



SOCIAL WELFARE CONSOLIDATION ACT 2005

Disclaimer:

This Revised Act is an administrative consolidation of Social Welfare Consolidation Act 2005. It has been prepared by the Department of Social Protection.

While every care has been taken in the preparation of this Consolidated Act, the Department of Social Protection 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.

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This text should not be relied upon in Court proceedings.

All Acts and Instruments up to and including the Finance (Covid-19 and Miscellaneous Provisions) Act 2021 were considered in the preparation of this revised Act.

How to use this Guide

Since its enactment in 2005, the Social Welfare Consolidation Act has been extensively amended by subsequent Social Welfare Acts, as well as a number of other non-Social Welfare Acts and Orders. The aim of this Guide is to bring all of these amendments together into a single document.

While every effort has been made to ensure the accuracy of this Guide, it may nevertheless, contain errors in the text as well as in the formatting of the text. Users of this Guide are therefore advised to satisfy themselves as to the accuracy of the text by also consulting the 2005 Consolidation Act and relevant amending Acts.

Format of different Amendments contained in this Guide

Amendments to the Social Welfare Consolidation Act 2005 can be made in a number of ways, for example –

- by *deleting* existing provisions (in whole or in part),
 - by *repealing* provisions,
 - by *substituting* new provisions for existing provisions, or
 - by *inserting* new provisions into the Act.
- Where a whole chapter, section, subsection, paragraph, sub-paragraph etc. has been repealed or deleted, the original text of the provision is “struck out”, e.g. ~~This section has been repealed~~. A footnote follows at the end of the provision that has been struck out to indicate the section in the relevant Act that repealed or deleted this provision (see, for example, Part 4A – Early Childcare Supplement).
 - Where part of a provision is deleted, the relevant text is “struck out” and footnoted (see, for example, section 64(8)).
 - Where a whole provision has been substituted, the original text is “struck out” and footnoted. The new “substituted” text is included in normal print and footnoted (see, for example, section 3(10)). Where part of a provision has been substituted, the original text is “struck out” and, for ease of reference, the new “substituted” text is highlighted in ***bold and italics*** and footnoted (see, for example, section 34).
 - Where a new chapter, section, subsection, paragraph, sub-paragraph etc. has been inserted into the Consolidation Act it will be included in normal print and footnoted (see, for example, section 247B). Where a new phrase has been inserted into an existing provision, the new inserted text will be highlighted in ***bold and italics*** and footnoted (see, for example, section 129(1)).

Amendments that have still to be commenced

A number of provisions of amending Acts have not yet been commenced and **ARE NOT PART** of the Social Welfare Consolidation Act until commenced. For reference, where there is an amendment that has still to be commenced, a footnote ***in red*** is included in the appropriate location in the text of the Document and the footnote at the end of the page will

include a link to the relevant amending Act (see, for example, Chapter 5A of Part 3 of the Social Welfare Consolidation Act 2005).

Payment Schedules

The current rates of social insurance benefits and social assistance payments are set out in Schedules 2 and 4, respectively. Due to space constraints, only the latest rates of payment are set out in these Schedules, with footnotes indicating where these rates were previously amended.

Changes in Scheme Names

The Social Welfare Law Reform and Pensions Act 2006 (section 4 and Schedule 1) changed the names of a number of social welfare payments, as follows –

- *State pension (contributory)* from old age (contributory)
- *State pension (transition)* from retirement pension
- *Illness benefit* from disability benefit
- *Jobseeker's benefit* from unemployment benefit
- *Jobseeker's allowance* from unemployment assistance
- *Incapacity supplement* from unemployability supplement
- *Guardian's payment (contributory)* from orphan's (contributory) allowance
- *Guardian's payment (non-contributory)* to orphan's (non-contributory) allowance

Because of the extensive nature of these changes, these amendments have not been separately footnoted in the Document. All references to the new scheme names are marked in ***bold and italics*** throughout the text.

List of amending enactments and Abbreviations

The following is a chronological list of all of the amending Acts and Orders, with the abbreviations used in the footnotes –

<u>Title of Amending Act/Instrument</u>	<u>Abbreviation</u>
Social Welfare Consolidation Act 2005 (No. 26 of 2005)	SWCA 2005
Social Welfare Act 2005 (No. 30 of 2005)	SWA 2005
Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006)	SWLR&PA 2006
Social Welfare Act 2006 (No. 36 of 2006)	SWA 2006
Social Welfare and Pensions Act 2007 (No. 8 of 2007)	SW&PA 2007
Social Welfare Act 2007 (No. 40 of 2007)	SWA 2007
Social Welfare and Pensions Act 2008 (No. 2 of 2008)	SW&PA 2008
Health Act 2008 (No. 21 of 2008)	HA 2008
Social Welfare (Miscellaneous Provisions) Act 2008 (No. 22 of 2008)	SW(MP)A 2008
Financial Emergency Measures in the Public Interest Act 2009 (No. 5 of 2009)	FEMPIA 2009
Social Welfare and Pensions Act 2009 (No. 10 of 2009)	SW&PA 2009
Housing (Miscellaneous Provisions) Act 2009 (No. 22 of 2009)	H(MP)A 2009
Social Welfare and Pensions (No. 2) Act 2009 (No. 43 of 2009)	SW&P(No.2)A 2009
Fines Act 2010 (No. 8 of 2010)	FA 2010
Adoption Act 2010 (No. 21 of 2010)	AA 2010
Social Welfare (Miscellaneous Provisions) Act 2010 (No. 28 of 2010)	SW(MP)A 2010
Social Welfare Act 2010 (No. 34 of 2010)	SWA 2010
Social Welfare and Pensions Act 2010 (No. 37 of 2010)	SW&PA 2010
Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011 (S.I. No. 418 of 2011)	S.I. 418 of 2011
Social Welfare and Pensions Act 2011 (No. 9 of 2011)	SW&PA 2011
Ministers and Secretaries (Amendment) Act 2011 (No. 10 of 2011)	MS(A)A 2011

Social Welfare Act 2011 (No. 37 of 2011)	SWA 2011
Property Services (Regulation) Act 2011 (No. 40 of 2011)	PSRA 2011
Social Welfare and Pensions Act 2012 (No. 12 of 2012)	SW&PA 2012
Social Welfare Act 2012 (No. 43 of 2012)	SWA 2012
Social Welfare and Pensions (Miscellaneous Provisions) Act 2013 (No. 20 of 2013)	SW&P(MP)A 2013
Social Welfare and Pensions Act 2013 (No. 38 of 2013)	SW&PA 2013
Social Welfare and Pensions (No. 2) Act 2013 (No. 49 of 2013)	SW&P(No. 2)A 2013
Education and Training Boards Act 2013 (No. 11 of 2013)	ETBA 2013
Further Education and Training Act 2013 (No. 25 of 2013)	FETA 2013
Child and Family Agency Act 2013 (No. 40 of 2013)	CFAA 2013
Social Welfare and Pensions Act 2014 (No. 16 of 2014)	SW&PA 2014
Housing (Miscellaneous Provisions) Act 2014 (No. 21 of 2014)	H(MP)A 2014
National Treasury Management Agency (Amendment) Act 2014 (No. 23 of 2014)	NTMA(A)A 2014
Social Welfare and Pensions (No. 2) Act 2014 (No. 41 of 2014)	SW&P(No. 2)A 2014
Social Welfare (Miscellaneous Provisions) Act 2015 (No. 12 of 2015)	SW(MP)A 2015
Workplace Relations Act 2015 (No. 16 of 2015)	WRA 2015
Social Welfare and Pensions Act 2015 (No. 47 of 2015)	SW&PA 2015
Paternity Leave and Benefit Act 2016 (No. 11 of 2016)	PL&BA 2016
Social Welfare Act 2016	SWA 2016
Social Welfare (Jobseeker's Benefit Variation of Rate Specified in sections 65A and 66(1A) of the Social Welfare Consolidation Act 2005) Regulations 2017	S.I. No. 62 of 2017
Social Welfare Act 2017 (No. 38 of 2017)	SWA 2017
Data Protection Act 2018 (No. 7 of 2018)	DPA 2018

Social Welfare, Pensions and Civil Registration Act 2018 (No. 37 of 2018)	SWP&CRA 2018
Data Sharing and Governance Act 2019	DS&GA 2019
Social Welfare Consolidation Act 2005 (Specified Bodies) Regulations 2019	S.I. No. 344 of 2019
Social Welfare Act 2019	SWA 2019
Parents Leave and Benefit Act 2019	PLBA 2019
Social Welfare (No. 2) Act 2019	SW(No.2)A 2019
Social Welfare (Employment Contributions) Regulations 2020	S.I. No. 7 of 2020
Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020	H(PPEMPI)A 2020
Social Welfare (Covid-19) (Amendment) Act 2020	SWC-19AA2020
Children and Family Relationships Act 2015 (Parts 2 and 3) (Commencement) Order 2019	S.I. No. 541 of 2019
Financial Provisions (Covid-19) (No. 2) Act 2020	FPC-19(No.2)A 2020
Finance Act 2020	FA 2020
Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020	WUKEU(CP)A 2020
Social Welfare Act 2020	SWA 2020
Investment Limited Partnerships (Amendment) Act 2020 (Commencement) Order 2021	ILP(A)A 2020
Family Leave and Miscellaneous Provisions Act 2021	FL&MPA 2021
Finance (Covid-19 and Miscellaneous Provisions) Act 2021	F(C-19&MP)A 2021
Social Welfare Act 2021	SWA 2021
Finance (Covid-19 and Miscellaneous Provisions) Act 2022	F(C-19&MP)A 2022
Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2022	CP(RRC&CSF)A 2022

SOCIAL WELFARE CONSOLIDATION ACT 2005

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¹Uncommenced provision – s.8A inserted by s.5 SW&PA 2008 but s.5 deleted prior to commencement by s.21 SW&PA 2014

² Ss.17A and 17B inserted by s.4(1)(b) SWP&CRA 2018

³ Ss.17A and 17B inserted by s.4(1)(b) SWP&CRA 2018

⁴ S 17C inserted by s.5 of FPC-19(No.2)A 2020

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⁵ Chapter 5A inserted by s.14 SW&PA 2010

⁶ Inserted by s.6 SWP(MP)A 2013

⁷ 34A inserted by s.13(6) SWA 2011

⁸ S.36 substituted by s.6 SW&PA 2014

⁹ S.36 substituted by s.6 SW&PA 2014

¹⁰ S38A inserted by s.8 SW & P (No. 2)A 2009

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¹¹ Chapter 6A inserted by s.8 SWC-19AA2020

¹² Section 38G inserted by Section 4 of the SWA 2020

¹³ 40A inserted by s.6 H(PPEMPI40A)A 2020

¹⁴ Chapter 8A inserted by s.12 SW&PA 2010 and commenced by S.I. 42/2012

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¹⁵ Chapter 11A inserted by s.31 [PL&BA 2016](#)

¹⁶ Inserted by S.29 of PLBA 2019

¹⁷ S62A inserted by s.7(1) SWA 2010

¹⁸ Inserted by s7(5) SWA 2010

¹⁹ Inserted by s.7 SW(MP) A 2010

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²⁰ Inserted by S5 of SWA 2019

²¹ Chapter 12B inserted by s. 11 SWC-19AA 2020

²² Substituted by s.4(9) SWLR&PA 2006

²³ S.77A inserted by s.6(1)(c) PA 2010

²⁴ Repealed by s.5 SW&PA 2011

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²⁵ S. 113A inserted by s. 11 SWLR&PA 2006

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²⁷ Inserted by s.8(1) SWA 2010

²⁸ S142A inserted by s. 6(c) SW & PA 2009

²⁹ S142B Inserted by s.6(c) SW&P(No. 2)A 2009

³⁰ S.142B repealed by s.8(1)(d) SW(No. 2)A 2019 w.e.f.1 Jan 2020

³¹ Inserted by s.10 SWP(MP)A 2013

³² S 154 deleted by s. 16(b) SWLR&PA 2006

³³ S 155 deleted by s. 16(b) SWLR&PA 2006

³⁴ Chapter 5 (Ss 161 – 161E) substituted by s. 20 SWLR&PA 2006

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³⁵ Uncommenced provision - see s.12(a) [SW&PA 2008](#)

³⁶ Inserted by s.25(1) SW(MP)A 2010

³⁷ Section 172A repealed by s.9(3) SW&PA 2011

³⁸ S173A inserted by s.25(3) SW(MP)A 2010

³⁹ S173B inserted by s.25(3) SW(MP)A 2010

⁴⁰ S.178A inserted by s.10 SWA 2005

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⁴¹ Sections 178B -178E inserted by s.5(4) SW&PA 2012

⁴² Sections 178B -178E inserted by s.5(4) SW&PA 2012

⁴³ Sections 178B -178E inserted by s.5(4) SW&PA 2012

⁴⁴ Sections 178B -178E inserted by s.5(4) SW&PA 2012

⁴⁵ S.178F inserted by s.12 SWA 2016

⁴⁶ Ss. 183 repealed by s.16(d) SWP&CRA 2018

⁴⁷ Ss. 184 repealed by s.16(d) SWP&CRA 2018

⁴⁸ S. 186A inserted by s. 24(e) SW&PA 2007

⁴⁹ Chapter 8A Ss 186B – 186H inserted by s. 15 SW&PA 2008

⁵⁰ S194 repealed by S.18 and Sch1 SW&PA 2008

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⁵¹ S195A inserted by s.9(1) SWA 2010

⁵² S198A inserted by s.7(3) SW&PA 2010

⁵³ S198B inserted by s.7(3) SW&PA 2010

⁵⁴ Section 198C inserted by s.14 SW&PA 2012

⁵⁵ Deleted by s.19 SW&P(MP)A 2013

⁵⁶ Repealed by s. 18/Schedule 1 SW&PA 2008

⁵⁷ S.220A inserted by s.14 SWA 2016

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⁵⁸ S 221A inserted by s. 20(1)(c) SW (MP) A 2008

⁵⁹ Part 4A inserted by s. 28 SWLR&PA 2006

⁶⁰ Part 4A deleted by s.24 SW(MP)A 2010

⁶¹ Substituted by s.5(1) SWPA 2015

⁶² Substituted by s.5(1) SWPA 2015

⁶³ Substituted by s.8(1) and Sch. 1 SWA 2017

⁶⁴ Substituted by s.14 SWA 2021

⁶⁵ Part 7A inserted by s.8 SW(MP)A 2015

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⁶⁶ S.238F deleted by s.11(b) SWA 2017

⁶⁷ Inserted by s.27 SW&PA 2010

⁶⁸ Inserted by s.12 SWA 2011

⁶⁹ Inserted by s.11 SWP(MP)A 2013

⁷⁰ S250A inserted by s.17 SW&P (No. 2)A 2009

⁷¹ S250B inserted by s.17 SW&P(No. 2)A 2009

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⁷² S. 261A inserted by s. 31(b) SW&PA 2007

⁷³ S. 262A inserted by s. 32(b) SW&PA 2007

⁷⁴ Inserted by s.15 SW&PA 2011

⁷⁵ Inserted by s.15 SW&PA 2012

⁷⁶ S274A inserted by s.4(e) SW&PA 2010

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⁷⁸ S.289A inserted by s.3(g) SW&PA 2014

⁷⁹ Section 290A inserted by S15 SWA 2012

⁸⁰ Section 290B inserted by S15 SWA 2012

⁸¹ **Uncommenced provision – see s.3(2) SW(MP)A 2010**

⁸² S298A inserted by s.27(b) SW&PA 2010

⁸³ S. 299 substituted by s. 34 SW&PA 2007

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⁸⁴ Repealed by s. 18 and Schedule 1 SW&PA 2008

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⁸⁶ S. 333A inserted by s.14(e) SW&PA 2007

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⁸⁷ S. 342A inserted by s.18 SW&PA 2011

⁸⁸ Part 11A inserted by s.15 SW&P(MP)A 2013

⁸⁹ Section 343FA inserted by s.17(c) SW&PA 2014

⁹⁰ Part 11B inserted by s.13(d) SW&PA 2013 and commenced by S.I. No.308 of 2014

⁹¹ Section 343PA inserted by s.12(1)(d) SW(MP)A 2015

⁹² Section.343PB inserted by s.101 WUKEU(CP)A 2020

⁹³ S 343Q substituted by s.12(1)(e) SW(MP)A 2015

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⁹⁵ S359A inserted by s.29 SW&PA 2010

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SOCIAL WELFARE CONSOLIDATION ACT 2005

AN ACT TO CONSOLIDATE THE SOCIAL WELFARE ACTS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS: [27th November, 2005]

PART 1

Preliminary

Short title.

1. This Act may be cited as the Social Welfare Consolidation Act 2005.

Interpretation.

2. (1) In this Act, save where the context otherwise requires—

“Act of 1997” means the Taxes Consolidation Act 1997;

“Act of 2020” means the Emergency Measures in the Public Interest (Covid-19) Act 2020;⁹⁷

“appeals officer” means a person holding office as an appeals officer under section 304;

“approved course of training” means a course of training provided by or on behalf of—

(a) an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013, or

(b) a body established by or under an enactment that provides for the dissolution of An Foras Áiseanna Saothair and confers on that body functions that are similar to the functions that, immediately before the day on which the body stands established, were vested in An Foras Áiseanna Saothair;⁹⁸

“assistance” means assistance under Part 3;

“beneficiary” means a person entitled to any benefit, assistance, ~~child benefit~~ **child benefit**, ~~early childcare supplement~~,⁹⁹ ~~or family income supplement~~,¹⁰⁰ ~~child benefit or family income supplement~~¹⁰¹ **child benefit, family income supplement** ~~working family payment~~¹⁰² **or back to work family dividend**,¹⁰³ as the case may be;

“benefit” means, subject to section 248 and Part 9, benefit under Part 2;

⁹⁷ Definition inserted by s.4 SWC-19AA2020

⁹⁸ Definition of “approved course of training” inserted by s. 3(1)(a) SW&P(MP) A 2013

⁹⁹ Substituted by s. 29 + Schedule 6 SWLR&PA 2006

¹⁰⁰ Substituted by s.24 and Schedule SW(MP)A 2010

¹⁰¹ Substituted by s.24 and Schedule SW(MP)A 2010

¹⁰² Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁰³ Substituted by Sch. to SW(MP)A 2015

“benefit year” means the period beginning on the first Monday in a particular year and ending on the Sunday before the first Monday in the following year;

“bureau officer” means an officer of the Minister appointed as a bureau officer under section 8(1)(a)(iii) of the Criminal Assets Bureau Act 1996;

“children detention school” means a children detention school within the meaning of the Children Act 2001;¹⁰⁴

“civil partner” means a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;¹⁰⁵

“civil partnership” means—

(a) a civil partnership registration referred to in section 3(a) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or

(b) a legal relationship referred to in section 3(b) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;¹⁰⁶

“claimant” means a person who has made a claim for any benefit, assistance, ~~child benefit~~ ~~child benefit, early childcare supplement~~¹⁰⁷ or family income supplement¹⁰⁸ ~~child benefit or family income supplement~~¹⁰⁹, *child benefit, family income supplement working family payment*¹¹⁰ or *back to work family dividend*,¹¹¹ as the case may be;

“cohabitant” means a cohabitant within the meaning of section 172(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;¹¹²

“Collector-General” means the Collector-General appointed under section 851 of the Act of 1997;

“contribution week” means one of the successive periods of 7 consecutive days in a contribution year beginning on the first day of that contribution year, or on any 7th day after that day, the last day of a contribution year (or the last 2 days of a contribution year ending in a leap year) being taken as included in the last contribution week of that contribution year;

“contribution year” means a year of assessment within the meaning of the Income Tax Acts;

“Covid-19” means a disease caused by infection with the virus SARSCoV-2 and specified as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981) or any variant of the disease so specified as an infectious disease in those Regulations;¹¹³

“Covid-19 pandemic unemployment payment” means the payment referred to in section 68L;¹¹⁴

¹⁰⁴ Inserted by s.9(a) SW (MP) A 2008

¹⁰⁵ Inserted by s.15 SW&PA 2010

¹⁰⁶ Inserted by s.15 SW&PA 2010

¹⁰⁷ Substituted by s. 29 + Schedule 6 SWLR&PA 2006

¹⁰⁸ Substituted by s.24 and Schedule SW(MP)A 2010

¹⁰⁹ Substituted by s.24 and Schedule SW(MP)A 2010

¹¹⁰ Substituted by s.8(1) and Sch. 1 SWA 2017

¹¹¹ Substituted by Sch. to SW(MP)A 2015

¹¹² Inserted by s.15 SW&PA 2010

¹¹³ Inserted by s. 2 SWC-19AA2020

¹¹⁴ Inserted by s. 2 SWC-19AA2020

“credited contribution” means, in relation to any insured person, a contribution credited to that person by virtue of section 33;

“day of incapacity for work” has the meaning given to it by section 40(1);

~~“day of unemployment”, in relation to Part 2, has the meaning given to it by section 62, and in relation to Chapter 2 of Part 3, has the meaning given to it by section 141(4) or (7);~~¹¹⁵

“day of unemployment”—

(a) in relation to Part 2, has the meaning given to it by section 62,

(b) in relation to Chapter 2 of Part 3, other than section 148A, has the meaning given to it by section 141(4) or (7), and

(c) in relation to section 148A, shall be construed in accordance with paragraph (c) of ~~section 148A(5)~~¹¹⁶ **section 148A(4)**¹¹⁷;

“deciding officer” means a person holding office as a deciding officer under section 299;

“designated person” means a person designated by the Minister to perform the functions conferred on a designated person by this Act;¹¹⁸

“developing country” means any country which the Minister, having regard to the countries so designated by the United Nations, the World Bank or the International Labour Organisation as developing countries and after consultation with the Minister for Foreign Affairs, may determine, for the purposes of this Act, to be a developing country;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement;¹¹⁹

“electronic” includes digital, magnetic, optical, electromagnetic, biometric, photonic and any other form of related technology;¹²⁰

“employment agency” has the same meaning as it has in the Employment Agency Act 1971;¹²¹

“employed contributor” has the meaning given to it by section 12(1);

“employer’s contribution” has the meaning given to it by section 6(1)(a);

“employment contribution” has the meaning given to it by section 6(1)(a);

“entry into insurance” means, subject to sections 35(3) and 125(7) and Chapters 15 and 16 of Part 2, in relation to a person, the date on which the person became an insured person;

“European Economic Area” means the European Economic Area created by the EEA Agreement;¹²²

¹¹⁵ Substituted by s. 10 SW&P(MP)A 2013

¹¹⁶ Definition of “day of unemployment” substituted by s.10 SW&P(MP)A 2013

¹¹⁷ Substituted by s.15(1) SW(MP)A 2015

¹¹⁸ Inserted by s.18 and Schedule 1 SW&PA 2008

¹¹⁹ Inserted by s.5 SW&PA 2014

¹²⁰ Inserted by s.4(a) SW&PA 2010

¹²¹ Inserted by s3(1) SW(MP)A 2015

“Executive” means the Health Service Executive;

“governing contribution year” means the second last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed;¹²³

“habitually resident” shall be construed in accordance with section 246;¹²⁴

“health board” means—

(a) a health board established under the Health Act 1970,

(b) the Eastern Regional Health Authority established under the Health (Eastern Regional Health Authority) Act 1999, or

(c) an Area Health Board established under the Health (Eastern Regional Health Authority) Act 1999;

“incapable of work” means incapable of work by reason of some specific disease or bodily or mental disablement or deemed, in accordance with regulations, to be so incapable;

~~“infectious diseases maintenance allowance” means a payment under section 44 of the Health Act 1947 to a person suffering from an infectious disease;~~¹²⁵

“insurable employment” means employment such that a person, over the age of 16 years and under pensionable age, employed in that employment would be an employed contributor;

“insurable (occupational injuries) employment” has the meaning given to it by section 71;

“insurable self-employment” means self-employment of such a nature that a person engaged in that employment would be a self-employed contributor;

“insured person” means a person insured under Part 2;

“island” means any island lying off the coast of the State, that is prescribed;

“local authority” has the meaning given to it by the Local Government Act 2001;

“medical assessor” means—

(a) an officer of the Minister who is a registered medical practitioner, ~~or~~¹²⁶

(aa) an officer of the Minister who is a registered nurse, or¹²⁷

(b) such other person who is a registered medical practitioner—

(i) engaged by the Minister under a contract for services or otherwise, or

(ii) employed by an employment agency under a contract of employment

¹²² Inserted by s.5 SW&PA 2014

¹²³ Inserted by s.24(2) SW(MP)A 2010

¹²⁴ Inserted by s.11(2) SW&PA 2014

¹²⁵ Deleted by s.19 SW&P(MP)A 2013

¹²⁶ Deleted by s.19(a)(i) SW&PA 2015

¹²⁷ Inserted by s.19(a)(ii) SW&PA 2015

(within the meaning of the Protection of Employees (Temporary Agency Work) Act 2012),

to provide medical services to the Minister;¹²⁸

“Member State” means a Member State of the European Communities;

‘member state of the European Economic Area’ means a state which is a contracting party to the EEA Agreement;¹²⁹

“Minister” means the Minister for Social and Family Affairs;

“non-governmental agency” means any organisation which has as one of its functions the promotion of relief and development in developing countries through the sponsoring or aiding of projects involving the employment of volunteer development workers in those countries;

“occupational injuries insurance” has the meaning given to it by section 70(2);

“optional contribution” means a contribution paid under Chapter 5 of Part 2;

“optional contributor” means a person engaged in share fishing paying optional contributions;

“orphan” means a qualified child—

(a) both of whose parents are dead, or

(b) one of whose parents is dead or unknown or has abandoned and failed to provide for the child, as the case may be, and whose other parent—

(i) is unknown, or

(ii) has abandoned and failed to provide for the child,

where that child is not residing with a parent, adoptive parent or step-parent;

“outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired or adapted for sale in the person’s own home or on other premises not under the control or management of the person who gave out the articles or materials for the purposes of the trade or business of the last-mentioned person;

“payment service provider” has the meaning given to it by section 289A;¹³⁰

“pensionable age” means the age of 66 years ~~67 years~~¹³¹ ~~68 years~~¹³² ¹³³;

¹²⁸ Inserted by s.3(1) SW(MP)A 2015

¹²⁹ Inserted by s.5 SW&PA 2014

¹³⁰ Inserted by s.3(a) SW&PA 2014

¹³¹ This provision comes into operation on 1/1/2021 (see s.7 SW&PA 2014)

¹³² This provision comes into operation on 1/1/2028 (see s.7 SW&PA 2014)

¹³³ Age increase repealed by section 17 of SWA 2020

“person engaged in share fishing” means a self-employed contributor who is a member of the crew of a fishing vessel and whose principal means of livelihood is derived from a share in the profits or the gross earnings of the working of the vessel;

“prescribed” means prescribed by regulations;

~~“qualifying contribution” means the appropriate employment contribution or self-employment contribution which was paid or would have been paid but for section 13(2)(c) in respect of any insured person or the appropriate optional contribution which was paid or would have been paid but for section 29(1)(b);¹³⁴~~

“qualifying contribution” means the appropriate employment contribution or self-employment contribution which was paid in respect of any insured person or the appropriate optional contribution which was paid in respect of any optional contributor;¹³⁵

“record” means any book, document or any other written or printed material in any form including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form;

~~“reckonable earnings” means, subject to regulations, earnings derived from insurable employment or insurable (occupational injuries) employment;¹³⁶~~

~~“reckonable earnings” means, subject to section 13(2)(da) and to regulations, earnings derived from insurable employment or insurable (occupational injuries) employment;^{137 138}~~

~~“reckonable earnings” means, subject to section 13(2)(da)—~~

~~(a) in the case of an employed contributor, not being a special contributor, emoluments derived from insurable employment or insurable (occupational injuries) employment (other than such emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies, but without regard to Chapter 1 of Part 44 of that Act, and~~

~~(b) in the case of a special contributor—~~

~~(i) salaries, wages or other remuneration including non-pecuniary Remuneration derived from insurable employment or insurable (occupational injuries) employment to which the Act of 1997 (other than Chapter 4 of Part 42) applies or would apply if the employed contributor in receipt of the remuneration were resident in the State, but without regard to Chapter 1 of Part 44 of that Act, and~~

~~(ii) payments to persons attending or engaged in courses or schemes provided or approved by~~

~~(I) An Foras Áiseanna Saothair,~~

~~(II) Teagasc, or~~

~~(III) the National Tourism Development Authority, and~~

¹³⁴ Substituted by s.11(1)(a) SWA 2010

¹³⁵ Substituted by s.11(1)(a) SWA 2010

¹³⁶ Substituted by s.13 SWA 2010

¹³⁷ Substituted by s.13 SWA 2010

¹³⁸ Substituted by s. 13(a) SWA 2011

~~reckonable earnings shall include, in the case of employed contributors and special contributors, share based remuneration realised, acquired or appropriated, as the case may be, on or after 1 January 2011;~~^{139 140}

‘reckonable earnings’ means, subject to section 13(2)(da)—

(a) in the case of an employed contributor, not being a special contributor, emoluments derived from insurable employment or insurable (occupational injuries) employment (other than such emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies, but without regard to Chapter 1 of Part 44 of that Act, and

(b) in the case of a special contributor—

(i) salaries, wages or other remuneration including non-pecuniary remuneration derived from insurable employment or insurable (occupational injuries) employment to which the Act of 1997 (other than Chapter 4 of Part 42) applies or would apply if the employed contributor in receipt of the remuneration were resident in the State, but without regard to Chapter 1 of ~~Part 44 of that Act, and~~ **Part 44 of that Act,**¹⁴¹

~~(ii) payments to persons attending or engaged in courses or schemes provided or approved by—~~

~~(I) An Foras Áiscanna Saothair,~~

~~(II) Teagasc, or~~

~~(III) the National Tourism Development Authority,~~¹⁴²

(ii) payments to persons attending approved courses of training, and

(iii) payments to persons attending or engaged in courses or schemes provided or approved by—

(I) Teagasc, or

(II) the National Tourism Development Authority,¹⁴³

and reckonable earnings shall include—

(A) share-based remuneration realised, acquired or appropriated, as the case may be on or after 1 January 2011, and

(B) the ‘specified amount’ within the meaning of section 825C of the Act of 1997,¹⁴⁴

¹³⁹ Substituted by s. 13(a) SWA 2011

¹⁴⁰ Substituted by s.8(a) SW&PA 2012

¹⁴¹ Substituted by s. 3(1)(a) SW&P(MP) A 2013

¹⁴² Substituted by s. 3(1)(a) SW&P(MP)A 2013

¹⁴³ Substituted by s. 3(1)(a) SW&P(MP)A 2013

¹⁴⁴ Substituted by s.8(a) SW&PA 2012

~~“reckonable emoluments”, in relation to a self-employed contributor, means emoluments (other than reckonable earnings and any other emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies, reduced by so much of the allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001) as is deducted on payment of those emoluments;~~¹⁴⁵

~~“reckonable emoluments”, in relation to a self-employed contributor, means emoluments (other than reckonable earnings and any other emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies;~~^{146 147}

~~“reckonable emoluments”, in relation to a self-employed contributor, means emoluments (other than reckonable earnings and any other emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies and reckonable emoluments shall include share-based remuneration realised, acquired or appropriated, as the case may be, on or after 1 January 2011;~~¹⁴⁸

‘reckonable emoluments’, in relation to a self-employed contributor, *self-employed contributor or a person to whom Chapter 5B of Part 2 applies*,¹⁴⁹ means emoluments (other than reckonable earnings and any other emoluments that may be prescribed) to which Chapter 4 of Part 42 of the Act of 1997 applies and reckonable emoluments shall include—

(a) share-based remuneration realised, acquired or appropriated, as the case may be, on or after 1 January 2011, and

(b) the ‘specified amount’ within the meaning of section 825C of the Act of 1997;¹⁵⁰

~~“reckonable income”, in relation to a self-employed contributor or an optional contributor, a self-employed contributor, an optional contributor or, subject to Chapter 5B of Part 2, a person to whom that Chapter of that Part applies,~~¹⁵¹ means the aggregate income (excluding reckonable earnings, reckonable emoluments and any other income that may be prescribed) from all sources for the contribution year as estimated in accordance with the Income Tax Acts, but without regard to—

~~(a) sections 195, **216C**,~~¹⁵² ~~231 and 232 of the Act of 1997, or~~¹⁵³

(a) sections 140, 195, 216C, 231, 232 and 233 of the Act of 1997, or¹⁵⁴

(b) save in the case of a person to whom paragraph 1 of Part 3 of Schedule 1 applies, Chapter 1 of Part 44 of the Act of 1997, after deducting from the income so much of any deduction allowed by virtue of the provisions of the definition of “capital allowance” in section 2(1) of the Act of 1997;

“registered medical practitioner” has the meaning assigned to it by the Medical Practitioners Act 2007;¹⁵⁵

¹⁴⁵ Substituted by s.12(a) SWA 2010

¹⁴⁶ Substituted by s.12(a) SWA 2010

¹⁴⁷ Substituted by s.13(b) SWA 2011

¹⁴⁸ Substituted by s.8(b) SW&PA 2012

¹⁴⁹ Substituted by s.6(1)SW&P(MP)A 2013

¹⁵⁰ Substituted by s.8(b) SW&PA 2012

¹⁵¹ Substituted by s.6(1)SW&P(MP)A 2013

¹⁵² Substituted by s. 5 SWLR&PA 2006

¹⁵³ Substituted by s.8 SW(MP)A 2008

¹⁵⁴ Substituted by s.8 SW(MP)A 2008

¹⁵⁵ Inserted by s.24(2) SW(MP)A 2010

“registered nurse” has the same meaning as it has in the Nurses and Midwives Act 2011;¹⁵⁶

“regulations” means regulations made by the Minister under this Act;

“Regulations of 1996” means the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996);

“retained fire fighter” means a person commonly referred to as a retained fire fighter and employed by a fire authority, within the meaning of section 2(1) of the Fire Services Act 1981, on a part-time basis and on the basis of payment by the authority to him or her of a retaining fee as well as fees for performing, as required by the authority, any functions of a fire fighter;¹⁵⁷

“self-employed contributor” has the meaning given to it by section 20;

“self-employment contribution” has the meaning given to it by section 6;

“share-based remuneration” means—

~~(a) any gain realised by the exercise, assignment or release¹⁵⁸ of a right in accordance with section 128 of the Act of 1997,¹⁵⁹~~

(a) any gain realised by the exercise of a right in accordance with section 128 of the Act of 1997, other than any gain realised by the exercise of a qualifying share option (within the meaning of the Act of 1997) which is not chargeable to income tax under section 128F of that Act,¹⁶⁰

(b) in the case of convertible securities within the meaning of section 128C of the Act of 1997, the chargeable amount computed in accordance with that section,

(c) in the case of restricted shares within the meaning of section 128D of the Act of 1997, the chargeable amount computed in accordance with that section,

(d) in the case of a profit sharing scheme approved by the Revenue Commissioners in accordance with Part 2 of Schedule 11 to the Act of 1997, the initial market value of the appropriated shares within the meaning of ~~section 510(2) of that Act, and~~¹⁶¹ **section 510(2) of that Act,**

(e) in the case of a savings-related share option scheme approved by the Revenue Commissioners in accordance with Schedule 12A to the Act of 1997, any gain realised by the exercise of a right in accordance with ~~section 519A of that Act,~~¹⁶² **section 519A of that Act, and**

(f) in the case of emoluments (within the meaning of section 983 of the Act of 1997) received by an employee or director in the form of shares (including stock) in—

(i) the company in which the employee or director holds his or her office or employment, or

¹⁵⁶ Inserted by s.19(b) SW&PA 2015

¹⁵⁷ Inserted by s.9 SW&P(MP)A 2013

¹⁵⁸ Deleted by s.4 SW&PA 2014

¹⁵⁹ Para (a) substituted by s.3 SWA 2017 and commenced by S.I. No. 638 of 2017

¹⁶⁰ Para (a) substituted by s.3 SWA 2017 and commenced by S.I. No. 638 of 2017

¹⁶¹ Substituted by s.10 SW&PA 2012

¹⁶² Substituted by s.10 SW&PA 2012

(ii) a company which has control (within the meaning of section 432 of the Act of 1997) of that company,

the amount referred to in section 985A(3) of the Act of 1997,¹⁶³

where that gain, chargeable amount, value or amount is realised, acquired or appropriated, as the case may be, on or after 1 January 2011, but share-based remuneration shall not include any such gain, chargeable amount, value or amount realised, acquired or appropriated, as the case may be—

(i) during the contribution year commencing on 1 January 2011 in respect of shares (including stock) that are the subject of a written contract or agreement that is in place before 1 January 2011, or

(ii) in respect of shares (including stock) that were acquired before 1 January 2011 by an employee share ownership trust to which section 519 of the Act of 1997 applies;¹⁶⁴

“short-time employment” means employment in which, for the time being, a number of days is systematically worked in a working week which is less than the number of days which is normal in a working week in the employment concerned;

“Social Insurance Fund” means the Fund to which section 9 relates;

“social welfare inspector” means a person appointed by the Minister under section 250 to be a social welfare inspector for the purposes of Parts 2, 3, 4, ~~4A~~,¹⁶⁵ ¹⁶⁶ 5, 6, ~~7~~, ~~7~~, ~~7A~~,¹⁶⁷ 8, 9 and 12;

“special contributor” means an employed contributor—

(a) in receipt of reckonable earnings referred to in paragraph (b) of the definition of reckonable earnings, or

~~(b) to whom paragraphs (a) and (b) of section 13(4A) apply;~~¹⁶⁸¹⁶⁹

(b) to whom paragraph (b) of section 13(4A) applies;¹⁷⁰

“statutory declaration” means a statutory declaration within the meaning of the Statutory Declarations Act 1938;

“surviving civil partner” means one civil partner of a couple who were both parties to the same civil partnership and whose civil partner is deceased and includes one civil partner of a couple who were both parties to the same civil partnership, who would otherwise be a surviving civil partner but for the fact that his or her civil partnership has been dissolved being a dissolution that is recognised as valid in the State;¹⁷¹

¹⁶³ Paragraph (f) inserted by s.10 SW&PA 2012

¹⁶⁴ Inserted by s.13(c) SWA 2011

¹⁶⁵ Inserted by s. 29 and Sch. 6 SWLR&PA 2006

¹⁶⁶ Deleted by s.24(5) and Schedule SW(MP)A 2010

¹⁶⁷ Substituted by Sch. to SW(MP)A 2015

¹⁶⁸ Inserted by s.13(c) SWA 2011

¹⁶⁹ Substituted by s.4 SW&P(MP)A 2013

¹⁷⁰ Substituted by s.4 SW&P(MP)A 2013

¹⁷¹ Inserted by s.15 SW&PA 2010

“trade dispute” means any dispute between employers and employees, or between employees and employees, which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises or not;

“temporary wage subsidy” has the same meaning as it has in section 28 of the Act of 2020;¹⁷²

“voluntary contribution” has the meaning given to it by section 25;

“voluntary contributor” has the meaning given to it by section 24;

~~“volunteer development worker” means a person who is employed temporarily outside the State in a developing country and has secured that employment—~~

~~(a) by or through the Department of Foreign Affairs or by or through a non-governmental agency in the State, or~~

~~(b) by or through a governmental or non-governmental agency in any Member State other than the State, or~~

~~(c) directly with the government of a developing country, and who is employed by any of those agencies or by the government of the developing country or by both under conditions of remuneration similar to local conditions applying in that country and who was resident in the State immediately before taking up that employment;¹⁷³~~

“volunteer development worker” means a person who is employed temporarily outside the State in a developing country and has secured that employment -

(a) by or through the Department of Foreign Affairs or by or through a non-governmental agency in the State, or

(b) by or through a governmental or non-governmental agency in any Member State other than the State, or

(c) directly with the government of a developing country,

and who is employed by any of those agencies or by the government of the developing country or by both under conditions of remuneration similar to local conditions applying in that country and who was resident in the State immediately before taking up that employment;¹⁷⁴

“Workmen’s Compensation Acts” means the Workmen’s Compensation Acts 1934 to 1955 and the enactments repealed by the Workmen’s Compensation Act 1934.

(2) In this Act “qualified adult”, subject to sections 134, 187 and 297, means in relation to a person—

(a) a spouse, *civil partner or cohabitant of that person*¹⁷⁵ who is wholly or mainly maintained by that person but does not include—

¹⁷² Inserted by s.4 SWC-19AA2020

¹⁷³ Substituted by s.3 SW&PA 2007

¹⁷⁴ Substituted by s. 3 SW&PA 2007

¹⁷⁵ Inserted by s.15(2)(a) SW&PA 2010

(i) a spouse, *civil partner or cohabitant of that person*¹⁷⁶ in employment (other than employment specified in paragraph 4 or 5 of Part 2 of Schedule 1), or

(ii) a spouse, *civil partner or cohabitant of that person*¹⁷⁷ who is self-employed, or

(iii) a spouse, *civil partner or cohabitant of that person*¹⁷⁸ who is entitled to or is in receipt of any benefit, pension, assistance or allowance (~~other than supplementary welfare allowance~~) (*other than a payment under section 186A or supplementary welfare allowance*)¹⁷⁹ under Part 2 or 3, or

(iv) a spouse, *civil partner or cohabitant of that person*¹⁸⁰ who, by virtue of section 68(1) or 147(2), is or would be disqualified for receiving ~~unemployment benefit~~ *jobseeker's benefit* payable under Chapter 12 of Part 2, *jobseeker's benefit (self-employed) payable under Chapter 12A of Part 2*¹⁸¹ or ~~unemployment assistance~~ *jobseeker's allowance* payable under Chapter 2 of Part 3 in his or her own right with the exception of a spouse who qualifies as a qualified adult by virtue of regulations made under paragraph (c), or

(v) a spouse, *civil partner or cohabitant of that person*¹⁸² who is in receipt of an allowance the rate of which is related to the rates of ~~unemployment assistance~~ *jobseeker's allowance* payable under section 142 or ~~unemployment benefit~~ *jobseeker's benefit* payable under section 65 or 66, *142, jobseeker's benefit payable under section 65 or 66 or jobseeker's benefit (self-employed) payable under section 68E or 68G*,¹⁸³ in respect of a non-craft full-time course approved by An Foras Áiseanna Saothair under the Industrial Training Act 1967 *an approved course of training*,¹⁸⁴ ~~or the scheme administered by An Foras Áiseanna Saothair and known as the national internship scheme~~^{185 186}, or

(vi) a spouse, *civil partner or cohabitant of that person*¹⁸⁷ who is entitled to or in receipt of an allowance the rate of which is related to the rates of ~~unemployment assistance~~ *jobseeker's allowance* payable under section 142 or ~~unemployment benefit~~ *jobseeker's benefit* payable under section 65 or 66, *142, jobseeker's benefit payable under section 65 or 66 or jobseeker's benefit (self-employed) payable under section 68E or 68G*¹⁸⁸ in respect of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme, or

(vii) a spouse, *civil partner or cohabitant of that person*¹⁸⁹ who is entitled to or in receipt of an allowance the rate of which is related to the rates of ~~unem-~~

¹⁷⁶ Inserted by s.15(2)(a) SW&PA 2010

¹⁷⁷ Inserted by s.15(2)(a) SW&PA 2010

¹⁷⁸ Inserted by s.15(2)(a) SW&PA 2010

¹⁷⁹ Substituted by s.2 SWA 2016

¹⁸⁰ Inserted by s.15(2)(a) SW&PA 2010

¹⁸¹ Inserted by Item 1 of the Schedule of SWA 2019

¹⁸² Inserted by s.15(2)(a) SW&PA 2010

¹⁸³ Substituted by Item 1 of the Schedule of SWA 2019

¹⁸⁴ Substituted by s.3(b) SW&P(MP)A 2013

¹⁸⁵ Inserted by s.16 SW&PA 2011

¹⁸⁶ Deleted by s.16(6) SW&PA 2011

¹⁸⁷ Inserted by s.15(2)(a) SW&PA 2010

¹⁸⁸ Substituted by Item 1 of the Schedule of SWA 2019

¹⁸⁹ Inserted by s.15(2)(a) SW&PA 2010

~~ployment assistance~~ **jobseeker's allowance** payable under section 142 ~~or unemployment benefit~~ **jobseeker's benefit** payable under section 65 or 66, **142, jobseeker's benefit payable under section 65 or 66 or jobseeker's benefit (self-employed) payable under section 68E or 68G,**¹⁹⁰ 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,~~¹⁹¹

(IV) Part-Time Job Incentive, or

(V) the national internship scheme,¹⁹²

or

(b) a person over the age of 16 years being wholly or mainly maintained by that person and having the care of one or more than one qualified child who normally resides with that person where that person is—

(i) a single person,

(ii) a widow,

(iii) a widower, ~~or~~¹⁹³

(iv) a married person who is not living with and is neither wholly or mainly maintaining, nor being wholly or mainly maintained by, the married person's spouse,

(v) a surviving civil partner, or¹⁹⁴

(vi) a civil partner who is not living with and is neither wholly or mainly maintaining, nor being wholly or mainly maintained by, his or her civil partner.¹⁹⁵

or

(c) any person whom the Minister may by regulations specify to be a qualified adult for the purposes of this Act.

(3) Subject to section 134(3), in this Act “qualified child” means a person who is ordinarily resident in the State, is not detained in a ~~reformatory or an industrial school~~ **children detention school,**¹⁹⁶ and—

¹⁹⁰ Substituted by Item 1 of the Schedule of SWA 2019

¹⁹¹ Substituted by s.16(6) SW&PA 2011

¹⁹² Inserted by s.16(6) SW&PA 2011

¹⁹³ Deleted by s.15(2)(i) SW&PA 2010

¹⁹⁴ Inserted by s.15(2) SW&PA 2010

¹⁹⁵ Inserted by s.15(2) SW&PA 2010

¹⁹⁶ Substituted by s. 9(b) SW (MP) A 2008

(a) for the purposes of—

(i) section 43(2), in the case of an applicant for ~~disability benefit~~ **illness benefit** other than as referred to in paragraph (b),

(ii) section 56(2), in the case of an applicant for health and safety benefit other than as referred to in paragraph (b),

(iii) section 66(2), in the case of an applicant for ~~unemployment benefit~~ **jobseeker's benefit** other than as referred to in paragraph (b),

(iiia) section 68E(3), in the case of an applicant for jobseeker's benefit (self-employed) other than as referred to in paragraph (b),¹⁹⁷

(iv) section 76(2), in the case of an applicant for injury benefit other than as referred to in paragraph (b), and

(iva) section 68G(3), in the case of an applicant who has been entitled to or is in receipt of jobseeker's benefit (self-employed) for not less than 26 weeks, or, subject to the conditions and in the circumstances that may be prescribed, has been entitled to or has been in receipt of jobseeker's benefit (self-employed) and a relevant payment for not less than 26 weeks, and¹⁹⁸

(v) section 142(1)(b)(ii), in the case of an applicant for ~~unemployment assistance~~ **jobseeker's allowance** other than as referred to in paragraph (b),

is under the age of 18 years or is of or over the age of 18 years and is regarded as attending a course of study referred to in section 148(3)(a), and

(b) for the purposes of—

(i) sections 81(5), 83(1), 102(1), 112(2), 117(2), 122(2), 127(1), 130, 137, 150(1)(b), 156(1), ¹⁹⁹, 168(1), ~~174(1)~~, **174(1)**, **178(4)**, **178(6)**, **178A(3)**,²⁰⁰ 181(1), 211(1)(b), 215(1)(b) and 228,

(ii) section 43(2), in the case of an applicant who, in respect of any period of interruption of employment has been entitled to or is in receipt of ~~disability benefit~~ **illness benefit** for not less than 156 days or, subject to the conditions and in the circumstances that may be prescribed, has been entitled to or has been in receipt of ~~disability benefit~~ **illness benefit** and a relevant payment for not less than 156 days,

(iii) section 56(2), in the case of an applicant who, in respect of a period of health and safety leave under the Maternity Protection Act 1994, has been entitled to or is in receipt of health and safety benefit for not less than 156 days or, subject to the conditions and in the circumstances that may be prescribed, has been entitled to or has been in receipt of health and safety benefit and a relevant payment for not less than 156 days,

¹⁹⁷ Inserted by Item 1 of the Schedule of SWA 2019

¹⁹⁸ Inserted by Item 1 of the Schedule of SWA 2019

¹⁹⁹ Uncommenced provision - see s.13(a) [SW&PA 2008](#)

²⁰⁰ Substituted by s.9(1) SW&PA 2011

(iv) section 66(2) or 142(1)(b)(ii), in the case of an applicant who, in any continuous period of unemployment as read in accordance with section 141(3), has been entitled to or is in receipt of ~~unemployment benefit~~ *jobseeker's benefit* or ~~unemployment assistance~~ *jobseeker's allowance* for not less than 156 days, or, subject to the conditions and in the circumstances that may be prescribed, has been entitled to or has been in receipt of ~~unemployment benefit~~ *jobseeker's benefit* or ~~unemployment assistance~~ *jobseeker's allowance* and a relevant payment for not less than 156 days, and

(v) section 76(2), as it applies to disablement pension or in the case of an applicant who, in respect of any period of interruption of employment, has been entitled to or is in receipt of injury benefit and a relevant payment for not less than 156 days, subject to the conditions and in the circumstances that may be prescribed,

and satisfies one of the following conditions—

(I) is under the age of 18 years, or

(II) is of or over the age of 18 years and under the age of 22 years and is receiving full-time education, the circumstances of which shall be specified in regulations, or

(III) is of or over the age of 18 years and is regarded as attending a course of study referred to in section 148(3)(a).

(4) In subsection (3) “relevant payment” means any benefit specified in section 39(1) (other than ~~old age (contributory) pension~~ *State pension (contributory)*) or any assistance specified in section 139(1) (other than ~~old age (non-contributory) pension~~ *State pension (non-contributory)*).

(5) (a) Notwithstanding subsection (3)(b)(v)(II), a person receiving full-time education, in accordance with that provision, who attains the age of 22 years during an academic year shall continue to be regarded as a qualified child for the purposes of that provision, while receiving full-time education for the duration of that academic year.

(b) In this subsection “academic year” has the meaning given to it by section 148(2).

(6) (a) Subject to paragraph (b) and notwithstanding subsection (3)(a), a person who attains the age of 18 years while attending a full-time day course of study, instruction or training at an institution of education, shall continue to be regarded as a qualified child for the purposes of that subsection until the following 30 June or until the person completes the full-time day course, whichever is the earlier.

(b) For the purposes of paragraph (a), the Minister may prescribe the conditions subject to which a person shall be regarded as attending a full-time day course of study, instruction or training at an institution of education.

(c) In this subsection, “institution of education” has the meaning given to it by section 148(2).

(7) Subject to Part 12, “liable relative” means in relation to any person—

(a) a man who is liable to maintain—

(i) his wife,

~~(ii) his former wife where the marriage has been dissolved, being a dissolution that is recognised as valid in the State,~~

~~while she is in receipt of an allowance or benefit, and~~

~~(iii) any qualified child of his in respect of whom an increase in allowance or benefit is payable to the mother,~~

~~or~~

~~(b) a woman who is liable to maintain—~~

~~(i) her husband,~~

~~(ii) her former husband where the marriage has been dissolved, being a dissolution that is recognised as valid in the State,~~

~~while he is in receipt of an allowance, and~~

~~(iii) any qualified child of hers in respect of whom an increase in allowance is payable to the father.²⁰¹~~

(7) Subject to Part 12, 'liable relative' means in relation to any person—

(a) a man who is liable to maintain all or any of the following:

(i) his—

(I) ~~wife~~ *spouse*²⁰²;

(II) his ~~former wife~~ *former spouse*²⁰³ where the marriage has been dissolved, being a dissolution that is recognized as valid in the State;

(III) his civil partner;

(IV) his former civil partner where the civil partnership has been dissolved, being a dissolution that is recognised as valid in the State;

while all or any of the persons specified in clauses (I) to (IV) are, or is, in receipt of an allowance or a benefit, and

(ii) any qualified child of his in respect of whom an increase in allowance or a benefit is payable to the ~~mother~~ *other parent of that qualified child*²⁰⁴

or

(b) a woman who is liable to maintain all or any of the following:

(i) her—

(I) ~~husband~~ *spouse*²⁰⁵;

²⁰¹ Substituted by s.15(3) SW&PA 2010

²⁰² Substituted by s.11(a)(i) SW&PA 2015

²⁰³ Substituted by s.11(a)(ii) SW&PA 2015

²⁰⁴ Substituted by s.11(a)(iii) SW&PA 2015

²⁰⁵ Substituted by s.11(a)(iv) SW&PA 2015

(II) her ~~former husband~~ *former spouse*²⁰⁶ where the marriage has been dissolved, being a dissolution that is recognised as valid in the State;

(III) her civil partner;

(IV) her former civil partner where the civil partnership has been dissolved, being a dissolution that is recognised as valid in the State;

while all or any of the persons specified in clauses (I) to (IV) are, or is, in receipt of an allowance or benefit,

and

(ii) any qualified child of hers in respect of whom an increase in allowance is payable to the ~~father~~.²⁰⁷ *other parent of that qualified child*²⁰⁸

(8) In sections 62, ~~68C~~²⁰⁹ ~~141 and 274A~~, *141, 148A and 274A*,²¹⁰ ‘electronic communication’ means the communication of information that is generated, transmitted, processed, received, recorded, stored or displayed by electronic means or in electronic form, and includes—

(a) information communicated in the form of speech which is processed at its destination by an automatic voice recognition system,

(b) a communication transmitted by means of the internet or by means of mobile phone telephony, and

(c) the transmission of a signature by electronic means.²¹¹

Interpretation generally.

3. (1) For the purposes of this Act—

(a) a person is deemed to be over any age mentioned in this Act where the person has attained that age and is deemed to be under any age mentioned in this Act where the person has not attained that age;

(b) a person is deemed to be between 2 ages mentioned in this Act where the person has attained the first-mentioned age but has not attained the second-mentioned age;

(c) a person is deemed not to have attained the age of 16 years until the beginning of the 16th anniversary of the day of the person’s birth, and similarly with respect to any other age;

(d) regulations may provide that, for the purpose of determining whether a contribution is payable in respect of a person, or at what rate a contribution is payable, the person shall be treated as having attained at the beginning of a contribution week, or as not having attained until the end of a contribution week, any age which that person attains during the course of that week;

²⁰⁶ Substituted by s.11(a)(v) SW&PA 2015

²⁰⁷ Substituted by s.15(3) SW&PA 2010

²⁰⁸ Substituted by s.11(a)(vi) SW&PA 2015

²⁰⁹ Inserted by Item 1 of the Schedule of SWA 2019

²¹⁰ Substituted by s.10 SW&P(MP)A 2013

²¹¹ Ss (8) inserted by s.4 SW&PA 2010

(e) the circumstances in which a person is to be regarded as living alone shall be specified in regulations;

(f) regulations shall provide for determining the circumstances in which a person is or is not to be regarded to be wholly or mainly maintaining another person.

(2) Any reference in this Act to contributions, where the reference is without qualification, shall be read, save where the context otherwise requires, as including a reference to employment contributions, self-employment contributions and voluntary contributions.

(3) Regulations may, in relation to any class or description of insurable employment or insurable (occupational injuries) employment, specify the persons to be treated for the purposes of this Act as the employers of employed contributors employed in that employment.

(4) References in this Act to an employed contributor's employer shall not be read as including his or her employer in any employment other than insurable employment or insurable (occupational injuries) employment.

(5) Any question relating to the normal residence of a qualified child shall, subject to section 220(2), be decided in accordance with regulations made under that subsection. ²¹²

(6) Where a child has been or becomes adopted under ~~the Adoption Acts 1952 to 1998~~²¹³ ***an adoption order within the meaning of section 3(1) of the Adoption Act 2010 or is the subject of an intercountry adoption effected outside the State and recognised under that Act***, then for the purposes of this Act—

(a) the child shall after the adoption be treated as if he or she were the child of the adopter or adopters born to that adopter or adopters and were not the child of any other person and, where the child was an orphan immediately before the adoption, as having ceased to be an orphan, and

(b) where there is one adopter only, in any application after the adoption with respect to the child of the definition of “orphan” contained in section 2(1), “the parent of whom is dead” is substituted in paragraph (a) of that definition for “both of whose parents are dead”.

(7) In this Act—

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

(b) a reference to a subsection, paragraph, subparagraph or clause is to the subsection, paragraph, subparagraph or clause of the provision (including a Schedule) in which the reference occurs, unless it is indicated that reference to some other provision is intended, and

(c) a reference to any other enactment shall, unless the context otherwise requires, be read as a reference to that enactment as amended or extended by or under any subsequent enactment.

²¹² Uncommenced provision - see s3(1) [SW\(MP\)A 2010](#)

²¹³ Substituted by s.171(a) [AA 2010](#)

(8) References in any other enactment to the “Social Welfare Acts” means this Act and every enactment which is to be read together with it as one.

(9) In this Act, any reference to this Act shall be read as including a reference to regulations made under or applying the provisions of this Act.

~~(10) For the purposes of sections 43(3), 66(3), 76(3), 77A,²¹⁴ 112(3), 117(3), 122(3), 134, 141(2)(d), 146, 149(2), 149(4),²¹⁵ 150(3), 158, 150(3), 152, 158, 161,²¹⁶ 181(4), 210(2), 211(3), 214(2),²¹⁷ 216, 219(2), 297 and 298 and Chapter 9 of Part 3, “spouse” means—~~

~~(a) each person of a married couple who are living together, or~~

~~(b) a man and woman who are not married to each other but are cohabiting as husband and wife.²¹⁸~~

~~(10) For the purposes of sections 43(3), 66(3), 76(3), 112(3), 117(3), 122(3), 134, 141(2)(d), 146, 149(2), 149(4), 150(3), 152, 158, 161, 181(4), 210(2), 211(3), 214(2), 216, 219(2), 250(2)(b), 297 and 298 and Chapter 9 of Part 3, **Chapter 9 of Part 3 and Part 7A**²¹⁹—~~

~~(a) “spouse” means each person of a married couple who are living together, and~~

~~(b) “civil partner” means each civil partner of a couple who are both parties to a civil partnership who are living together.²²⁰⁻²²¹~~

(10) For the purposes of sections 43, 56, 66, 76, 77A, 102, 112, 117, 122, 134, 141(2)(d), 146, 149(4), 150(3), 158, 161D, 181(4), 210(2), 211(3), 214(2), 216, 219(2), 250(2)(b), 297 and 298, Chapter 9 of Part 3 and Part 7A—

(a) ‘spouse’ means each person of a married couple who are living together, and

(b) ‘civil partner’ means each civil partner of a couple who are both parties to a civil partnership who are living together.²²²

~~(11) For the purposes of determining the entitlement of a person to an increase in respect of a qualified adult, references to a spouse in the definition of “qualified adult” contained in section 2(2) and regulations made under that provision shall be read as including:~~

~~(a) a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, or~~

~~(b) a man and woman who are not married to each other but are cohabiting as husband and wife.²²³~~

(11) For the purposes of determining the entitlement of a person to an increase in respect of a qualified adult—

²¹⁴ Substituted by s.6(a) SWA 2010

²¹⁵ Inserted by s.4(a) SW(MP)A 2010

²¹⁶ Substituted by s. 37 and Sch. 7 SWLR&PA 2006

²¹⁷ Inserted by s.4(b) SW(MP) A 2010

²¹⁸ Substituted by s.16(a) SW&PA 2010

²¹⁹ Substituted by s. 14 & Sch. to SW(MP)A 2015

²²⁰ Substituted by s.16(a) SW&PA 2010

²²¹ Substituted by s.12 SW&PA 2015

²²² Substituted by s.12 SW&PA 2015

²²³ Substituted by s.16(b) SW&PA 2010

(a) references to a spouse in the definition of ‘qualified adult’ contained in section 2(2) and regulations made under that provision shall be read as including a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, and

(b) references to a civil partner in the definition of ‘qualified adult’ contained in section 2(2) and regulations made under that provision shall be read as including a party to a civil partnership that has been dissolved, being a dissolution that is recognised as valid in the State.²²⁴

Regulations.

4. (1) The Minister may make regulations—

(a) for any purpose in relation to which regulations are provided for by any of the provisions of this Act, and

(b) for prescribing any matter or thing referred to in this Act as prescribed or to be prescribed.

(2) Except in so far as this Act otherwise provides, any power conferred by this Act to make regulations may be exercised—

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case, and

(b) so as to make, as regards the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by exception or otherwise),

(ii) the same provision for all cases in relation to which the power is exercised or different provision for different cases or classes of case, or different provision in relation to the same case or class of case for different purposes of this Act,

(iii) any such provision either unconditionally or subject to any specified condition.

(3) Without prejudice to any specific provision in this Act, regulations may contain any incidental or supplementary provisions that may appear to the Minister to be expedient for the purposes of the regulations.

(4) The following are subject to the sanction of the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²²⁵:

(a) regulations for the purposes of sections 2(2), ~~13, 14, 15, 16, 17, 20(2)(d), 22, 23, 25(1)(d)~~²²⁶, **38C(2), 38E**,²²⁷ 41(4), 41(7), 49, 60, 62(3), 62(5), 62(7), 64(6), **68C**,²²⁸

²²⁴ Substituted by s.16(b) SW&PA 2010

²²⁵ Substituted by s.96 (a) [MS\(A\)A 2011](#)

²²⁶ Deleted by s.96(a) [MS\(A\)A 2011](#)

²²⁷ 38C(2) and 38E inserted by s. 5(a) SW C-19AA 2020

²²⁸ Inserted by Item 2 of the Schedule of SWA 2019

68N, 68O, 68P,²²⁹ 70(3), 71(7), 71(8), 71(9), 99(3), 108(6), 108(7), 109(8), 109(11), 109(14), 109(16), 114(6), 114(7), 115(4), 115(5), 115(7), 119(1), 119(2), 120, 125(3), 125(5), 135(2), 135(3), 141(1), 142(5), 151, ~~173(4)~~,²³⁰ 179(1), 186(2)(b), 198, 232(2), 232(3), 233, 241(7), 289, 292, 297, ~~342 and 363~~ **342, 343M and 363**²³¹ and, in Schedule 3, Rule 1(2)(b)(iv)(I), (6) and (7) of Part 2, ~~Rule 2(3) of Part 3 and Rule 2 of Part 4~~ **Rule 2(3) of Part 3, Rule 2 of Part 4 and Rule 2(3) of Part 5**²³² and Reference 14 and 19 in Table 2;

(b) a draft of regulations under any of the provisions mentioned in subsection (5).

(4A) The making of regulations under or for the purposes of section 13, 14, 15, 16, 17, 20(2)(d), 22, 23 or 25(1)(d) by the Minister shall be subject to the consent of the Minister for Finance given after consultation by the Minister for Finance with the Minister for Public Expenditure and Reform.²³³

(5) Where regulations are proposed to be made for the purposes of section 12(2), 12(3), 13(3)(a), 20(2)(a), 20(2)(b), 20(2)(c), 32, 41(6), 58(3), 64(5), 101(2), 109(7), 115(3), 119(6), 125(2), 131(2), 135(2), 262(3), 263(1) or 264(1), or, in Schedule 3, Rule 4(a) of Part 2, ~~Rule 7 of Part 3 or Rule 2(a) of Part 4~~ **Rule 7 of Part 3, Rule 2(a) of Part 4 or Rule 7 of Part 5**,²³⁴ or Schedule 5, a draft of those regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.

(6) Regulations or rules (not being regulations of which a draft is required by this Act to be approved of by resolution of each House of the Oireachtas) shall be laid before each House of the Oireachtas as soon as practicable after they are made and, if a resolution annulling the regulations or rules is passed by either House within the next 21 days on which that House has sat after the regulations or rules have been laid before it, the regulations or rules shall be annulled accordingly, but without prejudice to the validity of anything previously done under those regulations or rules.

(7) Where the Minister revokes regulations made under any of the provisions mentioned in subsection (5) and makes regulations which he or she certifies to be substantially to the like effect as the regulations so revoked, a requirement that a draft of the proposed regulations be laid before each House of the Oireachtas shall not apply.

Expenses.

5. (1) Any expenses incurred by the Minister or any other Minister in carrying this Act into effect shall, to the extent that may be sanctioned by the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²³⁵, be paid out of moneys provided by the Oireachtas.

(2) There shall be paid to the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²³⁶ out of the Social Insurance Fund, at the times and in the manner the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²³⁷ may direct, any sums that the Minister may estimate, on the basis that may be agreed on between the Minister and the

²²⁹ 68N, 68O 68P inserted by s.5(b) SW C-19AA2020

²³⁰ Deleted by Section 10 of the SWA 2020

²³¹ Substituted by s.13(a) SW&PA 2013

²³² Substituted by s. 17 + Sch. 3 SWLR&PA 2006

²³³ Inserted by s.96(a) [MS\(A\)A 2011](#)

²³⁴ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

²³⁵ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²³⁶ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²³⁷ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²³⁸, to be the part of those expenses of the Minister or any other Minister which relates to the scheme of social insurance provided for in Part 2 and any sums so paid shall be appropriated in aid of moneys provided by the Oireachtas for carrying this Act into effect.

(3) In estimating expenses for the purposes of subsection (2), there shall be included an amount that, in the opinion of the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²³⁹, represents the amount of the accruing liability in respect of any superannuation or other retiring allowances, lump sums or gratuities accruing in respect of the employment of any officer or other person for the purposes of this Act.

~~(4) Any expenses incurred by An Post under Part 2 (determined on the basis that may be agreed on between the Minister, the Minister for Finance~~ **Minister for Public Expenditure and Reform**²⁴⁰ ~~and An Post) shall be paid by the Minister out of the Social Insurance Fund to An Post at the times and in the manner the Minister for Finance~~ **Minister for Public Expenditure and Reform**²⁴¹ ~~may direct.~~²⁴²

(4) Fees incurred on foot of an arrangement under section 289A with a payment service provider, subject to the arrangement concerned and the agreement of the Minister for Public Expenditure and Reform as to the manner of payment, shall be paid by the Minister out of the Social Insurance Fund to the payment service provider.²⁴³

(5) Any fees in respect of an audit of the Social Insurance Fund which are payable to the Comptroller and Auditor General in accordance with section 12 of the Comptroller and Auditor General (Amendment) Act 1993 shall be paid by the Minister out of that Fund.

(6) There shall be paid to the Minister for Enterprise, Trade and Employment out of the Social Insurance Fund, at the times and in the manner the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²⁴⁴ may direct, the sums that the Minister for Enterprise, Trade and Employment may estimate, on the basis that may be agreed on between the Minister for Enterprise, Trade and Employment, the Minister and the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²⁴⁵, to be part of the expenses incurred in carrying into effect—

(a) the Protection of Employees (Employers' Insolvency) Acts 1984 to 2004, and

(b) the Redundancy Payments Acts 1967 to 2003,

and any sums so paid shall be appropriated in aid of moneys provided by the Oireachtas for carrying into effect the Acts referred to in paragraphs (a) and (b).

PART 2

SOCIAL INSURANCE

²³⁸ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²³⁹ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²⁴⁰ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²⁴¹ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²⁴² Substituted by s.3(b) SW&PA 2014

²⁴³ Substituted by s.3(b) SW&PA 2014

²⁴⁴ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²⁴⁵ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

CHAPTER 1
Social Insurance Fund

Sources of moneys for benefits.

6. (1) For the purposes of providing moneys for meeting the expenditure on benefit and making any other payments which, under this Act (other than section 8), the Redundancy Payments Acts 1967 to 2003 and the Protection of Employees (Employers' Insolvency) Acts 1984 to 2004, are to be made out of the Social Insurance Fund, there shall be—

(a) contributions (referred to in this Act as “employment contributions”) in respect of employed contributors, each of which shall comprise a contribution by the employed contributor and a contribution (referred to in this Act as “the employer’s contribution”) by the employer of the employed contributor,

(b) contributions (referred to in this Act as “self-employment contributions”) in respect of self-employed contributors,

(c) contributions in respect of optional contributors,

(d) contributions in respect of ~~voluntary contributors, and~~ **voluntary contributors**,²⁴⁶

(da) contributions under Chapter 5A of Part 2,

(db) contributions under Chapter 5B of Part 2, and²⁴⁷

(e) payments out of moneys provided by the Oireachtas.

(2) Employment contributions, self-employment contributions, ~~optional contributions and voluntary contributions~~ **optional contributions, voluntary contributions and contributions under Chapters 5A and 5B of Part 2**²⁴⁸ shall be paid into the Social Insurance Fund.

Social Insurance Fund – expenditure on benefit.

7. (1) Benefit shall be paid or provided for out of the Social Insurance Fund.

(2) A reference to benefit in section 6 and this section includes:

(a) the benefits described in section 39,

(b) a relevant payment within the meaning of section 178(1)(a),

(c) schemes administered by the Minister and known as—

(i) Free Fuel Allowance,

(ii) Free Electricity Allowance,

(iii) Free Television Licence,

(iv) Free Telephone Rental Allowance,

²⁴⁶ Substituted by s. 6(2)SW&P(MP)A 2013

²⁴⁷ Paras (da) and (db) inserted by s. 6(2)SW&P(MP)A 2013

²⁴⁸ Substituted by s. 6(2)SW&P(MP)A 2013

(v) Free Natural Gas Allowance, and

(vi) Free Bottled Gas Allowance,

where those allowances are payable in respect of a person in receipt of a benefit under section 39(1) or a relevant payment within the meaning of section 178(1)(a),

(d) a payment under regulations made under section 138 in respect of dental treatment or optical treatment and appliances which would have been payable in respect of a person but for the fact that the person availed of a service in respect of dental treatment or optical treatment and appliances under sections 45, ~~45A~~²⁴⁹ and 67 of the Health Act 1970,

(e) any benefit to which section 39(1) refers which would have been payable in respect of a person but for the receipt by that person of ~~old age (non-contributory) pension~~ **State pension (non-contributory)**,

(f) any increase in any benefit to which section 39(1) refers which would have been payable in respect of a person, but for the receipt by that person of an ~~old age (non-contributory) pension~~ **State pension (non-contributory)** in his or her own right, and

(g) ~~unemployment benefit~~ **jobseeker's benefit or jobseeker's benefit (self-employed)**²⁵⁰ which would have been payable in respect of a person but for the receipt by that person of ~~unemployment assistance~~ **jobseeker's allowance**.

(3) Benefit to be paid or provided for out of the Social Insurance Fund shall include such sums as the Minister may estimate on the basis that may be agreed on between the Minister and the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²⁵¹ in respect of the benefits set out in subsection (2)(c), (d), (e), (f) and (g).

(4) There shall be paid out of the Social Insurance Fund—

(a) to the Minister for Health and Children the sum agreed between the Minister and the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²⁵² in respect of the benefit set out in subsection (2)(d), and

(b) to the Exchequer in respect of the sums agreed between the Minister and the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²⁵³ in respect of the benefits set out in subsection (2)(c), (e), (f) and (g),

in the manner and at the times the Minister may determine.

(5) Benefit to be paid or provided for out of the Social Insurance Fund shall include such sums as the Minister may estimate on the basis that may be agreed between the Minister and the Minister for Public Expenditure and Reform in respect of the payments, commonly known as the pandemic unemployment payments, made under section 202 on and after 13 March 2020 to the relevant date to address the adverse economic effects of the spread of the disease known as Covid-19 and such payments shall be treated as having been paid under—

²⁴⁹ Reference to section "45A" inserted by s. 9 [HA 2008](#)

²⁵⁰ Inserted by Item 3 of the Schedule of SWA 2019

²⁵¹ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²⁵² Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²⁵³ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

(a) Chapter 12 of Part 2, insofar as those payments relate to persons to whom that Chapter applies,

(b) Chapter 12A of Part 2, insofar as those payments relate to self-employed contributors to whom that Chapter applies, or

(c) Chapter 2 of Part 3, insofar as those payments relate to persons to whom that Chapter applies.

(6) In subsection (5), ‘relevant date’ means the date on which Chapter 12B (inserted by section 11 of the Social Welfare (Covid-19) (Amendment) Act 2020) comes into operation.²⁵⁴

Social Insurance Fund -payments to National Training Fund.

8. The Minister shall make payments out of the Social Insurance Fund into the National Training Fund equaling those paid into the first-mentioned fund pursuant to section 5(3) and (4) of the National Training Fund Act 2000.

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Social Insurance Fund.

9. (1) The Social Insurance Fund (in this section and in section 11 referred to as “the Fund”), established under the Social Welfare Act 1952 and continued in being under section 7 of the Social Welfare (Consolidation) Act 1993, shall continue in being and to comprise a current account and an investment account.

(2) The Minister shall manage and control the current account of the Fund.

(3) The Minister for Finance shall manage and control the investment account of the Fund.

(4) Save where otherwise specifically provided—

(a) *subject to subsection (9)(f)*²⁵⁶, sums payable into the Fund shall be paid into either the current account of the Fund or the investment account of the Fund, and

(b) sums payable out of the Fund shall be paid out of the current account of the Fund.

(5) Moneys standing to the credit of the current account of the Fund and not required to meet current expenditure shall be transferred to the investment account of the Fund.

(6) Whenever the moneys in the current account of the Fund are insufficient to meet the liabilities of that account, there shall be paid into that account from the investment account of the Fund the moneys necessary to meet those liabilities.

(7) Subject to subsection (6), moneys standing to the credit of the investment account of the Fund shall be invested by the Minister for Finance and income arising from any such investment shall be paid into that account.

(8) An investment under subsection (7) may be—

²⁵⁴ Subsections (5) and (6) inserted by s.6 SW C-19AA 2020

²⁵⁵ Uncommenced provision – s.8A inserted by s.5 SW&PA 2008 but s.5 deleted prior to commencement by s.21 SW&PA 2014

²⁵⁶ Inserted by s.18 SW&PA 2012

- (a) in securities in which trustees are for the time being by law empowered to invest trust funds, or
- (b) in any of the stocks, funds and securities which are for the time being authorised by law as investments for Post Office Savings Bank Funds.
- (9) (a) The amount by which the income of the Fund for any financial year is less than its expenditure shall be paid into the Fund out of moneys provided by the Oireachtas.
- (b) The income and expenditure of the Fund for a financial year shall be determined for the purposes of this subsection by the Minister on the basis that may be agreed on between the Minister and the Minister for Finance.
- (c) The Minister may, for the purpose of maintaining a sufficient amount of moneys in the current account of the Fund, having regard to the sums payable from the current account, request the Minister for Finance to advance moneys to the special account of the Fund from the Central Fund.
- (d) A request under paragraph (c) shall be approved by the Minister for Finance, following consultation with the Minister for Public Expenditure and Reform before any moneys are advanced to the special account of the Fund pursuant to a request under that paragraph.
- (e) For the purposes of moneys advanced to the Fund pursuant to a request under paragraph (c) an account (in this section referred to as the ‘special account of the Fund’) shall be established which shall be—
- (i) in the name of the Minister, and
 - (ii) an account with the Paymaster General.
- (f) The Minister shall, subject to such conditions as the Minister for Finance considers appropriate, manage and control the special account of the Fund for the purpose of maintaining an amount of moneys in the current account of the Fund that is sufficient to meet the sums payable from that current account.
- (g) Subject to subsection (6), whenever the moneys in the current account of the Fund are insufficient to meet the sums payable from that account, there shall be paid into that current account from the special account of the Fund the moneys necessary to meet those sums payable.²⁵⁷
- (10) Any sum payable into the Fund under subsection (9)(a) shall be paid in the manner and at the times as the Minister for Finance may determine.
- (11) Accounts of the Fund shall be prepared in the form and manner and at the times the Minister for Finance may direct and the Comptroller and Auditor General shall examine and certify every account and a copy of every account, together with the report thereon of the Comptroller and Auditor General, shall be laid before each House of the Oireachtas.

²⁵⁷ Paras (c) to (g) inserted by s.18(b) SW&PA 2012

(12) The Minister for Finance shall, in relation to the performance by him or her of his or her functions under this section, consult from time to time with the Minister for Public Expenditure and Reform.²⁵⁸

Actuarial review.

10. (1) The Minister shall cause—

(a) actuarial reviews to be made of the financial condition of the Social Insurance Fund by the persons the Minister may decide for the purpose of determining the extent to which the Fund may be expected, in the longer term, to meet the demands in respect of payment of benefits and other payments, having regard, in particular, to the adequacy or otherwise of the contributions to support benefits and other payments and any other matters the Minister considers to be relevant as affecting the current and future financial condition of the Fund,

(b) a report to be made to the Minister on completion of any such review, and

(c) a copy of every report under this section to be laid before each House of the Oireachtas within 6 months of the completion of the review.

(2) The date of completion of the first actuarial review under this section shall be a date not later than 31 December 2002, and the date of completion of each subsequent review shall be a date not later than 5 years after the date of completion of the immediately preceding review.

Payments from Fund for acquisition of land, etc.

11. (1) Payments may be made out of the Fund in respect of expenditure by the Minister on the acquisition of lands, premises, furniture or equipment or the construction or reconstruction of premises, and any such lands, premises, furniture or equipment shall be held by the Minister on behalf of the Fund.

(2) A payment shall not be made under subsection (1) save with the consent of the ~~Minister for Finance~~ *Minister for Public Expenditure and Reform*²⁵⁹.

(3) The Minister may dispose of any lands, premises, furniture or equipment which he or she has acquired, constructed or reconstructed under this section and any moneys which the Minister receives in respect of any such disposal shall be paid into the Fund.

(4) A disposal shall not be effected under subsection (3) save with the consent of the ~~Minister for Finance~~ *Minister for Public Expenditure and Reform*²⁶⁰.

CHAPTER 2

Employed Contributors and Employment Contributions

Employed contributors and insured persons.

12. (1) Subject to this Act—

(a) subject to paragraph (b), every person who, being over the age of 16 years and under pensionable age, is employed in any of the employments specified in Part 1 of

²⁵⁸ Inserted by s.96(b) [MS \(A\)A 2011](#)

²⁵⁹ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²⁶⁰ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

Schedule 1, not being an employment specified in Part 2 of that Schedule, shall be an employed contributor for the purposes of this Act, and

(b) every person, irrespective of age, who is employed in insurable (occupational injuries) employment shall be an employed contributor and references in this Act to an employed contributor shall be read accordingly, and

(c) every person becoming for the first time an employed contributor shall thereby become insured under this Act and shall thereafter continue throughout his or her life to be so insured.

(2) Regulations may provide for including among employed contributors persons employed in any of the employments specified in Part 2 of Schedule 1.

(3) Regulations may provide for—

(a) excluding particular employments or any classes of employment from the employments specified in Part 1 of Schedule 1, or

(b) adding to the employments so specified particular employments or any classes of employment,

and, where the Minister considers that any modifications of this Act are appropriate having regard to the purpose for which the regulations are made, the regulations may make those modifications.

(4) For the purposes of this Part, with regard to employment specified in paragraph (13) of Part 1 of Schedule 1, the person who is liable to pay the wages or salary of the individual concerned in respect of the work or service concerned is deemed to be the individual's employer.

(5) The insertion of paragraph 7 of Part 2 of Schedule 1 by section 16 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013 as it affects subsection (1), shall apply to employment that is performed—

(a) on the day of,

(b) after the day of, or

(c) subject to subsection (6), before the day of,

the commencement of that section 16.

(6) A person may elect not to have paragraph 7 of Part 2 of Schedule 1 (inserted by section 16 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013) apply to his or her employment, referred to in that paragraph, where it is performed before the commencement of section 16 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013. ²⁶¹

Employment contributions

13. (1) Employment contributions shall be paid by employed contributors and their employers in accordance with this section.

²⁶¹ Subsections (5) and (6) inserted by s.16(2) SW&P(MP)A 2013

- (2) (a) Where in any contribution week a payment of not more than ~~€287~~ €300²⁶² ~~€339~~²⁶³ €352²⁶⁴ per week (or the equivalent thereof in respect of an employed contributor remunerated otherwise than on a weekly basis) is made to or for the benefit of an employed contributor in respect of reckonable earnings of that contributor relating to an employment, a contribution shall not be payable by that employed contributor in respect of those earnings from that employment.

~~(b) Subject to paragraph (c) **paragraph (ba)**²⁶⁵ and to²⁶⁶ regulations under section 14, where in any contribution week a payment of more than ~~€287~~ €300²⁶⁷ ~~€339~~²⁶⁸ €352²⁶⁹ is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor, there shall be payable a contribution by the employed contributor at the rate of 4 per cent of the amount of reckonable earnings in excess of €127²⁷⁰ in that week in respect of each employment (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis) to which that payment relates.²⁷¹~~

(b) Subject to regulations under section 14, where in any contribution week a payment of more than €352 and not exceeding €424 is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor—

(i) a contribution shall be payable by the employed contributor, and

(ii) the rate at which that contribution shall be payable shall be the rate of 4 per cent of the amount of the reckonable earnings in that week of each employment reduced by the equivalent of the difference between €12 and one-sixth of the difference between the reckonable earnings of that contributor and €352.01 (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis).²⁷²

~~(ba) Where in any contribution week—~~

~~(i) a payment of more than €356 is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor, and~~

~~(ii) other than in a case to which subsection (8) applies, the employed contributor's employer is liable, under paragraph (d)(i), to pay a contribution at the rate of 7.8 per cent,~~

~~then the reckonable earnings of that employed contributor shall be calculated as if, in that week, they amount to €356 and there shall be payable a contribution by that employed contributor at the rate of €9.16, in that week, (or the equivalent thereof~~

²⁶² Substituted by s. 5 SWA 2005

²⁶³ Substituted by s. 5(1)(a) SWA 2006

²⁶⁴ Substituted by s. 5(1) SWA 2007

²⁶⁵ Substituted by s.12(b)(i) SWA 2010

²⁶⁶ “paragraph (ba) and to” deleted by s.3 SW&PA 2011

²⁶⁷ Substituted by s. 5 SWA 2005

²⁶⁸ Substituted by s. 5(1)(b) SWA 2006

²⁶⁹ Substituted by s. 5(1) SWA 2007

²⁷⁰ Deleted by s.6(1) SWA 2012

²⁷¹ s.(2)(b) substituted by s.10(1)(a) SW&PA 2015

²⁷² Para. (b) substituted by s.10(1)(a) SW&PA 2015

in the case of an employed contributor remunerated otherwise than on a weekly basis) in respect of each employment to which that payment relates.^{273 274}

~~(e) Where in a particular contribution year an employed contributor's reckonable earnings have amounted to the sum of €44,180–€46,600²⁷⁵ €48,800²⁷⁶–€50,700²⁷⁷ €52,000²⁷⁸ and the contributions payable under paragraph (b) have been paid in respect of those reckonable earnings, no further such contribution shall be payable in respect of any reckonable earnings of that employed contributor by the employed contributor in that contribution year.~~²⁷⁹

~~(e) Subject to paragraph (ca) where in a particular contribution year an employed contributor's reckonable earnings have amounted to the sum of €75,036 and the contributions payable under paragraph (b) have been paid in respect of those reckonable earnings, no further such contributions shall be payable in respect of any reckonable earnings of that employed contributor by the employed contributor in that contribution year.~~^{280/281}

~~(ca) In the case of an employed contributor who has paid contributions under paragraph (b) in respect of reckonable earnings amounting to the sum of €52,000 prior to 1 May 2009, further contributions shall be payable from that date in respect of such additional reckonable earnings not exceeding €23,036 in that contribution year and paragraph (e) shall be read, together with any modifications as may be necessary, as if €23,036 were substituted for €75,036 in respect of the additional reckonable earnings.~~^{282/283}

~~(d) Subject to subsection (8) *Subject to paragraph (da), subsection (8)*²⁸⁴ and to regulations under section 14, where in any contribution week a payment is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor, there shall be payable a contribution by the employed contributor's employer—~~

~~(i) at the rate of 7.8 per cent of the amount of the reckonable earnings in that week to which that payment relates where those reckonable earnings do not exceed €356 (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis), and~~

~~(ii) at the rate of 10.05 per cent of the amount of the reckonable earnings in that week to which that payment relates where those reckonable earnings exceed €356 (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis).~~²⁸⁵

~~(d) Subject to paragraph (da), subsection (8) and to regulations under section 14, where in any contribution week a payment is made to or for the benefit of an~~

²⁷³ Para (ba) inserted by s.12(b)(ii) SWA 2010

²⁷⁴ Para (ba) deleted by s.3 SW&PA 2011

²⁷⁵ Substituted by s. 5 SWA 2005

²⁷⁶ Substituted by s. 5(1)(c) SWA 2006

²⁷⁷ Substituted by s. 5(1) SWA 2007

²⁷⁸ Substituted by s. 6(1) SW(MP)A 2008

²⁷⁹ Substituted by s. 3 SW&PA 2009

²⁸⁰ Substituted by s.3 SW&PA 2009

²⁸¹ Deleted by s.11(b) SWA 2010

²⁸² Para 13(2)(ca) inserted by s. 3 SW& PA 2009

²⁸³ Deleted by s.11(b) SWA 2010

²⁸⁴ Substituted by s.13(b)(i) SWA 2010

²⁸⁵ Substituted by s.3(c) SW&PA 2011

employed contributor in respect of reckonable earnings of that employed contributor, a contribution shall be payable by the employed contributor's employer—

(i) ~~at the percentage rate specified in the Table to this paragraph of the amount of the reckonable earnings in that week to which that payment relates where those reckonable earnings do not exceed €356 (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis), and~~

(ii) ~~at the rate of 10.05 per cent of the amount of the reckonable earnings in that week to which that payment relates where those reckonable earnings exceed €356 (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis).~~²⁸⁶

(d) Subject to paragraph (da), subsection (8) and regulations under section 14, where in any contribution week a payment is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor, a contribution shall be payable by the employed contributor's employer—

(i) at the rate of 7.8 per cent of the amount of the reckonable earnings in that week to which that payment relates where those reckonable earnings do not exceed ~~€376~~ ~~€386~~²⁸⁷ ~~€395~~²⁸⁸ ~~€398~~²⁸⁹ ~~€410~~²⁹⁰ (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis), and

(ii) at the rate of 10.05 per cent of the amount of the reckonable earnings in that week to which that payment relates where those reckonable earnings exceed ~~€376~~ ~~€386~~²⁹¹ ~~€395~~²⁹² ~~€398~~²⁹³ ~~€410~~²⁹⁴ (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis).²⁹⁵

TABLE²⁹⁶

Contribution payable by employed contributor's employer where the weekly reckonable earnings do not exceed €356	Period for which contribution payable
3.9 per cent	2 July 2011 to 31 December 2011
3.9 per cent	1 January 2012 to 31 December 2012
3.9 per cent	1 January 2013 to 31 December 2013
7.8 per cent	1 January 2014 to 31 December 2014 —and each subsequent contribution year

(da) For the purposes of paragraph (d), reckonable earnings shall be reduced by—

²⁸⁶ Para (d) substituted by s.10(1)(b) SW&PA 2015

²⁸⁷ Substituted by s.3(1)(a)(i) SWP&CRA 2018

²⁸⁸ Substituted by art 3 of SI 7 of 2020 with effect from 1 Feb 2020

²⁸⁹ Substituted by section 2 of SWA 2020

²⁹⁰ Substituted by section 3(1)(a) of SWA 2021

²⁹¹ Substituted by s.3(1)(a)(ii) SWP&CRA 2018

²⁹² Substituted by art 3 of SI 7 of 2020 with effect from 1 Feb 2020

²⁹³ Substituted by section 2 of SWA 2020

²⁹⁴ Substituted by section 3(1)(b) of SWA 2021

²⁹⁵ Para (d) substituted by s.10(1)(b) SW&PA 2015

²⁹⁶ Deleted by s.10(1)(c) SW&PA 2015

~~(i) so much of the allowable contribution referred to in paragraph (e) of regulation 41 (inserted by section 16 of the Financial Emergency Measures in the Public Interest Act 2009) of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I.No. 559 of 2001), and²⁹⁷~~

(i) so much of the allowable contribution referred to in subparagraph (e) of Regulation 31(1) of the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018), and²⁹⁸

~~(ii) half of so much of the allowable contribution referred to in—~~

~~(I) paragraphs (a) to (d) of regulation 41, and
(II) regulation 42,~~

~~of the Income Tax (Employments) (Consolidated) Regulations 2001²⁹⁹
Regulations 2001, and^{300 301}~~

(iii) the amount of any share-based remuneration.³⁰²

(db) Subject to regulations under section 14, where in any contribution week a payment of more than €424 is made to or for the benefit of an employed contributor in respect of reckonable earnings of that employed contributor—

(i) a contribution shall be payable by the employed contributor, and

(ii) the rate at which that contribution shall be payable shall be the rate of 4 per cent of the amount of the reckonable earnings in that week of each employment (or the equivalent thereof in the case of an employed contributor remunerated otherwise than on a weekly basis).³⁰³

~~(de) Subject to paragraphs (dd) and (de), where the Minister has made an order under subsection (1A) of section 10D of the National Minimum Wage Act 2000, he or she may, by order, vary the amount of reckonable earnings specified in subparagraphs (i) and (ii) of paragraph (d).³⁰⁴~~

~~(dd) An order under paragraph (de) shall come into operation on the same date as the order under subsection (1A) of section 10D of the National Minimum Wage Act 2000 to which it relates.³⁰⁵~~

~~(de) An order under paragraph (de) shall, in so far as practicable, provide that the same proportion of the reckonable earnings of an employed contributor is subject to the rate specified in subparagraphs (i) and (ii) of paragraph (d) on and after the date on which the order comes into operation as it was subject to immediately before that date.^{306_307308}~~

²⁹⁷ Subpara. (i) substituted by s.3(1)(b) SWPCRA 2018

²⁹⁸ Subpara. (i) substituted by s.3(1)(b) SWPCRA 2018

²⁹⁹ Substituted by s.13(2) SWA 2011

³⁰⁰ Para (da) inserted by s.13(b) SWA 2010

³⁰¹ Deleted by s.14 SWA 2011

³⁰² Subpara (iii) inserted by s.13(2)(b) SWA 2011

³⁰³ Para (db) inserted by s.10(1)(d) SW&PA 2015

³⁰⁴ Deleted by s.2 SWA 2020

³⁰⁵ Deleted by s.2 SWA 2020

³⁰⁶ Para (dc), (dd) and (de) inserted by s.3(1) SW(No.2)A 2019 w.e.f passing of Act. See also next footnote

³⁰⁷ Provisions cease to have effect on date of next recommend. under s 10C Nat. Min. Wage Act 2000 to Min. - S.3(2) SW(No.2)A 2019

³⁰⁸ Deleted by s.2 SWA 2020

(e) For the purposes of this Chapter—

“payment” includes a notional payment;

“notional payment” has the meaning given to it by section 985A (inserted by section 6 of the Finance Act 2003) of the Act of 1997.

~~(3) (a) The Minister may by regulations vary the sums specified in subsection (2)(c) and any variation has effect from the beginning of the contribution year following that in which the regulations are made.~~

~~(b) When making regulations under this subsection to vary the sum specified in subsection (2)(c) the Minister shall take into account any changes in the average earnings of workers in the transportable goods industries so recorded by the Central Statistics Office since the date by reference to which the sum specified in subsection (2)(c) was last determined.³⁰⁹~~

~~(4) The employer shall, *Subject to subsections (4A) and (4B), the employer shall,*³¹⁰ in relation to any employment contribution, be liable in the first instance to pay both the employer’s contribution comprised therein and also, on behalf of and to the exclusion of the employed contributor, the contribution comprised therein payable by the contributor.~~

~~(4A) Where—~~

~~(a) a person realises a gain by the exercise, assignment or release of a right, as the case may be, in accordance with section 128 or section 519A of the Act of 1997, and~~

~~(b) at the time of realising that gain that person has ceased to be an employee of the employer who granted that right,~~

~~subsection (4) shall not apply to—~~

~~(i) the employer who granted that right, or~~

~~(ii) if that person is employed by another employer at the time the gain is realised, acquired or appropriated, as the case may be, that other employer.³¹¹~~

~~(4A) Where a person realises a gain by—~~

~~(a) the exercise of a right in accordance with section 128 of the Act of 1997, or~~

~~(b) the exercise of a right in accordance with section 519A of the Act of 1997 and, at the time of realising that gain, that person has ceased to be an employee of the employer who granted that right,~~

~~subsection (4) shall not apply to—~~

~~(i) the employer who granted that right, or~~

~~(ii) if that person is employed by another employer at the time the gain is realised, that other employer.³¹²~~

³⁰⁹ Ss (3) deleted by s.11(b)(ii) SWA 2010

³¹⁰ Substituted by s.13(3) SWA 2011

³¹¹ Substituted by section 9 SW&PA 2012

³¹² Substituted by section 9 SW&PA 2012

(4B) A person to whom paragraphs (a) and (b) of subsection (4A) applies shall be—

(a) deemed to be an employed contributor, where that person, having attained the age of 16 years and not having attained pensionable age, is no longer employed in an employment specified in Part 1 of Schedule 1, not being an employment specified in Part 2 of that Schedule, and

(b) liable to pay, in the prescribed manner, contributions in accordance with section 13(2)(b) in respect of the gain so realised.³¹³

(5) An employer shall be entitled, subject to and in accordance with regulations, to recover from an employed contributor the amount of any contribution paid or to be paid by the employer on behalf of that contributor and, notwithstanding anything in any enactment, regulations for the purposes of this subsection may authorise recovery by deductions from the employed contributor's remuneration, but those regulations shall provide that—

(a) where the employed contributor does not receive any pecuniary remuneration either from the employer or from any other person, the employer shall not be entitled to recover the amount of any such contribution from that contributor, and

(b) where the employed contributor receives any pecuniary remuneration from the employer, the employer shall not be entitled to recover any such contribution otherwise than by deductions.

