longer so excluded, not later than 6 months after the date on which the exclusion ceases to apply.". |
| 5. | Section 54(4) | Insert the following after paragraph (*c*):<br><br>"(*d*) The Minister may make regulations providing that some or all of the information required to be disclosed in accordance with this section shall be |

| Item | Provision Affected | Amendment |
|---|---|---|
| | | prepared in accordance with the advice of an actuary and any applicable professional guidance issued by the Society of Actuaries in Ireland and specified in the regulations or with any applicable guidance issued by any other person (including the Minister) and specified in the regulations.". |
| 6. | Section 55 | (*a*) In subsection (2), substitute the following for paragraph (*c*):<br>"(*c*) where so prescribed and to such extent as may be prescribed, a small scheme the winding up of which has commenced, unless, in accordance with the regulations prescribing the class of scheme for the purpose of this paragraph, the Board considers it necessary or appropriate and in the interests of the members of the scheme having regard to the circumstances of any particular case that subsection (1) should apply in whole or in part.",<br>(*b*) In subsection (4), substitute "at the effective date of the next actuarial funding certificate or, where applicable, any later date specified under section 49(3)" for "at the effective date of the next actuarial funding certificate".<br>(*c*) In subsection (5), substitute "at the effective date of the next actuarial funding certificate or, where applicable, any later date specified under section 49(3)" for "at the effective date of the next actuarial funding certificate". |
| 7. | Section 56(6)(*b*) | In subparagraphs (iv) and (v), substitute "small scheme" for "scheme" in each place where it occurs. |
| 8. | Section 91 | In the definition of "contributor", substitute "on a winding up or on making a transfer payment in accordance with section 35" for "on a winding up". |
| 9. | Section 121 | In subsection (10), insert the following after the definition of "excluded employee":<br>" 'scheme' means an occupational pension scheme and an overseas pension scheme within the meaning of section 770(1) of the Taxes Consolidation Act 1997.". |
| 10. | Section 149 | Substitute the following for subsection (4):<br>"(4) The conditions of authorisation are that—<br>(*a*) the trustees and the scheme comply with the provisions of this Act applicable to the trustees and the scheme and, in the case of a small scheme, comply with subsection (3), and<br>(*b*) the trustees and the scheme comply with any other conditions that may be prescribed.". |

*Section 48*.

## SCHEDULE 9

### AMENDMENTS TO CARER'S LEAVE ACT 2001

| Provision Affected<br><br>(1) | Amendment<br><br>(2) |
|---|---|
| Sections 6(1), 7(4)(*a*) and (*b*) and 8(1) | Substitute "104 weeks" for "65 weeks" in each place where it occurs. |
| Section 7(4) | Substitute "208 weeks" for "130 weeks". |