(6) Notwithstanding any contract to the contrary, an employer shall not be entitled to deduct from the remuneration of a person employed by the employer, or otherwise to recover from the person, the employer's contribution in respect of that person.

(7) Any sum deducted by an employer from remuneration under regulations for the purposes of this section is deemed to have been entrusted to the employer for the purpose of paying the contribution in respect of which it was deducted.

(8) In the case of employment specified in paragraph 12 of Part 1 of Schedule 1, subsection (2)(d) shall be read as if "0.5 per cent" were substituted for "7.8 per cent" and "10.05 per cent".

(9) Regulations may, subject to the conditions and in the circumstances that may be prescribed, exempt an employer who employs an employee under and by virtue of a scheme administered by the Department of Social and Family Affairs, known as the Employers' Pay-Related Social Insurance Exemption Scheme, from the liability to pay the contribution specified in section 13(2)(d) in respect of that employee.

(10) Where, for a year of assessment (within the meaning of the Tax Acts), the Revenue Commissioners and an employer enter into an agreement under a specified provision of the Act of 1997 whereby the employer will account to the Revenue Commissioners, in accordance with that provision, in respect of the income tax due on qualifying emoluments (within the meaning of that provision) and where that agreement is not null and void, then in respect of those qualifying emoluments—

(a) the employer—

³¹³ Subsections (4A) and (4B) inserted by s.13(4) SWA 2011

(i) as part of that agreement and in so far as the qualifying emoluments are comprised of reckonable earnings of an employed contributor to which the agreement applies, shall pay a contribution at a rate of 14.05 per cent in respect of the aggregate of the amount of those reckonable earnings and the amount of income tax payable under the agreement in respect of them, and

(ii) notwithstanding section 13(4) or Article 7 of the Regulations of 1996, shall not be entitled to recover from an employed contributor any part of a contribution paid in accordance with subparagraph (i),

and

(b) a contribution paid in accordance with paragraph (a)(i) shall not be regarded as an employment contribution for the purposes of any benefit specified in section 39(1).

(11) In subsection (10) “specified provision” means any provision that may be prescribed for the purposes of that subsection.

Modified insurance.

14. (1) Regulations may modify this Part in its application in the case of—

(a) persons employed in any of the employments specified in paragraphs 2, 3, 4, 5, 9 and 10 of Part 1 of Schedule 1, or

(b) in the cases that may be prescribed, persons employed in eircom plc, or

(c) in such cases as may be prescribed, persons who, on 5 April 1995 were employed in an employment to which paragraph (a) or (b) applies and which is prescribed, and who cease to be so employed, but immediately on such cessation become employed in another employment which is prescribed, under terms and conditions which provide that the person continues to be employed in a permanent and pensionable capacity and for payment during illness on a basis considered adequate by the Minister, or

(d) persons employed in a statutory transport undertaking, or

(e) persons employed as teachers in primary schools which are recognised schools within the meaning of the Education Act 1998, or

(f) persons employed as teachers in training colleges recognised by the Minister for Education and Science for teachers in primary schools, or

(g) persons employed as teachers in post-primary schools which are recognised schools within the meaning of the Education Act 1998, or

(h) persons employed as teachers in domestic science training colleges funded by moneys voted by the Oireachtas for that purpose, or

(i) persons employed as members of the Army Nursing Service, or

(j) persons employed in voluntary hospitals to which grants are paid from moneys provided by the Oireachtas in recoupment of revenue deficits, or

(k) persons employed by voluntary organisations which are providing district nursing services, or

(1) persons employed in an employment which is an insurable (occupational injuries) employment under section 71.

(2) This section is without prejudice to the generality of any other provision of this Part providing for regulations.

Calculation of reckonable earnings.

15. (1) For the purposes of this Part, reckonable earnings may be calculated or estimated, either for a person or a class of persons, in the manner, by reference to the matters and on the basis that may be prescribed.

(2) Regulations may provide for the calculation of the amounts payable in respect of employment contributions in accordance with prescribed scales, and for adjustments of those amounts to facilitate computation and to avoid fractions of 1 cent in the amounts.

Employment by more than one employer.

16. Regulations may provide for the determination of liability for the payment of employment contributions in the case of a person who works under the general control or management of a person who is not his or her immediate employer.

Payment of contributions and keeping of records.

17. (1) Regulations may provide for—

- (a) the time and manner of payment of employment contributions,
- (b) the collection and the recovery of, and the furnishing of returns by employers in relation to, employment contributions,
- (c) the charging of interest on arrears of employment contributions,
- (d) the waiving of interest due on arrears of employment contributions,
- (e) the estimation of amounts due in respect of employment contributions and appeals in relation to those estimates,
- (f) the furnishing of returns by employers in relation to periods of insurable employment,
- (fa) the furnishing of returns by employed contributors to whom section 13(4B) applies in relation to employment contributions and share-based remuneration,³¹⁴
- (g) the deduction by an employer from the reckonable earnings of an employed contributor of any employment contribution reasonably believed by the employer to be due by the contributor, and adjustment in any case of over-deduction, and
- (h) any matter ancillary or incidental to any of the matters referred to in any of paragraphs (a) to (g).

(2) Without prejudice to the generality of subsection (1), regulations under that subsection may provide for—

³¹⁴ Para (fa) inserted by s.13(5)(a) SWA 2011

(a) the assignment of any function relating to any matter referred to in that subsection to the Collector-General or to any person engaged under contract by the Minister, with the consent of the Minister for Finance, for this purpose,

(b) the assignment to the Collector-General of any function conferred on the Minister by section 272 and the modification for that purpose of any provision of that section,

(c) the inspection by or on behalf of the Revenue Commissioners of records prescribed under subsection (5),

(d) treating, for the purpose of any right to benefit, contributions paid after the due dates as paid on those dates or on any later dates that may be prescribed, or as not having been paid, and

(e) treating as paid, for the purpose of any right to benefit, employment contributions payable by an employer in respect of an insured person which have not been paid, where the failure to pay those contributions is shown not to have been with the consent or connivance of the insured person or attributable to any negligence on the part of the insured person.

(3) Nothing in any regulations under this section affects the liability of the employer under section 13(4) to pay employment contributions.

(4) The provisions of any enactment, regulation or rule of court relating to—

(a) the inspection of records, the estimation, collection and recovery (including the provisions relating to the offset of taxes and appropriation of payments in ~~Chapter 5 of~~³¹⁵ Part 42 of the Act of 1997) of, or the furnishing of returns by employers in relation to, income tax, or

(b) appeals in relation to income tax, or

(c) the publication of names of persons under section 1086 of the Act of 1997,

shall apply in relation to employment contributions which the Collector-General is obliged to collect as if the contributions were an amount of income tax which the employer was liable to remit to the Collector-General under ~~the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)~~ **Chapter 4 of Part 42 of the Act of 1997 and the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018)**³¹⁶.

(5) For the purposes of this Part, regulations may require employers to keep any records that may be prescribed in relation to the earnings of persons employed by them and the periods during which those persons were employed, and to retain those records for prescribed periods.

(6) For the purposes of this Part, regulations may require employers to keep any records that may be prescribed in relation to rights to shares (including stock) granted by that employer to his or her directors, former directors, employees and former employees and the periods during which those persons were employed, and to retain those records for prescribed periods.³¹⁷

³¹⁵ Deleted by s.19 SW&P(MP)A 2013

³¹⁶ Substituted by s.4(1)(a) SWP&CRA 2018

³¹⁷ Subsection (6) inserted by s.13(5)(b) SWA 2011

Return by employer to Revenue Commissioners³¹⁸

17A. (1) In this section and in section 17B—

‘income tax month’ has the same meaning as it has in Chapter 4 of Part 42 of the Act of 1997;

‘return filing date’ means, in relation to an income tax month, the day that is 15 days from the last day of the income tax month.

(2) An employer shall, on or before the return filing date for an income tax month, make a return to the Revenue Commissioners specifying the total amount of contributions payable by that employer in respect of an income tax month consisting of—

- (a) employment contributions,
- (b) self-employment contributions, and
- (c) contributions under Chapter 5B of Part 2.

(3) Where the Revenue Commissioners issue a statement to an employer which sets out, in summary form in respect of an income tax month, the total amount of contributions payable by that employer, the details on the statement shall, on the return filing date, or where the statement is issued on a later date, on that later date, be deemed to be a return made by the employer in respect of that month for the purposes of subsection (2).

(4) Subsection (3) shall not apply where a statement referred to in that subsection is issued to an employer and the details on that statement do not accurately reflect the total amount of contributions payable by the employer.

(5) Where subsection (4) applies, the employer concerned shall ensure that the total amount of contributions payable are accurately reflected in the return required under subsection (2) in respect of that income tax month.³¹⁹

Payment date for contributions³²⁰

17B. (1) In this section ‘payment date’ means, in relation to an income tax month—

- (a) the day that is 15 days from the last day of the income tax month, or
- (b) the day that is 24 days from the last day of the income tax month where the following conditions are met:
 - (i) the return and the remittance of the amount of the contributions due for the income tax month are made by such electronic means as the Revenue Commissioners require;
 - (ii) the return is made by the return filing date and the remittance concerned is made on or before the day that is 24 days from the last day of the relevant income tax month.

(2) An employer shall, on or before the payment date for an income tax month, pay to the Collector-General the amount of the contributions that the employer is liable to pay for that month.

³¹⁸ Ss.17A and 17B inserted by s.4(1)(b) SWP&CRA 2018

³¹⁹ Ss.17A and 17B inserted by s.4(1)(b) SWP&CRA 2018

³²⁰ Ss.17A and 17B inserted by s.4(1)(b) SWP&CRA 2018

(3) The Collector-General may, by notice to an employer, vary the payment date for the payment of total contributions in respect of an income tax month.

(4) Any notice issued under subsection (3) may be withdrawn by the Collector-General at any time prior to the payment date concerned, as varied by the notice.³²¹

Covid-19: special warehousing and interest provisions for contributions³²²

17C. (1) ~~In this section~~ *Subject to subsection (1A), in this section*³²³

‘Covid-19’ has the same meaning as it has in the Emergency Measures in the Public Interest (Covid-19) Act 2020;

‘Covid-19 liabilities’ means, subject to ~~subsections (13) and (14)~~ *subsection (13)*,³²⁴ the contributions that an employer is liable to pay under section 13 in respect of income tax months in Period 1, to the Collector-General;

‘Covid-19 entitlement’ means an entitlement to payment of an amount under—

(a) section 485 of the Act of 1997,

(b) section 28B of the Emergency Measures in the Public Interest (Covid-19) Act 2020,

(c) any of the following schemes:

(i) the scheme commonly known as the Live Performance Support Scheme Strand II;

(ii) the scheme commonly known as the Live Performance Support Scheme Phase 3;

(iii) the scheme commonly known as the Live Performance Restart Grant Scheme;

(iv) the scheme commonly known as the Live Local Performance Support Scheme;

(v) the scheme commonly known as the Commercial Entertainment Capital Grant Scheme;

(vi) the scheme commonly known as the Music and Entertainment Business Assistance Scheme;

(vii) the scheme commonly known as the Attractions and Activity Tourism Operators Business Continuity Scheme 2022;

(viii) the scheme commonly known as the Strategic Tourism Transport Business Continuity Scheme 2022;

³²¹ Ss.17A and 17B inserted by s.4(1)(b) SWP&CRA 2018

³²² S 17C inserted by s.5 of FPC-19(No.2)A 2020

³²³ Substituted by s.9 (a)(i) of F(C-19&MP)A 2022

³²⁴ Substituted by S12(a)(i) of F(C-19&MP)A 2021

(ix) the scheme commonly known as the Strategic Ireland Based Inbound Agents Tourism Business Continuity Scheme 2022;

(x) the scheme commonly known as the Tourism Accommodation Providers Business Continuity Scheme 2022;

(xi) the scheme commonly known as the Sustaining Enterprise Fund;

(xii) the scheme commonly known as the Accelerated Recovery Fund;

(xiii) the scheme commonly known as the Support for Licensed Outbound Travel Agents and Tour Operators;

(xiv) the scheme commonly known as the Temporary Covid-19 Supports for Commercial Bus Operators,

or

(d) a scheme designated for the purpose of this paragraph by order of the Revenue Commissioners under subsection (1B),³²⁵

‘inspector of taxes’ means an inspector of taxes appointed under section 852 of the Act of 1997;

‘Period 1’, in relation to an employer, means the period—

(a) beginning on the later of—

(i) the first day of the income tax month immediately preceding the income tax month in which the employer’s business was first adversely affected by Covid-19, and

(ii) 1 February 2020,

and

~~(b) ending on the last day of the taxable period next following the taxable period in which the recommencement date falls;~~

(b) ending on 31 December 2021;³²⁶

~~‘Period 2’, in relation to an employer, means the period—~~

~~(a) beginning on the day next following the last day of Period 1, and~~

~~(b) ending on—~~

~~(i) the day that is the earlier of—~~

~~(I) the day that is 12 months from the day first mentioned in paragraph (a), and~~

~~(II) 31 December 2022, or~~

~~(ii) where the Minister for Finance makes an order for the purposes of this subparagraph, the day that is the earlier of—~~

~~(I) the day specified in the order, and~~

³²⁵ Inserted by S.9 (a)(ii) of F(C-19&MP)A 2022

³²⁶ Par B Substituted by S12(a)(ii) of F(C-19&MP)A 2021

~~(H) 31 December 2022;~~

‘Period 2’, in relation to an employer, means the period beginning on 1 January 2022 and ending on 31 December 2022;³²⁷

~~‘Period 3’, in relation to an employer, means the period—~~

~~(a) beginning on the day next following the last day of Period 2, and~~

~~(b) ending on the day on which the employer has discharged the Covid-19 liabilities in full;~~

‘Period 3’, in relation to an employer, means the period beginning on 1 January 2023 and ending on the day on which the employer has discharged the Covid-19 liabilities in full.³²⁸

~~‘recommencement date’, in relation to an employer, means the later of—~~

~~(a) the day on which the employer’s business ceased to be subject to restrictions provided for in regulations made under sections 5 and 31A of the Health Act 1947, and~~

~~(b) where it is demonstrated to the satisfaction of the Revenue Commissioners that the business did not recommence on the day referred to in paragraph (a), the day on which the business recommenced after it ceased to be subject to the restrictions referred to in that paragraph;~~

~~‘taxable period’ means a period of 2 months beginning on 1 January, 1 March, 1 May, 1 July, 1 September or 1 November.~~³²⁹

(1A) Where an employer has a Covid-19 entitlement—

(a) which arises out of circumstances occurring in a period falling between 1 January 2022 and 30 April 2022, or

(b) which arises out of circumstances occurring in a period falling prior to 1 January 2022, resulting in an amount becoming payable to the employer between 1 January 2022 and 30 April 2022,

then, in this section—

‘Period 1’, in relation to the employer, means the period—

(a) beginning on the later of—

(i) the first day of the income tax month immediately preceding the income tax month in which the employer’s business was first adversely affected by Covid-19, and

(ii) 1 February 2020,

and

³²⁷ Substituted by S12(a)(iii) of F(C-19&MP)A 2021

³²⁸ Substituted by S12(a)(iv) of F(C-19&MP)A 2021

³²⁹ Deleted by S12(a)(v) of F(C-19&MP)A 2021

(b) ending on 30 April 2022;

‘Period 2’, in relation to the employer, means the period beginning on 1 May 2022 and ending on 30 April 2023;

‘Period 3’, in relation to the employer, means the period beginning on 1 May 2023 and ending on the day on which the employer has discharged the Covid-19 liabilities in full.

(1B) The Revenue Commissioners may designate by order a scheme for the purpose of paragraph (d) of the definition of ‘Covid-19 entitlement’ in subsection (1), where they are satisfied that the scheme is similar in nature and objective to a scheme referred to in paragraph (c) of that definition.³³⁰

(2) For the purposes of this section, the business of an employer shall be treated as being adversely affected by Covid-19 on the date on which the Revenue Commissioners agreed to temporarily suspend the collection of the liabilities of the employer in respect of contributions as a consequence of the effect on the employer’s business of Covid-19.

(3) This section shall apply to an employer—

(a) who, as a consequence of the effect on the employer’s business of Covid-19 is unable to pay all or part of the employer’s Covid-19 liabilities,

(b) who complies with the requirement to file returns under section 17A, and

(c) either—

(i) the employer’s tax affairs are administered by the Personal Division or Business Division of the Office of the Revenue Commissioners, or

(ii) the employer has formed the view that the employer is unable to pay all or part of the employer’s Covid-19 liabilities and has notified the Revenue Commissioners that the employer has formed such a view.

(4) For the purposes of subsection (3)(c)(i), an employer’s tax affairs shall be treated as being administered by the Personal Division or Business Division of the Office of the Revenue Commissioners where the most recent correspondence received by the employer from that Office indicates that to be the case.

~~(5) An inspector of taxes, or such other officer as the Revenue Commissioners have nominated for the purposes of section 990 of the Act of 1997, may make such enquiries as he or she considers necessary to satisfy himself or herself as to whether an employer is unable to pay all or part of the employer’s Covid-19 liabilities.~~

(5) An inspector of taxes, or such other officer as the Revenue Commissioners have nominated for the purposes of section 990 of the Act of 1997, may make such enquiries as he or she considers necessary to satisfy himself or herself as to whether an employer—

(a) is unable to pay all or part of the employer’s Covid-19 liabilities, or

(b) has a Covid-19 entitlement—

³³⁰ Subsections 1A & 1B Inserted by S.9(b) of F(C-19&MP)A 2022

(i) which arises out of circumstances occurring in a period falling between 1 January 2022 and 30 April 2022, or

(ii) which arises out of circumstances occurring in a period falling prior to 1 January 2022, resulting in an amount becoming payable to the employer between 1 January 2022 and 30 April 2022,

as the case may be.³³¹

(6) Where this section applies to an employer—

(a) subsections (1) and (2) of section 17B,

(b) section 991 of the Act of 1997, and

(c) Article 10 of the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996),

shall not apply to the employer's Covid-19 liabilities.

(7) Where—

(a) this section applies to an employer, and

(b) the employer complies with the employer's obligations under section 17A,

no interest shall be due and payable by the employer in respect of the employer's Covid-19 liabilities during Period 1 and Period 2.

~~(8) Where—~~

~~(a) this section applies to an employer,~~

~~(b) the employer complies with the employer's obligations under section 17A,~~

~~(c) the employer has, prior to Period 3, entered into an agreement with the Collector-General to pay the employer's Covid-19 liabilities, together with interest under this subsection, and~~

~~(d) the employer complies with the obligations of the employer under the agreement referred to in paragraph (c);~~

~~interest shall be paid by the employer in respect of the Covid-19 liabilities from the first day of Period 3 and the amount of that interest shall be determined in accordance with subsection (9).³³²~~

(8) Where—

(a) this section applies to an employer,

(b) the employer complies with the employer's obligations under section 17A,

³³¹ Subsection 5 Substituted by S.9(c) of F(C-19&MP)A 2022

³³² Substituted by Section 68 of the FA 2020

(c) the employer has, prior to Period 3, entered into an agreement with the Collector-General to pay the employer's Covid-19 liabilities, together with interest under this subsection, and

(d) the employer complies with the obligations of the employer under the agreement referred to in paragraph (c), from the first day of Period 3, simple interest shall be paid by the employer to the Collector-General on any amount of the Covid-19 liabilities remaining unpaid and such interest shall be calculated from that day until payment of the amount for any day or part of a day during which that amount remains unpaid, at a rate of 0.0082 per cent.³³³

~~(9) The interest referred to in subsection (8) shall be the amount determined by the formula—
 $DL \times D \times P$~~

~~where—~~

~~DL is the amount of the Covid-19 liabilities which remains unpaid on the first day of Period 3,~~

~~D is the number of days (including part of a day) forming Period 3, and~~

~~P is 0.0082 per cent.³³⁴~~

~~(10) Where an employer—~~

~~(a) during Period 1 or Period 2, fails to comply with an obligation referred to in subsection (7)(b),~~

~~(b) on the first day of Period 3, has not entered into an agreement referred to in subsection (8)(c), or~~

~~(c) during Period 3, fails to comply with an obligation referred to in subsection (8)(b) or (d),~~

~~interest shall be paid by the employer in respect of the employer's Covid-19 liabilities from—~~

~~(i) in a case in which paragraph (a) or (c) applies, the date on which the event resulting in failure to comply with the obligation concerned occurred, and~~

~~(ii) in a case in which paragraph (b) applies, the first day of Period 3,~~

~~and the amount of that interest shall be determined in accordance with subsection (11).³³⁵~~

~~(10) Where an employer—~~

~~(a) during Period 1 or Period 2, fails to comply with an obligation referred to in subsection (7)(b),~~

³³³ Substituted by Section 68 of the FA 2020

³³⁴ Deleted by Section 68 of the FA 2020

³³⁵ Substituted by Section 68 of the FA 2020

(b) on the first day of Period 3, has not entered into an agreement referred to in subsection (8)(c), or
(c) during Period 3, fails to comply with an obligation referred to in subsection (8)(b) or (d), simple interest shall be paid by the employer to the Collector-General on any amount of the Covid-19 liabilities remaining unpaid on—

(i) in a case in which paragraph (a) or (c) applies, the date on which the event resulting in failure to comply with the obligation concerned occurred, and

(ii) in a case in which paragraph (b) applies, the first day of Period 3, and such interest shall be calculated from that day until payment of the amount for any day or part of a day during which that amount remains unpaid, at a rate of 0.0274 per cent.³³⁶

~~(11) The interest referred to in subsection (10) shall be the amount determined by the formula—~~

$$DL \times D \times P$$

~~where—~~

~~DL is the amount of the Covid-19 liabilities which remains unpaid on the date referred to in subsection (10),~~

~~D is the number of days (including part of a day) during which the Covid-19 liabilities remain unpaid, and~~

~~P is 0.0274 per cent.³³⁷~~

(12) Section 960E(2) of the Act of 1997 shall not apply in respect of Covid-19 liabilities where the employer concerned complies with the employer's requirement to file returns under section 17A.

(13) Where the Collector-General has, under section 985G(7) of the Act of 1997, varied the due date for payment of any income tax due in respect of an income tax month such that an employer may pay such tax liabilities quarterly *or annually*,³³⁸ liabilities in respect of contributions for any income tax months which are due from the employer at the same time as liabilities for income tax months within Period 1 shall be treated as Covid-19 liabilities.

~~(14) Where—~~

~~(a) the Collector-General has, under section 985G(7) of the Act of 1997, varied the due date for payment of any income tax due in respect of an income tax month such that an employer may pay such tax liabilities annually, and~~

~~(b) Period 1 for the employer ends in December 2020 or February 2021,~~

~~liabilities of the employer in respect of contributions for all income tax months in 2020 shall be treated as Covid-19 liabilities.~~

³³⁶ Substituted by Section 68 of the FA 2020

³³⁷ Deleted by Section 68 of the FA 2020

³³⁸ Inserted by S12(b) of F(C-19&MP)A 2021

~~(15) (a) The Minister for Finance may, in order to mitigate the adverse economic consequences resulting, or likely to result, from the spread of Covid-19, by order specify a day for the purpose of subparagraph (ii) of paragraph (b) of the definition of ‘Period 2’ in subsection (1).~~

~~(b) The Minister for Finance shall not specify in an order under paragraph (a) a day that falls after 31 December 2022.~~

~~(c) An order under this subsection shall be laid before Dáil Éireann as soon as may be after it has been made and, if a resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.³³⁹~~

Priority debts to Social Insurance Fund in a company winding-up.

18. For the purposes of section 285(2)(e) of the Companies Act 1963—

(a) the amount referred to in that subsection is deemed to include any amount—

(i) which, apart from Article 9 of the Regulations of 1996 would otherwise have been an amount due at the relevant date in respect of sums which an employer is liable under Chapter 2 or 3 of Part 2 and any regulation thereunder (other than the said Article 9) to deduct from reckonable earnings or reckonable emoluments, to which those Chapters apply, paid by the employer during the period of 12 months next before the relevant date, and

(ii) with the addition of any interest payable under Article 10 of the Regulations of 1996,

and

(b) notwithstanding subsection (1) of section 285 of the Companies Act 1963, the relevant date is deemed to be the date which is the ninth day after the end of the income tax month in which the relevant date (within the meaning of that subsection) occurred.

Winding-up and bankruptcy.

19. (1) In this section “Act of 1988” means the Bankruptcy Act 1988.

(2) The assets of a limited company in a winding-up under the Companies Acts 1963 to 2005 shall not include—

(a) any sum deducted by an employer from the remuneration of an employee of the employer paid before the winding-up in respect of an employment contribution due and unpaid by the employer in respect of that contribution, or

(b) any sum which would have been deducted from the remuneration of an employee in respect of an employment contribution for a period of employment before a winding-up had that remuneration been paid before the winding-up,

³³⁹ Subsection 14 & 15 Deleted by S12(c) of F(C-19&MP)A 2021

and in such a winding-up a sum equal in amount to the sum so deducted and unpaid or which would have been deducted and payable shall, notwithstanding anything in those Acts, be paid to the Social Insurance Fund in priority to the debts specified in section 285(2) of the Companies Act 1963.

(3) A sum equal in amount to any sum deducted by an employer from the remuneration of an employee of the employer in respect of an employment contribution due by the employer and unpaid by the employer in respect of the contribution before the date of the order of adjudication or the filing of the petition for arrangement (as the case may be) shall not form part of the property of the bankrupt or arranging debtor so as to be included among the debts which under section 81 of the Act of 1988 are in the distribution of that property to be paid in priority to all other debts, but shall, before the distribution and notwithstanding anything in the Act of 1988, be paid to the Social Insurance Fund in priority to the debts specified in section 81 of the Act of 1988.

(4) Formal proof of a debt to which priority is given by this section is not required except where required by or under the Act of 1988 or the Companies Act 1963.

(5) There shall be included among the debts which under section 81 of the Act of 1988 are, in the distribution of the property of a bankrupt or arranging debtor, to be paid in priority to all other debts, all employment contributions payable by the bankrupt or arranging debtor during the 12 months before the date of the order of adjudication in the case of a bankrupt or the filing of the petition for arrangement in the case of an arranging debtor, and that Act has effect accordingly, and formal proof of the debts to which priority is given under this subsection is not required except in cases where it may otherwise be provided by general orders made under that Act.

CHAPTER 3

Self-Employed Contributors and Self-Employment Contributions

Self-employed contributors and insured persons.

20. (1) Subject to this Act—

(a) every person who, being over the age of 16 years and under pensionable age (not being a person included in any of the classes of person specified in Part 3 of Schedule 1) who has reckonable income or reckonable emoluments, shall be a self-employed contributor for the purposes of this Act regardless of whether the person is also an employed contributor,

(b) every person becoming for the first time a self-employed contributor shall become insured under this Act and shall thereafter continue throughout his or her life to be so insured, and

(c) in the case of a person who, not having been an employed contributor at any time, becomes for the first time a self-employed contributor, the first day of the contribution year in which the person becomes a self-employed contributor shall be regarded as the date of entry into insurance.

(2) Regulations may provide for—

(a) including among self-employed contributors classes of person or part of any class of person specified in or included in Part 3 of Schedule 1,

(b) adding to the classes of person specified in Part 3 of Schedule 1,

(c) the modification of any of the provisions of this Act relating to self-employed contributors,

(d) the application (with or without modification) to self-employed contributors or self-employment contributions payable under section 21(1)(a), (b) or (c) of any provisions of this Act which apply to employed contributors or employment contributions.

Rates of self-employment contributions and related matters.

21. (1) Self-employment contributions shall be paid by self-employed contributors in accordance with the following provisions:

(a) subject to paragraphs ~~(b)~~ **(b)**, **(ea)**³⁴⁰ and (f), where in any contribution year a self-employed contributor has reckonable income there shall be payable by him or her a self-employment contribution which shall be the greater of an amount equal to ~~3~~ **4**³⁴¹ per cent of the reckonable income or the amount of ~~€253~~ **€500**³⁴² ;

(b) where for any contribution year a self-employed contributor is informed by the Revenue Commissioners that he or she is not required to make a return of income within the meaning of section 1084 of the Act of 1997, self-employment contributions shall be paid by the self-employed contributor (whether by instalments or otherwise as may be prescribed) amounting to ~~€157~~ **€310**³⁴³ in respect of that contribution year;

(c) subject to ~~paragraph (f)~~ **paragraphs (ea) and (f)**³⁴⁴ where in any contribution year a payment is made to a self-employed contributor in respect of reckonable emoluments of that self-employed contributor, there shall be payable by him or her a self-employment contribution which shall be the greater of an amount equal to ~~3~~ **4**³⁴⁵ per cent of the reckonable emoluments or the amount of ~~€253~~ **€500**³⁴⁶;

(d) subject to regulations under section 22, where a self-employment contribution has been paid by a self-employed contributor of not less than the amount that he or she is liable to pay under paragraph (a) or the amount specified in paragraph (b), whichever is appropriate, the self-employed contributor shall be regarded as having paid contributions for each contribution week in that contribution year and, where the contribution paid is less than that appropriate amount, no contribution shall be regarded as having been paid by the self-employed contributor in respect of any week of that contribution year;

(e) subject to section 26(3), self-employment contributions shall be disregarded in determining whether the contribution conditions for any benefit other than **jobseeker's benefit granted by virtue of self-employment contributions specified in section 64(1)(a)(ii), jobseeker's benefit (self-employed),³⁴⁷ Covid-19 pandemic unemployment payment,³⁴⁸ old age (contributory) pension State pension (contributory), widow's (contributory) pension, widower's (contributory) pension,**

³⁴⁰ Substituted by s. 6(a) SWLR&PA 2006

³⁴¹ Substituted by s.14(1) SWA 2010

³⁴² Substituted by s.10 (a) SWA2012

³⁴³ Substituted by s.10 (b) SWA2012

³⁴⁴ Substituted by s. 6(b) SWLR&PA 2006

³⁴⁵ Substituted by s.14(1) SWA 2010

³⁴⁶ Substituted by s.10(c) SWA 2012

³⁴⁷ Inserted by Item 4of the Schedule of SWA 2019

³⁴⁸ Inserted by s.7 SW C-19AA 2020

~~surviving civil partner's (contributory) pension~~³⁴⁹ ~~surviving civil partner's (contributory) pension,~~³⁵⁰ ~~orphan's (contributory) allowance~~ ~~guardian's payment (contributory),~~ maternity benefit, adoptive benefit, ~~paternity benefit~~³⁵¹ ~~paternity benefit, parent's benefit~~³⁵², ~~treatment benefit~~³⁵³ ~~or bereavement grant are satisfied;~~ ~~invalidity pension~~ ~~illness benefit granted to a person to whom section 40(7) applies,~~ ~~invalidity pension~~³⁵⁴ ~~or bereavement grant are satisfied;~~³⁵⁵

(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~~ **€500**³⁵⁶ in respect of that amount for which childcare services relief is claimed under that section.³⁵⁷

(f) a person who, but for this paragraph, would be liable for contributions of ~~€253~~ **€500**³⁵⁸ under paragraphs (a) and (c) shall be liable only for a single contribution of ~~€253~~ **€500**³⁵⁹.

(2) Regulations may provide for adjustments in the calculation of amounts payable in respect of self-employment contributions to facilitate computation and for the elimination from self-employment contributions of amounts of not more than 5 cent and for the rounding up of amounts of more than 5 cent but less than 10 cent to 10 cent.

(3) Where, for a year of assessment (within the meaning of the Tax Acts), the Revenue Commissioners and an employer enter into an agreement under a specified provision of the Act of 1997 whereby the employer will account to the Revenue Commissioners, in accordance with that provision, in respect of the income tax due on qualifying emoluments (within the meaning of that provision) and where that agreement is not null and void, then in respect of those qualifying emoluments—

(a) the employer—

(i) as part of that agreement and in so far as the qualifying emoluments are comprised of reckonable emoluments of a self-employed contributor to which the agreement applies, shall pay a contribution at a rate of ~~3~~ **4**³⁶⁰ per cent in respect of the aggregate of the amount of those reckonable emoluments and the amount of income tax payable under the agreement in respect of them, and

(ii) notwithstanding Article 7 of the Regulations of 1996, shall not be entitled to recover from an employed contributor any part of a contribution paid in accordance with subparagraph (i),

and

(b) a contribution paid in accordance with paragraph (a)(i) shall not be regarded as a self-employment contribution for the purposes of determining entitlement to any benefit specified in section 39(1).

³⁴⁹ Inserted by s.26 and Sch3 SW&PA 2010

³⁵⁰ Substituted by s.19 SW&P(MP)A 2013

³⁵¹ Inserted by s.3 SWA 2016

³⁵² Substituted by S.26 of PLBA 2019

³⁵³ Inserted by s.9(a) SWA 2016; commenced by S.I. No. 463 of 2017

³⁵⁴ Substituted by s.4 H(PPEMPI)A 2020

³⁵⁵ Substituted by s.4(a) SWA 2016; commenced by S.I. No. 546 of 2017

³⁵⁶ Substituted by s.10 (d) SWA 2012

³⁵⁷ Para (1) (ea) inserted by s. 6(c) SWLR&PA 2006

³⁵⁸ Substituted by s.10 (e) SWA2012

³⁵⁹ Substituted by s.10 (e) SWA 2012

³⁶⁰ Substituted by s.14(1) SWA 2010

(4) In subsection (3) “specified provision” means such provision as may be prescribed for the purposes of that subsection.

Regulations providing for determination of contributions payable.

22. (1) Regulations may provide for the determination of the contributions payable, the amount or rates of those contributions, and the contribution weeks in respect of which those contributions shall be regarded as having been paid, in the case of a person who—

- (a) becomes for the first time a self-employed contributor,
- (b) ceases to be a self-employed contributor,
- (c) is both an employed contributor and a self-employed contributor whether concurrently or not,
- (d) in any contribution year has reckonable emoluments but does not have reckonable income,
- (e) in any contribution year has both reckonable emoluments and reckonable income, or
- (f) in any contribution year has reckonable emoluments which relate to a period less than the full year.

(2) The Minister may by regulations specify the circumstances in which contributions payable by a self-employed contributor may be treated as paid.

(3) For the purposes of this section “contributions” means—

- (a) employment contributions payable under section 13, and
- (b) self-employment contributions payable under section 21.

Regulations providing for collection of self-employment contributions etc.

23. (1) For the purposes of self-employment contributions payable under section 21(1)(a), (b) and (c), regulations may provide for—

- (a) the time and manner of payment of self-employment contributions,
- (b) the collection and the recovery of and the furnishing of details in relation to self-employment contributions,
- (c) the charging of interest on arrears of self-employment contributions,
- (d) the waiving of interest due on arrears of self-employment contributions,
- (e) the estimation of amounts due in respect of self-employment contributions and appeals in relation to those estimates,
- (f) the furnishing of returns by employers in relation to periods of insurable self-employment,

(g) the deduction by an employer from the reckonable emoluments of a self-employed contributor of any self-employment contribution reasonably believed by the employer to be due by the contributor, and adjustment in any case of over-deduction, and

(h) any matter ancillary or incidental to any of the matters referred to in paragraphs (a) to (g).

(2) Without prejudice to the generality of subsection (1), regulations under that subsection may provide for the assignment of any function relating to a matter referred to in that subsection to the Collector-General or any other specified person.

(3) The provisions of any enactment or instrument made under any enactment relating to—

(a) the estimation, collection and recovery (including the provisions relating to the offset of taxes and appropriation of payments in ~~Chapter 5 of~~³⁶¹ Part 42 of the Act of 1997) of income tax or the inspection of records for those purposes, or

(b) appeals in relation to income tax, or

(c) the publication of names of persons under section 1086 of the Act of 1997,

shall apply in relation to self-employment contributions in respect of reckonable emoluments which the Collector-General is obliged to collect as if the contributions were an amount of income tax which the employer was liable to remit to the Collector-General under ~~the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001) Chapter 4 of Part 42 of the Act of 1997 and the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018)~~³⁶².

(4) Other than in the case of the class or classes of self-employed contributors that may be prescribed, self-employment contributions payable by a self-employed contributor for a contribution year under section 21(1)(a) in respect of reckonable income shall be assessed, charged and paid in all respects as if they were an amount of income tax and they may be stated in one sum (hereafter in this subsection referred to as the “aggregated sum”) with the income tax contained in any computation of or assessment to income tax made by or on the self-employed contributor for the year of assessment (within the meaning of the Income Tax Acts) which coincides with the contribution year and for this purpose the self-employed contributions may be so stated notwithstanding that there is no amount of income tax contained in that computation or assessment and all the provisions of the Income Tax Acts, other than any such provisions in so far as they relate to the granting of any allowance, deduction or relief, apply as if the aggregated sum were a single sum of income tax.

~~(5) (a) Subject to paragraph (b), where an election made or deemed to be made under section 1018 of the Act of 1997 has effect for the year of assessment the self-employment contributions payable by a wife shall be charged, collected and recovered as if they were the contributions of her husband or civil partner.~~³⁶³

~~(b) The question as to the amount of the self-employment contributions payable in respect of the husband or the wife, the wife or the civil partner~~³⁶⁴ are not affected by this subsection.³⁶⁵

³⁶¹ Deleted by s.19 SW&P(MP)A 2013

³⁶² Substituted by s.4(1)(c) SW&PCRA 2018

³⁶³ Inserted by s.26 and Sch3 SW&PA 2010

³⁶⁴ Inserted by s.26 and Sch3 SW&PA 2010

³⁶⁵ Substituted by s.5(a)SW&P(MP)A 2013

(5) (a) Subject to paragraph (b), where an election made or deemed to be made under section 1018 of the Act of 1997 has effect for the year of assessment the self-employment contributions payable ~~by a wife~~ **by the spouse in respect of whom the election is made**³⁶⁶ shall be charged, collected and recovered as if they were the contributions of ~~her husband~~ **the other spouse**³⁶⁷.

(b) The question as to the amount of the self-employment contributions payable in respect of ~~the husband or the wife~~ **each spouse**³⁶⁸ is not affected by this subsection.³⁶⁹

(5A) (a) Subject to paragraph (b), where an election made or deemed to be made under section 1031D of the Act of 1997 has effect for the year of assessment the self-employment contributions payable by the civil partner, who is not the nominated civil partner, shall be charged, collected and recovered as if they were the contributions of the nominated civil partner.

(b) The question as to the amount of the self-employment contributions payable in respect of each civil partner in a civil partnership is not affected by this subsection.³⁷⁰

(6) In any proceedings instituted by virtue of this Act, a certificate purporting to be signed by an officer of the Revenue Commissioners or by any officer duly appointed by the Minister in that behalf which certifies that an amount in respect of employment or self-employment contributions is due and payable by the defendant shall be evidence until the contrary is proved that that amount is so due and payable.

(7) In subsection (5), ‘spouse’ means each person of a married couple who are living together.³⁷¹

CHAPTER 4

Voluntary Contributors and Voluntary Contributions

Voluntary contributors.

24. (1) Subject to this Act, where a person ceases to be—

(a) an employed contributor, or

(b) a self-employed contributor,

otherwise than by reason of attaining pensionable age and the person has qualifying contributions in respect of not less than ~~260 contribution weeks~~³⁷² **520 contribution weeks**, he or she shall, on making application in the prescribed manner and within the prescribed period, be entitled to become an insured person paying contributions under this Act voluntarily (in this Act referred to as “a voluntary contributor”).

(1A) In the case of a person who becomes a voluntary contributor paying contributions under this Chapter before 6 April 2013, subsection (1) shall be read as if ‘260 contribution weeks’ were substituted for ‘520 contribution weeks’.

³⁶⁶ Substituted by s.18(1)(a)(i) SW&PA 2015

³⁶⁷ Substituted by s.18(1)(a)(ii) SW&PA 2015

³⁶⁸ Substituted by s.18(1)(a)(iii) SW&PA 2015

³⁶⁹ Substituted by s.5(a)SW&P(MP)A 2013

³⁷⁰ Inserted by s.5(b)SW&P(MP)A 2013

³⁷¹ Inserted by s.18(1)(b) SW&PA 2015

³⁷² Substituted by s.3 SW&PA 2012

(1B) In the case of a person who becomes a voluntary contributor paying contributions under this Chapter on or after 6 April 2013 but before 6 April 2014, subsection (1) shall be read as if ‘364 contribution weeks’ were substituted for ‘520 contribution weeks’.

(1C) In the case of a person who becomes a voluntary contributor paying contributions under this Chapter on or after 6 April 2014 but before 6 April 2015, subsection (1) shall be read as if ‘468 contribution weeks’ were substituted for ‘520 contribution weeks’.³⁷³

(2) The occupational injuries insurance of a person shall be disregarded in determining the person’s right to become, or to continue to be, a voluntary contributor and the rate of voluntary contribution payable in any case shall not be affected by that insurance.

(3) A voluntary contributor shall—

(a) where he or she becomes an employed contributor, cease to be a voluntary contributor except insofar as is provided in section 25(2), or

(b) where he or she becomes a self-employed contributor, cease to be a voluntary contributor.

Voluntary contributions by former employed contributors.

25. (1) (a) ~~Subject to paragraph (c), a contribution~~ **A contribution**³⁷⁴ (in this Act referred to as a “voluntary contribution”), in the case of a person who becomes a voluntary contributor by virtue of section 24(1)(a) and who is under pensionable age, shall be payable in each contribution year, at the time or times and in the manner that the Minister shall prescribe, at a percentage rate, as set out in paragraph (b), of the amount of the reckonable income (if any) of the contributor in the preceding contribution year or in an amount (“minimum annual amount”), as set out in paragraph (b), whichever is the greater.

(b) (i) In the case of a voluntary contributor who, immediately before ceasing to be an employed contributor, was employed in employment in respect of which the employment contributions payable are not reckon-able for the purposes of ~~old age (contributory) pension~~ **State pension (contributory)**, the percentage rate shall be 2.6 per cent and the minimum annual amount shall be ~~€126~~ **€250**³⁷⁵.

(ii) In the case of a voluntary contributor who, immediately before ceasing to be an employed contributor, was employed in employment in respect of which the employment contributions payable are reckonable for the purposes of ~~old age (contributory) pension~~ **State pension (contributory)** the percentage rate shall be 6.6 per cent and the minimum annual amount shall be ~~€317~~ **€500**³⁷⁶.

~~(iii) In the case of a person to whom subsection (2) applies and who, by virtue of compliance with that subsection, continues to be a voluntary contributor, the percentage rate shall be 4 per cent and the minimum annual amount shall be €190.~~³⁷⁷

³⁷³ Subsections 1A-1C inserted by s.3 SW&PA 2012

³⁷⁴ Substituted by s.11(c)(i) SWA 2010

³⁷⁵ Substituted by s.11(1)(a)(i) SWA 2012

³⁷⁶ Substituted by s.11(1)(a)(ii) SWA 2012

³⁷⁷ Subpara. (iii) deleted by s.11(1)(a)(iii) SWA 2012

~~(c) A contribution under paragraph (a) shall not be payable in respect of reckonable income in any contribution year which exceeds the sum specified in section 13(2)(c).~~³⁷⁸

(d) “Reckonable income” for the purposes of this subsection means, subject to regulations, income derived from any employment, including any trade, business, profession, office or vocation.

~~(2) In the case of a person who, on 31 March 1974, was a voluntary contributor entitled to pay voluntary contributions and who became an employed contributor in respect of whom special rate contributions were payable under section 17(1) of the Social Welfare Act 1975, that person shall, notwithstanding section 24(3), continue to be entitled to be a voluntary contributor on applying to the Minister in writing for that entitlement.~~

~~(3) Voluntary contributions paid under subsection (2) by a person to whom that subsection applies shall be disregarded in determining whether the contribution conditions for any benefit other than old age (contributory) pension *State pension (contributory)*, retirement pension *State pension (transition)* or bereavement grant are satisfied.~~³⁷⁹

(4) Notwithstanding any other provision of this Act, but subject to subsection (5), a voluntary contributor shall not be entitled to ~~disability benefit~~ *illness benefit* ~~unemployment benefit~~ *jobseeker’s benefit*, maternity benefit, invalidity pension or treatment benefit and, where any voluntary contributions paid by the voluntary contributor are at the percentage rate for the time being payable under subsection (1)(b)(i), they shall be disregarded in determining whether the contribution conditions for ~~old age (contributory) pension~~ *State pension (contributory)*, ~~retirement pension~~ *State pension (transition)* or bereavement grant are satisfied.

(5) Notwithstanding subsection (4), any benefit mentioned in that subsection may be granted to a voluntary contributor in the circumstances and subject to the limitations that may be prescribed.

(6) A voluntary contribution paid under subsection (1)(a) shall be regarded, where the contribution relates to a full contribution year, as having been paid for each contribution week in that contribution year or, where the contribution relates to a shorter period, as having been paid for each contribution week in that period.

Voluntary contributions by former self-employed contributors.

26. (1) A voluntary contribution, in the case of a person who becomes a voluntary contributor by virtue of section 24(1)(b), shall be at the rate of ~~€253~~ **€500**³⁸⁰ in a contribution year payable at the time or times and in the manner that the Minister may prescribe.

(2) Subject to subsection (3), voluntary contributions paid by a person under subsection (1) shall be disregarded for all benefit other than ~~old age (contributory) pension~~ *State pension (contributory)*, widow’s (contributory) pension, widower’s (contributory) pension, *surviving civil partner’s (contributory) pension*³⁸¹ and ~~orphan’s (contributory) allowance~~ *guardian’s payment (contributory)*.

(3) Self-employment contributions paid by a person who, being a voluntary contributor becomes a self-employed contributor on or after 6 April 1988, and any subsequent voluntary

³⁷⁸ Deleted by s.11(c)(ii) SWA 2010

³⁷⁹ Subsections (2) and (3) deleted by s.11(1)(b) SWA 2012

³⁸⁰ Substituted by s.11(2) SWA 2012

³⁸¹ Inserted by s.26 and Sch3 SW&PA 2010

contributions paid by those persons, shall also be reckonable for ~~retirement pension~~ *State pension (transition)* and bereavement grant in the case of a person whose rate of voluntary contribution, immediately before ceasing to be a voluntary contributor, was determined under section 25(1)(b)(ii) ~~or (iii)~~ ³⁸².

(4) A voluntary contribution paid under subsection (1) shall be regarded as having been paid for each contribution week in that contribution year.

Calculation of voluntary contributions.

27. Regulations may provide for the calculation of the amounts payable in respect of voluntary contributions in accordance with prescribed scales, and for adjustments of those amounts to facilitate computation and to avoid fractions of one cent in those amounts.

CHAPTER 5

Optional Contributors and Optional Contributions

Optional contributors and optional contributions.

28. (1) A person engaged in share fishing shall, subject to the conditions that may be prescribed, be entitled to opt to become an insured person (“optional contributor”) paying contributions under this Chapter (“optional contributions”) which shall be payable in each contribution year with effect from the contribution year ending on 5 April 1994 at the time and in the manner that may be prescribed.

(2) An optional contributor ceases to be an optional contributor where he or she—

- (a) ceases to be a person engaged in share fishing,
- (b) ceases to be a self-employed contributor, or
- (c) fails, in any contribution year, to pay an optional contribution which by virtue of being an optional contributor, he or she is liable to pay.

Rates of optional contributions and related matters.

~~29.(1) Optional contributions shall be payable by optional contributors in accordance with the following provisions:~~

~~(a) subject to paragraph (b), an optional contributor shall pay an optional contribution of the greater of an amount equal to 4 per cent of his or her reckonable income in excess of €2,500 in the preceding contribution year, or €200;~~

~~(b) an optional contribution shall not be payable in respect of so much (if any) of the reckonable income of an optional contributor in any contribution year which exceeds €44,180. €46,600³⁸³ €48,800.³⁸⁴ €50,700.³⁸⁵ €52,000.³⁸⁶ €75,036.³⁸⁷ 388~~

29. (1) An optional contributor shall pay an optional contribution amounting to 4 per cent of his or her reckonable income in excess of €2,500 in the preceding contribution year, or €200, whichever is the greater amount. ³⁸⁹

³⁸² Deleted by s.19 SW&P(MP)A 2013

³⁸³ Substituted by s. 6 SWA 2005

³⁸⁴ Substituted by s. 6(1) SWA 2006

³⁸⁵ Substituted by s. 6(1) SWA 2007

³⁸⁶ Substituted by s.7(1) SW(MP)A 2008

³⁸⁷ Substituted by s. 4(1) SW&PA 2009

³⁸⁸ Substituted by s.11(d) SWA 2010

(2) Subject to regulations under section 30, where an optional contribution has been paid by an optional contributor of not less than the amount that he or she is liable to pay under subsection (1), he or she shall be regarded as having paid contributions for each contribution week in that contribution year and, where the contribution paid is less than that appropriate amount, no contribution shall be regarded as having been paid by the optional contributor in respect of any week of that contribution year.

(3) Regulations may provide for adjustments in the calculation of amounts payable in respect of optional contributions to facilitate computation and for the elimination from optional contributions of amounts of not more than 5 cent and for the rounding up of amounts of more than 5 cent but less than 10 cent to 10 cent.

(4) (a) Subject to paragraph (b), optional contributions shall be disregarded in determining whether the contribution conditions for any benefit other than ~~disability benefit~~ *illness benefit*, ~~unemployment benefit~~ *jobseeker's benefit*, *jobseeker's benefit (self-employed)*³⁹⁰ or treatment benefit are satisfied.

(b) The contribution conditions for the benefits referred to in paragraph (a) shall not be regarded as being satisfied unless all optional contributions payable by an optional contributor in accordance with this Chapter have been paid.

Regulations providing for determination of optional contributions payable and related matters.

30. Regulations may provide for—

(a) the determination of optional contributions payable, the amount or rates of those contributions, and the contribution weeks in respect of which those contributions shall be regarded as having been paid, in the case of a person who—

(i) becomes for the first time an optional contributor,

(ii) ceases to be an optional contributor, or

(iii) in any contribution year has reckonable earnings and reckonable income,
and

(b) any matter ancillary or incidental to any of the matters referred to in paragraph (a).

Chapter 5A³⁹¹

Contributions by Public Office Holders

Contributions by public office holders.

30A. In this Chapter—

‘public office holder’ means—

(a) the President,

³⁸⁹ Substituted by s.11(d) SWA 2010

³⁹⁰ Inserted by Item 5 of the Schedule of SWA 2019

³⁹¹ Chapter 5A inserted by s.14 SW&PA 2010

- (b) the holder of a qualifying office,
- (c) a member of either House of the Oireachtas,
- (d) a member of the judiciary,
- (e) a military judge appointed under Chapter IVC of Part V of the Defence Act 1954 (amended by the Defence (Amendment) Act 2007),
- (f) the Attorney General,
- (g) the Comptroller and Auditor General,
- ~~(h) a member of a local authority (within the meaning of the Local Government Act 2001),³⁹²~~
- (i) a member of the European Parliament for a constituency in the State, being a member who is in receipt of the salary specified in section 2(2) of the European Parliament (Irish Constituency Members) Act 2009;

‘public body’ means—

- (a) a Department of ~~State~~ State, or³⁹³
- ~~(b) a local authority, or³⁹⁴~~
- (c) a body established by any enactment;

“qualifying office” has the same meaning as it has in the Financial Emergency Measures in the Public Interest Act 2009;

“remuneration” means emoluments to which Chapter 4 of Part 42 of the Act of 1997 applies or is applied and which are payable by or on behalf of a public body to a public office holder.

Contributions by public office holders.

30B. (1) Contributions shall be paid by public office holders in accordance with this Chapter.

(2) A public body that is responsible for, or authorises, the payment of remuneration to a public office holder shall collect, or cause to be collected, a contribution at the rate of 4 per cent of the total remuneration payable to that public office holder in respect of the holding of a public office.

(3) Subject to this section, the liability for a contribution under subsection (1) applies to the payment of any remuneration to a public office holder in respect of the holding of a public office—

- (a) in respect of the contribution year commencing on 1 January 2011, and
- (b) in respect of each subsequent contribution year.

³⁹² Para. (h) deleted by s.10(a) SWA 2016

³⁹³ Substituted by s.10(b)(i) SWA 2016

³⁹⁴ Para. (b) deleted by s10(b) (ii) SWA 2016

(4) Where in any contribution week a payment of not more than €100 per week (or the equivalent thereof in respect of a public office holder remunerated otherwise than on a weekly basis) is made to or for the benefit of a public office holder in respect of the remuneration of that person arising from the holding of a public office, a contribution under subsection (1) shall not be payable by that public office holder in respect of that remuneration arising from the holding of that public office.

(5) Where the total amount of remuneration arising from the holding of a public office does not exceed €5,200 in any contribution year, any contributions under subsection (1) in respect of that contribution year shall be repaid to the public office holder.

Payment of contributions into Social Insurance Fund

30C. All contributions under section 30B shall be paid into the Social Insurance Fund.

Payment of contributions and keeping of Records

30D. The provisions contained in section 17 in relation to the payment and keeping of records of employment contributions under Chapter 2 shall apply in like manner to the payment and keeping of records of a contribution under this Chapter.³⁹⁵

CHAPTER 5B³⁹⁶

Contributions by Certain Employed Contributors

Application of Chapter 5B

30E. (1) This Chapter applies to an employed contributor who, in a contribution year, receives income referred to in subsection (2) and who—

- (a) has attained the age of 16 years but has not attained pensionable age, and
- (b) is employed in any one or more of the employments specified in Article 81, 82, 83 or 84 of the Regulations of 1996.

(1A) This Chapter applies to—

- (a) an employed contributor, and
- (b) a person who is in receipt of a pension arising from a previous employment of that person or of his or her spouse or civil partner,

where such employed contributor or such person—

- (i) has attained the age of 16 years but has not attained pensionable age, and
- (ii) in a contribution year receives income referred to in subsection (3).³⁹⁷

(2) The income received by an employed contributor in a contribution year to which subsection (1) refers is one or both of the following as the case may be:

- (a) reckonable emoluments;
- (b) reckonable income, where such reckonable income includes income to which—

³⁹⁵ Chapter 5A inserted by s.14 SW&PA 2010

³⁹⁶ Chapter 5B inserted by s.6(3) SW&P(MP)A 2013

³⁹⁷ Subsection (1A) inserted by s.3(1)(a)(i) SW&PA 2013

(i) Chapter 3 of Part 4, or

(ii) Part 43,

of the Act of 1997 applies.

(3) The income received by an employed contributor referred to in subsection (1A)(a) or a person referred to in subsection (1A)(b) in a contribution year to which subsection (1A) refers is unearned reckonable income where such employed contributor or person does not have—

(a) reckonable emoluments, or

(b) reckonable income to which—

(i) Chapter 3 of Part 4, or

(ii) Part 43,

of the Act of 1997 applies,

in that contribution year.

(4) In subsection (3) ‘unearned reckonable income’ means reckonable income other than reckonable income to which—

(a) Chapter 3 of Part 4, or

(b) Part 43,

of the Act of 1997 applies.³⁹⁸

Contribution payable by person to whom Chapter 5B applies

30F. (1) ~~An employed contributor~~ *Subject to subsection (1A), a person*³⁹⁹ to whom this Chapter applies shall, in addition to any employment contribution which that person is liable to pay under Chapter 2 of Part 2 or regulations made under that Chapter, be liable to a contribution at the rate of 4 per cent of any reckonable emoluments and reckonable income referred to in section 30E and received in a contribution year.

(1A) A contribution shall not be payable in accordance with this Chapter in respect of reckonable income referred to in section 30E(2) or unearned reckonable income referred to in section 30E(3) for any contribution year in which a person to whom this Chapter applies is not a chargeable person within the meaning of section 959A of the Act of 1997.⁴⁰⁰

(2) A contribution payable in accordance with this Chapter shall be disregarded in determining whether the contribution conditions for any benefit are satisfied.

(3) Regulations may provide for adjustments in the calculation of amounts payable in respect of liability for contributions under this Chapter to facilitate computation and for the elimination from such contributions of amounts of not more than 5 cent and for the rounding up of amounts of more than 5 cent but less than 10 cent to 10 cent.

³⁹⁸ Subsections (3) and (4) inserted by s.3(1)(a)(ii) SW&PA 2013

³⁹⁹ Substituted by s.3(1)(b)(i) SW&PA 2013

⁴⁰⁰ Subsection (1A) inserted by s.3(1)(b)(ii) SW&PA 2013

(4) Where, for a year of assessment (within the meaning of the Tax Acts), the Revenue Commissioners and an employer enter into an agreement under a specified provision of the Act of 1997 whereby the employer will account to the Revenue Commissioners, in accordance with that provision, in respect of the income tax due on qualifying emoluments (within the meaning of that provision) and where that agreement is not null and void, then in respect of those qualifying emoluments—

(a) the employer—

(i) as part of that agreement and in so far as the qualifying emoluments comprise reckonable emoluments to which the agreement applies, of ~~an employed contributor~~ **a person**⁴⁰¹ to whom this Chapter applies, shall pay a contribution at a rate of 4 per cent in respect of the aggregate of the amount of those reckonable emoluments and the amount of income tax payable under the agreement in respect of them, and

(ii) notwithstanding Article 7 of the Regulations of 1996, shall not be entitled to recover from ~~an employed contributor~~ **a person**⁴⁰² any part of a contribution paid in accordance with subparagraph (i), and

(b) a contribution paid in accordance with paragraph (a)(i) shall be disregarded in determining whether the contribution conditions for any benefit are satisfied.

(5) In subsection (4) ‘specified provision’ means such provision as may be prescribed for the purposes of that subsection.

Regulations providing for collection of contributions under Chapter 5B etc.

30G. (1) For the purposes of the contribution payable in accordance with this Chapter, regulations may provide for—

(a) the time and manner of payment of such contributions,

(b) the collection and the recovery of and the furnishing of details in relation to such contributions,

(c) the charging of interest on arrears of such contributions,

(d) the waiving of interest due on arrears of such contributions

(e) the estimation of amounts due in respect of such contributions and appeals in relation to those estimates,

(f) the deduction, by an employer from the reckonable emoluments of ~~an employed contributor~~ **a person**⁴⁰³ to whom this Chapter applies, of any contribution payable under this Chapter reasonably believed by the employer to be due ~~by the contributor~~ **by the person**⁴⁰⁴, and adjustment in any case of over-deduction, and

(g) any matter ancillary or incidental to any of the matters referred to in paragraphs (a) to (f).

(2) Without prejudice to the generality of subsection (1), regulations under that subsection may provide for the assignment of any function relating to a matter referred to in that

⁴⁰¹ Substituted by s.3(1)(b)(iii) SW&PA 2013

⁴⁰² Substituted by s.3(1)(b)(iii) SW&PA 2013

⁴⁰³ Substituted by s.3(1)(c)(i) SW&PA 2013

⁴⁰⁴ Substituted by s.3(1)(c)(i) SW&PA 2013

subsection to the Collector-General or any other specified person.

(3) The provisions of any enactment or instrument made under any enactment relating to—

(a) the estimation, collection and recovery of income tax (including the provisions relating to the offset of taxes and appropriation of payments in Part 42 of the Act of 1997) or the inspection of records for those purposes,

(b) appeals in relation to income tax, or

(c) the publication of names of persons under section 1086 of the Act of 1997,

shall apply in relation to contributions payable under this Chapter in respect of reckonable emoluments that the Collector-General is obliged to collect as if the contributions were an amount of income tax that the employer was liable to remit to the Collector-General under ~~the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)~~ **Chapter 4 of Part 42 of the Act of 1997 and the Income Tax (Employments) Regulations 2018 (S.I. No. 345 of 2018)**⁴⁰⁵.

(4) Other than in the case of the class or ~~classes of employed contributors~~ **classes of person**⁴⁰⁶ to whom this Chapter applies that may be prescribed, contributions payable in accordance with this Chapter for a contribution year in respect of reckonable income shall be assessed, charged and paid in all respects as if they were an amount of income tax and they may be stated in one sum (in this subsection referred to as the ‘aggregated sum’) with the income tax contained in any computation of or assessment to income tax made by or on ~~that employed contributor~~ **that person**⁴⁰⁷ for the year of assessment (within the meaning of the Income Tax Acts) which coincides with the contribution year and for this purpose the contributions payable in accordance with this Chapter may be so stated notwithstanding that there is no amount of income tax contained in that computation or assessment and all the provisions of the Income Tax Acts, other than any such provisions in so far as they relate to the granting of any allowance, deduction or relief, apply as if the aggregated sum were a single sum of income tax.

(5) (a) Subject to paragraph (b), where an election made or deemed to be made under Section 1018 of the Act of 1997 has effect for the year of assessment the contributions payable under this Chapter ~~by a wife~~ **by the spouse in respect of whom the election is made**⁴⁰⁸ shall be charged, collected and recovered as if they were the contributions of ~~her husband~~ **the other spouse**⁴⁰⁹.

(b) The question as to the amount of the contributions payable under this Chapter in respect of ~~the husband or wife~~ **each spouse**⁴¹⁰ is not affected by this subsection.

(6) (a) Subject to paragraph (b), where an election made or deemed to be made under section 1031D of the Act of 1997 has effect for the year of assessment the contributions payable under this Chapter by the civil partner, who is not the nominated civil partner, shall be charged, collected and recovered as if they were the contributions of the nominated civil partner.

⁴⁰⁵ Substituted by s.4(1)(d) SWP&CRA 2018

⁴⁰⁶ Substituted by s.3(1)(c)(ii) SW&PA 2013

⁴⁰⁷ Substituted by s.3(1)(c)(ii) SW&PA 2013

⁴⁰⁸ Substituted by s.18(2)(a)(i) SW&PA 2015

⁴⁰⁹ Substituted by s.18(2)(a)(ii) SW&PA 2015

⁴¹⁰ Substituted by s.18(2)(a)(iii) SW&PA 2015

(b) The question as to the amount of the contributions payable under this Chapter in respect of each civil partner in a civil partnership is not affected by this subsection.

(7) In any proceedings instituted by virtue of this Act, a certificate purporting to be signed by an officer of the Revenue Commissioners or by any officer duly appointed by the Minister in that behalf which certifies that an amount in respect of contributions payable in accordance with this Chapter is due and payable by the defendant shall be evidence until the contrary is proved that that amount is so due and payable.⁴¹¹

(8) In subsection (5), ‘spouse’ means each person of a married couple who are living together.⁴¹²

CHAPTER 6 *General*

Employment outside State.

31. (1) Regulations may modify the provisions of this Part and Schedule 1 in their application in the case of persons who are or have been outside the State while insured under this Part.

(2) The modifications which may be made by regulations for the purposes of subsection (1) shall, in particular, include the deletion of “in the State” in paragraph 1 of Part 1 of Schedule 1.

(3) This section is without prejudice to the generality of any other provision of this Part providing for regulations.

Regulations varying rates and amounts of contributions.

32. Regulations may alter the rates or amounts of employment, self-employment or voluntary contributions.

Exceptions and credits.

33. Regulations may provide for—

(a) making exceptions from the liability to pay contributions for any specified periods, and

(b) crediting contributions to insured persons for any specified periods, including, in particular—

(i) periods for which there is an exception from the liability to pay contributions by virtue of paragraph (a),

(ii) the period between the beginning of the contribution year last preceding that in which they become insured persons and their entry into insurance, and

(iii) periods in any contribution year in which they become or cease to be a homemaker within the meaning of section 108(2).

Return of contributions paid in error.

34. Regulations may provide for the return, subject to any conditions, restrictions and deductions specified in the regulations, of any sums paid in error by means of employment, self-employment, voluntary or ~~optional contributions~~ *optional contributions or contributions under Chapter 5A or 5B of Part 2*⁴¹³.

⁴¹¹ Chapter 5B inserted by s.6(3)(a) SW&P(MP)A 2013

⁴¹² Inserted by s.18(2)(b) SW&PA 2015

Return of contributions — share-based remuneration.

34A. (1) The Minister may return, subject to any conditions, restrictions and deductions, any contributions—

(a) paid in accordance with section 13(2)(b)—

(i) ~~by virtue of clauses (I) to (VI) of paragraphs (a) and (b) of the definition of ‘reckonable earnings’ contained in~~⁴¹⁴ *pursuant to paragraph (a)(ii) or (b)(ii) of the definition of ‘reckonable earnings’ specified in Article 3 (amended by the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010))⁴¹⁵ of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) ~~(inserted by Article 4 of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010))~~⁴¹⁶, in respect of any gain, chargeable amount, value or amount realised, acquired or appropriated, as the case may be, during the contribution year commencing on 1 January 2011 which is the subject of a written contract or agreement that is in place before 1 January 2011, or*

(ii) in respect of share-based remuneration received by way of forfeitable shares to which section 128E of the Act of 1997 refers, where subsection (6) of ~~that section applies, and~~⁴¹⁷ *that section applies,*

~~(b) paid in accordance with section 13(2)(d), by virtue of clauses (I) to (VI) of paragraphs (a) and (b) of the definition of ‘reckonable earnings’ contained in Article 3 of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) (inserted by Article 4 of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010)).~~⁴¹⁸

(b) paid in accordance with section 13(2)(d)—

(i) pursuant to paragraph (a)(ii) or (b)(ii) of the definition of ‘reckonable earnings’ specified in Article 3 (amended by the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010)) of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996), or

(ii) in respect of the amount referred to in section 985A(3) of the Act of 1997 in the case of emoluments (within the meaning of section 983 of the Act of 1997) received by an employee or director in the form of shares (including stock) in—

(I) the company in which the employee or director holds his or her office or employment, or

(II) a company which has control (within the meaning of section 432 of the Act of 1997) of that company,

⁴¹³ Substituted by s6(4) SWP(MP)A 2013

⁴¹⁴ Substituted by s.11 SW&PA 2012

⁴¹⁵ Inserted by s.11 SW&PA 2012

⁴¹⁶ Deleted by s.11 SW&PA 2012

⁴¹⁷ Substituted by s.11 SW&PA 2012

⁴¹⁸ Substituted by s.11 SW&PA 2012

and

(c) paid in accordance with section 21 in respect of share based remuneration received by way of forfeitable shares to which section 128E of the Act of 1997 refers, where subsection (6) of that section applies.⁴¹⁹

(2) The Minister may make regulations providing for the return, subject to any conditions, restrictions and deductions specified in the regulations, of the contributions referred to in subsection (1), ~~to an employed contributor and to the employer of an employed contributor,~~⁴²⁰ **to an employed contributor, the employer of an employed contributor and a self-employed contributor**, as the case may be, and such regulations may include—

(a) prescribing the procedure for an application for such return, and

(b) prescribing the procedure for such return ~~on the death of an employed contributor,~~⁴²¹ **on the death of an employed contributor and a self-employed contributor.**⁴²²

Return of contributions where entry into insurance occurs after specified age.

35. (1) Regulations shall provide for the return, subject to any conditions, restrictions and deductions specified in the regulations of so much of any employment contribution paid by an employed contributor or voluntary contribution payable under section 25 by a voluntary contributor whose entry into insurance occurred—

(a) after he or she had attained the age of 60 years,

(b) after he or she had attained the age of 58 years in the case of a person who attained the age of 57 years on or after 1 July 1974,

(c) after he or she had attained the age of 57 years in the case of a person who attained the age of 56 years on or after 1 April 1975, or

(d) after he or she had attained the age of 56 years in the case of a person who attained the age of 55 years on or after 1 October 1977,

as is determined in accordance with the regulations to have been paid in respect of ~~old age (contributory) pension~~ **State pension (contributory)**.

(2) (a) In the case of a person who attained the age of 56 years on or after 1 April 1975, subsection (1)(b) shall not apply on his or her attaining the age of 57 years.

(b) In the case of a person who attained the age of 55 years on or after 1 October 1977, subsection (1)(c) shall not apply on his or her attaining the age of 56 years and subsection (1)(b) shall not apply on his or her attaining the age of 57 years.

(3) For the purposes of this section, the entry into insurance of an employed contributor or a voluntary contributor by virtue of section 24(1)(a), subject to subsection (6), is deemed to have occurred after he or she had attained the appropriate age under subsection (1) where after the time of that attainment he or she became for the first time an employed contributor in respect of whom contributions reckonable for the purposes of the contribution conditions

⁴¹⁹ Inserted by s. 11(3) SW&PA 2012

⁴²⁰ Inserted by s. 11(4) SW&PA 2012

⁴²¹ Substituted by s. 11(4) SW&PA 2012

⁴²² S.34A inserted by s.13(6) SWA 2011

for an ~~old age (contributory) pension~~ a *State pension (contributory)* are payable and he or she had not been an employed contributor under the National Health Insurance Acts 1911 to 1952 before attaining that age.

(4) Regulations shall provide for the return, subject to any conditions, restrictions and deductions specified in the regulations, of so much of any self-employment contribution paid by a self-employed contributor or a voluntary contribution payable under section 26 by a voluntary contributor, who entered into insurance for the purposes of section 109(1) after he or she had attained the age of 56 years, as is determined in accordance with regulations to have been paid in respect of ~~old age (contributory) pension~~ *State pension (contributory)*.

(5) Regulations shall provide for the return, subject to any conditions, restrictions and deductions specified in the regulations, of so much of any employment contribution paid by an employed contributor or voluntary contribution payable under section 25 by a voluntary contributor who entered into insurance for the purposes of section 115(1) after he or she had attained the age of 55 years as is determined in accordance with the regulations to have been paid in respect of ~~retirement pension~~ *State pension (transition)*.

(6) For the purposes of this section, in the case of a relevant person within the meaning of section 108(4), “entry into insurance” has the meaning given to it by section 108(5) or (6).

(7) Regulations shall provide for the return, subject to any conditions, restrictions and deductions specified in regulations, of so much of any self-employment contribution paid by a self-employed contributor or a voluntary contribution paid under section 26 by a voluntary contributor, who—

(a) had attained the age of 56 years on 6 April 1988, and

(b) became a self-employed contributor within the meaning of section 20 on or after 6 April 1988,

as may be determined in accordance with the regulations to have been paid in respect of ~~old age (contributory) pension~~ *State pension (contributory)*.

~~Return of employment contributions—master or seaman.~~

~~36. Regulations shall provide for the return, subject to any conditions, restrictions and deductions specified in the regulations, of so much of any employment contribution, as may be prescribed, paid by virtue of section 13(2)(d), in respect of a master or a seaman (within the meaning of section 742 of the Merchant Shipping Act 1894), in respect of his or her employment on the class or classes of vessel that may be prescribed.~~⁴²³

Return of employment contributions in respect of certain seafarers

36. (1) The Minister may, on application made to him or her in that behalf, return to an employer any employment contribution paid in accordance with section 13(2)(d) in respect of the employment of a qualifying seafarer in respect of such period as may be prescribed.

(2) An application under subsection (1) shall be made—

(a) in the manner,

(b) to such persons,

⁴²³ S.36 substituted by s.6 SW&PA 2014

(c) by a specified day or within a specified period, and

(d) in such form,

as may be prescribed.

(3) In this section—

‘qualifying seafarer’ means a master or seaman, within the meaning of section 742 of the Merchant Shipping Act 1894, who is employed by a ship owner to work on board a qualifying ship during a period in which that ship is at sea, where that person—

(a) in the case where he or she is working on board a vessel (including a sea-going passenger vessel with facilities to enable road or rail vehicles to roll on or off the vessel and carrying more than 12 passengers) providing scheduled passenger services between ports of the European Economic Area, is a citizen of a member state of the European Economic Area, or

(b) in any other case, is liable to taxation or social security contributions, or both of them, in a member state of the European Economic Area;

‘qualifying ship’ means a sea-going vessel which is—

(a) registered in the shipping register of a member state of the European Economic Area,

(b) not less than 100 tons gross tonnage, and

(c) self-propelled,

but does not include—

(i) a fishing vessel, tug or vessel used primarily as a floating platform for working machinery or as a diving platform, as may be prescribed, or

(ii) such other vessel of a type that is not normally used for the purposes of the activities specified in paragraph (a), (b), (c), (e) or (f) of the definition of ‘qualifying shipping activities’ contained in section 407(1) of the Act of 1997.⁴²⁴

~~Return of contributions — maintenance arrangements.~~

~~37. Regulations may provide for the return of so much, if any, as may be prescribed subject to any conditions that may be prescribed, of any employment contribution, self-employment contribution, voluntary contribution or optional contribution paid by a contributor, in respect of any payment made by him or her under or pursuant to a maintenance arrangement within the meaning of section 1025 of the Act of 1997, relating to a marriage for the benefit of the other party to the marriage, unless section 1026 of that Act applies in respect of that payment.~~⁴²⁵

Return of contributions — maintenance arrangements

37. Regulations may provide for the return of so much, if any, as may be prescribed subject

⁴²⁴ S.36 substituted by s.6 SW&PA 2014

⁴²⁵ S.37 substituted by s.7 SW&P(MP)A 2013

to any conditions that may be prescribed, of any employment contribution, self-employment contribution, voluntary contribution, optional contribution or contribution under Chapter 5A or 5B of Part 2 paid by a contributor, in respect of any payment made by him or her under or pursuant to a maintenance arrangement—

- (a) within the meaning of section 1025 of the Act of 1997 relating to a marriage, where the maintenance arrangement is for the benefit of the other party to the marriage, unless section 1026 of that Act applies in respect of that payment,
- (b) within the meaning of section 1031J of the Act of 1997 relating to a civil partnership, where the maintenance arrangement is for the benefit of the other party to the civil partnership, unless section 1031K of that Act applies in respect of that payment, or
- (c) within the meaning of section 1031Q of the Act of 1997 relating to a relationship between cohabitants, where the maintenance arrangement is for the benefit of the other cohabitant to the relationship.⁴²⁶

Return of contributions-payments to personal pensions.

~~38. (1) Regulations may provide for the return, subject to any conditions, restrictions or deductions that may be prescribed, of so much, if any, as may be prescribed of any employment contribution under section 13(2)(d) *section 13(2)(b)*⁴²⁷ paid by, or in respect of, an employed contributor, or of any self-employment contribution paid by a self-employed contributor under section 21(1)(c), in respect of the amount that may be prescribed of—~~

- ~~(a) any payment made by the person to a Personal Retirement Savings Account,~~
- ~~(b) any payment made by the person which is a qualifying premium under an annuity contract for the time being approved by the Revenue Commissioners under Chapter 2 of Part 30 of the Act of 1997, or~~
- ~~(c) any payment made by the person which is a contribution allowable under section 774 or 776 of the Act of 1997 as a deduction from emoluments in assessing those emoluments to income tax under Schedule E of that Act.~~

~~(2) In this section “Personal Retirement Savings Account” has the meaning given to it by section 91 of the Pensions Act 1990.⁴²⁸~~

Limitation on return of contributions.⁴²⁹

~~38A. (1) Subject to subsections (2) and (3), an application, pursuant to ~~section 34, 37 or 38~~ *section 34 or 37*⁴³⁰, for the return of contributions shall be made –~~

- ~~(a) within 4 years of the last day of the contribution year in respect of which the contributions concerned were paid, and~~
- ~~(b) in such manner as the Minister or the Collector General, as appropriate, may from time to time determine.~~

~~(2) Subsection (1) shall not apply where –~~

⁴²⁶ S.37 substituted by s.7 SW&P(MP)A 2013

⁴²⁷ Substituted by s. 37 and Sch. 7 SWLR&PA 2006

⁴²⁸ S.38 deleted by s.12(c) SWA 2010

⁴²⁹ S38A inserted by s.8 SW&P(No. 2)A 2009

⁴³⁰ Substituted by s.12(1)(d) SWA 2010

(a) an application for the return of contributions was made on or before 31 December 2009, or

(b) the return of contributions is pursuant to a decision of a deciding officer, or where such decision is appealed, an appeals officer -

(i) on a question referred to in subparagraph (iv), (v), (vi), (x), (xi) or (xii) of section 300(2)(a), and

(ii) the request for such decision was received by the Minister on or before 31 December 2009.

(3) A return of contributions may be subject to all or any of the following:

(a) a deduction of the amount of any contributions which -

(i) were paid at an incorrect rate in respect of an insured person, and

(ii) were treated, under Article 71(1) of the Social Welfare (Consolidated Contributions and Insurability) Regulations (S.I. 312 of 1996), as paid on account of contributions properly payable in respect of such person;

(b) a deduction of an amount equivalent to the amount of any benefit paid to the person by reason of contributions having been paid in error.

(4) Regulations may provide for the method of calculation of the amount of any contributions due to be repaid.

(5) In this section –

“benefit” has the meaning assigned to it in section 7(2);

~~‘contributions’ means –~~

~~(a) employment contributions,~~

~~(b) self-employment contributions,~~

~~(c) voluntary contributions, or~~

~~(d) optional contributions.^{431/432}~~

“contributions” means —

(a) employment contributions,

(b) self-employment contributions,

(c) voluntary contributions,

(d) optional contributions, or

⁴³¹ S38A inserted by s.8 SW&P(No. 2) A 2009

⁴³² Substituted by s.5 SW(MP) A 2010

~~(e) health contributions within the meaning of the Health Contributions Act 1979.~~^{433 434}

(f) contributions under Chapter 5A or 5B of Part 2.⁴³⁵

Recovery of redundancy payments⁴³⁶

38B. (1) A return of the employer's contribution under section 34, 34A or 36 shall be subject to a deduction in respect of any amount paid by the Minister in accordance with section 32(2) of the Redundancy Payments Act 1967.

(2) The amount to be deducted shall be calculated in accordance with subsections (4), (5) and (6) of section 32 of the Redundancy Payments Act 1967.⁴³⁷

CHAPTER 6A⁴³⁸

Attribution of Contributions in respect of Certain Payments made to Address the Effects of Covid-19

Application of Chapter 6A

38C. (1) This Chapter applies to a person who, on or after 13 March 2020 was—

(a) entitled to, and in receipt of, a payment made to address the adverse economic effects of Covid-19 made by the Minister under section 202 and commonly known as the pandemic unemployment payment,

(b) entitled to, and in receipt of, the Covid-19 pandemic unemployment payment,

(c) entitled to, and in receipt of, a payment under Chapter 12 or 12A of this Part, but who would otherwise be entitled to a payment referred to in paragraph (a) or (b),

(d) entitled to, and in receipt of, a payment under Chapter 2 of Part 3, but who would otherwise be entitled to a payment referred to in paragraph (a) or (b),

(e) an employed contributor whose employer is, or was, in receipt of the temporary wage subsidy, or

(f) an employed contributor whose employer was, before the coming into operation of Part 7 of the Act of 2020, in receipt of a subsidy in respect of him or her paid to his or her employer under a scheme provided by the Revenue Commissioners on behalf of the Minister and commonly known as the Covid-19 employer refund scheme.

(2) The Minister may, with the consent of the Minister for Public Expenditure and Reform, make regulations, having regard to the matters specified in section 38E(5), to provide for the application of this Chapter to a person specified in those regulations.

Section 13: supplemental provisions for purposes of Chapter

⁴³³ Substituted by s.5 SW(MP)Act 2010

⁴³⁴ 38A(5)(e) deleted by s.15 SWA 2010

⁴³⁵ Inserted by s.6(5) SWP(MP)A 2013

⁴³⁶ Inserted by s.7 SW&PA 2014

⁴³⁷ Inserted by s.7 SW&PA 2014

⁴³⁸ Chapter 6A inserted by s.8 SWC-19AA 2020

38D. (1) In any contribution week, where an employed contributor referred to in section 38C(1)(e)—

(a) is, or was, also a specified employee within the meaning of section 28 of the Act of 2020, or

(b) was also an employee in receipt of the subsidy referred to in section 38C(1)(f), subsection (2) shall, in addition to section 13, also apply to any such employed contributor.

(2) For the purposes of subsection (1), the following shall apply in respect of an employed contributor referred to in that subsection—

(a) an employment contribution shall not be payable by that employed contributor in respect of reckonable earnings from the employment concerned in any contribution week referred to in subsection (1),

and

(b) an employment contribution shall be payable by the employer of that employed contributor at the rate of 0.5 per cent of any reckonable earnings paid to that employed contributor which are additional to the temporary wage subsidy.

Attribution of contributions: certain payments relating to Covid-19

38E. (1) A person—

(a) who was an employed contributor in the week immediately before his or her becoming a person referred to in paragraph (a), (b), (c), (d), (e) or (f) of section 38C(1), and

(b) to whom section 13 applied in that week, shall be deemed to have made an employment contribution in accordance with section 13 in respect of each week in which he or she is, or was, a person referred to in paragraphs (a), (b), (c), (d), (e) or (f) of section 38C(1).

(2) The amount of an employment contribution attributed under this section shall, notwithstanding any other enactment, be of the same amount of the contribution made by the employed contributor referred to in subsection (1) in the week immediately before his or her becoming a person referred to in paragraph (a), (b), (c), (d), (e) or (f) of section 38C(1).

(3) Notwithstanding subsection (1), the Minister may, in respect of a person to whom subsection (1) applies, by regulation, with the consent of the Minister for Public Expenditure and Reform and having regard to the matters specified in subsection (5), prescribe the maximum number of contribution weeks in respect of which employment contributions have been deemed, under subsection (1), to have been made.

(4) The Minister may, with the consent of the Minister for Public Expenditure and Reform, and having regard to the matters specified in subsection (5), by regulation prescribe the number of self-employment contributions to be attributed to a self-employed contributor and in respect of which such contributions shall be deemed to have been made by the self-employed contributor in respect of any contribution week commencing on or after 13 March 2020.

(5) When making regulations under this section, the Minister shall have regard to the following:

- (a) the potential impact of Covid-19 on the entitlements of employed contributors and self-employed contributors;
- (b) the manner in which self-employed contributions are paid by self-employed employed contributors;
- (c) the impact, or potential impact of, Covid-19 and the attribution of any such employment contributions and self-employment contributions on the Social Insurance Fund;
- (d) the policies and objectives of the Government to protect the health and welfare of members of the public;
- (e) the need to ensure the most beneficial, effective and efficient use of resources.

Exchange of information in relation to Chapter

~~38F. Notwithstanding section 261 or any other enactment in relation to the confidentiality of information relating to employers and insured persons or other persons entitled to benefits or assistance under this Act, information relevant to the payment of the temporary wage subsidy or the payment referred to in section 38C(1)(f) insofar as it relates to the effective operation of this Chapter, may be exchanged between the Minister and the Revenue Commissioners.~~⁴³⁹⁴⁴⁰

Exchange of information in relation to Chapter

38F. (1) Notwithstanding section 261 or any other enactment in relation to the confidentiality of information relating to employers and insured persons or other persons entitled to benefits or assistance under this Act, information relevant to a relevant subsidy, in so far as it relates to the effective operation of this Chapter, may be exchanged between the Minister and the Revenue Commissioners.

(2) In this section, ‘relevant subsidy’ means—

- (a) the subsidy referred to in section 38C(1)(f) and commonly known as the Covid-19 employer refund scheme,
- (b) the temporary wage subsidy, and
- (c) the employment wage subsidy scheme within the meaning of section 28B of the Act of 2020.⁴⁴¹

Section 13: additional supplemental provisions for purposes of Chapter

38G. (1) In any contribution week, where a payment is made to or for the benefit of an employed contributor in respect of reckonable earnings of the employed contributor, an employment contribution shall be payable by the employer of that employed contributor at the rate of 0.5 per cent of the amount of reckonable earnings paid to that employed contributor in that week.

(1A) Subsection (1) shall cease to have effect on 28 February 2022 and, on and from 1 March 2022, the provisions of section 13(2)(d) shall accordingly apply to the employed contributor’s employer.⁴⁴²

⁴³⁹ Chapter 6A inserted by s.8 SWC-19AA 2020

⁴⁴⁰ Substituted by Section 3 of the SWA 2020

⁴⁴¹ Substituted by Section 3 of the SWA 2020

⁴⁴² Sub Article 1A Inserted by Section 4 SWA 2021

(2) In this section—

‘employed contributor’ means an employed contributor who is also a qualifying employee within the meaning of section 28B (inserted by section 2(2) of the Financial Provisions (Covid-19) (No. 2) Act 2020) of the Act of 2020;

‘employer’, in relation to an employed contributor, means an employer of the employed contributor who is also an employer within the meaning of section 28B of the Act of 2020.⁴⁴³

CHAPTER 7

Description of Benefits

Description of benefits

39. (1) Benefits under this Part shall be of the following descriptions and are so described in this Act—

(a) ~~disability benefit~~ ***illness benefit***,

(aa) ***partial capacity benefit***,⁴⁴⁴

(b) maternity benefit,

(c) health and safety benefit,

(d) adoptive benefit,

(da) paternity benefit,⁴⁴⁵

(db) parent’s benefit,⁴⁴⁶

(e) ~~unemployment benefit~~ ***jobseeker’s benefit***,

(ea) ***jobseeker’s benefit (self-employed)***,⁴⁴⁷

(eb) **Covid-19 pandemic unemployment payment**,⁴⁴⁸

(f) ~~occupational injuries benefit~~,⁴⁴⁹

(f) occupational injuries benefit comprising injury benefit, disablement benefit and death benefit,⁴⁵⁰

(g) carer’s benefit,

(h) ~~old age (contributory) pension~~ ***State pension (contributory)***,

(i) ~~retirement pension~~ ***State pension (transition)***,

⁴⁴³ Section 38G inserted by Section 4 of the SWA 2020

⁴⁴⁴ Inserted by s.12 SW&PA 2010

⁴⁴⁵ Inserted by s.30 [PL&BA 2016](#)

⁴⁴⁶ Inserted by S. 27 of PLBA 2019

⁴⁴⁷ Inserted by Item 6 of the Schedule of SWA 2019

⁴⁴⁸ Inserted by s.9 SWC-19AA 2020

⁴⁴⁹ Para (f) substituted by s. 10(a) SW&PA 2007

⁴⁵⁰ Substituted by s.10(a) SW&PA 2007

(j) invalidity pension,

(k) ~~widow's (contributory) pension and widower's (contributory) pension,~~ **widow's (contributory) pension, widower's (contributory) pension and surviving civil partner's (contributory) pension,**⁴⁵¹

(l) ~~orphan's (contributory) allowance~~ **guardian's payment (contributory),**

(m) bereavement grant,

(n) ~~widowed parent grant (paid by virtue of receipt of a benefit under Part 2).~~⁴⁵²

(n) widowed or surviving civil partner grant (paid by virtue of receipt of a benefit under Part 2).⁴⁵³

(2) Subject to section 138 and so long as that section remains in force, benefit shall, in addition to including the benefits referred to in subsection (1), also include treatment benefit under that section.

CHAPTER 8

Disability Benefit Illness Benefit

Entitlement to benefit.

40. (1) ~~Subject to this Act, a person shall be entitled to disability benefit **illness benefit** in respect of any day of incapacity for work (in this Act referred to as "a day of incapacity for work") which forms part of a period of interruption of employment, where—~~

~~(a) the person is under pensionable age on the day for which the benefit is claimed, and~~

~~(b) he or she satisfies the contribution conditions in section 41.~~

(1) Subject to this Act, a person shall only be entitled to illness benefit in respect of any day of incapacity for work (in this Act referred to as "a day of incapacity for work") which forms part of a period of interruption of insurable employment, where—

(a) the person is under pensionable age on the day for which the benefit is claimed,

(aa) he or she is incapable of work,

(ab) the reason for the period of interruption of employment is as a direct result of the person concerned being incapable of work and for no other reason, and

~~(b) he or she satisfies the contribution conditions in section 41.~~⁴⁵⁴

(b) he or she satisfies the contribution conditions in section 41 or such conditions as may be prescribed in accordance with regulations under section 40A.⁴⁵⁵

(2) A person shall not be entitled to ~~disability benefit~~ **illness benefit** for the first 3 ~~6~~⁴⁵⁶ 3⁴⁵⁷ days of any period of incapacity for work.

⁴⁵¹ Substituted by s.4 SW&PA 2011

⁴⁵² Substituted by s.17(1) SW&PA 2010

⁴⁵³ Substituted by s.17(1) SW&PA 2010

⁴⁵⁴ Substituted by s. 4(a) SW(No.2)A 2019

⁴⁵⁵ Substituted by s.5(a) H(PPEMPI)A 2020

(2A) Subsection (2) shall not apply to a person who had an entitlement to jobseeker's benefit or jobseeker's allowance for any day or days in the period of 14 consecutive days ending on the day before the first day of incapacity for work.⁴⁵⁸

(3) For the purposes of any provision of this Act relating to ~~disability benefit~~ **illness benefit**

(a) a day shall not be treated in relation to an insured person as a day of incapacity for work unless on that day the person is incapable of work,

(b) "day of interruption of employment" means a day which is a day of incapacity for work or of unemployment,

(c) any 3 days of interruption of employment, whether consecutive or not, within a period of 6 consecutive days shall be treated as a period of interruption of employment and any 2 such periods not separated by a period of more than 26 weeks shall be treated as one period of interruption of employment,

(d) any 3 days of incapacity for work, whether consecutive or not, within a period of 6 consecutive days shall be treated as a period of incapacity for work and any two such periods not separated by more than 3 days shall be treated as one period of incapacity for work ~~and a period of incapacity for work is deemed to include any day or days of unemployment in the period of 3 consecutive days before the first day of incapacity for work~~⁴⁵⁹,

(e) notwithstanding paragraph (d), in the case of a person who, on or after 1 April 2002, has been in receipt of ~~disability benefit~~ **illness benefit** for not less than 1,560 days in respect of a period of incapacity for work and who, within the same period of interruption of employment, has subsequent periods of incapacity for work, any 2 such subsequent periods of incapacity for work within that period of interruption of employment not separated by a period of more than 13 weeks shall be treated as one period of incapacity for work,

(ea) notwithstanding paragraph (d), in the case of a person who, on or after 1 May 2007, has been in receipt of illness benefit for not less than 624 days in respect of a period of incapacity for work and who, within the same period of interruption of employment, has subsequent periods of incapacity for work, any 2 such subsequent periods of incapacity for work within that period of interruption of employment not separated by a period of more than 26 weeks shall be treated as one period of incapacity for work,⁴⁶⁰

(f) ~~Sunday~~ **other than for the purposes of subsection (2A), Sunday**⁴⁶¹ or any other day in each week that may be prescribed shall not be treated as a day of incapacity for work or of unemployment and shall be disregarded in computing any period of consecutive days,

⁴⁵⁶ Substituted by s.4(1)(a) SW&PA 2013

⁴⁵⁷ Substituted by Section 5 of the SWA 2020

⁴⁵⁸ Subsection (2A) inserted by s. 4(1)(b) SW&PA 2013

⁴⁵⁹ Deleted by s. 4(1)(c) SW&PA 2013

⁴⁶⁰ Inserted by s. 5(a) SW&PA 2007

⁴⁶¹ Substituted by s. 4(1)(c)(ii) SW&PA 2013

(g) a day shall not be treated in relation to an insured person as a day of incapacity for work where, in respect of that day, the insured person is being paid by his or her employer in respect of holiday leave,

(h) any 2 periods of incapacity for work separated by a period in respect of which an insured person is being paid by his or her employer in respect of holiday leave shall be treated as one period of incapacity for work.

(4) Subject to subsection (3), regulations may make provision as to the days which are or are not to be treated for the purposes of ~~disability benefit~~ **illness benefit** as days of incapacity for work or of unemployment.

(5) The amount payable by way of benefit for any day of incapacity for work shall be one-sixth 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.

(6) A person who was in receipt of maternity benefit under section 47 on any of the 3 days before the day in respect of which a claim for ~~disability benefit~~ **illness benefit** is made shall not be entitled to ~~disability benefit~~ **illness benefit** for the first 3 days of incapacity for work in respect of that claim.

(7) Subject to subsection (8), this subsection applies to a person who is incapable of work, or is deemed to be incapable of work, by virtue of—

(a) being certified in the prescribed manner by a registered medical practitioner as being a person—

(i) who is diagnosed with Covid-19, or

(ii) who is a probable source of infection of Covid-19,

(b) having been notified, in the prescribed manner, by a medical officer of health or such other person as may be prescribed, that he or she is a probable source of infection of Covid-19,

(c) being deemed, in accordance with regulations under section 40A, to be a probable source of infection of Covid-19, or

(d) being a person in respect of whom an order under section 38A(1) of the Health Act 1947 is in force.

(8) Notwithstanding subsection (7), the Minister may prescribe a category or categories of persons who, by virtue of the terms and conditions (expressed or implied) of their contract of employment, shall not be entitled to illness benefit in respect of absences from employment arising from their being a person to whom subsection (7) applies.

(9) Notwithstanding subsection (2), a person to whom subsection (7) applies shall be entitled to illness benefit on and from the first day of any period of incapacity, or deemed incapacity, for work.

(10) Notwithstanding anything in this Act, the Minister may, in respect of a person to whom subsection (7) applies, prescribe the minimum contribution conditions to be satisfied.

(11) Notwithstanding anything in this Act, in respect of a person to whom subsection (7) applies, the Minister may by regulations under section 40A vary the rate of illness benefit for such period as may be prescribed.

~~(12) In this section and section 40A, 'Covid-19' means a disease caused by infection with the virus SARS-CoV-2 and specified as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981) or any variant of the disease so specified as an infectious disease in those Regulations.~~^{462 463}

Regulations in respect of persons to whom section 40(7) applies

40A. (1) The Minister may, following consultation with the Minister for Health, with the consent of the Minister for Public Expenditure and Reform, and having regard to the matters specified in subsection (2), make regulations for the purposes of giving full effect to the relevant provisions and such regulations may, in particular, but without prejudice to the generality of the foregoing, provide for all or any of the following:

- (a) the matters referred to as prescribed by the relevant provisions;
- (b) the procedure by which, and manner in which, a person is certified to be a relevant person;
- (c) notwithstanding the generality of paragraph (b), the procedure by which, and manner in which, a person is deemed to be a probable source of infection of Covid-19;
- (d) the requirements in relation to which, and the manner in which, a relevant person shall notify the Minister of the circumstances of his or her incapacity, or deemed incapacity, for work;
- (e) additional conditions for entitlement of a relevant person to illness benefit;
- (f) such additional, incidental, consequential or supplemental matters as the Minister considers necessary or expedient for the purposes of giving effect to the relevant provisions.

(2) When making regulations under this section, the Minister shall have regard to the following:

- (a) the nature and potential impact of Covid-19 on individuals, society and the State;
- (b) the capacity of the State to respond to the risk to public health posed by the spread of Covid-19;
- (c) the policies and objectives of the Government to protect the health and welfare of members of the public;
- (d) the need to ensure the most beneficial, effective and efficient use of resources;
- (e) the need to mitigate the economic effects of the spread of Covid-19;
- (f) in relation to regulations made for the purposes of section 40(7)(c), the impact of the requirement for certification on the availability of resources within the health services.

⁴⁶² Sub Articles 7 to 12 Inserted by s.5(b) H(PPEMPI)A 2020

⁴⁶³ Subsection (12) deleted by s.10 SWC-19AA 2020

(3) In this section—

‘relevant person’ means a person to whom section 40(7) applies;

‘relevant provisions’ means subsections (7) to (12) of section 40.⁴⁶⁴

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Conditions for receipt.

41.(1) The contribution conditions for ~~disability benefit~~ *illness benefit* are—

~~(a) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the period between his or her entry into insurance and the day for which the benefit is claimed, and~~⁴⁶⁶

(a) that the claimant has qualifying contributions in respect of not less than 104 contribution weeks in the period between his or her entry into insurance and the day for which the benefit is claimed, and⁴⁶⁷

(b) that the claimant—

(i) has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks, of which at least 13 must be qualifying contributions, in the second last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed, or

(ii) has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year which includes the day for which the benefit is claimed,

and

(c) that the claimant has—

a. prescribed reckonable weekly earnings, or

(ia) prescribed weekly earnings, in the case of a person who immediately before the week of incapacity for which illness benefit was claimed –

(I) was in receipt of *invalidity pension*,⁴⁶⁸ carer’s benefit or carer’s allowance, and

(II) was in receipt of illness benefit immediately before receiving a payment referred to in subparagraph (I),

or⁴⁶⁹

⁴⁶⁴ 40A Inserted by s.6 H(PPEMPI)A 2020

⁴⁶⁵ Uncommenced provision - see s.6 SW(MP)A 2010

⁴⁶⁶ Substituted by s. 15(1)(a) SW(MP)A 2008

⁴⁶⁷ Substituted by s. 15(1)(a) SW(MP)A 2008

⁴⁶⁸ Inserted by s. 6 SW&PA 2008

⁴⁶⁹ Para (ia) inserted by s. 5(b) SW&PA 2007

(ii) in the case of a person who qualifies for ~~disability benefit~~ **illness benefit** by virtue of having paid optional contributions, prescribed reckonable weekly income,

in excess of a prescribed amount in the prescribed period.

(2) In the case of a claim for ~~disability benefit~~ **illness benefit** where the period of interruption of employment began before 6 April 1987, subsection (1)(a) shall be read as if “26” were substituted for “52”.

(3) In the case of a claim for ~~disability benefit~~ **illness benefit** where the period of interruption of employment began on or after 6 April 1987 and before 5 April 2004, subsection (1)(a) shall be read as if “39” were substituted for “52”.

(3A) In the case of a claim for illness benefit where the period of interruption of employment began on or after 5 April 2004 and before 5 January 2009, subsection (1)(a) shall be read as if “52” were substituted for “104”.⁴⁷⁰

(4) Regulations may provide for entitling to ~~disability benefit~~ **illness benefit**, subject to the conditions that may be prescribed, the class or classes of persons who would be entitled to that benefit but for the fact that the requirement in subsection (1)(b) that there must be qualifying contributions in respect of at least 13 contribution weeks in the second last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed is not satisfied.

(5) Where a person has been entitled to payment of ~~disability benefit~~ **illness benefit** in respect of any day which is on or after 3 January 1981, or would but for section 40(2) or 46(1) have been so entitled, then, in relation to ~~disability benefit~~ **illness benefit**, the benefit year which includes the first such day in every period of incapacity for work which is, or is deemed to be, a separate period of incapacity shall, for the purpose of the ~~condition contained in subsection (1)(b)~~ **conditions contained in subsections (1)(b) and (c)**⁴⁷¹, be regarded as continuing for each day of incapacity for work in that period in respect of which the person’s right to that benefit has not been exhausted up to and including the 312th day in that period in respect of which the benefit has been paid.

(5A) Subsection (5) shall not apply where a person has been entitled to illness benefit, and in the course of a period of incapacity for work, would be entitled to payment of such benefit at a higher rate than would be payable were that person a person to whom the said subsection applied.⁴⁷²

(6) Regulations may provide for modifications of the contribution conditions set out in subsection (1).

(7) Subject to subsection (8), regulations may provide for entitling to ~~disability benefit~~ **illness benefit** persons who would be entitled to that benefit but for the fact that the condition in subsection (1)(c) is not satisfied.

(8) Regulations under subsection (7) shall provide that benefit payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 2 and the rate specified by the regulations may vary with the extent to which either of the conditions set out in subsection (1)(c) is satisfied.

⁴⁷⁰ Inserted by s. 15(1)(b) SW(MP)A 2008

⁴⁷¹ Substituted by s.5(a)(i) SWA 2016

⁴⁷² S.(5A) inserted by s.5(a)(ii) SWA 2016

(9) The requirement contained in subsection (1)(b)(i) that there must be qualifying contributions in respect of at least 13 contribution weeks in the relevant contribution year shall not apply to any period of incapacity for work beginning before 1 July 1992.

(10) The requirement contained in subsection (1)(c) that the claimant must have prescribed reckonable weekly earnings in excess of a prescribed amount in the prescribed period shall not apply in the case of a claim for ~~disability benefit~~ *illness benefit* made by a person in the benefit year in which that person, having been a volunteer development worker, returns to the State from a developing country or in the next 2 succeeding benefit years.

(11) In the case of any claim for ~~disability benefit~~ *illness benefit*, where, at the time of application for that benefit, the claimant—

(a) is in receipt of or entitled to ~~unemployment assistance~~ *jobseeker's allowance* under section 142(1)(a), and

(b) has qualifying contributions in respect of not less than 260 weeks,

subsection (1)(b)(i) shall be read as if “39 contribution weeks” were substituted for “39 contribution weeks, of which at least 13 must be qualifying contributions” and subsection (1)(c) shall not apply.

(12) In the case of any claim for ~~disability benefit~~ *illness benefit made before 1 July in any year*⁴⁷³ where, on the date immediately before the claim, a person was in receipt of or entitled to occupational injury benefit, subsection (1)(b)(i) shall be read as if “in the second last or third last complete contribution year” were substituted for “in the second last complete contribution year”.

Rate of benefit.

42. Subject to this Act, the weekly rate of ~~disability benefit~~ *illness benefit* shall be as set out in column (2) of Part 1 of Schedule 2.

Increases for qualified adult and qualified children.

43. (1) The weekly rate of ~~disability benefit~~ *illness benefit* shall be increased by the amount set out in column (3) of Part 1 of Schedule 2 for any period during which the beneficiary has a qualified adult, subject to the restriction that ⁴⁷⁴ a beneficiary shall not be entitled for the same period to an increase of benefit under this subsection in respect of more than one person.

~~(2) The weekly rate of disability benefit *illness benefit* shall be increased by the amount set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary.~~⁴⁷⁵

(2) The weekly rate of illness benefit shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

⁴⁷³ Inserted by s. 5(b)(ii) SW&PA 2007

⁴⁷⁴ Uncommenced provision – Inserted by Sch. 6(2) of the SWCA 2005 and deleted prior to commencement by s.21 SW&PA 2014

⁴⁷⁵ Subject. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary.⁴⁷⁶

(3) Subject to subsection (4), any increase of ~~disability benefit~~ **illness benefit** payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, **civil partner or cohabitant**⁴⁷⁷ of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, **civil partner or cohabitant**⁴⁷⁸ of the beneficiary is not a qualified adult and subsection (2) shall be read and have effect accordingly.

(4) Subsection (3) shall not apply and no increase of ~~disability benefit~~ **illness benefit** payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, **civil partner or cohabitant**⁴⁷⁹ of a beneficiary shall be payable where the weekly income of that spouse, **civil partner or cohabitant**⁴⁸⁰, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.

Duration of payment.

44. (1) Where a person—

(a) has qualifying contributions in respect of less than 260 contribution weeks in the period between his or her entry into insurance and any day of incapacity for work, and

~~(b) before that day has been entitled, in respect of any period of interruption of employment (whether including that day or not) during the period beginning on the date one year immediately before that day, to disability benefit **illness benefit** for 312 days;~~⁴⁸¹

(b) before that day was entitled, in respect of any period of interruption of employment (whether including that day or not), to illness benefit for 312 days,⁴⁸²

the person shall not be entitled to ~~disability benefit~~ **illness benefit** for that day unless since the last of those 312 days and before that day he or she has requalified for benefit.

(1A) Where a person –

(a) has qualifying contributions in respect of not less than 260 contribution weeks in the period between his or her entry into insurance and any day of incapacity for work, and

~~(b) before that day has been entitled, in respect of any period of interruption of employment (whether including that day or not) during the period beginning on the date 2 years immediately before that day, or the period beginning on 5 January 2009, whichever is shorter, to illness benefit for 624 days;~~⁴⁸³

⁴⁷⁶ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁴⁷⁷ Inserted by s.26 and Sch3 SW&PA 2010

⁴⁷⁸ Inserted by s.26 and Sch3 SW&PA 2010

⁴⁷⁹ Inserted by s.26 and Sch3 SW&PA 2010

⁴⁸⁰ Inserted by s.26 and Sch3 SW&PA 2010

⁴⁸¹ Substituted by s.3(1) SW&PA 2010

⁴⁸² Substituted by s.3(1) SW&PA 2010

⁴⁸³ Substituted by s.3(1) SW&PA 2010

(b) before that day was entitled, in respect of any period of interruption of employment (whether including that day or not) during the period beginning on 5 January 2009, to illness benefit for 624 days,⁴⁸⁴

the person shall not be entitled to illness benefit for that day unless since the last of those 624 days and before that day he or she has requalified for benefit.

(1B) Subsection (1A) shall not apply to any claim for illness benefit where the period of incapacity for work began on or before 4 January 2009.

(1C) In the case of a person to whom section 41(1)(c)(ia)(I) applies and –

(a) that person is in receipt of invalidity pension, carer’s benefit or carer’s allowance on 5 January 2009, and

(b) the period of incapacity for the illness benefit referred to in section 41(1)(c)(ia)(II) began on or before 4 January 2009,

subsection (1A) shall not apply to the illness benefit claim made immediately following the invalidity pension, carer’s benefit or carer’s allowance for the period of incapacity of that illness benefit claim.

(1D) Subsection (1A) shall not apply for the period of incapacity of any claim for illness benefit where, on the date immediately before the claim, a person was incapable of work and entitled to or in receipt of injury benefit in respect of a period on or before 4 January 2009.⁴⁸⁵

(2) In the case of a claim for ~~disability benefit~~ **illness benefit** which was made before 5 April 1993 subsection (1)(b) shall be read as if “3 years” were substituted for “one year”.

(2A) Notwithstanding subsection (1)—

(a) where a period of incapacity for work commences before 3 January 2011 and continues on or after that date, subsection (1)(b) shall apply as if the words ‘during the period beginning on the date one year immediately before that day’ were inserted after ‘(whether including that day or not)’, and

(b) where a period of incapacity for work commences on or after 3 January 2011 and forms part of a period of interruption of employment during which a previous period of incapacity for work commenced before 3 January 2011, the period for which illness benefit shall be paid in respect of the period of incapacity for work commencing on or after 3 January 2011 shall be 312 days less the cumulative number of days for which illness benefit was determined as having been paid at the end of the last period of incapacity for work that commenced before 3 January 2011.⁴⁸⁶

(3) ~~Notwithstanding subsection (1)~~ **Notwithstanding subsection (1) or, as the case may be, subsection (1A),**⁴⁸⁷ where in any period a person has exhausted entitlement to ~~disability benefit~~ **illness benefit** he or she shall not requalify for that benefit unless he or she satisfies the conditions set out in subsection (4).

(4) Where a person has exhausted his or her right to ~~disability benefit~~ **illness benefit** —

⁴⁸⁴ Substituted by s.3(1) SW&PA 2010

⁴⁸⁵ Ss (1A) to (1D) inserted by s. 15(2) SW(MP)A 2008

⁴⁸⁶ Ss (2A) inserted by s.3(1)(c) SW&PA 2010

⁴⁸⁷ Amended by s. 15(2)(b) SW(MP) A 2008

(a) he or she shall requalify for that benefit when he or she has qualifying contributions in respect of 13 contribution weeks begun or ended since the last day for which he or she was entitled to benefit, and

(b) on his or her requalifying for that benefit, ~~subsection (1) shall~~ **subsection (1) or, as the case may be, subsection (1A) shall**⁴⁸⁸ again apply to the person but, in a case where the period of interruption of employment in which the person exhausted his or her right to benefit continues after his or her requalification, as if the part before and the part after his or her requalification were distinct periods of interruption of employment.

(5) For the purposes of this section, any period in respect of which a person is disqualified for receiving ~~disability benefit~~ **illness benefit** by virtue of section 46(1) shall be treated as though it were a period in respect of which ~~disability benefit~~ **illness benefit** was paid.

(6) Regulations may provide for treating a person for the purposes of this section as having been entitled to benefit for any day where he or she would have been so entitled but for any delay or failure on his or her part to make or prosecute a claim but a person shall not be so treated where he or she shows that he or she did not intend, by failing to acquire or establish a right to benefit for that day, to avoid the necessity of requalifying for benefit under this section.

(7) Where a person has qualifying contributions in respect of not less than 260 contribution weeks on the 312th day on which benefit is paid in respect of a period of incapacity for work, and the person would be entitled to ~~disability benefit~~ **illness benefit** but for the fact that the contribution condition ~~in section 41(1)(b)(i) or (ii)~~ **in section 41(1)(b) or (c)**⁴⁸⁹ is not satisfied, the person is deemed to satisfy that contribution condition in respect of every subsequent day of incapacity in that period of incapacity for work.

(7A) Subsection (7) shall not apply where a person has been entitled to illness benefit, and in the course of a period of incapacity for work, would be entitled to payment of such benefit at a higher rate than would be payable were that person a person to whom the said subsection applied.⁴⁹⁰

(8) In the case of a claim for ~~disability benefit~~ **illness benefit** where the period of interruption of employment in respect of incapacity for work beyond 312 days began before 6 April 1987, subsection (1)(a) shall be read as if “156” were substituted for “260”.

(9) In the case of a claim for ~~disability benefit~~ **illness benefit** where the period of interruption of employment in respect of incapacity for work beyond 312 days began on or after 6 April 1987 and before 4 January 1988, subsection (1)(a) shall be read as if “208” were substituted for “260”.

(10) Subsections (8) and (9) shall not apply to any claim for ~~disability benefit~~ **illness benefit** where the period of incapacity for work began on or after 4 July 1988.

Duration of payment (optional contributors).

45. (1) Notwithstanding section 44, where in any period of interruption of employment a person, having satisfied the contribution conditions contained in section 41 by virtue of having paid optional contributions, has been entitled to ~~disability benefit~~ **illness benefit** for

⁴⁸⁸ Amended by s. 15(2)(c) SW(MP)A 2008

⁴⁸⁹ Substituted by s.5(b)(i) SWA 2016

⁴⁹⁰ S.(7A) inserted by s.5(b)(ii) SWA 2016

312 days, he or she shall not be entitled to that benefit for any subsequent day of incapacity for work unless before that day the person has requalified for benefit in accordance with subsection (2).

(2) Where a person to whom subsection (1) applies has paid optional contributions in the contribution year following the benefit year which includes that 312th day, he or she shall requalify for ~~disability benefit~~ **illness benefit** in the benefit year after the contribution year in respect of which those optional contributions have been paid.

Disqualifications.

46. (1) Regulations may provide for disqualifying a person for receiving ~~disability benefit~~ **illness benefit** for such period not exceeding 9 weeks as may be determined under this Part where—

(a) the person has become incapable of work through his or her own misconduct, or

~~(b) the person fails without good cause to attend for or to submit himself or herself to any medical or other examination or treatment that may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.⁴⁹¹~~

(b) the person fails without good cause to comply with such requirements as may be specified by the regulations, including but not necessarily limited to:

(i) attending for or submitting to any medical or other examination or treatment;

(ii) complying with instructions relating to his or her incapacity issued by a registered medical practitioner;

(iii) refraining from behaviour likely to hinder his or her recovery;

(iv) being available to meet with ~~an officer of the Minister~~ **an officer of the Minister or a medical assessor**⁴⁹² regarding his or her claim for illness benefit.⁴⁹³

~~(1A) A person shall not be disqualified for receipt of illness benefit while engaging in such class or classes of employment or training and subject to such circumstances and conditions as may be prescribed.⁴⁹⁴~~

(1A) Subject to subsection (1B), a person in receipt of or entitled to illness benefit shall not engage in work.⁴⁹⁵

(1B) A person shall not be disqualified for receipt of illness benefit while engaging in such class or classes of employment or training and subject to such circumstances and conditions as may be prescribed.⁴⁹⁶

(2) Regulations may also provide for imposing in the case of any class of persons additional conditions in relation to the receipt of ~~disability benefit~~ **illness benefit** and restrictions on the rate and duration of that benefit where, having regard to special circumstances, it appears to the Minister necessary so to do for the purpose of preventing inequalities or injustice.

⁴⁹¹ Substituted by s. 5(c) SW&PA 2007

⁴⁹² Substituted by s.3(2)(a) SW(MP)A 2015

⁴⁹³ Substituted by s. 5(c) SW&PA 2007

⁴⁹⁴ Subsection (1A) Inserted by s. 5(c) SW&PA 2007

⁴⁹⁵ Substituted by s.12 (2)(b) SW&PA 2010

⁴⁹⁶ Inserted by s.12 (2)(b)(ii) SW&PA 2010

(3) Regulations may also provide for disqualifying a person for the receipt of ~~disability benefit~~ *illness benefit* where he or she fails, on becoming or again becoming incapable of work, to make a claim within the prescribed time, but those regulations may provide for extending, subject to any prescribed conditions, the time within which the claim may be made.

CHAPTER 8A ⁴⁹⁷
Partial Capacity Benefit

Entitlement to benefit.

46A. (1) Subject to this Act, a person shall be entitled to partial capacity benefit where the person—

(a) has applied for that benefit,

~~(b) is assessed by a medical assessor as having *has*⁴⁹⁸ a profound restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work,~~

(b) has a profound restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, and the reason for which restriction is as a direct result of the person concerned being incapable of work and for no other reason,⁴⁹⁹

(c) on the day immediately before the day for which benefit is claimed—

(i) was in receipt of—

(I) illness benefit for at least 26 weeks in a period of interruption of employment, or

(II) invalidity pension, or

(ii) other than in the case of a person to whom section 46C(3)(a)(ii) applies, has exhausted the period of entitlement to partial capacity benefit provided for in section 46C or regulations made under that section,

and

(d) is under pensionable age.

(2) For the purposes of—

(a) ~~the assessment required under~~⁵⁰⁰ subsection (1)(b), the Minister may prescribe the conditions for which a person shall be assessed as having a profound restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, and

(b) ~~the assessment referred to in~~⁵⁰¹ subsection (4), the Minister may prescribe the conditions for which a person shall be assessed as having a mild restriction on his or

⁴⁹⁷ Chapter 8A inserted by s.12 SW&PA 2010

⁴⁹⁸ Substituted by s.8 SW&P(MP)A 2013

⁴⁹⁹ Substituted by s.4(b) SW(No.2)A 2019

⁵⁰⁰ Deleted by s.8 SW&P(MP)A 2013

⁵⁰¹ Deleted by s.8 SW&P(MP)A 2013

her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work.

(3) Notwithstanding subsection (1), where subsection (1)(b) is not satisfied a person may, subject to subsections (4) and (5), be entitled to partial capacity benefit.

(4) A person who ~~is assessed by a medical assessor as having~~ *has*⁵⁰² a mild restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work shall not be entitled to partial capacity benefit.

(5) Where partial capacity benefit is provided pursuant to subsection (3)—

(a) the rate of that benefit shall be payable at a rate, or rates, less than that provided for in section 46B(1)(a), and

(b) the Minister may prescribe the reduced rate or rates.

(6) Regulations made by the Minister for the purposes of subsection (5) shall provide for the reduced rate, or rates, of partial capacity benefit pursuant to subsection (3), and the reductions in the rate, or rates, of partial capacity benefit shall relate to the extent to which subsection (1)(b) is not satisfied, but such reduction shall not affect any entitlement to an increase in respect of a qualified adult or qualified children or an increase where the beneficiary is ordinarily resident on an island.

(7) Where a person qualifies for partial capacity benefit by virtue of subsection (1)(c)(i)(I), each day for which that benefit is paid shall be—

(a) treated as a day of incapacity for work,

And

(b) deemed to be a day for which illness benefit is paid for the purposes of Chapter 8.

~~(8) In this Chapter, ‘medical assessor’ means an officer of the Minister who is a registered medical practitioner.~~⁵⁰³

Rates of benefit.

46B. (1) Subject to this Act, the weekly rate of partial capacity benefit payable shall—

(a) in the case of a person to whom section 46A(1)(c)(i) applies, be the weekly rate of illness benefit or invalidity pension that was being paid to that person on the day immediately before the day for which partial capacity benefit is awarded, including any increase in that benefit or pension, where payable, and

(b) in the case of a person to whom section 46A(1)(c)(ii) applies, be prescribed in regulations.

(2) Notwithstanding subsection (1)—

⁵⁰² Substituted by s.8 SW&P(MP)A 2013

⁵⁰³ Ss.8 deleted by s.8 SW&P(MP)A 2013

(a) any change in circumstances that would have resulted in a variation in the rate of illness benefit or invalidity pension payable, if that person had continued receiving the said benefit or pension, or

(b) any general variation in the weekly rates of benefits, pensions, allowances or supplements under this Act,

shall have similar effect in relation to the rate of partial capacity benefit payable in that case.

(3) For the purposes of subsection (2) a change in circumstances shall include a situation where a person, who initially qualifies for partial capacity benefit by virtue of section 46A(1)(c)(i)(I), subsequently continues to qualify for partial capacity benefit by virtue of being deemed to satisfy the qualifying conditions for invalidity pension in accordance with section 46C(3)(b).

(4) Subsections (2) and (3) shall apply to the weekly rate prescribed in regulations under subsection (1)(b), and the regulations may provide for a change in circumstances referred to in subsections (2) and (3) and a general variation referred to in subsection (2).

Duration.

46C. (1) Subject to this Chapter, partial capacity benefit shall be paid for a maximum period of 156 weeks.

(2) Subject to subsection (3), where partial capacity benefit is paid in accordance with regulations made under section 46A(6), the Minister may by regulations provide that partial capacity benefit shall be paid for a period, or periods, less than that specified in subsection (1) and the duration of such lesser period, or periods, shall relate to the extent to which section 46A(1)(b) is not satisfied.

(3) Notwithstanding subsections (1) and (2), where a person qualifies for partial capacity benefit by virtue of section 46A(1)(c)(i)(I)—

(a) the duration of partial capacity benefit shall be limited to—

(i) the period specified in subsection (1) or in regulations made under subsection (2) as appropriate to the circumstances, or

(ii) the remaining period of entitlement to illness benefit in the period of interruption of employment concerned that would have been paid if the person had continued to claim illness benefit,

whichever is the shorter period, and

(b) subject to subsection (4), payment of partial capacity benefit may continue beyond the period specified in paragraph (a)(ii) where immediately on the termination of the entitlement of the person entitled to partial capacity benefit under paragraph (a)(ii) the person is deemed to satisfy the qualifying conditions for invalidity pension.

(4) Where a person is paid partial capacity benefit for a period referred to in subsection (3)(a)(ii) and such payment is continued in accordance with subsection (3)(b), the total period for which partial capacity benefit shall be paid under paragraphs (a)(ii) and (b) of subsection (3) shall not exceed 156 weeks or such lesser period as may be provided for in regulations under subsection (2).

Regulations.

46D. (1) The Minister may make regulations to provide for—

(a) disqualifying a person for receiving partial capacity benefit where the person fails without good cause to—

(i) attend for, or submit to, any medical or other examination or treatment,

(ii) comply with medical advice and instructions provided by a registered medical practitioner that relates to his or her incapacity, and

(iii) make himself or herself available to meet with ~~an officer of the Minister~~ ***an officer of the Minister or a medical assessor***⁵⁰⁴ in respect of his or her claim for partial capacity benefit, and

(b) subject to subsection (2), the circumstances and conditions in which a person may relinquish entitlement to partial capacity benefit and subsequently reclaim that benefit.

(2) Where a person has been paid partial capacity benefit and the person relinquishes entitlement to that benefit and subsequently reclaims that benefit, the total duration for which that benefit shall be paid in respect of both the period prior to the relinquishment and the period in which it is reclaimed shall not exceed 156 weeks or such lesser period as may be provided for in regulations under section 46C(2).⁵⁰⁵

CHAPTER 9 *Maternity Benefit*

Entitlement to and duration of benefit.

47. (1) Subject to this Act, a woman shall be entitled to maternity benefit where—

(a) it is certified by a registered medical practitioner or otherwise to the satisfaction of the Minister that it is to be expected that the woman will be confined in a week specified in the certificate (hereafter in this section referred to as “the expected week of confinement”) not being more than the prescribed number of weeks after that in which the certificate is given, ***or it is certified by a registered medical practitioner or otherwise to the satisfaction of the Minister that a woman has been confined,***⁵⁰⁶

(b) in the case of an employed contributor, it is certified by the woman’s employer that she is entitled to maternity leave under section 8 of the Maternity Protection Act 1994, and

(c) subject to subsection (2), she satisfies the contribution conditions in section 48.

(2) The requirement in subsection (1)(c) shall not apply in the case of a claim for maternity benefit made by a woman who was in receipt of health and safety benefit under section 52 at any time during the pregnancy as a result of which it is expected that she will be confined.

(3) Regulations may provide for entitling to maternity benefit, subject to the conditions and in the circumstances that may be prescribed, the class or classes of women who would be

⁵⁰⁴ Substituted by s.3(2)(b) SW(MP)A 2015

⁵⁰⁵ Chapter 8A inserted by s.12 SW&PA 2010

⁵⁰⁶ Inserted by s. 6(a)(i) SW&PA 2007

entitled to that benefit but for the fact that the contribution conditions in section 48 are not satisfied.

~~(4) (a) Subject to this Act and paragraph (b), where a woman, who has been delivered of a living child, dies at any time before the expiry of the twenty-second⁵⁰⁷ twenty-fourth⁵⁰⁸ thirty-second⁵⁰⁹ fortieth⁵¹⁰ week following the week of her confinement, the father of the child shall, subject to satisfying the contribution conditions in section 48, be entitled to benefit under this Chapter as if he were a woman and the provisions of this Chapter (other than section 50(b)) apply in all respects in the case of that man.~~

~~(a) Subject to this Act and paragraph (b), where a woman, who has been delivered of a living child, dies at any time before the expiry of the twenty-fourth week following the week of her confinement, the father of the child shall be entitled to benefit under this Chapter as if he were a woman and the provisions of this Chapter (other than sections 48 and 50(b)) apply in all respects in the case of that man.^{510 511}~~

(a) Subject to this Act and paragraph (b), where a woman, who has been delivered of a living child, dies at any time following the week of her confinement and before the expiry of the payment to her of the maternity benefit that would have been payable to her had she not died, the father of the child shall be entitled to benefit under this Chapter as if he were a woman and the provisions of this Chapter (other than sections 48 and 50(b)) apply in all respects in the case of that man.⁵¹²

(b) Paragraph (a) applies in the case of an employed contributor where it is certified by his employer that he is entitled to leave under section 16 of the Maternity Protection Act 1994.

(c) In this Act, a reference to maternity benefit shall be read as including a reference to benefit payable to a man under this subsection.

(5) Subject to this Chapter, maternity benefit shall be payable to—

(a) a woman, who is an employed contributor, for the period of maternity leave to which she is entitled under section 8 of the Maternity Protection Act 1994 (including any extension of that period by virtue of section 12 of that Act),

(b) a woman, who is in insurable self-employment, for ~~18 22⁵¹³~~ **26⁵¹⁴** weeks—

(i) beginning not later than 2 weeks before the end of the expected week of confinement, and

(ii) ending not earlier than 4 weeks after the end of the expected week of confinement,

but if the date of confinement occurs in a week after the expected week of confinement, the period in respect of which benefit shall be payable shall be extended by the number of consecutive weeks, subject to a maximum of 4

⁵⁰⁷ Substituted by s. 7(1) SWA 2005

⁵⁰⁸ Substituted by s. 7(2) SWA 2005

⁵⁰⁹ Substituted by s. 7(1)(a) SWA 2006

⁵¹⁰ Substituted by s. 6(a)(ii) SW&PA 2007

⁵¹¹ Para (a) substituted by s.15(1)(a) SWA 2017

⁵¹² Para (a) substituted by s.15(1)(a) SWA 2017

⁵¹³ Substituted by s. 7(1) SWA 2005

⁵¹⁴ Substituted by s. 7(1)(b)(i) SWA 2006

consecutive weeks, after the week in which the date of confinement occurs as ensures compliance with subparagraph (ii),

(ba) a woman referred to in paragraph (b), for a further period—

(i) that is in addition to the period referred to in paragraph (b) if, on or after 1 October 2017, the date of confinement occurs more than two weeks before the end of the expected week of confinement, and

(ii) the duration of that further period shall be equal to the duration of the premature birth period,⁵¹⁵

~~(c) a man, who—~~

~~(i) is an employed contributor, for the period of leave to which he is entitled under section 16 of the Maternity Protection Act 1994, or~~

~~(ii) is in insurable self-employment, for a period beginning on the day after the day on which the death of the mother occurs—~~

~~(I) where the mother dies before the expiry of the sixteenth twentieth⁵¹⁶ twenty fourth⁵¹⁷ week following the week of her confinement, to the end of the sixteenth twentieth⁵¹⁸ twenty fourth⁵¹⁹ week following the week of her confinement, or~~

~~(II) where the mother dies after the expiry of the sixteenth twentieth⁵²⁰ twenty fourth⁵²¹ week but before the expiry of the twenty fourth thirty second⁵²² fortieth⁵²³ week following the week of her confinement, to the end of the twenty fourth thirty second⁵²⁴ fortieth⁵²⁵ week following the week of her confinement,~~

~~but if the beneficiary dies, the benefit shall not be payable for any subsequent day.⁵²⁶~~

(c) a man who –

(i) is an employed contributor, for the period of leave to which he is entitled under section 16 of the Maternity Protection Act 1994 or for 6 weeks, whichever is the longer period of time, or

(ii) is in insurable self-employment, for a period beginning on the day after the day on which the death of the mother occurs -

(I) where the mother dies before the expiry of the twenty-fourth week following the week of her confinement, to the end of the twenty-fourth week

⁵¹⁵ Para (ba) inserted by s.15(1)(b) SWA 2017

⁵¹⁶ Substituted by s. 7(1) SWA 2005

⁵¹⁷ Substituted by s. 7(1)(b)(ii) SWA 2006

⁵¹⁸ Substituted by s. 7 SWA 2005

⁵¹⁹ Substituted by s. 7(1)(b)(ii) SWA 2006

⁵²⁰ Substituted by s. 7(1) SWA 2005

⁵²¹ Substituted by s. 7(1)(b)(ii) SWA 2006

⁵²² Substituted by s. 7(1) SWA 2005

⁵²³ Substituted by s. 7(1)(b)(ii) SWA 2006

⁵²⁴ Substituted by s. 7 SWA 2005

⁵²⁵ Substituted by s. 7(1)(b)(ii) SWA 2006

⁵²⁶ Substituted by s. 6(a)(iii) SW&PA 2007

following the week of her confinement, or for 6 weeks, whichever is ~~the~~ longer period of time, or the longer period of time,⁵²⁷

(II) where the mother dies after the expiry of the twenty-fourth week but before the expiry of the fortieth week following the week of her confinement, to the end of the fortieth week following the week of her confinement, or for 6 weeks, whichever is the longer period of time,

(III) where, on or after 1 October 2017, the date of confinement is more than two weeks before the end of the expected week of confinement and the mother dies before the expiry of a combined period which comprises—

(A) twenty-six weeks following the week of her confinement, and

(B) the duration of the premature birth period,

to the end of that combined period, or for 6 weeks, whichever is the longer period of time, or

(IV) where, on or after 1 October 2017, the date of confinement is more than two weeks before the end of the expected week of confinement and the mother dies after the expiry of the twenty-sixth week following the week of her confinement but before the expiry of a further combined period which comprises—

(A) forty-two weeks following the week of her confinement, and

(B) the duration of the premature birth period,

to the end of that further combined period, or for 6 weeks, whichever is the longer period of time,⁵²⁸

but if the beneficiary dies, the benefit shall not be payable for any subsequent day.⁵²⁹

(6) Regulations may modify subsections (1) and (5) in relation to cases where—

(a) it is certified by a registered medical practitioner or otherwise to the satisfaction of the Minister that a woman has been confined, and

(b) a certificate referred to in subsection (1)(a) has not been given.

(7) Regulations may provide for the postponement of the payment of maternity benefit in the event of the hospitalisation of the child in respect of whose birth the person is entitled to that benefit, subject to the conditions and in the circumstances that may be prescribed.

(8) For the purposes of this section, a Sunday shall not in any week be treated as a day of entitlement to maternity benefit and, accordingly, the amount payable by way of that benefit for any other day of a week shall be one-sixth 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.

⁵²⁷ Substituted by s.15(1)(c)(i) SWA 2017

⁵²⁸ Clauses (III) and (IV) inserted by s.15(1)(c)(ii) SWA 2017

⁵²⁹ Substituted by s. 6(a)(iii) SW&PA 2007

(9) In the case of an employed contributor, where the employment ceases (whether due to the death of the employer or otherwise) during the period for which maternity benefit is payable under subsection (5), the beneficiary shall continue to be treated as if the event which caused the cesser of employment had not occurred.

(10) Regulations may provide for requiring an employer or any other person to furnish any information that may be required for the purposes of determining a claim for maternity benefit.

Conditions for receipt.

48. The contribution conditions for maternity benefit are—

(a) in the case of an employed contributor—

(i) (I) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with her entry into insurance and ending immediately before the relevant day, and

(II) (A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the relevant day occurs or in a subsequent complete contribution year before the relevant day, or

(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year in which the relevant day occurs,

or

(ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day, or having been in insurable self-employment, she satisfies the contribution conditions in paragraph (b),

(b) in the case of a person in insurable self-employment—

(i) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the second last complete contribution year or in the third last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or in a subsequent complete contribution year before the relevant day, or

(ii) where the claimant was previously an employed contributor, that she satisfies the contribution conditions in paragraph (a)(i) or that she has employment contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day.

Rate of benefit.

49. ~~(1) Subject to this Act, the weekly rate of maternity benefit shall be an amount equal to the greater of—~~

~~(a) 75–80⁵³⁰ per cent of the reckonable weekly earnings, reckonable weekly emoluments or reckonable weekly income, as the case may be, of the woman to whom the benefit is payable in the income tax year prescribed for the purposes of this section, or~~

~~(b) the amount of disability benefit *illness benefit*, including any increases of that benefit, which the woman would otherwise receive if she was entitled to that benefit, or~~

~~(c) any amount that shall be prescribed.⁵³¹~~

(1) Subject to this Act, the weekly rate of maternity benefit shall be—

(a) in the case of a claim for maternity benefit where the first day in respect of which benefit is payable is before 6 January 2014, an amount equal to the greater of—

(i) 80 per cent of the reckonable weekly earnings, reckonable weekly emoluments or reckonable weekly income, as the case may be, of the woman to whom the benefit is payable in the income tax year prescribed for the purposes of this section, or

(ii) the amount of illness benefit, including any increases of that benefit, which the woman would otherwise receive if she was entitled to that benefit, or

(iii) any amount that shall be prescribed, for the purposes of this paragraph, or

(b) in the case of a claim for maternity benefit where the first day in respect of which benefit is payable is on or after 6 January 2014, an amount equal to the greater of—

(i) the amount of illness benefit, including any increases of that benefit, which the woman would otherwise receive if she was entitled to that benefit, or

~~(ii) €230.^{532 533}~~

~~(ii) €235.^{534 535}~~

~~(ii) €240.^{536 537}~~

~~(ii) €245.⁵³⁸~~

(ii) €250.⁵³⁹

(2) In this section “reckonable weekly earnings”, “reckonable weekly emoluments” and “reckonable weekly income” mean the average amount, calculated in accordance with regulations, of reckonable earnings, reckonable emoluments, reckonable income and any other income that may be prescribed, received in a week up to that limit that may be prescribed.

⁵³⁰ Substituted by s. 7(1) SWA 2005

⁵³¹ Substituted by s. 5(1) SW&PA 2013

⁵³² Subsect. (1) substituted by s. 5(1) SW&PA 2013

⁵³³ Subpara. (ii) substituted by s.6(1) SWA 2016

⁵³⁴ Subpara. (ii) substituted by s.6(1) SWA 2016

⁵³⁵ Subpara (ii) substituted by s.4(1) SWA 2017

⁵³⁶ Subpara (ii) substituted by s.4(1) SWA 2017

⁵³⁷ Subpara (ii) substituted by s.5(1) of the SWP&CRA2018

⁵³⁸ Subpara (ii) substituted by s.5(1) of the SWP&CRA2018

⁵³⁹ Subpara (ii) substituted by s.5(1) of the SWA 2021

Disqualifications.

~~50. Regulations may provide for disqualifying a woman for receiving maternity benefit where—~~

~~(a) during the period for which the benefit is payable, she engages in any occupation other than domestic activities in her own household, or~~

~~(b) she fails, without good cause, to attend for or to submit herself to any medical examination that may be required in accordance with regulations made under this section.⁵⁴⁰~~

Disqualifications.

50. Regulations may provide for disqualifying a woman for receiving maternity benefit where

(a) during the period for which the benefit is payable, she engages in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment, any employment referred to in paragraph 1, 2, 3 or 6 of Part 2 of Schedule 1 or any self-employment referred to in paragraph 1 or 5 of Part 3 of Schedule 1, or

(b) she fails, without good cause, to attend for or to submit herself to any medical examination that may be required in accordance with regulations made under this section.⁵⁴¹

Supplementary provisions.

51. (1) In this Chapter—

~~(a) “confinement” means labour resulting in the issue of a living child, or labour after 24 weeks of pregnancy resulting in the issue of a child whether alive or dead, and “confined” shall be read accordingly;⁵⁴²~~

“confinement” means—

(i) labour resulting in the issue of a living child,

(ii) labour, after 24 weeks of pregnancy, resulting in the issue of a child whether alive or dead, or

(iii) labour resulting in the issue of a child who, at birth, weighs not less than 500 grammes, whether alive or dead,

and “confined” shall be construed accordingly;⁵⁴³

‘premature birth period’ means a period which—

(a) commences on a date of confinement which occurs on or after 1 October 2017, and

(b) expires two weeks before the end of the expected week of confinement;⁵⁴⁴

⁵⁴⁰ Substituted by s. 6(b) SW&PA 2007

⁵⁴¹ Substituted by s. 6(b) SW&PA 2007

⁵⁴² Substituted by s. 5 SW(No.2)A 2019

⁵⁴³ Substituted by s. 5 SW(No.2)A 2019

⁵⁴⁴ Inserted by s.15(2) SWA 2017

~~“registered medical practitioner” means a person registered in the General Register of Medical Practitioners established under section 26 of the Medical Practitioners Act 1978;~~⁵⁴⁵

“relevant day” means the first day for which maternity benefit is claimed;

(b) references to the date of the confinement shall be taken as referring, where labour begun on one day results in the issue of a child on another day, to the date of the issue of the child or, where a woman is confined with twins or a greater number of children, to the date of the issue of the last child.

(2) In deciding whether or not to make an order under section 21A (inserted by the Status of Children Act 1987) of the Family Law (Maintenance of Spouses and Children) Act 1976, in so far as any such order relates to the payment of expenses incidental to the birth of a child, the Circuit Court or the District Court, as the case may be, shall not take into consideration the fact that the mother of the child is entitled to maternity benefit.

CHAPTER 10 *Health and Safety Benefit*

Entitlement to benefit.

52. (1) In this Chapter—

“confined” and “confinement” have the meanings given to them by section 51;

“relevant period” has the meaning given to it by section 18(6) of the Maternity Protection Act 1994.

(2) Subject to this Act, a woman shall be entitled to health and safety benefit, where—

(a) it is certified by a registered medical practitioner or otherwise to the satisfaction of the Minister that it is to be expected that she will be confined or that she has been confined, as the case may be, in a week specified in the certificate,

(b) it is certified by her employer, in accordance with section 18(2) of the Maternity Protection Act 1994, that she has been granted leave under section 18 of that Act (hereafter in this Chapter referred to as “health and safety leave”), and

(c) she satisfies the conditions in section 53.

(3) For the purposes of this Chapter—

(a) any 2 periods of health and safety leave arising in a relevant period shall be treated as one period of health and safety leave, and

(b) a Sunday shall not in any week be treated as a day of entitlement to health and safety benefit and, accordingly, the amount payable by way of that benefit for any other day of a week shall be one-sixth 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.

⁵⁴⁵ Deleted by s.24(3) SW(MP)A 2010

Conditions for receipt.

53. (1) The conditions for health and safety benefit are—

(a) (i) that the claimant has qualifying contributions in respect of not less than 13 contribution weeks in the 12 months immediately before the expected date of confinement or the actual date of confinement, as the case may be, or

(ii) ~~(I) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the period beginning with her entry into insurance and ending immediately before the first day for which health and safety benefit is claimed, and~~⁵⁴⁶

(I) that the claimant has qualifying contributions in respect of not less than 104 contribution weeks in the period beginning with her entry into insurance and ending immediately before the first day for which health and safety benefit is claimed, and⁵⁴⁷

~~(II) (A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year or in a subsequent complete contribution year which includes the first day for which health and safety benefit is claimed, or~~⁵⁴⁸

(A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year or in a subsequent complete contribution year which includes the first day for which health and safety benefit is claimed, of which at least 13 must be qualifying contributions, or⁵⁴⁹

(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year which includes the first day for which health and safety benefit is claimed,

and

(b) that the claimant has prescribed reckonable weekly earnings in excess of a prescribed amount in a prescribed period.

(2) In the case of a claim for health and safety benefit where the period of health and safety leave began before 5 April 2004, subsection (1)(a)(ii)(I) shall be read as if “39” were substituted for “52”.

(2A) In the case of a claim for health and safety benefit where the period of health and safety leave began on or after 5 April 2004 and before 5 January 2009, subsection (1)(a)(ii)(I) shall be read as if “52” were substituted for “104”.⁵⁵⁰

⁵⁴⁶ Substituted by s.16(1)(a)(i) SW(MP)A 2008

⁵⁴⁷ Substituted by s.16(1)(a)(i) SW(MP)A 2008

⁵⁴⁸ Substituted by s.16(1)(a)(ii) SW(MP)A 2008

⁵⁴⁹ Substituted by s.16(1)(a)(ii) SW(MP)A 2008

⁵⁵⁰ Inserted by s.16(1)(b) SW(MP)A 2008

(3) The requirement in subsection (1)(a) shall not apply in the case of a claim for health and safety benefit which is made in a relevant period where the claimant was previously in receipt of maternity benefit under section 47 in that relevant period.

(4) Subject to subsection (5), regulations may provide for entitling to health and safety benefit a woman who would be entitled to that benefit but for the fact that the condition in subsection (1)(b) is not satisfied.

(5) Regulations for the purposes of subsection (4) shall provide that benefit payable by virtue of that subsection shall be payable at a rate less than that specified in Schedule 2, and the rate specified by the regulations may vary with the extent to which the condition in subsection (1)(b) is satisfied.

(6) The requirement contained in subsection (1)(b) that the claimant must have prescribed reckonable weekly earnings in excess of a prescribed amount in the prescribed period shall not apply in the case of a claim for health and safety benefit made by a person in the benefit year in which that person, having been a volunteer development worker, returns to the State from a developing country or in the next 2 succeeding benefit years.

Duration of payment.

54. (1) Subject to this Chapter, health and safety benefit shall be payable from the day immediately following the last of the 21 days of health and safety leave in respect of which the claimant is entitled to receive remuneration from her employer under section 18(4) of the Maternity Protection Act 1994 and regulations made under that subsection and shall continue to be payable for the period of health and safety leave granted to the claimant under Part III of the Maternity Protection Act 1994.

(2) Health and safety benefit shall not be payable for any day in respect of which maternity benefit under section 47 is payable.

(3) Where the woman who is entitled to health and safety benefit dies, the benefit shall not be payable for any subsequent day.

Rate of benefit.

55. Subject to this Act, the weekly rate of health and safety benefit shall be as set out in column (2) of Part 1 of Schedule 2.

Increases for qualified adult and qualified children.

56. (1) The weekly rate of health and safety benefit shall be increased by the amount set out in column (3) of 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 benefit under this subsection in respect of more than one person.

~~(2) The weekly rate of health and safety benefit shall be increased by the appropriate amount set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary.⁵⁵¹~~

(2) The weekly rate of health and safety benefit shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

⁵⁵¹ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary.⁵⁵²

(3) Subject to subsection (4), any increase of health and safety benefit payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, *civil partner or cohabitant*⁵⁵³ of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, *civil partner or cohabitant*⁵⁵⁴ of the beneficiary is not a qualified adult and subsection (2) shall be read and have effect accordingly.

(4) Subsection (3) shall not apply and no increase of health and safety benefit payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, *civil partner or cohabitant*⁵⁵⁵ of a beneficiary shall be payable where the weekly income of that spouse, *civil partner or cohabitant*⁵⁵⁶, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.

Disqualifications.

57. A woman shall be disqualified for receiving health and safety benefit during any period in which she engages in any occupation other than domestic activities in her own household.

CHAPTER 11 *Adoptive Benefit*

Entitlement to and duration of adoptive benefit.

58. (1) In this Chapter—

“adopting parent”—

(a) ~~in the case of an employed contributor, has the meaning given to it by section 2(1) of the Adoptive Leave Act 1995, and~~

(b) ~~in the case of a person in insurable self-employment means—~~

~~(i) a woman in whose care a child (of whom she is not the natural mother) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption⁵⁵⁷ *an adoption order within the meaning of section 3(1) of the Adoption Act 2010 or the recognition of an intercountry adoption effected outside the State within the meaning of that Act* or following any such adoption,~~

~~(ii) a man, in whose care a child has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption⁵⁵⁸ *an adoption order within the meaning of section 3(1) of the Adoption Act 2010 or the recognition of an intercountry adoption effected outside the State within the meaning of that Act* or following any such adoption, where the woman in whose care the child (of whom she is not the natural mother) has been placed or is to be placed has died, and~~

⁵⁵² Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁵⁵³ Inserted by s.26 and Sch3 SW&PA 2010

⁵⁵⁴ Inserted by s.26 and Sch3 SW&PA 2010

⁵⁵⁵ Inserted by s.26 and Sch3 SW&PA 2010

⁵⁵⁶ Inserted by s.26 and Sch3 SW&PA 2010

⁵⁵⁷ Substituted by s.171(b) [AA 2010](#)

⁵⁵⁸ Substituted by s.171(b) [AA 2010](#)

(iii) a man, other than a man to whom subparagraph (ii) applies, in whose sole care a child has been placed or is to be placed with a view to making an adoption order, or to the effecting of a foreign adoption⁵⁵⁹ ~~an adoption order within the meaning of section 3(1) of the Adoption Act 2010 or the recognition of an intercountry adoption effected outside the State within the meaning of that Act~~ or following any such adoption;

‘adopting parent’ means—

(a) a qualifying adopter, or

(b) a surviving parent;⁵⁶⁰

‘qualifying adopter’—

(a) in the case of an employed contributor, has the meaning given to it by section 2(1) of the Adoptive Leave Act 1995 (as amended by section 5 of the Family Leave and Miscellaneous Provisions Act 2021), or

(b) in the case of a person in insurable self-employment means—

(i) in the case of a child who is, or is to be, adopted jointly by a married couple, a couple who are civil partners of each other or a cohabiting couple, the member of the couple concerned, chosen by that couple to be the qualifying adopter for the purposes of this Act, and in whose care the child (of whom neither the qualifying adopter nor his or her spouse, civil partner or cohabitant, as the case may be, is the mother or father) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, or

(ii) in any other case, a person who is not a surviving parent in whose care a child has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption;⁵⁶¹

‘surviving parent’—

(a) in the case of an employed contributor, has the meaning given to it by section 2(1) of the Adoptive Leave Act 1995 (as amended by section 5 of the Family Leave and Miscellaneous Provisions Act 2021), or

(b) in the case of a person in insurable self-employment means a person who was the spouse, civil partner or cohabitant, as the case may be, of the qualifying adopter where the qualifying adopter concerned has died;⁵⁶²

“certificate of placement” has the meaning given to it by section 13 of the Adoptive Leave Act 1995;

“day of placement” has the meaning given to it by section 2(1) of the Adoptive Leave Act 1995;

⁵⁵⁹ Substituted by s.171(b) [AA 2010](#)

⁵⁶⁰ Substituted by s.10a(a)(i) of FL&MPA2021

⁵⁶¹ Inserted by s.10a(a)(ii) of FL&MPA2021

⁵⁶² Inserted by s.10a(a)(ii) of FL&MPA2021

“foreign adoption” has the meaning given to it by the Adoption Act 1991 (as amended by section 10 of the Adoption Act 1998).⁵⁶³

(2) Subject to this Act, an adopting parent shall be entitled to adoptive benefit where⁵⁶⁴—

(a) (i) in the case of an employed contributor, it is certified by the adopting parent’s employer that the adopting parent is entitled to adoptive leave under the Adoptive Leave Act 1995, or

(ii) in the case of a person in insurable self-employment, a certificate of placement is issued to the adopting parent, and

(b) the adopting parent satisfies the contribution conditions in section 59.

(3) Regulations may provide for entitling to adoptive benefit, subject to the conditions and in the circumstances that may be prescribed, the class or classes of adopting parents who would be entitled to that benefit but for the fact that the contribution conditions in section 59 are not satisfied.

(4) Subject to this Chapter, adoptive benefit shall be payable—

~~(a) in the case of an employed contributor, for the period of adoptive leave to which the adopting parent is entitled under section 6 or 9, as the case may be, of the Adoptive Leave Act 1995,~~⁵⁶⁵

(a) in the case of an employed contributor-

(i) for the period of adoptive leave to which the adopting parent is entitled under section 6 of the Adoptive Leave Act 1995, or

(ii) for the period of adoptive leave to which the adopting parent is entitled under section 9 of the Adoptive Leave Act 1995 or for 6 weeks, whichever is the longer period of time, and the provisions of section 59 shall not apply,⁵⁶⁶

(b) in the case of a person in insurable self-employment, being—

~~(i) an adopting parent within the meaning of subsection (1)(b)(i) or (iii) a~~
qualifying adopter within the meaning of paragraph (b) of that definition⁵⁶⁷
for ~~16~~ 20⁵⁶⁸ 24⁵⁶⁹ consecutive weeks beginning on the day of placement, or

~~(ii) an adopting parent within the meaning of subsection (1)(b)(ii), where the adopting mother dies before the day of placement, 16~~ 20⁵⁷⁰ 24⁵⁷¹ consecutive weeks beginning on the day of placement or where the adopting mother dies on or after the day of placement, for a period of ~~16~~ 20⁵⁷² 24⁵⁷³ weeks less a

⁵⁶³ Deleted by s.171(c) [AA 2010](#)

⁵⁶⁴ Uncommenced provision see [S. 28 PLBA 2019](#)

⁵⁶⁵ Para (a) substituted by S. 7(a) SW&PA 2007

⁵⁶⁶ Para (a) substituted by S. 7(a) SW&PA 2007

⁵⁶⁷ Substituted by s.10(b)(i) of FL&MPA2021

⁵⁶⁸ Substituted by s. 8 SWA 2005

⁵⁶⁹ Substituted by s.8(1) SWA 2006

⁵⁷⁰ Substituted by s. 8 SWA 2005

⁵⁷¹ Substituted by s. 8(1) SWA 2006

⁵⁷² Substituted by s. 8 SWA 2005

⁵⁷³ Substituted by s. 8(1) SWA 2006

~~period equivalent to the period beginning on the day of placement and ending on the date of her death,~~⁵⁷⁴

(ii) ~~an adopting parent within the meaning of subsection (1)(b)(ii), where the adopting mother dies~~ ***a surviving parent within the meaning of paragraph (b) of that definition*** ⁵⁷⁵

(I) before the day of placement, for 24 consecutive weeks beginning on the day of placement, or

(II) on or after the day of placement, for a period of 24 weeks less a period equivalent to the period beginning on the day of placement and ending on ~~the date of her death~~ ***date of death of the qualifying adopter***⁵⁷⁶ or for 6 weeks, whichever is the longer period of time, and the provisions of section 59 shall not apply,⁵⁷⁷

but where the beneficiary dies, the benefit shall not be payable for any subsequent day.

(5) For the purposes of this section, a Sunday shall not in any week be treated as a day of entitlement to adoptive benefit and, accordingly, the amount payable by way of that benefit for any other day of a week shall be one-sixth 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.

(6) In the case of an employed contributor, where the employment ceases (whether due to the death of the employer or otherwise) during the period for which adoptive benefit is payable in accordance with subsection (4), the beneficiary shall continue to be treated as if the event which caused the cesser of employment had not occurred.

(7) Regulations may provide for requiring an employer or any other person to furnish any information that may be required for the purposes of determining a claim for adoptive benefit.

(8) Regulations may provide for the postponement of the payment of adoptive benefit in the event of the hospitalization of the child in respect of whose adoption the person is entitled to that benefit, subject to the conditions and in the circumstances that may be prescribed.⁵⁷⁸

Conditions for receipt.

59. (1) The contribution conditions for adoptive benefit are—

(a) in the case of an employed contributor—

(i) (I) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with the claimant's entry into insurance and ending immediately before the relevant day, and

(II) (A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the

⁵⁷⁴ Para 58(4)(b)(ii) substituted by s. 7 SW&PA 2007

⁵⁷⁵ Substituted by s.10(b)(ii)(I) of FL&MPA2021

⁵⁷⁶ Substituted by s.10(b)(ii)(II) of FL&MPA2021

⁵⁷⁷ Para 58 (b)(ii) substituted by s. 7(a)(ii) SW&PA 2007

⁵⁷⁸ Ss (8) inserted by s. 8(1) SWA 2005

relevant day occurs or in a subsequent complete contribution year before the relevant day, or

(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year in which the relevant day occurs,

or

(ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day, or having been in insurable self-employment satisfies the contribution conditions in paragraph (1)(b),

(b) in the case of a person in insurable self-employment—

(i) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the second last complete contribution year or in the third last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or in a subsequent complete contribution year before the relevant day, or

(ii) where the claimant was previously an employed contributor, that he or she satisfies the contribution conditions in paragraph (a)(i) or that he or she has employment contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day.

(2) In subsection (1) “relevant day” means the first day for which adoptive benefit is claimed.

Rates of adoptive benefit.

60. ~~(1) Subject to this Act, the weekly rate of adoptive benefit shall be an amount equal to the greater of—~~

~~(a) 75 ~~80~~⁵⁷⁹ per cent of the reckonable weekly earnings, reckonable weekly emoluments or reckonable weekly income, as the case may be, of the adopting parent to whom the benefit is payable in the income tax year prescribed for the purposes of this section, or~~

~~(b) the amount of disability benefit *illness benefit*, including any increases of that benefit, which the adopting parent would otherwise receive if entitled to that benefit, or~~

~~(c) any amount that shall be prescribed.⁵⁸⁰~~

(1) Subject to this Act, the weekly rate of adoptive benefit shall be—

(a) in the case of a claim for adoptive benefit where the first day in respect of which benefit is payable is before 6 January 2014, an amount equal to the greater of—

(i) 80 per cent of the reckonable weekly earnings, reckonable weekly emoluments or reckonable weekly income, as the case may be, of the woman to whom the benefit is payable in the income tax year prescribed for the purposes of this section, or

⁵⁷⁹ Substituted by s. 8(1) SWA 2005

⁵⁸⁰ Substituted by s. 6(1) SW&PA 2013

(ii) the amount of illness benefit, including any increases of that benefit, which the woman would otherwise receive if she was entitled to that benefit, or

(iii) any amount that shall be prescribed, for the purposes of this paragraph,

or

(b) in the case of a claim for adoptive benefit where the first day in respect of which benefit is payable is on or after 6 January 2014, an amount equal to the greater of—

(i) the amount of illness benefit, including any increases of that benefit, ~~which the woman would otherwise receive if she was entitled to that benefit,~~ *which the person would otherwise receive if he or she was entitled to that benefit*⁵⁸¹ or

~~(ii) €230.~~^{582 583}

~~(ii) €235.~~^{584 585}

~~(ii) €240.~~^{586 587}

~~(ii) €245.~~⁵⁸⁸

(ii) €250.⁵⁸⁹

(2) In this section “reckonable weekly earnings”, “reckonable weekly emoluments” and “reckonable weekly income” mean the average amount, calculated in accordance with regulations, of reckonable earnings, reckonable emoluments, reckonable income and any other income received in a week that may be prescribed up to the limit that may be prescribed.

Disqualification.

~~61. Regulations may provide for disqualifying an adopting parent for receiving adoptive benefit where, during the period for which the benefit is payable, the adopting parent engages in any occupation other than domestic activities in that parent’s own household.~~⁵⁹⁰

Disqualification.

61. Regulations may provide for disqualifying an adopting parent for receiving adoptive benefit where, during the period for which the benefit is payable, the adopting parent engages in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment, any employment referred to in paragraph 1, 2, 3 or 6 of Part 2 of Schedule 1 or any self-employment referred to in paragraph 1 or 5 of Part 3 of Schedule 1.⁵⁹¹

⁵⁸¹ Substituted by s.11 of FL&MPA2021

⁵⁸² Subsect. (1) substituted by s. 6(1) SW&PA 2013

⁵⁸³ Subpara. (ii) substituted by s.7(1) SWA 2016

⁵⁸⁴ Subpara. (ii) substituted by s.7(1) SWA 2016

⁵⁸⁵ Subpara (ii) substituted by s.5(1) SWA 2017

⁵⁸⁶ Subpara (ii) substituted by s.5(1) SWA 2017

⁵⁸⁷ Substituted by s.6(1) of the SWP&CRA2018

⁵⁸⁸ Substituted by s.6(1) of the SWP&CRA2018

⁵⁸⁹ Subpara (ii) substituted by s.6(1) of the SWA 2021

⁵⁹⁰ Substituted by s. 7(b) SW&PA 2007

⁵⁹¹ Substituted by s. 7(b) SW&PA 2007

CHAPTER 11A⁵⁹²

Paternity Benefit

Interpretation

61A. (1) In this Chapter—

‘Act of 1995’ means the Adoptive Leave Act 1995;

‘Act of 2010’ means the Adoption Act 2010;

‘Act of 2016’ means the Paternity Leave and Benefit Act 2016;

~~‘adopting mother’ has the same meaning as it has in the Act of 1995;~~⁵⁹³

‘certificate of placement’ has the meaning assigned to it by section 13 of the Act of 1995;

‘confinement’ has the same meaning as it has in Chapter 9 and ‘confined’ shall be construed accordingly;

‘date of confinement’ shall be construed in accordance with section 51(1)(b);

‘day of placement’ has the same meaning as it has in the Act of 2016;

‘declaration of eligibility and suitability’ has the same meaning as it has in the Act of 2010;

‘expected week of confinement’ has the meaning assigned to it by section 61B(1)(b)(ii)(I);

‘paternity leave’ has the meaning assigned to it by section 6 of the Act of 2016;

‘provides care in relation to a child’ shall be construed in accordance with section 61B(3);

~~‘relevant adopting parent’ means, in relation to a child who is, or is to be, adopted—~~

~~(a) where the child is, or is to be, adopted jointly by a married couple of the same sex, the spouse of the relevant parent in relation to that child,~~

~~(b) the adopting mother of the child, or~~

~~(c) the sole male adopter of the child;~~⁵⁹⁴

‘relevant day’ means the first day for which paternity benefit is claimed;

‘relevant parent’, in relation to a child—

(a) in the case of an employed contributor, has the meaning given to it by section 2(1) of the Act of 2016, and

(b) in the case of a person in insurable self-employment, means a person (other than the mother of the child) who is—

~~(i) in the case of a child who is, or is to be, adopted—~~

⁵⁹² Chapter 11A inserted by s.31 [PL&BA 2016](#)

⁵⁹³ Deleted by s.12(d) of FL&MPA2021

⁵⁹⁴ Deleted by s.12(d) of FL&MPA2021

~~(I) where the child is, or is to be, adopted jointly by a married couple of the same sex, the spouse chosen by that couple to be the relevant parent for the purpose of this Chapter, or~~

~~(II) in the case of a child other than a child referred to in clause (I), the spouse, civil partner or cohabitant, as the case may be, of the adopting mother or sole male adopter of the child, or~~

*(i) in the case of a child who is, or is to be, adopted jointly by a married couple, a couple who are civil partners of each other or a cohabiting couple, the member of the couple concerned, chosen by that couple to be the relevant parent for the purposes of this Chapter, or*⁵⁹⁵

(ii) in any other case—

(I) the father of the child,

(II) the spouse, civil partner or cohabitant, as the case may be, of the mother of the child, or

(III) a parent of the child under section 5 of the Children and Family Relationships Act 2015 where the child is a donor-conceived child within the meaning of Part 2 of that Act;⁵⁹⁶

~~‘sole male adopter’ has the same meaning as it has in the Act of 1995 and includes, for the purpose of this Chapter, a person who would be a sole male adopter but for the fact that he is not an employee within the meaning of that Act;~~⁵⁹⁷

‘surviving parent’ means, in relation to a child whose relevant parent has died—

(a) in the case of a child who is, or is to be, adopted, ~~the relevant adopting parent~~ *the qualifying adopter*⁵⁹⁸ of the child, or

(b) in any other case, the mother of the child;

‘transferred paternity leave’ has the meaning assigned to it by section 15 of the Act of 2016.

‘*qualifying adopter*’—

(a) in the case of an employed contributor, has the meaning given to it by section 2(1) of the Act of 1995, or

(b) in the case of a person in insurable self-employment means—

(i) in the case of a child who is, or is to be, adopted jointly by a married couple, a couple who are civil partners of each other or a cohabiting couple, the member of the couple concerned, chosen by that couple to be the qualifying adopter for the purposes of this Act, and in whose care the child

⁵⁹⁵ Subpara (i) substituted by s.12(b) of FL&MPA2021

⁵⁹⁶ Clause III inserted by S.I. No. 361 of 2022

⁵⁹⁷ Deleted by s.12(d) of FL&MPA2021

⁵⁹⁸ Substituted by s.12(c) of FL&MPA2021

(of whom neither the qualifying adopter nor his or her spouse, civil partner or cohabitant, as the case may be, is the mother or father) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, or

*(ii) in any other case, a person who is not a surviving parent in whose care a child has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption;*⁵⁹⁹

(2) For the purpose of this Chapter, a reference to a child who is, or is to be, adopted is a reference to a child who is, or is to be, the subject of—

(a) an adoption order within the meaning of the Act of 2010, or

(b) an intercountry adoption effected outside the State within the meaning of that Act and recognised under that Act.

(3) In this Chapter, a reference to the mother of a child includes a reference to the expectant mother of a child, unless the context otherwise requires.

Entitlement to and duration of benefit

61B. (1) Subject to this Act, a relevant parent shall be entitled to paternity benefit in respect of a period during which the relevant parent provides care in relation to a child where—

(a) in the case of an employed contributor, it is certified by the employer of the relevant parent that he or she is entitled to paternity leave under the *Act of 2016*,

(b) in the case of a person in insurable self-employment, being—

(i) a relevant parent referred to in paragraph (b)(i) of the definition of ‘relevant parent’ in section 61A(1)—

(I) a certificate of placement is issued in relation to the child, or

(II) a declaration of eligibility and suitability is issued in relation to the child and particulars in writing are provided of the day of placement or expected day of placement, or

(ii) a relevant parent referred to in paragraph (b)(ii) of the definition of ‘relevant parent’ in section 61A(1)—

(I) it is certified by a registered medical practitioner, or otherwise to the satisfaction of the Minister, that it is expected that the mother of the child will be confined in a week specified in the certificate (in this section referred to as the ‘expected week of confinement’) not being more than the prescribed number of weeks after that in which the certificate is given, or

⁵⁹⁹ Inserted by s.12(a) of FL&MPA2021

(II) it is certified by a registered medical practitioner, or otherwise to the satisfaction of the Minister, that the mother of the child has been confined, and

(c) subject to subsection (2), the relevant parent satisfies the contribution conditions in section 61C.

(2) Regulations may provide for entitling to paternity benefit, subject to the conditions and in the circumstances that may be prescribed, the class or classes of persons who would be entitled to that benefit but for the fact that the contribution conditions in section 61C are not satisfied.

(3) Paternity benefit shall be payable under this Chapter to a relevant parent in relation to a child for the purpose of enabling the relevant parent to provide, or assist in the provision of, care to the child or to provide support to ~~the relevant adopting parent~~ **the qualifying adopter**⁶⁰⁰ or mother of the child, as the case may be, or both, and 'provides care in relation to a child' shall be construed accordingly.

(4) Subject to subsections (5) and (7)(c)—

(a) only one paternity benefit shall be payable in relation to a child, and

(b) where—

(i) the birth of the child is part of a multiple birth of 2 or more children, or

(ii) a person adopts 2 or more children at the same time, only one paternity benefit shall be payable in relation to the children concerned.

(5) Subsection (4) shall not operate to prevent paternity benefit from being paid to a relevant parent referred to in paragraph (b)(i) of the definition of 'relevant parent' in section 61A(1) in relation to a child by reason only that paternity benefit has already been paid in Relation to that child to a person other than the relevant parent concerned prior to the adoption of the child.

(6) The surviving parent of a child shall be entitled to benefit under this Chapter as if he or she were the relevant parent and the provisions of this Chapter (other than section 61C) shall apply in the case of the surviving parent where—

(a) in the case of a surviving parent who is an employed contributor, it is certified by the employer of the surviving parent that he or she is entitled to transferred paternity leave under the Act of 2016, or

(b) in any other case, the relevant parent entitled to paternity benefit in relation to the child dies before the expiry of the twenty-eighth week following the date of confinement or day of placement.

(7) Subject to this Chapter, paternity benefit shall be payable—

(a) in the case of an employed contributor—

⁶⁰⁰ Substituted by s.13(a) of FL&MPA2021

(i) for the period of paternity leave to which the relevant parent is entitled under the Act of 2016, or

(ii) for the period of transferred paternity leave to which a surviving parent is entitled under the Act of 2016,

(b) in the case of a person in insurable self-employment, being—

(i) a relevant parent referred to in paragraph (b)(i) of the definition of ‘relevant parent’ in section 61A(1), for 2 consecutive weeks—

(I) beginning on or after the day of placement, and

(II) ending not later than 28 weeks after the day of placement,

or

(ii) a relevant parent referred to in paragraph (b)(ii) of the definition of ‘relevant parent’ in section 61A(1), for 2 consecutive weeks—

(I) beginning on or after the date of confinement, and

(II) ending not later than 28 weeks after the date of confinement,

or

(c) in the case of a surviving parent entitled to paternity benefit under subsection (6)(b), being—

(i) ~~the relevant adopting parent~~ ***the qualifying adopter***⁶⁰¹ of the child, for 2 consecutive weeks less any period for which paternity benefit has already been paid in relation to the child—

(I) where he or she is entitled to or is in receipt of adoptive benefit under Chapter 11, beginning on the day immediately after the last day for which adoptive benefit is claimed by the surviving parent, or

(II) in any other case, within the period specified in paragraph (b)(i)(I) and (II),

or

(ii) the mother of the child, for 2 consecutive weeks less any period for which paternity benefit has already been paid in relation to the child—

(I) where she is entitled to or is in receipt of maternity benefit under Chapter 9, beginning on the day immediately after the last day for which maternity benefit is claimed by the surviving parent, or

(II) in any other case, within the period specified in paragraph (b)(ii)(I) and (II), but where the surviving parent dies, the benefit shall not be payable for any subsequent day.

⁶⁰¹ Substituted by s.13(b) of FL&MPA2021

(8) Where a relevant parent to whom paternity benefit is payable in accordance with subsection (7)(b) becomes entitled—

(a) pursuant to section 47(4), to maternity benefit under Chapter 9, or

(b) pursuant to section 58(4)(b)(ii), to adoptive benefit under Chapter 11,

the payment of the paternity benefit shall be postponed to the day immediately after the last day for which maternity benefit or adoptive benefit is claimed by the relevant parent.

(9) Where a relevant parent is entitled to paternity benefit in accordance with subsection (1)(b)(ii)(I), the payment of the paternity benefit in accordance with this Chapter may be postponed in the event that the date of confinement occurs after the expected week of confinement and regulations may provide for the period of such postponement.

(10) In the event of the hospitalisation of the child in relation to whom the relevant parent is entitled to paternity benefit, the payment of the paternity benefit in accordance with this Chapter may be postponed and regulations may provide for the period of such postponement.

(11) Where provision is made under subsection (10) for the postponement of the payment of paternity benefit, the payment may be payable after the period specified in subsection (7)(b)(i) or (ii) but shall not be postponed to a day later than the day immediately after the day on which the child is discharged from hospital.

(12) For the purposes of this section, a Sunday shall not in any week be treated as a day of entitlement to paternity benefit and, accordingly, the amount payable by way of that benefit for any other day of a week shall be one-sixth 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.

(13) In the case of an employed contributor, where the employment ceases during the period for which paternity benefit is payable under this Chapter, the beneficiary shall continue to be treated as if the event which caused the cesser of employment had not occurred.

(14) Subject to subsection (6), a person who is entitled to, or is in receipt of, adoptive benefit under Chapter 11 in accordance with section 58(4) (a)(i) or (b)(i) shall not be entitled to benefit under this Chapter.

(15) Regulations may provide for requiring an employer or any other person to furnish any information that may be required for the purposes of determining a claim for paternity benefit.

(16) This section applies—

(a) in the case of a child who is, or is to be, adopted, where the day of placement in respect of the child falls on or after 1 September 2016, or

(b) in any other case, where the date of confinement in respect of the child falls on or after 1 September 2016.

Conditions for receipt

61C. The contribution conditions for paternity benefit are—

(a) in the case of an employed contributor—

(i) (I) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with his or her entry into insurance and ending immediately before the relevant day, and

(II) (A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the relevant day occurs or in a subsequent complete contribution year before the relevant day, or

(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year in which the relevant day occurs, or

(ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day, or having been in insurable self-employment, he or she satisfies the contribution conditions in paragraph (b), and

(b) in the case of a person in insurable self-employment—

(i) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the second last complete contribution year or in the third last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or in a subsequent complete contribution year before the relevant day, or

(ii) where the claimant was previously an employed contributor, that he or she satisfies the contribution conditions in paragraph (a)(i) or that he or she has employment contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day.

Rate of benefit

61D. Subject to this Act, the weekly rate of paternity benefit shall be an amount equal to the greater of—

(a) the amount of illness benefit, including any increases of that benefit, which the person would otherwise receive if he or she was entitled to that benefit, or

~~(b) €230.~~⁶⁰²

~~(b) €235.~~^{603_604}

~~(b) €240.~~^{605_606}

~~(b) €245.~~⁶⁰⁷

⁶⁰² Para. (b) substituted by s.8(1) SWA 2016

⁶⁰³ Para. (b) substituted by s.8(1) SWA 2016

⁶⁰⁴ Para (b) substituted by s.6(1) SWA 2017

⁶⁰⁵ Para (b) substituted by s.6(1) SWA 2017

⁶⁰⁶ Substituted by s.7(1) of the SWP&CRA 2018

(b) €250.⁶⁰⁸

Disqualification

61E. Regulations may provide for disqualifying a relevant parent or a surviving parent for receiving paternity benefit where, during the period for which the benefit is payable, the relevant parent or surviving parent engages in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment, any employment referred to in paragraph 1, 2, 3 or 6 of Part 2 of Schedule 1 or any self-employment referred to in paragraph 1 or 5 of Part 3 of Schedule 1.⁶⁰⁹

CHAPTER 11B⁶¹⁰ *Parent's Benefit*

Interpretation

61F. (1) In this Chapter—

‘Act of 1995’ means the Adoptive Leave Act 1995;

‘Act of 2010’ means the Adoption Act 2010;

‘Act of 2019’ means the *Parent's Leave and Benefit Act 2019*;

~~‘adopting mother’ has the same meaning as it has in the Act of 1995;~~⁶¹¹

‘certificate of placement’ has the meaning assigned to it by section 13 of the Act of 1995;

‘day of placement’ has the same meaning as it has in the *Act of 2019*;

‘declaration of eligibility and suitability’ has the same meaning as it has in the Act of 2010;

‘parent’s leave’ has the meaning assigned to it by *section 5(1)* of the *Act of 2019*;

‘relevant day’ means the first day for which parent’s benefit is claimed;

‘relevant parent’, in relation to a child—

(a) in the case of an employed contributor, has the same meaning as it has in *section 2(1)* of the *Act of 2019*, and

(b) in the case of a person in insurable self-employment, means a person who is—

~~(i) in the case of a child who is, or is to be, adopted—~~

~~(I) the adopting mother or sole male adopter of the child,~~

~~(II) the spouse, civil partner or cohabitant, as the case may be, of the adopting mother or sole male adopter of the child, or~~

⁶⁰⁷ Substituted by s.7(1) of the SWP&CRA 2018

⁶⁰⁸ Substituted by s.7(1) of the SWA 2021

⁶⁰⁹ Chapter 11A inserted by s.31 [PL&BA 2016](#)

⁶¹⁰ Chapter 11B inserted by s. 29 PLBA 2019

⁶¹¹ Deleted by s.14(d) of FL&MPA2021

~~(III) where the child is, or is to be adopted jointly by—~~

~~(A) a married couple of the same sex,~~

~~(B) a couple that are civil partners of each other, or~~

~~(C) a cohabiting couple of the same sex,~~

~~each of the couple referred to in subclause (A), (B) or (C), and~~

~~(i) in the case of a child who is, or is to be, adopted—~~

~~(I) where the child is or is to be adopted jointly—~~

~~(A) the qualifying adopter of the child, and~~

~~(B) the spouse, civil partner or cohabitant, as the case may be, of the qualifying adopter of the child chosen by that couple to be the relevant parent for the purposes of this Chapter, or~~

~~(II) in any other case, the person in whose care the child has been or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, and~~⁶¹²

~~(ii) in any other case—~~

~~(I) a parent of the child,~~

~~(II) the spouse, civil partner or cohabitant, as the case may be, of a parent of the child, or~~

~~(III) a parent of the child under section 5 of the Children and Family Relationships Act 2015 where the child is a donor-conceived child within the meaning of Part 2 of that Act;~~⁶¹³

~~‘sole male adopter’ has the same meaning as it has in the Act of 1995 and includes, for the purpose of this Act, a person who would be a sole male adopter but for the fact that he is not an employee within the meaning of that Act;~~⁶¹⁴

~~‘surviving parent’, in relation to a child whose relevant parent has died, means—~~

~~(a) in the case of a child who is, or is to be, adopted—~~

~~(i) where the deceased relevant parent was the adopting mother or sole male adopter of the child, the spouse, civil partner or cohabitant, as the case may be, of the adopting mother or sole male adopter of the child;~~

~~(ii) where the deceased relevant parent was the spouse, civil partner or cohabitant, as the case may be, of the adopting mother or sole male adopter of the child, the adopting mother or sole male adopter concerned, or~~

⁶¹² Substituted by s.14(b) of FL&MPA2021

⁶¹³ Clause III inserted by S.I. No. 362 of 2022

⁶¹⁴ Deleted by s.14(d) of FL&MPA2021

~~(iii) in any other case, where the deceased relevant parent was a member of a couple referred to in subclause (A), (B) or (C) of paragraph (b)(i)(III) of the definition of relevant parent, the other member of the couple, and~~

(a) in the case of a child who is, or is to be, adopted, where the deceased relevant parent was a member of a couple referred to in paragraph (b)(i)(I) of the definition of relevant parent, the other member of that couple, and⁶¹⁵

(b) in any other case—

(i) where the deceased relevant parent of the child was a parent referred to in paragraph (b)(ii)(I) or (b)(ii)(III), as the case may be, of the definition of relevant parent, the other parent of the child or the spouse, civil partner or cohabitant, as the case may be, of the deceased relevant parent, and

(ii) where the deceased relevant parent of the child was the spouse, civil partner or cohabitant, as the case may be, of a parent referred to in paragraph (b)(ii)(I) or (b)(ii)(III), as the case may be, of the definition of relevant parent, the parent concerned;

‘transferred parent’s leave’ has the same meaning as it has in the *Act of 2019*.

‘qualifying adopter’—

(a) in the case of an employed contributor, has the meaning given to it by section 2(1) of the Act of 1995 (as amended by section 5 of the Family Leave and Miscellaneous Provisions Act 2021), and

(b) in the case of a person in insurable self-employment means—

(i) in the case of a child who is, or is to be, adopted jointly by a married couple, a couple who are civil partners of each other or a cohabiting couple, the member of the couple concerned, chosen by that couple to be the qualifying adopter for the purposes of this Act, and in whose care the child (of whom neither the qualifying adopter nor his or her spouse, civil partner or cohabitant, as the case may be, is the mother or father) has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption, or

(ii) in any other case, a person who is not a surviving parent in whose care a child has been placed or is to be placed with a view to the making of an adoption order, or to the effecting of a foreign adoption or following any such adoption;⁶¹⁶

(2) For the purpose of this Chapter, a reference to a child who is adopted is a reference to a child who is the subject of—

(a) an adoption order within the meaning of the Act of 2010, or

(b) an intercountry adoption effected outside the State and recognised under that Act.

⁶¹⁵ Substituted by s.14(c) of FL&MPA2021

⁶¹⁶ Inserted by s.14(a) of FL&MPA2021

Entitlement to and duration of benefit

61G. (1) Subject to this Act, a relevant parent shall be entitled to parent's benefit in respect of a period during which the relevant parent provides care and assistance in relation to a child, ending not later than ~~52 weeks~~ **104 weeks**⁶¹⁷ after the birth of the child or the day of placement of the child, where—

(a) the relevant parent—

(i) is an employed contributor and it is certified by his or her employer that the parent is entitled to parent's leave under *Part 2* of the *Act of 2019*, or

(ii) is in insurable self-employment, and

(b) subject to subsection (2), the relevant parent satisfies the contribution conditions in section 61H.

(2) Regulations may provide for entitling to parent's benefit, subject to the conditions and in the circumstances that may be prescribed, the class or classes of persons who would be entitled to that benefit but for the fact that the contribution conditions in section 61H are not satisfied.

(3) Parent's benefit shall be payable under this Chapter to a relevant parent in relation to a child for the purpose of enabling the relevant parent to provide, or assist in the provision of, care to the child.

(4) A person who is a relevant parent in more than one capacity in respect of a child shall not be entitled to parent's benefit in more than one such capacity in respect of the child.

(5) Subject to subsections (6) and (10)(c), only one parent's benefit shall be payable to a relevant parent in relation to a child and where—

(a) the birth of the child is part of a multiple birth of 2 or more children, or

(b) a person adopts 2 or more children at the same time, only one parent's benefit shall be payable to a relevant parent in relation to the children concerned.

(6) Subsection (5) shall not operate to prevent parent's benefit being paid to a relevant parent referred to in paragraph (b)(i) of the definition of relevant parent in section 61F(1), in relation to a child by reason only that parent's benefit has already been paid in relation to that child to a person other than the relevant parent concerned prior to the adoption of the child.

(7) Subject to this Chapter, parent's benefit, for the period specified in subsection (10)(b)(i) or (ii), may be paid in respect of—

(a) a continuous period of parent's leave, or

(b) periods of parent's leave each consisting of not less than 1 week.

(8) Where the parent's leave is taken in accordance with subsection (7)(b), the employer must certify that the relevant parent is entitled to each period of leave under *Part 2* of the *Act of 2019*.

⁶¹⁷ Substituted by s.15(a) of FL&MPA2021

(9) Subject to section 61H(2), the relevant parent must, at the time of application, satisfy the conditions for receipt of parent's benefit, as set out in section 61H(1).

(10) Subject to this Chapter, parent's benefit shall be payable—

(a) in the case of an employed contributor—

(i) for the period of parent's leave to which the relevant parent is entitled under *Part 2* of the *Act of 2019*, or

(ii) for the period of transferred parent's leave to which a surviving parent is entitled under *Part 2* of the *Act of 2019*,

~~(b) in the case of a person in insurable self-employment, being—~~

~~(i) a relevant parent referred to in paragraph (b)(i) of the definition of relevant parent in section 61F(1), for a continuous period of 2 consecutive weeks or periods consisting of not less than one week—~~

~~(I) beginning on or after the day of placement of the child, and~~

~~(II) ending not later than 52 weeks after the day of placement of the child, or~~

~~(ii) a relevant parent referred to in paragraph (b)(ii) of the definition of relevant parent, for a continuous period of 2 consecutive weeks or periods consisting of not less than one week—~~

~~(I) beginning on or after the date of birth of the child, and~~

~~(II) ending not later than 52 weeks after the date of birth of the child,~~

~~or~~

(b) in the case of a person in insurable self-employment, being—

(i) a relevant parent referred to in paragraph (b)(i) of the definition of relevant parent, for a continuous period of ~~five consecutive weeks~~ **seven consecutive weeks**⁶¹⁸ or periods consisting of not less than one week—

(I) beginning on or after the day of placement of the child, and

(II) ending not later than 104 weeks after the day of placement of the child,

or

(ii) a relevant parent referred to in paragraph (b)(ii) of the definition of relevant parent, for a continuous period of ~~five consecutive weeks~~ **seven consecutive weeks**⁶¹⁹ or periods consisting of not less than one week—

(I) beginning on or after the date of birth of the child, and

⁶¹⁸ Substituted by S. 8(a) of SWA 2021

⁶¹⁹ Substituted by S. 8(b) of SWA 2021

(II) ending not later than 104 weeks after the date of birth of the child,

or, ⁶²⁰

(c) in the case of a surviving parent entitled to parent's benefit under subsection (11)(b)(ii) being the relevant parent of the child, for ~~2 weeks~~ ~~5 weeks~~⁶²¹ **7 weeks**⁶²² taken as a continuous period or periods consisting of not less than one week, less any period for which parent's benefit has already been paid in relation to the child but where the surviving parent dies, the benefit shall not be payable for any subsequent day.

(11) (a) Subject to paragraph (b), parent's benefit shall not be transferable between relevant parents.

(b) The surviving parent of a child shall be entitled to benefit under this Chapter as if he or she were the relevant parent and the provisions of this Chapter (other than section 61H) shall apply in the case of the surviving parent where—

(i) in the case of a surviving parent who is an employed contributor, it is certified by the employer of the surviving parent that he or she is entitled to transferred parent's leave under *Part 2* of the *Act of 2019*, or

(ii) in any other case, the relevant parent entitled to parent's benefit in relation to the child dies before the expiry of the ~~fifty-second week~~ **one hundredth and fourth week**⁶²³ following the date of birth or the day of placement.

(12) In the event of the hospitalisation of the child in relation to whom the relevant parent is entitled to parent's benefit, the payment of the parent's benefit in accordance with this Chapter may be postponed and regulations may provide for the period of such postponement.

(13) Where provision is made under subsection (12) for the postponement of the payment of parent's benefit, the payment may be payable after the period specified in subsection (10)(b)(i) or (ii) but shall not be postponed to a day later than 7 days immediately after the day on which the child is discharged from hospital.

(14) Where a child in relation to whom a relevant parent is entitled to parent's benefit dies on or before the expiration of the period of the entitlement concerned, the death of that child shall not affect the entitlement of the relevant parent to parent's benefit.

(15) Where a person referred to in paragraph (b) of the definition of relevant parent is effected by seasonal variations in the volume of work in his or her business, profession or occupation, and the relevant parent cannot receive the parent's benefit within the period referred to in subsection (10)(b)(i) or (ii), the reference to the period in subsection (10)(b)(i) or (ii) shall be construed as if it were extended by a period of 12 weeks.

(16) Where—

(a) a relevant parent referred to in paragraph (a) of the definition of relevant parent has his or her leave postponed in accordance with *section 7(3)(a)* of the *Act of 2019*,

⁶²⁰ Para(b) Substituted by s.15(b)(i) of FL&MPA2021

⁶²¹ Substituted by s.15(b)(ii) of FL&MPA2021

⁶²² Substituted by S. 8(c) of SWA 2021

⁶²³ Substituted by s.15(c) of FL&MPA2021

(b) a relevant parent referred to in paragraph (a) of the definition of relevant parent has his or her leave postponed in accordance with *section 13* of the *Act of 2019*, or

(c) a relevant parent referred to in paragraph (b) of the definition of relevant parent cannot receive his or her parent's benefit by virtue of the application of subsection (15), the payment of parent's benefit in accordance with this Chapter may be postponed and regulations may provide for the period of such postponement.

(17) For the purposes of this section, a Sunday shall not in any week be treated as a day of entitlement to parent's benefit and, accordingly, the amount payable by way of that benefit for any other day of a week shall be one-sixth 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.

(18) Regulations may provide for requiring an employer or any other person to furnish any information that may be required for the purposes of determining a claim for parent's benefit.

(19) Subject to subsections (20) and (21), this section applies—

(a) in the case of a child who is, or is to be, adopted, where the day of placement in respect of the child falls on or after 1 November 2019,
or

(b) in any other case, where the date of birth of the child falls on or after 1 November 2019.

(20) Where a child is adopted and the day of placement in respect of the child falls on or after 1 November 2019 and before the coming into operation of this section, the reference in subsections (1) and (10)(b)(i)(II) to not later than 52 weeks after the day of placement shall be construed as a reference to not later than 52 weeks after the date on which this section comes into operation.

(21) Where the date of birth in respect of a child falls on or after 1 November 2019 and before the coming into operation of this section, the reference in subsections (1) and (10)(b)(ii)(II) to not later than 52 weeks after the birth of the child shall be construed as a reference to not later than 52 weeks after the date on which this section comes into operation.

Conditions for receipt

61H. (1) The contribution conditions for parent's benefit are—

(a) in the case of an employed contributor—

(i) (I) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with their entry into insurance and ending immediately before the relevant day, and

(II) (A) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the relevant day occurs or in a subsequent complete contribution year before the relevant day, or

(B) that the claimant has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year in which the relevant day occurs, or

(ii) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day, or having been in insurable self-employment, satisfies the contribution conditions in paragraph (b), and

(b) in the case of a person in insurable self-employment—

(i) that the claimant has qualifying contributions in respect of not less than 52 contribution weeks in the second last complete contribution year or in the third last complete contribution year before the beginning of the benefit year in which the relevant day occurs, or in a subsequent complete contribution year before the relevant day, or

(ii) where the claimant was previously an employed contributor, that they satisfy the contribution conditions in paragraph (a)(i) or that they have employment contributions in respect of not less than 39 contribution weeks in the 12 months immediately before the relevant day.

(2) A person who has qualified for maternity benefit, paternity benefit or adoptive benefit in respect of a child shall, in respect of that child, be deemed to have satisfied the requirements of subsection (1).

Rate of benefit

61I. Subject to this Act, the weekly rate of parent's benefit shall be an amount equal to the greater of—

(a) the amount of illness benefit, including any increases of that benefit, which the person would otherwise receive if he or she was entitled to that benefit, or

~~(b) €245.~~

(b) €250.⁶²⁴

Disqualification

61J. Regulations may provide for disqualifying a relevant parent or a surviving parent from receiving parent's benefit where, during the period for which the benefit is payable, the relevant parent or surviving parent engages in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment, any employment referred to in paragraph 1, 2, 3 or 6 of Part 2 of Schedule 1 or any self-employment referred to in paragraph 1 or 5 of Part 3 of Schedule 1.

CHAPTER 12

~~Unemployment Benefit~~ *Jobseeker's Benefit*

Entitlement to benefit.

62. (1) Subject to this Act, a person shall be entitled to ~~unemployment benefit~~ **jobseeker's benefit** in respect of any day of unemployment (in this Part referred to as "a day of unemployment") which forms part of a period of interruption of employment, where—

⁶²⁴ Substituted by s.9(1) SWA 2021

- (a) he or she is under pensionable age on the day for which the benefit is claimed,
- (b) he or she proves unemployment in the prescribed manner,
- (c) he or she satisfies the contribution conditions in section 64, and

~~(d) other than in the case of a person engaged in casual employment, he or she has sustained a substantial loss of employment in any period of 6 consecutive days **7 consecutive days**.^{625 626}~~

(d) other than in the case of a person engaged in casual employment or a person employed as a retained fire fighter, he or she has sustained a substantial loss of employment in any period of 7 consecutive days.⁶²⁷

(1A) Without prejudice to the generality of subsection (1)(b), for the purposes of that subsection a person may prove unemployment and may make a declaration for that purpose, by means of an electronic communication, in the prescribed manner.⁶²⁸

(2) The circumstances in which a person is to be regarded, for the purposes of subsection (1), as being engaged in casual employment shall be specified in regulations.

(3) The circumstances in which a person is to be regarded, for the purposes of this Chapter, as having sustained a substantial loss of employment shall be specified in regulations, and different circumstances may be specified for different provisions of this Chapter.

~~(4) A person shall not be entitled to unemployment benefit **jobseeker's benefit** for the first 3 days of any period of interruption of employment.~~

(4) A person shall not, except as provided for by regulations made with the consent of the Minister for Public Expenditure and Reform, be entitled to jobseeker's benefit for the first 3 days of any period of interruption of employment.⁶²⁹

(5) For the purposes of any provision of this Act relating to ~~unemployment benefit~~ **jobseeker's benefit** —

~~(a) a day shall not be treated in relation to an insured person as a day of unemployment unless on that day —~~

~~(i) he or she is capable of work,~~

~~(ii) he or she is, or by reason of his or her participation in an activity prescribed for the purposes of this subsection and subject to the conditions that may be prescribed, is deemed to be, or is exempted from being required to be, available for employment, and~~

~~(iii) he or she is genuinely seeking, but is unable to obtain, employment suitable for him or her having regard to his or her age, physique, education, normal occupation, place of residence and family circumstances,⁶³⁰~~

⁶²⁵ Substituted by s.16(1)(a) SWA 2012

⁶²⁶ Substituted by s.9 SW&P(MP)A 2013

⁶²⁷ Substituted by s.9 SW&P(MP)A 2013

⁶²⁸ Ss (1A) inserted by s.4(c) SW&PA 2010

⁶²⁹ Ss 4 Substituted by s.7 H(PPEMPI)A 2020

(a) a day shall not be treated in relation to an insured person as a day of unemployment unless on that day –

(i) he or she is capable of work,

(ii) he or she is, or by reason of his or her participation in an activity prescribed for the purposes of this subsection and subject to the conditions that may be prescribed, is deemed to be, or is exempted from being required to be, ~~available for employment,~~ **available for employment, and** ⁶³¹

(iii) he or she is genuinely seeking, but is unable to obtain, employment suitable for him or her having regard to his or her age, physique, education, normal occupation, place of residence and ~~family circumstances, and family circumstances,~~ ⁶³²

~~(iv) he or she participates, or agrees to participate as the case may be, if requested to do so by an officer of the Minister in a course of education, training or development which is considered appropriate by the officer having regard to the training and education needs of the person and his or her personal circumstances,~~ ^{633 634}

(b) “day of interruption of employment” means a day which is a day of unemployment or of incapacity for work,

(c) any ~~3 days~~ **4 days** ⁶³⁵ of interruption of employment, whether consecutive or not, within a period of ~~6 consecutive days~~ **7 consecutive days** ⁶³⁶ shall be treated as a period of interruption of employment and any 2 such periods not separated by a period of more than 26 weeks shall be treated as one period of interruption of employment,

~~(d) Sunday or such other day in each week as may be prescribed shall not be treated as a day of unemployment or of incapacity for work and shall be disregarded in computing any period of consecutive days.~~ ⁶³⁷

(6) Notwithstanding subsection (5)(c), where in respect of any day of unemployment (referred to in this subsection as “the relevant day of unemployment”) which forms part of a period of interruption of employment a person has not, before the relevant day of unemployment, been entitled, in that period of interruption of employment, to ~~unemployment benefit~~ **jobseeker’s benefit** in respect of a day of unemployment within the 2 years before the relevant day of unemployment, that day shall be treated as the first day of unemployment in a separate period of interruption of employment subject to subsection (4) not applying in relation to that separate period of interruption of employment.

(7) For the purposes of this Chapter and Chapter 2 of Part 3, the Minister shall make regulations specifying the circumstances in which a person is or is not to be regarded as being

⁶³⁰ Substituted by s.5(a) SW&PA 2009

⁶³¹ Substituted by s.12 SW&P(MP)A 2013

⁶³² Substituted by s.12 SW&P(MP)A 2013

⁶³³ Substituted by s. 5(a) SW&PA 2009

⁶³⁴ Subpara. (iv) deleted by s.12 SW&P(MP)A 2013

⁶³⁵ Substituted by s.16(1)(b)(i)(I) SWA2012

⁶³⁶ Substituted by s.16(1)(b)(i)(II) SWA 2012

⁶³⁷ Para. (d) deleted by s.16(1)(b)(ii) SWA 2012

available for or genuinely seeking employment and these circumstances may vary in relation to—

- (a) the person's previous work experience,
- (b) the period for which he or she has been unemployed, and
- (c) the prevailing employment conditions.

(8) Notwithstanding anything contained in subsection (5), any period, not exceeding 1 year in duration, of—

- (a) ~~employment under a scheme administered by An Foras Áiseanna Saothair and known as Community Employment,~~
- (b) ~~employment under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme,~~
- (c) ~~participation in a scheme administered by An Foras Áiseanna Saothair and known as the Enterprise Allowance Scheme,~~
- (d) ~~participation in a scheme administered by An Foras Áiseanna Saothair and known as the Alternance Scheme,~~
- (e) ~~attendance at a training course provided or approved of by An Foras Áiseanna Saothair,~~
- (f) ~~participation in a scheme administered by the Commission of the European Union and known as the European Voluntary Service Initiative,~~
- (g) ~~participation in a scheme administered by the Minister and known as the Part-Time Job Incentive Scheme, or~~
- (h) ~~participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme,~~

shall be disregarded in treating, under subsection (5)(c), any 2 periods of interruption of employment not separated by more than 26 weeks as one period of interruption of employment.⁶³⁸

(8) Notwithstanding anything contained in subsection (5), any period –

- (a) not exceeding 1 year in duration, of—
 - (i) ~~employment under a scheme administered by An Foras Áiseanna Saothair and known as Community Employment~~ *scheme provided by the Minister and known as Community Employment*,⁶³⁹
 - (ii) ~~employment under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs~~ *scheme provided by the Minister*⁶⁴⁰ and known as the Rural Social Scheme,

⁶³⁸ Substituted by s.17 SW (MP) A 2008

⁶³⁹ Substituted by s.29(2) and Sch. 1 SW&PA 2010

⁶⁴⁰ Substituted by s.19 SW&P(MP)A 2013

~~(iii) participation in a scheme administered by An Foras Áiseanna Saothair and known as the Enterprise Allowance Scheme,⁶⁴¹~~

~~(iv) participation in a scheme administered by An Foras Áiseanna Saothair and known as the Alternance Scheme,⁶⁴²~~

~~(v) attendance at a training course provided or approved of by An Foras Áiseanna Saothair,⁶⁴³~~

(v) attendance at an approved course of training,⁶⁴⁴

(vi) participation in a scheme administered by the Commission of the European Union and known as the European Voluntary Service Initiative,

(vii) participation in a scheme administered by the Minister and known as the Part-Time Job Incentive Scheme, or

(b) not exceeding 2 years in duration, of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme,

shall be disregarded in treating, under subsection (5)(c), any 2 periods of interruption of employment not separated by more than 26 weeks as one period of interruption of employment.⁶⁴⁵

(9) Regulations may make provision (subject to subsection (5)) as to the days which are or are not to be treated for the purposes of ~~unemployment benefit~~ *jobseeker's benefit* as days of unemployment or of incapacity for work.

(9A) In the case of a person to whom subsection (11) does not apply, the number of days of unemployment in respect of which that person shall be entitled to jobseeker's benefit in any payment week shall be limited so that the total of—

(a) the number of days in that payment week in respect of which jobseeker's benefit is paid, and

(b) the number of days in that payment week which are not days which form part of a period of interruption of employment, shall not exceed 6.

(9B) In the case of a person to whom subsection (9A) applies, the amount payable by way of jobseeker's benefit for any day of unemployment in a payment week shall be determined in accordance with subsections (10) and (10A).⁶⁴⁶

~~(10) The amount payable by way of benefit for any day of unemployment shall be one sixth 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~~

⁶⁴¹ Deleted by s.29 and Sch1 SW&PA 2010

⁶⁴² Deleted by s.29 and Sch1 SW&PA 2010

⁶⁴³ Substituted by s.3(2) SW&P(MP)A 2013

⁶⁴⁴ Substituted by s.3(2) SW&P(MP)A 2013

⁶⁴⁵ Substituted by s.17 SW(MP)A 2008

⁶⁴⁶ Subsections (9A) and (9B) inserted by s.16(1)(c) SWA 2012

~~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.~~ ⁶⁴⁷

(10) ~~Subject to subsection (10B),~~ **Subject to subsections (10B) and (11),** ⁶⁴⁸ the amount payable by way of jobseeker's benefit for any day of unemployment shall be—

(a) 16.67 per cent of the appropriate weekly rate where a person is entitled to jobseeker's benefit for 6 days of unemployment in any payment week,

(b) 16 per cent of the appropriate weekly rate where a person is entitled to jobseeker's benefit for 5 days of unemployment only in any payment week,

(c) 15 per cent of the appropriate weekly rate where a person is entitled to jobseeker's benefit for 4 days of unemployment only in any payment week,

(d) 13.33 per cent of the appropriate weekly rate where a person is entitled to jobseeker's benefit for 3 days of unemployment only in any payment week, and

(e) 10 per cent of the appropriate weekly rate where a person is entitled to jobseeker's benefit for 2 days of unemployment only in any payment week.

(10A) Notwithstanding subsection (1), where a person, other than a person to whom subsection (11) applies, would, but for this subsection, be entitled to jobseeker's benefit for one day of unemployment only in any payment week, that person shall not be entitled to jobseeker's benefit in respect of that day of unemployment.

(10B) The total amount of jobseeker's benefit payable at any time by virtue of subsection (10) shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

(10C) ~~Without prejudice to subsection (5)(d), in subsections (10) and (10A)~~ **In this Chapter** ⁶⁴⁹ 'payment week' means the period commencing on the Thursday of one week and ending on the Wednesday of the following week. ⁶⁵⁰

(11) Notwithstanding subsection (1), the number of days of unemployment in respect of which a person engaged in short-time employment shall be entitled to ~~unemployment benefit~~ **jobseeker's benefit in any week in any payment week** ⁶⁵¹ shall be limited so that the total of the number of days in respect of which that benefit is paid and the number of days worked shall not exceed 5, and in that case the amount payable by way of that benefit for any day of unemployment in that week shall, notwithstanding subsection (10), be one-fifth 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.

Jobseeker's benefit—reduction of rates in certain circumstances. ⁶⁵² ⁶⁵³

~~62A. Notwithstanding section 62, in the case of a person who—~~

⁶⁴⁷ Substituted by s.16 SW&PA 2012

⁶⁴⁸ Substituted by s.16(1)(d) SWA 2012

⁶⁴⁹ Substituted by s.16(1)(e) SWA 2012

⁶⁵⁰ Substituted by s.16 SW&PA 2012

⁶⁵¹ Substituted by s.16(1)(f) SWA 2012 (s.16 commenced by S.I. No. 61/2013)

⁶⁵² S62A inserted by s.18 SW(MP)A 2010. S.18 subsequently repealed by s.7(1) SWA 2010 with s.62A re-inserted

⁶⁵³ S.62A substituted by s.12 SWP(MP)A 2013

~~(a) has, when requested to do so by an officer of the Minister, without good cause refused to participate or to agree to participate in a course of training which is considered appropriate by the officer having regard to the training needs of the person and his or her personal circumstances;~~

~~(b) has, without good cause, refused or failed to avail himself or herself of any reasonable offer of training provided or approved of by An Foras Áiseanna Saothair;~~
~~or~~

~~(c) has, without good cause, refused or failed to avail himself or herself of an opportunity of participating in a programme administered by An Foras Áiseanna Saothair and the Minister pursuant to the plan commonly known as the National Employment Action Plan;~~

~~the weekly rate of jobseeker's benefit shall be as set out in section 65(2) or, as the case may be, paragraph (a), (b) or (c) of section 65A(2).^{654 655}~~

Refusal or failure to attend activation meetings relating to jobseeker's benefit ⁶⁵⁶

62A. (1) Notice may be given by or on behalf of the Minister to any person receiving jobseeker's benefit requesting the person, at the time specified in the notice, to comply with the requirement specified in paragraph (a) or (b) of subsection (3).

(2) Where a person refuses or fails, without good cause, to comply with the requirement specified in the notice under subsection (1) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, the weekly rate of jobseeker's benefit payable to that person in respect of any such period of refusal or failure shall, subject to this section, be as set out in section 65(2) or, as the case may be, paragraph (a), (b) or (c) of section 65A(2).

(3) A notice under this section may require the person to whom it is given to do one of the following, at the time specified in the notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person—

(a) attend at a meeting arranged by or on behalf of the Minister for the purpose of providing information to that person which is intended to improve his or her knowledge of the employment, work experience, education, training and development opportunities available to that person, or

(b) attend for or submit to an assessment of that person's education, training or development needs.

(4) Where jobseeker's benefit is paid to a person at the weekly rate set out in section 65(2) or, as the case may be, paragraph (a), (b) or (c) of section 65A(2) on account of a refusal or failure to comply with the requirement specified in the notice under subsection (1) for a period of not less than 21 days, notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with that requirement.

(5) Where a person refuses or fails, without good cause, to comply with the requirement specified in the notice under subsection (4) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person,

⁶⁵⁴ S.62A inserted by s.18 SW(MP)A 2010. S.18 subsequently repealed by s.7(1) SWA 2010 with s.62A re-inserted

⁶⁵⁵ S.62A substituted by s.12 SW&P(MP)A 2013

⁶⁵⁶ S.62A, 62B and 62C substituted by s.12 SW&P(MP)A 2013

that person shall be disqualified for receiving jobseeker's benefit for any period of continued refusal or failure commencing on the date specified in the notice under subsection (4), but such period of disqualification shall, subject to subsection (6), not exceed 9 weeks.

(6) Nothing in this section shall prevent the provisions of subsections (1) to (5) being applied to a person where, on or after the expiration of such period of disqualification as is applied in accordance with subsection (5) —

(a) notice has been given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement referred to in subsection (1), and

(b) that person continues, without good cause, to refuse or fail to comply with that requirement.

(7) Where, on the commencement of section 12 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013, jobseeker's benefit is being paid to a person at the weekly rate set out in section 65(2) or, as the case may be, paragraph (a), (b) or (c) of section 65A(2) for a period of not less than 21 days—

(a) a notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement specified in paragraph (a) or (b) of subsection (3), and

(b) subsections (4) to (6) shall apply to that person where he or she refuses or fails, without good cause, to comply with that requirement at or after the time specified in the notice under paragraph (a), or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person.

Refusal or failure to participate in prescribed schemes, programmes or courses relating to jobseeker's benefit

62B. (1) Where—

(a) as a consequence of attendance for or submission to an assessment in accordance with section 62A(3)(b), a request is made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in —

(i) any scheme or programme of employment or work experience, or

(ii) a course of education, training or development,

which is prescribed for the purposes of this section and which is considered appropriate having regard to the education, training and development needs of that person and his or her personal circumstances, and

(b) that person refuses or fails, without good cause, to participate in, agree to participate in or avail himself or herself of an opportunity of participating in such a scheme, programme or course, as the case may be,

the weekly rate of jobseeker's benefit payable to that person in respect of any such period of refusal or failure shall, subject to this section, be as set out in section 65(2) or, as the case may be, paragraph (a), (b) or (c) of section 65A(2).

(2) Where jobseeker's benefit is paid to a person at the weekly rate set out in section 65(2) or, as the case may be, paragraph (a), (b) or (c) of section 65A(2) on account of a refusal or failure referred to in subsection (1) —

(a) notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to attend for or submit to an assessment of that person's education, training or development needs, or

(b) a request may be made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in—

(i) any scheme or programme of employment or work experience, or

(ii) a course of education, training or development,

which is prescribed for the purposes of this section and which is considered appropriate having regard to the education, training and development needs of that person and his or her personal circumstances.

(3) Where a person refuses or fails, without good cause, to—

(a) comply with the requirement specified in the notice under subsection (2)(a) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, or

(b) participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b),

that person shall be disqualified for receiving jobseeker's benefit for any period of such refusal or failure commencing on—

(i) the date specified in the notice under subsection (2)(a), or

(ii) the date of refusal or failure to participate in, to agree to participate in or to avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b),

as the case may be, but such period of disqualification shall, subject to subsection (4), not exceed 9 weeks.

(4) Nothing in this section shall prevent the provisions of subsections (1) to (3) being applied to a person where, on or after the expiration of such period of disqualification as is applied in accordance with subsection (3)—

(a) notice has been given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement referred to in subsection (2)(a), or

(b) a request has been made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b),

as the case may be, and that person continues, without good cause, to refuse or fail to

(i) comply with the requirement specified in the notice under paragraph (a) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, or

(ii) participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in paragraph (b).

Giving of notice under section 62A or 62B

62C. A notice under section 62A or 62B shall be given in writing and may be given in such other form as may be considered appropriate, including electronic form.⁶⁵⁷

Condition for receipt (optional contributors).

63. (1) It shall be a condition for the receipt of ~~unemployment benefit~~ *jobseeker's benefit* in respect of any day by a person engaged in share fishing that—

(a) it is not a day on which he or she is engaged in share fishing and it is a day in respect of which he or she makes reasonable efforts to obtain such work, and

(b) there was no work on, or in connection with, the fishing vessel of which he or she is a member of the crew available for him or her on that day because—

(i) as a consequence of weather conditions, the fishing vessel could not reasonably have put to sea for the purposes of fishing, or

(ii) the fishing vessel was undergoing repairs or maintenance, not being repairs or maintenance constituting work within the meaning of subsection (2).

(2) For the purposes of subsection (1), work includes any work done to the fishing vessel or its nets or gear by way of repairs (including running repairs) or maintenance, or in connection with the laying up of nets and gear or their preparation for fishing which at the time of its performance is necessary for the safety or reasonable efficiency of the fishing vessel, or is likely to become so necessary in the near future, and which it is the duty of a person engaged in share fishing (whether by agreement, custom, practice or otherwise) to undertake without remuneration other than by way of a share in the profits or the gross earnings of the working of the fishing vessel, but any other work done to the fishing vessel or its nets or gear, shall be disregarded.

Conditions for receipt.

64. (1) The contribution conditions for ~~unemployment benefit~~ *jobseeker's benefit* are that the claimant—

~~(a) has qualifying contributions in respect of not less than 52 contribution weeks in the period between his or her entry into insurance and the day for which the benefit is claimed,~~⁶⁵⁸

~~(a) has qualifying contributions in respect of not less than 104 contribution weeks in the period between his or her entry into insurance and the day for which benefit is claimed,~~⁶⁵⁹

⁶⁵⁷ S.62A substituted with S. 62A, 62B, & 62C by s.12 SW&P(MP)A 2013

⁶⁵⁸ Substituted by s.18(1)(a) SW(MP)A 2008

⁶⁵⁹ Substituted by s.18(1)(a) SW(MP)A 2008

- (a) (i) has employment contributions or optional contributions paid in respect of not less than 104 contribution weeks in the period between his or her entry into insurance and the day for which benefit is claimed, or
- (ii) has self-employment contributions paid in respect of not less than 156 contribution weeks in the period between his or her entry into insurance and the day for which benefit is claimed,⁶⁶⁰
- (b) ~~(i) has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed, or⁶⁶¹~~
- (i) has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks, of which at least 13 must be qualifying contributions, in the second last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed, or⁶⁶²
- (ii) has qualifying contributions in respect of not less than 26 contribution weeks in each of the second last and third last complete contribution years before the beginning of the benefit year which includes the day for which the benefit is claimed,
- and
- (c) has—
- ~~(i) prescribed reckonable~~ **reckonable**⁶⁶³ weekly earnings, or
- (ia) ~~prescribed reckonable~~ **reckonable**⁶⁶⁴ weekly earnings, in the case of a person who immediately before the week of unemployment for which jobseeker's benefit was claimed -
- (I) was in receipt of carer's benefit or carer's allowance and,
- (II) was in receipt of jobseeker's benefit immediately before receiving a payment referred to in subparagraph (I),
- or⁶⁶⁵
- (ii) in the case of a person who qualifies for ~~unemployment benefit~~ **jobseeker's benefit** by virtue of having paid optional contributions, ~~prescribed reckonable~~ **reckonable**⁶⁶⁶ weekly income,

~~in excess of a prescribed amount in the prescribed period.~~⁶⁶⁷ in excess of €300 in the governing contribution year or has reckonable weekly earnings specified in paragraphs (a) to (c) of subsection (6) or, as the case may be, has reckonable weekly income specified in paragraphs (d) to (f) of subsection (6) in the periods specified in respect of those earnings or that income in those paragraphs.⁶⁶⁸

⁶⁶⁰ Substituted by S3 of SWA 2019

⁶⁶¹ Substituted by s.18(1)(b) SW(MP)A 2008

⁶⁶² Substituted by s.18(1)(b) SW(MP)A 2008

⁶⁶³ Substituted by s 7(2)(a) SWA 2010

⁶⁶⁴ Substituted by s 7(2)(b) SWA 2010

⁶⁶⁵ Para (ia) inserted by s. 8 SW&PA 2007

⁶⁶⁶ Substituted by s 7(2)(c) SWA 2010

⁶⁶⁷ Substituted by s 7(2)(d) SWA 2010

⁶⁶⁸ Substituted by s.7(2)(d) SWA 2010

(2) In the case of any claim for ~~unemployment benefit~~ **jobseeker's benefit** where the period of interruption of employment began before 6 April 1987, subsection (1)(a) shall be read as if "26" were substituted for "~~52~~" ⁶⁶⁹ "104".

(3) In the case of any claim for ~~unemployment benefit~~ **jobseeker's benefit** where the period of interruption of employment began on or after 6 April 1987 and before 5 April 2004 subsection (1)(a) shall be read as if "39" were substituted for "~~52~~" ⁶⁷⁰ "104".

(3A) In the case of any claim for jobseeker's benefit where the period of interruption of employment began on or after 5 April 2004 and before 1 January 2009, subsection (1)(a) shall be read as if "52" were substituted for "104".⁶⁷¹

(4) Where a person under 65 years of age has been entitled to payment of ~~unemployment benefit~~ **jobseeker's benefit** in respect of any day or would but for section 62(4), 68(4) or ~~68(6) 68(1), 68(6) or 68(6A)~~⁶⁷² have been so entitled then, in relation to ~~unemployment benefit~~ **jobseeker's benefit** the benefit year which includes the first such day in every period of interruption of employment, which is, or is deemed to be, a separate period of interruption of employment, shall, for the purpose of the condition contained in subsection (1)(b)(i) or (ii), be regarded as continuing so long as the period of interruption of employment continues.

(4A) Regulations may provide for entitling to jobseeker's benefit, subject to the conditions that may be prescribed, the class or classes of persons who would be entitled to that benefit but for the fact that the requirement, in subsection (1)(b)(i), that there must be qualifying contributions in respect of at least 13 contribution weeks in the second last complete contribution year before the beginning of the benefit year which includes the day for which benefit is claimed, is not satisfied.⁶⁷³

(5) Regulations may provide for modifications of the contribution conditions set out in subsection (1).

~~(6) Subject to subsection (7), regulations may provide for entitling to unemployment benefit **jobseeker's benefit** persons who would be entitled to that benefit but for the fact that the condition in subsection (1)(c) is not satisfied.~~⁶⁷⁴

(6) For the purposes of the requirements of subsection (1)(c) relating to reckonable weekly earnings or, as the case may be, reckonable weekly income, a claimant—

(a) has reckonable weekly earnings—

- (i) which do not exceed €44.43,
- (ii) which exceed €44.43 but do not exceed €63.48, or
- (iii) which exceed €63.48 but do not exceed €88.87,

in respect of a period of interruption of employment which commenced before 25 December 2003,

⁶⁶⁹ Substituted by s.18(1)(c) SW(MP)A 2008

⁶⁷⁰ Substituted by s.18(1)(d) SW(MP)A 2008

⁶⁷¹ Inserted by s.18(1)(e) SW(MP)A 2008

⁶⁷² Substituted by s.7(3)(a) SWA 2010

⁶⁷³ Inserted by s.18(1)(f) SW(MP)A 2008

⁶⁷⁴ Substituted by s.7(3)(b) SWA 2010

(b) has reckonable weekly earnings—

- (i) which do not exceed €79.99,
- (ii) which exceed €79.99 but do not exceed €124.99, or
- (iii) which exceed €124.99 but do not exceed €149.00,

in respect of a period of interruption of employment which commenced on or after 25 December 2003 and before 5 January 2009,

(c) has reckonable weekly earnings—

- (i) which do not exceed €149.99,
- (ii) which exceed €149.99 but do not exceed €219.99, or
- (iii) which exceed €219.99 but do not exceed €299.99,

in respect of a period of interruption of employment which commenced on or after 5 January 2009,

(d) has reckonable weekly income—

- (i) which does not exceed €44.43,
- (ii) which exceeds €44.43 but does not exceed €63.48, or
- (iii) which exceeds €63.48 but does not exceed €88.87,

in respect of a period of interruption of employment which commenced before 25 December 2003,

(e) has reckonable weekly income—

- (i) which does not exceed €79.99,
- (ii) which exceeds €79.99 but does not exceed €124.99, or
- (iii) which exceeds €124.99 but does not exceed €149.00,

in respect of a period of interruption of employment which commenced on or after 25 December 2003 and before 5 January 2009, or

(f) has reckonable weekly income—

- (i) which does not exceed €149.99,
- (ii) which exceeds €149.99 but does not exceed €219.99, or
- (iii) which exceeds €219.99 but does not exceed €299.99,

in respect of a period of interruption of employment which commenced on or after 5 January 2009.⁶⁷⁵

~~(7) Regulations for the purposes of subsection (6) shall provide that benefit payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 2, and the rate specified by the regulations may vary with the extent to which the condition in subsection (1)(c) is satisfied.~~⁶⁷⁶

(8) The condition in subsection (1)(c) ~~that the claimant must have prescribed reckonable weekly earnings in excess of a prescribed amount in the prescribed period~~⁶⁷⁷ shall not apply in the case of a claim for ~~unemployment benefit~~ *jobseeker's benefit* made by a person in the benefit year in which that person, having been a volunteer development worker, returns to the State from a developing country or in the next 2 succeeding benefit years.

(9) For the purposes of subsection (1)(c)—

(a) the reckonable weekly earnings referred to in subparagraphs (i) and (ia) of that subsection shall, subject to paragraph (b), be calculated as the total reckonable earnings in the governing contribution year increased by the amount of—

(i) a payment, if any, referred to in section 38, and

(ii) an allowable contribution, if any, referred to in Regulation 41 or 42 of the Regulations of 2001,

divided by the number of qualifying contributions in that governing contribution year,

(b) without prejudice to paragraph (a), the governing contribution year, for the purposes of the calculation, in accordance with paragraph (a), of the reckonable weekly earnings referred to in subparagraph (ia) of subsection (1)(c) shall be—

(i) the governing contribution year, or

(ii) the governing contribution year that relates to the jobseeker's benefit claim referred to in subsection (1)(c)(ia)(II),

whichever is the more favourable, and

(c) the reckonable weekly income referred to in subparagraph (ii) of that subsection shall be calculated as the total reckonable income in the governing contribution year increased by the amount of—

(i) a payment, if any, referred to in section 38, and

(ii) an allowable contribution, if any, referred to in Regulation 41 or 42 of the Regulations of 2001,

divided by the number of qualifying contributions in that governing contribution year.

⁶⁷⁵ Substituted by s.7(3)(b) SWA 2010

⁶⁷⁶ Deleted by s.7(3)(c) SWA 2010

⁶⁷⁷ Deleted by s.7(3)(d) SWA 2010

(10) In the case of a claimant whose claim, by virtue of having been entitled to or in receipt of jobseeker's benefit or illness benefit in respect of any day in the 13 week period preceding 4 January 1993, forms part of a period of interruption of employment which commenced prior to that date, nothing in this section shall be construed as reducing the rate of jobseeker's benefit payable to him or her to a rate which is less than the rate to which he or she was entitled to before that date.

(11) In subsection (9), 'Regulations of 2001' means the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001).⁶⁷⁸

Rate of benefit.

65. (1) Subject to this Act, the weekly rate of ~~unemployment benefit~~ **jobseeker's benefit** shall be as set out in column (2) of Part 1 of Schedule 2.⁶⁷⁹

(2) Subject to this Act, notwithstanding subsection (1), in the case of a person to whom ~~section 62A subsection (2) or (6) of section 62A or subsection (1) or (4) of section 62B~~⁶⁸⁰ refers, the weekly rate of jobseeker's benefit shall be reduced and accordingly shall be the weekly rate set out in column (2) of Part 1 of Schedule 2 which shall be reduced in each week by €44.⁶⁸¹

Rates of jobseeker's benefit relating to certain reckonable weekly earnings, certain reckonable weekly income and certain periods.⁶⁸²

65A. (1) Subject to this Act, in the case of—

(a) a person with reckonable weekly earnings specified in section 64(6)(a)(i) or reckonable weekly income specified in section 64(6)(d)(i), the weekly rate of jobseeker's benefit shall be ~~€84.50 €86.70⁶⁸³ €88.90⁶⁸⁴ €91.10⁶⁸⁵~~ **€93.30**⁶⁸⁶,

(b) a person with reckonable weekly earnings specified in section 64(6)(a)(ii) or reckonable weekly income specified in section 64(6)(d)(ii), the weekly rate of jobseeker's benefit shall be ~~€121.40 €124.60⁶⁸⁷ €127.80⁶⁸⁸ €131.00⁶⁸⁹~~ **€134.20**⁶⁹⁰,

(c) a person with reckonable weekly earnings specified in section 64(6)(a)(iii) or reckonable weekly income specified in section 64(6)(d)(iii), the weekly rate of jobseeker's benefit shall be ~~€147.30 €151.20⁶⁹¹ €155.10⁶⁹² €159.00⁶⁹³~~ **€162.90**⁶⁹⁴,

(d) a person with reckonable weekly earnings specified in section 64(6)(b)(i) or reckonable weekly income specified in section 64(6)(e)(i), the weekly rate of jobseeker's benefit shall be ~~€84.50 €86.70⁶⁹⁵ €88.90⁶⁹⁶ €91.10⁶⁹⁷~~ **€93.30**⁶⁹⁸,

⁶⁷⁸ Ss (9)-(11) inserted by s7(3)(e) SWA 2010

⁶⁷⁹ Renumbered by s.7(4)(a) SWA 2010

⁶⁸⁰ Substituted by s.12 SW&P(MP)A 2013

⁶⁸¹ Inserted by s.7(4)(b) SWA 2010

⁶⁸² S65A inserted by s.7(5) SWA 2010

⁶⁸³ Substituted by Art. 4(a) S.I. No. 62 of 2017

⁶⁸⁴ Substituted by s.7(1)(a) SWA 2017

⁶⁸⁵ Substituted by s.8(1)(a) of the SWP&CRA 2018

⁶⁸⁶ Substituted by s.10(1)(a) SWA 2021

⁶⁸⁷ Substituted by Art. 4(b) S.I. No. 62 of 2017

⁶⁸⁸ Substituted by s.7(1)(b) SWA 2017

⁶⁸⁹ Substituted by s.8(1)(b) of the SWP&CRA 2018

⁶⁹⁰ Substituted by s.10(1)(b) SWA 2021

⁶⁹¹ Substituted by Art. 4(c) S.I. No. 62 of 2017

⁶⁹² Substituted by s.7(1)(c) SWA 2017

⁶⁹³ Substituted by s.8(1)(c) of the SWP&CRA 2018

⁶⁹⁴ Substituted by s.10(1)(c) SWA 2021

⁶⁹⁵ Substituted by Art. 4(a) S.I. No. 62 of 2017

⁶⁹⁶ Substituted by s.7(1)(a) SWA 2017

(e) a person with reckonable weekly earnings specified in section 64(6)(b)(ii) or reckonable weekly income specified in section 64(6)(e)(ii), the weekly rate of jobseeker's benefit shall be ~~€121.40~~ ~~€124.60~~⁶⁹⁹ ~~€127.80~~⁷⁰⁰ ~~€131.00~~⁷⁰¹ **€134.20**⁷⁰²,

(f) a person with reckonable weekly earnings specified in section 64(6)(b)(iii) or reckonable weekly income specified in section 64(6)(e)(iii), the weekly rate of jobseeker's benefit shall be ~~€147.30~~ ~~€151.20~~⁷⁰³ ~~€155.10~~⁷⁰⁴ ~~€159.00~~⁷⁰⁵ **€162.90** ⁷⁰⁶,

(g) a person with reckonable weekly earnings specified in section 64(6)(c)(i) or reckonable weekly income specified in section 64(6)(f)(i), the weekly rate of jobseeker's benefit shall be ~~€84.50~~ ~~€86.70~~⁷⁰⁷ ~~€88.90~~⁷⁰⁸ ~~€91.10~~⁷⁰⁹ **€93.30**⁷¹⁰,

(h) a person with reckonable weekly earnings specified in section 64(6)(c)(ii) or reckonable weekly income specified in section 64(6)(f)(ii), the weekly rate of jobseeker's benefit shall be ~~€121.40~~ ~~€124.60~~⁷¹¹ ~~€127.80~~⁷¹² ~~€131.00~~⁷¹³ **€134.20** ⁷¹⁴, or

(i) a person with reckonable weekly earnings specified in section 64(6)(c)(iii) or reckonable weekly income specified in section 64(6)(f)(iii), the weekly rate of jobseeker's benefit shall be ~~€147.30~~ ~~€151.20~~⁷¹⁵ ~~€155.10~~⁷¹⁶ ~~€159.00~~⁷¹⁷ **€162.90** ⁷¹⁸,

(2) Subject to this Act, notwithstanding subsection (1), in the case of a person to whom ~~section 62A subsection (2) or (6) of section 62A or subsection (1) or (4) of section 62B~~⁷¹⁹ refers, the weekly rate of jobseeker's benefit shall be reduced and accordingly—

(a) in the case of a person referred to in subsection (1)(a), (1)(d) or (1)(g), the weekly rate shall be ~~€65.00~~ ~~€69.40~~⁷²⁰ ~~€71.70~~⁷²¹ **€73.70**⁷²²,

(b) in the case of a person referred to in subsection (1)(b), (1)(e) or (1)(h), the weekly rate shall be ~~€93.00~~ ~~€99.40~~⁷²³ ~~€102.60~~⁷²⁴ **€106.00**⁷²⁵, or

(c) in the case of a person referred to in subsection (1)(c), (1)(f) or (1)(i), the weekly rate shall be ~~€113.00~~ ~~€120.10~~⁷²⁶ ~~€124.00~~⁷²⁷ **€128.60**⁷²⁹

⁶⁹⁷ Substituted by s.8(1)(d) of the SWP&CRA 2018

⁶⁹⁸ Substituted by s.10(1)(a) SWA 2021

⁶⁹⁹ Substituted by Art. 4(b) S.I. No. 62 of 2017

⁷⁰⁰ Substituted by s.7(1)(b) SWA 2017

⁷⁰¹ Substituted by s.8(1)(e) of the SWP&CRA 2018

⁷⁰² Substituted by s.10(1)(b) SWA 2021

⁷⁰³ Substituted by Art. 4 (c) S.I. No. 62 of 2017

⁷⁰⁴ Substituted by s.7(1)(c) SWA 2017

⁷⁰⁵ Substituted by s.8(1)(f) of the SWP&PA 2018

⁷⁰⁶ Substituted by s.10(1)(c) SWA 2021

⁷⁰⁷ Substituted by Art. 4(a) S.I. No. 62 of 2017

⁷⁰⁸ Substituted by s.7(1)(a) SWA 2017

⁷⁰⁹ Substituted by s.8(1)(g) of the SWP&CRA 2018

⁷¹⁰ Substituted by s.10(1)(a) SWA 2021

⁷¹¹ Substituted by Art. 4(b) S.I. No. 62 of 2017

⁷¹² Substituted by s.7(1)(b) SWA 2017

⁷¹³ Substituted by s.8(1)(h) of the SWP&CRA 2018

⁷¹⁴ Substituted by s.10(1)(b) SWA 2021

⁷¹⁵ Substituted by Art. 4(c) S.I. No. 62 of 2017

⁷¹⁶ Substituted by s.7(1)(c) SWA 2017

⁷¹⁷ Substituted by s.8(1)(i) of the SWP&CRA 2018

⁷¹⁸ Substituted by s.10(1)(c) SWA 2021

⁷¹⁹ Substituted by s.12 SW&P(MP)A 2013

⁷²⁰ Substituted by s.7(2)(a) SWA 2017

⁷²¹ Substituted by s.8(2)(a) of the SWP&CRA 2018

⁷²² Substituted by s.10(2)(a) SWA 2021

⁷²³ Substituted by s.7(2)(b) SWA 2017

⁷²⁴ Substituted by s.8(2)(b) of the SWP&CRA 2018

⁷²⁵ Substituted by s.10(2)(b) SWA 2021

⁷²⁶ Substituted by s.7(2)(c) SWA 2017

⁷²⁷ Substituted by s.8(2)(c) of the SWP&CRA 2018

Increases for qualified adult and qualified children.

66. (1) ~~The weekly rate~~ **Subject to subsection (1A), the weekly rate**⁷³⁰ of ~~unemployment benefit~~ **jobseeker's benefit** shall be increased by the amount set out in column (3) of Part 1 of Schedule 2 for any period during which the beneficiary has a qualified adult, subject to the restriction that ⁷³¹ a beneficiary shall not be entitled for the same period to an increase of benefit under this subsection in respect of more than one person.

(1A) In the case of a person referred to in section 65A, the weekly rate of jobseeker's benefit shall be increased by ~~€80.90~~ ~~€83.00~~⁷³² ~~€85.10~~⁷³³ ~~€87.20~~⁷³⁴ **€89.30**⁷³⁵ 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 benefit under this subsection in respect of more than one person.⁷³⁶

~~(2) The weekly rate of unemployment benefit~~ **jobseeker's benefit** shall be increased by the amount set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary.⁷³⁷

(2) The weekly rate of jobseeker's benefit shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary.⁷³⁸

(3) Subject to subsection (4), any increase of ~~unemployment benefit~~ **jobseeker's benefit** payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, **civil partner or cohabitant**⁷³⁹ of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, **civil partner or cohabitant**⁷⁴⁰ of the beneficiary is not a qualified adult and subsection (2) shall be read and have effect accordingly.

(4) Subsection (3) shall not apply and no increase of ~~unemployment benefit~~ **jobseeker's benefit** payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, **civil partner or cohabitant**⁷⁴¹ of a beneficiary shall be payable where the weekly income of that spouse, **civil partner or cohabitant**,⁷⁴² calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.

Duration of payment.

67. (1) A person who, in respect of any period of interruption of employment, has been entitled to ~~unemployment benefit~~ **jobseeker's benefit** for 156 days shall not thereafter,

⁷²⁸ S65A inserted by s.7(5) SWA 2010

⁷²⁹ Substituted by s.10(2)(c) SWA 2021

⁷³⁰ Substituted by s.7(6)(a) SWA 2010

⁷³¹ **Uncommenced provision – Inserted by Sch. 6(2) of the SWCA 2005 and deleted prior to commencement by s.21 SW&PA 2014**

⁷³² Substituted by Art. 5 S.I. No. 62 of 2017

⁷³³ Substituted by s.7(4) SWA 2017

⁷³⁴ Substituted by s.8(3) of the SWP&CRA 2018

⁷³⁵ Substituted by s.11(1) SWA 2021

⁷³⁶ Inserted by s.7(6)(b) SWA 2010

⁷³⁷ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁷³⁸ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁷³⁹ Inserted by s.26 and Sch3 SW&PA 2010

⁷⁴⁰ Inserted by s.26 and Sch3 SW&PA 2010

⁷⁴¹ Inserted by s.26 and Sch3 SW&PA 2010

⁷⁴² Inserted by s.26 and Sch3 SW&PA 2010

subject to subsection ~~(3) or (4)~~ (3), (3A), (3C), (4A) or (4C) ⁷⁴³, be entitled to that benefit for any day of unemployment (whether in the same or a subsequent period of interruption of employment) unless before that day he or she has re-qualified for benefit or unless, in the case of a person over 65 years of age, he or she has qualifying contributions in respect of not less than 156 contribution weeks in the period between his or her entry into insurance and the day for which ~~unemployment benefit~~ *jobseeker's benefit* is claimed.

(2) Where a person entitled to ~~unemployment benefit~~ *jobseeker's benefit* for 156 days has exhausted his or her right to ~~unemployment benefit~~ *jobseeker's benefit* —

(a) he or she shall requalify for that benefit when he or she has qualifying contributions in respect of 13 contribution weeks begun or ended since the last day for which he or she was entitled to that benefit, and

(b) on his or her requalifying for that benefit, subsection (1) shall again apply to the person, but, in a case where the period of interruption of employment in which the person exhausted his or her right to that benefit continues after his or her requalification, as if the part before and the part after his or her requalification were distinct periods of interruption of employment.

~~(3) Subsection (1) shall, in respect of a person who is over the age of 18 years and who has qualifying contributions in respect of not less than 260 contribution weeks, have effect as if “390 days” were substituted for “156 days”.~~ ⁷⁴⁴

(3) Subsection (1) shall, in respect of a person who is over the age of 18 years and who has qualifying contributions in respect of not less than 260 contribution weeks have effect as if “~~312–234~~ ⁷⁴⁵ days” were substituted for “156 days”. ⁷⁴⁶

(3A) Subsection (1) shall, in respect of a person who, in any period of interruption of employment, has qualifying contributions in respect of not less than 260 contribution weeks in the period between his or her entry into insurance and any day of unemployment, and who has on 15 October 2008 been in receipt of jobseeker's benefit for more than 156 days, have effect as if “390 days” were substituted for “156 days” for the remainder of such period of interruption of employment. ⁷⁴⁷

(3B) Where a person to whom section 64(1)(c)(ia)(I) applies is —

(a) in receipt of carer's benefit or carer's allowance on 15 October 2008, and

(b) the period of interruption of employment for the jobseeker's benefit referred to in section 64(1)(c)(ia)(II) began on or before 14 October 2008,

subsection (3) shall not apply to the jobseeker's benefit claim made immediately following the carer's benefit or carer's allowance for the remainder of such period of interruption of employment. ⁷⁴⁸

(3C) Where subsection (3A) does not apply to a person and that person has—

⁷⁴³ Substituted by s.12(1)(a) SWA 2012

⁷⁴⁴ Substituted by S 18(2)(a) SW(MP)A 2008

⁷⁴⁵ Substituted by s.12(1)(b) SWA 2012

⁷⁴⁶ Ss (3) substituted and ss (3A) & (3B) inserted by s.18(2)(a) SW(MP)A 2008

⁷⁴⁷ Ss (3) substituted and ss. (3A) & (3B) inserted by s.18(2)(a) SW(MP)A 2008

⁷⁴⁸ Ss (3) substituted and ss. (3A), (3B) inserted by s.18(2)(a) SW(MP)A 2008

(a) in any period of interruption of employment, qualifying contributions in respect of not less than 260 contribution weeks in the period between his or her entry into insurance and any day of unemployment, and

(b) on 3 April 2013, been in receipt of jobseeker's benefit for more than 156 days,

subsection (1) shall have effect as if '312 days' were substituted for '156 days' for the remainder of such period of interruption of employment.⁷⁴⁹

~~(4) Subsection (1) shall, in respect of a person who is over the age of 18 years and who has qualifying contributions in respect of less than 260 contribution weeks, have effect as if "312 days" were substituted for "156 days".⁷⁵⁰~~

~~(4) Subsection (1) shall, in respect of a person who is over the age of 18 years and who has qualifying contributions in respect of less than 260 contribution weeks, have effect as if "234 days" were substituted for "156 days".^{751 752}~~

(4A) Subsection (1) shall, in respect of a person who, in any period of interruption of employment, has qualifying contributions in respect of less than 260 contribution weeks in the period between his or her entry into insurance and any day of unemployment, and who has on 15 October 2008 been in receipt of jobseeker's benefit for more than 78 days, have effect as if "312 days" were substituted for "156 days" for the remainder of such period of interruption of employment.⁷⁵³

(4B) Where a person to whom section 64(1)(c)(ia)(I) applies is –

(a) in receipt of carer's benefit or carer's allowance on 15 October 2008, and

(b) the period of interruption of employment for the jobseeker's benefit referred to in section 64(1)(c)(ia)(II) began on or before 14 October 2008,

subsection (4) shall not apply to the jobseeker's benefit claim made immediately following the carer's benefit or carer's allowance for the remainder of such period of interruption of employment.⁷⁵⁴

(4C) Where subsection (4A) does not apply to a person and that person has—

(a) in any period of interruption of employment, qualifying contributions in respect of less than 260 contribution weeks in the period between his or her entry into insurance and any day of unemployment, and

(b) on 3 April 2013, been in receipt of jobseeker's benefit for more than 78 days,

subsection (1) shall have effect as if '234 days' were substituted for '156 days' for the remainder of such period of interruption of employment.⁷⁵⁵

(5) Where a person entitled to ~~unemployment benefit~~ **jobseeker's benefit** for ~~312 days or 390 days~~⁷⁵⁶ for 234 days, 312 days or 390 days has exhausted his or her right to that benefit—

⁷⁴⁹ Subsection (3C) inserted by s.12(1)(C)SWA2012

⁷⁵⁰ Substituted by S 18(2)(b) SW(MP)A 2008

⁷⁵¹ Ss (4) substituted and ss. (4A) and (4B) inserted by S 18(2)(b) SW(MP)A 2008

⁷⁵² Subsection (4) deleted by s.12(1)(d) SWA 2012

⁷⁵³ Ss (4) substituted and ss. (4A) and (4B) inserted by S 18(2)(b) SW(MP)A 2008

⁷⁵⁴ Ss (4) substituted and ss. (4A) and (4B) inserted by S 18(2)(b) SW(MP)A 2008

⁷⁵⁵ Subsection (4C) inserted by s.12(1)(e) SWA 2012

⁷⁵⁶ Amended by s.18(2)(c) SW(MP)A 2008

(a) the person shall requalify for that benefit when he or she has qualifying contributions (other than optional contributions) in respect of 13 contribution weeks begun or ended since the 156th day for which he or she was entitled to that benefit, and

(b) on his or her requalifying for that benefit, ~~subsections (1), (3) and (4)~~ **subsections (1) and (3)** ⁷⁵⁷ as the case may be, shall again apply to him or her, but, in a case where the period of interruption of employment in which the person exhausted his or her right to benefit continues after his or her requalification, as if the part before and the part after the exhaustion were distinct periods of interruption of employment.

(6) Notwithstanding this Chapter, in the case of a person who satisfies the contribution conditions contained in section 64 by virtue of having paid optional contributions—

(a) where he or she has been entitled to ~~unemployment benefit~~ **jobseeker's benefit** for 78 days in any benefit year he or she shall not thereafter be entitled to that benefit in respect of any day of unemployment in that benefit year, and

(b) the first day of unemployment in any benefit year shall be treated as the beginning of a separate period of interruption of employment.

(7) Regulations may provide for treating a person for the purposes of this section as having been entitled to benefit for any day where the person would have been so entitled but for any delay or failure on his or her part to make or prosecute a claim but a person shall not be so treated where he or she shows that he or she did not intend, by failing to acquire or establish a right to benefit for that day, to avoid the necessity of requalifying for benefit under this section.

(8) ~~For the purpose of this section,~~ **Subject to section 141(3C), for the purposes of this section,** ⁷⁵⁸ where a person receives ~~unemployment assistance~~ **jobseeker's allowance** in respect of any week of unemployment, within the meaning of section 141(3), which includes any day in respect of which that person is entitled to ~~unemployment benefit~~ **jobseeker's benefit**, any day of unemployment in that week shall be treated as though it were a day in respect of which ~~unemployment benefit~~ **jobseeker's benefit** was paid.

(8A) For the purposes of this section, where a person receives jobseeker's benefit (self-employed) in respect of any week of unemployment, and that person is entitled to jobseeker's benefit in respect of that week, any day of unemployment in that week shall be treated as though it were a day in respect of which jobseeker's benefit was paid. ⁷⁵⁹

(9) For the purposes of this section, any period in respect of which a person is disqualified for receiving ~~unemployment benefit~~ **jobseeker's benefit** by virtue of section 68(6) **or 68(6A)** ⁷⁶⁰ shall be treated as though it were a period in respect of which ~~unemployment benefit~~ **jobseeker's benefit** was paid.

(10) For the purposes of this section, where a person receives a payment in respect of a scheme administered by the Minister and known as the Short Term Enterprise Allowance Scheme in respect of any week of unemployment, which includes any day in respect of which

⁷⁵⁷ Substituted by s.12 (1)(f) SWA 2012

⁷⁵⁸ Substituted by s.16(2) SWA 2012

⁷⁵⁹ Inserted by S4 of SWA 2019

⁷⁶⁰ Inserted by s7(8) SWA 2010

that person is entitled to jobseeker's benefit, any day of unemployment in that week shall be treated as though it were a day in respect of which jobseeker's benefit was paid.⁷⁶¹

Disqualifications.

68. (1) Subject to subsection (2), a person who has lost employment by reason of a stoppage of work which was due to a trade dispute at the factory, workshop, farm or other premises or place at which he or she was employed shall be disqualified for receiving ~~unemployment benefit~~ **jobseeker's benefit** so long as the stoppage of work continues, except in a case where the person has, during the stoppage of work, become bona fide employed elsewhere in the occupation which he or she usually follows or has become regularly engaged in some other occupation.

(2) Subsection (1) shall not apply to a person who is not participating in or directly interested in the trade dispute which caused the stoppage of work.

(3) Where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments, for the purposes of subsection (1), is deemed to be a separate factory, workshop or farm or separate premises or a separate place, as the case may be.

(4) A person shall be disqualified for receiving ~~unemployment benefit~~ **jobseeker's benefit** during any week in which he or she is employed under a ~~scheme administered by An Foras Áiseanna Saothair and known as Community Employment~~ **scheme provided by the Minister and known as Community Employment**⁷⁶².

(5) A person shall be disqualified for receiving ~~unemployment benefit~~ **jobseeker's benefit** during any week in which he or she is employed under a ~~scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs~~ **scheme provided by the Minister**⁷⁶³ and known as the Rural Social Scheme.

(6) A person shall be disqualified for receiving ~~unemployment benefit~~ **jobseeker's benefit** for a period not exceeding 9 weeks as may be determined under this Act where he or she—

(a) has lost his or her employment through his or her own misconduct or has voluntarily left his or her employment without just cause,

(b) has refused an offer of suitable employment,⁷⁶⁴

~~(b) has refused an offer of suitable employment,⁷⁶⁵~~

~~(c) has without good cause refused or failed to avail himself or herself of any reasonable opportunity of receiving training provided or approved of by An Foras Áiseanna Saothair as suitable in his or her case,⁷⁶⁶~~

(d) has failed or neglected to avail himself or herself of any reasonable opportunity of obtaining suitable employment, or

⁷⁶¹ Ss 67(10) inserted by s. 5(b) SW&PA 2009

⁷⁶² Substituted by s.29(2) SW&PA 2010

⁷⁶³ Substituted by s.19 SW&P(MP)A 2013

⁷⁶⁴ Inserted by s.12(5) SW&P(MP)A 2013

⁷⁶⁵ Deleted by s 7(7)(a)(i) SWA 2010

⁷⁶⁶ Deleted by s7(7)(a)(ii) SWA 2010

(e) being a person under the age of 55 years who, in accordance with the Redundancy Payments Acts 1967 to 2003, has been dismissed by his or her employer by reason of redundancy, has received or is entitled to receive any moneys, in excess of a prescribed amount, in respect of that redundancy under those Acts or under an agreement with his or her employer,

and the period of disqualification shall begin on the day on which the loss or leaving of employment, refusal, failure, neglect or redundancy, as the case may be, occurred.

~~(6A) A person shall be disqualified for receiving jobseeker's benefit where he or she has refused an offer of suitable employment.~~⁷⁶⁷ ⁷⁶⁸

(7) Regulations may also provide for imposing in the case of any class of persons additional conditions with respect to the receipt of ~~unemployment benefit~~ **jobseeker's benefit** and restrictions on the rate and duration of that benefit, where, having regard to special circumstances, it appears to the Minister necessary so to do for the purpose of preventing inequalities or preventing injustice.

(8) For the purpose of this section, employment shall not be deemed to be suitable employment in the case of any person where it is—

(a) employment in a situation vacant in consequence of a stoppage of work due to a trade dispute,

(b) employment in the district where the person was last ordinarily employed at a rate of remuneration lower, or on conditions less favourable, than those which he or she habitually obtained in his or her usual employment in that district, or would have obtained had he or she continued to be so employed, or

(c) employment in any other district at a rate of remuneration lower, or on conditions less favourable, than those generally observed in that district by agreement between associations of employers and of employees or, failing such agreement, than those generally recognised in that district by good employers.

Jobseeker's benefit — disqualification for course of study.⁷⁶⁹

68A. (1) A person shall not be entitled to receive jobseeker's benefit while attending a course of study, other than in the circumstances and subject to the conditions and for the periods that may be prescribed.

(2) In this section—

‘academic year’ has the meaning assigned to it by section 148;

‘a course of study’ has the meaning assigned to it by section 148;

‘institution of education’ has the meaning assigned to it by section 148.

(3) For the purposes of this section, a person shall be regarded, subject to regulations made under subsection (1), as attending a course of study—

⁷⁶⁷ Inserted by s7(7)(b) SWA 2010

⁷⁶⁸ Deleted by s.12(5) SW&P(MP)A 2013

⁷⁶⁹ Inserted by s.7 SW(MP)A 2010

(a) for 3 months immediately following the completion or the leaving by that person of second level education or the completion by him or her of the leaving certificate examination of the Department of Education and Skills, whichever is the later,

(b) for the duration of an academic year, or

(c) for the period immediately following the completion of one academic year, other than the final academic year of a course of study, up to the beginning of the following year.⁷⁷⁰

CHAPTER 12A⁷⁷¹
Jobseeker's Benefit (Self-Employed)

Interpretation

68B. In this Chapter, save where the context otherwise requires, “payment week” means the period commencing on the Thursday of one week and ending on the Wednesday of the following week.

Entitlement to benefit and qualifying conditions

68C. (1) Subject to this Act, a person shall be entitled to jobseeker's benefit (self-employed) in respect of any payment week where—

(a) he or she is under pensionable age in the week for which the benefit is claimed,

(b) he or she satisfies the contribution conditions in section 68D,

(c) subject to section 68K(3), he or she is not engaged in selfemployment,

(d) he or she is capable of work,

(e) he or she is genuinely seeking, but is unable to obtain, employment suitable for him or her having regard to his or her age, physique, education, normal occupation, place of residence and family circumstances, and

(f) he or she proves unemployment in the prescribed manner.

(2) For the purposes of this Chapter, the Minister shall make regulations specifying the circumstances in which a person is or is not to be regarded as being available for and genuinely seeking employment and these circumstances may vary in relation to—

(a) the person's previous work experience,

(b) the period for which he or she has been unemployed, and

(c) the prevailing employment conditions.

(3) Without prejudice to the generality of subsection (1)(f), for the purposes of that subsection a person may prove unemployment and may make a declaration for that purpose, by means of an electronic communication, in the prescribed manner.

⁷⁷⁰ Inserted by s.7 SW(MP)A 2010

⁷⁷¹ Inserted by S5 of SWA 2019

(4) Notwithstanding any other provision of this Chapter, where a person has 4 days, whether consecutive or not, of insurable employment in any payment week (other than any day when the person is employed as a retained fire fighter) he or she shall not be entitled to jobseeker's benefit (self-employed) in respect of that week.

Conditions for receipt

68D. (1) The contribution conditions for jobseeker's benefit (self-employed) are that the claimant—

(a) (i) has employment contributions or optional contributions paid in respect of not less than 104 contribution weeks in the period between his or her entry into insurance and the week for which benefit is claimed, or

(ii) has self-employment contributions paid in respect of not less than 156 contribution weeks in the period between his or her entry into insurance and the week for which benefit is claimed,

(b) has self-employment contributions paid in respect of not less than 52 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the claim is made, and

(c) has reckonable weekly income in excess of €300 in the governing contribution year or has average reckonable weekly income specified in paragraphs (a) to (c) of subsection (4) in that year.

(2) Regulations may provide for modifications of the contribution conditions set out in subsection (1).

(3) Subsection (1)(c) shall not apply in the case of a claim for jobseeker's benefit (self-employed) made by a person in the benefit year in which that person, having been a volunteer development worker, returns to the State from a developing country or in the next 2 succeeding benefit years.

(4) For the purposes of the requirements of subsection (1)(c), a claimant—

(a) has average reckonable weekly income in the governing contribution year which does not exceed €149.99,

(b) has average reckonable weekly income in the governing contribution year which exceeds €149.99 but does not exceed €219.99, or

(c) has average reckonable weekly income in the governing contribution year which exceeds €219.99 but does not exceed €299.99.

(5) For the purposes of subsection (1)(c), the reckonable weekly income shall be calculated as the total reckonable income in the governing contribution year divided by the number of qualifying contributions in that governing contribution year.

Rate of benefit

68E. (1) Subject to this Act, the weekly rate of jobseeker's benefit (selfemployed) shall be as set out in column (2) of Part 1 of Schedule 2.

(2) Subject to this Act, and notwithstanding subsection (1), in the case of a person to whom subsection (2) or (6) of section 68I or subsection (1) or (4) of section 68J refers, the weekly

rate of jobseeker's benefit (self-employed) shall be reduced and accordingly shall be the weekly rate set out in column (2) of Part 1 of Schedule 2 which shall be reduced in each week by €44.

(3) The weekly rate of payment of jobseeker's benefit (self-employed), as provided for under this Chapter, shall be reduced by 20 per cent for each day of insurable employment the person has in the payment week.

(4) The total amount of jobseeker's benefit (self-employed) payable under this section in any payment week shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

Rate of jobseeker's benefit (self-employed) relating to certain average reckonable weekly earnings and certain periods

68F. (1) Subject to this Act, in the case of—

(a) a person with average reckonable weekly income specified in section 68D(4)(a), the weekly rate of jobseeker's benefit (selfemployed) shall be €91.10,

(b) a person with average reckonable weekly income specified in section 68D(4)(b), the weekly rate of jobseeker's benefit (selfemployed) shall be €131.00, and

(c) a person with average reckonable weekly income specified in section 68D(4)(c), the weekly rate of jobseeker's benefit (selfemployed) shall be €159.00.

(2) Subject to this Act, notwithstanding subsection (1), in the case of a person to whom subsection (2) or (5) of section 68I or subsection (1) or (3) of section 68J refers, the weekly rate of jobseeker's benefit (self-employed) shall be reduced and accordingly—

(a) in the case of a person referred to in subsection (1)(a), the weekly rate shall be €71.70,

(b) in the case of a person referred to in subsection (1)(b), the weekly rate shall be €102.60, and

(c) in the case of a person referred to in subsection (1)(c), the weekly rate shall be €124.00.

Increases for qualified adult and qualified children

68G. (1) Subject to subsection (2), the weekly rate of jobseeker's benefit (selfemployed) shall be increased by the amount set out in column (3) of 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 benefit under this subsection in respect of more than one person.

(2) In the case of a person referred to in section 68F, the weekly rate of jobseeker's benefit (self-employed) shall be increased by €87.20 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 benefit under this subsection in respect of more than one person.

(3) The weekly rate of jobseeker's benefit (self-employed) shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary.

(4) Subject to subsection (5), any increase of jobseeker's benefit (self-employed) payable under subsection (3) in respect of a qualified child who normally resides with the beneficiary and with the spouse, civil partner or cohabitant of the beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, civil partner or cohabitant of the beneficiary is not a qualified adult and subsection (3) shall be read and have effect accordingly.

(5) Subsection (4) shall not apply and no increase of jobseeker's benefit (self-employed) payable under subsection (3) in respect of a qualified child who normally resides with the beneficiary and with the spouse, civil partner or cohabitant of the beneficiary shall be payable where the weekly income of that spouse, civil partner or cohabitant, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.

Duration of payment

68H. (1) Subject to this Chapter, jobseeker's benefit (self-employed) shall be payable for—

(a) 26 weeks to a person who has fewer than 260 self-employment contribution weeks in the period between his or her entry into insurance and the week for which jobseeker's benefit (selfemployed) is claimed, or

(b) 39 weeks to a person who has not less than 260 self-employment contribution weeks in the period between his or her entry into insurance and the week for which jobseeker's benefit (selfemployed) is claimed.

(2) Where a person entitled to jobseeker's benefit (self-employed) has exhausted their right to jobseeker's benefit (self-employed), he or she shall requalify for that benefit when—

(a) he or she has qualifying contributions in respect of 52 self-employment contribution weeks since the last week for which he or she was entitled to that benefit, and

(b) a minimum of 12 months has elapsed since the last week for which he or she was entitled to that benefit.

(3) Any week where a person is entitled to payment shall be treated as a week of unemployment and any 2 such weeks not separated by a period of more than 26 weeks shall be treated as the same claim.

(4) For the purposes of this Chapter, where a person receives—

(a) jobseeker's allowance in respect of any week of unemployment, within the meaning of section 141(3), or

(b) jobseeker's benefit,

which includes any week in respect of which that person is entitled to jobseeker's benefit (self-employed), that week shall be treated as though it were a week in respect of which jobseeker's benefit (selfemployed) was paid.

(5) For the purposes of this section—

(a) any period in respect of which a person is disqualified for receiving jobseeker's benefit (self-employed) by virtue of section 68I or 68J shall be treated as though it were a period in respect of which jobseeker's benefit (self-employed) was paid,

(b) where a person receives a payment in respect of a scheme administered by the Minister and known as the Short Term Enterprise Allowance Scheme in respect of any week of unemployment, which includes any day in respect of which that person is entitled to jobseeker's benefit (self-employed), any day of unemployment in that week shall be treated as though it were a day in respect of which jobseeker's benefit (self-employed) was paid, and

(c) any day or days to which section 68E(3) apply will be added to the relevant periods specified in subsection (1) and the rate of payment in respect of each such day shall be one fifth of the applicable weekly rate.

(6) Notwithstanding subsection (2)(b), in the case of a person whose entitlement to jobseeker's benefit (self-employed) exhausts on or after the day on which the person attains the age of 65, that person shall continue to be entitled to that benefit for any week of unemployment provided that the person—

(a) has paid 52 qualifying self-employment contributions in the governing contribution year, and

(b) has qualifying contributions in respect of not less than 156 self-employment contribution weeks in the period between his or her entry into insurance and the week for which jobseeker's benefit (self-employed) is claimed.

Refusal or failure to attend activation meetings relating to jobseeker's benefit (self-employed)

68I. (1) Notice may be given by or on behalf of the Minister to any person receiving jobseeker's benefit (self-employed) requesting the person, at the time specified in the notice, to comply with the requirement specified in paragraph (a) or (b) of subsection (3).

(2) Where a person refuses or fails, without good cause, to comply with the requirement specified in the notice under subsection (1) at the time specified in that notice, or at any time thereafter as may be determined rate of jobseeker's benefit (self-employed) payable to that person in respect of any such period of refusal or failure shall, subject to this section, be as set out in section 68E(2) or, as the case may be, paragraph (a), (b) or (c) of section 68F(2).

(3) A notice under this section may require the person to whom it is given to do one of the following, at the time specified in the notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person—

(a) attend at a meeting arranged by or on behalf of the Minister for the purpose of providing information to that person which is intended to improve his or her knowledge of the employment, work experience, education, training and development opportunities available to that person, or

(b) attend for or submit to an assessment of that person's education, training or development needs.

(4) Where jobseeker's benefit (self-employed) is paid to a person at the weekly rate set out in section 68E(2) or, as the case may be, paragraph (a), (b) or (c) of section 68F(2) on account of a refusal or failure to comply with the requirement specified in the notice under subsection (1) for a period of not less than 21 days, notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with that requirement.

(5) Where a person refuses or fails, without good cause, to comply with the requirement specified in the notice under subsection (4) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, that person shall be disqualified for receiving jobseeker's benefit (self-employed) for any period of continued refusal or failure commencing on the date specified in the notice under subsection (4), but such period of disqualification shall, subject to subsection (6), not exceed 9 weeks.

(6) Nothing in this section shall prevent subsections (1) to (5) being applied to a person where, on or after the expiration of such period of disqualification as is applied in accordance with subsection (5)—

(a) notice has been given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement referred to in subsection (1), and

(b) that person continues, without good cause, to refuse or fail to comply with that requirement.

(7) A notice under this section shall be given in writing and may be given in such other form as may be considered appropriate, including electronic form.

Refusal or failure to participate in prescribed schemes, programmes or courses relating to jobseeker's benefit (self-employed)

68J. (1) Where—

(a) as a consequence of attendance for, or submission to, an assessment in accordance with section 68I(3)(b), a request is made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in—

(i) any scheme or programme of employment or work experience,

or

(ii) a course of education, training or development,

which is prescribed for the purposes of this section and which is considered appropriate having regard to the education, training and development needs of that person and his or her personal circumstances, and

(b) that person refuses or fails, without good cause, to participate in, agree to participate in or avail himself or herself of an opportunity of participating in such a scheme, programme or course, as the case may be, the weekly rate of jobseeker's benefit (self-employed) payable to that person in respect of any such period of refusal or failure shall, subject to this section, be as set out in section 68E(2) or, as the case may be, paragraph (a), (b) or (c) of section 68F(2).

(2) Where jobseeker's benefit (self-employed) is paid to a person at the weekly rate set out in section 68E(2) or, as the case may be, paragraph (a), (b) or (c) of section 68F(2) on account of a refusal or failure referred to in subsection (1)—

(a) notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to attend for or submit to an assessment of that person's education, training or development needs, or

(b) a request may be made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in—

(i) any scheme or programme of employment or work experience,

or

(ii) a course of education, training or development, which is prescribed for the purposes of this section and which is considered appropriate having regard to the education, training and development needs of that person and his or her personal circumstances.

(3) Where a person refuses or fails, without good cause, to—

(a) comply with the requirement specified in the notice under subsection (2)(a) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, or

(b) participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b), that person shall be disqualified for receiving jobseeker's benefit (self-employed) for any period of such refusal or failure commencing on—

(i) the date specified in the notice under subsection (2)(a), or

(ii) the date of refusal or failure to participate in, to agree to participate in or to avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b), as the case may be, but such period of disqualification shall, subject to subsection (4), not exceed 9 weeks.

(4) Nothing in this section shall prevent subsections (1) to (3) being applied to a person where, on or after the expiration of such period of disqualification as is applied in accordance with subsection (3)—

(a) notice has been given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement referred to in subsection (2)(a), or

(b) a request has been made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b), as the case may be, and that person continues, without good cause, to refuse or fail to—

(i) comply with the requirement specified in the notice under paragraph (a) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, or

(ii) participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in paragraph (b).

(5) A notice under this section shall be given in writing and may be given in such other form as may be considered appropriate, including electronic form.

Disqualifications

68K. (1) A person shall be disqualified for receiving jobseeker's benefit (self-employed) during any week in which he or she is employed under the schemes provided by the Minister and known as Community Employment or the Rural Social Scheme.

(2) A person shall not be entitled to receive jobseeker's benefit (self-employed) while attending a course of study, other than in the circumstances and subject to the conditions and for the periods that may be prescribed.

(3) A person shall be disqualified for receiving jobseeker's benefit (self-employed) for a period not exceeding 9 weeks where he or she has received or is entitled to receive any moneys, in excess of a prescribed amount, in respect of the sale or disposal of his or her self-employment business.

(4) In this section—

'academic year', 'course of study' and 'institution of education' have the meanings assigned to them by section 148.

(5) For the purposes of this section, a person shall be regarded, subject to regulations made under subsection (2), as attending a course of study—

(a) for 3 months immediately following the completion or the leaving by that person of second level education or the completion by him or her of the leaving certificate examination of the Department of Education and Skills, whichever is the later,

(b) for the duration of an academic year, or

(c) for the period immediately following the completion of one academic year, other than the final academic year of a course of study, up to the beginning of the following year.

CHAPTER 12B⁷⁷²

Covid-19 Pandemic Unemployment Payment

Covid-19 pandemic unemployment payment

68L. (1) Subject to this Act, a person shall be entitled to the Covid-19 pandemic unemployment payment in respect of any week where—

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

⁷⁷² Chapter 12B inserted by s. 11 SWC-19AA 2020

(b) on or after 13 March 2020, the person was—

(i) an employed contributor in the week immediately before he or she ceased to earn an income from the employment concerned and lost his or her employment as a direct consequence of Covid-19 (including the adverse effects of Covid-19 on the business of his or her employer and the adverse effects of measures required to be taken by his or her employer in order to comply with, or as a consequence of, Government policy to prevent, limit, minimise or slow the spread of infection of Covid-19), or

(ii) in insurable self-employment in the week immediately before the date on which he or she can demonstrate to the Minister that the reckonable income or reckonable emoluments ceased, or reduced, as a direct consequence of Covid-19 (including the adverse effects of Covid-19 on such self-employment and the adverse effects of measures required to be taken by him or her in order to comply with, or as a consequence of, Government policy to prevent, limit, minimise or slow the spread of infection of Covid-19), to the extent that he or she would be available to take up full-time employment,

(ba) in relation to a person in respect of whom paragraph (b)(ii) applies, the person's earnings from self-employment, calculated in accordance with regulations under section 68P, does not exceed €960 in relation to an eight week period,⁷⁷³

(c) the person is not—

(i) an employed contributor whose employer is, or was, in receipt of the temporary wage subsidy, or

(ii) an employed contributor referred to in section 38C(1)(f) whose employer was, before the coming into operation of Part 7 of the Act of 2020, in receipt of a subsidy referred to in section 38C(1)(f),

(d) the person is not engaged in insurable employment,

(e) the person satisfies the contribution conditions in section 68M,

(f) he or she is capable of work,

(g) he or she is genuinely seeking, but is unable to obtain, employment suitable for him or her having regard to his or her age, physique, education, normal occupation, place of residence and family circumstances, and

(h) the person was not in receipt of the payment known as the pandemic unemployment payment paid under section 202 in respect of that week.

(2) Entitlement to the Covid-19 pandemic unemployment payment shall, having regard to the date referred to in subsection (1), take effect from the date on which the claimant was last in employment or self-employment referred to in subsection (1)(b).

(3) The conditions specified in subsection (1)(b)(i) will not be satisfied where a claimant—

⁷⁷³ Inserted by Section 6 of the SWA 2020

- (a) has lost the employment concerned through his or her own misconduct or has voluntarily left his or her employment,
- (b) refuses an offer to return to the employment concerned,
- (c) has refused an offer of suitable employment,
- (d) has failed or neglected to avail himself or herself of any reasonable opportunity of obtaining suitable employment, or
- (e) has failed or neglected to avail himself or herself of any offer of support from, or proposed by, the Minister to enable himself or herself to improve his or her prospects of obtaining employment.

(4) Subject to this Act, a person who was, immediately before the coming into operation of section 11 of the Social Welfare (Covid-19) (Amendment) Act 2020, in receipt of the payment known as the pandemic unemployment payment paid under section 202, shall, subject to this Chapter, be paid the Covid-19 pandemic unemployment payment.

(5) An employer or a self-employed contributor shall provide the Minister with such prescribed information for the purposes of determining entitlement to the Covid-19 pandemic unemployment payment.

Contribution conditions

68M. The contribution conditions for the Covid-19 pandemic unemployment payment are that—

- (a) in the case of a person referred to in section 68L(1)(b)(i), he or she has qualifying contributions in respect of not less than one contribution week in the 4 weeks immediately before claiming the Covid-19 pandemic unemployment payment, or
- (b) in the case of a person referred to in section 68L(1)(b)(ii), he or she is a self-employed contributor.

Duration of Covid-19 pandemic unemployment payment

68N. (1) The Covid-19 pandemic unemployment payment shall cease on a day as may be prescribed by the Minister under subsection (2).

(2) For the purposes of subsection (1), the Minister may, with the consent of the Minister for Public Expenditure and Reform, and having regard to the matters specified in subsection (3) make regulations—

- (a) specifying a date on or after which an application for the Covid-19 pandemic unemployment payment shall not be made, and
- (b) specifying a date on which the Covid-19 pandemic unemployment payments shall cease to be made.

(3) When making regulations under this section the Minister shall have regard to the following:

- (a) the policies and objectives of the Government to mitigate the economic effects of the spread of the disease known as Covid-19 through the supports available to both individuals and businesses;

- (b) the range of income support and in-work supports provided by the Government to protect and support the welfare of members of the public, including those affected by the adverse economic effects of the spread of the disease known as Covid-19;
- (c) the need to ensure the long-term sustainability of the Social Insurance Fund;
- (d) the need to ensure the most beneficial, effective and efficient use of resources.

Rate of payment

68O. (1) The weekly rates of the Covid-19 pandemic unemployment payment shall be the amounts corresponding to the amounts set out in Part 6 of Schedule 2 or such weekly rates as may be prescribed in regulations under this section.

(2) For the purposes of subsection (1)—

- (a) the manner in which the average reckonable weekly income of a claimant is calculated shall be prescribed in regulations under this section, and
- (b) the Minister may make regulations providing for the manner in which the average reckonable weekly income of a claimant shall be calculated.

(3) Notwithstanding anything in this Act, the Minister may, with the consent of the Minister for Public Expenditure and Reform, by regulation increase or decrease the weekly rates referred to in subsection (1) and may provide that different rates of payment shall be payable in line with the provision of any such regulations.

(4) When making regulations under this section the Minister shall have regard to the following:

- (a) the policies and objectives of the Government to mitigate the adverse economic effects of the spread of the disease known as Covid-19 through the supports available to both individuals and businesses;
- (b) the need to ensure that the rates of payment complement the range of income supports, activation measures, in-work and business supports provided by the Government to assist the recovery and sustainability of employment;
- (c) the need to ensure the most beneficial, effective and efficient use of resources.

Regulations for purposes of Chapter

68P. (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, and having regard to the matters specified in subsection (2), make regulations for the purposes of giving full effect to this Chapter and such regulations may, in particular, but without prejudice to the generality of the foregoing, provide for all or any of the foregoing—

- (a) the matters referred to as prescribed in this Chapter,
- (b) the manner in which entitlement to an increase in respect of a qualified adult paid with a benefit or assistance under this Act shall be treated where the qualified adult concerned has an entitlement in his or her own right to the Covid-19 pandemic unemployment payment,

(c) the manner in which entitlement to an increase in respect of a qualified child paid with a benefit or assistance under this Act shall be treated where the qualified child concerned has an entitlement in his or her own right to the Covid-19 pandemic unemployment payment,

(d) additional requirements in relation to the activation of persons in receipt of the Covid-19 pandemic unemployment payment as the Minister may consider appropriate, ~~and~~

(da) the manner in which the earnings, from self-employment, of a person in respect of whom section 68L(1)(b)(ii) applies shall be calculated, and⁷⁷⁴

(e) such additional, incidental, consequential or supplementary matters as the Minister considers necessary or expedient for the purposes of giving effect to the relevant provisions.

(2) When making regulations under this section, the Minister shall have regard to the following:

(a) the potential impact of Covid-19 on the entitlements of employed contributors and self-employed contributors;

(b) the policies and objectives of the Government to protect the health and welfare of members of the public;

(c) the policies and objectives of the Government to mitigate the economic effects of Covid-19;

(d) the need to ensure the most beneficial, effective and efficient use of resources.⁷⁷⁵

CHAPTER 13 *Occupational Injuries Benefits*

Interpretation.

69. (1) In this Chapter, save where the context otherwise requires—

“apprentice” means a person undergoing full-time training for any trade, business, profession, office, employment or vocation;

“claimant” means a person claiming occupational injuries benefit and also includes an applicant for a declaration that an accident was or was not an occupational accident, and reference to a claim shall be read accordingly;

“the deceased” means, in relation to death benefit, the person in respect of whose death the benefit is claimed or payable;

“disablement gratuity” has the meaning given to it by section 75(8);

“disablement pension” has the meaning given to it by section 75(9) or (10);

⁷⁷⁴ Inserted by Section 7 of the SWA 2020

⁷⁷⁵ Chapter 12B inserted by s. 11 SWC-19AA 2020

“injury benefit period” means, in relation to any accident, the period of 156 days (Sundays being disregarded) beginning with the day of the accident, or the part of that period for which, under section 75(3), disablement benefit in respect of the accident is not available to the insured person;

“medical examination” includes bacteriological and radiographical tests and similar investigations, and references to being medically examined shall be read accordingly;

“medical treatment” has the meaning given to it by section 93(1);

“occupational accident” shall be read in accordance with section 90;

“relevant accident” and “relevant injury” mean respectively, in relation to any benefit, the accident and injury in respect of which the benefit is claimed or payable;

“relevant loss of faculty” means the loss of faculty resulting from the relevant injury;

~~“unemployability supplement”~~ **“incapacity supplement”** has the meaning given to it by section 77(3).

(2) References in this Chapter to loss of physical faculty shall be read as including references to disfigurement, whether or not accompanied by any actual loss of faculty.

Occupational injuries insurance.

70. (1) Subject to this Part, every person, irrespective of age, who is employed in insurable (occupational injuries) employment shall be insured under this Part against personal injury caused by accident arising out of and in the course of that employment.

(2) Any reference in this Act to occupational injuries insurance shall be read as a reference to the insurance provided for by this section.

(3) Notwithstanding subsection (1), regulations may provide for entitling to such and so many of the benefits which comprise occupational injuries benefits, that may be prescribed, subject to the conditions and circumstances that may be prescribed, the class or classes of persons that may be prescribed.

Insurable (occupational injuries) employment.

71. (1) Any reference in this Act to insurable (occupational injuries) employment shall, subject to subsections (2) to (11), be read as a reference to any employment for the time being specified in Part 1 of Schedule 1, not being an employment specified in Part 2 of that Schedule.

(2) (a) For the purposes of this section, the following employments shall be taken as being added to the employments specified in Part 1 of Schedule 1—

(i) employment in the State in plying for hire with any vehicle, vessel, aircraft, machine or animal, the use of which is obtained under any contract of bailment (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise,

(ii) employment under any contract of service or apprenticeship entered into in the State (otherwise than as captain, master or a member of the crew) on board a ship or aircraft, being employment for the purpose of the ship or aircraft or of any passengers or cargo or mails carried by the ship or aircraft, and

(iii) employment in the State as a member or as a person training to become a member of any fire brigade, rescue brigade, first-aid party or salvage party at a factory, mine or works, that may be prescribed, or of any similar organisation that may be prescribed.

(b) In paragraph (a)(ii)—

“ship” means—

(i) any ship registered in the State, or

(ii) any other ship or vessel of which the owner or, where there is more than one owner, the managing owner or manager, resides or has his or her principal place of business in the State;

“aircraft” means—

(i) any aircraft registered in the State, or

(ii) any other aircraft of which the owner or, where there is more than one owner, the managing owner or manager, resides or has his or her principal place of business in the State.

(3) For the purposes of this section, the following employments shall be taken as being added to the employments specified in Part 2 of Schedule 1—

(a) employment as a member of the Defence Forces,

(b) employment, which is neither wholetime as may be defined in regulations nor under contract of service, as a member of the crew of a fishing vessel where the employed person is wholly remunerated by a share in the profits or the gross earnings of the working of the vessel,

(c) employment under any local or other public authority in the execution of any contract for services,

(d) employment, otherwise than under contract of service, specified in paragraph 10 of Part 1 of Schedule 1.

(4) For the purposes of this section, paragraph 2 of Part 2 of Schedule 1 shall be taken as not including employment of a casual nature for the purposes of any work in or about the residence of the employer.

(5) For the purposes of this section, a pilot to whom the Pilotage Act 1913 applies, when employed on any ship (within the meaning of subsection (2)(b)), is deemed to be a member of the crew of that ship.

(6) The Minister may, in relation to paragraphs 4 and 5 of Part 2 of Schedule 1, by regulations provide that an employment specified as being subsidiary employment or an employment specified as being of inconsiderable extent shall be taken for the purposes of this section as not being so specified.

(7) The Minister may by regulations provide that any specified employment under any local or other public authority shall be taken for the purposes of this section as being added to Part 2 of Schedule 1.

(8) Where it appears to the Minister—

(a) that the nature or other circumstances of the service rendered or the work performed in any employment which, apart from this subsection, is insurable (occupational injuries) employment and in any employment which, apart from this subsection, is not such employment (whether by reason of the fact that it is an excepted employment or otherwise) are so similar as to result in anomalies in the operation of this Part, and

(b) that either—

(i) the first-mentioned employment can conveniently be included among the excepted employments, or

(ii) the second-mentioned employment can conveniently be included among the insurable (occupational injuries) employments,

the Minister may by regulations provide that the employment shall be so included.

(9) The Minister may by regulations modify this Part in its application in the case of persons employed in employments specified in subsection (2)(a)(ii).

(10) A person who is unemployed, while in attendance at any course that may be prescribed and provided by any person who may be prescribed, is deemed, for the purposes of this Part, to be in insurable (occupational injuries) employment and to be employed by the person by whom the course is being provided.

(11) A person employed under a ~~scheme administered by An Foras Aiseanna Saothair and known as Community Employment~~ *scheme provided by the Minister and known as Community Employment*⁷⁷⁶ is deemed, for the purposes of this Part, to be in insurable (occupational injuries) employment, where the person's employment under that scheme began before 6 April 1996.

Extension of meaning of references to accidents arising out of and in the course of employment.

72. (1) An accident arising in the course of an insured person's employment is deemed for the purposes of this Part, in the absence of evidence to the contrary, also to have arisen out of that employment.

(2) An accident shall be treated for the purposes of this Part, where it would not apart from this section be so treated, as arising out of an insured person's employment where—

(a) the accident arises in the course of the employment,

(b) the accident—

(i) either is caused by another person's misconduct, negligence or misbehaviour, or by steps taken in consequence of any such misconduct,

⁷⁷⁶ Substituted by s.29(2) SW&PA 2010

negligence or misbehaviour or by the behaviour or presence of an animal (including a bird, fish or insect), or

(ii) is caused by or consists in the insured person's being struck by any object or by lightning,

and

(c) the insured person did not directly or indirectly cause or contribute to the happening of the accident by his or her conduct outside the employment or by any act not incidental to the employment.

(3) An accident is deemed for the purposes of this Part to arise out of and in the course of an insured person's employment, notwithstanding that the person is at the time of the accident acting in contravention of any statutory or other regulations applicable to his or her employment, or of any orders given by or on behalf of his or her employer, or that the person is acting without instructions from his or her employer, where—

(a) the accident would have been deemed for the purposes of this Part so to have arisen had the act not been done in contravention of any statutory or other regulations applicable to the person's employment, or of any orders given by or on behalf of his or her employer or without instructions from his or her employer, as the case may be, and

(b) the act is done for the purposes of and in connection with the employer's trade or business.

(4) An accident happening to an insured person while travelling to or from his or her place of work, subject to the conditions that may be prescribed, is deemed for the purposes of this Part to arise out of and in the course of his or her employment.

(5) An accident happening to an insured person in or about any premises at which the person is for the time being employed for the purposes of his or her employer's trade or business is deemed for the purposes of this Part to arise out of and in the course of his or her employment where it happens while the person is taking steps, in an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.

(6) An accident happening to an insured person who is an apprentice, while he or she is in attendance at a technical school or other place for training or instruction (whether during ordinary hours of employment or otherwise), is deemed for the purposes of this Part, in the absence of evidence to the contrary, to have arisen out of and in the course of his or her employment where his or her attendance at that school or place is with his or her employer's consent or is required by direction of his or her employer or under his or her contract of apprenticeship.

Accidents in illegal employment and accidents outside the State.

73. (1) Where a claim for occupational injuries benefit is made under this Part in respect of any accident or of any disease or injury prescribed for the purposes of section 87, or an application is made thereunder for a declaration that any accident was an occupational accident or for a corresponding declaration as to any such disease or injury, the Minister may direct that for the purposes of this Part the relevant employment shall, in relation to that accident, disease or injury, be treated as having been insurable (occupational injuries) employment, notwithstanding that, by reason of a contravention of or non-compliance with some provision contained in or having effect under any enactment passed for the protection of employed persons or of any class of employed persons—

- (a) the contract purporting to govern the employment was void, or
- (b) the employed person was not lawfully employed in that employment at the time when or in the place where the accident happened or the disease or injury was contracted or received.

(2) In subsection (1) “relevant employment” means—

(a) in relation to an accident, the employment out of and in the course of which the accident arises, and

(b) in relation to a disease or injury, the employment to the nature of which the disease or injury is due.

(3) Except where regulations otherwise provide, an occupational injuries benefit is not payable in respect of an accident happening while the insured person is outside of the State.

Injury benefit.

74. (1) Subject to this Act, an insured person who suffers personal injury caused on or after 1 May 1967 by accident arising out of and in the course of his or her employment, being insurable (occupational injuries) employment, shall be entitled to injury benefit in respect of any day on which, as the result of the injury, the person is incapable of work during the injury benefit period.

(2) An insured person shall not be entitled to injury benefit in respect of the first ~~3-6~~⁷⁷⁷ **3**⁷⁷⁸ days on which, as a result of the injury, he or she is incapable of work.

(2A) Subsection (2) shall not apply to a person who had an entitlement to jobseeker’s benefit or jobseeker’s allowance for any day or days in the period of 14 consecutive days ending on the day before the first day on which, as a result of the injury, he or she is incapable of work.

(2B) Subsection (2) shall not apply to a person who had a period of incapacity for work immediately before, or not more than 3 days before the first day on which, as a result of the injury, he or she is incapable of work.⁷⁷⁹

(3) For the purposes of this section, a day shall not be treated in relation to an insured person as a day of incapacity for work where, in respect of that day, the insured person is being paid by his or her employer in respect of holiday leave.

(4) In determining whether the insured person is incapable of work on the day of the accident, any part of that day before the happening of the accident shall be disregarded.

(5) Subject to this Part, injury benefit shall be an allowance payable at the weekly rate set out in column (2) of Part 1 of Schedule 2.

(6) The amount payable by way of injury benefit for any day of incapacity shall be one-sixth 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

⁷⁷⁷ Substituted by s.7(1)(a) SW&PA 2013

⁷⁷⁸ Substituted by s.8 SWA 2020

⁷⁷⁹ Subsections (2A) and(2B) inserted by s.7(1)(b) SW&PA 2013

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.

(7) A person under the age of 16 years shall not be entitled to injury benefit except in so far as may be provided by regulations.

Disablement benefit.

75. (1) Subject to this Act, an insured person who suffers personal injury caused on or after 1 May 1967 by accident arising out of and in the course of his or her employment, being insurable (occupational injuries) employment, shall be entitled to disablement benefit where he or she suffers as a result of the accident from loss of physical or mental faculty such that the extent of the resulting disablement assessed in accordance with subsections (3) to (11) amounts to ~~not less than 1 per cent~~ **not less than 15 per cent**⁷⁸⁰.

(1A) In the case of any assessment of disablement—

(a) where the period to be taken into account by the assessment began before 1 January 2012, or

(b) where there has been a provisional assessment, and—

(i) the initial period to be taken into account by the assessment began before 1 January 2012, and

(ii) any subsequent period to be taken into account by the assessment begins on or after 1 January 2012,

subsection (1) shall be read as if ‘not less than 1 per cent’ were substituted for ‘not less than 15 per cent’.⁷⁸¹

(2) For the purposes of subsections (3) to (11), there is deemed not to be any relevant loss of faculty when the extent of the resulting disablement, if assessed in accordance with those provisions, ~~would not amount to 1 per cent~~ **would amount to less than 15 per cent**.⁷⁸²

(2A) In the case of any assessment of disablement—

(a) where the period to be taken into account by the assessment began before 1 January 2012, or

(b) where there has been a provisional assessment, and—

(i) the initial period to be taken into account by the assessment began before 1 January 2012, and

(ii) any subsequent period to be taken into account by the assessment begins on or after 1 January 2012,

subsection (2) shall be read as if ‘would not amount to 1 per cent’ were substituted for ‘would amount to less than 15 per cent’.⁷⁸³

⁷⁸⁰ Substituted by s.3 SWA 2011

⁷⁸¹ Subsection (1A) inserted by s.3(b) SWA 2011

⁷⁸² Substituted by s.3 SWA 2011

⁷⁸³ Subsection (2A) inserted by s.3(d) SWA 2011

(3) Disablement benefit shall not be available to an insured person until after the 3rd day of the period of 156 days (Sundays being disregarded) beginning with the day of the relevant accident, nor until after the last day, if any, of that period on which he or she is incapable of work as a result of the relevant accident but where the person is not so incapable on any day, being the 4th or a later day after the relevant accident, before the end of that period, he or she may claim, and if otherwise entitled, be awarded, disablement benefit as from that day, but in that event the fact that the person is or may be so incapable on a subsequent day of the period shall be disregarded for the purposes of this subsection.

(4) For the purposes of this section, the extent of disablement shall be assessed, by reference to the disabilities incurred by the claimant as a result of the relevant loss of faculty, in accordance with the following general principles:

(a) save as provided in this subsection, the disabilities to be taken into account shall be all disabilities (whether or not involving a loss of earning power or additional expense) to which the claimant may be expected, having regard to his or her physical and mental condition at the date of the assessment, to be subject during the period taken into account by the assessment as compared with a person of the same age and sex whose physical and mental condition is normal;

(b) any such disability shall be treated as having been incurred as a result of the relevant loss of faculty except that, subject to any regulations made under subsection (5), it shall not be so treated in so far as the claimant either—

(i) would in any case have been subject to that disability as the result of a congenital defect or of an injury or disease received or contracted before the relevant accident, or

(ii) would not have been subject to that disability but for some injury or disease received or contracted after, and not directly attributable to, that accident;

(c) the assessment shall be made without reference to the particular circumstances of the claimant other than age, sex and physical and mental condition;

(d) the disabilities resulting from any loss of faculty that may be prescribed shall be taken as amounting to 100 per cent disablement and other disabilities shall be assessed accordingly.

(5) (a) Provision may be made by regulations for further defining the principles on which the extent of disablement is to be assessed, and those regulations may in particular direct that a prescribed loss of faculty shall be treated as resulting in a prescribed degree of disablement.

(b) In relation to any direction in regulations made under paragraph (a), nothing in subsection (4)(c) shall be taken as preventing the making of different provision, in the case of loss of faculty in or affecting hand or arm, for right-handed and for left-handed persons.

(6) (a) Subject to paragraph (b), the period to be taken into account by an assessment of the extent of a claimant's disablement shall be the period (beginning not earlier than the end of the injury benefit period, and limited by reference either to the claimant's life or to a definite date) during which the claimant has suffered and may be expected to continue to suffer from the relevant loss of faculty.

(b) If on any assessment the condition of the claimant is not such, having regard to the possibility of changes in that condition (whether predictable or not), as to allow of a final assessment being made up to the end of the period referred to in paragraph (a)—

(i) a provisional assessment shall be made, taking into account such shorter period only as seems reasonable having regard to his or her condition and that possibility, and

(ii) on the next assessment the period to be taken into account shall begin with the end of the period taken into account by the provisional assessment.

(7) (a) Subject to paragraph (b), an assessment shall state the degree of disablement in the form of a percentage and shall specify the period taken into account by the assessment and, where that is limited by reference to a definite date, whether the assessment is provisional or final.

(b) For the purposes of paragraph (a)—

(i) the percentage and period referred to in that paragraph shall not be specified more particularly than is necessary for the purpose of determining in accordance with this section the claimant's rights as to disablement benefit, and

(ii) a percentage between 20 and 100 which is not a multiple of 10 shall be treated—

(I) where it is a multiple of 5, as being the next higher percentage which is a multiple of 10, and

(II) where it is not a multiple of 5, as being the nearest percentage which is a multiple of 10.

(8) (a) Where the extent of the disablement is assessed for the period taken into account as amounting to less than 20 per cent, disablement benefit shall be a gratuity (in this Chapter referred to as "a disablement gratuity")—

(i) of an amount fixed, in accordance with the length of that period and the degree of disablement, by a prescribed scale, but not in any case exceeding the amount set out in Part 2 of Schedule 2,

(ii) payable, if and in the cases provided by regulations, by instalments.

(b) The scale prescribed for the purposes of paragraph (a) shall be the same for all persons.

(9) (a) Subject to paragraph (b), where the extent of the disablement is assessed for the period taken into account as amounting to 20 per cent or more, disablement benefit shall be a pension (in this Chapter referred to as "a disablement pension") for that period at the weekly rate set out in column (2) of Part 3 of Schedule 2 appropriate to the degree of disablement.

(b) Where the period referred to in paragraph (a) is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date.

(10) (a) Where, apart from this subsection, a gratuity would be paid under subsection (8) in a case in which the period taken into account by the assessment of disablement is the period of the claimant's life or a period exceeding 7 years and the extent of disablement is assessed as amounting to ~~not less than 10 per cent~~ **not less than 15 per cent**⁷⁸⁴ and not more than 19 per cent, subparagraphs (i) to (iii) apply where the claimant opts, before the gratuity is paid, for the substitution of a pension for the gratuity:

(i) the gratuity shall not be paid;

(ii) the disablement benefit shall be a pension (in this Chapter also referred to as "a disablement pension") at the weekly rate appropriate in accordance with a prescribed scale;

(iii) the disablement pension shall be for the period taken into account by the assessment of disablement but where that period is limited by reference to a definite date, the pension shall cease on the death of the beneficiary before that date.

(b) The following provisions apply in relation to the scale prescribed for the purposes of this subsection:

(i) the scale shall be the same for all persons;

(ii) different amounts may be specified in relation to the different percentages under 20 per cent, but each such amount shall not be less than the amount which bears to the appropriate amount of disablement pension (set out in Part 3 of Schedule 2) for a degree of disablement of 20 per cent, the same proportion as the percentage with respect to which it is specified bears to 20 per cent.

~~(11) In the case of any assessment of disablement where the period to be taken into account by the assessment began before 1 May 1990, subsection (10)(a) shall be read as if the reference to "and the extent of disablement is assessed as amounting to not less than 10 per cent and not more than 19 per cent" were deleted.~~⁷⁸⁵

(11) (a) In the case of any assessment of disablement where the period to be taken into account by the assessment began before 1 May 1990, subsection (10)(a) shall be read as if the reference to 'and the extent of disablement is assessed as amounting to not less than 15 per cent and not more than 19 per cent' were deleted.

(b) In the case of any assessment of disablement where the period to be taken into account by the assessment began on or after 1 May 1990 but before 1 January 2012, subsection (10)(a) shall be read as if a reference to 'and the extent of disablement is assessed as amounting to not less than 10 per cent and not more than 19 per cent' were substituted for the reference to 'and the extent of disablement is assessed as amounting to not less than 15 per cent and not more than 19 per cent'.⁷⁸⁶

⁷⁸⁴ Substituted by s.3(e) SWA 2011

⁷⁸⁵ Substituted by s.3(f) SWA 2011

⁷⁸⁶ Substituted by s.3(f) SWA 2011

Increase of injury benefit and disablement pension for qualified adult and qualified children.

76. (1) The weekly rate of injury benefit shall be increased by the amount set out in column (3) of Part 1 of Schedule 2 for any period during which the beneficiary has a qualified adult, subject to the restriction that ⁷⁸⁷ a beneficiary shall not be entitled for the same period to an increase of injury benefit under this subsection in respect of more than one person.

~~(2) The weekly rate of injury benefit shall be increased by the amount set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary.~~⁷⁸⁸

(2) The weekly rate of injury benefit shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary.⁷⁸⁹

(3) Subject to subsection (4), any increase of injury benefit payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, *civil partner or cohabitant*⁷⁹⁰ of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, *civil partner or cohabitant*⁷⁹¹ of the beneficiary is not a qualified adult and subsection (2) shall be read and have effect accordingly.

(4) Subsection (3) shall not apply and no increase of injury benefit payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, *civil partner or cohabitant*⁷⁹² of a beneficiary shall be payable where the weekly income of that spouse, *civil partner or cohabitant*⁷⁹³, calculated or estimated in the manner that may be prescribed, exceeds any amount that may be prescribed.

~~(5) Subsections (1) and (2) shall, for any period for which the beneficiary is entitled to unemployment supplement *incapacity supplement*⁷⁹⁴, apply to a disablement pension as they apply to injury benefit and any increase under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the beneficiary is not a qualified adult and subsection (2) shall be read and have effect accordingly.~~⁷⁹⁵

~~Increase of disablement pension on account of unemployment *incapacity*~~⁷⁹⁶.

~~77. (1) Subject to this Act, the weekly rate of disablement pension shall be increased—~~

~~(a) by the amount set out in column (2) of Part 4 of Schedule 2 where, as a result of the relevant loss of faculty, the beneficiary is incapable of work and likely to remain permanently so incapable, and~~

⁷⁸⁷ Uncommenced provision – Inserted by Sch. 6(2) of the SWCA 2005 and deleted prior to commencement by s.21 SW&PA 2014

⁷⁸⁸ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁷⁸⁹ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁷⁹⁰ Inserted by s.26 and Sch3 SW&PA 2010

⁷⁹¹ Inserted by s.26 and Sch3 SW&PA 2010

⁷⁹² Inserted by s.26 and Sch3 SW&PA 2010

⁷⁹³ Inserted by s.26 and Sch3 SW&PA 2010

⁷⁹⁴ Substituted by s.4 SWLR&PA 2006

⁷⁹⁵ Deleted by s.8(1) SW(MP) A 2010

⁷⁹⁶ Substituted by s.4(9) SWLR&PA 2006

(b) by the amount set out in column (3) of Part 4 of Schedule 2 where the beneficiary is living alone and by the amount set out in column (4) of Part 4 of Schedule 2 where the beneficiary is ordinarily resident on an island.⁷⁹⁷

Increase of disablement pension on account of incapacity.

77. (1) Subject to this Act, the weekly rate of disablement pension shall be increased—

(a) by the amount set out in column (2) of Part 4 of Schedule 2 where, as a result of the relevant loss of faculty, the beneficiary is incapable of work and likely to remain permanently so incapable;

(b) by the amount set out in column (3) of Part 4 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 disablement pension under this subsection in respect of more than one person;

(c) by the amount set out in column (4) of Part 4 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary;

(d) by the amount set out in column (5) of Part 4 of Schedule 2 where the beneficiary is living alone; and

(e) by the amount set out in column (6) of Part 4 of Schedule 2 where the beneficiary is ordinarily resident on an island.

(1A) Any increase of disablement pension payable under section 77(1)(c) in respect of a qualified child who normally resides with the beneficiary and with 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 not a qualified adult and section 77(1)(c) shall be read and have effect accordingly.⁷⁹⁸

(2) (a) For the purposes of this section, a person may be treated as being incapable of work, and likely to remain permanently incapable of work, notwithstanding that the loss of faculty is not such as to prevent the person being capable of work, where it is likely to restrict him or her to earning not more than the amount that may be prescribed.

(b) In paragraph (a) the reference to “earning” includes a reference to receiving any remuneration or profit derived from gainful occupation.

(3) An increase of pension under this section (in this Chapter referred to as “an unemployability supplement *incapacity supplement*”⁷⁹⁹) shall be payable for the period that may be determined at the time it is granted, but may be renewed from time to time.⁸⁰⁰

Increase of disablement pension on account of incapacity.

77. (1) Subject to this Act, the weekly rate of disablement pension shall be increased by the amount set out in column (2) of Part 4 of Schedule 2 where, as a result of the relevant loss of faculty, the beneficiary is incapable of work and likely to remain permanently so incapable.

(2) (a) For the purposes of this section, a person may be treated as being incapable of work, and likely to remain permanently incapable of work, notwithstanding that the

⁷⁹⁷ Substituted by s.8(2) SW(MP)A 2010

⁷⁹⁸ Substituted by s.8(2) SW(MP)A 2010

⁷⁹⁹ Substituted by s.4(9) SWLR&PA 2006

⁸⁰⁰ Substituted by s.6(b) SWA 2010 (S.77 (1)(1A)(2) and (3))

loss of faculty is not such as to prevent the person being capable of work, where it is likely to restrict him or her to earning not more than the amount that may be prescribed.

(b) In paragraph (a) the reference to “earning” includes a reference to receiving any remuneration or profit derived from gainful occupation.

(3) An increase of pension under this section (in this Chapter referred to as ‘an incapacity supplement’) shall be payable for the period that may be determined at the time it is granted, but may be renewed from time to time.⁸⁰¹

Increase in disablement pension for qualified adult, qualified children etc. ⁸⁰²

77A. (1) Where a person qualifies for an incapacity supplement under section 77, disablement pension shall be increased for the period during which incapacity supplement is payable—

(a) by the amount set out in column (3) of Part 4 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 disablement pension under this paragraph in respect of more than one person,

~~(b) by the amount set out in column (4) of Part 4 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary,~~⁸⁰³

(b) in column (4) of Part 4 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary,

(bb) in column (5) of Part 4 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary,⁸⁰⁴

(c) by the amount set out in ~~column (5)~~ **column 6**⁸⁰⁵ of Part 4 of Schedule 2 where the beneficiary is living alone, and

(d) by the amount set out in ~~column (6)~~ **column 7**⁸⁰⁶ of Part 4 of Schedule 2 where the beneficiary is ordinarily resident on an island.

~~(2) Subject to subsection (3), any increase of disablement pension payable under subsection (1)(b) in respect of a qualified child who normally resides with the beneficiary and with 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 not a qualified adult and subsection (1)(b) shall be read and have effect accordingly.~~⁸⁰⁷

(2) Subject to subsection (3), any increase of disablement pension payable under subsection (1)(b) in respect of a qualified child who normally resides with the beneficiary and with the spouse, civil partner or cohabitant of the beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, civil partner or cohabitant of the beneficiary is not a qualified adult and subsection (1)(b) shall be read and have effect accordingly.⁸⁰⁸

⁸⁰¹ Substituted by s.6(b) SWA 2010

⁸⁰² S.77A inserted by s.6(1)(c) SWA 2010

⁸⁰³ Para. (b) substituted for new paras. (b) and (bb) by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁰⁴ Para. (b) substituted for new paras. (b) and (bb) by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁰⁵ Substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁰⁶ Substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁰⁷ Substituted by s.4(a) SWA 2011

⁸⁰⁸ Substituted by s.4(a) SWA 2011

~~(3) Subsection (2) shall not apply and no increase of disablement pension payable under subsection (1)(b) in respect of a qualified child who normally resides with the beneficiary and with the spouse of a beneficiary shall be payable where the weekly income of that spouse, calculated or estimated in the manner that may be prescribed, exceeds any amount that may be prescribed.^{809 810}~~

(3) Subsection (2) shall not apply and no increase of disablement pension payable under subsection (1)(b) in respect of a qualified child who normally resides with the beneficiary and with the spouse, civil partner or cohabitant of the beneficiary shall be payable where the weekly income of that spouse, civil partner or cohabitant, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.⁸¹¹

Increase of disablement pension where constant attendance needed.

78. (1) Where a disablement pension is payable in respect of an assessment of 50 per cent or more, then, where as a result of the relevant loss of faculty the beneficiary requires constant attendance, the weekly rate of the pension shall be increased by the amount set out in Part 4 of Schedule 2.

(2) An increase of pension under this section shall be payable for the period that may be determined at the time it is granted, but may be renewed from time to time but no increase shall be payable in respect of any period during which the beneficiary is receiving medical treatment as an in-patient in a hospital or similar institution.

Adjustments for successive accidents.

79. (1) Where a person suffers 2 or more successive accidents against which he or she is insured by occupational injuries insurance, regulations may provide for adjusting—

(a) injury benefit or disablement benefit, or the conditions for the receipt of injury benefit or disablement benefit, in any case where the person has received, or may be entitled to, a disablement gratuity,

(b) any increase of benefit referred to in subsection (2), or the conditions for the receipt of any such increase.

(2) An increase of benefit referred to in subsection (1) is an increase in the rate of injury benefit or of disablement pension under sections 76, 77 and 78.

Entitlement to death benefit.

80. Subject to this Act, death benefit shall be payable as provided for in ~~sections 81 to 84~~**sections 81, 83 and 84**⁸¹² where—

(a) an insured person dies as a result of personal injury caused on or after 1 May 1967 by accident arising out of and in the course of his or her employment, being insurable (occupational injuries) employment, or

(b) an insured person dies and where immediately before the date of death he or she was entitled to a disablement pension in respect of disablement assessed at 50 per cent or more.

⁸⁰⁹ S.77A inserted by s.6(1)(c) SWA 2010

⁸¹⁰ Substituted by s.4(b) SWA 2011

⁸¹¹ Substituted by s.4(b) SWA 2011

⁸¹² Substituted by s.5 SW&PA 2011

Death benefit for widows and widowers and increases for qualified children, etc.

~~81. (1) Death benefit shall be payable to the widow or widower of the deceased.~~⁸¹³

(1) Death benefit shall be payable to the widow, widower or surviving civil partner of the deceased.⁸¹⁴

(2) Death benefit shall be a pension at the weekly rate set out in column (2) of Part 1 of Schedule 2, and where the beneficiary has attained pensionable age and is living alone, that rate shall be increased by the amount set out in column (6) of that Part.

~~(3) A pension under subsection (2) shall not be payable for any period after the remarriage of the beneficiary.~~⁸¹⁵

(3) A pension under subsection (2) shall not be payable for any period after the marriage or remarriage of the beneficiary or the entry by the beneficiary into a civil partnership or a new civil partnership.⁸¹⁶

(4) A beneficiary shall be disqualified for receiving a pension under this section if and so long as ~~he or she and any person are cohabiting as husband and wife~~ **he or she is a cohabitant**⁸¹⁷.

~~(5) The weekly rate of pension under subsection (2) shall be increased by the amount set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary.~~⁸¹⁸

(5) The weekly rate of pension under subsection (2) shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary.⁸¹⁹

(6) The weekly rate of pension under subsection (2) shall be increased by the amount set out in column (7) of Part 1 of Schedule 2 where the beneficiary has attained the age of 80 years.

(7) The weekly rate of pension under subsection (2) shall be increased by the amount set out in column (8) of Part 1 of Schedule 2 where the beneficiary has attained pensionable age and is ordinarily resident on an island.

~~Death benefit – parents.~~⁸²⁰

~~82. (1) A parent of the deceased shall be entitled to death benefit where, at the deceased's death, the parent was being wholly or mainly maintained by the deceased, or would but for the relevant accident have been so maintained.~~

⁸¹³ Substituted by s.17(2) SW&PA 2010

⁸¹⁴ Substituted by s.17(2) SW&PA 2010

⁸¹⁵ Substituted by s.17(2)(b) SW&PA 2010

⁸¹⁶ Substituted by s.17(2)(b) SW&PA 2010

⁸¹⁷ Substituted by s.17(2)(c) SW&PA 2010

⁸¹⁸ Subsect. (5) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸¹⁹ Subsect. (5) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸²⁰ Section 82 repealed by s.5 SW&PA 2011

~~(2) Subject to subsections (3) and (4), the death benefit shall be a pension at the weekly rate set out in column (2) of Part 1 of Schedule 2, increased, in the case of a person who has attained pensionable age—~~

~~(a) by the amount set out in column (6) of Part 1 of Schedule 2 where the beneficiary is living alone, and~~

~~(b) by the amount set out in column (8) of Part 1 of Schedule 2 where the beneficiary is ordinarily resident on an island.~~

~~(3) Subject to subsection (4), the weekly rate of pension payable to a parent shall be—~~

~~(a) at the reduced weekly rate, where the deceased was at death a married person,~~

~~(b) at the maximum weekly rate, where the deceased was at death a widower, a widow or a single person—~~

~~(i) in any case where the parent is the father and was, at the death of the deceased, incapable of self-support by reason of some physical or mental infirmity and likely to remain permanently so incapable,~~

~~(ii) in any case where the parent is the mother, having been, at the death of the deceased, a widow or having thereafter become a widow, or~~

~~(iii) in any case where the parent is the mother, not being a widow, and a pension at the maximum weekly rate is not payable to her husband,~~

~~(e) at the reduced weekly rate in any other case.~~

~~(4) Where a person, to whom subsection (3)(b)(i) applies, ceases at any time to be incapable of self-support by reason of some physical or mental infirmity, the pension shall thereafter be payable at the reduced weekly rate and, where at that time subsection (3)(b) applies to his wife, that pension shall thereafter be payable at the maximum weekly rate.~~

~~(5) In this section—~~

~~“reduced weekly rate” means the reduced weekly rate of death benefit by way of parent’s pension as set out in column (2) at reference 2(b)(i) in Part 1 of Schedule 2;~~

~~“maximum weekly rate” means the maximum weekly rate of death benefit by way of parent’s pension as set out in column (2) at reference 2(b)(ii) in Part 1 of Schedule 2.~~

~~(6) Where a parent was partly maintained by each of 2 or more insured persons who have died as a result of accidents arising out of and in the course of their employments, being insurable (occupational injuries) employments, the parent may be treated for the purposes of this section—~~

~~(a) as having received from the last of those insured persons to die contributions to the maintenance of the parent equal to the aggregate amount which those insured persons were together contributing before the first of the accidents happened, and~~

~~(b) as having received nothing from the other or others.~~

~~(7) A pension under this section payable to a woman who, at the deceased's death, was a widow or an unmarried woman shall not be payable for any period after her remarriage or marriage.~~

~~(8) A widow or an unmarried woman shall be disqualified for receiving a pension under this section if and so long as she and any person are cohabiting as husband and wife.~~

~~(9) For the purposes of subsections (1) and (6) "parent", where the deceased was adopted under the Adoption Acts 1952 to 1998, shall be taken as referring to the adopters or the adopter, and includes a step-parent.⁸²¹~~

Death benefit – orphans.

83. (1) Death benefit shall be payable in respect of an orphan who is a child or step-child of the deceased and in respect of an orphan who was wholly or mainly maintained by the deceased at the date of his or her death.

(2) In the case of an orphan death benefit shall be a pension at the weekly rate set out in column (2) of Part 1 of Schedule 2.

(3) Section 133 applies to a pension under this section as it applies to ~~an orphan's (contributory) allowance~~ a *guardian's payment (contributory)*.

Death benefit - funeral expenses.

84. (1) Death benefit by way of a grant in respect of funeral expenses shall be payable in respect of the death of the deceased.

(2) Subject to subsection (3), the grant shall be the amount set out in Part 2 of Schedule 2.

(3) In any case that may be specified by regulations, the grant shall be any lesser amount that may be specified by the regulations for that case.

(4) Except where regulations otherwise provide, a grant under this section shall not be payable in respect of a death occurring outside the State.

Supplements to workmen's compensation payments.

85. (1) Regulations shall provide for conferring on persons who—

(a) are or have been on or after 1 October 1965 entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts, and

(b) as the result of the injury or disease are, or could for the purpose of the provisions of this Chapter relating to ~~unemployability supplement~~ *incapacity supplement*⁸²² be treated as being, incapable of work and likely to remain permanently so incapable,

the like right to payments under this Chapter by way of ~~unemployability supplement~~ *incapacity supplement*⁸²³ and the like right to payments under this Chapter in respect of a qualified child or qualified adult as if the injury or disease were one in respect of which a disablement pension were for the time being payable.

⁸²¹ Section 82 repealed by s.5 SW&PA 2011

⁸²² Substituted by s.4 SWLR&PA 2006

⁸²³ Substituted by s.4 SWLR&PA 2006

(2) Regulations shall also provide for conferring on persons who—

(a) are or have been on or after 1 October 1965 entitled in respect of any injury or disease to weekly payments by way of compensation under the Workmen's Compensation Acts, and

(b) as the result of that injury or disease require constant attendance, the like right to payments under this Chapter in respect of the need of constant attendance as if the injury or disease were one in respect of which a disablement pension were for the time being payable in respect of an assessment of 100 per cent.

(3) Regulations referred to in subsections (1) and (2) may further provide for applying, in relation to payments under this section, the provisions of this Part relating to benefit and to the making of claims and the determination of claims and questions in so far as those provisions apply in relation to an ~~unemployability supplement~~ *incapacity supplement*⁸²⁴, to an increase of a disablement pension in respect of a qualified child or qualified adult, or to an increase of a disablement pension in respect of the need of constant attendance, as the case may be, subject to any additions or modifications.

(4) All payments under this section shall be paid out of the Social Insurance Fund.

Cost of medical care.

86. (1) Subject to this section, the cost of medical care which, in the opinion of the Minister, is reasonably and necessarily incurred by an insured person as a result of an injury or disease against which, when it was sustained or contracted, he or she was insured under this Part, shall be payable out of the Social Insurance Fund to the extent that the cost is not met under—

- (a) the Health Acts 1947 to 2005, or
- (b) the Mental Health Acts 1945 to 2001, or
- (c) regulations made under section 138.

(2) Where an insured person is eligible to avail himself or herself of services provided under the Health Acts 1947 to 2005 or the Mental Health Acts 1945 to 2001 or treatment benefit under regulations made under section 138 but does not do so, the amount payable under this section shall not exceed that which would have been payable had he or she availed himself or herself of those services or that benefit.

(3) Where an insured person receives medical care during any period in which he or she is an in-patient in a hospital or similar institution, the amount payable under this section in respect of that care shall not exceed—

- (a) the maximum amount which would be chargeable under section 53 of the Health Act 1970 to an insured person to whom the institutional services provided under that section are made available for that period, or
- (b) the maximum amount which would be chargeable under section 231A of the Mental Treatment Act 1945 (inserted by section 71 of the Health Act 1953) to an insured person to whom mental hospital assistance is made available for that period,

as may be appropriate.

⁸²⁴ Substituted by s.4(9) SWLR&PA 2006

(4) The amount payable under this section in respect of medical care provided otherwise than during a period in which the insured person is an in-patient in a hospital or similar institution shall be the sum that is, in the opinion of the Minister, reasonably appropriate to the care afforded, having regard to the reasonable necessity for that care and the customary charge for that care.

~~(5) (a) Where an insured person requires medical care as a result of an injury or disease against which, when it was sustained or contracted, the person was insured under this Part, he or she or any other person who may be prescribed shall, within the period that may be prescribed, give written notice to the Minister of the care required by him or her, and shall give any particulars that may be required of that care.~~

~~(b) No payment under this section shall be made unless the notice referred to in paragraph (a) is given and, where any particulars are required under that paragraph, those particulars are given.~~⁸²⁵

(6) ~~Where notice is given under subsection (5)~~ **Where a person makes a claim for the cost of medical care under this section,**⁸²⁶ the insured person may be required to submit himself or herself to medical examination for the purpose of establishing that the medical care is necessary as a result of the relevant accident or disease and that it is reasonable in his or her case, and no payment shall be made under this section where the person fails to comply with the requirement.

(7) Payments under this section shall be made to those persons that the Minister thinks fit and, in particular, where the cost of the medical care payable under this section is due to the Executive, payment may be made to the Executive.

(8) Regulations may provide for applying in relation to payments under this section any of the provisions of this Part relating to benefit and to the making of claims, subject to any additions or modifications.

(9) For the purposes of this section medical care shall comprise, subject to any additions which may be made by regulations—

(a) general practitioner and specialist care, including domiciliary visiting,

(b) nursing care at home except where the cost is met by an increase under section 78 in respect of constant attendance, and nursing care and maintenance in hospitals, convalescent homes, sanatoria or other medical institutions,

(c) pharmaceutical and other medical or surgical supplies, including prosthetic and aural appliances, prescribed by a registered medical practitioner, kept in repair and replaced where necessary,

(d) dental and optical treatment and appliances,

(e) the care given, on the prescription of a registered medical practitioner, by members of professions allied to the medical profession, including physiotherapists and chiropodists, and

⁸²⁵ Subsection (5) deleted by s.10(b)(i) SW&PA 2007

⁸²⁶ Amended by s. 10(b)(ii) SW&PA 2007

(f) conveyance to and from the place where medical care as specified in this subsection is provided.

Insurance against prescribed diseases and injuries not caused by accident.

87. (1) Subject to this section, a person who is insured under this Part against personal injury caused by accident arising out of and in the course of his or her employment shall be insured also against any prescribed disease and against any prescribed personal injury not so caused, being a disease or injury due to the nature of that employment and developed on or after 1 May 1967.

(2) A disease or injury shall be prescribed for the purposes of this section in relation to any insured persons, where the Minister is satisfied that—

(a) it ought to be treated, having regard to its causes and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons, and

(b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.

(3) Regulations prescribing any disease or injury for the purposes of this section may provide that a person who developed the disease or injury on or at any time after a date specified in the regulations, being a date before the regulations came into force but not before 1 May 1967, shall be treated for the purposes of this section, subject to any prescribed modifications, as if the regulations had been in force when the person developed the disease or injury.

(4) Provision may be made by regulations for determining—

(a) the time at which a person is to be treated for the purposes of this Part as having developed any disease or injury prescribed for the purposes of this section, and

(b) the circumstances in which any such disease or injury is, where the person in question has previously suffered from that disease or injury, to be treated as having recrudesced or as having been contracted or received afresh.

(5) The benefit payable under this section in respect of a prescribed disease or injury, and the conditions for the receipt of that benefit, shall be the same as in the case of personal injury by accident arising out of and in the course of a person's employment, subject, however, to the power to make different provision by regulations in relation to any matter which is to be prescribed and to subsections (6) to (8).

(6) Regulations may provide, in relation to prescribed diseases and injuries—

(a) for modifying the provisions of this Chapter relating to injury benefit and disablement benefit and for adapting references in this Chapter to accidents, and

(b) for modifying the provisions of this Part in their application in relation to claims for benefit and in relation to questions arising in connection with those claims or with an award of benefit on any such claim.

(7) Without prejudice to the generality of subsection (6), regulations under that subsection may in particular include provision—

(a) for presuming any prescribed disease or injury—

(i) to be due, unless the contrary is proved, to the nature of a person's employment where he or she was employed in any prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, the person developed the disease or injury,

(ii) not to be due to the nature of a person's employment unless he or she was employed in some prescribed employment at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, the person developed the disease or injury,

and

(b) for any matters that appear to the Minister to be incidental to or consequential on provisions included in the regulations by virtue of this section.

(8) Nothing in this section affects the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of this Chapter except that a person shall not be entitled to benefit in respect of a disease as being an injury by accident arising out of and in the course of any employment where at the time of the accident the disease is in relation to the person a prescribed disease by virtue of the occupation in which he or she is engaged in that employment.

Notice of accidents.

88. (1) Regulations may provide for requiring the prescribed notice of any accident in respect of which occupational injuries benefit or any amount under section 86 may be payable to be given within the prescribed time by the insured person or, where within that time his or her death results from the accident, by any other person who may be prescribed, to the insured person's employer or another prescribed person.

(2) In a case of failure without good cause to give the prescribed notice referred to in subsection (1) (including, in the case of a claim for death benefit, a failure on the part of some other person to give the prescribed notice of the relevant accident), regulations may provide for disqualification for receipt of occupational injuries benefit or any amount under section 86 for the period that may be determined in accordance with the regulations.

Reporting of accidents by employers.

89. Regulations may provide for requiring employers—

(a) to make reports, to the person and in the form and within the time that may be prescribed, of accidents in respect of which occupational injuries benefit or any amount under section 86 may be payable,

(b) to give to the prescribed person any information required for the determination of claims for occupational injuries benefit or of questions arising in connection with claims for or awards of that benefit, and

(c) to take such other steps as may be prescribed to facilitate the giving of notices of accidents in respect of which occupational injuries benefit or any amount under section 86 may be payable, the making of claims for that benefit and the determination of claims for that benefit and of questions arising in connection with claims for or awards of that benefit.

Declaration that accident is an occupational accident.

90. (1) Where, in relation to any claim for occupational injuries benefit, it is decided that the relevant accident was or was not an occupational accident, an express declaration of that fact shall be made and recorded and, subject to subsection (3), a claimant shall be entitled to have the question whether the relevant accident was an occupational accident decided notwithstanding that his or her claim is disallowed on other grounds.

(2) Subject to subsection (3), any person suffering personal injury by accident shall be entitled, where he or she claims that the accident was an occupational accident, to have that question decided, and a declaration made and recorded accordingly, notwithstanding that no claim for occupational injuries benefit has been made in connection with which the question arises, and this Act applies for that purpose as if the question had arisen in relation to a claim for occupational injuries benefit.

(3) Notwithstanding anything contained in subsections (1) and (2), the deciding officer or appeals officer, as the case may be, may refuse to determine the question whether an accident was an occupational accident where satisfied that it is unlikely that it will be necessary to decide the question for the purposes of any claim for occupational injuries benefit, but any such refusal of a deciding officer shall, on notice of appeal being given to the Chief Appeals Officer within the prescribed time, be referred to an appeals officer.

(4) Subject to this Act as to appeal and revision, any declaration under this section that an accident was or was not an occupational accident shall be conclusive for the purposes of any claim for occupational injuries benefit in respect of that accident, whether or not the claimant is the person at whose instance the declaration was made.

(5) For the purposes of this section, an accident whereby a person suffers personal injury is deemed, in relation to him or her, to be an occupational accident where—

- (a) it arises out of and in the course of his or her employment,
- (b) that employment is insurable (occupational injuries) employment, and
- (c) payment of occupational injuries benefit is not precluded because the accident happened while the person was outside the State,

and reference in other sections of this Chapter to an occupational accident shall be read accordingly.

Disqualifications for injury benefit or disablement benefit and suspension of proceedings.

91. (1) Regulations may provide for disqualifying a person for receiving injury benefit or disablement benefit for any period not exceeding 9 weeks, or for suspending proceedings on any claim for, or on any payment of, injury benefit or disablement benefit, where the person fails without good cause—

- (a) to submit himself or herself from time to time to medical examination for the purpose of determining—
 - (i) the effect of the relevant accident,
 - (ii) whether the accident has resulted in a loss of faculty,

(iii) at what degree the extent of disablement resulting from a loss of faculty is to be assessed and what period is to be taken into account by the assessment, or

(iv) the treatment appropriate to the relevant injury or loss of faculty,

(b) to submit himself or herself from time to time to appropriate medical treatment for the relevant injury or loss of faculty,

(c) to attend at the places and times that may be required for the purposes of that medical examination or treatment, or

~~(d) to observe any prescribed rules of behaviour.⁸²⁷~~

(d) to comply with such requirements as may be specified by the regulations, including but not necessarily limited to:

(i) complying with instructions relating to his or her incapacity issued by a registered medical practitioner;

(ii) refraining from behaviour likely to hinder his or her recovery;

(iii) being available to meet with ~~an officer of the Minister~~ *an officer of the Minister or a medical assessor*⁸²⁸ regarding his or her claim for injury benefit or disablement benefit.⁸²⁹

~~(1A) A person shall not be disqualified for receipt of injury benefit or disablement benefit while engaging in such class or classes of employment or training and subject to such circumstances and conditions as may be prescribed.^{830 831}~~

(1A) Subject to subsection (1B), a person in receipt of or entitled to injury benefit or an increase of disablement benefit under section 77 shall not engage in work.

(1B) A person shall not be disqualified for receipt of injury benefit or an increase of disablement benefit under section 77 while engaging in such class or classes of employment or training and subject to such circumstances and conditions as may be prescribed.⁸³²

(2) Regulations under this section shall provide for payment to any person attending for medical examination or treatment referred to in subsection (1) of the amount that may be determined by the Minister as the amount of the reasonable and necessary travelling and other expenses (including any expense consisting of loss of remunerative time) incurred by the person in respect of the attendance.

Treating person as incapable of work, etc.

92. Regulations may provide for treating a person for the purposes of this Chapter as incapable of work as the result of an accident or injury when he or she would not be so treated apart from the regulations, and may also make provision—

(a) as to the days which, in the case of a person who at any time is, or is to be treated as, incapable of work as the result of an accident or injury, are or are not to be treated for the purpose of occupational injuries benefit as days of incapacity for work, and

⁸²⁷ Para (d) substituted by s. 11(a) SW&PA 2007

⁸²⁸ Substituted by s.3(2)(c) SW(MP)A 2015

⁸²⁹ Para (d) substituted by s. 11(a) SW&PA 2007

⁸³⁰ Subsection (1A) inserted by s. 11(b) SW&PA 2007

⁸³¹ Substituted by s.13(a) SW&PA 2010

⁸³² Inserted by s.13 (b) SW&PA 2010

(b) as to the day which, in the case of night workers and other special cases, is to be treated for the purpose of occupational injuries benefit as the day of the accident.

Medical treatment.

93. (1) For the purposes of this Chapter “medical treatment” means medical, surgical or rehabilitative treatment (including any course of diet or other regimen), and references in this Chapter to “a person receiving or submitting himself or herself to medical treatment” shall be read accordingly.

(2) Regulations may provide that where a person receives medical treatment as an in-patient for 2 or more distinct periods separated by an interval or intervals of less than a specified duration, he or she shall be treated for the purposes of this Chapter as receiving it continuously from the beginning of the first period until the end of the last period.

Rehabilitation.

94. (1) The Minister may make any contributions that he or she may determine, with the consent of the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**⁸³³, towards the cost of rehabilitation services (including rehabilitation services provided under section 68 of the Health Act 1970) for persons entitled to disablement benefit.

(2) The amounts required for any contributions under this section shall be paid out of the Social Insurance Fund.

Research.

95. (1) The Minister may promote research into the causes, incidence and methods of prevention of—

(a) accidents and injuries against which occupational injuries insurance is provided, or

(b) diseases against which that insurance is provided or which it is contemplated may be prescribed for the purposes of section 87,

either by the Minister employing persons to conduct the research or by contributing to the expenses of, or otherwise assisting, other persons engaged in the research.

(2) The Minister may pay to persons employed for the purposes of subsection (1) the salaries or other remuneration, and travelling or other allowances, that he or she may, with the consent of the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**⁸³⁴, determine.

(3) The amounts required for any payments under this section shall be paid out of the Social Insurance Fund.

Taking account of benefit in assessing damages.

96. ~~(1) Notwithstanding section 2 of the Civil Liability (Amendment) Act 1964 and section 285, in an action for damages for personal injuries (including any such action arising out of a contract) there shall in assessing those damages be taken into account, against any loss of earnings or profits which has accrued or probably will accrue to the injured person from the injuries, the value of any rights which have accrued or will probably accrue to him or her therefrom in respect of injury benefit (disregarding any right in respect of injury benefit~~

⁸³³ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

⁸³⁴ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

~~payable by virtue of section 248, after the death of the injured person) or disablement benefit (disregarding any increase of that benefit under section 78 in respect of constant attendance) for 5 years beginning with the time when the cause of action accrued.~~

~~(2) The reference in subsection (1) to assessing the damages for personal injuries shall, in cases where the damages otherwise recoverable are subject to reduction under the law relating to contributory negligence or are limited by or under any Act or by contract, be taken as referring to the total damages which would have been recoverable apart from the deduction or limitation.~~⁸³⁵

(3) Notwithstanding section 50 of the Civil Liability Act 1961, in assessing damages in respect of a person's death under Part IV of that Act, account may be taken of any death benefit, by way of grant under section 84 in respect of funeral expenses, resulting from that person's death.

(4) Notwithstanding the Garda Síochána (Compensation) Acts 1941 to 2003, there shall in assessing compensation be taken into account, against—

(a) any loss of earnings or profits which has accrued or probably will accrue to the injured person from the injuries,

(b) the detrimental effect which the injuries might reasonably be expected to have on the future earning power generally of the injured person and in particular (where the injuries do not preclude the injured person from continuing to be a member of the Garda Síochána), on his or her future career in that force, and

(c) the pain and suffering occasioned by the injuries to the injured person and also to any disease or tendency to disease caused by the injuries,

the value of any rights which have accrued or will probably accrue to him or her therefrom in respect of disablement benefit (disregarding any increase of that benefit under section 78 in respect of constant attendance) for 5 years beginning with the time when the cause of action accrued.

(5) Notwithstanding the Garda Síochána (Compensation) Acts 1941 to 2003, in assessing compensation under those Acts in respect of—

(a) a person's death, account may be taken of any death benefit by way of grant under section 84 in respect of funeral expenses, resulting from that person's death, and

(b) any medical or surgical expenses incurred or likely to be incurred by the injured person in respect or in consequence of the injuries, account may be taken of any medical care payment under section 86, resulting from those injuries for 5 years beginning with the time when the cause of action accrued.

(6) Subsections (4) and (5) shall not apply to any proceedings instituted for compensation under the Garda Síochána (Compensation) Acts 1941 and 1945 before 6 April 1989.

Saver for repeal of Workmen's Compensation Acts.

97. The Workmen's Compensation Acts, as amended by Part V of the Civil Liability Act 1961, shall continue to apply to cases to which they would have applied if the Social Welfare (Occupational Injuries) Act 1966 had not been passed, being cases where a right to

⁸³⁵ Subsections (1) and (2) of s.96 repealed by s.13(e) SW&PA 2013

compensation arose in respect of employment before 1 May 1967, except where, in the case of a disease or injury prescribed for the purposes of section 87, the right did not arise before that date and the workman, before it arose, has been insured under this Chapter against that disease or injury.

Construction of certain references in Local Government (Superannuation) Act 1956.

98. The references to the Social Welfare (Occupational Injuries) Act 1966 in—

(a) the definitions of “service day” and “wages” in section 2 of the Local Government (Superannuation) Act 1956 as amended by section 42 of the first-mentioned Act, and

(b) section 43 of the Local Government (Superannuation) Act 1956, as so amended, shall be read as references to this Chapter.

CHAPTER 14 *Carer’s Benefit*

Interpretation.

99. (1) Subject to this Act, in this Chapter—

“carer” means a person who has attained the age of 16 years and who—

(a) resides with and provides full-time care and attention to a relevant person, or

(b) subject to the conditions and in the circumstances that may be prescribed, does not reside with but provides full-time care and attention to a relevant person;

“relevant period” means the period of 26 weeks immediately before the first day in respect of which a claim to carer’s benefit is made;

“relevant person” means a person who has such a disability that he or she requires full-time care and attention.

~~(2) For the purposes of subsection (1), a relevant person shall be regarded as requiring full-time care and attention where—~~

~~(a) the person has such a disability that he or she requires from another person—~~

~~(i) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or~~

~~(ii) continual supervision in order to avoid danger to himself or herself,~~
and

~~(b) the nature and extent of his or her disability has been certified in the prescribed manner by a medical practitioner *registered medical practitioner*.^{836 837}~~

(2) For the purposes of the definition of ‘relevant person’ in this Chapter, a person shall not be regarded as requiring full-time care and attention unless the person has such a disability that he or she requires from another person—

⁸³⁶ Substituted by s. 10(a) SW(MP)A 2008

⁸³⁷ Substituted by s.4(1)(a) SW(MP)A 2015

(a) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or

(b) continual supervision in order to avoid danger to himself or herself.⁸³⁸

(3) The Minister may make regulations specifying the circumstances and conditions under which a person is to be regarded as providing full-time care and attention to a relevant person.

Entitlement to benefit.

100. (1) Subject to this Act, a benefit (in this Act referred to as “carer’s benefit”) shall be payable to a carer where he or she—

(a) was engaged in remunerative full-time employment as an employed contributor for not less than 8 weeks, whether consecutive or not, within the relevant period,

(b) does not engage in ~~employment or self-employment~~ **employment, self-employment or any course of education or training**,⁸³⁹ and

(c) satisfies the contribution conditions in section 101.

(2) Subsection (1)(a) shall not apply in respect of a claimant who was in receipt of carer’s benefit within the relevant period.

(3) Notwithstanding subsection (1)(b), the Minister may make regulations to provide that a carer may engage in ~~employment or self-employment~~ **employment, self-employment or any course of education or training**⁸⁴⁰ subject to the limitations in relation to hours or remuneration that may be prescribed and subject to the conditions and in the circumstances that may be prescribed.

(4) Subsection (1)(c) shall not apply in the case of a claimant who was previously in receipt of carer’s benefit.

(5) In this section “remunerative full-time employment” means remunerative employment for not less than 16 hours a week within the 8 weeks referred to in subsection (1)(a) or any period that may be prescribed under subsection (6), provided that where any 2 of those weeks are consecutive, the requirement in relation to those 2 weeks may be satisfied by an aggregate of not less than 32 hours in that fortnight.

(6) Regulations may provide that, subject to the conditions and in the circumstances that may be prescribed, in the case of a person who was absent from his or her employment within the relevant period referred to in subsection (1)(a), by reason of being on such leave from that employment as may be prescribed, the condition specified in subsection (1)(a) shall be regarded as being satisfied in respect of that person if he or she was engaged in remunerative full-time employment as an employed contributor for 8 weeks, whether consecutive or not, within the relevant period (other than the relevant period referred to in that subsection) that may be prescribed (and the period that may be so prescribed may comprise 2 or more periods which, taken together, amount to a period of 26 weeks).

Conditions for receipt.

⁸³⁸ Substituted by s.4(1)(a) SW(MP)A 2015

⁸³⁹ Substituted by s. 12 SW&PA 2007

⁸⁴⁰ Substituted by s. 12 SW&PA 2007

101. (1) The contribution conditions for carer's benefit are that the carer has qualifying contributions in respect of not less than 156 contribution weeks in the period between his or her entry into insurance and the first day for which the benefit is claimed, and qualifying contributions in respect of not less than—

(a) 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year which includes the first day for which the benefit is claimed, or

(b) 39 contribution weeks in the 12 months immediately before the first day for which the benefit is claimed, or

(c) 26 weeks in each of the second last and third last complete contribution years before the beginning of the benefit year which includes the first day for which the benefit is claimed.

(2) Regulations may provide for modification of the contribution conditions set out in subsection (1).

Rate of benefit.

102. (1) Subject to this Act, the rate (in this Chapter referred to as the "scheduled rate") of carer's benefit shall be—

(a) in the case of a person who is a carer of more than one relevant person, the weekly rate set out in *column (2) at reference 7(b) in Part 1 of Schedule 2*, and

(b) in any other case, the weekly rate set out in *column (2) at reference 7(a) in Part 1 of Schedule 2*,

~~increased by the appropriate amount set out in *column (4) of that Part opposite that reference in respect of each qualified child who normally resides with the beneficiary*⁸⁴¹~~ **increased by the appropriate amount set out in *column (4) of that Part opposite that reference in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, or as the case may be, the appropriate amount set out in *column (5) of that Part opposite that reference in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary*⁸⁴².***

~~(2) Any increase in carer's benefit payable under *subsection (1)* in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse, ***civil partner or cohabitant***⁸⁴³ of the claimant or beneficiary shall be payable at the rate of one half of the appropriate amount and *subsection (1)* shall be read and have effect accordingly.⁸⁴⁴~~

(2) Subject to subsections (3) and (4), any increase of carer's benefit payable under subsection (1) in respect of a qualified child who normally resides with the beneficiary and with the spouse, civil partner or cohabitant of the beneficiary shall be payable at the rate of one-half of the appropriate amount and subsection (1) shall be read and have effect accordingly.

(3) Subsection (2) shall not apply and no increase of carer's benefit payable under subsection (1) in respect of a qualified child who normally resides with the beneficiary and with the

⁸⁴¹ Substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁴² Substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁴³ Inserted by s.26 and Sch3 SW&PA 2010

⁸⁴⁴ Substituted by s.4(2)(a) SWA 2011

spouse, civil partner or cohabitant of the beneficiary shall be payable where the weekly income of that spouse, civil partner or cohabitant, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.

(4) Subsection (3) shall not apply in the case of any claim for carer's benefit which is made before 5 July 2012.⁸⁴⁵

Duration of payment.

103. A carer who has been in receipt of carer's benefit for ~~65 weeks~~ **104 weeks**⁸⁴⁶ whether consecutive or not, in respect of the full-time care and attention being provided to a relevant person, shall not thereafter be entitled to that benefit in respect of the full-time care and attention being provided to the same relevant person.

Medical examination.

104. (1) A relevant person, in respect of whose full-time care and attention a carer is entitled to or in receipt of carer's benefit, shall attend for or submit to any medical or other examination that may be required in accordance with regulations.

(2) Regulations under *subsection (1)* may also provide for disqualifying a person for receiving carer's benefit where the relevant person, in respect of whose full-time care and attention the benefit is payable, fails without good cause to attend for or to submit to any medical or other examination that may be required in accordance with those regulations.

Payment of benefit.

105. Notwithstanding this Chapter—

(a) only one carer's benefit shall be payable to a carer, and only one carer's benefit shall be payable in any week in respect of the full-time care and attention being provided to a relevant person,

(b) carer's benefit shall not be payable in respect of the full-time care and attention being provided to a relevant person in any case where the relevant person is in receipt of an increase of disablement pension under section 78 in respect of ~~constant attendance,~~ **constant attendance, and**⁸⁴⁷

(c) carer's benefit shall not be payable in respect of the full-time care and attention being provided to a relevant person in any case where a carer's allowance under Part 3 is being paid to any person in respect of the full-time care and attention being provided to the same ~~relevant person, and~~ **relevant person**⁸⁴⁸

~~(d) a prescribed relative allowance under Chapter 8 of Part 3 shall cease to be payable to a relevant person or prescribed relative, as the case may be, where the prescribed relative or any other person becomes entitled to and receives a carer's benefit in respect of the full-time care and attention being provided to that relevant person.~~⁸⁴⁹

Disqualification.

106. A person who, having been in receipt of carer's benefit for less than 6 weeks in respect of the full-time care and attention being provided to a relevant person, ceases to be entitled to that benefit, shall be disqualified for receipt of carer's benefit in respect of the full-time care

⁸⁴⁵ S.102(3) and (4) inserted by s.4(2)(a)(ii) SWA 2011

⁸⁴⁶ Substituted by s. 7 SWLR&PA 2006 – this section refers to a person in receipt of Carer's Benefit on / after 7 December 2005

⁸⁴⁷ Substituted by s.16(a)(i) SWP&CRA 2018

⁸⁴⁸ Substituted by s.16(a)(ii) SWP&CRA 2018

⁸⁴⁹ Para. (d) deleted by s.16(a)(iii) SWP&CRA 2018

and attention being provided to the same relevant person for 6 weeks from the last day for which he or she was entitled to the benefit.

Regulations.

107. Regulations may provide for requiring an employer or any other person to give any information that may be required for the purpose of determining a claim to carer's benefit.

CHAPTER 15

Old Age (Contributory) Pension State Pension (Contributory)

Entitlement to pension.

108. (1) Subject to this Act, a person shall be entitled to ~~old age (contributory) pension~~ **State pension (contributory)** where he or she has attained pensionable age and satisfies the contribution conditions in *section 109*.

(2) In this Chapter—

“aggregated contributions method”, in relation to a claimant, has the meaning assigned to it by section 109(6B);⁸⁵⁰

“home caring period” means, in the case of a person who attained pensionable age on or after 1 September 2012, any contribution week during which—

(a) he or she was aged 16 or over but under pensionable age and was resident in the State, or was a person referred to in paragraph (a), (b) or (c) of section 219(2),

(b) he or she was not engaged in remunerative employment, other than employment specified in paragraph 5 of Part 2 of Schedule 1, or he or she does not have a paid or credited or voluntary contribution reckonable (“contribution reckonable”) for State pension (contributory) purposes,

(c) he or she was not in receipt of a weekly payment under this Act, other than a payment under section 100 or 180, or a payment under section 186F, and

(d) he or she can, in accordance with regulations made under subsection (2B), demonstrate that, due to the nature and extent of his or her home carer responsibilities, he or she was unable to engage in insurable employment or self-employment;⁸⁵¹

and “home carer” shall be construed accordingly,⁸⁵²

“homemaker” means a person who—

~~(a) is resident in the State and is under pensionable age,~~⁸⁵³

(a) is resident in the State, or is a person referred to in paragraph (a), (b) or (c) of section 219(2) and is under pensionable age,⁸⁵⁴

⁸⁵⁰ Definition inserted by s.9(a)(i) SWP&CRA 2018

⁸⁵¹ Definition inserted by s.9(a)(i) SWP&CRA 2018

⁸⁵² Inserted by s.9(a)(i) SWP&CRA 2018

⁸⁵³ Para 108(2)(a) substituted by s. 11(a) SW&PA 2008

⁸⁵⁴ Para 108(2)(a) substituted by s. 11 (a) SW&PA 2008

(b) is not engaged in remunerative employment, other than employment specified in *paragraph 5 of Part 2 of Schedule 1*,

(c) either—

(i) resides with and cares for a child under 12 years of age on a full-time basis,
or

(ii) resides with and provides full-time care and attention to a person who is so incapacitated as to require full-time care and attention within the meaning of section 179(4), or

(iii) subject to the conditions and in the circumstances that may be prescribed, does not reside with but provides full-time care and attention to a person who is so incapacitated as to require full-time care and attention within the meaning of section 179(4),

and

(d) other than in the case of the class or classes of person that may be prescribed, makes application to be regarded as a homemaker in the prescribed manner and within the prescribed time;

“yearly average” means, subject to *subsection (3)*, in relation to any claimant, the average per contribution year of contribution weeks in respect of which that claimant has qualifying contributions, voluntary contributions or credited contributions in the period beginning—

(a) on 5 January 1953 in case the claimant is a man, or on 6 July 1953 in case the claimant is a woman, or

(b) at the beginning of the contribution year in which the claimant’s entry into insurance occurred (where after 5 January 1953 in the case of a man, or 6 July 1953 in the case of a woman),

(whichever is the later) and ending at the end of the last complete contribution year before the date of his or her ~~attaining pensionable age~~; *attaining pensionable age and where, in the case of a claim made on or after 13 July 1992, the average so calculated is a fraction of a whole number consisting of one-half or more it shall be rounded up to the nearest whole number and where it is a fraction of less than one-half it shall be rounded down to the nearest whole number;*⁸⁵⁵

“alternative yearly average” means, in relation to any claimant, the average per contribution year of contribution weeks in respect of which that claimant has qualifying contributions, voluntary contributions or credited contributions in the period beginning on 6 April 1979 and ending at the end of the last complete contribution year before the date of his or her ~~attaining pensionable age~~; *attaining pensionable age and where, in the case of a claim made on or after 13 July 1992, the average so calculated is a fraction of a whole number consisting of one-half or more it shall be rounded up to the nearest whole number and where it is a fraction of less than one-half it shall be rounded down to the nearest whole number.*⁸⁵⁶

⁸⁵⁵ Substituted by s.3(1)(a) SWA 2012

⁸⁵⁶ Substituted by s.3(1)(b) SWA 2012

~~(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).~~^{857/ 858}

(2A) The question whether a person satisfies the criteria set out in the definition of “homemaker” or “*home caring period*”⁸⁵⁹ in section (2) is a question that may be decided by a deciding officer.⁸⁶⁰

(2B) The Minister may by regulations make provision for the conditions required to be satisfied in order to qualify for home caring periods, and any such regulations may provide for—

- (a) the class or classes of person who may be regarded as a home carer,
- (b) the class or classes of person in respect of whom a home carer may provide care for the purpose of home caring periods,
- (c) the evidence that may be offered by a person to demonstrate the nature, extent and duration of home caring.⁸⁶¹

(3) In the case of a claimant who was a homemaker for the duration of any complete contribution year, beginning on or after 6 April 1994, in which the claimant does not have any credited contributions or voluntary contributions, that contribution year shall be disregarded for the purposes of determining the yearly average of that claimant subject to the total number of contribution years so disregarded not exceeding 20.

(4) In this Chapter, “relevant person” means—

(a) a person who first becomes—

(i) an insured person by virtue of section 12(1) insured for ~~old age (contributory) pension~~ *State pension (contributory)* purposes, or

(ii) an insured person by virtue of section 20,

on or after 6 April 1991, or

(b) a person who fails to satisfy the contribution condition in *section 109(1)(c)* and had periods in which he or she had been—

(i) employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid, and

(ii) an employed contributor, a self-employed contributor or a voluntary contributor in respect of whom contributions, reckonable for the purposes of the contribution conditions for entitlement to ~~old age (contributory) pension~~ *State pension (contributory)* were paid in respect of or credited to him or her.

(5) For the purposes of this Chapter, in the case of a relevant person—

⁸⁵⁷ Ss. (2A) inserted by s. 8 SWLR&PA 2006

⁸⁵⁸ S108(2A) substituted by s. 11(b) SW&PA 2008

⁸⁵⁹ Inserted by s.9(a)(ii) SWP&CRA 2018

⁸⁶⁰ S108(2A) substituted by s. 11(b) SW&PA 2008

⁸⁶¹ Ss.(2B) inserted by s.9(a)(iii) SWP&CRA 2018

“entry into insurance” means, subject to subsection (8), in relation to any person whichever occurs first—

(a) the date on which the person first becomes an insured person by virtue of section 12(1), except where he or she becomes an insured person by virtue of paragraph (b) of section 12(1) only, or

(b) the date on which he or she first becomes an insured person by virtue of *section 20*,

and that date shall be regarded as the date of entry into insurance for the purposes of ~~section 109(1)(a) and (c)~~ **section 109(1)**.⁸⁶²

(6) Notwithstanding *subsection (5)*, regulations may provide that the date on which a relevant person first becomes an employed person or a self-employed person, insurable for ~~old age (contributory) pension~~ ***State pension (contributory)*** purposes under the legislation of another Member State, or under the legislation of any other State with which the Minister has made a reciprocal arrangement under *section 287*, may be regarded as the date of entry into insurance.

(7) Notwithstanding subsections (5) and (6), regulations may provide that where a date of entry into insurance occurs before a date to be prescribed, that day may be regarded as the date of entry into insurance.

(8) For the purposes of this Chapter, in the case of a person who became a self-employed contributor on 6 April 1988 and who at any time before that date was an employed contributor, the date on which the person first entered into insurance or 6 April 1988, which ever is the more favourable to him or her, shall be regarded as the date of entry into insurance but where a date other than that on which the claimant first entered into insurance is so regarded, that date shall be regarded as the date of entry into insurance for the purposes of ~~section 109(1)(a) and (c)~~ **section 109(1)**.⁸⁶³

(9) The amount payable by way of ~~old age (contributory) pension~~ ***State pension (contributory)*** 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~~ ***State pension (contributory)*** 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.⁸⁶⁴

Conditions for receipt.

109. (1) The contribution conditions for ~~old age (contributory) pension~~ ***State pension (contributory)*** are—

(a) subject to *subsection (3)*, that the claimant has entered into insurance before attaining the age of 56 years,

~~(b) that the claimant has qualifying contributions in respect of not less than 156 contribution weeks since his or her entry into insurance, and~~⁸⁶⁵

⁸⁶² Substituted by s.13 SW&PA 2007

⁸⁶³ Substituted by s.13 SW&PA 2007

⁸⁶⁴ Ss. (9) inserted by s. 9 SWLR&PA 2006

⁸⁶⁵ Substituted by s.364 and Sch. 6 SWCA 2005

(b) that the claimant—

(i) has qualifying contributions in respect of at least 520 contribution weeks,
or

(ii) in the case of a person who on or before 6 April 1997, is a voluntary contributor paying contributions under Chapter 4 of Part 2, has an aggregate of qualifying contributions and voluntary contributions in respect of 520 contribution weeks, of which not less than 156 are qualifying contributions, or

(iii) in any other case, has an aggregate of qualifying contributions and voluntary contributions in respect of 520 contribution weeks of which not less than 260 are qualifying contributions,

since his or her entry into insurance,

(c) that the claimant has a yearly average or, in the case of a person who attains pensionable age on or after 6 April 1992, an alternative yearly average of not less than 48.

(1A) In the case of a person who attained pensionable age before 6 April 2002, subsection (1) shall be read as if the following condition were substituted for the condition in paragraph (b):

‘(b) that the claimant has qualifying contributions in respect of not less than 156 contribution weeks since his or her entry into insurance,’.⁸⁶⁶

~~(2) In the case of a person, other than a person who on or before 6 April 1997 is a voluntary contributor paying contributions under Chapter 4 of Part 2, who attained pensionable age on or after 6 April 2002, but before 6 April 2012, subsection (1)(b) shall be read as if “260” were substituted for “156”.~~

(2) In the case of a person, other than a person who on or before 6 April 1997 is a voluntary contributor paying contributions under Chapter 4 of Part 2, who attained pensionable age on or after 6 April 2002, but before 6 April 2012, subsection (1) shall be read as if the following condition were substituted for the condition in paragraph (b):

‘(b) that the claimant has qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance,’.⁸⁶⁷

(3) (a) In the case of a person who attained the age of 57 years before 1 July 1974, subsection (1)(a) shall be read as if “60” were substituted for “56”.

(b) In the case of a person who attained the age of 57 years on or after 1 July 1974, subsection (1)(a) shall be read as if “58” were substituted for “56”.

(c) In the case of a person who attained the age of 56 years on or after 1 April 1975, subsection (1)(a) shall be read as if “57” were substituted for “56” and paragraph (b) shall not apply on his or her attaining the age of 57 years.

⁸⁶⁶ Ss (1A) inserted by s.5(1)(a) SWA 2011

⁸⁶⁷ Ss (2) substituted by s.5(1)(b) SWA 2011

(d) In the case of a person who attained the age of 55 years on or after 1 October 1977, paragraph (c) shall not apply on his or her attaining the age of 56 years and paragraph (b) shall not apply on his or her attaining the age of 57 years.

(e) In the case of a person who became a self-employed contributor for the first time on or after 6 April 1988 and was not previously an employed contributor under this Act or the National Health Insurance Acts 1911 to 1952 before becoming so insured, and who on or before 6 April 1988 had attained the age of 56 years but had not attained the age of 62 years, *subsection (1)(a)* shall be read as if “62” were substituted for “56” for the purposes of qualifying for a pension under *subsections (18) and (19)*.

(4) (a) A person who attained the age of 69 years on or after 1 July 1974 but before 5 January 1976 may have his or her entitlement to ~~old age (contributory) pension~~ **State pension (contributory)** determined under the Acts relating to social welfare in operation before 1 July 1974 where that would be to the person’s advantage.

(b) A person who attained the age of 69 years before 1 July 1974 and has been awarded ~~an old age (contributory) pension~~ a **State pension (contributory)** under the Acts relating to social welfare in operation before that date shall on and after that date have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in his or her case under those Acts.

(5) (a) A person who attained the age of 68 years on or after 1 April 1975 but before 3 January 1977 may have his or her entitlement to ~~old age (contributory) pension~~ **State pension (contributory)** determined under the Acts relating to social welfare in operation before 1 April 1975 where that would be to the person’s advantage.

(b) A person who attained the age of 68 years before 1 April 1975 and has been awarded ~~an old age (contributory) pension~~ a **State pension (contributory)** under the Acts relating to social welfare in operation before that date shall on and after that date have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in his or her case under those Acts.

(6) (a) A person who attained the age of 67 years on or after 1 October 1977 but before 1 January 1979 may have his or her entitlement to ~~old age (contributory) pension~~ **State pension (contributory)** determined under the Acts relating to social welfare in operation before 1 October 1977 where that would be to the person’s advantage.

(b) A person who attained the age of 67 years before 1 October 1977 and has been awarded ~~an old age (contributory) pension~~ a **State pension (contributory)** under the Acts relating to social welfare in operation before that date shall, on and after that date, have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in his or her case under those Acts.

(6A) In the case of a claimant who attained pensionable age on or after 1 September 2012 and who, on or after 30 March 2018, would be entitled to the rate of State pension (contributory) specified in Schedule 2 but for the fact that the contribution condition set out in subsection (1)(c) is not satisfied, shall, on or after 30 March 2018, have a right to State pension (contributory) at a rate calculated in accordance with subsection (6B).⁸⁶⁸

⁸⁶⁸ Ss. (6A), (6B) and (6C) inserted by s.9(b) SWP&CRA 2018

(6B) (a) In the case of a claimant referred to in subsection (6A), the rate in respect of that person shall, subject to paragraph (b), be calculated by reference to the amount determined ('the aggregated contributions method') where the rate of State pension (contributory) specified in Schedule 2 is multiplied by the percentage obtained when the aggregate number of—

(i) contributions reckonable for State pension (contributory), and

(ii) home caring periods,

is divided by 2080 and multiplied by 100, and where the amount so calculated is a multiple of 5 cent but not also a multiple of 10 cent, it shall 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.

(b) In calculating the rate referred to in paragraph (a), the aggregate number of reckonable contributions and home caring periods shall not exceed 2080, and without prejudice to the generality of the foregoing, in so calculating such rate—

(i) the number of credited contributions shall not exceed 520,

(ii) the number of home caring periods shall not exceed 1040, and

(iii) the aggregate number of credited contributions referred to in subparagraph (i) and home caring periods referred to in subparagraph (ii) shall not in any event exceed 1040.⁸⁶⁹

(6C) In the case of a State pension (contributory) calculated in accordance with the aggregated contributions method, any increase payable under section 112(2) shall be at 100 per cent of the rate specified in column (4) or (5), as the case may be, of Part 1 of Schedule 2.⁸⁷⁰

(7) Regulations may provide for modifications of the meaning of yearly average contained in section 108(2) or of the contribution conditions set out in this section.

~~(8) (a) Subject to *paragraph (b)* and *subsection (9)*, regulations may provide for entitling to old age (contributory) pension—**State pension (contributory)** a claimant who would be entitled to that pension but for the fact that he or she has a yearly average of less than 48.~~

~~(b) For the purposes of *paragraph (a)*, in the case of a claimant who has a yearly average of less than 20, he or she is required to have qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance.~~⁸⁷¹

(8) Subject to subsections (8A) and (9), regulations may provide for entitling to State pension (contributory) a claimant who would be entitled to that pension but for the fact that he or she has a yearly average of less than 48.⁸⁷²

(8A) Where a claimant referred to in subsection (8) has—

⁸⁶⁹ Ss. (6A), (6B) and (6C) inserted by s.9(b) SWP&CRA 2018

⁸⁷⁰ Ss. (6A), (6B) and (6C) inserted by s.9(b) SWP&CRA 2018

⁸⁷¹ Subsection (8) substituted by s.4(a) SWA 2012

⁸⁷² Subsection (8) substituted by s.4(a) SWA 2012

(a) attained pensionable age before 1 January 2013, and

(b) a yearly average of less than 20,
he or she is required to have qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance.⁸⁷³

(9) Regulations under subsection (8) shall provide, subject to subsection (10), that ~~old-age (contributory) pension~~ **State pension (contributory)** payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 2, and the rate specified by the regulations may vary by reference to the yearly average so calculated, but any increase of that pension payable under section 112(2) shall be the same as if the claimant had a yearly average of not less than 48.

(10) In the case of person who, on 5 April 2001, is entitled to or in receipt of a pension by virtue of regulations under subsection (8) which includes an increase under section 112(1), subsection (9) shall not operate so as to reduce the rate of the increase payable under section 112(1) below the rate that may be prescribed.

(11) Contributions paid or credited under this Part, or paid, excused or deemed to be or treated as paid under the National Health Insurance Acts 1911 to 1952 (other than, in the case of a person who is not a relevant person, contributions paid by or in respect of a person at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996), shall be taken into account in the manner and subject to the conditions and limitations that may be prescribed for the purpose of the satisfaction of the contribution conditions for ~~old-age (contributory) pension~~ **State pension (contributory)**.

(12) Regulations under subsection (11) may also provide for modifications, in the case of persons who were insured under the National Health Insurance Acts 1911 to 1952 or who were absent from the State before 3 October 1960, of any of the contribution conditions for ~~old-age (contributory) pension~~ **State pension (contributory)**.

(13) Where a person, other than in the case of a relevant person, becomes an employed contributor by virtue of paragraph (b) of section 12(1) and would not, apart from that paragraph, be an employed contributor, his or her entry into insurance by virtue of that paragraph is deemed not to be an entry into insurance for the purposes of subsection (1) and for those purposes the person's entry into insurance is deemed to occur when he or she first becomes an employed contributor by virtue of paragraph (a) of section 12(1).

~~(14) Subject to subsection (15), regulations may provide for entitling to old-age (contributory) pension~~ **State pension (contributory)** a person who would be entitled to that pension but for the fact that the contribution condition in ~~subsection (1)(c)~~ is not satisfied where that person, having earlier ceased to be an employed contributor became, as a consequence and at the time of the coming into operation of section 12 of the Social Welfare Act 1973, an employed contributor in respect of whom contributions reckonable for the purposes of the contribution conditions for entitlement to old-age (contributory) pension ~~State pension (contributory)~~ were payable.⁸⁷⁴

(14) Subject to subsection (15), regulations may provide for entitling to State pension (contributory) a person who would be entitled to that pension but for the fact that the contribution condition in subsection (1)(c) is not satisfied, where that person—

⁸⁷³ Subsection (8A) inserted by s.4(b) SWA 2012

⁸⁷⁴ Subsection (14) substituted by s.4(c) SWA 2012

(a) has attained pensionable age before 1 January 2013, and

(b) having earlier ceased to be an employed contributor became, as a consequence and at the time of the coming into operation of section 12 of the Social Welfare Act 1973, an employed contributor in respect of whom contributions reckonable for the purposes of the contribution conditions for entitlement to State pension (contributory) were payable.⁸⁷⁵

(15) Regulations for the purposes of subsection (14) shall provide that ~~old age (contributory) pension~~ **State pension (contributory)** payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 2, and the rate specified by the regulations may vary with the extent to which the contribution condition in subsection (1)(c) is satisfied.

~~(16) Regulations may provide, subject to subsection (17), for entitling to old age (contributory) pension~~ **State pension (contributory)** a relevant person who would be entitled thereto but for the fact that the contribution condition set out in subsection (1)(c) is not satisfied and who does not have an entitlement to an old age (contributory) pension a State pension (contributory) by virtue of Regulation (EEC) No. 1408/71⁸⁷⁶ of the Council of the European Communities or by virtue of a reciprocal arrangement under the provisions of section 287⁸⁷⁷ and who in respect of any period has been employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid.⁸⁷⁸

(16) (a) Subject to paragraph (b), regulations may provide for entitling to ~~old age (contributory) pension~~ **State pension (contributory)** a relevant person who would be entitled but for the fact that the contribution conditions set out in subsection (1)(b) and (c) are not satisfied and who, in respect of any period, has been employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid.

(b) For the purposes of paragraph (a) the claimant is required to have qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance and has an aggregate of not less than 520 qualifying contributions and contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996.

(17) Regulations for the purposes of *subsection (16)* shall provide that ~~old age (contributory) pension~~ **State pension (contributory)** payable by virtue of those regulations shall—

~~(a) be payable at a rate less than that specified in Schedule 2, and the rate specified by the regulations may vary in relation to the proportion to which the number of—~~

~~(i) employment contributions paid in respect of or credited to the insured person, and~~

~~(ii) self employment contributions paid by him or her, and~~

⁸⁷⁵ Subsection (14) substituted by s.4 (c) SWA 2012

⁸⁷⁶ OJ No. L149, 5.7.1971, p. 2

⁸⁷⁷ Deleted by s. 37 + Sch. 7 SWLR&PA 2006

⁸⁷⁸ Substituted by s.364 and Sch. 6 SWCA 2005

~~(iii) voluntary contributions paid by him or her,~~

~~reckonable for old age (contributory) pension *State pension (contributory)* purposes bears to the total number of those employment contributions, self-employment contributions and voluntary contributions, but any increase of pension in respect of a qualified child shall be paid at the rate specified in Schedule 2,⁸⁷⁹~~

(a) be payable at a rate less than that specified in Schedule 2, and the rate specified by the regulations may vary in relation to the proportion to which the number of—

(i) employment contributions paid in respect of or credited to the insured person which are reckonable for State pension (contributory) purposes,

(ii) self-employment contributions paid by him or her which are reckonable for State pension (contributory) purposes,

(iii) voluntary contributions paid by him or her which are reckonable for State pension (contributory) purposes, and

(iv) home caring periods to which he or she is entitled for the purpose of a calculation under subsection (6A),

bears to the total number of those employment contributions, self-employment contributions, voluntary contributions and home caring periods, but any increase of pension in respect of a qualified child shall be paid at the rate specified in Schedule 2,⁸⁸⁰

and

~~(b) where the amount calculated in accordance with paragraph (a) is not a multiple of €2.50, be increased to the next multiple of €2.50.~~

(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.⁸⁸¹

(18) Subject to subsection (19), a pension shall be payable in the case of a person who—

(a) became a self-employed contributor for the first time on or after 6 April 1988 and who on or before that date had attained the age of 56 years and who fails to satisfy the contribution conditions in subsection (1)(c) or (8), or

(b) satisfies the contribution condition in section 109(1)(a) by virtue of subsection (3)(e) and who, but for subsection (3)(e) fails to satisfy the contribution conditions in subsection (1) or (8),

and who has qualifying contributions in respect of not less than 260 weeks since becoming a self-employed contributor.

⁸⁷⁹ Para. (a) substituted by s.9(c) SWP&CRA 2018

⁸⁸⁰ Para. (a) substituted by s.9(c) SWP&CRA 2018

⁸⁸¹ Substituted by s. 10 SWLR&PA 2006

(19) The rate of pension payable in accordance with subsection (18) shall be payable at half the rate specified in column (2) at reference 3 of Part 1 of Schedule 2 and any increases payable under section 112(1) or (2) shall be payable at half the rate specified in ~~columns (3) and (4)~~ **columns (3), (4) and (5)**⁸⁸² at reference 3 of Part 1 of Schedule 2.

(20) The total amount payable by way of pension in accordance with subsections (18) and (19) shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

Disregard of self-employment contributions in certain cases.

110. (1) In the case of a person who, having been a self-employed contributor, makes a claim for ~~old age (contributory) pension~~ **State pension (contributory)** on or after 6 April 1995, the contribution conditions contained in section 109 shall not be regarded as having been satisfied unless, in accordance with section 21—

(a) the person has paid self-employment contributions in respect of at least one contribution year before attaining pensionable age, and

(b) all self-employment contributions payable by him or her have been paid.

~~(2) Notwithstanding subsection (1), the Minister may, where he or she is satisfied that in all the circumstances of the case it would be appropriate to do so, direct that subsection (1) shall not be applied in that case.~~⁸⁸³

(2) A State Pension (contributory) shall not be payable in respect of any period preceding the date on which all self-employment contributions, referred to in subsection (1)(b), payable by the person concerned have been paid.⁸⁸⁴

(3) Where the person has paid all contributions due under subsection (1)(b) other than contributions payable in respect of the last complete contribution year before the date such person attains pension age, subsection (2) shall not apply in respect of such person.⁸⁸⁵

(4) Subsection (2) shall not apply to a claim for State pension (contributory) made on or before 31 December 2009.⁸⁸⁶

Rate of pension.

111. Subject to this Part, the weekly rate of ~~old age (contributory) pension~~ **State pension (contributory)** shall be as set out in column (2) of Part 1 of Schedule 2.

Increases (including increases for qualified adult and qualified children).

112. (1) Subject to this Part, the weekly rate of ~~old age (contributory) pension~~ **State pension (contributory)** shall be increased by the amount set out in column (3) of Part 1 of Schedule 2 for any period during which the beneficiary has a qualified adult, subject to the restriction that ⁸⁸⁷ 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.

⁸⁸² Substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁸³ Substituted by s.9 SW&P(No. 2)A 2009

⁸⁸⁴ Substituted by s.9 SW&P(No. 2)A 2009

⁸⁸⁵ Substituted by s.9 SW&P(No. 2)A 2009

⁸⁸⁶ Substituted by s.9 SW&P(No. 2)A 2009

⁸⁸⁷ Uncommenced provision – Inserted by Sch. 6(2) of the SWCA 2005 and deleted prior to commencement by s.21 SW&PA 2014

(1A) The amount of the increase of pension referred to in subsection (1), in respect of any claim for State pension (contributory) made after 24 September 2007, shall be paid –

(a) directly to the qualified adult concerned, or

(b) to such other person as may be nominated by the qualified adult for the purpose of receiving the increase of pension referred to in subsection (1) on behalf of the qualified adult.

(1B) Where a beneficiary ceases to be entitled to State pension (contributory), the payment to a qualified adult of the increase of pension referred to in subsection (1) shall also cease.⁸⁸⁸

~~(2) Subject to this Part, the weekly rate of old age (contributory) pension *State pension (contributory)* shall be increased by the amount set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary.~~⁸⁸⁹

(2) Subject to this Part, the weekly rate of State pension (contributory) shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary.⁸⁹⁰

~~(3) Any increase of *State pension (contributory)* payable under subsection (2) in respect of a qualified child who normally resides with a beneficiary and with the spouse, *civil partner or cohabitant*⁸⁹² of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, *civil partner or cohabitant*⁸⁹³ of the beneficiary is not a qualified adult, and subsection (2) shall be read and have effect accordingly.~~⁸⁹¹

(3A) Subsection (3) shall not apply and no increase of State pension (contributory) payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, civil partner or cohabitant of the beneficiary shall be payable where the weekly income of that spouse, civil partner or cohabitant, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.

(3B) Subsection (3A) shall not apply in the case of any claim for State pension (contributory) which is made before 6 July 2012.⁸⁹⁴

(4) The weekly rate of ~~old age (contributory) pension~~ *State pension (contributory)* shall be increased by the amount set out in column (6) of Part 1 of Schedule 2 where the beneficiary is living alone.

⁸⁸⁸ Ss 112 (1A and 1B) inserted by s.14 SW&PA 2007

⁸⁸⁹ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁹⁰ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁹¹ Substituted by s.4(2)(b)(i) SWA 2011

⁸⁹² Inserted by s.26 and Sch3 SW&PA 2010

⁸⁹³ Inserted by s.26 and Sch3 SW&PA 2010

⁸⁹⁴ Subsections 3A and (3B) inserted by s.4(2)(b)(ii) SWA 2011

(5) The weekly rate of ~~old age (contributory) pension~~ *State pension (contributory)* shall be increased by the amount set out in column (7) of Part 1 of Schedule 2 where the beneficiary has attained the age of 80 years.

(6) The weekly rate of ~~old age (contributory) pension~~ *State pension (contributory)* shall be increased by the amount set out in column (8) of Part 1 of Schedule 2 where the beneficiary is ordinarily resident on an island.

Pre-1953 pension.

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

(a) has attained pensionable age,

(b) was an employed contributor under the National Health Insurance Acts 1911 to 1952, and

(c) has paid—

(i) contributions as an employed contributor under the National Health Insurance Acts 1911 to 1952, or

(ii) a combination of those contributions and qualifying contributions,

in respect of not less than 260 contribution weeks since the person first became insured under the National Health Insurance Acts 1911 to 1952.

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

(3) In taking into account under this section contributions paid by or in respect of an employed contributor under the National Health Insurance Acts 1911 to 1952, every 2 such contributions under those Acts shall be reckoned as 3 contributions paid in respect of 3 contribution weeks, with any odd contribution being reckoned as 2 contributions paid in respect of 2 contribution weeks.

(4) A pension payable in accordance with this section shall be payable at half the rate specified in column (2) at reference 3 of Part 1 of Schedule 2.

(5) The weekly rate of ~~old age (contributory) pension~~ *State pension (contributory)* payable in accordance with this section shall be increased by—

(a) half the amount set out in column (3) at reference 3 of 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) half the amount set out in column (4) at reference 3 of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary,~~⁸⁹⁵

(b) half the amount set out—

⁸⁹⁵ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(i) in column (4) at reference 3 of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(ii) in column (5) at reference 3 of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary,⁸⁹⁶

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

(d) the amount set out in column (7) at reference 3 of 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 of Part 1 of Schedule 2 where the beneficiary is ordinarily resident on an island.

(6) The amount of the increase of pension referred to in subsection (5)(a), in respect of any claim for pension under this section made after 24 September 2007, shall be paid –

(a) directly to the qualified adult concerned, or

(b) to such other person as may be nominated by the qualified adult for the purpose of receiving the increase of pension referred to in subsection (5)(a) on behalf of the qualified adult.

(7) Where a beneficiary ceases to be entitled to a pension under this section the payment to a qualified adult of the increase of pension referred to in subsection (5)(a) shall also cease.⁸⁹⁷

Entitlement for invalidity pension recipients.⁸⁹⁸

113A. (1) Notwithstanding this Chapter and regulations made under this Chapter ~~old age (contributory) pension~~ *State pension (contributory)* 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),~~ *Subject to subsections (4)⁸⁹⁹ (4A), (4B)⁹⁰⁰ and (6)⁹⁰¹* ~~old age (contributory) pension~~ *State pension (contributory)* 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—

⁸⁹⁶ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁸⁹⁷ Ss. 113(6 and 7) inserted by s.14(b) SW&PA 2007

⁸⁹⁸ S. 113A inserted by s. 11 SWLR&PA 2006

⁸⁹⁹ Substituted by s. 15(a) SW&PA 2007

⁹⁰⁰ “(4A), (4B)” inserted by s.102(a)(i) of WUKEU(CP)A 2020

⁹⁰¹ Substituted by s. 15(a) SW&PA 2007

(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. 1408/71⁹⁰² of the Council of the European Communities, or

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

(4A) 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 the United Kingdom, the weekly rate of pension payable shall be the greater of—

(a) the amount of pension payable, calculated in accordance with the arrangement made with the United Kingdom on 1 February 2019, or

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

(4B) In the case of a person to whom both subsections (4) and (4A) applies, the weekly rate of pension payable shall be the greater of either of the amounts calculated under each such subsection.⁹⁰³

(5) The weekly rate of ~~old age (contributory) pension~~ **State pension (contributory)** 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,~~⁹⁰⁴

(b) the amount set out -

(i) in column (4) at reference 3 of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(ii) in column (5) at reference 3 of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary,⁹⁰⁵

(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

⁹⁰² OJ NO. L149, 05.07.1971, p.2.

⁹⁰³ Subsects.(4A) and (4B) inserted by s.102(a)(ii) WUKEU(CP)A 2020

⁹⁰⁴ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁹⁰⁵ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(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.⁹⁰⁶

(6) Where a person, who is in receipt of invalidity pension under Chapter 17 of this Part at a reduced rate by virtue of a reciprocal arrangement under section 287, attains pensionable age and is not entitled to a pension under section 108 by virtue of his or her contributions under this Act, the weekly rate of pension payable shall be the greater of -

(a) the amount of invalidity pension which would be payable but for this section, calculated in accordance with the relevant reciprocal arrangement, or

(b) the rate of State pension (contributory) payable in accordance with a relevant reciprocal arrangement.⁹⁰⁷

Entitlement for State pension (transition) recipients.⁹⁰⁸

113B. (1) Notwithstanding this Chapter and regulations made under this Chapter and subject to subsection (2), ~~old age (contributory) pension~~ *State pension (contributory)* 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~~ *State pension (transition)* 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

(b) an amount equal to the rate of state pension (transition) payable in accordance with Chapter 16 of this Part.⁹⁰⁹

CHAPTER 16

~~*Retirement Pension*~~ *State Pension (Transition)*

Entitlement to pension.

114. (1) Subject to this Act, a person who has attained the age of 65 years shall be entitled to ~~retirement pension~~ *State pension (transition)* for any period of retirement where he or she satisfies the contribution conditions in section 115.

(2) The periods which shall be regarded for the purposes of this section as periods of retirement shall be specified by regulations.

(3) In this Chapter—

“yearly average” means, in relation to any claimant, the average per contribution year of contribution weeks in respect of which that claimant has qualifying contributions, voluntary contributions or credited contributions in the period beginning either—

⁹⁰⁶ S. 113A inserted by s. 11 SWLR&PA 2006

⁹⁰⁷ S. 113A(6) inserted by s. 15(b) SW&PA 2007

⁹⁰⁸ S. 113B inserted by s. 12 SWLR&PA 2006

⁹⁰⁹ S. 113B inserted by s. 12 SWLR&PA 2006

(a) on 5 January 1953 in case the claimant is a man, or on 6 July 1953 in case the claimant is a woman, or

(b) at the beginning of the contribution year in which the claimant's entry into insurance occurred (where after 5 January 1953 in the case of a man, or 6 July 1953 in the case of a woman),

(whichever is the later) and ending at the end of the last complete contribution year before the date of the claimant ~~attaining the age of 65 years~~; ***attaining the age of 65 years and where, in the case of a claim made on or after 13 July 1992, the average so calculated is a fraction of a whole number consisting of one-half or more it shall be rounded up to the nearest whole number and where it is a fraction of less than one-half it shall be rounded down to the nearest whole number;***⁹¹⁰

“alternative yearly average” means, in relation to any claimant, the average per contribution year of contribution weeks in respect of which that claimant has qualifying contributions, voluntary contributions or credited contributions in the period beginning on 6 April 1979 and ending at the end of the last complete contribution year before the date of the claimant ~~attaining the age of 65 years~~. ***attaining the age of 65 years and where, in the case of a claim made on or after 13 July 1992, the average so calculated is a fraction of a whole number consisting of one-half or more it shall be rounded up to the nearest whole number and where it is a fraction of less than one-half it shall be rounded down to the nearest whole number.***⁹¹¹

(4) In this Chapter, “relevant person” means—

(a) a person who first becomes—

(i) an insured person by virtue of section 12(1) insured for ~~old age (contributory) pension~~ ***State pension (contributory)*** purposes, or

(ii) an insured person by virtue of section 20,

on or after 6 April 1991,

or

(b) a person who fails to satisfy the contribution condition in section 115(1)(c) and had periods in which he or she had been—

(i) employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996, and

(ii) an employed contributor, a self-employed contributor or a voluntary contributor, in respect of whom contributions, reckonable for the purposes of the contribution conditions for entitlement to ~~old age (contributory) pension~~ ***State pension (contributory)*** were paid in respect of or credited to him or her.

(5) For the purposes of this Chapter, in the case of a relevant person “entry into insurance” means in relation to any person the earlier of the following 2 dates—

⁹¹⁰ Substituted by s.3(2)(a) SWA 2012

⁹¹¹ Substituted by s.3(2)(b) SWA 2012

(a) the date on which the person first becomes an insured person by virtue of section 12(1), except where he or she becomes an insured person by virtue of paragraph (b) of section 12(1) only, or

(b) the date on which he or she first becomes an insured person by virtue of section 20,

and that that date shall be regarded as the date of entry into insurance for the purposes of section 115(1)(a) and (c).

(6) Notwithstanding subsection (5), regulations may provide that the date on which a relevant person first becomes an employed person or a self-employed person, insurable for ~~retirement pension~~ *State pension (transition)* purposes under the legislation of another Member State, or under the legislation of any other state with which the Minister has made a reciprocal arrangement under section 287, may be regarded as the date of entry into insurance.

(7) Notwithstanding subsections (5) and (6), regulations may provide that where a date of entry into insurance occurs before a date to be prescribed, that day may be regarded as the date of entry into insurance.

(8) The amount payable by way of state pension (transition) 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~~ *State pension (transition)* 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.⁹¹²

(9) Notwithstanding the provisions of this Chapter, State pension (transition) shall not be payable to a person who attains the age of 65 years on or after 1 January 2014.⁹¹³

Conditions for receipt.

115. (1) The contribution conditions for ~~retirement pension~~ *State pension (transition)* are —

(a) that the claimant has entered into insurance before attaining the age of 55 years,

~~(b) that the claimant has qualifying contributions in respect of not less than 156 contribution weeks since his or her entry into insurance, and~~⁹¹⁴

(b) that the claimant—

(i) has qualifying contributions in respect of at least 520 contribution weeks,
or

(ii) in the case of a person who on or before 6 April 1997, is a voluntary contributor paying contributions under Chapter 4 of Part 2, has an aggregate of qualifying contributions and voluntary contributions in respect of 520 contribution weeks, of which not less than 156 are qualifying contributions, or

⁹¹² Ss. (8) inserted by s. 13 SWLR&PA 2006

⁹¹³ Inserted by s.6 SW&PA 2011

⁹¹⁴ Substituted by s.364 and Sch. 6 SWCA 2005

(iii) in any other case, has an aggregate of qualifying contributions and voluntary contributions in respect of 520 contribution weeks of which not less than 260 are qualifying contributions,

since his or her entry into insurance,

(c) that the claimant has a yearly average or in the case of a person who attains the age of 65 years on or after 6 April 1992 an alternative yearly average of not less than 48.

(1A) In the case of a person who attained the age of 65 years before 6 April 2002, subsection (1) shall be read as if the following condition were substituted for the condition in paragraph (b):

‘(b) that the claimant has qualifying contributions in respect of not less than 156 contribution weeks since his or her entry into insurance.’⁹¹⁵

~~(2) In the case of a person, other than a person who on or before 6 April 1997 is a voluntary contributor paying contributions under Chapter 4 of Part 2, who attained the age of 65 years on or after 6 April 2002 but before 6 April 2012, subsection (1)(b) shall be read as if “260” were substituted for “156”.~~⁹¹⁶

(2) In the case of a person, other than a person who on or before 6 April 1997 is a voluntary contributor paying contributions under Chapter 4 of Part 2, who attained the age of 65 years on or after 6 April 2002, but before 6 April 2012, subsection (1) shall be read as if the following condition were substituted for the condition in paragraph (b):

‘(b) that the claimant has qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance.’

(3) Regulations may provide for modifications of the meaning of “yearly average” contained in section 114(3) or of the contribution conditions set out in this section.

(4) Contributions paid under the National Health Insurance Acts 1911 to 1952 by or in respect of an employed contributor may be taken into account in the manner and subject to the conditions and limitations that may be prescribed for the purpose of the satisfaction by the employed contributor of the contribution conditions for ~~retirement pension~~ **State pension (transition)**.

(5) Subject to subsection (6), regulations may provide for entitling to ~~retirement pension~~ **State pension (transition)** a claimant who would be entitled to that pension but for the fact that he or she has a yearly average of less than 48.

~~(6) Regulations under subsection (5) shall provide that retirement pension **State pension (transition)** payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 2, and the rate specified by the regulations may vary by reference to the yearly average so calculated, but any increase of that pension payable under section 117(1) or (2) shall be the same as if the claimant had a yearly average of not less than 48.~~⁹¹⁷

(6) Regulations under subsection (5) shall provide that State pension (transition) payable by virtue of those regulations shall, subject to subsection (6A), be payable at a rate less than that

⁹¹⁵ Ss. 115(1A) inserted by s.5(2)(a) SWA 2011

⁹¹⁶ Substituted by s.5(2)(b) SWA 2011

⁹¹⁷ Subsection (6) substituted by s.9(a) SWA 2012

specified in Schedule 2, and the rate specified by the regulations may vary by reference to the yearly average so calculated, but any increase of that pension payable under section 117(2) shall be the same as if the claimant had a yearly average of not less than 48.⁹¹⁸

(6A) In the case of person who, on 31 December 2012, is entitled to or in receipt of a pension by virtue of regulations under subsection (5) which includes an increase under section 117(1), subsection (6) shall not operate so as to reduce the rate of the increase payable under section 117(1) below the rate that may be prescribed.⁹¹⁹

~~(7) Regulations may provide, subject to subsection (8), for entitling to retirement pension *State pension (transition)* a relevant person who would be entitled to that pension but for the fact that the contribution condition set out in subsection (1)(c) is not satisfied and who in respect of any period, has been employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid.⁹²⁰~~

(7) (a) Regulations may provide, subject to paragraph (b) and subsection (8), for entitling to ~~retirement pension~~ *State pension (transition)* a relevant person who would be entitled to that pension but for the fact that the contribution conditions set out in subsection (1)(b) and (c) are not satisfied and who, in respect of any period, has been mainly employed in one or more of the employments in respect of which employment contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid.

(b) For the purposes of paragraph (a), the claimant is required to have qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance and an aggregate of not less than 520 qualifying contributions and contributions at the rate specified in Article 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996.

(8) Regulations for the purposes of subsection (7) shall provide that ~~retirement pension~~ *State pension (transition)* payable by virtue of those regulations shall—

(a) be payable at a rate less than that specified in Schedule 2, and the rate specified by the regulations may vary in relation to the proportion to which the number of—

(i) employment contributions paid in respect of or credited to the insured person, and

(ii) voluntary contributions paid by the insured person,

reckonable for ~~retirement pension~~ *State pension (transition)* purposes bears to the total number of those employment contributions, self-employment contributions and voluntary contributions, but any increase of pension in respect of a qualified child shall be paid at the rate specified in Schedule 2,

and

~~(b) where the amount calculated in accordance with paragraph (a) is not a multiple of €2.50, be increased to the next multiple of €2.50.⁹²¹~~

⁹¹⁸ Subsection (6) substituted by s.9(a) SWA 2012

⁹¹⁹ Subsection (6A) inserted by s.9(b) SWA 2012

⁹²⁰ Substituted by s.364 and Sch. 6 SWCA 2005

⁹²¹ Substituted by s. 14 SWLR&PA 2006

(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.⁹²²

Rate of pension.

116. Subject to this Part, the weekly rate of ~~retirement pension~~ *State pension (transition)* shall be as set out in column (2) of Part 1 of Schedule 2.

Increases (including increases for qualified adult and qualified children).

117. (1) The weekly rate of ~~retirement pension~~ *State pension (transition)* shall be increased by the amount set out in column (3) of Part 1 of Schedule 2 for any period during which the beneficiary has a qualified adult, subject to the restriction that ⁹²³ the beneficiary shall not be entitled for the same period to an increase of pension under this subsection in respect of more than one person.

(1A) The amount of the increase of pension referred to in subsection (1), in respect of any claim for *State pension (transition)* made after 24 September 2007, shall be paid –

(a) directly to the qualified adult concerned, or

(b) to such other person as may be nominated by the qualified adult for the purpose of receiving the increase of pension referred to in subsection (1) on behalf of the qualified adult.

(1B) Where a beneficiary ceases to be entitled to *State pension (transition)* the payment to a qualified adult of the increase of pension referred to in subsection (1) shall also cease.⁹²⁴

(2) The weekly rate of ~~retirement pension~~ *State pension (transition)* shall be increased by the amount set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary.

(3) ~~Any increase of~~ *Subject to subsections (3A) and (3B), any increase of*⁹²⁵ ~~retirement pension~~ *State pension (transition)* payable under subsection (2) in respect of a qualified child who normally resides with a beneficiary and with the spouse, *civil partner or cohabitant*⁹²⁶ of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, *civil partner or cohabitant*⁹²⁷ of the beneficiary is not a qualified adult, and subsection (2) shall be read and have effect accordingly.

(3A) Subsection (3) shall not apply and no increase of *State pension (transition)* payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, civil partner or cohabitant of the beneficiary shall be payable where the weekly income of that spouse, civil partner or cohabitant, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.

(3B) Subsection (3A) shall not apply in the case of any claim for *State pension (transition)* which is made before 5 July 2012.⁹²⁸

⁹²² Substituted by s. 14 SWLR&PA 2006

⁹²³ **Uncommenced provision – Inserted by Sch. 6(2) of the SWCA 2005 and deleted prior to commencement by s.21 SW&PA 2014**

⁹²⁴ Ss. 117(1A) and (1B) inserted by s. 14(c) SW&PA 2007

⁹²⁵ Substituted by s.4(2)(c)(i) SWA 2011

⁹²⁶ Inserted by s.26 and Sch3 SW&PA 2010

⁹²⁷ Inserted by s.26 and Sch3 SW&PA 2010

⁹²⁸ Subsections (3A) and (3B) inserted by s.4(2)(c)(ii) SWA 2011

(4) The weekly rate of state pension (transition) shall be increased by the amount set out in column (6) of Part 1 of Schedule 2 where the beneficiary has attained pensionable age and is living alone.

(5) The weekly rate of state pension (transition) shall be increased by the amount set out in column (7) of Part 1 of Schedule 2 where the beneficiary has attained the age of 80 years.

(6) The weekly rate of state pension (transition) shall be increased by the amount set out in column (8) of Part 1 of Schedule 2 where the beneficiary has attained pensionable age and is ordinarily resident on an island.

CHAPTER 17 *Invalidity Pension*

Entitlement to pension.

118. (1) Subject to this Act, a person shall be entitled to invalidity pension where he or she—

~~(a) is permanently incapable of work, and~~

(a) is permanently incapable of working in insurable employment or insurable self-employment, and the reason for which incapacity is as a direct result of the person concerned being incapable of work and for no other reason,

(aa) would be available to work in insurable employment or insurable self-employment were it not for this incapacity, and⁹²⁹

(b) satisfies the contribution conditions in section 119.

(2) The conditions under which a person shall be regarded for the purposes of this section as being permanently incapable of work shall be specified by regulations.

~~(3) Regulations may provide for disqualifying a person for receiving invalidity pension where he or she fails without good cause to observe any prescribed rules of behaviour.⁹³⁰~~

(3) Regulations may provide for disqualifying a person for receiving invalidity pension where the person fails without good cause to comply with such requirements as may be specified by the regulations, including but not necessarily limited to:

(a) attending for or submitting to any medical or other examination or treatment;

(b) complying with instructions relating to his or her incapacity issued by a registered medical practitioner;

(c) refraining from behaviour likely to hinder his or her recovery;

(d) being available to meet with ~~an officer of the Minister~~ *an officer of the Minister or a medical assessor*⁹³¹ regarding his or her claim for invalidity pension.

(3A) Subject to subsection (4), a person in receipt of or entitled to invalidity pension shall not ~~engage in work~~⁹³² *engage in insurable employment or insurable self-employment.*⁹³³

⁹²⁹ Substituted by s. 4(c)(i) SW(No.2)A 2019

⁹³⁰ S 118(3) substituted with subsections (3) and (4) by s.16 SW&PA 2007

⁹³¹ Substituted by s.3(2)(d) SW(MP)A 2015

(4) A person shall not be disqualified for receipt of invalidity pension ~~while engaging in such class or classes of employment or training~~ **while engaging in such class or classes of employment, self-employment or training**⁹³⁴ and subject to such circumstances and conditions as may be prescribed.⁹³⁵

Conditions for receipt.

119. (1) The contribution conditions for invalidity pension are that before the relevant date the claimant has—

(a) qualifying contributions in respect of not less than 260 contribution weeks since his or her entry into insurance, and

(b) qualifying contributions or credited contributions in respect of not less than 48 contribution weeks ~~in the last complete contribution year before that date.~~ **in the last or second last complete contribution year before that date.**⁹³⁶

(2) In this section “relevant date” means—

(a) any date after the completion of one year of continuous incapacity for work, or

(b) any lesser period that may be prescribed, subject to the conditions and in the circumstances that may be prescribed,

where the insured person has entered into a continuous period of incapacity for work and he or she is subsequently proved to be permanently incapable of work.

(3) In the case of a person who is in receipt of invalidity pension where—

(a) the period of entitlement to invalidity pension began before 6 April 1987, or

(b) the period of entitlement to invalidity pension began on or after 6 April 1987 but before 4 January 1988 and who, immediately before that date, had been in receipt of ~~disability benefit~~ **illness benefit** for a period greater than 312 days,

subsection (1)(a) shall be read as if “156” were substituted for “260”.

(4) In the case of a person who is in receipt of invalidity pension where—

(a) the period of entitlement to invalidity pension began on or after 6 April 1987 and before 4 January 1988, or

(b) the period of entitlement to invalidity pension began on or after 4 January 1988 and who, immediately before that date, had been in receipt of ~~disability benefit~~ **illness benefit** for a period greater than 312 days,

subsection (1)(a) shall be read as if “208” were substituted for “260”.

(5) Subsections (3) and (4) shall not apply to any claim for invalidity pension where the period of incapacity for work begins on or after 7 July 1988.

⁹³² Subsection (3A) inserted by s.12(2)(c) SW&PA 2010

⁹³³ Amended by s. 4(c)(ii) SW(No. 2) A 2019

⁹³⁴ Substituted by s.4(b) SWA 2016; commenced by S.I. No. 546 of 2017

⁹³⁵ S 118(3) substituted with subsections (3) and (4) by s.16 SW&PA 2007

⁹³⁶ Substituted by s.4(c) SWA 2016; commenced by S.I. No. 546 of 2017

(6) Regulations may provide for modifications of the contribution conditions set out in subsection (1).

Contributions paid under the National Insurance Acts.

120. Contributions paid under the National Health Insurance Acts 1911 to 1952 by or in respect of an employed contributor may be taken into account in the manner and subject to the conditions and limitations that may be prescribed for the purpose of the satisfaction by the employed contributor of the contribution conditions for invalidity pension.

Rate of pension.

121. Subject to this Part, the weekly rate of invalidity pension shall be as set out in column (2) of Part 1 of Schedule 2.

Increases (including increases for qualified adult and qualified children.

122. (1) The weekly rate of invalidity pension shall be increased by the amount set out in column (3) of Part 1 of Schedule 2 for any period during which the beneficiary has a qualified adult, subject to the restriction that ⁹³⁷ 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.

~~(2) The weekly rate of invalidity pension shall be increased by the amount set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary.~~⁹³⁸

(2) The weekly rate of invalidity pension shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary.⁹³⁹

~~(3) Any increase of~~ ***Subject to subsections (3A) and (3B), any increases of***⁹⁴⁰ invalidity pension payable under subsection (2) in respect of a qualified child who normally resides with a beneficiary and with the spouse, ***civil partner or cohabitant***⁹⁴¹ of a beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, ***civil partner or cohabitant***⁹⁴² of the beneficiary is not a qualified adult, and subsection (2) shall be read and have effect accordingly.

(3A) Subsection (3) shall not apply and no increase of invalidity pension payable under subsection (2) in respect of a qualified child who normally resides with the beneficiary and with the spouse, civil partner or cohabitant of the beneficiary shall be payable where the weekly income of that spouse, civil partner or cohabitant, calculated or estimated in the manner that may be prescribed, exceeds the amount that may be prescribed.

(3B) Subsection (3A) shall not apply in the case of any claim for invalidity pension which is made before 5 July 2012.⁹⁴³

⁹³⁷ Uncommenced provision – Inserted by Sch. 6(2) of the SWCA 2005 and deleted prior to commencement by s.21 SW&PA 2014

⁹³⁸ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁹³⁹ Subsect. (2) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁹⁴⁰ Substituted by s.4(2)(d) SWA 2011

⁹⁴¹ Inserted by s.26 and Sch3 SW&PA 2010

⁹⁴² Inserted by s.26 and Sch3 SW&PA 2010

⁹⁴³ Ss. (3A) and (3B) inserted by s.4(2)(d) SWA 2011

(4) The weekly rate of invalidity pension shall be increased by the amount set out in column (6) of Part 1 of Schedule 2 where the beneficiary is living alone.

(5) The weekly rate of invalidity pension shall be increased by the amount set out in column (7) of Part 1 of Schedule 2 where the beneficiary has attained the age of 80 years.

(6) The weekly rate of invalidity pension shall be increased by the amount set out in column (8) of Part 1 of Schedule 2 where the beneficiary is ordinarily resident on an island.

CHAPTER 18

Widow's (Contributory) Pension or Widower's (Contributory) Pension

Interpretation.

123. In this Chapter—

“civil partner”, in relation to a surviving civil partner who has been party to a civil partnership more than once, refers only to the surviving civil partner’s last civil partner and for this purpose that last civil partner shall be read as including a party to a civil partnership that has been dissolved, being a dissolution that is recognised as valid in the State;⁹⁴⁴

~~“pension” means a widow’s (contributory) pension in the case of a widow and a widower’s (contributory) pension in the case of a widower;~~⁹⁴⁵

“pension” means a widow’s (contributory) pension in the case of a widow, a widower’s (contributory) pension in the case of a widower and a surviving civil partner’s (contributory) pension in the case of a surviving civil partner;⁹⁴⁶

~~“relevant time” means—~~

~~(a) where the contribution conditions are being satisfied on the widow’s or widower’s insurance record—~~

~~(i) the date of the spouse’s death, or~~

~~(ii) where the widow or widower attained pensionable age before the date of the spouse’s death, the date on which he or she attained that age,~~

~~or~~

~~(b) where the contribution conditions are being satisfied on the deceased spouse’s insurance record—~~

~~(i) the date on which the spouse attained pensionable age, or~~

~~(ii) where the spouse died before attaining pensionable age, the date of his or her death;~~⁹⁴⁷

“relevant time” means—

(a) where the contribution conditions are being satisfied on the widow’s, widower’s or

⁹⁴⁴ Inserted by s.17(3)(a) SWL&PA 2010

⁹⁴⁵ Substituted by s.17(3) SW&PA 2010

⁹⁴⁶ Substituted by s.17(3) SW&PA 2010

⁹⁴⁷ Substituted by s.17(3)(c) SW&PA 2010

surviving civil partner's insurance record—

(i) the date of the spouse's or civil partner's death, or

(ii) where the widow, widower or surviving civil partner attained pensionable age before the date of the spouse's or civil partner's death, the date on which he or she attained that age,

or

(b) where the contribution conditions are being satisfied on the deceased spouse's or deceased civil partner's insurance record—

(i) the date on which the spouse or civil partner attained pensionable age, or

(ii) where the spouse or civil partner died before attaining pensionable age, the date of his or her death;⁹⁴⁸

“spouse”, in relation to a widow or widower who has been married more than once, refers only to the widow's or widower's last spouse and for this purpose that last spouse shall be read as including a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State;

“widow” means a widow or a woman who would otherwise be a widow but for the fact that her marriage has been dissolved, being a dissolution that is recognised as valid in the State;

“widower” means a widower or a man who would otherwise be a widower but for the fact that his marriage has been dissolved, being a dissolution that is recognised as valid in the State;

“yearly average” means the average per contribution year of contribution weeks in respect of which the ~~widow, widower or deceased spouse~~ *widow, widower, deceased spouse, surviving civil partner or deceased civil partner*⁹⁴⁹ (as the case may be) has qualifying contributions, voluntary contributions or credited contributions in the appropriate period specified in ~~section 125(1)(b)~~ *section 125(1)(b) and where the average so calculated is a fraction of a whole number consisting of one-half or more it shall be rounded up to the nearest whole number and where it is a fraction of less than one-half it shall be rounded down to the nearest whole number.*⁹⁵⁰

Entitlement to pension.

~~124. (1) Subject to this Act, a widow or widower shall be entitled to pension—~~

~~(a) where the contribution conditions set out in section 125 are satisfied on either the insurance record of the widow or widower or that of his or her deceased spouse,~~

~~(b) where the widow's or widower's spouse was entitled to an old age (contributory) pension a *State pension (contributory)* or a retirement pension *State pension (transition)* which included an increase in respect of him or her by virtue of section 112(1) or 117(1) in respect of a period ending on the spouse's death, or~~

⁹⁴⁸ Substituted by s.17(3)(c) SW&PA 2010

⁹⁴⁹ Substituted by s.17(3)(c) SW&PA 2010

⁹⁵⁰ Substituted by s.3(3)SWA 2012

~~(c) where his or her spouse would have been entitled to an old age (contributory) pension a *State pension (contributory)* or a retirement pension *State pension (transition)* at an increased weekly rate by virtue of section 112(1) or 117(1), but for the receipt by that widow or widower of an old age (non-contributory) pension a *State pension (non-contributory)* a blind pension or a carer's allowance in his or her own right, in respect of a period ending on his or her death.~~

~~(2) A pension shall not be payable to a widow or widower for any period after his or her remarriage.~~

~~(3) A widow or widower shall be disqualified for receiving a pension if and so long as he or she and any person are cohabiting as husband and wife.~~

~~(4) A person who, having ceased to be entitled to a pension by virtue of that person's remarriage, shall, on again becoming a widow or widower, be entitled to a pension at the rate which would have been payable had the person not remarried where the person—~~

~~(a) fails to satisfy the conditions set out in subsection (1), or~~

~~(b) on satisfying the conditions set out in subsection (1), is entitled to a pension at a rate below that which would have been payable had the person not remarried.⁹⁵¹~~

Entitlement to pension.

124. (1) Subject to this Act, a widow, widower or surviving civil partner shall be entitled to a pension—

(a) where the contribution conditions set out in section 125 are satisfied on either the insurance record of the widow, widower or surviving civil partner or that of his or her deceased spouse or deceased civil partner,

(b) where the widow's or widower's spouse or surviving civil partner's civil partner was entitled to a State pension (contributory) or a State pension (transition) which included an increase in respect of him or her by virtue of section 112(1) or 117(1) in respect of a period ending on the spouse's or civil partner's death, or

(c) where his or her spouse or civil partner would have been entitled to a State pension (contributory) or a State pension (transition) at an increased weekly rate by virtue of section 112(1) or 117(1), but for the receipt by that widow, widower or surviving civil partner of a State pension (noncontributory), a blind pension or a carer's allowance in his or her own right, in respect of a period ending on his or her death.

(2) A pension shall not be payable to a widow or widower or surviving civil partner for any period after his or her marriage or remarriage, or his or her entry into a civil partnership or a new civil partnership.

(3) A widow, widower or surviving civil partner shall be disqualified for receiving a pension if and so long as he or she is a cohabitant.

(4) A person who, having ceased to be entitled to a pension by virtue of that person's marriage or remarriage, or his or her entry into a civil partnership or a new civil partnership shall, on again becoming a widow, widower or surviving civil partner, be entitled to a

⁹⁵¹ Substituted by s.17(4) SW&PA 2010

pension at the rate which would have been payable had the person not married, remarried, entered into a civil partnership or a new civil partnership where the person—

(a) fails to satisfy the conditions set out in subsection (1), or

(b) on satisfying the conditions set out in subsection (1), is entitled to a pension at a rate below that which would have been payable had the person not married, or remarried or not entered into a civil partnership or a new civil partnership.⁹⁵²

Conditions for receipt.

125. ~~(1) The contribution conditions for pension are—~~

~~(a) that the widow or widower has qualifying contributions in respect of not less than 156 contribution weeks in the period beginning with his or her entry into insurance and ending immediately before the relevant time, and~~

~~(b) that, where at the relevant time, 4 years or longer has elapsed since the widow's or widower's entry into insurance—~~

~~(i) the yearly average for the 3 contribution years, or (where warranted by his or her insurance record) 5 contribution years, ending with the end of the last complete contribution year before the relevant time is not less than 39, or~~

~~(ii) the yearly average in respect of the period commencing at the beginning of the contribution year in which his or her entry into insurance occurred and ending at the end of the last complete contribution year before the relevant time is not less than 48,~~

~~but, where those conditions are not satisfied on the widow's or widower's insurance record, they may be satisfied on his or her deceased spouse's insurance record (the widow's or widower's insurance record being disregarded).⁹⁵³~~

(1) The contribution conditions for pension are—

~~(a) that the widow, widower or surviving civil partner has qualifying contributions in respect of not less than 156 contribution weeks in the period beginning with his or her entry into insurance and ending immediately before the relevant time, and⁹⁵⁴~~

(a) that the widow, widower or surviving civil partner has qualifying contributions in respect of not less than 260 contribution weeks in the period beginning with his or her entry into insurance and ending immediately before the relevant time, and

(b) that, where at the relevant time, 4 years or longer has elapsed since the widow's, widower's or surviving civil partner's entry into insurance—

(i) the yearly average for the 3 contribution years, or (where warranted by his or her insurance record) 5 contribution years, ending with the end of the last complete contribution year before the relevant time is not less than 39, or

⁹⁵² Substituted by s.17(4) SW&PA 2010

⁹⁵³ Substituted by s.17(5) SW&PA 2010

⁹⁵⁴ Substituted by s.6 SWA 2011

(ii) the yearly average in respect of the period commencing at the beginning of the contribution year in which his or her entry into insurance occurred and ending at the end of the last complete contribution year before the relevant time is not less than 48,

but, where those conditions are not satisfied on the widow's, widower's or surviving civil partner's insurance record, they may be satisfied on his or her deceased spouse's or deceased civil partner's insurance record (the widow's, widower's or surviving civil partner's insurance record being disregarded).⁹⁵⁵

(1A) Where the date of death occurs before 27 December 2013, subsection (1)(a) shall be read as if '156' were substituted for '260'.⁹⁵⁶

(2) Regulations may provide for modifications of the meaning of yearly average contained in section 123 or of the contribution conditions set out in this section.

(3) Subject to subsection (4), regulations may provide for entitling to pension a person who would be entitled to that pension but for the fact that the contribution condition in subsection (1)(b) is not satisfied.

(4) Regulations for the purposes of subsection (3) shall provide that pension payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 2, and the rates specified by the regulations may vary with the extent to which the contribution condition in subsection (1)(b) is satisfied, but any increase of pension payable under section 127(1) shall be the same as if that condition had been fully satisfied.

(5) Subject to subsection (6), regulations may provide for entitling to pension a person who would be entitled to that pension but for the fact that the contribution condition in subsection (1)(b) is not satisfied by reference to the insurance record of a person where that person, having earlier ceased to be an employed contributor, became an employed contributor as a consequence of the coming into operation of section 12 of the Social Welfare Act 1973.

(6) Regulations for the purposes of subsection (5) shall provide that pension payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 2, and the rates specified by the regulations may vary with the extent to which the contribution condition in subsection (1)(b) is satisfied.

(7) Where a person becomes an employed contributor by virtue of paragraph (b) of section 12(1) and would not, apart from that paragraph, be an employed contributor, his or her entry into insurance by virtue of that paragraph is deemed not to be an entry into insurance for the purposes of subsection (1) and for those purposes the person's entry into insurance is deemed to occur when he or she first becomes an employed contributor by virtue of paragraph (a) of section 12(1).

(8) In the case of a person who became a self-employed contributor on 6 April 1988 and who at any time before that date was an employed contributor, the date on which the person first entered into insurance or 6 April 1988, whichever is more favourable, shall be regarded as the date of entry into insurance for the purposes of subsection (1)(b).

⁹⁵⁵ Substituted by s.17(5) SW&PA 2010

⁹⁵⁶ Inserted by s.6(b) SWA 2011

Rate of pension.

126. Subject to this Act, the weekly rate of pension shall be as set out in column (2) of Part 1 of Schedule 2.

Increases (including increases for qualified children).

127. ~~(1) The weekly rate of pension shall be increased by the amount set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary.~~⁹⁵⁷

(1) The weekly rate of pension shall be increased by the amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary.⁹⁵⁸

(2) The weekly rate of pension shall be increased by the amount set out in column (6) of Part 1 of Schedule 2 where the beneficiary has attained pensionable age and is living alone.

(3) The weekly rate of pension shall be increased by the amount set out in column (7) of Part 1 of Schedule 2 where the beneficiary has attained the age of 80 years.

(4) The weekly rate of pension shall be increased by the amount set out in column (8) of Part 1 of Schedule 2 where the beneficiary has attained pensionable age and is ordinarily resident on an island.

Disregard of self-employment contributions in certain cases.

128. (1) In the case of any claim for pension made on or after 6 April 1995, where the insurance record of a person who, having been a self-employed contributor, is being used to establish entitlement to pension, the contribution conditions contained in section 125 shall not be regarded as having been satisfied unless, in accordance with section 21—

(a) the person has paid self-employment contributions in respect of at least 1 contribution year before the relevant time, and

(b) all self-employment contributions payable by the person have been paid.

~~(2) Notwithstanding subsection (1), where the Minister is satisfied that in all the circumstances of the case it would be appropriate to do so, he or she may direct that subsection (1) shall not be applied in that case.~~⁹⁵⁹

(2) A pension shall not be payable in respect of any period preceding the date on which all self-employment contributions, referred to in subsection (1)(b), payable by the person concerned have been paid.⁹⁶⁰

(3) Where the person has paid all contributions due under subsection (1)(b) other than contributions payable in respect of the last complete contribution year before the relevant time, subsection (2) shall not apply in respect of such person.⁹⁶¹

⁹⁵⁷ Subsect. (1) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁹⁵⁸ Subsect. (1) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

⁹⁵⁹ Substituted by s.10 SW&P(No. 2)A 2009

⁹⁶⁰ Substituted by s.10 SW&P(No. 2)A 2009

(4) Subsection (2) shall not apply to a claim for pension made on or before 31 December 2009.⁹⁶²

Certain claims.

129. (1) (a) Entitlement to pension which is due to be determined by reference to the insurance record of a person who attained the age of 69 years before 5 January 1976 may be determined under the provisions of the Acts relating to social welfare in operation before 1 July 1974 where this would be to the advantage of the widow *or surviving civil partner*.⁹⁶³

(b) A widow who, under the provisions of the Acts relating to social welfare in operation before 1 July 1974, has been awarded a pension on the basis of her own or her spouse's insurance record at the date on which she or her spouse attained the then pensionable age shall on and after 1 July 1974 have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in her case under those provisions.

(2) (a) Entitlement to pension which is due to be determined by reference to the insurance record of a person who attained the age of 68 years before 3 January 1977, may be determined under the provisions of the Acts relating to social welfare in operation before 1 April 1975 where this would be to the advantage of the widow *or surviving civil partner*.⁹⁶⁴

(b) A widow who, under the provisions of the Acts relating to social welfare in operation before 1 April 1975, has been awarded a pension on the basis of her own or her spouse's insurance record at the date on which she or her spouse attained the then pensionable age shall on and after 1 April 1975 have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in her case under those provisions.

(3) (a) Entitlement to pension which is due to be determined by reference to the insurance record of a person who attained the age of 67 years before 1 January 1979 may be determined under the provisions of the Acts relating to social welfare in operation before 1 October 1977 where this would be to the advantage of the widow *or surviving civil partner*.⁹⁶⁵

(b) A widow *or surviving civil partner*⁹⁶⁶ who, under the provisions of the Acts relating to social welfare in operation before 1 October 1977, has been awarded a pension on the basis of her own or her spouse's insurance record at the date on which she or her spouse attained the then pensionable age shall on and after 1 October 1977 have a right to that pension at the rate for the time being payable by reference to a yearly average equal to the yearly average calculated in her case under those provisions.

⁹⁶¹ Substituted by s.10 SW&P(No. 2)A 2009

⁹⁶² Substituted by s.10 SW&P(No.2)A 2009

⁹⁶³ Inserted by s.26 and Sch3 SW&PA 2010

⁹⁶⁴ Inserted by s.26 and Sch3 SW&PA 2010

⁹⁶⁵ Inserted by s.26 and Sch3 SW&PA 2010

⁹⁶⁶ Inserted by s.26 and Sch3 SW&PA 2010

CHAPTER 19

Orphan's (Contributory) Allowance Guardian's Payment (Contributory)

Entitlement to allowance.

130. (1) Subject to this Act, ~~orphan's (contributory) allowance~~ ***guardian's payment (contributory)*** shall be payable in respect of an orphan where the contribution condition in section 131 is satisfied.

~~(2) Orphan's (contributory) allowance Guardian's payment (contributory) shall not be payable for any period during which a payment is made under Article 14 of the Child Care (Placement of Children in Foster Care) Regulations 1995 (S.I. No. 260 of 1995) or Article 14 of the Child Care (Placement of Children with Relatives) Regulations 1995 (S.I. No. 261 of 1995).⁹⁶⁷~~

(2) Guardian's payment (contributory) shall not be payable for any period during which a payment is made in respect of a child under Part VI of the Child Care Act 1991 and regulations made thereunder.⁹⁶⁸

Condition for receipt.

131. (1) The contribution condition for ~~orphan's (contributory) allowance~~ ***guardian's payment (contributory)*** is that one of the following persons has qualifying contributions for not less than 26 contribution weeks—

- (a) a parent of the orphan,
- (b) a step-parent of the orphan.

(2) Regulations may provide for modifications of the contribution conditions set out in this section.

Rate of allowance.

132. Subject to this Part, the weekly rate of ~~orphan's (contributory) allowance~~ ***guardian's payment (contributory)*** shall be as set out in Part 1 of Schedule 2.

Payment of allowance.

133. (1) Subject to subsection (3), ~~orphan's (contributory) allowance~~ ***guardian's payment (contributory)*** shall be paid to the guardian of the orphan in respect of whom the ~~allowance~~ payment⁹⁶⁹ is payable.

(2) In this Chapter "guardian" means the person in whose care an orphan normally resides.

(3) The Minister may, where he or she thinks fit, direct that a payment under this Chapter, payable to the guardian of an orphan, be paid to some other person for the benefit of the orphan or, subject to the conditions and in the circumstances that may be prescribed, directly to an orphan who has attained the age of 18 years where that orphan is not normally residing with a guardian.

⁹⁶⁷ S. 130(2) substituted by s. 17(a) SW&PA 2007

⁹⁶⁸ S. 130(2) substituted by s. 17(a) SW&PA 2007

⁹⁶⁹ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

CHAPTER 20
Bereavement Grant

Entitlement to grant.

134. ~~(1) Subject to this Act, a bereavement grant shall be payable, to the person or persons that may be prescribed, on the death of~~

- (a) ~~(i) a pensioner,~~
 - ~~(ii) a qualified adult,~~
 - ~~(iii) a spouse, *civil partner or cohabitant*⁹⁷⁰ of a pensioner,~~
 - ~~(iv) a qualified child in respect of whom an increase of pension specified in paragraphs (a) to (f) in the definition of “pensioner” in subsection (3) was being paid at the time of death,~~
 - ~~(v) an orphan, or~~
 - ~~(vi) a person to whom an orphan’s (contributory) allowance a *guardian’s payment (contributory)* is payable under section 133, or~~
- (b) ~~(i) an insured person,~~
 - ~~(ii) the spouse, *civil partner or cohabitant*⁹⁷¹ of an insured person,~~
 - ~~(iii) the widow or widower of a deceased insured person, or⁹⁷²~~
 - ~~(iii) the widow, widower or surviving civil partner of a deceased insured person, or⁹⁷³~~
 - ~~(iv) a qualified child other than a qualified child referred to in paragraph (a)(iv),~~
 - ~~where the contribution conditions in section 135 are satisfied.⁹⁷⁴~~

(1) Subject to this Act, a bereavement grant shall be payable to the person or persons that may be prescribed—

- (a) on the death, before 1 January 2014, of—
 - (i) a pensioner,
 - (ii) a qualified adult,
 - (iii) a spouse, civil partner or cohabitant of a pensioner,
 - (iv) a qualified child in respect of whom an increase of pension specified in paragraphs (a) to (f) in the definition of ‘pensioner’ in subsection (3) was being paid at the time of death,

⁹⁷⁰ Inserted by s.26 and Sch3 SW&PA 2010

⁹⁷¹ Inserted by s.26 and Sch3 SW&PA 2010

⁹⁷² Substituted by s.17(6)(a) SW&PA 2010

⁹⁷³ Substituted by s.17(6)(a) SW&PA 2010

⁹⁷⁴ Substituted by s.8(1) SW&PA 2013

(v) an orphan, or

(vi) a person to whom a guardian's payment (contributory) is payable under section 133, or

(b) where the contribution conditions in section 135 are satisfied, on the death, before 1 January 2014, of—

(i) an insured person,

(ii) the spouse, civil partner or cohabitant of an insured person,

(iii) the widow, widower or surviving civil partner of a deceased insured person, or

(iv) a qualified child other than a qualified child referred to in paragraph (a)(iv).⁹⁷⁵

(2) Only one bereavement grant shall be paid by virtue of this section on any one death.

(3) In this Chapter—

“orphan” means a person in respect of whom ~~an orphan's (contributory) allowance~~ a **guardian's payment (contributory)** is payable under Chapter 19;

“pensioner” means a person who, at the time of his or her death, was in receipt of one of the following payments—

(a) ~~old age (contributory) pension~~ **State pension (contributory)**,

(b) ~~retirement pension~~ **State pension (transition)**,

(c) invalidity pension,

(d) widow's (contributory) pension,

(e) widower's (contributory) pension, ~~or~~⁹⁷⁶

(f) deserted wife's benefit, **or**⁹⁷⁷

(g) surviving civil partner's (contributory) pension⁹⁷⁸

or would have been in receipt of one of those payments but for receipt by the person of an ~~old age (non-contributory) pension~~ **State pension (non-contributory)**, a blind pension, a widow's (non-contributory) pension or widower's (non-contributory) pension ~~or a carer's allowance at a higher rate~~ **a surviving civil partner's (non-contributory) pension or a carer's allowance at a higher rate**⁹⁷⁹;

“qualified adult” means a person in respect of whom an increase of benefit specified in paragraphs (a) to (c) in the definition of “pensioner” was being paid at the time of death, or in

⁹⁷⁵ Substituted by s.8(1) SW&PA 2013

⁹⁷⁶ Deleted by s.17(6)(b)(i) SW&PA 2010

⁹⁷⁷ Inserted s.17(6)(b)(ii) SW&PA 2010

⁹⁷⁸ Inserted s.17(6)(b)(iii) SW&PA 2010

⁹⁷⁹ Substituted by s.17(6)(b)(iv) SW&PA 2010

respect of whom that increase would have been payable but for the receipt by the qualified adult of an old age (non-contributory) pension a *State pension (non-contributory)* a blind pension or a carer's allowance in his or her own right;

~~“qualified child”, in section 134(1)(b), means a person—~~

~~(a) who, at the date of death, is under the age of 18 years or over the age of 18 years and under the age of 22 years, and is receiving full-time education, the circumstances of which will be specified in regulations,~~

~~(b) who is ordinarily resident in the State on that date, and~~

~~(c) in respect of whose death the relevant contribution conditions for bereavement grant are not satisfied by the person's insurance or the insurance of that person's spouse;⁹⁸⁰~~

“qualified child”, in section 134(1)(b), means -

(a) a person –

(i) who, at the date of death, is under the age of 18 years or over the age of 18 years and under the age of 22 years, and is receiving full-time education, the circumstances of which will be specified in regulations,

(ii) who is ordinarily resident in the State on that date, and

(iii) in respect of whose death the relevant contribution conditions for bereavement grant are not satisfied by the person's insurance or the insurance of that person's spouse *or civil partner*⁹⁸¹,

or

(b) a person who, at the date of death, is over the age of 16 years and under the age of 22 years and is in receipt of disability allowance.⁹⁸²

“relevant date” means the date of death of the deceased person or the date of death of the relevant insured person or the date of attainment of pensionable age of the relevant insured person, whichever occurs first, whether the deceased is the relevant insured person or not;

“relevant insured person” means—

(a) in case the deceased person was a qualified child—

(i) the father or mother of the deceased person,

(ii) the person with whom the deceased person at the date of death is determined, in accordance with regulations made under section 3(5), to have been normally residing or with whom he or she would have been normally so residing if he or she had not been committed to a reformatory or an industrial school *children detention school*,⁹⁸³ or

⁹⁸⁰ Definition of “qualified child” substituted by s. 18 SW&PA 2007

⁹⁸¹ Inserted by s.26 and Sch3 SW&PA 2010

⁹⁸² Definition of “qualified child” substituted by s. 18 SW&PA 2007

⁹⁸³ Substituted by s.9(c) SW(MP)A 2008

(iii) the spouse *or, civil partner*⁹⁸⁴ of the person referred to in subparagraph (ii),

or

(b) in any other case, the deceased person or the spouse *or, civil partner*⁹⁸⁵ of the deceased person;

“yearly average” means the average per contribution year of contribution weeks in respect of which the relevant insured person has qualifying contributions, voluntary contributions or credited contributions in the appropriate period specified in ~~section 135(1)(b)(ii)~~. *section 135(1)(b)(ii) and where the average so calculated is a fraction of a whole number consisting of one-half or more it shall be rounded up to the nearest whole number and where it is a fraction of less than one-half it shall be rounded down to the nearest whole number.*⁹⁸⁶

Conditions for receipt.

135. (1) The contribution conditions for a bereavement grant are that before the relevant date the relevant insured person has qualifying contributions in respect of not less than—

(a) 156 contribution weeks since his or her entry into insurance, or

(b) 26 contribution weeks since his or her entry into insurance, and

(i) has qualifying contributions, voluntary contributions or credited contributions in respect of not less than 39 contribution weeks in the second last complete contribution year before the beginning of the benefit year in which the relevant date occurs, or

(ii) has a yearly average of 39 qualifying contributions, voluntary contributions or credited contributions for the 3 or 5 complete contribution years immediately before the last complete contribution year before the beginning of the benefit year in which the relevant date occurs, or

(iii) has a yearly average of 26 qualifying contributions, voluntary contributions or credited contributions since his or her entry into insurance or the beginning of the contribution year beginning on 6 April 1979 (whichever is the later) and ending at the end of the last complete contribution year before the beginning of the benefit year in which the relevant date occurs, or

(iv) has a yearly average of 26 qualifying contributions, voluntary contributions or credited contributions since his or her entry into insurance or the beginning of the contribution year next following 1 October 1970 (whichever is the later) and ending at the end of the last complete contribution year before the beginning of the benefit year in which the relevant date occurs.

(2) Regulations may provide for modifications of the contribution conditions for receipt of bereavement grant.

(3) Regulations may provide for modifications of the contribution conditions for bereavement grant in the case of a person who was an insured person on 1 October 1970 and who, during

⁹⁸⁴ Inserted by s.26 and Sch3 SW&PA 2010

⁹⁸⁵ Inserted by s.26 and Sch3 SW&PA 2010

⁹⁸⁶ Substituted by s.3(4) SWA 2012

the year after that date, was absent from the State for any period or was credited with contributions in respect of any period of unemployment, incapacity for work or retirement or is or becomes a voluntary contributor paying contributions at the rate specified in section 25(1)(b)(ii).

Amount of grant.

136. Subject to this Act, the amount of bereavement grant shall be as set out in column (2) of Part 5 of Schedule 2.

CHAPTER 21 *Widowed Parent Grant*

Entitlement to Grant.

~~137. (1) Subject to this Act, a grant (in this section referred to as a “widowed parent grant”) of €2,700 €4,000,⁹⁸⁷ €6,000⁹⁸⁸ or any higher amount that may be prescribed, shall be paid to a widowed parent on the death of his or her spouse.~~

~~(2) 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 and in relation to a widow or widower who has been married more than once, refers only to the widow’s or widower’s last spouse;~~

~~“widow” includes a woman who would otherwise be a widow but for the fact that her marriage has been dissolved, being a dissolution that is recognised as valid in the State;~~

~~“widowed parent” means a widow or widower who—~~

~~(a) has at least one qualified child who normally resides with him or her, and~~

~~(b) (i) is entitled to or in receipt of bereavement grant, or~~

~~(ii) is entitled to or in receipt of—~~

~~(I) death benefit under section 81, or~~

~~(II) widow’s (contributory) pension, or~~

~~(III) widower’s (contributory) pension, or~~

~~(IV) widow’s or widower’s (contributory) pension by virtue of Council Regulation (EEC) No. 1408/71⁹⁸⁹ of the Council of 14 June 1971 or by virtue of a reciprocal agreement under section 287, or⁹⁹⁰~~

~~(II) widow’s (contributory) pension under Chapter 18 of Part 2, or~~

~~(III) widower’s (contributory) pension under Chapter 18 of Part 2, or~~

~~(IV) widow’s (contributory) pension under Chapter 18 of Part 2 or widower’s (contributory) pension under Chapter 18 of Part 2 by virtue~~

⁹⁸⁷ Substituted by s. 9(1) SWA 2006

⁹⁸⁸ Substituted by s. 7(1) SWA 2007

⁹⁸⁹ OJ No. L149, 5.7.1971, p. 2

⁹⁹⁰ Clauses II, II, & IV substituted by s. 19 SW&PA 2007

of Council Regulation (EEC) No. 1408/71⁹⁹¹ of the Council of 14 June 1971⁹⁹² or by virtue of a reciprocal agreement under section 287, or⁹⁹³

~~(V) one parent family payment, or~~

~~(VI) State pension (non contributory),⁹⁹⁴~~

~~which includes an increase in respect of a qualified child;⁹⁹⁵~~

~~“widowed parent” means a widow or widower—~~

~~(a) who—~~

~~(i) in the case of a widow, has at least one qualified child who normally resides with her at the date of death of her spouse or whose child is born within 10 months of the date of death of her spouse, or~~

~~(ii) in the case of a widower, has at least one qualified child who normally resides with him at the date of death of his spouse, and~~

~~(b) who—~~

~~(i) is entitled to or in receipt of bereavement grant, or~~

~~(ii) is entitled to or in receipt of—~~

~~(I) death benefit under section 81, or~~

~~(II) widow’s (contributory) pension under Chapter 18 of Part 2, or~~

~~(III) widower’s (contributory) pension under Chapter 18 of Part 2, or~~

~~(IV) widow’s (contributory) pension under Chapter 18 of Part 2 or widower’s (contributory) pension under Chapter 18 of Part 2 by virtue of Council Regulation (EEC) No. 1408/71 of the Council of 14 June 1971⁹⁹⁶ or by virtue of a reciprocal agreement under section 287, or~~

~~(V) one parent family payment, or~~

~~(VI) State pension (non contributory),~~

~~which includes an increase in respect of a qualified child;⁹⁹⁷~~

~~“widower” includes a man who would otherwise be a widower but for the fact that his marriage has been dissolved, being a dissolution that is recognised as valid in the State.⁹⁹⁸~~

⁹⁹¹ OJ No. L149, 5.7.1971, p.2

⁹⁹² OJ No. L149, 5.7.1971, p.2

⁹⁹³ Clauses II, III & IV substituted by s. 19 SW&PA 2007

⁹⁹⁴ Substituted by s. 18 SWLR&PA 2006

⁹⁹⁵ Substituted by s.11 SW(MP)A 2008

⁹⁹⁶ OJ No. L149, 5.7.1971, p.2

⁹⁹⁷ Substituted by s.11 SW(MP)A 2008

⁹⁹⁸ Substituted by s.18 SW&PA 2010

Entitlement to widowed or surviving civil partner grant.

137. (1) Subject to this Act, a grant (in this section referred to as a ‘widowed or surviving civil partner grant’) of ~~€6,000~~ **€8,000**⁹⁹⁹ or any higher amount that may be prescribed, shall be paid to a widow, widower or surviving civil partner on the death of his or her spouse, ~~*civil partner or cohabitant*~~¹⁰⁰⁰ or civil partner *spouse or civil partner*¹⁰⁰¹ who—

(a) is entitled to or in receipt of bereavement grant, or

(b) is entitled to or in receipt of—

(i) death benefit under section 81,

(ii) widow’s (contributory) pension under Chapter 18 of Part 2,

(iii) widower’s (contributory) pension under Chapter 18 of Part 2,

(iv) widow’s (contributory) pension under Chapter 18 of Part 2 or widower’s (contributory) pension under Chapter 18 of Part 2 by virtue of Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 or by virtue of a reciprocal agreement under section 287,

(v) one-parent family payment,

(vi) State pension (non-contributory), or

(vii) surviving civil partner (contributory) pension under Chapter 18 of Part 2,

which includes an increase in respect of a qualified child.

(2) 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 and in relation to a widow or widower who has been married more than once, refers only to the widow’s or widower’s last spouse;

“surviving civil partner” means a surviving civil partner who has at least one qualified child who normally resides with him or her at the date of death of his or her civil partner;

“widow” means a person who has at least one qualified child who normally resides with her at the date of death of her spouse or whose child is born within 10 months of the date of death of her spouse, and includes a woman who would otherwise be a widow but for the fact that her marriage has been dissolved, being a dissolution that is recognised as valid in the State;

“widower” means a person who has at least one qualified child who normally resides with him at the date of death of his spouse, and includes a man who would otherwise be a widower but for the fact that his marriage has been dissolved, being a dissolution that is recognised as valid in the State.¹⁰⁰²

⁹⁹⁹ Substituted by Section 9 of the SWA 2020

¹⁰⁰⁰ Inserted by s.26 and Sch3 SW&PA 2010

¹⁰⁰¹ Substituted by s.7(2) SW&P(MP)A 2013

¹⁰⁰² Substituted by s.18 SW&PA 2010

CHAPTER 22
Treatment Benefit

General provisions as to benefit.

138. (1) A person shall, subject to satisfaction of the prescribed conditions, be entitled to such treatment benefit as may be specified by regulations.

~~(2) The regulations for the purposes of this section may specify the payment of the whole or any part of the cost of any of the following—~~

~~(a) dental treatment,~~

~~(b) optical treatment and appliances,~~

~~(c) hearing aids,~~

~~(d) any other benefits of the same character as any of those mentioned in paragraphs (a) to (c).¹⁰⁰³~~

(2) The regulations, for the purposes of this section, may specify the payment of the whole or any part of the cost of any of the following:

~~(a) the carrying out of a dental examination;¹⁰⁰⁴~~

(a) dental treatment;

~~(b) the carrying out of an optical examination;¹⁰⁰⁵~~

(b) optical treatment and appliances;

(c) appliances provided under the scheme commonly known as the Medical Appliances Scheme¹⁰⁰⁶; ¹⁰⁰⁷

(d) non-surgical hair replacement for persons suffering from hair loss (other than physiological hair loss) resulting from a disease, or treatment for a disease.¹⁰⁰⁸

(3) The payments referred to in subsection (2) shall not exceed in the aggregate such sums as may from time to time be agreed on between the Minister and the ~~Minister for Finance~~ ***Minister for Public Expenditure and Reform¹⁰⁰⁹***.

(4) This section shall remain in force until the day appointed under subsection (5) and shall then expire.

(5) The Minister may by order appoint a day to be the day on which this section expires.

¹⁰⁰³ Substituted by s.11 SW&P(No. 2)A 2009

¹⁰⁰⁴ Substituted by s.9(b)(i) SWA 2016 following commencement of S.I. no. 463 of 2017

¹⁰⁰⁵ Substituted by s.9(b)(ii) SWA 2016 following commencement of S.I. No. 463 of 2017

¹⁰⁰⁶ Substituted by s.11 SW&P(No. 2)A 2009

¹⁰⁰⁷ Substituted by s.12(1)(a) SWA 2021

¹⁰⁰⁸ Sub-par d Inserted by s.12(1)(b) SWA 2021

¹⁰⁰⁹ Substituted by Regulation 3 and Sch. 1 of S.I. 418 of 2011

PART 3

SOCIAL ASSISTANCE

CHAPTER 1

Description of Social Assistance

Description of assistance.

139. (1) Assistance under this Part shall be of the following descriptions and is, in each case, so described in this Act—

- (a) ~~unemployment assistance~~ *jobseeker's allowance*,
- (b) pre-retirement allowance,
- (c) ~~old age (non-contributory) pension~~ *State pension (non-contributory)*,
- (d) blind pension,
¹⁰¹⁰
- (e) ~~widow's (non-contributory) pension, widower's (non-contributory) pension and orphan's (non-contributory) pension~~ *guardian's payment (non-contributory)*,¹⁰¹¹
- (e) widow's (non-contributory) pension, widower's (non-contributory) pension, surviving civil partner's (non-contributory) pension and guardian's payment (non-contributory),¹⁰¹²
- (f) ~~widowed parent grant (paid by virtue of receipt of one parent family payment under this Part)~~,¹⁰¹³
- (f) ~~widowed parent grant (paid by virtue of receipt of one parent family payment or State pension (non-contributory) under this Part)~~,^{1014 1015}
- (f) widowed or surviving civil partner grant (paid by virtue of one-parent family payment or State pension (non-contributory) under this Part),¹⁰¹⁶
- (g) one-parent family payment,
- (h) carer's allowance,
- (ha) *domiciliary care allowance*,¹⁰¹⁷
- (i) supplementary welfare allowance,
- (j) disability allowance, and
- (k) farm assist.

¹⁰¹⁰ Uncommenced provision - see s.13(b) [SW&PA 2008](#)

¹⁰¹¹ Substituted by s.19(1)(a) SW&PA 2010

¹⁰¹² Substituted by s.19(1)(a) SW&PA 2010

¹⁰¹³ Substituted by s.19 SWLR&PA 2006

¹⁰¹⁴ Substituted by s.19 SWLR&PA 2006

¹⁰¹⁵ Substituted by s.19(1)(b) SW&PA 2010

¹⁰¹⁶ Substituted by s.19(1)(b) SW&PA 2010

¹⁰¹⁷ Inserted by s. 16(a) SW & PA 2008

(2) Assistance shall be paid out of moneys provided by the Oireachtas.

CHAPTER 2

~~Unemployment Assistance~~ *Jobseeker's Allowance*

Interpretation.

140. (1) In this Chapter—

“beneficiary” means a person entitled to ~~unemployment assistance~~ *jobseeker's allowance*;

“weekly means”, subject to subsection (2) and Rule 1(1), (5), (6) or (7), as the case may be, of Part 2 of Schedule 3 shall be the yearly means divided by 52 but the amount so calculated shall be rounded up to the nearest €1 where it is a multiple of 50 cent but not also a multiple of €1 and shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1.

(2) In this Chapter references to means shall be read as references to means as calculated in accordance with the Rules contained in Part 2 of Schedule 3.

(3) Where, immediately before 29 July 1992, a person was entitled to or in receipt of ~~unemployment assistance~~ *jobseeker's allowance* any decision by a deciding officer or an appeals officer in relation to the means of that person for the purposes of that person qualifying for a qualification certificate is deemed to be a decision under section 141(1)(c).

Entitlement to assistance.

141. (1) Subject to this Act, a person shall be entitled to ~~unemployment assistance~~ *jobseeker's allowance* in respect of any week of unemployment where—

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

(b) the person proves unemployment in the prescribed manner, and

(c) the person's weekly means, subject to subsection (2)(d), do not exceed the amount of ~~unemployment assistance~~ *jobseeker's allowance* (including any increases of ~~unemployment assistance~~ *jobseeker's allowance*) that would be payable to the person under this Chapter if that person had no means.

(1A) Without prejudice to the generality of subsection (1)(b), for the purposes of that subsection a person may prove unemployment and may make a declaration for that purpose, by means of an electronic communication, in the prescribed manner.¹⁰¹⁸

(2) ~~(a) Otherwise than as provided for in regulations, a person shall not be entitled to unemployment assistance *jobseeker's allowance* in respect of the first 3 days of unemployment in any continuous period of unemployment.~~

*(a) A person shall not, except as provided for by regulations made with the consent of the Minister for Public Expenditure and Reform, be entitled to jobseeker's allowance for the first 3 days of unemployment in any continuous period of unemployment.*¹⁰¹⁹

¹⁰¹⁸ Ss (1A) inserted by s.4(d) SW&PA 2010

¹⁰¹⁹ Substituted by s.8 H(PPEMPI)A 2020

(b) For the purpose of this section, any period before the relevant date of application for ~~unemployment assistance~~ **jobseeker's allowance** shall not be reckoned as, or as part of, a continuous period of unemployment.

(c) Any period during which a person is disqualified for receiving ~~unemployment assistance~~ **jobseeker's allowance** shall not be reckoned in the computation of any continuous period of unemployment of that person.

(ca) Where the spouse, **civil partner or cohabitant**¹⁰²⁰ of a claimant for jobseeker's allowance is a spouse, **civil partner or cohabitant**¹⁰²¹ referred to in Part 6, and is in receipt of a payment under Part 6, the means of the claimant shall be taken to be one-half the means.¹⁰²²

~~(d) Where the spouse of a claimant for unemployment assistance jobseeker's allowance is not the claimant's qualified adult or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 297, the means of the claimant shall be taken to be one-half the means.~~¹⁰²³

(d) Subject to paragraph (e), where the spouse, **civil partner or cohabitant**¹⁰²⁴ of a claimant for jobseeker's allowance is a spouse, **civil partner or cohabitant**¹⁰²⁵ referred to in any of subparagraphs (iii) to (vii) of section 2(2)(a), the means of the claimant shall be taken to be one-half the means.

(e) Notwithstanding paragraph (d), where, in the 4 weeks immediately before the commencement of *section 9* of the *Social Welfare and Pensions Act 2007* a person was entitled to or in receipt of jobseeker's allowance in respect of any day of unemployment and the spouse of the claimant for jobseeker's allowance is not the claimant's qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 297, the means of the claimant shall be taken to be one-half the means or the means calculated in accordance with paragraph (d), whichever is the more favourable.

(f) Where the means of a claimant are calculated at any time in accordance with paragraph (e) and are subsequently calculated in accordance with paragraph (d), paragraph (e) shall no longer apply to the claimant.

(g) Where, for any period of not less than 4 consecutive weeks after the commencement of *section 9* of the *Social Welfare and Pensions Act 2007*, a claimant whose means were calculated in accordance with paragraph (e) ceases to be entitled to or in receipt of jobseeker's allowance, paragraph (d) shall apply to any subsequent claims.¹⁰²⁶

(3) ~~In this Chapter~~ Subject to subsection (3A), in this Chapter ¹⁰²⁷ any ~~3 days~~ **4 days** ¹⁰²⁸ of unemployment, whether consecutive or not, within a period of ~~6 consecutive days~~ **7 consecutive days** ¹⁰²⁹ shall be treated as a week of unemployment and any 2 such weeks not separated by more than 52 weeks shall be treated as one continuous period of unemployment,

¹⁰²⁰ Inserted by s.26 and Sch3 SW&PA 2010

¹⁰²¹ Inserted by s.26 and Sch3 SW&PA 2010

¹⁰²² Inserted by s.9 SW(MP) Act 2010

¹⁰²³ Substituted by s. 9(a) SW&PA 2007

¹⁰²⁴ Inserted by s.26 and Sch3 SW&PA 2010

¹⁰²⁵ Inserted by s.26 and Sch3 SW&PA 2010

¹⁰²⁶ Paragraphs (d) to (g) inserted by s. 9(a) SW&PA 2007

¹⁰²⁷ Substituted by s.5(a) SW&PA 2010

¹⁰²⁸ Substituted by s.17 (a)(i) SWA 2012

¹⁰²⁹ Substituted by s.17(a)(ii) SWA 2012

and references in this Chapter to being continuously unemployed or to continuous unemployment shall be read accordingly.

(3A) For the purposes of this section—

(a) jobseeker's allowance shall be paid for the payment week in which the last day of unemployment, which forms a week of unemployment, falls,

(b) where in any payment week jobseeker's allowance is payable in respect of a week of unemployment—

(i) any day of unemployment which forms part of such week of unemployment, but which does not fall within that payment week, and

(ii) any other day of unemployment occurring in that payment week,

shall not be taken into account in establishing any other week of unemployment, and

~~(c) where, in any payment week, jobseeker's allowance is payable in respect of a week of unemployment, the weekly means of that person derived from employment under a contract of service shall be determined by reference to the number of days worked in that payment week.~~ ¹⁰³⁰

(c) where, in any payment week, jobseeker's allowance is payable in respect of a week of unemployment, the weekly means of that person derived from employment (other than employment as a retained fire fighter) under a contract of service, shall be determined by reference to the number of days worked in that payment week. ¹⁰³¹

(3B) In subsection (3A) 'payment week' means the period commencing on the Wednesday of one week and ending on the Tuesday of the following week. ¹⁰³²

(3C) For the purposes of section 67(8), where in any week of unemployment a person is entitled to jobseeker's allowance—

(a) in respect of 7 days of unemployment, the number of days of unemployment in respect of which jobseeker's allowance shall be treated as though it were a day in respect of which jobseeker's benefit was paid shall be 6, and

(b) in respect of less than 7 days of unemployment, the number of days of unemployment in respect of which jobseeker's allowance shall be treated as though it were a day in respect of which jobseeker's benefit was paid shall be 6, reduced by the number of days in that payment week which are not days which form part of a continuous period of unemployment. ¹⁰³³

(4) For the purposes of this Chapter, a day shall not be treated in relation to any person as a day of unemployment unless on that day, the person—

(a) is capable of work,

¹⁰³⁰ Substituted by s.9 SW&P(MP)A 2013

¹⁰³¹ Substituted by s.9 SW&P(MP)A 2013

¹⁰³² Ss (3A) and (3B) inserted by s.5(b) SW&PA 2010

¹⁰³³ Subsection (3C) inserted by s.17(b) SWA 2012

~~(b) is, or by reason of the person's participation in an activity prescribed for the purposes of this subsection and subject to any conditions that may be prescribed, is deemed to be, or is exempted from being required to be, available for employment, and~~^{1034 1035}

~~(b) is, or by reason of the person's participation in an activity prescribed for the purposes of this subsection and subject to any conditions that may be prescribed, is deemed to be, or is exempted from being required to be available for employment,~~¹⁰³⁶¹⁰³⁷

(b) is, or by reason of the person's participation in an activity prescribed for the purposes of this subsection and subject to any conditions that may be prescribed, is deemed to be, or is exempted from being required to be, available for employment, and ¹⁰³⁸

~~(e) is genuinely seeking, but is unable to obtain, suitable employment having regard to the person's age, physique, education, normal occupation, place of residence and family circumstances.~~¹⁰³⁹

(c) is genuinely seeking, but is unable to obtain, suitable employment having regard to the person's age, physique, education, normal occupation, place of residence and family circumstances, and ¹⁰⁴⁰ *family circumstances*.¹⁰⁴¹

~~(d) participates or agrees to participate as the case may be, if requested to do so by an officer of the Minister in a course of education, training or development which is considered appropriate by the officer having regard to the training and education needs of the person and his or her personal circumstances.~~^{1042 1043}

~~(5) Sunday shall not be treated as a day of unemployment and shall be disregarded in computing any period of consecutive days.~~ ¹⁰⁴⁴

(6) Notwithstanding subsection (3), any period of continuous—

~~(a) employment under a scheme administered by an Foras Áiseanna Saothair and known as Community Employment~~ *scheme provided by the Minister and known as Community Employment* ¹⁰⁴⁵,

~~(b) employment under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs~~ *scheme provided by the Minister* ¹⁰⁴⁶ and known as the Rural Social Scheme,

~~(c) participation in a scheme administered by an Foras Áiseanna Saothair and known as the Enterprise Allowance Scheme,~~¹⁰⁴⁷

¹⁰³⁴ Para 141(4)(b) substituted by s. 6(a) SW&PA 2009

¹⁰³⁵ Substituted by s.13 SWP(MP)A 2013

¹⁰³⁶ Para 141(4)(b) substituted by s. 6(a) SW&PA 2009

¹⁰³⁷ Substituted by s.13(1)SW&P(MP)A 2013

¹⁰³⁸ Substituted by s.13(1)SW&P(MP)A 2013

¹⁰³⁹ Para 141(4)(c) substituted by s. 6(a) SW&PA 2009

¹⁰⁴⁰ Para 141(4)(c) substituted by s. 6(a) SW & PA 2009

¹⁰⁴¹ Substituted by s.13(1) SW&P(MP)A 2013

¹⁰⁴² Para 141(4)(d) inserted by s. 6(a) SW & PA 2009

¹⁰⁴³ Deleted by s.13(1) SW&P(MP)A 2013

¹⁰⁴⁴ Subsection (5) deleted by s.17(c) SWA 2012

¹⁰⁴⁵ Substituted by s.29(2) SW&PA 2010

¹⁰⁴⁶ Substituted by s.19 SW&P(MP)A 2013

¹⁰⁴⁷ Para (c) deleted by s.29 and Sch1 SW&PA 2010

~~(d) participation in a scheme administered by an Foras Áiseanna Saothair and known as the Alternance Scheme,~~¹⁰⁴⁸

~~(e) attendance at a training course provided or approved by an Foras Áiseanna Saothair,~~¹⁰⁴⁹

(e) attendance at an approved course of training,¹⁰⁵⁰

(f) participation in a scheme administered by the Commission of the European Union and known as the European Voluntary Service Initiative,

(g) participation in a scheme administered by the Minister and known as the Part-Time Job Incentive Scheme,

(h) participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme,

(i) participation in, employment under or attendance at a prescribed scheme or course,

or

(j) receipt of or entitlement to pre-retirement allowance,

shall be disregarded in treating, under subsection (3), any 2 continuous periods of unemployment not separated by more than 52 weeks as one continuous period of unemployment.

(7) Regulations may make provision as to the days which are or are not to be treated for the purposes of ~~unemployment assistance~~ **jobseeker's allowance** as days of unemployment.

(8) Subsection (2)(a) shall not apply in relation to the payment of ~~unemployment assistance~~ **jobseeker's allowance** to a person who ceased, not earlier than 52 weeks before the day in respect of which his or her application for ~~unemployment assistance~~ **jobseeker's allowance** is made, to be entitled to ~~unemployment benefit~~ **jobseeker's benefit or jobseeker's benefit (self-employed)**¹⁰⁵¹ —

(a) by reason of having, by virtue of section 67 **or 68H**¹⁰⁵², exhausted his or her entitlement to that benefit, or

(b) where the person is of or over 65 years of age, by reason of having failed to satisfy the contribution condition in section 64(1)(b) **68D(1)(b)**¹⁰⁵³.

(9) A person shall not be entitled to ~~unemployment assistance~~ **jobseeker's allowance** under this section unless he or she is habitually resident in the State ~~at the date of the making of the application for unemployment assistance~~ **jobseeker's allowance**¹⁰⁵⁴.

¹⁰⁴⁸ Para (d) deleted by s.29 and Sch1 SW&PA 2010

¹⁰⁴⁹ Substituted by s. 3(3) SW&P(MP)A 2013

¹⁰⁵⁰ substituted by s. 3(3) SW&P(MP)A 2013

¹⁰⁵¹ Inserted by Item 7 of the Schedule of SWA 2019

¹⁰⁵² Inserted by Item 7 of the Schedule of SWA 2019

¹⁰⁵³ Inserted by Item 7 of the Schedule of SWA 2019

¹⁰⁵⁴ Deleted by s.11(3) SW&PA 2014

Jobseeker's allowance—reduction of rates in certain circumstances ¹⁰⁵⁵ ¹⁰⁵⁶

141A. Notwithstanding section 141, in the case of a person who—

~~(a) has, when requested to do so by an officer of the Minister, without good cause refused to participate, or to agree to participate, in a course of training which is considered appropriate by the officer having regard to the training needs of the person and his or her personal circumstances,~~

~~(b) has, without good cause, refused or failed to avail himself or herself of any reasonable offer of training provided or approved of by An Foras Áiseanna Saothair,~~
~~or~~

~~(c) has, without good cause, refused or failed to avail himself or herself of an opportunity of participating in a programme administered by An Foras Áiseanna Saothair and the Minister pursuant to the plan commonly known as the National Employment Action Plan,~~

~~the scheduled rate of jobseeker's allowance shall be the weekly rate as set out in section 142(1A), 142A(1A) or, as the case may be, 142B(1A).~~ ¹⁰⁵⁷ ¹⁰⁵⁸

Refusal or failure to attend activation meetings relating to jobseeker's Allowance ¹⁰⁵⁹

141A.(1) Notice may be given by or on behalf of the Minister to any person receiving jobseeker's allowance requesting the person, at the time specified in the notice, to comply with the requirement specified in paragraph (a) or (b) of subsection (3).

(2) Where a person refuses or fails, without good cause, to comply with the requirement specified in the notice under subsection (1) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, the weekly rate of jobseeker's allowance payable to that person in respect of any such period of refusal or failure shall, subject to this section, be as set out in section ~~142(1A), 142A(1A) or, as the case may be, section 142B(1A)~~ **142(1A) or, as the case may be, section 142A(1A).** ¹⁰⁶⁰

(3) A notice under this section may require the person to whom it is given to do one of the following, at the time specified in the notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person—

(a) attend at a meeting arranged by or on behalf of the Minister for the purpose of providing information to that person which is intended to improve his or her knowledge of the employment, work experience, education, training and development opportunities available to that person, or

(b) attend for or submit to an assessment of that person's education, training or development needs.

(4) Where jobseeker's allowance is paid to a person at the weekly rate set out in section ~~142(1A), 142A(1A) or, as the case may be, section 142B(1A)~~ **142(1A) or, as the case may be, section 142A(1A)** ¹⁰⁶¹ on account of a refusal or failure to comply with the requirement specified in the notice under subsection (1) for a period of not less than 21 days, notice may

¹⁰⁵⁵ Inserted by s.8(1) SWA 2010

¹⁰⁵⁶ Substituted by s.13 SWP(MP)A 2013

¹⁰⁵⁷ Inserted by s.8(1) SWA 2010

¹⁰⁵⁸ Substituted by s.13 SW&P(MP)A 2013

¹⁰⁵⁹ S.141A, 141B and 141C substituted by s.13 SWP(MP)A 2013

¹⁰⁶⁰ Substituted by s. 8(1)(a)(i) SW(No.2)A 2019

¹⁰⁶¹ Substituted by s. 8(1)(a)(ii) SW(No.2)A 2019

be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with that requirement.

(5) Where a person refuses or fails, without good cause, to comply with the requirement specified in the notice under subsection (4) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, that person shall be disqualified for receiving jobseeker's allowance for any period of continued refusal or failure commencing on the date specified in the notice under subsection (4), but such period of disqualification shall, subject to subsection (6), not exceed 9 weeks.

(6) Nothing in this section shall prevent the provisions of subsections (1) to (5) being applied to a person where, on or after the expiration of such period of disqualification as is applied in accordance with subsection (5)—

(a) notice has been given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement referred to in subsection (1), and

(b) that person continues, without good cause, to refuse or fail to comply with that requirement.

(7) Where, on the commencement of section 13 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013, jobseeker's allowance is being paid to a person at the weekly rate set out in section 142(1A), 142A(1A) or, as the case may be, section 142B(1A) *142(1A) or, as the case may be, section 142A(1A)*¹⁰⁶² for a period of not less than 21 days—

(a) a notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement specified in paragraph (a) or (b) of subsection (3), and

(b) subsections (4) to (6) shall apply to that person where he or she refuses or fails, without good cause, to comply with that requirement at or after the time specified in the notice under paragraph (a) of this subsection, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person.

Refusal or failure to participate in prescribed schemes, programmes or courses Relating to jobseeker's allowance

141B. (1) Where—

(a) as a consequence of attendance for or submission to an assessment in accordance with section 141A(3)(b), a request is made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in—

(i) any scheme or programme of employment or work experience, or

(ii) a course of education, training or development,

which is prescribed for the purposes of this section and which is considered appropriate having regard to the education, training and development needs of that person and his or her personal circumstances, and

¹⁰⁶² Substituted by s. 8(1)(a)(iii) SW(No.2)A 2019

(b) that person refuses or fails, without good cause, to participate in, agree to participate in or avail himself or herself of an opportunity of participating in such a scheme, programme or course, as the case may be,

the weekly rate of jobseeker's allowance payable to that person in respect of any such period of refusal or failure shall, subject to this section, be as set out in section ~~142(1A), 142A(1A) or, as the case may be, section 142B(1A)~~ **142(1A) or, as the case may be, section 142A(1A)**.¹⁰⁶³

(2) Where jobseeker's allowance is paid to a person at the weekly rate set out in section ~~142(1A), 142A(1A) or, as the case may be, section 142B(1A)~~ **142(1A) or, as the case may be, section 142A(1A)**¹⁰⁶⁴ on account of a refusal or failure referred to in subsection (1)---

(a) notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to attend for or submit to an assessment of that person's education, training or development needs, or

(b) a request may be made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in—

(i) any scheme or programme of employment or work experience, or

(ii) a course of education, training or development,

which is prescribed for the purposes of this section and which is considered appropriate having regard to the education, training and development needs of that person and his or her personal circumstances.

(3) Where a person refuses or fails, without good cause, to—

(a) comply with the requirement specified in the notice under subsection (2)(a) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, or

(b) participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b),

that person shall be disqualified for receiving jobseeker's allowance for any period of such refusal or failure commencing on—

(i) the date specified in the notice under subsection (2)(a), or

(ii) the date of refusal or failure to participate in, to agree to participate in or to avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b),

as the case may be, but such period of disqualification shall, subject to subsection (4), not exceed 9 weeks.

¹⁰⁶³ Substituted by s. 8(1)(b)(i) SW(No.2)A 2019

¹⁰⁶⁴ Substituted by s. 8(1)(b)(ii) SW(No.2)A 2019

(4) Nothing in this section shall prevent the provisions of subsections (1) to (3) being applied to a person where, on or after the expiration of such period of disqualification as is applied in accordance with subsection (3)—

(a) notice has been given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement referred to in subsection (2)(a), or

(b) a request has been made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b),

as the case may be, and that person continues, without good cause, to refuse or fail to

(i) comply with the requirement specified in the notice under paragraph (a) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, or

(ii) participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in paragraph (b).

Giving of notice under section 141A or 141B

141C. A notice under section 141A or 141B shall be given in writing and may be given in such other form as may be considered appropriate, including electronic form.¹⁰⁶⁵

Rates of assistance and effect of means on rates.

142. (1) Subject to this section and to ~~sections 144 and 146,~~ *sections 142A*¹⁰⁶⁶, *142B*¹⁰⁶⁷ ~~144 142A, 144~~¹⁰⁶⁸ *and 146,*¹⁰⁶⁹ the rate (in this Chapter referred to as “the scheduled rate”) of ~~unemployment assistance~~ *jobseeker’s allowance* shall be—

(a) in the case of a person who—

(i) in any continuous period of unemployment, as read in accordance with section 141(3), has been in receipt of ~~unemployment benefit~~ *jobseeker’s benefit* or ~~unemployment assistance~~ *jobseeker’s allowance* in respect of not less than 390 days of unemployment, or

(ii) immediately before the week of unemployment for which ~~unemployment assistance~~ *jobseeker’s allowance* is claimed, was in receipt of—

(I) one-parent family payment, but has ceased to be entitled to that allowance by virtue of no longer being regarded as a qualified parent within the meaning of section 172(1), or

~~(IA) widow’s (non-contributory) pension or widower’s (non-contributory) pension, but has ceased to be entitled to that pension by~~

¹⁰⁶⁵ S.141A substituted with S. 141A, 141B and 141C by s.13(2) SW&P(MP)A 2013

¹⁰⁶⁶ Amended by s. 6(b) SW&PA 2009

¹⁰⁶⁷ Inserted by s.6(a) SW&P(No. 2)A 2009

¹⁰⁶⁸ Substituted by s. 8(1)(c)(i) SW(No.2)A 2019

¹⁰⁶⁹ Amended by s. 6(b) SW&PA 2009

virtue of no longer being regarded as a widow or widower within the meaning of section 162(1), or^{1070 1071}

(IA) widow's (non-contributory) pension, widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension, but has ceased to be entitled to that pension by virtue of no longer being regarded as a widow, widower or surviving civil partner within the meaning of section 162(1), or¹⁰⁷²

(II) carer's allowance, but has ceased to be entitled to that allowance by virtue of no longer being regarded as a carer within the meaning of section 179(1),

the weekly rate set out in column (2) at reference 1(a) in Part 1 of Schedule 4, *increased by the amount set out in column (3) of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that*¹⁰⁷³, *the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this paragraph in respect of more than one person, and increased by the appropriate amount set out in column (4) of that Part opposite that reference in respect of each qualified child ~~who normally resides with the claimant or beneficiary, or~~*^{1074 1075} *who has not attained the age of 12 years who normally resides with the claimant or beneficiary, or as the case may be, increased by the appropriate amount set out in column (5) of that Part opposite that reference in respect of each qualified child who has attained the age of 12 years who normally resides with the claimant or beneficiary, or*¹⁰⁷⁶

(b) in any other case, the weekly rate set out in column (2) at reference 1(b) in Part 1 of Schedule 4, increased by—

(i) the amount set out in column (3) of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult¹⁰⁷⁷ subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of ~~assistance~~ *allowance*¹⁰⁷⁸ under this subparagraph in respect of more than one person, and

~~(ii) the appropriate amount set out in column (4) of that Part opposite that reference in respect of each qualified child who normally resides with the claimant or beneficiary.~~¹⁰⁷⁹

(ii) the appropriate amount set out—

(I) in column (4) of that Part opposite that reference in respect of each qualified child who has not attained the age of 12 years who normally resides with the claimant or beneficiary, and

¹⁰⁷⁰ Clause (IA) inserted by s. 20 SW&PA 2007

¹⁰⁷¹ Substituted by s.19(2)(a) SW&PA 2010

¹⁰⁷² Substituted by s.19(2)(a) SW&PA 2010

¹⁰⁷³ **Uncommenced provision – Inserted by Sch. 6(2) of the SWCA 2005 and deleted prior to commencement by s.21 SW&PA 2014**

¹⁰⁷⁴ Inserted by s.10(1) SW(MP) A 2010

¹⁰⁷⁵ Substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁰⁷⁶ Substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁰⁷⁷ **Uncommenced provision - Inserted by s.9(b) SW&PA 2007 and deleted prior to commencement by s.25(a) SW&PA 2008**

¹⁰⁷⁸ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

¹⁰⁷⁹ Subpara. (ii) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(II) in column (5) of that Part opposite that reference in respect of each qualified child who has attained the age of 12 years who normally resides with the claimant or beneficiary.¹⁰⁸⁰

(1A) Subject to this Act and notwithstanding subsection (1), in the case of a person to whom section 141A **subsection (2) or (6) of section 141A or subsection (1) or (4) of section 141B**¹⁰⁸¹ refers, the scheduled rate of jobseeker's allowance shall be reduced and accordingly shall be the weekly rate as set out in column (2) at reference 1(b) of Part 1 of Schedule 4 which shall be reduced in each week by €44, increased by—

(a) the amount set out in column (3) of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this paragraph in respect of more than one person and

~~(b) the appropriate amount set out in column (4) of that Part opposite that reference in respect of each qualified child who normally resides with the claimant or beneficiary.~~^{1082_1083}

(b) the appropriate amount set out—

(i) in column (4) of that Part opposite that reference in respect of each qualified child who has not attained the age of 12 years who normally resides with the claimant or beneficiary, and

(ii) in column (5) of that Part opposite that reference in respect of each qualified child who has attained the age of 12 years who normally resides with the claimant or beneficiary.¹⁰⁸⁴

(2) (a) Subject to paragraph (b), ~~unemployment assistance~~ **jobseeker's allowance** shall be payable where the weekly means of the claimant or beneficiary—

(i) are less than €1, at the scheduled rate,

(ii) are equal to €1, at the scheduled rate reduced by €1, and

(iii) exceed €1, at the scheduled rate, reduced by €1 for each amount (if any) of €1 by which those weekly means exceed €1.

(b) Where the weekly means of the claimant or beneficiary are equal to or exceed the scheduled rate, no ~~unemployment assistance~~ **jobseeker's allowance** shall be payable.

(3) Notwithstanding ~~subsection (2)(a)(iii), section 142A(2)(a)(iii) and section 142B(2)(a)(iii)~~¹⁰⁸⁵ **subsection (2)(a)(iii) and section 142A(a)(iii)**,¹⁰⁸⁶ where the sole means of a claimant for ~~unemployment assistance~~ **jobseeker's allowance**, who is not one of a couple, are assessed under Rule 1(10) of Part 2 of Schedule 3 and where the rate of ~~assistance~~ **allowance**¹⁰⁸⁷ payable to or in respect of the claimant, as calculated in accordance with

¹⁰⁸⁰ Subpara. (ii) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁰⁸¹ Substituted by s.13 SW&P(MP)A 2013

¹⁰⁸² Inserted by s8(2) SWA 2010

¹⁰⁸³ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁰⁸⁴ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁰⁸⁵ Inserted by s.10(2) SW(MP)A 2010

¹⁰⁸⁶ Substituted by s.8(1)(c)(ii) SW(No.2)A 2019

¹⁰⁸⁷ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

subsection (2)(a)(iii), *section 142A(2)(a)(iii) or section 142B(2)(a)(iii)* would be a weekly amount which is 10 cent or more, but less than €40, the claimant shall be entitled to payment of ~~unemployment assistance~~ *jobseeker's allowance* at the weekly rate of €40.

(4) ~~(a) In subsection (3) “couple” means a married couple who are living together or a man and a woman who are not married to each other but are cohabiting as husband and wife.~~¹⁰⁸⁸

~~(b) For the purposes of Rule 1(10) of Part 2 of Schedule 3 when applied to subsection (3), “spouse” means each person of a couple in relation to the other.~~¹⁰⁸⁹

(4) In subsection (3), ‘couple’ means—

(a) a married couple who are living together,

(b) both civil partners of a civil partnership who are living together, or

(c) both cohabitants.¹⁰⁹⁰

~~(5) In the application of subsection (2) in the case of the persons or classes of persons that may be prescribed, regulations may provide for disregarding, in the manner that may be prescribed, any part of the weekly means of a claimant or beneficiary up to an amount not exceeding €2.50.~~

~~(6) The Minister may, notwithstanding regulations made under subsection (5) providing for weekly means of up to €2.50 in the case of certain persons or classes of persons to be disregarded, apply subsection (2) to those persons or classes of persons at any time.~~

~~(7) Regulations made under subsection (5) may apply to the whole State or to a specified part or parts of the State.~~¹⁰⁹¹

Rates of assistance – ages 18 and 19 years.¹⁰⁹²

142A.(1) Notwithstanding section 142(1), in the case of a person who –

(a) has attained the age of 18 years and has not attained the age of ~~20~~²²~~25~~²⁵ years,¹⁰⁹³ ¹⁰⁹⁴

(b) is not a person referred to in section 142(1)(a)(ii) (as amended by section 20 of the Social Welfare and Pensions Act 2007), and

(c) is not entitled to an increase in respect of a qualified child,

the scheduled rate of jobseeker's allowance shall be the weekly rate set out in column (2) at reference 1(c) in Part 1 of Schedule 4, (as inserted by *section 11(a)* of the *Social Welfare Act 2009*) increased by the amount set out in column (3) of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this subsection in respect of more than one person.

¹⁰⁸⁸ Substituted by 19(2)(b) SW&PA 2010

¹⁰⁸⁹ Deleted by s.10(3)(a) SW(MP)A 2010

¹⁰⁹⁰ Substituted by 19(2)(b) SW&PA 2010

¹⁰⁹¹ Ss (5),(6),(7) deleted by s.10(3)(b) SW(MP)A 2010

¹⁰⁹² S142A inserted by s. 6(c) SW & PA 2009

¹⁰⁹³ Substituted by s.6(b)(i) SW&P(No. 2) A 2009

¹⁰⁹⁴ Substituted by s.9(1)(a) SW&PA 2013

(1A) Subject to this Act and notwithstanding subsection (1), in the case of a person to whom section 141A *subsection (2) or (6) of section 141A or subsection (1) or (4) of section 141B*¹⁰⁹⁵ refers, the scheduled rate of jobseeker's allowance shall be reduced and accordingly shall be the weekly rate as set out in column (2) at reference 1(c) of Part 1 of Schedule 4 which shall be reduced in each week by €25, increased by the amount set out in column (3) of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this subsection in respect of more than one person.¹⁰⁹⁶

(2) (a) In the case of a person referred to in subsection (1) *or subsection (1A)*¹⁰⁹⁷, and subject to paragraph (b), jobseeker's allowance shall be payable where the weekly means of the claimant or beneficiary -

- (i) are less than €1, at the scheduled rate,
- (ii) are equal to €1, at the scheduled rate reduced by €1, and
- (iii) exceed €1, at the scheduled rate, reduced by €1 for each amount (if any) of €1 by which those weekly means exceed €1.

(b) Where the weekly means of the claimant or beneficiary are equal to or exceed the scheduled rate, no jobseeker's allowance shall be payable.

(3) Section 144 shall not apply to payments made in accordance with this section.

(4) This section shall not apply in the case of a claim for jobseeker's allowance where -

~~(a) the period of interruption of employment commenced on or before 29 April 2009,~~¹⁰⁹⁸

(a) the ~~period of interruption of employment~~ *period of unemployment*¹⁰⁹⁹ commenced on or before 30 December 2009 and where, in the period prior to that date, the claimant was not a person to whom this section applied,¹¹⁰⁰

(aa) the period of unemployment commenced on or after 29 April 2009 and in the period commencing on 29 April 2009 and ending on 29 December 2009 the claimant attained the age of 20 years,¹¹⁰¹

(ab) the period of unemployment commenced on or before 14 January 2014 and the claimant was a person—

(i) who, on or before that date, attained the age of 22 years and had not attained the age of 25 years, and

(ii) to whom, on or before 14 January 2014, section 142B applied,¹¹⁰²

¹⁰⁹⁵ Substituted by s.13 SWP(MP)A 2013

¹⁰⁹⁶ Inserted by s8(3)(a) SWA 2010

¹⁰⁹⁷ Inserted by s8(3)(b) SWA 2010

¹⁰⁹⁸ Substituted by s. 6(b)(ii)SW&P(2)A 2009

¹⁰⁹⁹ Substituted by s.21(a)(i) SW(MP)A 2010

¹¹⁰⁰ Substituted by s.6(b)(ii) SW&P(No. 2)A 2009

¹¹⁰¹ Inserted by s.21(a)(ii) SW(MP)A 2010

¹¹⁰² Paragraph (ab) inserted by s.9(1)(a) SW&PA 2013

~~(b) a claimant has exhausted, immediately prior to applying for an allowance under this section, his or her entitlement to benefit payable pursuant to section 67,~~¹¹⁰³

(c) a claimant was in receipt of disability allowance immediately before he or she makes the claim under this section, ~~or~~¹¹⁰⁴

(d) a claimant has attained the age of 18 years and has not attained the age of ~~20~~²²¹¹⁰⁵ ~~25~~²⁵¹¹⁰⁶ years and at any time during the period of 12 months before he or she has so attained the age of 18 years –

(i) he or she was in or was placed in the care of the Executive pursuant to an order of the High Court, or

(ii) he or she was in or was placed in the care of the Executive -

- i. pursuant to an order of the District Court or the Circuit Court on appeal from the District Court made under Part III, IV, IVA, (inserted by section 16 of the Children Act 2001) or VI of the Child Care Act 1991,
- ii. under a voluntary care arrangement pursuant to section 4 of the Child Care Act 1991, or
- iii. under an accommodation arrangement pursuant to section 5 of the ~~Child Care Act 1991~~¹¹⁰⁷ *Child Care Act 1991, or*¹¹⁰⁸

(e) a claimant is in receipt, in his or her own right, of—

(i) rent supplement payable in accordance with section 198(3),

(ii) housing assistance, in accordance with Part 4 of the Housing (Miscellaneous Provisions) Act 2014, or

(iii) social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009.¹¹⁰⁹

~~Rates of assistance—ages 22 and 23 years.~~¹¹¹⁰¹¹¹¹

~~142B. (1) Notwithstanding section 142(1), in the case of a person who—~~

~~(a) has attained the age of 22~~²⁵¹¹¹² ~~years and has not attained the age of 25~~²⁶¹¹¹³ ~~years;~~

~~(b) is not a person referred to in section 142(1)(a)(ii) (as amended by section 20 of the Social Welfare and Pensions Act 2007), and~~

~~(c) is not entitled to an increase in respect of a qualified child,~~

¹¹⁰³ Paragraph (b) deleted by s.9(1)(a) SW&PA 2013

¹¹⁰⁴ Deleted by s 6(1)(a) SW(No.2)A 2019

¹¹⁰⁵ Substituted by s.6(b)(iii) SW&P (No. 2)A 2009

¹¹⁰⁶ Substituted by s.9(1)(a) SW&PA 2013

¹¹⁰⁷ S142A inserted by s. 6(c) SW&PA 2009

¹¹⁰⁸ Substituted by s. 6(1)(b) SW(No.2)A 2019

¹¹⁰⁹ Para (e) inserted by s.6(1)(c) SW(No.2)A 2019

¹¹¹⁰ S142B Inserted by s.6(c) SW&P(No. 2)A 2009

¹¹¹¹ S. 142B repealed by s.8(1)(d) SW(No.2)A 2019 w.e.f. 1.1.2020

¹¹¹² Substituted by s.9(1)(b) SW&PA 2013

¹¹¹³ Substituted by s.9(1)(b) SW&PA 2013

the scheduled rate of jobseeker's allowance shall be the weekly rate set out in column (2) at reference 1(d) in Part 1 of Schedule 4, (as inserted by *section 4* of the *Social Welfare and Pensions (No. 2) Act 2009*) increased by the amount set out in column (3) of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this subsection in respect of more than one person.

(1A) Subject to this Act and notwithstanding subsection (1), in the case of a person to whom ~~section 141A subsection (2) or (6) of section 141A or subsection (1) or (4) of section 141B~~¹¹¹⁴ refers, the scheduled rate of jobseeker's allowance shall be reduced and accordingly shall be the weekly rate as set out in column (2) at reference 1(d) of Part 1 of Schedule 4 which shall be reduced in each week by €33, increased by the amount set out in column (3) of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this subsection in respect of more than one person.¹¹¹⁵

(2) (a) In the case of a person referred to in subsection (1) ~~or subsection (1A)~~¹¹¹⁶, and subject to paragraph (b), jobseeker's allowance shall be payable where the weekly means of the claimant or beneficiary—

(i) are less than €1, at the scheduled rate,

(ii) are equal to €1, at the scheduled rate reduced by €1, and

(iii) exceed €1, at the scheduled rate, reduced by €1 for each amount (if any) of €1 by which those weekly means exceed €1.

(b) Where the weekly means of the claimant or beneficiary are equal to or exceed the scheduled rate, no jobseeker's allowance shall be payable.

(3) This section shall not apply in the case of a claim for jobseeker's allowance where—

(a) the period of interruption of employment *period of unemployment*¹¹¹⁷ commenced on or before 30 December 2009 and where, in the period prior to that date, the claimant was not a person to whom section 142A applied,

(aa) the period of unemployment commenced on or before 14 January 2014 and the claimant was a person—

(i) who, on or before that date, attained the age of 25 years and had not attained the age of 26 years, and

(ii) to whom, on or before 14 January 2014, section 142 applied,¹¹¹⁸

(b) a claimant has exhausted, immediately prior to applying for an allowance under this section, his or her entitlement to benefit payable pursuant to section 67,¹¹¹⁹

¹¹¹⁴ Substituted by s.13 SWP(MP)A 2013

¹¹¹⁵ S (1A) inserted by s.8(4)(a) SWA 2010

¹¹¹⁶ Inserted by s.8(4)(b) SWA 2010

¹¹¹⁷ Substituted by s21(b) SW(MP)A 2010

¹¹¹⁸ Paragraph (aa) inserted by s.9(1)(b) SW&PA 2013

¹¹¹⁹ Paragraph (b) deleted by s.9(1)(b) SW&PA 2013

~~(c) a claimant was in receipt of disability allowance immediately before he or she makes the claim under this section, or *section*,¹¹²⁰~~

~~(d) a claimant is participating in the work placement programme. *programme, or*¹¹²¹~~

~~(e) a claimant has attained the age of 18 years and has not attained the age of 26 years and at any time during the period of 12 months before he or she has so attained the age of 18 years —~~

~~(i) he or she was in, or was placed in, the care of the Executive pursuant to an order of the High Court, or~~

~~(ii) he or she was in, or was placed in, the care of the Executive —~~

~~(I) pursuant to an order of the District Court or the Circuit Court on appeal from the District Court made under Part III, IV, IVA or VI of the Child Care Act 1991,~~

~~(II) under a voluntary care arrangement pursuant to section 4 of the Child Care Act 1991, or~~

~~(III) under an accommodation arrangement pursuant to section 5 of the Child Care Act 1991.¹¹²²~~

~~(4) In subsection (3), ‘work placement programme’ means the programme commonly known by that name and administered by An Foras Áiseanna Saothair *provided by the Minister*.¹¹²³
1124~~

Regulations.

143. Regulations may entitle a person to ~~unemployment assistance~~ ***jobseeker’s allowance*** in respect of a day of unemployment and the amount of ~~unemployment assistance~~ ***jobseeker’s allowance*** so payable for any such day shall be one-sixth of the appropriate weekly rate.

Total amount payable to a couple.

144. (1) In the case of a couple, where each of the couple is entitled to ~~unemployment assistance~~ ***jobseeker’s allowance*** or pre-retirement allowance, the total amount payable to them under this Chapter shall not exceed the amount which would be payable if only one of them was entitled to be paid ~~unemployment assistance~~ ***jobseeker’s allowance*** or pre-retirement allowance, as the case may be, (including any increases thereof, where appropriate) and each of them shall be entitled to be paid one-half of the amount (including any increases thereof, where appropriate) which would be payable to him or her if only one of them were in receipt of ~~unemployment assistance~~ ***jobseeker’s allowance*** or pre-retirement allowance as the case may be.

(2) (a) In this subsection “relevant benefit or pension” means ~~disability benefit~~ ***illness benefit, unemployment benefit, jobseeker’s benefit, jobseeker’s benefit (self-employed)***,¹¹²⁵ injury benefit, disablement pension, ~~old age (contributory) pension~~ ***State pension (contributory)***, ~~old age (non-contributory) pension~~ ***State pension***

¹¹²⁰ Substituted by s.10(1)(a) SWP&CRA 2018

¹¹²¹ Substituted by s.10(1)(b) SWP&CRA 2018

¹¹²² Para. (e) inserted by s.10(1)(c) SWP&CRA 2018

¹¹²³ S142B inserted by s.6(c) SW&P(No. 2)A 2009

¹¹²⁴ Substituted by s.29/ SW&PA 2010

¹¹²⁵ Inserted by Item 8 of the Schedule of SWA 2019

(~~non-contributory~~), ~~retirement pension~~ *State pension (transition)* or invalidity pension.

(b) Where one of a couple is entitled to a relevant benefit or pension and the other is entitled to ~~unemployment assistance~~ *jobseeker's allowance* the total of the amount payable to them by way of the relevant benefit or pension, as the case may be, and ~~unemployment assistance~~ *jobseeker's allowance* (in this subsection referred to as “the relevant amount”), shall not exceed the total amount of the relevant benefit or pension, as the case may be, (including any increases thereof, where appropriate), or the total amount of ~~unemployment assistance~~ *jobseeker's allowance* (including any increases thereof, where appropriate), whichever is the greater (in this subsection referred to as “the greater amount”), that would be payable if only one of the couple were in receipt of the relevant benefit or pension or ~~unemployment assistance~~ *jobseeker's allowance*, as the case may be, and, if the relevant amount would but for this subsection exceed the greater amount, the amount of ~~unemployment assistance~~ *jobseeker's allowance* payable to the spouse, *civil partner or cohabitant*¹¹²⁶ who is entitled to ~~unemployment assistance~~ *jobseeker's allowance* shall be reduced by the amount of the excess.

(3) In this section—

“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;~~¹¹²⁷

“couple” means—

- (a) a married couple who are living together,
- (b) both civil partners of the same civil partnership who are living together, or
- (c) ~~both cohabitants;~~¹¹²⁸ *both cohabitants;*¹¹²⁹

“spouse” means each person of a couple in relation to the other.

(3A) In this section—

- (a) a reference to a civil partner is a reference to each civil partner of a couple in relation to the other, and
- (b) a reference to a cohabitant is a reference to each cohabitant in relation to the other.¹¹³⁰

(4) ~~For the purposes of this section, a reference to “unemployment assistance” “jobseeker's allowance” shall be read as including a reference to pre-retirement allowance.~~

(4) In this section—

- (a) ~~a reference to a civil partner is a reference to each civil partner of a couple in relation to the other, and~~

¹¹²⁶ Inserted by s.26 and Sch3 SW&PA 2010

¹¹²⁷ Substituted by s.19(3) SW&PA 2010

¹¹²⁸ Substituted by s.19(3) SW&PA 2010

¹¹²⁹ Substituted by s.19 SW&P(MP)A 2013

¹¹³⁰ Inserted by s.8(a) SW&PA 2011

~~(b) a reference to a cohabitant is a reference to each cohabitant in relation to the other.¹¹³¹~~

(4) For the purposes of this section, a reference to ‘jobseeker’s allowance’ shall be read as including a reference to pre-retirement allowance.¹¹³²

~~(5) This section shall not apply in the case of a person who was entitled to or in receipt of pre-retirement allowance before 2 April 1993.¹¹³³~~

Certain claims.

145. (1) A person who, on or after 9 May 1989, claims or has claimed, in respect of a period before 7 June 1989, ~~unemployment assistance~~ **jobseeker’s allowance** of an amount to which the person would not be entitled if section 144 were applicable shall be entitled to be paid that ~~assistance~~ **allowance**¹¹³⁴ only in accordance with section 144.

(2) (a) A person who has not, before 9 May 1989, specifically claimed, in respect of a period before 7 June 1989, any additional amount for ~~unemployment assistance~~ **jobseeker’s allowance** being an amount to which the person would not be entitled if section 144 were applicable shall not be entitled to be paid the additional amount.

(b) In paragraph (a) “claimed” means claimed in writing from the Minister or claimed in proceedings instituted against the Minister in any court.

(3) An amount properly paid to any person before 7 June 1989 by way of ~~unemployment assistance~~ **jobseeker’s allowance** which as a result of the Social Welfare (No. 2) Act 1989 would be recoverable by the Minister shall not be so recoverable.

Amount of increases payable in respect of qualified child in certain cases.

~~146. Any increase of unemployment assistance **jobseeker’s allowance**¹¹³⁵ payable under section 142(1) in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary is not a qualified adult, and section 142(1) shall be read and have effect accordingly.¹¹³⁶~~

Amount of increases payable in respect of qualified child in certain cases.

146. Any increase of jobseeker’s allowance payable under section 142(1) in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse, **civil partner or cohabitant**¹¹³⁷ of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, **civil partner or cohabitant**¹¹³⁸ of the claimant or beneficiary –

(a) is not a qualified adult, or

(b) is a spouse, **civil partner or cohabitant**¹¹³⁹ referred to in section 141(2)(d),

¹¹³¹ Inserted by s.19(4) SW&PA 2010

¹¹³² Substituted by s.8(b) SW&PA 2011

¹¹³³ S 144(5) repealed by s.12 SW(MP)A 2008

¹¹³⁴ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

¹¹³⁵ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

¹¹³⁶ Substituted by s. 9(c) SW&PA 2007

¹¹³⁷ Inserted by s.26 and Sch3 SW&PA 2010

¹¹³⁸ Inserted by s.26 and Sch3 SW&PA 2010

¹¹³⁹ Inserted by s.26 and Sch3 SW&PA 2010

and section 142(1) shall be read and have effect accordingly.¹¹⁴⁰

Disqualifications.

147. (1) A person shall be disqualified for receiving ~~unemployment assistance~~ *jobseeker's allowance* while he or she is—

(a) an inmate of an institution maintained wholly or partly out of public moneys or by a local authority,

(b) employed during any week under a ~~scheme administered by an Foras Aiseanna Saothair and known as Community Employment~~ *scheme provided by the Minister and known as Community Employment*¹¹⁴¹, or

(c) employed during any week under a ~~scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs~~ *scheme provided by the Minister*¹¹⁴² and known as the Rural Social Scheme.

(2) A person who has lost employment by reason of a stoppage of work which was due to a trade dispute at the factory, workshop, farm or other premises or place at which he or she was employed shall be disqualified for receiving ~~unemployment assistance~~ *jobseeker's allowance* so long as the stoppage of work continues, except in the case where the person has, during the stoppage of work, become bona fide employed elsewhere in the occupation which he or she usually follows or has become regularly engaged in some other occupation but this subsection shall not apply to a person who is not participating in or directly interested in the trade dispute which caused the stoppage of work.

(3) Where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments of the same premises or at the same place, each of those departments, for the purposes of subsection (2), is deemed to be a separate factory, workshop or farm or separate premises or a separate place, as the case may be.

(4) A person shall be disqualified for receiving ~~unemployment assistance~~ *jobseeker's allowance* for the period that may be determined by a deciding officer, but in any case not exceeding 9 weeks, where the person—

(a) has lost his or her employment through his or her own misconduct or has voluntarily left his or her employment without just cause,

(b) has refused an offer of suitable employment,¹¹⁴³

~~(b) has refused an offer of suitable employment,¹¹⁴⁴~~

~~(c) has without good cause refused or failed to avail himself or herself of any reasonable opportunity of receiving training provided or approved of by an Foras Aiseanna Saothair as suitable in the person's case, or¹¹⁴⁵~~

¹¹⁴⁰ Substituted by s. 9(c) SW&PA 2007

¹¹⁴¹ Substituted by s.29(2) SW&PA 2010

¹¹⁴² Substituted by s.19 SW&P(MP)A 2013

¹¹⁴³ Inserted by s.13 SWP(MP)A 2013

¹¹⁴⁴ Paragraph (b) deleted by s8(5)(a) SWA 2010

¹¹⁴⁵ Paragraph (c) deleted by s.8(5)(a) SWA 2010

(d) has failed or neglected to avail himself or herself of any reasonable opportunity of obtaining suitable employment,

and the period of disqualification shall begin on the day on which the loss or leaving of employment, refusal, failure or neglect, as the case may be, occurred.

~~(4A) A person shall be disqualified for receiving jobseeker's allowance where he or she has refused an offer of suitable employment.~~ ^{1146 1147}

(5) For the purpose of this section, employment is not deemed to be suitable employment in the case of any person where it is employment in a situation vacant in consequence of a stoppage of work due to a trade dispute.

(6) ~~Unemployment assistance~~ *Jobseeker's allowance* and ~~unemployment benefit~~ *jobseeker's benefit either jobseeker's benefit or jobseeker's benefit (self-employed)*¹¹⁴⁸ shall not both be payable in respect of the same day or days.

Disqualifications-attending a course of study.

148. (1) A person shall not be entitled to receive ~~unemployment assistance~~ *jobseeker's allowance* while attending a course of study, other than in the circumstances and subject to the conditions and for the periods that may be prescribed.

(2) In this section—

“academic year” means a period in which a course of study begins in one year and finishes in the following year and includes term vacations;

“a course of study” means, ~~subject to subsection (3),~~¹¹⁴⁹ a full-time day course of study, instruction or training *which may take place over more than one academic year*¹¹⁵⁰ at an institution of education;

“institution of education” means—

(a) a school,

(b) a university,

(c) a college of a university,

(d) any institution which the Minister for Education and Science has designated in regulations made under section 1 of the Higher Education Authority Act 1971 as an institution of higher education for the purposes of that Act,

~~(e) any institution to which the Qualifications (Education and Training) Act 1999 applies,~~¹¹⁵¹

(f) any institution established under the Regional Technical Colleges Act 1992,

¹¹⁴⁶ Subsection 4A inserted by s.8(5)(b) SWA 2010

¹¹⁴⁷ Deleted by s.13 SW&P(MP)A 2013

¹¹⁴⁸ Substituted by Item 9 of the Schedule of SWA 2019

¹¹⁴⁹ Deleted by s.24(4)(a) SW(MP)A 2010

¹¹⁵⁰ Inserted by s.24(4)(b) SW(MP)A 2010

¹¹⁵¹ Deleted by s.19 SW&P(MP)A 2013

(g) any institution incorporated under the Dublin Institute of Technology Act 1992,

(h) any institution which is not an institution for the purposes of paragraphs (a) to (g) and to which the Local Authorities (Higher Education Grants) Acts 1968 to 1992 apply, or

(i) any other institution that may be prescribed.

(3) For the purposes of this section, a person shall be regarded, subject to regulations made under subsection (1), as attending a course of study—

(a) for 3 months immediately following the completion or the leaving by that person of second level education or the completion by him or her of the leaving certificate examination of the Department of Education and Science, whichever is the later,

(b) for the duration of an academic year, or

(c) for the period immediately following the completion of one academic year, other than the final academic year of a course of study, up to the beginning of the following academic year.

Entitlement to jobseeker's allowance in certain circumstances

~~148A.(1) This section applies to—~~

~~(a) a person who—~~

~~(i) in the period of 3 years immediately before making a claim for jobseeker's allowance under this section, has been in receipt of one parent family payment in respect of any part of that period, and~~

~~(ii) during the period for which jobseeker's allowance is being claimed under this section—~~

~~(I) is not entitled to one parent family payment, and~~

~~(II) would be entitled to that payment but for the youngest child having attained the age specified in paragraph (b) of the definition of 'relevant age' in section 172(1), or~~

~~(b) a person who—~~

~~(i) has previously been in receipt of jobseeker's allowance under this section, and~~

~~(ii) during any subsequent period for which jobseeker's allowance is being claimed under this section—~~

~~(I) is not entitled to one parent family payment, and~~

~~(II) would be entitled to that payment but for the youngest child having attained the age specified in paragraph (b) of the definition of 'relevant age' in section 172(1).¹¹⁵²~~

¹¹⁵² Substituted by s.5(a) SW(MP)A 2015

(1) This section applies—

(a) to a person who, during the period for which jobseeker's allowance is being claimed under this section—

(i) is not entitled to one-parent family payment, and

(ii) would be entitled to one-parent family payment but for the fact that the youngest child has attained the age specified in paragraph (b) of the definition of 'relevant age' in section 172(1),

and

(b) where the youngest child, referred to in paragraph (a)(ii), has not attained the age of 14 years. ¹¹⁵³

(2) Subject to this section, a person to whom this section applies shall be entitled to jobseeker's allowance in respect of any week of unemployment, as construed in accordance with subsection (4)(b), where that person makes a declaration in such manner as may be prescribed that he or she—

(a) is the parent, step-parent, adoptive parent or legal guardian of at least one child who has not attained the age of 14 years and who normally resides, in accordance with Article 128 of the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007), with that person, and

(b) is not a cohabitant.

(3) Without prejudice to the generality of subsection (2), for the purposes of that subsection a person may make a declaration by means of an electronic communication, in such manner as may be prescribed.

(4) In the case of a person to whom this section applies, Chapter 2 of Part 3 shall be read as if—

(a) sections 141(1)(b), 141(1A), 141(2)(a), 141(3), 141(3A), 141(3B), 141(4)(b), 141(4)(c), 141(8), 147(4) and 148 do not apply,

(b) each period of 7 consecutive days were treated as a week of unemployment and any 2 such weeks not separated by more than 52 weeks shall be treated as one continuous period of unemployment and references in Chapter 2 of Part 3 to a week of unemployment, to being continuously unemployed or to continuous unemployment shall be read accordingly, and

(c) the reference to a day or days of unemployment in sections 141(3C), 141(4), 141(7) and 143 were to any day or days in a week of unemployment as construed in accordance with paragraph (b).

~~(5) This section shall cease to apply where the youngest child of a person to whom this section applies attains the age of 14 years.~~ ¹¹⁵⁴ ¹¹⁵⁵

¹¹⁵³ Substituted by s.5(a) SW(MP)A 2015

¹¹⁵⁴ S.148A inserted by s.10 SW&P(MP)A 2013

¹¹⁵⁵ Ss (5) deleted by s. 5(b) SW(MP)A 2015

CHAPTER 3
Pre-Retirement Allowance

Entitlement to allowance.

149. (1) Subject to this Act, an allowance (in this Chapter referred to as “pre-retirement allowance”) shall be payable in respect of any period of retirement to a person—

(a) who has attained the age specified by regulations but has not attained pensionable age,

(b) whose weekly means, subject to subsection (4), do not exceed the amount of pre-retirement allowance (including any increases of that allowance) that would be payable to the person under this Chapter if that person had no means, and

(c) (i) who has been in receipt of ~~unemployment benefit~~ **jobseeker’s benefit** or ~~unemployment assistance~~ **jobseeker’s allowance** in respect of not less than 390 days of unemployment in any continuous period of unemployment in the immediately preceding period as read in accordance with section 141(3),

(ii) being a separated spouse, has not engaged in remunerative employment or self-employment at any time in the preceding period that may be prescribed, or

(iia) being a civil partner who is not living with the other civil partner of the civil partnership and who has not engaged in remunerative employment or self-employment at any time in the preceding period that may be prescribed, or¹¹⁵⁶

(iii) immediately before the week in respect of which pre-retirement allowance is claimed, was in receipt of—

(I) one-parent family payment, but has ceased to be entitled to that payment by virtue of no longer being regarded as a qualified parent within the meaning of section 172(1), or

(II) carer’s allowance, but has ceased to be entitled to that allowance, by virtue of no longer being regarded as a carer within the meaning of section 179(1). ¹¹⁵⁷

(2) (a) For the purposes of subsection (1)(c)(ii) and subject to section 3(10) a person who is separated from his or her spouse, shall continue to be regarded as a separated spouse where the marriage has been dissolved, being a dissolution that is recognised as valid in the State.

(aa) For the purposes of subsection (1)(c)(iia) and subject to section 3(10), a civil partner who is not living with his or her civil partner shall continue to be regarded as such where the civil partnership has been dissolved, being a dissolution that is recognised as valid in the State.¹¹⁵⁸

¹¹⁵⁶ Subpara (iia) inserted by s.19(4)(a) SW&PA 2010

¹¹⁵⁷ Uncommenced provision - see s. 21(a) SW&PA 2007

¹¹⁵⁸ Para (aa) inserted by s.19(4)(b) SW&PA 2010

~~(b) Pre-retirement allowance shall, subject to this Chapter, continue to be payable to a person to whom subsection (1)(c)(ii) applies, unless that person remarries or cohabits as husband and wife, in which case the allowance shall cease.~~ ¹¹⁵⁹

(b) Pre-retirement allowance shall, subject to this Chapter, continue to be payable to a person to whom subsection (1)(c)(ii) or subsection (1)(c)(iia) applies, unless that person marries, remarries, enters into a civil partnership or a new civil partnership or is a cohabitant. ¹¹⁶⁰

(3) (a) In this Chapter “weekly means” shall, subject to paragraph (b) and Rule 1(1) or (7) as the case may be of Part 2 of Schedule 3, be the yearly means divided by 52 and means shall be calculated in accordance with the Rules contained in Part 2 of Schedule 3.

(b) The amount calculated in accordance with paragraph (a) shall be rounded up to the nearest €1 where it is a multiple of 50 cent but not also a multiple of €1 and shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1.

(3A) Where the spouse, *civil partner or cohabitant*¹¹⁶¹ of a claimant for pre-retirement allowance is a spouse, *civil partner or cohabitant*¹¹⁶² referred to in Part 6, and is in receipt of a payment under Part 6, the means of the claimant shall be taken to be one-half the means. ¹¹⁶³

~~(4) Where the spouse of a claimant for pre-retirement allowance is not the claimant’s qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 297, the means of the claimant shall be taken to be one-half of the means.~~ ¹¹⁶⁴

(4) Subject to subsection (4A), where the spouse, *civil partner or cohabitant*¹¹⁶⁵ of a claimant for pre-retirement allowance is a spouse, *civil partner or cohabitant*¹¹⁶⁶ referred to in any of subparagraphs (iii) to (vii) of section 2(2)(a), the means of the claimant shall be taken to be one-half the means.

(4A) Notwithstanding subsection (4), where, in the 4 weeks immediately before the commencement of *section 9* of the *Social Welfare and Pensions Act 2007* a person was entitled to or in receipt of pre-retirement allowance in respect of any day of retirement and the spouse of the claimant for pre-retirement allowance is not the claimant’s qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 297, the means of the claimant shall be taken to be one-half the means or the means calculated in accordance with subsection (4), whichever is the more favourable.

(4B) Where the means of a claimant are calculated at any time in accordance with subsection (4A) and are subsequently calculated in accordance with subsection (4), subsection (4A) shall no longer apply to the claimant.

(4C) Where, for any period of not less than 4 consecutive weeks after the commencement of *section 9* of the *Social Welfare and Pensions Act 2007*, a claimant whose means were

¹¹⁵⁹ Substituted by s.19(4)(c) SW&PA 2010

¹¹⁶⁰ Substituted by s.19(4)(c) SW&PA 2010

¹¹⁶¹ Inserted by s.26 and Sch3 SW&PA 2010

¹¹⁶² Inserted by s.26 and Sch3 SW&PA 2010

¹¹⁶³ Inserted by s.11 SW(MP)A 2010

¹¹⁶⁴ Substituted by s. 9(d) SW&PA 2007

¹¹⁶⁵ Inserted by s.26 and Sch3 SW&PA 2010

¹¹⁶⁶ Inserted by s.26 and Sch3 SW&PA 2010

calculated in accordance with subsection (4A) ceases to be entitled to or in receipt of pre-retirement allowance, subsection (4) shall apply to any subsequent claims.¹¹⁶⁷

(5) For the purposes of ~~subsection (6)~~ **subsections (6) and (8)**,¹¹⁶⁸ any 2 periods of retirement not separated by more than 52 weeks shall be treated as one continuous period of retirement.

(6) Subsection (1)(c) shall not apply in the case of a claim to pre-retirement allowance made by a person in respect of a period of retirement which is a continuous period of retirement as read in accordance with subsection (5).

(7) Notwithstanding the provisions of this Chapter and subject to ~~subsection (8)~~ **subsections (8) and (9)**¹¹⁶⁹, 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).¹¹⁷⁰

(9) Subsection (7) shall not apply to a person who—

(a) was in receipt of carer's allowance immediately before the date prescribed for the purposes of subsection (7), and

(b) was in receipt of pre-retirement allowance immediately before receiving carer's allowance.¹¹⁷¹

Rate of allowance (including increases for qualified adult and qualified children).

150. (1) Subject to this section and section 144, the rate of pre-retirement allowance (in this Chapter referred to as “the scheduled rate”) shall be the weekly rate set out in column (2) of Part 1 of Schedule 4 increased by—

(a) the amount set out in column (3) of that Part for any period during which the claimant or beneficiary has a qualified adult¹¹⁷² subject to the restriction that¹¹⁷³ the claimant or beneficiary shall not be entitled to an increase under this paragraph in respect of more than one person, and

(b) 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) Subject to paragraph (b), pre-retirement allowance shall be payable where the weekly means of the claimant or beneficiary—

(i) are less than €1, at the scheduled rate,

(ii) are equal to €1, at the scheduled rate reduced by €1, and

(iii) exceed €1, at the scheduled rate reduced by €1 for each amount (if any) of €1 by which those weekly means exceed €1.

¹¹⁶⁷ Ss (4) to (4C) substituted by s. 9(d) SW&PA 2007

¹¹⁶⁸ Substituted by s. 15(a) SWLR&PA 2006

¹¹⁶⁹ Substituted by s. 21(b) SW&PA 2007

¹¹⁷⁰ Ss (7) and (8) inserted by s. 15(b) SWLR&PA 2006

¹¹⁷¹ Ss (9) inserted by s.21(c) SW&PA 2007

¹¹⁷² Uncommenced provision - Inserted by s.9(e) of the SW&PA 2007 and deleted prior to commencement by s.25(a) SW&PA 2008

¹¹⁷³ Uncommenced provision - Inserted by Sch. 6(2) of the SWCA 2005 and deleted prior to commencement by s.21 SW&PA 2014

(b) Where the weekly means of the claimant or beneficiary are equal to or exceed the scheduled rate, no pre-retirement allowance shall be payable.

~~(3) Any increase of pre-retirement allowance payable under subsection (1)(b) in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary is not a qualified adult and subsection (1)(b) shall be read and have effect accordingly.¹¹⁷⁴~~

(3) Any increase of pre-retirement allowance payable under subsection (1)(b) in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse, ***civil partner or cohabitant***¹¹⁷⁵ of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, ***civil partner or cohabitant***¹¹⁷⁶ of the claimant or beneficiary –

(a) is not a qualified adult, or

(b) is a spouse, ***civil partner or cohabitant***¹¹⁷⁷ referred to in section 149(4),

and subsection (1)(b) shall be read and have effect accordingly.¹¹⁷⁸

Regulations.

151. The Minister may make regulations for the purpose of giving effect to this Chapter and those regulations may, in particular and without prejudice to the generality of the foregoing—

(a) specify the age for the purposes of section 149(1)(a),

(b) specify the periods which shall be regarded as periods of retirement for the purposes of this Chapter,

(c) specify the circumstances in which a person is to be regarded as a separated spouse for the purposes of ~~section 149(1)(e)(ii), and~~ ***section 149(1)(c)(ii)***,¹¹⁷⁹

(ca) specify the circumstances in which a person is to be regarded as a civil partner where he or she is not living with the other civil partner of the civil partnership for the purposes of section 149(1)(c)(ia), and¹¹⁸⁰

(d) vary the weekly rate of pre-retirement allowance under section 150, but any such variation shall not reduce the weekly rates applicable immediately before the commencement of the regulations.

CHAPTER 4

Old Age (Non-Contributory) Pension–*State Pension (Non-Contributory)*

Interpretation.

152. In this Chapter—

¹¹⁷⁴ Substituted by s. 9(e)(ii) SW&PA 2007

¹¹⁷⁵ Inserted by s.26 and Sch3 SW&PA 2010

¹¹⁷⁶ Inserted by s.26 and Sch3 SW&PA 2010

¹¹⁷⁷ Inserted by s.26 and Sch3 SW&PA 2010

¹¹⁷⁸ Ss (3) substituted by s. 9(e)(ii) SW&PA 2007

¹¹⁷⁹ Substituted by s.7(3) SW&P(MP)A 2013

¹¹⁸⁰ Para. (ca) inserted by s.7 SW&P(MP)A 2013

“civil partner” includes a civil partner whose civil partnership has been dissolved, being a dissolution that is recognised as valid in the State;¹¹⁸¹

“spouse”, subject to section 3(10), includes—

~~(a) a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, or~~

~~(b) a man and woman who are not married to each other but are cohabiting as husband and wife;~~

“spouse” includes a party to a marriage that has been dissolved, being a dissolution that is recognized as valid in the State;¹¹⁸²

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

Entitlement to pension.

~~153. Subject to this Act, every person in whose case the conditions laid down by this Chapter for the receipt of an old age (non-contributory) pension (in this Chapter referred to as statutory conditions) are fulfilled, shall be entitled to receive that pension under this Chapter so long as those conditions continue to be fulfilled, and so long as he or she is not disqualified under this Chapter for the receipt of the pension.¹¹⁸³~~

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)~~ ^{1184 1185}.

~~Statutory conditions.~~

~~154. The statutory conditions for the receipt of an old age (non-contributory) pension by any person are—~~

~~(a) the person must have 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 must be habitually resident in the State at the date of the making of the application for that pension.¹¹⁸⁶~~

¹¹⁸¹ Inserted by s.19(5)(a) SW&PA 2010

¹¹⁸² Substituted by s. 37 + Sch7 SWLR&PA 2006

¹¹⁸³ S 153 substituted by s. 16 SWLR&PA 2006

¹¹⁸⁴ Deleted by s.11(4) SW&PA 2014

¹¹⁸⁵ S 153 substituted by s. 16 SWLR&PA 2006

¹¹⁸⁶ S 154 deleted by s. 16(b) SWLR&PA 2006

Special conditions for receipt of pension.

155. Where a person who has attained pensionable age is in receipt of or entitled to, a ~~widow's (contributory) pension, widower's (contributory) pension or old age (contributory) pension or is a person in respect of whom an increase of old age (contributory) pension is payable by virtue of section 112(1) and would but for section 160 be qualified for the receipt of an old age (non-contributory) pension—~~

~~(a) the person may, notwithstanding anything contained in section 160, be paid the old age (non-contributory) 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, old age (contributory) pension or the increase thereof, as the case may be, payable, and~~

~~(b) in any case where the old age (non-contributory) pension 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.¹¹⁸⁷~~

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 old age (non-contributory) pension shall be the weekly rate set out in column (2) of 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.¹¹⁸⁸~~

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.¹¹⁸⁹~~

(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—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the claimant or beneficiary, and

¹¹⁸⁷ S 155 deleted by s. 16(b) SWLR&PA 2006

¹¹⁸⁸ S 156 substituted by s. 16(c) SWLR&PA 2006

¹¹⁸⁹ Subsect. (1) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the claimant or beneficiary.¹¹⁹⁰

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

(i) do not exceed ~~€20.00~~ €30,¹¹⁹¹ at the scheduled rate, and

(ii) subject to paragraph (b), exceed ~~€20.00~~ €30,¹¹⁹² at the scheduled rate reduced by €2.50 for each amount (if any) of €2.50 by which those weekly means exceed ~~€20.00~~ €30,¹¹⁹³ 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.¹¹⁹⁴

Increases (including increase for one of a couple).

157. (1) Subject to subsection (2) and section 159, the weekly rate of ~~old age (non-contributory) pension~~ *State pension (non-contributory)* payable in accordance with section 156 shall be increased—

(a) by the amount calculated in accordance with Part 2 of Schedule 4 where the beneficiary is living with, or is wholly or mainly maintaining, his or her spouse, *civil partner or cohabitant*¹¹⁹⁵, subject to the restriction that ¹¹⁹⁶ 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,

(c) by the amount set out in column (7) of Part 1 of Schedule 4 where the beneficiary has attained the age of 80 years, and

(d) 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 the rate of which is related to the rates of unemployment assistance payable under section 142 or unemployment benefit payable under section 65 or 66, in respect of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme, or~~

¹¹⁹⁰ Subsect. (1) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹¹⁹¹ Substituted by s.10(1) SWA 2006

¹¹⁹² Substituted by s. 10(1) SWA 2006

¹¹⁹³ Substituted by s. 10(1) SWA 2006

¹¹⁹⁴ S 156 substituted by s. 16(c) SWLR&PA 2006

¹¹⁹⁵ Inserted by s.26 and Sch3 SW&PA 2010

¹¹⁹⁶ Uncommenced provision – Inserted by Sch. 6(2) of the SWCA 2005 and deleted prior to commencement by s.21 SW&PA 2014

~~(c) entitled to or in receipt of an allowance the rate of which is related to the rates of unemployment assistance payable under section 142 or unemployment benefit payable under section 65 or 66, 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.¹¹⁹⁷~~

(2) An increase under subsection (1)(a) shall not be payable where the spouse, *civil partner or cohabitant*¹¹⁹⁸ 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.¹¹⁹⁹

(3) The amount of the increase of pension referred to in subsection (1)(a), in respect of any claim for State pension (non-contributory) made after 24 September 2007, shall be paid –

(a) directly to the spouse, *civil partner or cohabitant*¹²⁰⁰ concerned, or

(b) to such other person as may be nominated by the spouse for the purpose of receiving the increase of pension referred to in subsection (1)(a) on behalf of the spouse, *civil partner or cohabitant*¹²⁰¹.

(4) Where a beneficiary ceases to be entitled to State pension (non-contributory) the payment to a spouse, *civil partner or cohabitant*¹²⁰² of the increase of pension referred to in subsection (1)(a) shall also cease.¹²⁰³

¹¹⁹⁷ S 157(2) substituted by s. 16(d) SWLR&PA 2006

¹¹⁹⁸ Inserted by s.26 and Sch3 SW&PA 2010

¹¹⁹⁹ S 157(2) substituted by s. 16(d) SWLR&PA 2006

¹²⁰⁰ Inserted by s.26 and Sch3 SW&PA 2010

¹²⁰¹ Inserted by s.26 and Sch3 SW&PA 2010

¹²⁰² Inserted by s.26 and Sch3 SW&PA 2010

¹²⁰³ Ss. 157(3 and 4) inserted by s. 14(d) SW&PA 2007

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

158. Subject to section 159, the increase payable under section 156(1) in respect of a qualified child who normally resides with the beneficiary and the spouse, *civil partner or cohabitant*¹²⁰⁴ of the beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, *civil partner or cohabitant*¹²⁰⁵ of the beneficiary is entitled to any benefit, assistance, allowance (other than supplementary welfare allowance) or any other pension under this Act.

~~Rate of pension for persons in receipt of farm assist.~~

~~159. In the case of a person who was in receipt of farm assist under Chapter 11 of Part 3 immediately before becoming entitled to old age (non-contributory) pension, the weekly rate of pension payable shall be the greater of—~~

~~(a) the rate payable in accordance with sections 156, 157 and 158, or~~

~~(b) an amount equal to the rate of farm assist which was payable in accordance with sections 215 and 216 immediately before becoming entitled to old age (non-contributory) pension.¹²⁰⁶~~

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~~, *widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension*¹²⁰⁷ 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, *disability allowance under Chapter 10 of this Part*¹²⁰⁸ 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~~, *widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension*¹²⁰⁹ 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

(ca) an amount equal to the rate of disability allowance which was payable in accordance with section 211 immediately before becoming entitled to State pension

¹²⁰⁴ Inserted by s.26 and Sch3 SW&PA 2010

¹²⁰⁵ Inserted by s.26 and Sch3 SW&PA 2010

¹²⁰⁶ S 159 substituted by s. 16(e) SWLR&PA 2006

¹²⁰⁷ Substituted by s.26 and Sch3 SW&PA 2010

¹²⁰⁸ Inserted by s.7(a) SW&PA 2008

¹²⁰⁹ Substituted by s.26 and Sch3 SW&PA 2010

(non-contributory) and the rate payable in accordance with sections 156, 157 and 158, or¹²¹⁰

(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 158.¹²¹¹

Disqualifications.

~~160. (1) Except as provided in section 155, receipt of old age (contributory) pension by a person shall disqualify that person for old age (non-contributory) pension.~~

~~(2) A person in respect of whom the weekly rate of old age (contributory) pension payable to another person is increased by virtue of section 112(1) shall, except as provided in section 155, be disqualified, for any period in respect of which the weekly rate of that pension payable to that other person is so increased, for receiving old age (non-contributory) pension.~~

~~(3) A person who has attained pensionable age and is in receipt of a widow's (contributory) pension or widower's (contributory) pension shall, except as provided in section 155, be disqualified for receiving old age (non-contributory) pension for any period in respect of which the person is in receipt of the widow's (contributory) pension or widower's (contributory) pension.~~¹²¹²

Disqualifications.

160. (1) Subject to subsections (2) and (3), a person in receipt of or entitled to widow's (contributory) pension, widower's (contributory) pension, *surviving civil partner's (contributory) pension*¹²¹³ or ~~old age (contributory) pension~~ *State pension (contributory)* or a person in respect of whom an increase of ~~old age (contributory) pension~~ *State pension (contributory)* 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, *surviving civil partner's (contributory) pension*,¹²¹⁴ ~~old age (contributory) pension~~ *State pension (contributory)* 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, *surviving civil partner's (contributory) pension*,¹²¹⁵ ~~old age (contributory) pension~~ *State pension (contributory)* 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.¹²¹⁶

CHAPTER 5 *Blind Pension*

Entitlement to pension.

~~161. (1) Subject to this Act—~~

¹²¹⁰ Para (ca) inserted by s.7(b) SW&PA 2008

¹²¹¹ S 159 substituted by s. 16(e) SWLR&PA 2006

¹²¹² S. 160 substituted by s. 16(f) SWLR&PA 2006

¹²¹³ Inserted by s.26 and Sch3 SW&PA 2010

¹²¹⁴ Inserted by s.26 and Sch3 SW&PA 2010

¹²¹⁵ Inserted by s.26 and Sch3 SW&PA 2010

¹²¹⁶ S 160 substituted by s. 16(f) SWLR&PA 2006

~~(a) subject to paragraph (b), every blind person who has attained the age of 18 years shall be entitled to receive and to continue to receive such pension (in this Act referred to as a “blind pension”) as, under Chapter 4 of this Part, he or she would be entitled to receive if he or she had attained pensionable age, subject to the modification that—~~

~~(i) the rate of blind pension payable shall be the weekly rate set out in column (2), reference 5 in Part 1 of Schedule 4, and~~

~~(ii) the increase payable by virtue of section 157(1)(a), shall be as set out—~~

~~(I) where the beneficiary and his or her spouse have attained pensionable age, in Part 2 of Schedule 4,~~

~~(II) where the beneficiary and his or her spouse have not attained pensionable age, in Part 3 of Schedule 4,~~

~~(III) where the beneficiary has not attained pensionable age and his or her spouse has attained that age, in Part 4 of Schedule 4, and~~

~~(IV) where the beneficiary has attained pensionable age and his or her spouse has not attained that age, in Part 5 of Schedule 4, and~~

~~(b) Chapter 4 of this Part applies in all respects in the case of such person, subject to the modifications that for the statutory conditions contained in section 154(a) there shall be substituted the conditions that the person must—~~

~~(i) have attained the age of 18 years, and~~

~~(ii) be so blind that he or she either cannot perform any work for which eyesight is essential or cannot continue his or her ordinary occupation.~~

~~(2) A blind person in respect of whom a pension is payable under this section shall not be a qualified child for the purposes of this Act.¹²¹⁷~~

CHAPTER 5¹²¹⁸

BLIND PENSION

Interpretation.

161. In this Chapter—

“civil partner” includes a civil partner whose civil partnership has been dissolved, being a dissolution that is recognised as valid in the State;¹²¹⁹

“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.

¹²¹⁷ Chapter 5 substituted by s. 20 SWLR&PA 2006

¹²¹⁸ Chapter 5 (Ss 161 – 161E) substituted by s. 20 SWLR&PA 2006

¹²¹⁹ Inserted by s.19(5)(b) SW&PA 2010

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,~~

(b) the reason for the person’s incapacity to perform any insurable employment or insurable self-employment for which eyesight is essential or to continue his or her ordinary occupation is as a direct result of his or her blindness and for no other reason,

(bb) were it not for this incapacity he or she would be available to work in insurable employment or insurable self-employment,¹²²⁰

(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~~¹²²¹.

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.~~¹²²²

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—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the claimant or beneficiary, and

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the claimant or beneficiary.¹²²³

(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.

¹²²⁰ Substituted by s.4(d) SW(No.2)A 2019

¹²²¹ Deleted by s.11(5) SW&PA 2014

¹²²² Subsect. (1) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹²²³ Subsect. (1) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(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, *civil partner or cohabitant*¹²²⁴, where that spouse, *civil partner or cohabitant*¹²²⁵ 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, *civil partner or cohabitant*¹²²⁶ 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, *civil partner or cohabitant*¹²²⁷ of the beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, *civil partner or cohabitant*¹²²⁸ of the beneficiary is entitled to any benefit, assistance, allowance (other than supplementary welfare allowance) or any other pension under this Act.

¹²²⁴ Inserted by s.26 and Sch3 SW&PA 2010

¹²²⁵ Inserted by s.26 and Sch3 SW&PA 2010

¹²²⁶ Inserted by s.26 and Sch3 SW&PA 2010

¹²²⁷ Inserted by s.26 and Sch3 SW&PA 2010

¹²²⁸ Inserted by s.26 and Sch3 SW&PA 2010

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 surviving civil partner's (contributory) pension**¹²²⁹ or a person in respect of whom an increase of ~~old-age (contributory) pension~~ **State pension (contributory)** 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, **surviving civil partner's (contributory) pension**¹²³⁰ or an increase of ~~old-age (contributory) pension~~ **State pension (contributory)** 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, **surviving civil partner's (contributory) pension**¹²³¹ or an increase of ~~old-age (contributory) pension~~ **State pension (contributory)** 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.¹²³²

CHAPTER 5A

Blind Welfare Allowance ¹²³³

CHAPTER 6

Widow's (Non-Contributory) Pension, Widower's (Non-Contributory) Pension and ~~Orphan's (Non-Contributory) Pension~~ Guardian's Payment (Non-Contributory)

Interpretation.

162. (1) In this Chapter, save where the context otherwise requires—

~~“pension” means a widow's (non-contributory) pension in the case of a widow and a widower's (non-contributory) pension in the case of a widower;~~¹²³⁴

“pension” means—

- (a) a widow's (non-contributory) pension in the case of a widow,
- (b) a widower's (non-contributory) pension in the case of a widower, and
- (c) a surviving civil partner's (non-contributory) pension in the case of a surviving civil partner;¹²³⁵

“weekly means” shall, subject to Rule 1(1) of ~~Part 3~~ **Part 5**¹²³⁶ of Schedule 3, be the yearly means divided by 52;

¹²²⁹ Inserted by s.26 and Sch3 SW&PA 2010

¹²³⁰ Inserted by s.26 and Sch3 SW&PA 2010

¹²³¹ Inserted by s.26 and Sch3 SW&PA 2010

¹²³² Chapter 5 (Ss 161 – 161E) substituted by s. 20 SWLR&PA 2006

¹²³³ **Uncommenced provision - see S. 12(a) SW&PA 2008**

¹²³⁴ Substituted by s.19(6) SW&PA 2010

¹²³⁵ Substituted by s.19(6) SW&PA 2010

¹²³⁶ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

“widow” means a widow or a woman who would otherwise be a widow but for the fact that her marriage has been dissolved, being a dissolution that is recognised as valid in the State;

“widower” means a widower or a man who would otherwise be a widower but for the fact that his marriage has been dissolved, being a dissolution that is recognised as valid in the State.

(2) For the purposes of this Chapter—

(a) means shall be calculated in accordance with the Rules contained in ~~Part 3 Part~~ **Part 5**¹²³⁷ of Schedule 3, ~~and~~¹²³⁸

~~(b) a widow who has remarried or entered into a civil partnership¹²³⁹ shall not be regarded as the widow of her former husband and a widower who has remarried or entered into a civil partnership¹²⁴⁰ shall not be regarded as the widower of his former wife, and~~^{1241, 1242}

(b) a widow who has remarried or entered into a civil partnership shall not be regarded as the widow of her former spouse and a widower who has remarried or entered into a civil partnership shall not be regarded as the widower of his former spouse, and ¹²⁴³

(c) a surviving civil partner who has entered into a new civil partnership or has married shall not be regarded as the surviving civil partner of his or her former civil partner. ¹²⁴⁴

Entitlement to pension.

~~163. (1) Subject to this Act, a pension shall be payable to a widow or a widower. (1) Subject to this Act, a pension shall be payable to a widow or widower who has not attained pensionable age.~~^{1245 1246}

163. (1) Subject to this Act, a pension shall be payable to a widow, widower or surviving civil partner who has not attained pensionable age. ¹²⁴⁷

~~(2) A pension payable to a widow or widower shall, subject to this Chapter, continue to be payable unless the beneficiary remarries and in that case the pension shall cease as and from the beneficiary's remarriage.~~¹²⁴⁸

(2) A pension payable to a widow, widower or surviving civil partner shall, subject to this Chapter, continue to be payable unless the beneficiary marries or remarries or enters into a civil partnership or a new civil partnership and in that case the pension shall cease as and from the beneficiary's marriage or remarriage or entry into a civil partnership or a new civil partnership. ¹²⁴⁹

¹²³⁷ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹²³⁸ Deleted by s.19(6)(b)(i) SW&PA 2010

¹²³⁹ Inserted by s.19(6)(b)(ii) SW&PA 2010

¹²⁴⁰ Inserted by s.19(6)(b)(iii) SW&PA 2010

¹²⁴¹ Inserted by s.19(6)(b)(iv) SW&PA 2010

¹²⁴² Para (b) substituted by s.13 SW&PA 2015

¹²⁴³ Para (b) substituted by s.13 SW&PA 2015

¹²⁴⁴ Inserted by s.19(6)(b)(v) SW&PA 2010

¹²⁴⁵ Substituted by s. 21 SWLR&PA 2006

¹²⁴⁶ Substituted by s.19(7) SW&PA 2010

¹²⁴⁷ Substituted by s.19(7) SW&PA 2010

¹²⁴⁸ Substituted by s.19(7) SW&PA 2010

¹²⁴⁹ Substituted by s.19(7) SW&PA 2010

(3) A person shall not be entitled to a pension under this section unless he or she is habitually resident in the State at the date of the making of the application for that pension ¹²⁵⁰.

Rate of pension.

164.(1) The rate (in this Chapter referred to as “the scheduled rate”) of pension shall be the weekly rate set out in column (2) of Part 1 of Schedule 4.

(2) (a) A pension shall be payable—

(i) where the weekly means of the claimant or beneficiary do not exceed €7.60, at the scheduled rate, and

(ii) subject to paragraph (b), where the weekly means of the claimant or beneficiary 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.

~~165. The weekly rate of pension payable in accordance with section 164 shall be increased—~~

~~(a) by the amount set out in column (6) of Part 1 of Schedule 4 where the beneficiary has attained pensionable age and is living alone,~~

~~(b) by the amount set out in column (7) of Part 1 of Schedule 4 where the beneficiary has attained the age of 80 years, and~~

~~(c) by the amount set out in column (8) of Part 1 of Schedule 4 where the beneficiary has attained pensionable age and is ordinarily resident on an island.¹²⁵¹~~

Disqualifications.

~~166. A widow or widower, as the case may be, shall not, if and so long as she or he and any person are cohabiting as husband and wife, be entitled to and shall be disqualified for receiving payment of pension.~~

166. A widow, widower or surviving civil partner, as the case may be, shall not, if and so long as he or she is a cohabitant, be entitled to and shall be disqualified for receiving payment of pension. ¹²⁵²

Avoidance of double pensions.

167. Where a widow or widower would, but for this section, be entitled to both a widow’s (contributory) pension or a widower’s (contributory) pension, as the case may be, and a pension under this Chapter, the latter pension shall not be payable except insofar as is provided by regulations under section 247.

¹²⁵⁰ Deleted by s.11(6) SW&PA 2014

¹²⁵¹ S. 165 deleted by s. 21 SWLR&PA 2006

¹²⁵² Substituted by s.19(8) SW&PA 2010

Avoidance of double pensions in relation to surviving civil partner's (contributory) pension.

167A. Where a surviving civil partner would, but for this section, be entitled to both a surviving civil partner's (contributory) pension and a pension under this Chapter, the latter pension shall not be payable except insofar as is provided by regulations under section 247.¹²⁵³

Entitlement to ~~orphan's (non-contributory) pension~~ guardian's payment (non-contributory)

168. (1) Subject to this Act, ~~an orphan's (non-contributory) pension~~ a *guardian's payment (non-contributory)* shall be payable in respect of an orphan.

(2) Not more than one ~~pension payment~~¹²⁵⁴ shall be payable in respect of any one orphan.

(3) A ~~pension payment~~¹²⁵⁵ shall not be payable in respect of an orphan in respect of whom an increase under section 127(1) or 174(1) is claimable.

~~(4) A pension payment¹²⁵⁶ shall not be payable in respect of any period during which a payment is made under Article 14 of the Child Care (Placement of Children in Foster Care) Regulations 1995 (S.I. No. 260 of 1995) or Article 14 of the Child Care (Placement of Children with Relatives) Regulations 1995 (S.I. No. 261 of 1995).~~¹²⁵⁷

(4) Guardian's payment (non-contributory) shall not be payable for any period during which a payment is made in respect of a child under Part VI of the Child Care Act 1991 and regulations made thereunder.¹²⁵⁸

(5) A person shall not be entitled to a ~~pension payment~~¹²⁵⁹ under this section unless he or she is habitually resident in the State ~~at the date of the making of the application for that pension payment~~^{1260, 1261}

Rate of pension.

169. (1) The weekly rate (in this Chapter referred to as "the scheduled rate") of ~~orphan's (non-contributory) pension~~ *guardian's payment (non-contributory)* shall be the weekly rate set out in column (2) of Part 1 of Schedule 4.

(2) (a) ~~An orphan's (non-contributory) pension~~ A *guardian's pension (non-contributory)* shall be payable where—

(i) the weekly means of the ~~claimant or beneficiary~~ orphan¹²⁶² do not exceed €7.60, at the scheduled rate, and

(ii) subject to paragraph (b), those weekly means 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.

¹²⁵³ Inserted by s.19(8) SW&PA 2010

¹²⁵⁴ Substituted by s. 4 + Sch1 SWLR&PA 2006

¹²⁵⁵ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

¹²⁵⁶ Substituted by s. 4 + Sch1 SWLR&PA 2006

¹²⁵⁷ S. 168(4) substituted by s. 17(b) SW&PA 2007

¹²⁵⁸ S. 168(4) substituted by s. 17(b) SW&PA 2007

¹²⁵⁹ Substituted by s. 4 + Sch1 SWLR&PA 2006

¹²⁶⁰ Deleted by s.11(7) SW&PA 2014

¹²⁶¹ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

¹²⁶² Substituted by s. 26 SWLR&PA 2006

(b) Where the rate calculated under paragraph (a)(ii) at which, but for this paragraph, the ~~pension~~ *payment*¹²⁶³ would be payable is less than €2.50, the ~~pension~~ *payment*¹²⁶⁴ shall not be payable.

Civil proceedings.

170. (1) Where, in any civil proceedings in any court, it is shown to the satisfaction of the court that pursuant to a claim of or on behalf of a person a pension was allowed or awarded or that the amount of a pension payable to or in respect of a person was varied and that the pension as so allowed or awarded or as so varied was at any time in course of payment to the person to whom the pension was payable, that person shall, in each case, be presumed, unless the contrary is shown, to have been in receipt of a pension of the amount so allowed or awarded or as so varied, as the case may be, from the date on which the pension of the amount so allowed or awarded or as so varied, as the case may be, became payable until the date, if any, on which the amount of the pension is varied or further varied, as the case may be, or the date on which the pension ceases to be payable, whether by reason of the death of the person or otherwise, whichever should first occur.

(2) In this section “pension” means a widow’s (non-contributory) pension, a widower’s (non-contributory) pension, *a surviving civil partner’s (non-contributory) pension*¹²⁶⁵ or ~~an orphan’s (non-contributory) pension~~ a *guardian’s payment (non-contributory)* as the case may require.

Payment of pension.

171. (1) Subject to this section, ~~orphan’s (non-contributory) pension~~ *guardian’s payment (non-contributory)* shall be paid to the guardian of the orphan in respect of whom that ~~pension~~ *payment*¹²⁶⁶ is payable.

(2) In this Chapter “guardian” means the person in whose care the orphan normally resides.

(3) The Minister may, where he or she thinks fit, direct that a payment under this Chapter, payable to the guardian of an orphan, be paid to some other person for the benefit of the orphan or, subject to the conditions and in the circumstances that may be prescribed, directly to an orphan who has attained the age of 18 years where that orphan is not normally residing with a guardian.

CHAPTER 7 *One-Parent Family Payment*

Interpretation.

172. (1) In this Chapter—

~~“qualified parent” means, subject to regulations under section 177~~

~~(a) a widow,~~

~~(b) a widower,~~

~~(c) a separated spouse,~~

¹²⁶³ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

¹²⁶⁴ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

¹²⁶⁵ Inserted by s.26 and Sch. 3 SW&PA 2010

¹²⁶⁶ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

~~(d) an unmarried person, or~~

~~(e) a person whose spouse has been committed in custody to a prison or place of detention for not less than 6 months;~~

~~who has at least one qualified child normally residing with that person;~~ ¹²⁶⁷

“qualified parent” means, subject to regulations under section 177—

(a) a widow,

(b) a widower,

(c) a separated spouse,

(d) an unmarried person, ~~or~~ ¹²⁶⁸

(e) a person whose spouse *or civil partner*¹²⁶⁹ has been committed in custody to a prison or place of detention for not less than ~~6 months, or~~ ¹²⁷⁰ **6 months**,¹²⁷¹

(f) a surviving civil partner,

(g) a civil partner who is not living with the other civil partner of the civil partnership, or

(h) a person who is not a party to a ~~civil partnership.~~ ¹²⁷² **civil partnership**,¹²⁷³

who is the parent, step-parent, adoptive parent or legal guardian of at least one ~~qualified child~~ **relevant child** ¹²⁷⁴, who normally resides with that person;¹²⁷⁵

‘relevant age’ means—

~~(a) 16 years where a payment under Chapter 8A of Part 3 is being made in respect of a child, and~~ ¹²⁷⁶

~~(a) 16 years where—~~

~~(i) the person in respect of whom the claim for one parent family payment is being made is qualified for a carer’s allowance under Chapter 8 of Part 3, including a payment under section 186A, or~~

~~(ii) a payment under Chapter 8A of Part 3 is being made in respect of a child, and~~ ^{1277_1278}

¹²⁶⁷ Substituted by s.13(1) SW(MP)A 2008

¹²⁶⁸ Deleted by s.20(1) SW&PA 2010

¹²⁶⁹ Inserted by s.26 and Sch3 SW&PA 2010

¹²⁷⁰ Inserted by s.20(1) SW&PA 2010

¹²⁷¹ Substituted by s.6(1)(a)(i) SW(MP)A 2015

¹²⁷² Paras (f), (g) and (h) inserted by s.20(1) SW&PA 2010

¹²⁷³ Substituted by s.6(1)(a)(ii) SW(MP)A 2015

¹²⁷⁴ Substituted by s.9(2)(a) SW&PA 2011

¹²⁷⁵ Substituted by s.13(1) SW(MP)A 2008

¹²⁷⁶ Substituted by s.6(1)(b) SW(MP)A 2015

¹²⁷⁷ Substituted by s.6(1)(b) SW(MP)A 2015

¹²⁷⁸ Para (a) substituted by s.11 SWA 2016

(a) 16 years where—

(i) the person in respect of whom the claim for one-parent family payment is being made is qualified for—

(I) a blind pension under Chapter 5 of Part 3, or

(II) a carer's allowance under Chapter 8 of Part 3, including a payment under section 186A, or

(ii) a payment under Chapter 8A of Part 3 is being made in respect of a child, and¹²⁷⁹

~~(b) in any other case—~~

~~(i) 12 years in respect of any claim for one-parent family payment relating to any day during the period beginning on 3 May 2012 and expiring on 2 January 2013,~~

~~(ii) 10 years in respect of any claim for one-parent family payment relating to any day during the period beginning on 3 January 2013 and expiring on 1 January 2014, and~~

~~(iii) 7 years in respect of any claim for one-parent family payment relating to any day occurring on or after 2 January 2014;^{1280 1281}~~

(b) in any other case—

(i) 12 years in respect of any claim for one-parent family payment relating to any day during the period beginning on 3 May 2012 and expiring on 3 July 2013,

(ii) 10 years in respect of any claim for one-parent family payment relating to any day during the period beginning on 4 July 2013 and expiring on 2 July 2014, and

(iii) 7 years in respect of any claim for one-parent family payment relating to any day occurring on or after 3 July 2014;¹²⁸²

'relevant child' means a person who—

(a) is ordinarily resident in the State,

(b) is not detained in a children detention school,

and

~~(c) has—~~

~~(i) not attained the age of 14 years, or~~

¹²⁷⁹ Para (a) substituted by s.11 SWA 2016

¹²⁸⁰ Inserted by s.4(a) SW&PA 2012

¹²⁸¹ Substituted by s.14(a) SWA 2012

¹²⁸² Para. (b) substituted by s.14(a) SWA 2012

~~(ii) attained the age of 14 years but has not attained the age of 16 years and is a child in respect of whom a payment under Chapter 8A of Part 3 is in payment;~~^{1283 1284}

(c) has not attained the relevant age;¹²⁸⁵

‘relevant date’ means the date of death of—

(a) the spouse of the surviving spouse,

(b) the cohabitant of the surviving cohabitant, or

(c) the civil partner of the surviving civil partner;¹²⁸⁶

“weekly means” means, subject to Rule 1(1) and (4) of ~~Part 3~~ **Part 5**¹²⁸⁷ of Schedule 3, the yearly means divided by 52.

(2) For the purposes of this Chapter—

(a) means shall be calculated in accordance with the Rules contained in ~~Part 3~~ **Part 5**¹²⁸⁸ of Schedule 3,

~~(b) a widow who has remarried shall not be regarded as the widow of her former husband and a widower who has remarried shall not be regarded as the widower of his former wife, and~~¹²⁸⁹

~~(b) a widow who has remarried or entered into a civil partnership shall not be regarded as the widow of her former husband and a widower who has remarried or entered into a civil partnership shall not be regarded as the widower of his former wife,~~^{1290 1291}

(b) a widow who has remarried or entered into a civil partnership shall not be regarded as the widow of her former spouse and a widower who has remarried or entered into a civil partnership shall not be regarded as the widower of his former spouse,¹²⁹²

(ba) a surviving civil partner who has entered into a new civil partnership or who marries shall not be regarded as the surviving civil partner of his or her former civil partner, and¹²⁹³

~~(c) a reference to a qualified parent shall include a reference to a person who would otherwise be a qualified parent but for the fact that the person’s marriage has been dissolved, being a dissolution that is recognised as valid in the State.~~¹²⁹⁴

¹²⁸³ Definition of ‘relevant child’ inserted by s.9(b) SW&PA 2011

¹²⁸⁴ Para (c) substituted by s.4(b) SW&PA 2012

¹²⁸⁵ Para (c) substituted by s.4(b) SW&PA 2012

¹²⁸⁶ Definition of ‘relevant date’ inserted by s.9(b) SW&PA 2011

¹²⁸⁷ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹²⁸⁸ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹²⁸⁹ Substituted by s.20(2)(a) SW&PA 2010

¹²⁹⁰ Substituted by s.20(2)(a) SW&PA 2010

¹²⁹¹ Para (b) substituted by s.14 SW&PA 2015

¹²⁹² Para (b) substituted by s.14 SW&PA 2015

¹²⁹³ Inserted by s.20(2)(b) SW&PA 2010

¹²⁹⁴ Substituted by s.20(2)(c) SW&PA 2010

(c) a reference to a qualified parent shall include a reference to a person who would otherwise be a qualified parent but for the fact that—

(i) the person’s marriage has been dissolved, being a dissolution that is recognised as valid in the State, or

(ii) the person’s civil partnership has been dissolved, being a dissolution that is recognized as valid in the State.¹²⁹⁵

~~Qualified child for purposes of one-parent family payment.~~¹²⁹⁶

~~172A. In this Chapter, other than section 174(1), ‘qualified child’ means—~~

~~(a) a person who is ordinarily resident in the State,~~

~~(b) is not detained in a children detention school, and~~

~~(c) has—~~

~~(i) not attained the age of 14 years, or~~

~~(ii) attained the age of 14 years but has not attained the age of 16 years and is a child in respect of whom a payment under Chapter 8A of Part 3 is in payment.^{1297 1298}~~

Entitlement to payment.

~~173. (1) Subject to this Act and to regulations made under this Act, a payment shall be payable to a qualified parent (“one-parent family payment”).~~

~~(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.^{1299 1300}~~

(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 any of the following persons who has not attained pensionable age:

(a) a qualified parent;

(b) a person to whom section 173A or 173B applies;

(c) a person to whom section 178A(6), 178A(7) or 178A(8) applies.¹³⁰¹

~~(2) A one-parent family payment payable to a qualified parent shall, subject to this Act, continue to be payable unless the qualified parent marries or remarries, and in such a case the one-parent family payment shall cease as and from the date of marriage or remarriage.¹³⁰²~~

¹²⁹⁵ Substituted by s.20(2)(c) SW&PA 2010

¹²⁹⁶ Inserted by s.25(1) SW(MP)A 2010

¹²⁹⁷ Inserted by s.25(1) SW(MP)A 2010

¹²⁹⁸ Section 172A repealed by s.9(3) SW&PA 2011

¹²⁹⁹ Substituted by s. 22 SWLR&PA 2006

¹³⁰⁰ Substituted by s.9(4) SW&PA 2011

¹³⁰¹ Substituted by s.9(4) SW&PA 2011

¹³⁰² Substituted by s.20(3) SW&PA 2010

(2) A one-parent family payment payable to a ~~qualified parent~~ *person*¹³⁰³ shall, subject to this Act, continue to be payable unless the ~~qualified parent~~ *person*¹³⁰⁴ marries, remarries, enters into a civil partnership or enters into a new civil partnership, and in such a case the one-parent family payment shall cease as and from the date of marriage or remarriage or the date of entry into a civil partnership or new civil partnership, as the case may be.¹³⁰⁵

~~(3) Subject to this Act, a one-parent family payment shall not be payable to a qualified parent whose gross weekly earnings (including wages and profit from any form of self-employment) calculated or estimated in the manner that may be prescribed¹³⁰⁶ exceed €293 €375¹³⁰⁷ €400.^{1308/1309}~~

~~(3) Subject to this Act, a one-parent family payment is not payable to a qualified parent whose weekly earnings (including wages and profit from any form of self-employment), calculated or estimated as prescribed, exceed €425.^{1310/1311}~~

~~(3) Subject to this Act, a one-parent family payment shall not be payable to a qualified parent *person*¹³¹² whose gross weekly earnings (including wages and profit from any form of self-employment) calculated or estimated in the manner that may be prescribed exceed €425.¹³¹³~~¹³¹⁴

~~(4) Regulations may, subject to the conditions and in the circumstances and for the periods that may be prescribed, entitle to one-parent family payment a qualified parent who, having been in receipt of that payment for 52 consecutive weeks, ceases to be entitled to that payment by virtue of having earnings in excess of the amount specified in subsection (3).¹³¹⁵~~

~~(4) Where a person who has been in receipt of one-parent family payment for a period of 52 consecutive weeks, ceases to be entitled to the payment by virtue of his or her gross weekly earnings exceeding the amount specified in subsection (3) he or she shall, notwithstanding that subsection, continue to be entitled to that payment where he or she continues to satisfy the conditions for entitlement other than in subsection (3), and the payment shall be—~~

~~(a) calculated in accordance with subsection (5), and
(b) payable, in accordance with subsection (5B), for a period not exceeding 6 months from the date on which, but for this subsection, that person would have ceased to be so entitled.^{1316 1317}~~

~~(b) payable for a period not exceeding 6 consecutive months from the date on which, but for this subsection, that person would have ceased to be so entitled.¹³¹⁸~~

~~(5) Regulations under subsection (4) shall provide that one-parent family payment payable by virtue of those regulations shall be payable at a rate less than that specified in Schedule 4~~

¹³⁰³ Substituted by s.9(4)(b) SW&PA 2011

¹³⁰⁴ Substituted by s.9(4)(b) SW&PA 2011

¹³⁰⁵ Substituted by s.20(3) SW&PA 2010

¹³⁰⁶ Inserted by s. 9 SWA 2005

¹³⁰⁷ Substituted by s. 27 SWLR&PA 2006

¹³⁰⁸ Substituted by s. 22 SW&PA 2007

¹³⁰⁹ S. 173(3) substituted by s.8(1) SW&PA 2008

¹³¹⁰ S. 173(3) substituted by s. 8(1) SW&PA 2008

¹³¹¹ Substituted by s.25(2)(a) SW(MP)A 2010

¹³¹² Substituted by s.9(4)(c) SW&PA 2011

¹³¹³ Substituted by s.25(2)(a) SW(MP)A 2010

¹³¹⁴ Repealed by Section 10 of the SWA 2020

¹³¹⁵ Substituted by s.25(2)(b) SW(MP)A 2010

¹³¹⁶ Substituted by s.25(2)(b) SW(MP)A 2010

¹³¹⁷ Substituted by s.7(1)(a) SWA 2011

¹³¹⁸ Repealed by Section 10 of the SWA 2020

and the rate specified by the regulations may vary with the extent to which the person's earnings exceed the amount specified in subsection (3).¹³¹⁹

~~(5) Subject to subsection (5A), in the case of a person to whom subsection (4) applies, one-parent family payment shall be payable at an amount equal to 50 per cent of the weekly rate payable to the qualified parent *person*¹³²⁰ immediately before the day on which, but for this subsection, the qualified parent *person*¹³²¹ would have ceased to be entitled to the payment.¹³²²~~

~~(5A) The amount payable in accordance with subsection (5) shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.^{1323 1324}~~

~~(5B) Where the payment is made in accordance with subsection (4), the period of 6 months for which the payment is payable shall apply—~~

~~(a) where the 6 month period is comprised of 6 consecutive months, or~~

~~(b) where the payment is made other than in a period of 6 consecutive months, the cumulative total of all periods during which the payment is made shall not exceed 6 months;~~

~~from the date on which, but for subsection (4), the person referred to in subsection (4) would have ceased to be so entitled.¹³²⁵~~

~~(5B) Subject to subsection (5C), subsections (4), (5) and (5A) shall not apply in any case where a person, by virtue of his or her gross weekly earnings exceeding the amount specified for the purposes of subsection (3), ceases to be entitled to one parent family payment on or after 5 January 2012.^{1326 1327}~~

~~(5C) Notwithstanding subsection (5B), a person who qualifies for the continuation of one-parent family payment in accordance with subsection (4) before 5 January 2012 may continue to receive that payment for the unexpired portion of the period of continuation which occurs on or after 5 January 2012 if—~~

~~(a) the qualified person continues, during that unexpired portion of that period, to satisfy subsection (4), and~~

~~(b) the total period of the continuation of that payment does not exceed, in accordance with subsection (4), 6 months from the date on which, but for that subsection, that person would have ceased to be so entitled.^{1328 1329}~~

¹³¹⁹ Substituted by s.25(2)(c) SW(MP)A 2010

¹³²⁰ Substituted by s.9(4)(b) SW&PA 2011

¹³²¹ Substituted by s.9(4)(b) SW&PA 2011

¹³²² Repealed by Section 10 of the SWA 2020

¹³²³ Substituted by s.7(1)(b) SWA 2011

¹³²⁴ Repealed by Section 10 of the SWA 2020

¹³²⁵ Substituted by s.25(2)(c) SW(MP)A 2010

¹³²⁶ Substituted by s.25(2)(c) SW(MP)A 2010

¹³²⁷ Repealed by Section 10 of the SWA 2020

¹³²⁸ Inserted by s.7(1)(c) SWA 2011

¹³²⁹ Repealed by Section 10 of the SWA 2020

(6) A one-parent family payment shall not be payable to a ~~qualified parent~~ *person*¹³³⁰ under this Chapter unless the ~~qualified parent~~ *person*¹³³¹ is habitually resident in the State at the date of the making of the application for that payment¹³³².

Entitlement to one-parent family payment when child attains age of 14.¹³³³

173A. (1) This section applies—

(a) ~~to a surviving spouse where both spouses of a married couple are, on the relevant date, living together and one of them dies, and~~ *dies*,¹³³⁴

(b) ~~to a surviving person where a man and a woman who are not married to each other are, on the relevant date, cohabiting as husband and wife and one of them dies,~~¹³³⁵

(b) ~~to a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and~~¹³³⁶

(c) ~~to a surviving civil partner where both civil partners of a civil partnership are, on the relevant date, living together and one of them dies,~~¹³³⁷

~~and the surviving spouse or surviving person~~ *and the surviving spouse, surviving cohabitant or surviving civil partner*¹³³⁸ is the parent, step-parent, adoptive parent or legal guardian of at least one child who normally resides with that surviving spouse or surviving person *with that surviving spouse, surviving cohabitant or surviving civil partner*¹³³⁹ and the youngest child has, on the relevant date, attained the age of 14 years.

(2) One-parent family payment shall be payable to a surviving spouse or surviving person *to a surviving spouse, surviving cohabitant or surviving civil partner*¹³⁴⁰ to whom this section applies for a period—

(a) ~~commencing on the relevant date and not exceeding 2 years, or~~

(b) ~~commencing on the relevant date until the youngest child has attained the age of 18 years,~~

~~whichever is the shorter.~~

(3) ~~In this section—~~

~~‘relevant date’ means the date of death of—~~

(a) ~~the spouse of the surviving spouse, or~~

(b) ~~the person cohabiting with the surviving person.~~^{1341/1342}

¹³³⁰ Substituted by s.9(4)(b) SW&PA 2011

¹³³¹ Substituted by s.9(4)(b) SW&PA 2011

¹³³² Deleted by s.11(8) SW&PA 2014

¹³³³ S173A inserted by s.25(3) SW(MP)A 2010

¹³³⁴ Substituted by s.20(4)(a) SW&PA 2010

¹³³⁵ Substituted by s.20(4)(b) SW&PA 2010

¹³³⁶ Substituted by s.20(4)(b) SW&PA 2010

¹³³⁷ Inserted by s.20(4)(c) SW&PA 2010

¹³³⁸ Substituted by s.20(4)(d)(i) SW&PA 2010

¹³³⁹ Substituted by s.20(4)(d)(ii) SW&PA 2010

¹³⁴⁰ Substituted by s.20(4)(e) SW&PA 2010

¹³⁴¹ S173A inserted by s.25(3) SW(MP)A 2010

¹³⁴² Substituted by s.20(4)(f) SW&PA 2010

~~3) In this section, ‘relevant date’ means the date of death of—~~

- ~~(a) the spouse of the surviving spouse,~~
- ~~(b) the cohabitant of the surviving cohabitant, or~~
- ~~(c) the civil partner of the surviving civil partner.^{1343 1344}~~

Entitlement to one-parent family payment when relevant child attains age of 14 years.

~~173A. (1) This section applies to—~~

- ~~(a) a surviving spouse where both spouses of a married couple are, on the relevant date, living together and one of them dies,~~
- ~~(b) a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and~~
- ~~(c) a surviving civil partner where both civil partners of a civil partnership are, on the relevant date, living together and one of them dies,~~

~~and where the surviving spouse, surviving cohabitant or surviving civil partner is the parent, stepparent, adoptive parent or legal guardian of at least one child who normally resides with that surviving spouse, surviving cohabitant or surviving civil partner and the youngest child has, on the relevant date, attained the age of 14 years.~~

~~(2) For the purposes of this section, the reference to 14 years in subsection (1) shall be read as a reference to 16 years where the youngest child is a child in respect of whom a payment under Chapter 8A of Part 3 is in payment.~~

~~(3) Subject to subsections (6) to (8) of section 178A, one-parent family payment shall be payable to a surviving spouse, surviving cohabitant or surviving civil partner to whom this section applies for the shorter of~~

- ~~(a) the period commencing on the relevant date and ending on the day that is 2 years after that date, or~~
- ~~(b) the period commencing on the relevant date and ending on the date that the youngest child attains the age of 18 years.^{1345 1346}~~

Entitlement to one-parent family payment where youngest child has attained relevant age.

~~173A. (1) This section applies to—~~

- ~~(a) a surviving spouse where both spouses of a married couple are, on the relevant date, living together and one of them dies,~~
- ~~(b) a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and~~

¹³⁴³ Substituted by s.20(4)(f) SW&PA 2010

¹³⁴⁴ Substituted by s.9(5) SW&PA 2011

¹³⁴⁵ Substituted by s.9(5) SW&PA 2011

¹³⁴⁶ Substituted by s.5(1) SW&PA 2012

(c) a surviving civil partner where both civil partners of a civil partnership are, on the relevant date, living together and one of them dies,

and where the surviving spouse, surviving cohabitant or surviving civil partner is the parent, stepparent, adoptive parent or legal guardian of at least one child who normally resides with that surviving spouse, surviving cohabitant or surviving civil partner and the youngest child has, on the relevant date, attained the relevant age.

(2) Notwithstanding—

(a) that the youngest child has attained the relevant age, and

(b) section 178C,

one-parent family payment shall be payable to a surviving spouse, surviving cohabitant or surviving civil partner to whom this section applies for the shorter of—

(i) the period commencing on the relevant date and ending on the day that is 2 years after that date, or

(ii) the period commencing on the relevant date and ending on the date that the youngest child attains the age of 18 years.

Entitlement to one-parent family payment in certain circumstances.¹³⁴⁷

~~173B. (1) This section applies—~~

~~(a) to a surviving spouse where both spouses of a married couple are, on the relevant date, living together and one of them dies, and *dies*,¹³⁴⁸~~

~~(b) to a surviving person where a man and a woman who are not married to each other are, on the relevant date, cohabiting as husband and wife and one of them dies,¹³⁴⁹~~

~~(b) to a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and¹³⁵⁰~~

~~(c) to a surviving civil partner where both civil partners are, on the relevant date, living together and one of them dies,¹³⁵¹~~

and the surviving spouse or surviving person is ***the surviving spouse, surviving cohabitant or surviving civil partner is***¹³⁵² the parent, step-parent, adoptive parent or legal guardian of at least one child who normally resides with that surviving spouse or surviving person and ***that surviving spouse, surviving cohabitant or surviving civil partner and***¹³⁵³ the youngest child has, on the relevant date, attained the age of 12 years but has not attained the age of 14 years.

~~(2) Where one-parent family payment is made, in accordance with section 173, in respect of a child referred to in subsection (1) from the relevant date, when the child attains the age of 14~~

¹³⁴⁷ S173B inserted by s.25(3) SW(MP)A 2010

¹³⁴⁸ Substituted by s.20(5)(a) SW&PA 2010

¹³⁴⁹ Substituted by s.20(5)(b) SW&PA 2010

¹³⁵⁰ Substituted by s.20(5)(b) SW&PA 2010

¹³⁵¹ Inserted by s.20(5)(c) SW&PA 2010

¹³⁵² Substituted by s.20(5)(d) SW&PA 2010

¹³⁵³ Substituted by s.20(5)(d) SW&PA 2010

years one parent family payment shall be payable to a surviving spouse or a surviving person ~~surviving spouse, surviving cohabitant or surviving civil partner~~¹³⁵⁴ to whom this section applies for the remainder of the relevant period.

(3) In this section—

‘relevant date’ has the meaning assigned to it by section 173A;

‘relevant period’ means a period of 2 years commencing on the relevant date.^{1355 1356}

Entitlement to one-parent family payment in certain circumstances.¹³⁵⁷

173B. (1) This section applies to—

(a) ~~a surviving spouse where both spouses of a married couple are, on the relevant date, living together and one of them dies,~~

(b) ~~a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and~~

(c) ~~a surviving civil partner where both civil partners are, on the relevant date, living together and one of them dies,~~

~~and where the surviving spouse, surviving cohabitant or surviving civil partner is the parent, step-parent, adoptive parent or legal guardian of at least one child who normally resides with that surviving spouse, surviving cohabitant or surviving civil partner and the youngest child has, on the relevant date, attained the age of 12 years but has not attained the age of 14 years.~~

(2) For the purposes of this section the reference to 12 years and to 14 years in subsection (1) shall be read as references to 14 years and to 16 years, respectively, where the youngest child is a child in respect of whom a payment under Chapter 8A of Part 3 is in payment.

(3) Subject to subsections (6) to (8) of section 178A, where one-parent family payment is payable to a qualified parent who is a surviving spouse, surviving cohabitant or surviving civil partner referred to in subsection (1), that payment shall, notwithstanding section 172(1), continue to be payable for a period of 2 years commencing on the relevant date.^{1358 1359}

Entitlement to one-parent family payment in certain circumstances.

173B. (1) This section applies to—

(a) a surviving spouse where both spouses of a married couple are, on the relevant date, living together and one of them dies,

(b) a surviving cohabitant where both cohabitants are, on the relevant date, cohabiting and one of them dies, and

(c) a surviving civil partner where both civil partners are, on the relevant date, living together and one of them dies,

¹³⁵⁴ Substituted by s.20(e) SW&PA 2010

¹³⁵⁵ S173B inserted by s.25(3) SW(MP)A 2010

¹³⁵⁶ Substituted by s.9(5) SW&PA 2011

¹³⁵⁷ Substituted by s.9(5) SW&PA 2011

¹³⁵⁸ Substituted by s.9(5) SW&PA 2011

¹³⁵⁹ Substituted by s.5(2) SW&PA 2012

and where the surviving spouse, surviving cohabitant or surviving civil partner is the parent, step-parent, adoptive parent or legal guardian of at least one relevant child who normally resides with that surviving spouse, surviving cohabitant or surviving civil partner and the youngest relevant child is, on the relevant date, within 2 years of attaining the relevant age.

(2) Notwithstanding section 178C, where one-parent family payment is payable to a qualified parent who is a surviving spouse, surviving cohabitant or surviving civil partner to whom this section applies, that payment shall continue to be payable for a period of 2 years commencing on the relevant date and if, during that period, the relevant child attains the relevant age, that payment shall continue to be paid for that period.

Rate of allowance and increases for qualified children.

~~174. (1) The rate (in this section referred to as “the scheduled rate”) of one-parent family payment shall be the weekly rate set out in column (2) of 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 beneficiary.~~¹³⁶⁰

(1) The rate (in this section referred to as ‘the scheduled rate’) of one-parent family payment shall be the weekly rate set out in column (2) of Part 1 of Schedule 4 increased by the appropriate amount set out—

(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(b) in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the claimant or beneficiary.¹³⁶¹

(2) (a) A one-parent family payment shall be payable—

(i) where the weekly means of the claimant or beneficiary do not exceed €7.60, at the scheduled rate, and

(ii) subject to paragraph (b), where the weekly means 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 one-parent family payment would be payable is less than €2.50, the payment shall not be payable.

~~(3) The weekly rate of one-parent family payment shall be increased by the amount set out in column (7) of Part 1 of Schedule 4 where the beneficiary has attained the age of 80 years.~~¹³⁶²

~~(4) The weekly rate of one-parent family payment shall be increased by the amount set out in column (8) of Part 1 of Schedule 4 where the beneficiary has attained pensionable age and is ordinarily resident on an island.~~¹³⁶³

¹³⁶⁰ Subsect. (1) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹³⁶¹ Subsect. (1) substituted by s.17 of the SWP&CRA 2018

¹³⁶² S. 174(3) deleted by s. 22 SWLR&PA 2006

¹³⁶³ S. 174(4) deleted by s. 22 SWLR&PA 2006

Disqualification.

~~175. A qualified parent shall not, if and so long as that parent and any person are cohabiting as husband and wife, be entitled to and shall be disqualified for receiving payment of one-parent family payment.~~¹³⁶⁴

~~175. A qualified parent shall not, if and so long as that parent is a cohabitant, be entitled to and shall be disqualified for receiving payment of one-parent family payment.~~^{1365 1366}

175. A person referred to in section 173(1) shall not, if and so long as that person is a cohabitant, be entitled to and shall be disqualified for receiving payment of one-parent family payment.¹³⁶⁷

Continuation of payment.

~~176. In the case of a qualified parent to whom payment under section 172(1)(e) applies, one-parent family payment shall continue to be paid for 4 weeks after the release of that parent's spouse from a prison or place of detention.~~¹³⁶⁸

~~176. In the case of—~~

~~(a) a person whose spouse or civil partner has been committed in custody to a prison or place of detention for not less than 6 months, or~~

~~(b) a person to whom section 178A(6), 178A(7) or 178A(8) applies who is a person whose spouse or civil partner has been committed in custody to a prison or place of detention for not less than 6 months, one-parent family payment shall continue to be paid for 4 weeks after the release of that person's spouse or civil partner from a prison or place of detention.~~^{1369_1370}

176. Where one-parent family payment is being paid to a person under this Chapter by virtue of that person's spouse or civil partner having been committed in custody to a prison or place of detention for not less than 6 months, one-parent family payment shall continue to be paid for 4 weeks after the release of such spouse or civil partner from the prison or place of detention.

Regulations.

~~177. The Minister shall make regulations in relation to one-parent family payment and the regulations may, in particular and without prejudice to the generality of the foregoing, specify the circumstances in which, for the purposes of this Chapter—~~

~~(a) a person is to be regarded as being a separated spouse,~~¹³⁷¹

~~(a) a person is to be regarded as being a separated spouse or a civil partner is to be regarded as a civil partner who is not living with the other civil partner of the civil partnership.~~¹³⁷²

~~(b) a person is to be regarded as being an unmarried person.~~¹³⁷³

¹³⁶⁴ Substituted by s.20(6) SW&PA 2010

¹³⁶⁵ Substituted by s.20(6) SW&PA 2010

¹³⁶⁶ Substituted by s.9(6) SW&PA 2011

¹³⁶⁷ Substituted by s.9(6) SW&PA 2011

¹³⁶⁸ Substituted by s.9(6) SW&PA 2011

¹³⁶⁹ Substituted by s.9(6) SW&PA 2011

¹³⁷⁰ Substituted by s.5(3) SW&PA 2012

¹³⁷¹ Substituted by s.20(7) SW&PA 2010

¹³⁷² Substituted by s.20(7) SW&PA 2010

¹³⁷³ Substituted by s.9(6) SW&PA 2011

177. The Minister shall make regulations in relation to one-parent family payment and the regulations may, in particular and without prejudice to the generality of the foregoing, specify the circumstances in which, for the purposes of this Chapter—

- (a) a person is to be regarded as being a separated spouse,
- (b) a civil partner is to be regarded as a civil partner who is not living with the other civil partner of the civil partnership,
- (c) a person is to be regarded as being an unmarried person,
- (d) a person is to be regarded as being a prisoner's spouse or civil partner.¹³⁷⁴

Transitional provisions- relevant payments.

178. (1) In this section *and section 178A*¹³⁷⁵ —

“Act of 1993” means the Social Welfare (Consolidation) Act 1993;

“Act of 1996” means the Social Welfare Act 1996;

“relevant payment” means—

- (a) deserted wife's benefit under Chapter 18 of Part II of the Act of 1993,
- (b) deserted wife's allowance under Chapter 7 of Part III of the Act of 1993, or
- (c) prisoner's wife's allowance under Chapter 8 of Part III of the Act of 1993,

as the case may require.

(2) Notwithstanding the provisions of Part V (relating to one-parent family payment) of the Act of 1996, a woman who, immediately before the commencement of section 19 of that Act, is in receipt of a relevant payment, the said relevant payment shall be payable for the duration of the woman's continuous entitlement to the relevant payment in accordance with the provisions of the Act of 1993 and regulations made under the Act of 1993.

(3) Where, immediately before the commencement of section 19 (relating to repeals) of the Act of 1996, a woman whose claim for a relevant payment has not been finally determined, and who would, but for the commencement of the said section, have become entitled to the said relevant payment, the relevant payment shall be payable for the duration of the woman's continuous entitlement to the relevant payment in accordance with the provisions of the Act of 1993 and regulations made under the Act of 1993.

(4) Notwithstanding the provisions of Part V of the Act of 1996, where a woman has ceased or ceases to be entitled to benefit under Chapter 18 of Part II of the Act of 1993 by virtue of no longer having at least one qualified child residing with her, she shall, on reaching the age of 40 years, where but for the said Part V she would be entitled to the said benefit, again become and continue to be entitled to the said benefit, for the duration of her continuous entitlement thereto, in accordance with the provisions of the Act of 1993 and regulations made under the Act of 1993.

¹³⁷⁴Substituted by s.9(6) SW&PA 2011

¹³⁷⁵ Inserted by s. 10(a) SWA 2005

(5) In the case of a person to whom subsection (2), (3) or (4) applies and who is disqualified for receipt of a relevant payment by virtue of section 249(1)(a) or (14), where but for that disqualification she would be entitled to the said relevant payment, she shall again become entitled to the said relevant payment at the expiration of the disqualification in any case where the period of disqualification does not exceed 12 months.

(6) Notwithstanding the provisions of Part V of the Act of 1996, in the case of a woman who—

(a) was in receipt of deserted wife's allowance under Chapter 5 of Part III of the Social Welfare (Consolidation) Act 1981 and transferred from that scheme to the lone parent's allowance scheme under Chapter 5A (inserted by section 12 of the Social Welfare Act 1990) of Part III of the said Act following the commencement of that Chapter in 1990, and

(b) ceases or has ceased to be entitled to one-parent family payment under Chapter 9 of Part III of the Act of 1993 by virtue of no longer having at least one qualified child residing with her,

she shall, where but for Part V of the Act of 1996 she would be entitled to a relevant payment under subsection (1)(b), become and continue to be entitled to the said payment, for the duration of her continuous entitlement thereto, in accordance with the Act of 1993 and regulations made under the Act of 1993.

(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 3.¹³⁷⁶

(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.¹³⁷⁷

Relevant payments - conditions for receipt.¹³⁷⁸

178A. (1) Notwithstanding the provisions of Part V of the Act of 1996—

(a) deserted wife's benefit under Chapter 18 of Part II of the Act of 1993 shall be payable to a woman who, in the case of a claim made on or after 31 August 1992 but before 2 January 1997, does not have an aggregate of reckonable income, reckonable earnings and reckonable emoluments in excess of a prescribed amount, in the last complete income tax year or in such subsequent period as a deciding officer or an appeals officer may consider appropriate,

(b) in the case of a woman who immediately before the commencement of section 19 of the Act of 1996 was in receipt of deserted wife's benefit under Chapter 18 of Part II of the Act of 1993, regulations may provide for the continued payment of deserted wife's benefit where—

(i) subject to paragraph (c), the woman has an aggregate of reckonable income, reckonable earnings and reckonable emoluments in excess of an amount prescribed for the purposes of paragraph (a) in the last complete

¹³⁷⁶ S. 178(7) inserted by s. 23 SWLR&PA 2006

¹³⁷⁷ S. 178(8) inserted by s. 23 SWLR&PA 2006

¹³⁷⁸ S.178A inserted by s.10 SWA 2005

income tax year or in such subsequent tax year as a deciding officer or an appeals officer may consider appropriate, or

(ii) the contribution condition set out in subsection (2)(b) is not satisfied;

(c) regulations under paragraph (b) shall provide that deserted wife's benefit payable by virtue of that paragraph shall be payable at a rate less than that specified in reference 5 of Part 1 of Schedule 2 and the rate specified by the regulations may vary with the extent to which -

(i) the claimant has an aggregate of reckonable income, reckonable earnings and reckonable emoluments in excess of the amount prescribed for the purposes of paragraph (a) but not in excess of the amount prescribed for the purposes of this paragraph, in the last complete income tax year or in such subsequent period as a deciding officer or an appeals officer may consider appropriate, and

(ii) the contribution condition set out in subsection (2)(b) is satisfied,

but any increase of the benefit payable in accordance with subsection (3) shall be the same as if the conditions set out in paragraph (a) and subsection (2)(b) had been fully satisfied;

(d) (i) subject to subparagraph (ii), regulations may provide for entitling to deserted wife's benefit a person who would be entitled thereto but for the fact that the contribution condition set out in subsection (2)(b) is not satisfied by reference to the insurance record of a person where that person, having earlier ceased to be an employed contributor, became an employed contributor as a consequence of the coming into operation of section 12 of the Social Welfare Act 1973;

(ii) regulations for the purposes of subparagraph (i) shall provide that deserted wife's benefit payable by virtue of that paragraph shall be payable at a rate less than that specified in reference 5 of Part 1 of Schedule 2 and the rate specified by the regulations may vary with the extent to which the contribution condition set out in subsection (2)(b)(ii) is satisfied.

(2) The contribution conditions for deserted wife's benefit under Chapter 18 of Part II of the Act of 1993 are—

(a) that the husband had qualifying contributions in respect of not less than 156 contribution weeks in the period beginning with his entry into insurance and ending immediately before the relevant time, and

(b) that, if at the relevant time, 4 years or longer has elapsed since the husband's entry into insurance—

(i) the yearly average for the 3 contribution years, or (if warranted by his insurance record) 5 contribution years, ending with the end of the last complete contribution year before the relevant time is not less than 39, or

(ii) the yearly average in respect of the period commencing at the beginning of the contribution year in which his entry into insurance occurred and ending at the end of the last complete contribution year before the relevant time is not less than 48,

but, if the foregoing conditions are not satisfied on the husband's insurance record, they may be satisfied on the woman's insurance record (the husband's insurance record being disregarded).

(3) For the purposes of a payment referred to in paragraph (a) of the definition of "relevant payment" in section 178, the weekly rate of payment shall be increased by the appropriate amount set out -

~~(a) in column (4) of Part 1 of Schedule 2 in respect of each qualified child who normally resides with the beneficiary,~~¹³⁷⁹

(a) set out in column (4) of Part 1 of Schedule 2 in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

(aa) set out in column (5) of Part 1 of Schedule 2 in respect of each qualified child who has attained the age of 12 years who normally resides with the claimant or beneficiary,¹³⁸⁰

(b) in column (6) of Part 1 of Schedule 2 where the beneficiary has attained pensionable age and is living alone,

(c) in column (7) of Part 1 of Schedule 2 where the beneficiary has attained the age of 80 years, and

(d) in column (8) of Part 1 of Schedule 2 where the beneficiary has attained pensionable age and is ordinarily resident on an island.¹³⁸¹

(3A) In this section 'yearly average' means the average per contribution year of contribution weeks in respect of which the husband or claimant has qualifying contributions, voluntary contributions or credited contributions in the appropriate period specified in subsection (2)(b) and where the average so calculated is a fraction of a whole number consisting of one-half or more it shall be rounded up to the nearest whole number and where it is a fraction of less than one-half it shall be rounded down to the nearest whole number.¹³⁸²

(4) Regulations may, subject to the conditions and in the circumstances and for the periods that may be prescribed, entitle to a payment a woman who ceases to be entitled to deserted wife's benefit by virtue of having earnings in excess of the amount prescribed for the purposes of subsection (1)(a).

(5) Regulations under subsection (4) shall provide that a payment payable by virtue of those regulations shall be payable at a rate less than that specified in column (2) of Part 1 of Schedule 2 and the rate specified by regulations may vary by reference to the yearly average calculated in accordance with subsection (2)(b)(ii).¹³⁸³

(6) Notwithstanding section 172A(c)(i), a qualified parent who, immediately before the commencement of that section, is in receipt of a one-parent family payment and but for that section would continue to be so eligible, shall continue to be eligible for the payment as follows:

¹³⁷⁹ Para. (a) substituted for new paras. (a) and (aa) by s.17 of and Sch. 1 to the SWP&CRA 2018

¹³⁸⁰ Paras. (a) and (aa) substituted for para. (a) by s.17 of and Sch. 1 to the SWP&CRA 2018

¹³⁸¹ S. 178A inserted by s. 10 SWA 2005

¹³⁸² Subsection (3A) inserted by s.3(5) SWA 2012

¹³⁸³ S. 178A(4) and (5) inserted by s. 23 SW&PA 2007

- (a) in 2011, until the youngest qualified child attains the age of 18;
- (b) in 2012, until the youngest qualified child attains the age of 18;
- (c) in 2013, until the youngest qualified child attains the age of 17;
- (d) in 2014, until the youngest qualified child attains the age of 16;
- (e) in 2015, until the youngest qualified child attains the age of 15;
- (f) in 2016, until the youngest qualified child attains the age of 14. ¹³⁸⁴

~~(6) Where a person is in receipt of a one parent family payment immediately before 27 April 2011 and would, but for the fact that the youngest child has attained the age of 14 years on or before 27 April 2011 continue to receive that payment immediately after 27 April 2011, that person shall continue to be eligible for payment as follows:~~

- ~~(a) in 2011, until the youngest child attains the age of 18 years;~~
- ~~(b) in 2012, until the youngest child attains the age of 18 years;~~
- ~~(c) in 2013, until the youngest child attains the age of 17 years;~~
- ~~(d) in 2014, until the youngest child attains the age of 16 years;~~
- ~~(e) in 2015, until the youngest child attains the age of 15 years;~~
- ~~(f) in 2016, until the youngest child attains the age of 14 years.~~¹³⁸⁵

~~(6A) For the purposes of subsection (6) where the youngest child has attained the age of 16 years on or before 27 April 2011 and is a child in respect of whom a payment under Chapter 8A of Part 3 is in payment —~~

- ~~(a) subsection (6)(e) shall be read as if ‘16 years’ was substituted for ‘15 years’, and~~
- ~~(b) subsection (6)(f) shall be read as if ‘16 years’ was substituted for ‘14 years’.~~^{1386, 1387}

~~(7) Notwithstanding section 172A, where, immediately before the commencement of section 172A a qualified parent is in receipt of a one parent family payment, the payment shall continue to be payable to that person up to the end of the 2012 academic year in respect of a child who, having attained the age of 18 years, is under the age of 22 years and is receiving fulltime education, in such circumstances as may be prescribed.~~ ¹³⁸⁸

~~(7) Where a person is in receipt of a one parent family payment immediately before 27 April 2011 and would, but for the fact that the youngest child has —~~

- ~~(a) attained the age of 14 years on or before 27 April 2011, or~~
- ~~(b) attained the age of 14 years but has not attained the age of 16 years on or before~~

¹³⁸⁴ Substituted by s.9(7) SW&PA 2011

¹³⁸⁵ Deleted by s.5(5) SW&PA 2012

¹³⁸⁶ Substituted by s.9(7) SW&PA 2011

¹³⁸⁷ Deleted by s.5(5) SW&PA 2012

¹³⁸⁸ Substituted by s.9(7) SW&PA 2011

~~27 April 2011 and is a child in respect of whom a payment under Chapter 8A of Part 3 is in payment,~~

~~continue to receive that payment immediately after 27 April 2011, one parent family payment shall continue to be payable to that person up to the end of an academic year which commences in 2012, where the youngest child who, having attained the age of 18 years, is under the age of 22 years, and is receiving full-time education, in such circumstances as may be prescribed.~~^{1389 1390}

~~(8) Notwithstanding section 172A, where a person, who, having been in receipt of the one-parent family payment for 52 consecutive weeks, is disqualified for receipt of that payment by virtue of—~~

~~(a) having gross weekly earnings in excess of that specified in section 173(3), or~~

~~(b) participation in a scheme commonly known as the back-to-education allowance,~~

~~and where but for that disqualification the person would be entitled to that one-parent family payment, the person shall again become entitled to that payment, subject to, and in accordance with, subsection (6), at the expiration of the disqualification.~~¹³⁹¹

~~(8) Where a person has—~~

~~(a) been in receipt of one-parent family payment for a period of 52 consecutive weeks and is disqualified for receipt of that payment on or after 27 April 2011 by virtue of—~~

~~(i) having gross weekly earnings in excess of the amount specified in section 173(3), or~~

~~(ii) participation in a scheme commonly known as the Back to Education Allowance, and~~

~~(b) but for that disqualification the person would be entitled to that one-parent family payment,~~

~~the person shall again become entitled to that payment, subject to, and in accordance with, subsection (6), at the expiration of the disqualification.~~^{1392 1393}

~~(9) Where, immediately before the commencement of section 172A **27 April 2011**¹³⁹⁴, a person whose claim for a one-parent family payment has not been fully determined, and who would, but for the commencement of that section, have become entitled to the one-parent family payment, that payment shall, in accordance with his or her entitlement under this Act, be payable for the duration of his or her entitlement.~~¹³⁹⁵

~~(10) Subsections (6) and (8) shall cease to have effect on 31 December 2016.~~^{1396 1397}

¹³⁸⁹ Substituted by s.9(7) SW&PA 2011

¹³⁹⁰ Deleted by s.5(5) SW&PA 2012

¹³⁹¹ Substituted by s.9(7) SW&PA 2011

¹³⁹² Substituted by s.9(7) SW&PA 2011

¹³⁹³ Deleted by s.5(5) SW&PA 2012

¹³⁹⁴ Substituted by s.9(7)(b) SW&PA 2011

¹³⁹⁵ Deleted by s.5(5) SW&PA 2012

¹³⁹⁶ Subsections (6), (7), (8), (9) and (10) inserted by s.25(4) SW(MP)A 2010

¹³⁹⁷ Substituted by s.9(7)(c) SW&PA 2011

~~(10) Subsections (6), (6A) and (8) shall cease to have effect on 31 December 2016.~~^{1398 1399}

One-parent family payment – transitional provisions in certain circumstances where child attains the age of 14.¹⁴⁰⁰

178B. (1) This section applies to a person who—

(a) immediately before 27 April 2011 was in receipt of one-parent family payment, and

(b) would have continued to receive that payment—

(i) immediately after 26 April 2011 but for the fact that the youngest child attained the age of 14 years before 27 April 2011, or

(ii) on or after 27 April 2011 but for the fact that the youngest child has attained the age of 14 years on or after 27 April 2011.

~~(2) A person to whom this section applies shall, subject to subsection (3), continue to be entitled to the payment referred to in subsection (1) as follows:~~

~~(a) during the period commencing on 27 April 2011 and ending on 2 January 2013, until the youngest child attains the age of 18 years;~~

~~(b) during the period commencing on 3 January 2013 and ending on 1 January 2014, until the youngest child attains the age of 17 years;~~

~~(c) during the period commencing on 2 January 2014 and ending on 31 December 2014, until the youngest child attains the age of 16 years.~~¹⁴⁰¹

(2) A person to whom this section applies shall, subject to subsection (3), continue to be entitled to the payment referred to in subsection (1) as follows:

(a) during the period commencing on 27 April 2011 and ending on 3 July 2013, until the youngest child attains the age of 18 years;

(b) during the period commencing on 4 July 2013 and ending on 2 July 2014, until the youngest child attains the age of 17 years;

(c) during the period commencing on 3 July 2014 and ending on 1 July 2015, until the youngest child attains the age of 16 years.¹⁴⁰²

(3) For the purposes of this section one-parent family payment shall, subject to subsection (4), continue to be paid to a person to whom this section applies where—

(a) the youngest child has attained the age of 18 years and has not attained the age of 22 years, and

(b) that youngest child is receiving full-time education as may be prescribed.

¹³⁹⁸ Substituted by s.9(7)(c) SW&PA 2011

¹³⁹⁹ Deleted by s.5(5) SW&PA 2012

¹⁴⁰⁰ Sections 178B -178E inserted by s.5(4) SW&PA 2012

¹⁴⁰¹ Subsection (2) substituted by s.14(b) SWA 2012

¹⁴⁰² Subsection (2) substituted by s.14(b) SWA 2012

(4) For the purposes of subsection (3), one-parent family payment shall be paid to a person to whom this section applies until the end of the academic year which commences in 2012 and which applies to such course of full-time education, as may be prescribed, which that youngest child is receiving.

~~(5) This section shall cease to have effect on 31 December 2014.~~ ¹⁴⁰³

(5) This section shall cease to have effect on 2 July 2015. ¹⁴⁰⁴

One-parent family payment — transitional provisions in certain circumstances where child attains relevant age. ¹⁴⁰⁵

178C. (1) This section applies to a person who—

(a) becomes entitled to one-parent family payment during the period commencing on 27 April 2011 and ending on 2 May 2012,

(b) immediately before 3 May 2012 is in receipt of that payment, and

(c) would have continued to be entitled to receive that payment—

(i) immediately after 2 May 2012 until the date on which the youngest child attained the age of 14 years, but for the fact that the youngest child attained the age of 12 years before 3 May 2012, or

(ii) on or after 3 May 2012 until the date on which the youngest child attained the age of 14 years, but for the fact that the youngest child has the attained the age of 12 years on or after 3 May 2012.

~~(2) A person to whom this section applies shall continue to be entitled to the payment referred to in subsection (1) as follows:~~

~~(a) during the period commencing on 3 May 2012 and ending on 2 January 2013, until the youngest child attains the age of 14 years;~~

~~(b) during the period commencing on 3 January 2013 and ending on 1 January 2014, until the youngest child attains the age of 12 years;~~

~~(c) during the period commencing on 2 January 2014 and ending on 31 December 2014, until the youngest child attains the age of 10 years.~~ ¹⁴⁰⁶

(2) A person to whom this section applies shall continue to be entitled to the payment referred to in subsection (1) as follows:

(a) during the period commencing on 3 May 2012 and ending on 3 July 2013, until the youngest child attains the age of 14 years;

(b) during the period commencing on 4 July 2013 and ending on 2 July 2014, until the youngest child attains the age of 12 years;

¹⁴⁰³ Subsection (5) substituted by s.14(b) SWA 2012

¹⁴⁰⁴ Subsection (5) substituted by s.14(b) SWA 2012

¹⁴⁰⁵ Sections 178B - 178E inserted by s.5(4) SW&PA 2012

¹⁴⁰⁶ Subsection (2) substituted by s.14(c) SWA 2012

(c) during the period commencing on 3 July 2014 and ending on 1 July 2015, until the youngest child attains the age of 10 years. ¹⁴⁰⁷

~~(3) For the purposes of this section nothing in subsection (2) shall affect the entitlement of a person to whom this section applies to continue to be entitled to one-parent family payment until the youngest child attains 16 years, where that child is a child in respect of whom a payment under Chapter 8A of Part 3 is in payment. ¹⁴⁰⁸~~

(3) For the purposes of this section nothing in subsection (2) shall affect the entitlement of a person to whom this section applies to continue to be entitled to one-parent family payment until the youngest child attains 16 years where—

(a) the person is qualified for a carer's allowance under Chapter 8 of Part 3, including a payment under section 186A, or

(b) the youngest child is a child in respect of whom a payment under Chapter 8A of Part 3 is being made. ¹⁴⁰⁹

~~(4) This section shall cease to have effect on 31 December 2014. ¹⁴¹⁰~~

(4) This section shall cease to have effect on 2 July 2015. ¹⁴¹¹

One-parent family payment — continuation following certain disqualifications. ¹⁴¹²

178D. (1) Where a person has—

(a) been in receipt of one-parent family payment for a period of 52 consecutive weeks and is disqualified for receipt of that payment by virtue of—

(i) having gross weekly earnings in excess of the amount specified in section 173(3), or

(ii) participation in a scheme administered by the Minister and known as Back to Education Allowance,

and

(b) but for that disqualification the person would be entitled to that one-parent family payment,

the person shall again become entitled to that payment at the expiration of the disqualification subject to, and in accordance with—

(i) section 178B, in the case of a person who first became entitled to one-parent family payment before 27 April 2011, or

(ii) section 178C, in the case of a person who first became entitled to one-parent family payment during the period commencing on 27 April 2011 and ending on 2 May 2012.

¹⁴⁰⁷ Subsection (2) substituted by s.14(c) SWA 2012

¹⁴⁰⁸ Substituted by s.6(2) SW(MP)A 2015

¹⁴⁰⁹ Substituted by s.6(2) SW(MP)A 2015

¹⁴¹⁰ Subsection (4) substituted by s.14(c) SWA 2012

¹⁴¹¹ Subsection (4) substituted by s.14(c) SWA 2012

¹⁴¹² Sections 178B -178E inserted by s.5(4) SW&PA 2012

~~(2) This section shall cease to have effect on 31 December 2014.~~¹⁴¹³

(2) This section shall cease to have effect on 2 July 2015.¹⁴¹⁴

One-parent family payments — miscellaneous provisions relating to claims made on certain dates.¹⁴¹⁵

178E.(1) Where—

(a) a person made a claim for one-parent family payment before 27 April 2011 and the claim had not been fully determined by that date, and

(b) that person would have been entitled to that payment but for the fact that the youngest child had attained the age of 14 years before 27 April 2011,

the entitlement of that person to that payment shall be determined in accordance with section 178B.

(2) Where—

(a) a person made a claim for one-parent family payment before 3 May 2012 and the claim had not been fully determined by that date, and

(b) that person would have been entitled to that payment but for the fact that the youngest child attained the age of 12 years before 3 May 2012,

the entitlement of that person to that payment shall be determined in accordance with section 178C.¹⁴¹⁶

Report on one-parent family payment changes¹⁴¹⁷

178F.(1) The Minister shall, not later than 3 months after the passing of the Act of 2016, cause to be prepared a report on the financial and social effects of the amendments to one-parent family payment made to this Act since 1 January 2012, taking into account the effects on welfare dependency and the poverty rates of those in receipt of one-parent family payment.

(2) The Minister shall, not later than 9 months after the passing of the Act of 2016, cause a copy of the report under subsection (1) to be laid before each House of the Oireachtas.

(3) In this section, “Act of 2016” means the Social Welfare Act 2016.¹⁴¹⁸

CHAPTER 8
Carer’s Allowance

Interpretation.

179. (1) Subject to this Act, in this Chapter—

“carer” means—

¹⁴¹³ Subsection (2) substituted by s.14(d) SWA 2012

¹⁴¹⁴ Subsection (2) substituted by s.14(d) SWA 2012

¹⁴¹⁵ Sections 178B -178E inserted by s.5(4) SW&PA 2012

¹⁴¹⁶ Sections 178B -178E inserted by s.5(4) SW&PA 2012

¹⁴¹⁷ S.178F inserted by s.12 SWA 2016

¹⁴¹⁸ S.178F inserted by s.12 SWA 2016

(a) a person who resides with and provides full-time care and attention to a relevant person, or

(b) a person who, subject to the conditions and in the circumstances that may be prescribed, does not reside with but who provides full-time care and attention to a relevant person.

~~“prescribed relative” means a prescribed relative within the meaning of the Social Welfare (Prescribed Relative Allowance) Regulations 1989 (S.I. No. 361 of 1989);~~¹⁴¹⁹

~~“prescribed relative allowance” means an increase for a prescribed relative under section 50(11), 51(2)(a), 81(3), 86(3), 91(3), 95(2), 103(2), 162(1)(a) or 179(a) of the Social Welfare (Consolidation) Act 1981 or under regulations applying section 179(a) of that Act;~~¹⁴²⁰

~~“relevant person” means a person (other than a person in receipt of an increase of disablement pension under section 78 in respect of constant attendance) who has such a disability that he or she requires full-time care and attention, and who—~~

~~(a) has attained the age of 16 years, or~~

~~(b) is under the age of 16 years and is a person in respect of whom an allowance is paid for domiciliary care of children under section 61 of the Health Act 1970;~~

~~(b) is under the age of 16 years and is a person in respect of whom a payment under Chapter 8A of Part 3 is being made;~~¹⁴²¹

~~“weekly means” means, subject to Rule 1(1) of Part 3~~ **Part 5**¹⁴²² of Schedule 3, the yearly means divided by 52.

(2) The Minister may make regulations specifying the circumstances and conditions under which a person is to be regarded as providing full-time care and attention to a relevant person.

(3) For the purposes of this Chapter, means shall be calculated in accordance with the Rules contained in ~~Part 3~~ **Part 5**¹⁴²³ of Schedule 3.

~~(4) For the purposes of subsection (1), a relevant person shall be regarded as requiring full-time care and attention where—~~

~~(a) the person has such a disability that he or she requires from another person—~~

~~(i) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or~~

~~(ii) continual supervision in order to avoid danger to himself or herself,~~

~~(b) the person has such a disability that he or she is likely to require full-time care and attention for at least 12 consecutive months, and~~

¹⁴¹⁹ Definition deleted by s.16(b) SWP&CRA 2018

¹⁴²⁰ Definition deleted by s.16(b) SWP&CRA 2018

¹⁴²¹ Para (b) substituted by s. 9 SW(No.2)A 2019

¹⁴²² Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹⁴²³ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

~~(c) the nature and extent of the person's disability has been certified in the prescribed manner by a medical practitioner~~ **registered medical practitioner**^{1424 1425}

(4) For the purposes of the definition of 'relevant person' in this Chapter, a person shall not be regarded as requiring full-time care and attention unless the person has such a disability that he or she—

(a) requires from another person—

(i) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or

(ii) continual supervision in order to avoid danger to himself or herself, and

(b) is likely to require such full-time care and attention for at least 12 consecutive months.¹⁴²⁶

Entitlement to allowance.

180. (1) Subject to this Act, an allowance (in this Act referred to as "carer's allowance") shall, in the circumstances and subject to the conditions that may be prescribed, be payable to a carer.

(2) A carer shall not be entitled to an allowance under this section unless he or she is habitually resident in the State ~~at the date of the making of the application for the allowance.~~¹⁴²⁷

Rate of allowance.

181. (1) Subject to this Act, the rate (in this Chapter referred to as "the scheduled rate") of carer's allowance shall be—

(a) in the case of a person who is a carer of more than one relevant person, the weekly rate set out in column (2) at reference 8(a) in Part 1 of Schedule 4,

(b) in any other case, the weekly rate set out in column (2) at reference 8(b) in Part 1 of Schedule 4,

increased by—

~~(i) the appropriate amount set out in column (4) of that Part opposite that reference in respect of each qualified child who normally resides with the beneficiary,~~¹⁴²⁸

(i) the appropriate amount set out—

(I) in column (4) of that Part opposite that reference in respect of each qualified child who has not attained the age of 12 years who normally resides with the beneficiary, and

¹⁴²⁴ Substituted by s.10(b) SW(MP)A 2008

¹⁴²⁵ Substituted by s.4(1)(b) SW(MP)A 2015

¹⁴²⁶ Substituted by s.4(1)(b) SW(MP)A 2015

¹⁴²⁷ Deleted by s.11(9) SW&PA 2014

¹⁴²⁸ Subpara. (i) substituted by s.17 and Sch. 1 of the SWP&CRA 2018

(II) in column (5) of that Part opposite that reference in respect of each qualified child who has attained the age of 12 years who normally resides with the beneficiary,¹⁴²⁹

and¹⁴³⁰

(ia) the amount set out in column (7) of that Part opposite that reference where the beneficiary has attained the age of 80 years, and¹⁴³¹

(ii) the amount set out in column (8) of that Part opposite that reference where the beneficiary has attained pensionable age and is ordinarily resident on an island.

(2) (a) A carer's allowance shall be payable where—

(i) the weekly means of the claimant or beneficiary do not exceed €7.60, at the scheduled rate, and

(ii) subject to paragraph (b), the weekly means 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 carer's allowance would be payable is less than €2.50, the allowance shall not be payable.

~~(3) Notwithstanding subsection (2), where, immediately before 1 November 1990, a prescribed relative allowance was being paid to or in respect of a claimant for a carer's allowance, the carer's allowance shall be paid at a weekly rate corresponding to the rate of prescribed relative allowance specified in column (5) of Part 1 of Schedule 4, unless the weekly rate of carer's allowance as calculated in accordance with subsection (2) payable to that claimant is greater than that specified rate, in which case the greater amount shall be paid.~~¹⁴³²

(4) Any increase in carer's allowance payable under subsection (1) in respect of a qualified child who normally resides with a beneficiary and with the spouse, *civil partner or cohabitant*¹⁴³³ of a beneficiary shall be payable at one-half of the appropriate amount.

Payment of allowance.

182. Notwithstanding this Chapter—

~~(a) only one carer's allowance shall be payable to a carer, and only one carer's allowance shall be payable in any week in respect of the full-time care and attention being provided to a relevant person, and~~

(a) only one carer's allowance or a payment under section 186A, as the case may be, shall be payable to a carer, and only one carer's allowance or a payment under section 186A, as the case may be, shall be payable in any week in respect of the full-time care and attention being provided to a relevant person, and¹⁴³⁴

¹⁴²⁹ Subpara. (i) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁴³⁰ Deleted by s. 11 SWA 2005

¹⁴³¹ Subpara (ia) inserted by s. 11(b) SWA 2005

¹⁴³² S.181(3) deleted by s.16(c) SWP&CRA 2018

¹⁴³³ Inserted by s.26 and Sch3 SW&PA 2010

¹⁴³⁴ S. 182(a) substituted by s. 24(a) SW&PA 2007

(b) carer's allowance shall not be payable in respect of the full-time care and attention being provided to a relevant person in any case where a carer's benefit under Part 2 is being paid to any person in respect of the full-time care and attention being provided to the same relevant person.

Prescribed relative allowance.

~~183. (1) A prescribed relative allowance which, by virtue of the Social Welfare (Consolidation) Act 1981, and regulations made under or applying that Act, is payable immediately before the commencement of this Act shall, subject to section 184, continue to be paid at the rate set out in column (5) of Part 1 of Schedule 2 or column (5) of Part 1 of Schedule 4, as appropriate, for as long as—~~

~~(a) the beneficiary remains so incapacitated as to require full-time care and attention,~~

~~(b) a prescribed relative of the beneficiary is residing with the beneficiary for the purpose of providing that care and attention, and~~

~~(c) the conditions contained in the Social Welfare (Prescribed Relative Allowance) Regulations 1989 (S.I. No. 361 of 1989) continue to be fulfilled.~~

~~(2) The Social Welfare (Prescribed Relative Allowance) Regulations 1989 (S.I. No. 361 of 1989) shall continue to have effect for the purposes of this section.~~¹⁴³⁵

Entitlement to prescribed relative allowance.

~~184. (1) A prescribed relative allowance shall cease to be paid to a relevant person or prescribed relative, as the case may be, where the prescribed relative becomes entitled to and receives a carer's allowance *carer's allowance or a payment under section 186A*¹⁴³⁶.~~

~~(2) Notwithstanding anything contained in this Act, a prescribed relative allowance shall not be paid where a claim for that allowance is made on or after 1 November 1990.~~¹⁴³⁷

Medical examination.

185.(1) A relevant person in respect of whose full-time care and attention a carer is entitled to or in receipt of ~~carer's allowance~~ *carer's allowance or a payment under section 186A*¹⁴³⁸ shall attend for or submit to such medical or other examination as may be required in accordance with regulations.

(2) Regulations under subsection (1) may also provide for disqualifying a person for receiving ~~carer's allowance~~ *carer's allowance or a payment under section 186A*¹⁴³⁹ where the relevant person in respect of whose full-time care and attention ~~the allowance~~ *the allowance or payment, as the case may be*¹⁴⁴⁰ is payable fails without good cause to attend for or submit to such medical or other examination as may be required in accordance with those regulations.

Regulations.

186.(1) The Minister shall make regulations for the purpose of giving effect to this Chapter.

¹⁴³⁵ Ss. 183 and 184 repealed by s.16(d) SWP&CRA 2018

¹⁴³⁶ Substituted by s. 24(b) SW&PA 2007

¹⁴³⁷ Ss. 183 and 184 repealed by s.16(d) SWP&CRA 2018

¹⁴³⁸ Substituted by s. 24(c) SW&PA 2007

¹⁴³⁹ Substituted by s. 24(c)(i) SW&PA 2007

¹⁴⁴⁰ Substituted by s. 24(c)(ii) SW&PA 2007

(2) Regulations under this section may, in particular and without prejudice to the generality of subsection (1)—

~~(a) provide for amounts paid in respect of prescribed relative allowance on or after 1 November 1990 to be treated as payment on account of carer's allowance *carer's allowance or a payment under section 186A*,^{1441 1442}~~

(b) provide for—

(i) entitling to carer's allowance the class or classes of person that may be prescribed who would be entitled to that allowance but for the fact that the conditions as to means as calculated in accordance with the Rules contained in ~~Part 3~~ **Part 5**¹⁴⁴³ of Schedule 3 are not satisfied, or

(ii) entitling to carer's allowance at a rate higher than that calculated in accordance with section 181(2) the class or classes of person that may be prescribed, and the rate of allowance so payable may vary in accordance with the claimant's means.

Payment of carer's allowance in certain circumstances.¹⁴⁴⁴

186A. (1) Subject to this Act, a payment shall, in the circumstances and subject to the conditions that may be prescribed, be made to a carer.

(2) A carer shall not be entitled to a payment under this section unless the carer is habitually resident in the State ~~at the date of the making of the application for the payment~~¹⁴⁴⁵.

(3) Subject to subsection (5), the rate of payment under this section shall be calculated in accordance with section 181 (other than subparagraphs (i), (ia) and (ii) of subsection (1)).

(4) The amount payable under this section shall be half the amount calculated in accordance with subsection (3).

(5) Notwithstanding this section —

(a) only one payment under this section shall be made to a carer, and only one such payment shall be made in any week in respect of the full-time care and attention being provided to a relevant person,

(b) a payment under this section shall not be made in respect of the full-time care and attention being provided to a relevant person in any case where a carer's benefit under Part 2 is being paid to any person in respect of the full-time care and attention being provided to the same relevant person,

(c) a payment under this section shall not be made to a relevant person,

(d) a payment under this section shall not be made where the carer—

(i) engages in employment, self-employment or any course of education or training,

¹⁴⁴¹ Substituted by s. 24(d) SW&PA 2007

¹⁴⁴² S.186 (2)(a) deleted by s.16(e) SWP&CRA 2018

¹⁴⁴³ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹⁴⁴⁴ S. 186A inserted by s. 24(e) SW&PA 2007

¹⁴⁴⁵ Deleted by s.11(10) SW&PA 2014

(ii) is entitled to or in receipt of jobseeker's benefit, *jobseeker's benefit (self-employed)*¹⁴⁴⁶ or jobseeker's allowance,

(iia) is entitled to or in receipt of back to work family dividend,¹⁴⁴⁷

(iii) is a person to whom Article 58 of the Regulations of 1996 applies in respect of proven unemployment, or

(iv) is entitled to or in receipt of weekly supplementary welfare allowance under section 197.

(6) Notwithstanding subsection (5)(d)(i), for the purposes of a payment under this section, the Minister may make regulations to provide that a carer may engage in employment, self-employment or any course of education or training, subject to the conditions and in the circumstances that may be prescribed.¹⁴⁴⁸

CHAPTER 8A¹⁴⁴⁹ *Domiciliary Care Allowance*

Interpretation.

186B. In this Chapter –

“institution”, means a hospital, convalescent home or home for children suffering from physical or mental disability or ancillary accommodation and any other similar establishment providing residence, maintenance or care where the cost of the child's maintenance in that institution is being met in whole or in part by or on behalf of the Executive or the Department of Education and Science;

“international organisation” means an international intergovernmental organisation, including, in particular and without limiting the generality of the foregoing –

- (a) the United Nations Organization and its specialist agencies,
- (b) the institutions and agencies of the European Communities,
- (c) the Council of Europe, and
- (d) the Organisation for Economic Co-operation and Development;

~~“medical assessor” means an officer of the Minister who is a registered medical practitioner;~~^{1450 1451}

“qualified child” has the meaning given by section 186C;

“qualified person” has the meaning given by section 186D.¹⁴⁵²

Qualified child.

~~186C. A person who is under the age of 16 years (in this section referred to as “the child”) is a qualified child for the purposes of payment of domiciliary care allowance if –~~

¹⁴⁴⁶ Inserted by Item 10 of the Schedule of SWA 2019

¹⁴⁴⁷ Subpara (iia) inserted by Sch. to SW(MP)A 2015

¹⁴⁴⁸ S. 186A inserted by s. 24(e) SW&PA 2007

¹⁴⁴⁹ Chapter 8A Ss 186B – 186H inserted by s. 15 SW&PA 2008

¹⁴⁵⁰ Inserted by s.26(1) SW(MP)A 2010

¹⁴⁵¹ Deleted by s.3(2)(e) SW(MP)A 2015

¹⁴⁵² S 186B inserted by s.15 SW & PA 2008

~~(a) a medical practitioner registered medical practitioner¹⁴⁵³ has certified, in such manner as is prescribed, that —~~

~~(i) the child has a severe disability requiring continual or continuous care and attention substantially in excess of the care and attention normally required by a child of the same age, and~~

~~(ii) the disability is such that the child is likely to require full-time care and attention for at least 12 consecutive months,~~

~~(b) the child —~~

~~(i) is ordinarily resident in the State, or~~

~~(ii) satisfies the requirements of section 219(2), and~~

~~(c) the child is not detained in a children detention school as defined in section 3 of the Children Act 2001.^{1454 1455 1456}~~

186C. (1) A person who has not attained the age of 16 years (in this section referred to as the ‘child’) is a qualified child for the purposes of the payment of domiciliary care allowance where —

(a) the child has a severe disability requiring continual or continuous care and attention substantially in excess of the care and attention normally required by a child of the same age,

(b) the level of disability caused by that severe disability is such that the child is likely to require full-time care and attention for at least 12 consecutive months,

(c) the child —

(i) is ordinarily resident in the State, or

(ii) satisfies the requirements of section 219(2),
and

(d) the child is not detained in a children detention school.

~~(2) A medical assessor shall —~~

~~(a) assess all information provided to him or her in respect of an application for domiciliary care allowance, and~~

~~(b) provide an opinion as to whether the child satisfies paragraphs (a) and (b) of subsection (1).~~

~~(3) In determining whether a child satisfies paragraphs (a) and (b) of subsection (1), a deciding officer shall have regard to the opinion, referred to in subsection (2)(b), of the medical assessor.^{1457 1458}~~

¹⁴⁵³ Amended by s.19(1)(a) SW(MP) A 2008

¹⁴⁵⁴ S186C inserted by s.15 SW & PA 2008

¹⁴⁵⁵ Amended by s.19(1)(a) SW (MP) A 2008

¹⁴⁵⁶ Substituted by s.26(2) SW(MP)A 2010

Qualified Person.

186D. (1) A person is a qualified person for the purpose of receiving domiciliary care allowance in respect of a qualified child if –

- (a) the child normally resides with the person,
- (b) the person provides for the care of the child, and
- ~~(c) at the date of the making of the application for domiciliary care allowance—
 - ~~(i) that person is habitually resident in the State, or~~
 - ~~(ii) the requirements of section 219(2) are satisfied in relation to that person.~~¹⁴⁵⁹~~
- (c) the person—
 - (i) is habitually resident in the State, or
 - (ii) at the date of the making of the application for domiciliary care allowance, is a person to whom paragraph (a), (b) or (c) of section 219(2) applies.¹⁴⁶⁰

(2) For the purposes of subsection (1)(a) the Minister may by regulation make rules for determining with whom a qualified child is to be regarded as normally residing.¹⁴⁶¹

Payments while child is resident in an institution.

186E. (1) Subject to subsections (2) and (3), domiciliary care allowance is not payable for any period during which a child is resident in an institution.

(2) Subject to this Chapter, regulations may provide, subject to such conditions and in such circumstances as are prescribed, for payment of domiciliary care allowance at a rate less than the scheduled rate referred to in section 186F in respect of a qualified child in respect of whom the allowance would be payable but for the fact that the qualified child is resident in an institution, where the child is temporarily resident with the qualified person for a period of not less than two days in any one week.

(3) Where a qualified child in respect of whom a domiciliary care allowance is payable is admitted to an institution otherwise than in the circumstances referred to in subsection (2), that allowance shall continue to be payable for such period, and in such circumstances as are prescribed.¹⁴⁶²

Rate of payment.

186F. (1) Subject to this Act, a person shall, so long as he or she remains a qualified person, be paid out of moneys provided by the Oireachtas a monthly allowance at the rate (in this section referred to as “the scheduled rate”) set out in Part 5 of Schedule 4.

(2) Regulations may provide for the payment of a domiciliary care allowance at a rate lower than the scheduled rate in the case of a qualified child in respect of whom an allowance is payable in accordance with section 186E(2).¹⁴⁶³

¹⁴⁵⁷ Substituted by s.26(2) SW(MP)A 2010

¹⁴⁵⁸ Ss (2) and (3) deleted by s.3(2)(f) SW(MP)A 2015

¹⁴⁵⁹ Para (c) substituted by s.11(11) SW&PA 2014

¹⁴⁶⁰ Para (c) substituted by s.11(11) SW&PA 2014

¹⁴⁶¹ S. 186D inserted by s. 15 SW&PA 2008

¹⁴⁶² S. 186E inserted by s. 15 SW&PA 2008

¹⁴⁶³ S. 186F inserted by s. 15 SW&PA 2008

Medical examination.

186G. (1) A qualified child in respect of whom domiciliary care allowance is in payment shall attend for or submit to such medical or other examinations as are required in accordance with regulations.

(2) Regulations made for the purposes of subsection (1) may also provide for disqualifying a person for receiving domiciliary care allowance where the qualified child in respect of whom the domiciliary care allowance is payable fails without good cause to attend for or submit to such medical or other examination as may be required in accordance with those regulations.

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Only one domiciliary care allowance payable.

186H. Not more than one domiciliary care allowance is payable in any month in respect of any one qualified child. ¹⁴⁶⁵

CHAPTER 9

Supplementary Welfare Allowance

Interpretation.

187. In this Chapter—

“Act of 1939” means the Public Assistance Act 1939;

'institution' means-

- (a) a hospital, convalescent home or home for persons suffering from physical or mental disability or accommodation ancillary to such hospital or home,
- (b) any premises providing residence, maintenance or care for the persons therein,
- (c) a prison or place of detention, or
- (d) a prescribed institution;¹⁴⁶⁶

~~“mortgage interest” means the proportion of any amount payable by a person to a mortgage lender which is for the time being attributable to interest payable under an agreement entered by that person with the mortgage lender for the purpose of defraying money employed in the purchase, repair or essential improvement of the sole or main residence of that person or to pay off another loan used for that purpose but does not include interest payable in relation to such agreement by virtue of a delay or default in making a repayment under that agreement;~~^{1467/1468}

'mortgage interest' means the proportion of any amount payable by a person to a mortgage lender which is for the time being attributable to interest payable under an agreement entered into by that person with the mortgage lender for the purpose of defraying money employed in the purchase, repair or essential improvement of the sole or main residence of that person or to pay off another loan used for that purpose but does not include –

¹⁴⁶⁴ S.186G inserted by s. 15 SW & PA 2008

¹⁴⁶⁵ S.186H inserted by s. 15 SW & PA 2008

¹⁴⁶⁶ Inserted by s.12(a) SW&P(No. 2) A 2009

¹⁴⁶⁷ Inserted by s.14(1) SW(MP) A 2008

¹⁴⁶⁸ Substituted by s.11 SW&P(No. 2)A 2009

(a) interest payable in relation to such agreement by virtue of a delay or default in making a repayment under that agreement, or

(b) the aggregate of –

(i) any relief for interest due to the person under section 244 (as amended by section 3 of the Finance Act 2009) of the Act of 1997, and

(ii) any mortgage allowance or mortgage subsidy attributable to interest which may be payable by a local authority on behalf of the person under the ~~Housing Acts 1963 to 2009.~~¹⁴⁶⁹ ***Housing Acts 1966 to 2009;***¹⁴⁷⁰

“mortgage lender” has the meaning given to it by section 2(1) (as amended by section 2 of, and Schedule 3 to, the Central Bank and Financial Services Authority of Ireland Act 2004) of the Consumer Credit Act 1995;¹⁴⁷¹

~~“qualified adult” means –~~

~~(a) the spouse of the beneficiary who is being wholly or mainly maintained by him or her, or~~¹⁴⁷²

~~(a) in relation to the beneficiary –~~

~~(i) the spouse of the beneficiary who is being wholly or mainly maintained by the beneficiary,~~

~~(ii) the civil partner of the beneficiary who is being wholly or mainly maintained by the beneficiary, or~~

~~(iii) the cohabitant of the beneficiary who is being wholly or mainly maintained by the beneficiary, or~~¹⁴⁷³

~~(b) a person over the age of 16 years being wholly or mainly maintained by the beneficiary and having the care of one or more than one qualified child who normally resides with the beneficiary where the beneficiary is –~~

~~(i) a single person,~~

~~(ii) a widow,~~

~~(iii) a widower, or **widower,**~~¹⁴⁷⁴

~~(iv) a married person who is not living with and is neither wholly nor mainly maintaining, nor being wholly or mainly maintained by, the married person’s spouse; **the married person’s spouse,**~~¹⁴⁷⁵

~~(v) a surviving civil partner, or~~

¹⁴⁶⁹ Substituted by s.12(b) SW&P(No. 2)A 2009

¹⁴⁷⁰ Substituted by s.19 SW&P(MP)A 2013

¹⁴⁷¹ Inserted by s.14(1) SW (MP) A 2008

¹⁴⁷² Substituted by s.21(a) SW&PA 2010

¹⁴⁷³ Substituted by s.21(a) SW&PA 2010

¹⁴⁷⁴ Substituted by s.21(b) SW&PA 2010

¹⁴⁷⁵ Substituted by s.21(c) SW&PA 2010

~~(vi) a civil partner who is not living with and is neither wholly nor mainly maintaining, nor being wholly or mainly maintained by, his or her civil partner;~~^{1476_1477}

‘qualified adult’ means—

(a) in relation to a beneficiary—

(i) the spouse of the beneficiary who is being wholly or mainly maintained by the beneficiary,

(ii) the civil partner of the beneficiary who is being wholly or mainly maintained by the beneficiary, or

(iii) the cohabitant of the beneficiary who is being wholly or mainly maintained by the beneficiary,

where the spouse, civil partner or cohabitant concerned is resident in the State, or

(b) a person who has attained the age of 16 years, is resident in the State, is being wholly or mainly maintained by a beneficiary and has the care of one or more than one qualified child who normally resides with the beneficiary, where the beneficiary is—

(i) a single person,

(ii) a widow,

(iii) a widower,

(iv) a married person who is not living with and is neither wholly nor mainly maintaining, nor being wholly or mainly maintained by, his or her spouse,

(v) a surviving civil partner, or

(vi) a civil partner who is not living with and is neither wholly nor mainly maintaining, nor being wholly or mainly maintained by, his or her civil partner;¹⁴⁷⁸

“home assistance” means home assistance within the meaning of the Act of 1939;

“public assistance authority” means a former public assistance authority referred to in section 8 of the Act of 1939 as extended by section 7 of the Health Authorities Act 1960 and section 84 of the Health Act 1970;

“social housing support” has the meaning given to it by section 19 of the Housing (Miscellaneous Provisions) Act 2009;¹⁴⁷⁹

“supplementary welfare allowance” means an allowance in cash or in kind granted under this Chapter.

¹⁴⁷⁶ Subparas (b)(v) and (vi) in the definition of QA inserted by s.21(d) SW&PA 2010

¹⁴⁷⁷ Substituted by s.8(1) SW&PA 2014

¹⁴⁷⁸ Substituted by s.8(1) SW&PA 2014

¹⁴⁷⁹ Inserted by s.19 SW&P(MP)A 2013

Definitions of qualified child.

188. (1) In this Chapter “qualified child” means, in relation to a beneficiary, ~~any child,~~ **any child who is ordinarily resident in the State,**¹⁴⁸⁰ not being a qualified adult, who is dependent on that beneficiary for support and—

(a) in the case of a beneficiary (other than a beneficiary referred to in paragraph (b)), is under the age of 18 years or is of or over the age of 18 years and is regarded as attending a course of study referred to in section 148(3)(a), or

(b) in the case of a beneficiary who has been in receipt of supplementary welfare allowance for not less than 26 weeks or, subject to the conditions and in the circumstances that may be prescribed, has been entitled to or has been in receipt of supplementary welfare allowance and a relevant payment for not less than 156 days—

(i) is under the age of 18 years, or

(ii) is of or over the age of 18 years and under the age of 22 years and is receiving full-time education, the circumstances of which shall be specified in regulations, or

(iii) is of or over the age of 18 years and is regarded as attending a course of study referred to in section 148(3)(a).

(2) (a) Subject to paragraph (b) and notwithstanding subsection (1)(a), a person who attains the age of 18 years while attending a full-time day course of study, instruction or training at an institution of education, shall continue to be regarded as a qualified child for the purposes of subsection (1)(a) until the earlier of the next following 30 June or until he or she completes the full-time day course.

(b) For the purposes of paragraph (a), the Minister may prescribe the conditions subject to which a person shall be regarded as attending a full-time day course of study, instruction or training at an institution of education.

(c) In this subsection “institution of education” has the meaning given to it by section 148(2).

Entitlement to supplementary welfare allowance.

189. Subject to this Act, every person in the State whose means are insufficient to meet his or her needs and the needs of any qualified adult or qualified child of the person shall be entitled to supplementary welfare allowance.

Exclusion of persons receiving full-time education.

190. (1) A person shall not be entitled to receive supplementary welfare allowance while attending a course of study within the meaning of section 148, other than in the circumstances and subject to the conditions that may be prescribed.

(2) Subsection (1) is without prejudice to the entitlement of any person to receive supplementary welfare allowance in respect of a person referred to in that subsection who is a qualified adult or qualified child.

¹⁴⁸⁰ Substituted by s.13 SWA 2016

(3) Notwithstanding subsection (1), supplementary welfare allowance may, in a case in which there are exceptional circumstances, be granted to a person who would be entitled to receive supplementary welfare allowance but for that subsection.

Exclusion of persons in full-time employment.

191. (1) Subject to subsections (2) and (3), a person shall not, other than in the circumstances and subject to the conditions that may be prescribed, be entitled to supplementary welfare allowance in relation to any period during which he or she is engaged in remunerative full-time work.

(2) The Minister may by regulations provide for the postponement of the operation of subsection (1) in respect of any class of persons becoming engaged in remunerative full-time work until such period after the beginning of the engagement as may be specified in the regulations.

(3) Subsection (1) shall not apply in the case of any person engaged in remunerative full-time work where the earning power of the person is, by reason of any physical or mental disability, substantially reduced in comparison with the earning power of other persons engaged in similar work.

Exclusion of persons not habitually resident in the State.

192. A person shall not be entitled to an allowance (other than an allowance under sections 201 and 202) under this Chapter unless he or she is habitually resident in the State ~~at the date of the making of the application for the allowance~~¹⁴⁸¹.

Persons affected by trade disputes.

193. (1) In any case where, by reason of a stoppage of work due to a trade dispute at his or her place of employment, a person is without employment for any period during which the stoppage continues, and the person has not, during that stoppage, become bona fide employed elsewhere in the occupation which he or she usually follows, or has not become regularly engaged in some other occupation, the person's needs for that period shall be disregarded for the purpose of ascertaining his or her entitlement to supplementary welfare allowance except in so far as those needs include the need to provide for a qualified adult or any qualified children.

(2) Subsection (1) shall not apply to a person who is not participating in or directly interested in the trade dispute which caused the stoppage of work.

(3) In this section "place of employment", in relation to any person, means the factory, workshop, farm or other premises or place at which he or she was employed, but, where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments, for the purposes of this section, is deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be.

Administration.¹⁴⁸²

194. (1) ~~Subject to the general direction and control of the Minister, the Executive, in respect of its functional areas, shall be responsible for the administration of functions performable under this Chapter and the functions relating to supplementary welfare allowance other than~~

¹⁴⁸¹ Deleted by s.11(12) SW&PA 2014

¹⁴⁸² S194 repealed by S.18 and Sch1 SW&PA 2008

~~(a) functions relating to claims for supplementary welfare allowance decided by a deciding officer, and~~

~~(b) making the categories of payment that may be prescribed in the circumstances and conditions that may be prescribed.~~

~~(2) Any categories of payment prescribed under subsection (1) shall be made by the Minister and regulations made under that subsection may apply to the whole State or to a functional area of the Executive or to a part of a functional area of the Executive and may relate to supplementary welfare allowance generally or to supplementary welfare allowance payable by virtue of specific provisions in this Chapter.~~

~~(3) Subject to subsection (1), the Executive shall grant to every person in its functional areas who is eligible therefor the supplementary welfare allowance determined, in accordance with this Chapter, to be due to that person.¹⁴⁸³~~

Conditions for grant of supplementary welfare allowance.

195. ~~The Executive~~ *A designated person*¹⁴⁸⁴ or deciding officer may, subject to regulations made by the Minister, determine or decide that a person shall not be entitled to supplementary welfare allowance unless the person—

(a) is registered for employment in the manner that the Minister may prescribe,

(b) satisfies the conditions set out in section 141(1)(b) and (4), and

(c) makes application for any statutory or other benefits or assistance to which the person may be entitled including any benefits or assistance from countries other than the State.

~~Supplementary welfare allowance—reduced weekly amount in certain circumstances.~~

~~195A. Notwithstanding section 195, in the case of a person who—~~

~~(a) has, when requested to do so by an officer of the Minister, without good cause refused to participate, or to agree to participate, in a course of training which is considered appropriate by the officer having regard to the training needs of the person and his or her personal circumstances,~~

~~(b) has, without good cause, refused or failed to avail himself or herself of any reasonable offer of training provided or approved of by An Foras Áiseanna Saothair, or~~

~~(c) has, without good cause, refused or failed to avail himself or herself of an opportunity of participating in a programme administered by An Foras Áiseanna Saothair and the Minister pursuant to the plan commonly known as the National Employment Action Plan,~~

~~the weekly amount of supplementary welfare allowance payable shall be as set out in subsection (1A), (2A) or, as the case may be, (4A) of section 197.^{1485 1486}~~

¹⁴⁸³ S194 repealed by S.18 and Sch1 SW&PA 2008

¹⁴⁸⁴ Substituted by s. 18 and Sch 1 SW&PA 2008

¹⁴⁸⁵ S195A inserted by s.9(1) SWA 2010

¹⁴⁸⁶ Substituted by s.14(1) SW&P(MP)A 2013

Refusal or failure to attend activation meetings relating to supplementary welfare allowance

195A.(1) Notice may be given by or on behalf of the Minister to any person receiving supplementary welfare allowance requesting the person, at the time specified in the notice, to comply with the requirement specified in paragraph (a) or (b) of subsection (3).

(2) Where a person refuses or fails, without good cause, to comply with the requirement specified in the notice under subsection (1) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, the weekly rate of supplementary welfare allowance payable to that person in respect of any such period of refusal or failure shall, subject to this section, be as set out in subsection ~~(1A), (2A)~~ *or, as the case may be, (4A) of section 197 (1A) or, as the case may be, (2A) of section 197.*¹⁴⁸⁷

(3) A notice under this section may require the person to whom it is given to do one of the following, at the time specified in the notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person—

(a) attend at a meeting arranged by or on behalf of the Minister for the purpose of providing information to that person which is intended to improve his or her knowledge of the employment, work experience, education, training and development opportunities available to that person, or

(b) attend for or submit to an assessment of that person's education, training or development needs.

(4) Where supplementary welfare allowance is paid to a person at the weekly rate set out in subsection ~~(1A), (2A) or, as the case may be, (4A) of section 197 (1A) or, as the case may be, (2A) of section 197~~¹⁴⁸⁸ on account of a refusal or failure to comply with the requirement specified in the notice under subsection (1) for a period of not less than 21 days, notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with that requirement.

(5) Where a person refuses or fails, without good cause, to comply with the requirement specified in the notice under subsection (4) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, that person may, subject to subsection (6), be disqualified for receiving the weekly amount of supplementary welfare allowance as provided for in sections 196 and 197 for any period of continued refusal or failure commencing on the date specified in the notice under subsection (4), but such period of disqualification shall, subject to subsection (7), not exceed 9 weeks.

(6) Where the weekly amount of supplementary welfare allowance payable to a person to whom subsection (5) applies includes an increase in respect of—

(a) a qualified adult in accordance with section 197(1)(a), or

(b) a qualified child in accordance with section 197(1)(b),

the disqualification provided for in subsection (5) shall not apply in respect of the receipt of such increase of supplementary welfare allowance.

¹⁴⁸⁷ Amended by s.10(1)(a)(i) SW(No.2)A 2019

¹⁴⁸⁸ Amended by s.10(1)(a)(ii) SW(No.2)A 2019

(7) Nothing in this section shall prevent the provisions of subsections (1) to (6) being applied to a person where, on or after the expiration of such period of disqualification as is applied in accordance with subsection (5)—

(a) notice has been given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement referred to in subsection (1), and

(b) that person continues, without good cause, to refuse or fail to comply with that requirement.

(8) Where, on the commencement of section 14 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013, supplementary welfare allowance is being paid to a person at the weekly rate set out in subsection ~~(1A), (2A) or, as the case may be, (4A)~~ of ~~section 197 (1A) or, as the case may be, (2A) of section 197~~¹⁴⁸⁹ for a period of not less than 21 days—

(a) a notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement specified in paragraph (a) or (b) of subsection (3), and

(b) subsections (4) to (7) shall apply to that person where he or she refuses or fails, without good cause, to comply with that requirement at or after the time specified in the notice under paragraph (a), or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person.

Refusal or failure to participate in prescribed schemes, programmes or courses relating to supplementary welfare allowance

195B. (1) Where—

(a) as a consequence of attendance for or submission to an assessment in accordance with section 195A(3)(b), a request is made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in—

(i) any scheme or programme of employment or work experience, or

(ii) a course of education, training or development,

which is prescribed for the purposes of this section and which is considered appropriate having regard to the education, training and development needs of that person and his or her personal circumstances, and

(b) that person refuses or fails, without good cause, to participate in, agree to participate in or avail himself or herself of an opportunity of participating in such a scheme, programme or course, as the case may be,

the weekly rate of supplementary welfare allowance payable to that person in respect of any such period of refusal or failure shall, subject to this section, be as set out in subsection ~~(1A), (2A) or, as the case may be, (4A)~~ of ~~section 197 (1A) or, as the case may be, (2A) of section 197.~~¹⁴⁹⁰

¹⁴⁸⁹ Amended by s.10(1)(a)(iii) SW(No.2)A 2019

¹⁴⁹⁰ Amended by s.10(1)(b)(i) SW(No.2)A 2019

(2) Where supplementary welfare allowance is paid to a person at the weekly rate set out in subsection (1A), ~~(2A) or, as the case may be, (4A) of section 197~~ *(1A) or, as the case may be, (2A) of section 197*¹⁴⁹¹ on account of a refusal or failure referred to in subsection (1)—

(a) notice may be given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to attend for or submit to an assessment of that person's education, training or development needs, or

(b) a request may be made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in—

(i) any scheme or programme of employment or work experience, or

(ii) a course of education, training or development,

which is prescribed for the purposes of this section and which is considered appropriate having regard to the education, training and development needs of that person and his or her personal circumstances.

(3) Where a person refuses or fails, without good cause, to—

(a) comply with the requirement specified in the notice under subsection (2)(a) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, or

(b) participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b),

that person may, subject to subsection (4), be disqualified for receiving the weekly amount of supplementary welfare allowance as provided for in sections 196 and 197 for any period of such refusal or failure commencing on—

(i) the date specified in the notice under subsection (2)(a), or

(ii) the date of refusal or failure to participate in, to agree to participate in or to avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b),

as the case may be, but such period of disqualification shall, subject to subsection (5), not exceed 9 weeks.

(4) Where the weekly amount of supplementary welfare allowance payable to a person to whom subsection (3) applies includes an increase in respect of—

(a) a qualified adult in accordance with section 197(1)(a), or

(b) a qualified child in accordance with section 197(1)(b),

the disqualification provided for in subsection (3) shall not apply in respect of the receipt of such increase of supplementary welfare allowance.

¹⁴⁹¹ Amended by s.10(1)(b)(ii) SW(No.2)A 2019

(5) Nothing in this section shall prevent the provisions of subsections (1) to (4) being applied to a person where, on or after the expiration of such period of disqualification as is applied in accordance with subsection (3)—

(a) notice has been given by or on behalf of the Minister to that person requesting him or her, at the time specified in the notice, to comply with the requirement referred to in subsection (2)(a), or

(b) a request has been made by or on behalf of the Minister to that person to participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in subsection (2)(b),

as the case may be, and that person continues, without good cause, to refuse or fail to—

(i) comply with the requirement specified in the notice under paragraph (a) at the time specified in that notice, or at any time thereafter as may be determined by or on behalf of the Minister and notified to the person, or

(ii) participate in, agree to participate in or avail himself or herself of an opportunity of participating in any scheme, programme or course referred to in paragraph (b).

Giving of notice Under section 195A or 195B

195C. A notice under section 195A or 195B shall be given in writing and may be given in such other form as may be considered appropriate, including electronic form.¹⁴⁹²

Calculation of supplementary welfare allowance.

196. (1) Subject to ~~section 341(7), section 341(7C)~~¹⁴⁹³ ~~and section 195A~~¹⁴⁹⁴ *sections 195A, 195B, 341(7) and 341(7C)*,¹⁴⁹⁵ the amount of supplementary welfare allowance to which a person is entitled shall be the amount by which the person's means fall short of his or her needs, and for the purpose of ascertaining that amount—

(a) the weekly needs of a person shall, subject to any payment under section 198, be taken to be—

(i) in the case of a person who has no means, the amount calculated in accordance with section 197, or

(ii) in the case of a person who has means, the amount calculated in accordance with section 197 which would be appropriate in the person's case if he or she had no means, reduced by €1 per week for every €1 of his or her weekly means, and

(b) subject to paragraph (c), the weekly means of any person for the purpose of ascertaining his or her entitlement to supplementary welfare allowance shall be calculated in accordance with the Rules contained in Part 4 of Schedule 3.

(c) The amount calculated in accordance with paragraph (b) shall be rounded up to the nearest €1 where it is a multiple of 50 cent but not also a multiple of €1 and shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1.

¹⁴⁹² S. 195A substituted with S195A, 195B and 195C by s.14(1) SW&P(MP)A 2013

¹⁴⁹³ Inserted by s.13(2) SWA 2012

¹⁴⁹⁴ Amended by s.9(2) SWA 2010

¹⁴⁹⁵ Substituted by s.14(2) SW&P(MP)A 2013

(2) In calculating the amount of supplementary welfare allowance payable to any person, the following apply:

~~(a) where—~~

~~(i) a husband and wife, or~~

~~(ii) a man and woman who are not married to each other but are cohabiting as husband and wife,~~

~~are members of the same household, their needs and means shall be aggregated and shall be regarded as the needs and means of the claimant;¹⁴⁹⁶~~

(a) where—

~~(i) a husband and wife,¹⁴⁹⁷~~

(i) both spouses of a married couple, ¹⁴⁹⁸

(ii) both civil partners of a civil partnership, or

(iii) both cohabitants,

are members of the same household, their needs and means shall be aggregated and shall be regarded as the needs and means of the claimant;¹⁴⁹⁹

(b) in the case of a person with a qualified child his or her needs shall be taken to include the needs of that qualified child;

(c) where the needs of any person are taken into account in determining the entitlement of any other person to supplementary welfare allowance, only that other person shall be entitled to an allowance.

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~~Weekly amounts of supplementary welfare allowance for persons of no means.~~

~~197. In the case of a person who has no means as determined by this Chapter and subject to any payment under section 198, the weekly amount of supplementary welfare allowance payable shall be as set out in column (2) of Part 1 of Schedule 4, increased by—~~

~~(a) the amount set out in column (3) of that Part for any period during which the beneficiary has a qualified adult, and~~

~~(b) the appropriate amount set out in column (4) of that Part in respect of each qualified child.¹⁵⁰¹~~

Weekly amounts of supplementary welfare allowance for persons of no means.

197. (1) In the case of a person who has no means as determined by this Chapter and subject to a payment under section 198, the weekly amount of supplementary welfare allowance

¹⁴⁹⁶ Substituted by s.19(9) SW&PA 2010

¹⁴⁹⁷ Substituted by s.15 SW&PA 2015

¹⁴⁹⁸ Substituted by s.15 SW&PA 2015

¹⁴⁹⁹ Substituted by s.19(9) SW&PA 2010

¹⁵⁰⁰ Uncommenced provision – see [s.54\(1\) H\(MP\)A 2014](#)

¹⁵⁰¹ S. 197 substituted by s.7(a) SW & PA 2009

payable shall be as set out in column (2) at reference 10(a) of Part 1 of Schedule 4 (as inserted by *section 11(b)* of the *Social Welfare Act 2009*), increased by –

(a) the amount set out in column (3) of that Part for any period during which the claimant or beneficiary has a qualified adult subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this paragraph in respect of more than one person, and

~~(b) the appropriate amount set out in column (4) of that Part in respect of each qualified child.~~^{1502 1503}

(b) the appropriate amount set out—

(i) in column (4) of that Part in respect of each qualified child who has not attained the age of 12 years, and

(ii) in column (5) of that Part in respect of each qualified child who has attained the age of 12 years.¹⁵⁰⁴

(1A) Subject to this Act and notwithstanding subsection (1), in the case of a person to whom ~~section 195A~~ **subsection (2) or (7) of section 195A or subsection (1) or (5) of section 195B**¹⁵⁰⁵ refers, the weekly amount of supplementary welfare allowance shall be reduced and accordingly shall be the weekly amount of supplementary welfare allowance as set out in column (2) at reference 10(a) of Part 1 of Schedule 4 which shall be reduced in each week by €42, increased by—

(a) the amount set out in column (3) of that Part for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this paragraph in respect of more than one person, and

~~(b) the appropriate amount set out in column (4) of that Part in respect of each qualified child.~~^{1506 1507}

(b) the appropriate amount set out—

(i) in column (4) of that Part in respect of each qualified child who has not attained the age of 12 years, and

(ii) in column (5) of that Part in respect of each qualified child who has attained the age of 12 years.¹⁵⁰⁸

(2) Notwithstanding subsection (1), in the case of a person who has not attained the age of ~~20~~²²~~25~~²⁵ years who has no means as determined by this Chapter and who is not entitled to an increase in respect of a qualified child, subject to any payment under section 198, the weekly amount of supplementary welfare allowance payable shall be as set out in column (2)

¹⁵⁰² S. 197 substituted by s.7(a) SW & PA 2009

¹⁵⁰³ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁵⁰⁴ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁵⁰⁵ Substituted by s.14(3) SW&P(MP)A 2013

¹⁵⁰⁶ Subsection (1A) inserted by s.9(3)(a) SWA 2010

¹⁵⁰⁷ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁵⁰⁸ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁵⁰⁹ Substituted by s.13(a) SW&P(No. 2) A 2009

¹⁵¹⁰ Substituted by s.10(1)(a) SW&PA 2013

at reference 10(b) of Part 1 of Schedule 4 (as inserted by *section 11(b)* of the *Social Welfare Act 2009*), increased by the amount set out in column (3) of that Part for any period during which the beneficiary has a qualified adult subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this subsection in respect of more than one person.¹⁵¹¹

(2A) Subject to this Act and notwithstanding subsection (2), in the case of a person to whom ~~section 195A subsection (2) or (7) of section 195A or subsection (1) or (5) of section 195B~~¹⁵¹² refers, the weekly amount of supplementary welfare allowance shall be reduced and accordingly shall be the weekly amount of supplementary welfare allowance as set out in column (2) at reference 10(b) of Part 1 of Schedule 4 which shall be reduced in each week by €25, increased by the amount set out in column (3) of that Part for any period during which the claimant or beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this subsection in respect of more than one person.¹⁵¹³

(3) Subsection (2) shall not apply in the case of a claim for supplementary welfare allowance where the claimant –

~~(a) has been in continuous receipt of the allowance from a date on or before 29 April 2009,~~¹⁵¹⁴

(a) has been in continuous receipt of the allowance from a date on or before 30 December 2009 and where, in the period prior to that date the claimant was not a person to whom subsection (2) applied,¹⁵¹⁵ or

(aa) has been in continuous receipt of the allowance from a date on or before 8 January 2014 and where, in the period prior to that date, the claimant was not a person to whom subsection (2) ~~applied,~~¹⁵¹⁶ **applied,**¹⁵¹⁷

(ab) is in receipt, in his or her own right, of—

(i) rent supplement payable in accordance with section 198(3),

(ii) housing assistance in accordance with Part 4 of the Housing (Miscellaneous Provisions) Act 2014, or

(iii) social housing support within the meaning of the Housing (Miscellaneous Provisions) Act 2009, or¹⁵¹⁸

(b) has attained the age of 18 years and has not attained the age of ~~20~~¹⁵¹⁹ ~~22~~¹⁵²⁰ 25 years and at any time during the period of 12 months before he or she has so attained the age of 18 years –

(i) he or she was in or was placed in the care of the Executive pursuant to an order of the High Court, or

¹⁵¹¹ S. 197 substituted by s.7(a) SW&PA 2009

¹⁵¹² Substituted by s. 14(3)SW&P(MP)A 2013

¹⁵¹³ Subsection (2A) inserted by s.9(3)(b) SWA 2010

¹⁵¹⁴ Substituted by s.13(b) SW&P(No. 2)A 2009

¹⁵¹⁵ Substituted by s.13(b) SW&P(No. 2)A 2009

¹⁵¹⁶ Substituted by s.10(1)(c) SW&PA 2013

¹⁵¹⁷ Substituted by s.11(1)(a) SW(No.2)A 2019

¹⁵¹⁸ Para. (ab) inserted by s.11(1)(b) SW(No.2)A 2019

¹⁵¹⁹ Substituted by s.13(c) SW&P(No. 2)A 2009

¹⁵²⁰ Substituted by s.10(1)(b) SW&PA 2013

(ii) he or she was in or was placed in the care of the Executive –

(I) pursuant to an order of the District Court or the Circuit Court on appeal from the District Court made under Part III, IV, IVA, (inserted by section 16 of the Children Act 2001) or VI of the Child Care Act 1991,

(II) under a voluntary care arrangement pursuant to section 4 of the Child Care Act 1991, or

(III) under an accommodation arrangement pursuant to section 5 of the Child Care Act 1991.¹⁵²¹

~~(4) Notwithstanding subsection (1), in the case of a person who has attained the age of 22 25¹⁵²² years but has not attained the age of 25 26¹⁵²³ years and who has no means as determined by this Chapter, and is not entitled to an increase in respect of a qualified child, subject to any payment under section 198, the weekly amount of supplementary welfare allowance payable shall be as set out in column (2) at reference 10(c) (inserted by section 4 of Social Welfare and Pensions (No. 2) Act 2009) of Part 1 of Schedule 4 increased by the amount set out in column (3) of that Part for any period during which the beneficiary has a qualified adult subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this subsection in respect of more than one person.~~^{1524 1525}

~~(4A) Subject to this Act and notwithstanding subsection (4), in the case of a person to whom section 195A **subsection (2) or (7) of section 195A or subsection (1) or (5) of section 195B**¹⁵²⁶ refers, the weekly amount of supplementary welfare allowance shall be reduced and accordingly shall be the weekly amount of supplementary welfare allowance as set out in column (2) at reference 10(c) of Part 1 of Schedule 4 which shall be reduced in each week by €33, increased by the amount set out in column (3) of that Part for any period during which the beneficiary has a qualified adult, subject to the restriction that the claimant or beneficiary shall not be entitled for the same period to an increase of allowance under this subsection in respect of more than one person.~~¹⁵²⁷

~~(5) Subsection (4) shall not apply in the case of a claim for supplementary welfare allowance where the claimant has been in continuous receipt of the allowance from a date on or before 30 December 2009 and where, in the period prior to that date the claimant was not a person to whom subsection (2) applied.~~¹⁵²⁸

~~(6) Subsection (4) shall not apply in the case of a claim for supplementary welfare allowance where—~~

~~(a) the claimant has been in continuous receipt of the allowance from a date on or before 8 January 2014, and~~¹⁵²⁹

~~(a) the claimant has been in continuous receipt of the allowance from a date on or before 8 January 2014 and in the period prior to that date, the claimant was not a person to whom subsection (4) applied, or~~¹⁵³⁰

¹⁵²¹ S197 substituted by s.7(a) SW & PA 2009

¹⁵²² Substituted by s.10(1)(d) SW&PA 2013

¹⁵²³ Substituted by s.10(1)(d) SW&PA 2013

¹⁵²⁴ Inserted by s.13(d) SW&P(No. 2) A 2009

¹⁵²⁵ Subsections 4-6 repealed s.10(1)(c) SW(No.2)A 2019

¹⁵²⁶ Substituted by S14(3) SW&P(MP)A 2013

¹⁵²⁷ S.4A inserted by s.9(3)(c) SWA 2010

¹⁵²⁸ Inserted by s.13(d) SW&P(No. 2)A 2009

¹⁵²⁹ Para. (a) substituted by s.11(a)(a) SWPCRA 2018

¹⁵³⁰ Para. (a) substituted by s.11(a)(a) SWPCRA 2018

~~(b) in the period prior to that date, the claimant was not a person to whom subsection (4) applied.¹⁵³¹~~

~~(b) the claimant has attained the age of 18 years and has not attained the age of 26 years and at any time during the period of 12 months before he or she has so attained the age of 18 years~~

~~(i) he or she was in or was placed in the care of the Executive pursuant to an order of the High Court, or~~

~~(ii) he or she was in or was placed in the care of the Executive —~~

~~(I) pursuant to an order of the District Court or the Circuit Court on appeal from the District Court made under Part III, IV, IVA or VI of the Child Care Act 1991,~~

~~(II) under a voluntary care arrangement pursuant to section 4 of the Child Care Act 1991, or~~

~~(III) under an accommodation arrangement pursuant to section 5 of the Child Care Act 1991.^{1532 1533}~~

Weekly or monthly supplements.

198.(1) Subject to this Chapter, in the case of a person whose means are insufficient to meet his or her needs, regulations may provide for a weekly or monthly payment to supplement that person's income.

(1A) Notwithstanding section 196(1)(a), in determining entitlement to a supplement in accordance with this section, where the person has not attained the age of ~~25 26 years~~¹⁵³⁴ **25 years**¹⁵³⁵ and is not in receipt of a payment under section ~~142A, 142B, 197(2) or 197(4)~~ **142A or 197(2)**,¹⁵³⁶ the weekly needs of that person shall be taken to be—

(a) in the case of a person who has no means, the amount calculated in accordance with section 197(1), or

(b) in the case of a person who has means, the amount calculated in accordance with section 197(1) which would be appropriate if that person had no means, reduced by €1 per week for every €1 of his or her weekly means.¹⁵³⁷

(2) Regulations under subsection (1) may prescribe the class or classes of persons to whom and the conditions and circumstances under which a payment under subsection (1) may be made ~~and the amount of such a payment~~ **and, subject to subsection (3E), the amount of such a payment**¹⁵³⁸ (either generally or in relation to a particular class or classes of persons).

(3) Without prejudice to the generality of subsection (1) and subject to ~~subsection (4)~~ **subsections (3B), (3D), ~~(3E)~~¹⁵³⁹ and ~~(4)~~¹⁵⁴⁰ (3E), (4), (4A) and (4B) and section 198A**¹⁵⁴¹

¹⁵³¹ Inserted by s.10(1)(e) SW&PA 2013 and deleted by s.11(1)(b) SWP&CRA 2018

¹⁵³² Para. (b) inserted by s.11(1)(c) SWP&CRA 2018

¹⁵³³ Subsections 4-6 repealed s.10(1)(c) SW(No.2)A 2019

¹⁵³⁴ Substituted by s.10(2) SW&PA 2013

¹⁵³⁵ Substituted by s.10(1)(d)(i) SW(No.2)A 2019

¹⁵³⁶ Amended by ss.8(1)(e) and 10(1)(d)(ii) SW(No.2)A 2019

¹⁵³⁷ Ss 198(1A) inserted by s.6 SW&PA 2010

¹⁵³⁸ Amended by s.14(2)(a) SW(MP)A 2008

¹⁵³⁹ Inserted by s.14(2)(b) SW(MP)A 2008

¹⁵⁴⁰ Subsections (3B), (3D), and (4) substituted by s. 25(1)(a) SW&PA 2007

regulations under subsection (1) may provide for the payment of a supplement towards the amount of rent payable by a person in respect of his or her residence.

(3A) Notwithstanding section 191(1), the payment of a supplement towards the amount of rent payable by a person in respect of his or her residence may continue to be made where the person –

(a) engages in remunerative full-time employment and, during the 12 month period immediately before his or her engagement in remunerative full-time employment, the person was not regarded, for the purposes of this Chapter, as being engaged in remunerative full-time employment, or

~~(b) is participating in—~~

~~(i) a scheme known as the Area Allowance Enterprise Scheme, approved by a company known as an Area Partnership, in consultation with the Minister,~~

~~(ii) a scheme administered by An Foras Aiseanna Saothair and known as Community Employment *scheme provided by the Minister and known as Community Employment*¹⁵⁴², or~~

~~(iii) a scheme administered by the Minister and known as the Back to Work Allowance Scheme,¹⁵⁴³~~

(b) is participating in—

(i) a scheme provided by the Minister and known as Community Employment,
or

(ii) a scheme administered by the Minister and known as—

(I) Back to Work Enterprise Allowance (Self-Employed),

(II) Back to Work Allowance (Employees), or

(III) Back to Work Short Term Enterprise Allowance,¹⁵⁴⁴

and the person has been accepted as being in need of accommodation under a scheme funded by the Minister for the Environment, Heritage and Local Government and known as the Rental Accommodation Scheme.¹⁵⁴⁵

(3B) Subject to subsection (3C), a payment referred to in subsection (3) shall not be payable in respect of a person's residence where his or her residence is situated in an area notified to the Minister by the Minister for the Environment, Heritage and Local Government as being an area of regeneration for the purpose of providing for greater social integration.¹⁵⁴⁶

(3C) Subject to the conditions and circumstances that may be prescribed, subsection (3B) shall not apply –

¹⁵⁴¹ Amended by s.7(1) SW&PA 2010

¹⁵⁴² Substituted by s.29(2) SW&PA 2010

¹⁵⁴³ Para. (b) substituted by s.19 SW&P(MP)A 2013

¹⁵⁴⁴ Para. (b) substituted by s.19 SW&P(MP)A 2013

¹⁵⁴⁵ S. 198(3A) to (3D) inserted by s. 25(1)(b) SW&PA 2007

¹⁵⁴⁶ S. 198(3A) to (3D) inserted by s. 25(1)(b) SW&PA 2007

(a) to a person who is in receipt of rent supplement in respect of his or her residence immediately before the area in which his or her residence is situated is notified to the Minister as being an area of regeneration as referred to in subsection (3B),

(b) to a person who is living in an area notified to the Minister as being an area of regeneration as referred to in subsection (3B) and becomes entitled to a payment under subsection (3) where, on the making of an application for supplement under subsection (3), ~~the Executive~~ **a designated person**¹⁵⁴⁷ is satisfied that the person –

(i) in so far as was reasonable in all the circumstances, had, at the commencement of the tenancy, an expectation that he or she would continue to be able to pay the amount of the rent, and

(ii) has experienced a substantial change in his or her circumstances such that he or she is unable to pay the amount of the rent.¹⁵⁴⁸

(3D) ~~The Executive~~ **A designated person**¹⁵⁴⁹ may determine that a payment referred to in subsection (3) is not payable where a notification is received ~~by the Executive~~ **by the designated person**¹⁵⁵⁰ from a housing authority (within the meaning of the Housing (Miscellaneous Provisions) Act 1992) regarding non-compliance with standards prescribed for the time being under section 18 of the Housing (Miscellaneous Provisions) Act 1992.¹⁵⁵¹

(3E) Without prejudice to the generality of subsections (1), (2) and (3), and subject to subsections (3A), (3B), (3D) and (4), where regulations under this section provide for the payment of a supplement towards the amount of rent payable by a person in respect of his or her residence, the regulations shall prescribe the maximum amount of rent in respect of which supplement is payable having regard to the family circumstances of the person to whom such supplement is payable and the location of the residence of that person.¹⁵⁵²

~~(3F) A person shall not be entitled to a payment referred to in subsection (3) unless on the making of the application, the Executive is satisfied that the person –~~

~~(a) is a bona fide tenant,~~

~~(b) has been –~~

~~(i) assessed by a housing authority pursuant to section 9 of the Housing Act 1988 (as amended by section 75 of the Health Act 2004) as having a housing need, or~~

~~(ii) has been, for the period that is prescribed, residing in –~~

~~(I) rented accommodation, or~~

~~(II) accommodation for homeless persons as provided under section 10 of the Housing Act 1988.^{1553/1554}~~

¹⁵⁴⁷ Substituted by s. 18 and Schedule 1 SW&PA 2008

¹⁵⁴⁸ S. 198(3A to 3D) inserted by s. 25(1)(b) SW&PA 2007

¹⁵⁴⁹ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁵⁵⁰ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁵⁵¹ S. 198(3A) to (3D) inserted by s. 25(1)(b) SW&PA 2007

¹⁵⁵² Inserted by s.14(2)(c) SW(MP)A 2008

¹⁵⁵³ Ss (3F) inserted by s.7(b) SW&PA 2009

¹⁵⁵⁴ Substituted by s.14 SW&P(2)A 2009

(3F) ~~A person shall not be entitled to a payment~~ **Subject to subsection (3FB), a person shall not be entitled to a payment** ¹⁵⁵⁵ referred to in subsection (3) unless, on the making of the application, ~~the Executive~~ **a designated person** ¹⁵⁵⁶ is satisfied that the person is a *bona fide* tenant, and has been –

~~(a) assessed by a housing authority pursuant to section 9 of the Housing Act 1988 (as amended by section 75 of the Health Act 2004) as having a housing need,~~ ¹⁵⁵⁷

(a) determined to be qualified for social housing support by a housing authority under a social housing assessment pursuant to section 20 of the Housing (Miscellaneous Provisions) Act 2009, ¹⁵⁵⁸

(b) residing, for the period that is prescribed, in rented accommodation in respect of which-

(i) there was at the commencement of the tenancy, an expectation that, in so far as was reasonable in all the circumstances, the person could pay the rent into the future, and

(ii) the person was in a position to pay the rent at the commencement of the tenancy,

and subsequent to the commencement of the tenancy the person has experienced a substantial change in his or her circumstances and is unable to pay the rent and such change in circumstances has not been caused by that person,

(c) residing, for the period that is prescribed, in accommodation for homeless persons as provided under section 10 of the Housing Act 1988, or

(d) residing, for the period that is prescribed, in an institution. ¹⁵⁵⁹

(3FA) Subject to subsection (3FB), a person shall not be entitled to a payment referred to in subsection (3) unless, and subject to subsection (3H), on the making of the application, a designated person is satisfied that the person is a *bona fide* tenant, and—

(a) subject to subsection (3G) where applicable, was in receipt of a payment referred to in subsection (3) in respect of another tenancy immediately before the making of the application or was in receipt of the payment within a specified period as prescribed,

(b) has been residing, for the period that is prescribed, in rented accommodation in respect of which—

(i) there was at the commencement of the tenancy, an expectation that, in so far as was reasonable in all the circumstances, the person could pay the rent into the future, and

(ii) the person was in a position to pay the rent at the commencement of the tenancy,

¹⁵⁵⁵ Substituted by [s.54\(2\)\(a\) H\(MP\)A 2014](#)

¹⁵⁵⁶ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁵⁷ Substituted by s.19 SW&P(MP)A 2013

¹⁵⁵⁸ Substituted by s.19 SW&P(MP)A 2013

¹⁵⁵⁹ Substituted by s.14 SW&P(No. 2)A 2009

and subsequent to the commencement of the tenancy the person has experienced a substantial change in his or her circumstances and is unable to pay the rent and such change in circumstances has not been caused by that person, or

(c) has been residing, for the period that is prescribed—

(i) in accommodation for homeless persons as provided under section 10 of the Housing Act 1988 , or

(ii) in an institution,

except where the household of which the person is a member is determined to be qualified for social housing support by a housing authority under a social housing assessment pursuant to section 20 of the Housing (Miscellaneous Provisions) Act 2009.

(3FB) (a) Subsection (3F) shall apply, where appropriate, except in respect of a case to which paragraph (b) relates.

(b) Subsection (3FA) shall apply to a person where—

(i) regulations made under section 50 of the Housing (Miscellaneous Provisions) Act 2014 provide that a specified housing authority shall apply Part 4 of that Act in respect of a specified class of household, and

(ii) he or she is a member of a household within such a class of household and the specified authority is the housing authority for the household for the purposes of Part 4 of that Act.¹⁵⁶⁰

(3G)(a)(i) A person in receipt of a payment under subsection (3) in respect of a continuous period that is not shorter than a prescribed period shall—

(I) on being requested to do so in writing by a designated person, apply to the housing authority concerned for social housing support for his or her household and, as a consequence, for a social housing assessment to be carried out under section 20 of the Housing (Miscellaneous Provisions) Act 2009, and

(II) subject to subparagraph (ii), within 6 weeks of that request by a designated person, provide to the designated person confirmation that the household has forwarded a duly completed application form for social housing support to that authority for the purpose of a social housing assessment being so carried out.

(ii) The designated person may, where he or she is satisfied that an extension of time is justified in a particular case, extend the period referred to in subparagraph (i)(II) for a further period that shall not, in any case, exceed 6 weeks.

(iii) Where a person to whom subparagraph (i) applies fails to duly provide the confirmation in accordance with subparagraph (i)(II) or with that subparagraph and subparagraph (ii), then he or she shall cease to be entitled to a payment under subsection (3) when the period referred to in subparagraph (i)(II) or subparagraph (ii), as the case may be, has expired.

¹⁵⁶⁰ Subsections (3FA) and (3FB) inserted by [s.54\(2\)\(b\) H\(MP\)A 2014](#)

(b) A person in receipt of a payment under subsection (3) shall cease to be entitled to such a payment where a housing authority notifies the Minister that the household of which the person is a member has failed to duly supply to the authority additional information that the authority requested for the purposes of verifying information, for the purposes of a social housing assessment under section 20 of the Housing (Miscellaneous Provisions) Act 2009, that relates to the household's application for social housing support.

(3H) A person in receipt of a payment under subsection (3) shall cease to be entitled to such a payment where a housing authority determines that the household of which the person is a member is qualified for social housing support and the authority notifies the Minister that—

(a) social housing support is being provided to that household,

(b) housing assistance under Part 4 of the Housing (Miscellaneous Provisions) Act 2014 is an appropriate form of support for that household and the household has done or failed to do anything in consequence of which the household has not taken up that form of social housing support, or

(c) by virtue of the operation of section 20 (5B) of the Housing (Miscellaneous Provisions) Act 2009, the household is ineligible for social housing support for a period prescribed under that enactment.¹⁵⁶¹

(4) (a) A person shall not be entitled to a payment referred to in subsection (3) where—

(i) the person is not lawfully in the State,

(ii) the person has made an application to the Minister for Justice, Equality and Law Reform for a declaration under section 8(1)(a) or (c) of the Refugee Act 1996, other than a person—

(I) in respect of whom a declaration within the meaning of section 17 of the Refugee Act 1996 is in force,

(II) who is entitled under section 18 of the Refugee Act 1996 to enter and reside in the State,

(III) who is entitled under section 24 of the Refugee Act 1996 to enter and remain in the State, or

(IV) who has the permission of the Minister for Justice, Equality and Law Reform to remain in the State under the Aliens Act 1935 or the Immigration Act 2004, or

(iii) during any period that person, or his or her spouse, *civil partner or cohabitant*¹⁵⁶², is engaged in remunerative full-time work.

(b) This subsection does not apply to persons who were in receipt of a payment referred to in subsection (3) before the coming into operation of this subsection.

¹⁵⁶¹ Subsections (3G) and (3H) inserted by [s.54\(3\) H\(MP\)A 2014](#)

¹⁵⁶² Inserted by s.26 and Sch3 SW&PA 2010

(4A) Subject to subsection (4B), the payment, referred to in subsection (3), of a supplement towards the amount of rent payable by a person in respect of his or her residence shall not be made where, in respect of each tenancy for which a supplement is payable

(a) the landlord of such residence has not provided ~~the Executive~~ *a designated person*¹⁵⁶³ with his or her tax reference number in the prescribed form, or

(b) the landlord of such residence does not have a tax reference number and has not provided ~~the Executive~~ *a designated person*¹⁵⁶⁴ with a notification, in the prescribed form, to that effect and the reasons for which he or she does not have a tax reference number.¹⁵⁶⁵

(4B) Notwithstanding subsection (4A), where an application for the payment of a supplement towards the amount of rent is made on or after 1 January 2011 and the information specified in that subsection has not been provided by a landlord, ~~the Executive~~ *a designated person*¹⁵⁶⁶

(a) may, for the purpose of the avoidance of undue hardship, pay the supplement referred to in subsection (4A) where it is satisfied that, having regard to all the circumstances of the person concerned, the payment is appropriate, and

(b) shall, where that payment is made, send a notification in writing to the landlord of the residence in respect of which the supplement was paid—

(i) requesting the landlord to provide ~~the Executive~~ *a designated person*¹⁵⁶⁷, in the prescribed form, on or before a date (in this section referred to as the ‘information date’) specified in the notification, with—

(I) his or her tax reference number, or

(II) where the landlord does not have a tax reference number, a statement in writing to that effect and the reasons for which he or she does not have a tax reference number,

and

(ii) stating that—

(I) the payment of a supplement under this section shall cease on a specified date (in this section referred to as the ‘cessation date’) unless the information is provided on or before the information date, and

(II) where rent supplement has been paid in respect of the residence, failure to provide the information is an offence.¹⁵⁶⁸

(4C) Where a notification referred to in subsection (4B)(b) or section 198A(2) is to be sent to a landlord it shall be addressed to the person concerned by name and may be sent or given—

(a) by delivering it to the person,

¹⁵⁶³ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁶⁴ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁶⁵ Ss (4A) to (4D) inserted by s.7(2) SW&PA 2010

¹⁵⁶⁶ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁶⁷ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁶⁸ Ss (4A) to (4D) inserted by s.7(2) SW&PA 2010

(b) by leaving it at the address at which the person ordinarily resided or, in a case where an address for service has been furnished, at that address, or

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case where an address for service has been furnished, to that address.¹⁵⁶⁹

(4D) In this section, sections 198A and 198B—

‘landlord’ means the person for the time being entitled to receive (otherwise than as agent for another person) the rent payable under a tenancy in respect of a residence, referred to in subsection (3), in respect of which a supplement, referred to in that subsection, is paid;

‘tax reference number’ has the same meaning as it has in subsection (3) (inserted by section 123 of the Finance Act 2007) of section 888 of the Act of 1997;

‘tenancy’ includes a periodic tenancy and a tenancy for a fixed term, whether oral or in writing or implied, and includes a subtenancy.¹⁵⁷⁰

(5) ~~Without prejudice to~~ **Subject to subsections (10) and (11) and without prejudice to**¹⁵⁷¹ the generality of subsection (1) and subject to subsection (6), regulations under subsection (1) may provide for the payment of a supplement towards the amount of mortgage interest payable by a person. ~~in respect of his or her residence.~~¹⁵⁷²

(5A) Without prejudice to subsections (2) and (5), regulations under subsection (1) may prescribe the conditions and circumstances under which, and the periods for which, the supplement referred to in subsection (5), is payable.¹⁵⁷³

(5AA) A person shall not be entitled to the supplement referred to in subsection (5) unless, at the time of making an application for that supplement, a designated person is satisfied that the person making the application has engaged with his or her mortgage lender in order to meet his or her mortgage repayment obligations, and

(a) has, arising from such engagement, entered into and, where required, is complying with an alternative repayment arrangement agreed between that person and his or her mortgage lender in respect of his or her mortgage repayment obligations for a period of not less than 12 months, or

(b) has—

(i) arising from such engagement, entered into and, where required, is complying with an alternative repayment arrangement agreed between that person and his or her mortgage lender in respect of his or her mortgage repayment obligations for a period of less than 12 months in respect of that alternative repayment arrangement, and

(ii) prior to entering into the alternative repayment arrangement referred to in subparagraph (i) the person had entered into and had complied with a different

¹⁵⁶⁹ Ss (4A) to (4D) inserted by s.7(2) SW&PA 2010

¹⁵⁷⁰ Ss (4A) to (4D) inserted by s.7(2) SW&PA 2010

¹⁵⁷¹ Substituted by s.11(a) SW&PA 2013

¹⁵⁷² Amended by s.14(2)(d) SW(MP)A 2008

¹⁵⁷³ Ss (5A) and (5B) inserted by s.14(2)(e) SW(MP)A 2008

alternative repayment arrangement agreed between that person and his or her mortgage lender in respect of his or her mortgage repayment obligations,

and the total number of months in respect of which that person has complied with the alternative repayment arrangements referred to in subparagraphs (i) and (ii) is a period of not less than 12 months.

(5AB) Subsection (5AA) shall apply to a person who makes an application for the supplement referred to in subsection (5) on or after the day on which section 12 of the Social Welfare and Pensions Act 2012 comes into operation.

(5AC) In subsection (5AA)—

‘alternative repayment arrangement’ means any arrangement entered into by an applicant for the supplement referred to in subsection (5) with his or her mortgage lender—

(a) in respect of his or her mortgage that incorporates a change in any terms or conditions of the mortgage that applied when the mortgage took effect, and

(b) for the purpose of assisting that person to resolve any difficulties he or she may have in meeting his or her mortgage repayment obligations,

and, without prejudice to the generality of the foregoing, includes any practice, referred to in a code of practice drawn up under section 117 of the Central Bank Act 1989, that is specified for the purpose of resolving any difficulties with meeting mortgage repayment obligations.¹⁵⁷⁴

(5B) The amount of a supplement payable in accordance with subsection (5) shall be limited to the amount and duration determined by ~~the Executive~~ **a designated person**¹⁵⁷⁵ to be appropriate, having regard to the family circumstances of the person concerned and subject to the conditions and circumstances and the period for which the supplement is payable, as may be prescribed.¹⁵⁷⁶

(6) A person shall not be entitled to a supplement referred to in subsection (5), during any period, where that person or his or her spouse, **civil partner or cohabitant**¹⁵⁷⁷, is engaged in remunerative full-time work.

(7) As respects the supplement payable to a person under subsection (3) or any regulations made thereunder, the amount of the supplement payable on or after 1 June 2009 shall be calculated by –

(a) deducting the sum of €6 from the amount of that supplement that would be payable per week on 31 May 2009 to the person if they were being paid on a weekly basis (whether or not they were being so paid),

(b) multiplying the sum achieved by making the calculation referred to in paragraph (a) by 8 per cent subject to the total amount being rounded up to the nearest €1 where it is a multiple of 50 cent but not also a multiple of 1 and being rounded to the nearest €1 where it is not a multiple of 50 cent or €1,

¹⁵⁷⁴ Subsections (5AA), (5AB), (5AC) inserted by s.12 SW&PA 2012

¹⁵⁷⁵ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁷⁶ Ss 5A and 5B inserted by s.14(2)(e) SW(MP)A 2008

¹⁵⁷⁷ Inserted by s.26 and Sch3 SW&PA 2010

(c) deducting the sum achieved by making the calculation referred to at paragraph (b) from the sum achieved by making the calculation referred to at paragraph (a).

(8) As respects the supplement payable to a person under subsection (5) or any regulations made thereunder, the amount of the supplement payable on or after 1 June 2009 shall be calculated by deducting the sum of €6 from the amount of that supplement that would be payable per week on 31 May 2009 to the person if they were being paid on a weekly basis (whether or not they were being so paid).

(9) Subsection (7) or (8) shall not apply to a determination or a revised determination of an ~~employee of~~¹⁵⁷⁸ ~~the Executive~~ *a designated person*¹⁵⁷⁹ in relation to payment of a supplement under subsection (3) or (5) or regulations made under either of them, as the case may be, on or after 1 June 2009.¹⁵⁸⁰

(10) The supplement referred to in subsection (5), payable towards the amount of mortgage interest payable by a person shall not be paid to any person on or after 1 January 2018.

(11) An application for the supplement referred to in subsection (5) shall not be made on or after 1 January 2014.¹⁵⁸¹

Payment of rent supplement in certain circumstances.¹⁵⁸²

198A. (1) Notwithstanding section 198(4A), where a supplement towards the amount of rent payable by a person in respect of his or her residence is paid immediately before 1 January 2011 and continues to be paid immediately after 1 January 2011 in respect of that residence under the same tenancy and the information specified in subsection (2) has not been provided by a landlord, ~~the Executive~~ *a designated person*¹⁵⁸³ may, in accordance with this Act, continue to pay the supplement for that residence under the same tenancy—

(a) for a period commencing on 1 January 2011 and ending on the cessation date specified in a request under subsection (2), and

(b) where ~~the Executive~~ *a designated person*¹⁵⁸⁴, having regard to all the circumstances of the person, is satisfied that the payment is appropriate for the purpose of avoiding undue hardship, for a period commencing on the cessation date and ending not later than 31 March 2012.

(2) For the purposes of subsection (1), ~~the Executive~~ *a designated person*¹⁵⁸⁵ shall send a notification in writing to the landlord of a residence referred to in that subsection in respect of which a supplement was paid—

(a) requesting the landlord to provide ~~the Executive~~ *a designated person*¹⁵⁸⁶, in the prescribed form, on or before a date (in this section referred to as the ‘information date’) specified in the notification, with—

(i) his or her tax reference number, or

¹⁵⁷⁸ Deleted by s.22(a) SW&PA 2014

¹⁵⁷⁹ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁸⁰ Ss. (7), (8) &(9) inserted by s.7(c) SW & PA 2009

¹⁵⁸¹ Subsections (10) and (11) inserted by s.11(b) SW&PA 2013

¹⁵⁸² S198A inserted by s.7(3) SW&PA 2010

¹⁵⁸³ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁸⁴ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁸⁵ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁸⁶ Substituted by s.11 and Sch. 2 SW&PA 2010

(ii) where the landlord does not have a tax reference number, a statement in writing to that effect and the reasons for which he or she does not have a tax reference number, and

(b) stating that—

(i) the payment of a supplement under this section shall cease on a specified date (in this section referred to as the ‘cessation date’) unless the information is provided on or before the information date, and

(ii) where rent supplement has been paid in respect of the residence, failure to provide the information is an offence.

(3) Where—

(a) rent supplement has been paid in respect of a residence referred to in subsection (1),

(b) ~~the Executive~~ *a designated person*¹⁵⁸⁷ has, in accordance with subsection (2), sent a notification in writing to a landlord referred to in that subsection, and

(c) the landlord has, following that notification, failed to provide the tax reference number referred to in subsection (2)(a)(i) or the statement referred to in subsection (2)(a)(ii), by the information date referred to in that notification, he or she shall be guilty of an offence.¹⁵⁸⁸

Offence for failing to provide certain information following payment of rent supplement under section 198.¹⁵⁸⁹

198B. Where—

(a) rent supplement has been paid in respect of a residence referred to in section 198(4B),

(b) ~~the Executive~~ *a designated person*¹⁵⁹⁰ has, in accordance with section 198(4B), sent a notification in writing to a landlord referred to in that section, and

(c) the landlord has, following that notification, failed to provide the tax reference number referred to in section 198(4B)(b)(i)(I) or the statement referred to in section 198(4B)(b)(i)(II), by the information date referred to in that notification, he or she shall be guilty of an offence.¹⁵⁹¹

Determination of claims for rent supplement under section 198.¹⁵⁹²

198C. (1) A designated person may, for the purposes of determining entitlement to the payment of a supplement referred to in section 198(3) towards the amount of rent payable by a person in respect of his or her residence, request the landlord of such residence to provide, within the prescribed period, to the designated person—

(a) a statement in writing—

¹⁵⁸⁷ Substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁸⁸ S198A inserted by s.7(3) SW&PA 2010

¹⁵⁸⁹ S198A inserted by s.7(3) SW&PA 2010

¹⁵⁹⁰ ‘the Executive’ substituted by s.11 and Sch. 2 SW&PA 2010

¹⁵⁹¹ S198B inserted by s.7(3) SW&PA 2010

¹⁵⁹² Section 198C inserted by s.14 SW&PA 2012

(i) confirming that the person in respect of whom that supplement has been, or is to be, paid is a person from whom the landlord is, under a tenancy, entitled to receive rent in respect of the residence of that person,

(ii) as to whether the landlord is receiving rent solely from the person referred to in subparagraph (i) or from any other person under that tenancy in respect of that residence,

(iii) specifying the period of the tenancy of the person referred to in subparagraph (i), and

(iv) confirming that the person referred to in subparagraph (i) has resided, and, where appropriate, continues to reside, at that residence for the period for which that supplement has been, or is to be, paid,

and

(b) such other information, in writing, relating to the tenancy of the person referred to in paragraph (a)(i) as the designated person may require for the purposes of determining entitlement to that supplement.

(2) Where a request is to be made to a landlord by a designated person under subsection (1), it shall be sent to the landlord in writing and addressed to the person concerned by name and may be sent or given—

(a) by delivering it to the person,

(b) by leaving it at the address at which the person ordinarily resides or, in the case where an address for service has been furnished, at that address, or

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

(3) In this section—

‘landlord’ means the person for the time being entitled to receive (including as an agent for another person) the rent payable under a tenancy in respect of a residence, referred to in section 198(3), in respect of which a supplement referred to in that section, is paid;

‘tenancy’ has the meaning assigned to it by section 198(4D).

(4) A landlord who fails to comply with a request made by a designated person within the prescribed period in accordance with this section shall be guilty of an offence.¹⁵⁹³

Disqualifications.

199. (1) For the purposes of this section—

“Act of 1997” means the Housing (Miscellaneous Provisions) Act 1997;

~~“mortgage interest” means the proportion of any amount payable by a person to a mortgage lender as is for the time being attributable to interest under an agreement entered into by the~~

¹⁵⁹³ Section 198C inserted by s.14 SW&PA 2012

~~person with the mortgage lender for the purpose of defraying money employed to purchase, repair or improve that person's dwelling or to pay off another loan used for that purpose;~~¹⁵⁹⁴

~~“mortgage lender” has the meaning given to it by section 2(1) of the Consumer Credit Act 1995;~~¹⁵⁹⁵

“rent” includes any periodic payment in the nature of rent made in return for a special possession of a dwelling or for the use, occupation or enjoyment of a dwelling.

(2) This section applies to a person who—

(a) has been required to deliver up possession of a dwelling provided by a housing authority or a body approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992 and the reasons for that requirement include anti-social behaviour or the interests of good estate management, or

(b) is a person to whom a ~~letting~~ ***an allocation of a dwelling***¹⁵⁹⁶ has been refused or deferred under section 14 of the Act of 1997, or

~~(c) is a respondent to an excluding order or an interim excluding order made under section 3 or 4 of the Act of 1997, or~~¹⁵⁹⁷

(c) is a respondent to an excluding order, a site excluding order or an interim excluding order made under section 3, 3A, or 4 of the Act of 1997, or¹⁵⁹⁸

(d) is a person who has been directed to leave a house under section 20 of the Act of 1997.

(3) ~~The Executive~~ ***A designated person***¹⁵⁹⁹ may determine that, notwithstanding anything contained in any enactment, a person to whom this section applies shall not be entitled to a payment to supplement the person's income in respect of rent or mortgage interest, or may terminate or suspend the payment.

(4) Where a person to whom this section applies resides with another person who is in receipt of, or would but for this section be entitled to a supplement in respect of rent or mortgage interest, ~~the Executive may~~ ***a designated person may***¹⁶⁰⁰, notwithstanding anything contained in any enactment, determine that the amount of the supplement payable shall be reduced by the amount that, in the ~~opinion of the Executive~~ ***opinion of the designated person***¹⁶⁰¹, is reasonably attributable to the first mentioned person.

(5) In making a determination under subsection (3) or (4), ~~the Executive~~ ***a designated person***¹⁶⁰² shall have regard to any information provided by a housing authority or a specified person referred to in section 15 of the Act of 1997, in relation to a person to whom this section applies.

¹⁵⁹⁴ Deleted by s.14(3) SW(MP)A 2008

¹⁵⁹⁵ Deleted by s.14(3) SW(MP)A 2008

¹⁵⁹⁶ Substituted by s.19 SW&P(MP)A 2013

¹⁵⁹⁷ Substituted by s.19 SW&P(MP)A 2013

¹⁵⁹⁸ Substituted by s.19 SW&P(MP)A 2013

¹⁵⁹⁹ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶⁰⁰ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶⁰¹ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶⁰² Substituted by s. 18 and Sch. 1 SW&PA 2008

Allowances in kind.

200. (1) Whenever it appears to ~~the Executive or~~ *a designated person or*¹⁶⁰³ deciding officer that by reason of exceptional circumstances the needs of a person can best be met by the provision of goods or services instead of the whole or part of any payment to which he or she would otherwise be entitled under this Chapter, ~~the Executive or~~ *a designated person or*¹⁶⁰⁴ deciding officer may determine or decide that the goods or services be provided for the person under arrangements made ~~by the Executive~~ *by a designated person*¹⁶⁰⁵.

(2) In making a determination under this section to meet sudden and urgent need, ~~the Executive~~ *a designated person*¹⁶⁰⁶ or deciding officer may dispense with inquiry into means or other circumstances and with compliance with any regulations made under this Chapter.

(3) In relation to any goods or services provided ~~by the Executive~~ *by a designated person*¹⁶⁰⁷ or deciding officer under subsection (1), references in this Chapter to the amount of supplementary welfare allowance are deemed to be references to the value of the goods or services so provided.

Power to make single payment for exceptional need.

201. ~~The Executive or deciding officer may, in any case where the Executive~~ *A designated person or deciding officer may, in any case where the designated person*¹⁶⁰⁸ or deciding officer considers it reasonable, having regard to all the circumstances of the case, so to do, determine or decide that supplementary welfare allowance shall be paid to a person by way of a single payment to meet an exceptional need *which is not necessarily unforeseen*¹⁶⁰⁹.

Grant of supplementary welfare allowance in cases of urgency.

202. (1) Nothing in section 190, 191, 193 or 198 shall prevent the payment of supplementary welfare allowance in an urgent case and, in determining or deciding whether an allowance is payable by virtue of this section and the amount or nature of the allowance, ~~the Executive~~ *a designated person*¹⁶¹⁰ or deciding officer shall not be bound by anything contained in sections 195 to 198 and Part 4 of Schedule 3 or in any regulations made under this Chapter which appears to ~~the Executive~~ *the designated person*¹⁶¹¹ or deciding officer inappropriate in the circumstances of the case.

(2) Where under subsection (1) supplementary welfare allowance is paid to a person who is engaged in remunerative full-time work, ~~the Executive~~ *a designated person*¹⁶¹² or deciding officer may, where ~~the Executive~~ *the designated person*¹⁶¹³ or deciding officer is satisfied that in all the circumstances of the case it would be equitable so to do, determine or decide that the whole or part of the allowance so paid shall be recoverable from the person to whom it is paid.

~~Supplementary welfare allowance granted to persons in receipt of certain Health Services Executive payments.~~

~~203. Where—~~

~~(a) in respect of any period the Executive~~ *a designated person*¹⁶¹⁴ ~~or deciding officer has granted supplementary welfare allowance to or in respect of a person and~~

¹⁶⁰³ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶⁰⁴ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶⁰⁵ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶⁰⁶ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶⁰⁷ Substituted by s. 11 and Sch. 2 SW&PA 2010

¹⁶⁰⁸ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶⁰⁹ Inserted by s.12 SWP&CRA 2018

¹⁶¹⁰ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶¹¹ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶¹² Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶¹³ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶¹⁴ Substituted by s. 18 and Sch. 1 SW&PA 2008

~~infectious diseases maintenance allowance, including any increase thereof, subsequently becomes payable to or in respect of that person in respect of the period (or part of that period) for which supplementary welfare allowance was paid, and~~

~~(b) the supplementary welfare allowance is in excess of the amount which would have been granted to or in respect of the person if the infectious diseases maintenance allowance, including any increase thereof, had been paid during that period,~~

~~the excess supplementary welfare allowance shall be treated as payment on account of that allowance.~~¹⁶¹⁵

Recoupment of supplementary welfare allowance.

204. Where—

(a) in respect of any period ~~the Executive~~ ***a designated person***¹⁶¹⁶ or deciding officer has granted supplementary welfare allowance to or in respect of a person who, though entitled to any other benefit, pension, assistance, allowance or supplement under this Act (in this section referred to as “relevant payment”), is not in receipt of a relevant payment, and

(b) the supplementary welfare allowance is in excess of the amount which would have been granted to that person if he or she had been in receipt of a relevant payment, and

(c) ~~the Executive or~~ ***designated person or***¹⁶¹⁷ deciding officer has certified to the Minister the amount (in this section referred to as “the excess”) so paid in excess in respect of that period ~~by the Executive~~¹⁶¹⁸,

the Minister may reduce any such relevant payment which is or may become payable to the person during the relevant continuous period of entitlement to that relevant payment by the amount of the excess and the amount shall be treated as having been paid on account of the relevant payment.

Recoupment of supplementary welfare allowance (continued).

205. Where—

(a) in respect of any period ~~the Executive~~ ***that a designated person***¹⁶¹⁹ or deciding officer has granted supplementary welfare allowance to or in respect of a person who, though entitled under the legislation of a Member State (other than the State) ***or the United Kingdom***¹⁶²⁰ to a social security payment (in this section referred to as “the relevant payment”), is not in receipt of such payment, and

(b) the supplementary welfare allowance is in excess of the amount which would have been granted to that person if he or she had been in receipt of the relevant payment, and

(c) ~~the Executive or~~ ***the designated person or***¹⁶²¹ deciding officer has certified to the competent institution of the relevant Member State ***or the United Kingdom***¹⁶²² the

¹⁶¹⁵ Deleted by s.19 SW&P(MP)A 2013

¹⁶¹⁶ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶¹⁷ Substituted by s.18 and Sch. 1 SW&PA 2008

¹⁶¹⁸ Deleted by s. 18 and Sch. 1 SW&PA 2008

¹⁶¹⁹ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶²⁰ Inserted by s. 102(b)(i) of WUKEU(CP)A 2020

¹⁶²¹ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶²² Inserted by s. 102(b)(ii) of WUKEU(CP)A 2020

amount of supplementary welfare allowance in excess of which the person would have been entitled (in this section referred to as “the excess”) in respect of that period ~~by the Executive~~¹⁶²³,

~~the Executive~~ *the designated person*¹⁶²⁴ or deciding officer may request that competent institution to deduct the amount of the excess from the relevant payment.

Arrangements for burials.

206. (1) ~~The Executive may provide for the burial of any of the following persons—~~

~~(a) a person who died within any of its functional areas and in respect of whose burial suitable arrangements are not otherwise being made,~~

~~(b) a person who has been drowned and cast ashore within any of its functional areas or who has otherwise perished and been found dead within any of those areas and (in either case) whose body has not been claimed for burial.~~

~~(2) The Executive may, in any case in which it thinks proper, bring into and bury in any of its functional areas the body of a person eligible for supplementary welfare allowance who has died outside that functional area.~~

~~(3) The Executive may defray all expenses necessarily incurred in the burial under this section of a person or in the bringing of the body of a person into any of its functional areas for burial.~~

~~(4) Where the Executive incurs under this section expenses in relation to the body of a deceased person, it may obtain repayment of those expenses from the estate of the deceased person or from any person who was liable to maintain the deceased person immediately before his or her death.~~¹⁶²⁵

Arrangements for burials.

206. (1) A designated person may make arrangements for and provide assistance towards the burial of a person, where that person has—

(a) died in the State and suitable arrangements have not otherwise been made for the burial of that person, or

(b) (i) drowned and whose body has been cast ashore, or

(ii) otherwise perished and been found dead, in the State and whose body has not been claimed for burial.

(2) A designated person may, in any case in which he or she considers it appropriate, bring into and make arrangements for the burial in the State of the body of a person eligible for supplementary welfare allowance who has died outside the State.

(3) A designated person may defray all expenses necessarily incurred in the burial of the body of a deceased person under this section.

(4) A designated person may seek repayment of expenses incurred under this section in the

¹⁶²³ Deleted by s. 18 and Sch. 1 SW&PA 2008

¹⁶²⁴ Substituted by s. 18 and Sch. 1 SW&PA 2008

¹⁶²⁵ Substituted by s.10 SW&PA 2011

burial of the body of a deceased person—

(a) from the estate of the deceased person, or

(b) from any person who was liable to maintain the deceased person immediately before his or her death.¹⁶²⁶

~~Financing of Health Service Executive expenditure on supplementary welfare allowance.~~

~~207. The Minister shall, out of moneys provided by the Oireachtas, make grants to the Executive to defray the expenditure on supplementary welfare allowance and costs of administration of that allowance.¹⁶²⁷~~

Transfer of certain property.

208. (1) ~~All property~~ ***Subject to subsection (4), all property***¹⁶²⁸ transferred by section 22 of the Social Welfare (Supplementary Welfare Allowances) Act 1975 to a health board and which immediately before 1 July 1977 was standing in the book of any bank or was registered in the books of any bank, corporation or company in the name of a public assistance authority shall, on the request of the Executive, be transferred in the books by the bank, corporation or company into the name of the Executive.

(2) ~~Every chose-in-action~~ ***Subject to subsection (4), every chose-in-action***¹⁶²⁹ transferred by section 22 of the Social Welfare (Supplementary Welfare Allowances) Act 1975 to a health board may be sued on, recovered or enforced by the Executive in its own name and it shall not be necessary for the Executive to give notice to the person bound by the chose-in-action of the transfer effected by that section.

(3) ~~Every bond~~ ***Subject to subsection (4), every bond***¹⁶³⁰, guarantee or other security of a continuing character made or given by a public assistance authority in pursuance of its functions under the Act of 1939 to another person, or by any person to a public assistance authority in connection with those functions, which was in force immediately before 1 July 1977, and every contract or agreement in writing in connection with those functions made between a public assistance authority and another person which was not fully executed and completed before that date shall be read and have effect as if the name of the Executive were substituted therein for the name of the public assistance authority, and the security, contract or agreement shall be enforceable by or against the Executive accordingly.

(4) This section shall not apply to any property, chose-in-action, bond, guarantee or other security of a continuing character that is designated and transferred under *Part 4* of the *Social Welfare and Pensions Act 2010*.¹⁶³¹

CHAPTER 10
Disability Allowance

Interpretation.

209. (1) In this Chapter—

¹⁶²⁶ Substituted by s.10 SW&PA 2011

¹⁶²⁷ Repealed by s. 18/Schedule 1 SW&PA 2008

¹⁶²⁸ Substituted by s.39 SW&PA 2010

¹⁶²⁹ Substituted by s.39 SW&PA 2010

¹⁶³⁰ Substituted by s.39 SW&PA 2010

¹⁶³¹ Subsection (4) inserted by s.39 SW&PA 2010

“institution” means a hospital, convalescent home or home for people suffering from physical or mental disability or ancillary accommodation, nursing home for the care and maintenance of dependent elderly people and any other similar establishment providing residence, maintenance or care where the cost of a person’s maintenance in that institution is being met in whole or in part by or on behalf of the Executive;

“weekly means” means, subject to Rule 1(1) of Part 2 of Schedule 3, the yearly means divided by 52 and the amount so calculated shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1.

(2) In this Chapter, references to means shall be read as references to means as calculated in accordance with the Rules contained in Part 2 of Schedule 3.

Entitlement to allowance.

210. (1) Subject to this Act, an allowance (“disability allowance”) shall be payable to a person—

(a) who has attained the age of 16 years but has not attained pensionable age,

(b) who is by reason of a specified disability substantially restricted in undertaking employment (in this Chapter referred to as “suitable employment”) of a kind which, if the person was not suffering from that disability, would be suited to that person’s age, experience and qualifications, whether or not the person is availing of a service for the training of disabled persons under section 68 of the ~~Health Act 1970~~, and **Health Act 1970**,¹⁶³²

(ba) subject to subsection (10), the reason for whose substantial restriction in undertaking suitable employment is as a direct result of the person concerned being incapable of work and for no other reason,

(bb) who, were it not for the substantial restriction, would be available to work in insurable employment or insurable self-employment, and¹⁶³³

(c) whose weekly means, subject to subsection (2), do not exceed the amount of disability allowance (including any increases of that allowance) which would be payable to the person under this Chapter if that person had no means.

~~(2) Where the spouse of a claimant for disability allowance is not the claimant’s qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 297, the means of the claimant shall be taken to be one half the means.~~¹⁶³⁴

(2) Subject to subsection (2A), where the spouse, **civil partner or cohabitant**¹⁶³⁵ of a claimant for disability allowance is a spouse, **civil partner or cohabitant**¹⁶³⁶ referred to in any of subparagraphs (iii) to (vii) of section 2(2)(a), the means of the claimant shall be taken to be one-half the means.¹⁶³⁷

(2A) Notwithstanding subsection (2), where, in the 4 weeks immediately before the commencement of *section 9* of the *Social Welfare and Pensions Act 2007* a person was

¹⁶³² Amended by s.4(e)(i)(I) SW(No.2)A 2019

¹⁶³³ Subs (ba) & (bb) inserted by s.4(e)(i)(II) SW(No.2)A 2019

¹⁶³⁴ Substituted by s. 9(f) SW&PA 2007

¹⁶³⁵ Inserted by s.26 and Sch3 SW&PA 2010

¹⁶³⁶ Inserted by s.26 and Sch3 SW&PA 2010

¹⁶³⁷ Subs (2) to (2C) substituted by s. 9(f) SW&PA 2007

entitled to or in receipt of disability allowance and the spouse of the claimant for disability allowance is not the claimant's qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 297, the means of the claimant shall be taken to be one-half the means or the means calculated in accordance with subsection (2), whichever is the more favourable.

(2B) Where the means of a claimant are calculated at any time in accordance with subsection (2A) and are subsequently calculated in accordance with subsection (2), subsection (2A) shall no longer apply to the claimant.

(2C) Where, for any period of not less than 4 consecutive weeks after the commencement of *section 9* of the *Social Welfare and Pensions Act 2007*, a claimant whose means were calculated in accordance with subsection (2A) ceases to be entitled to or in receipt of disability allowance, subsection (2) shall apply to any subsequent claims.¹⁶³⁸

~~(3) Subject to subsections (4), (5) and (6), a person shall not be entitled to receive disability allowance for any period during which that person is resident in an institution.~~

~~(4) Subject to this Chapter, regulations may, subject to the conditions and in the circumstances that may be prescribed, provide for entitling to disability allowance a person who would be entitled to that allowance but for the fact that he or she is resident in an institution, where the person is temporarily resident elsewhere for—~~

~~(a) a period of not less than 2 days a week, or~~

~~(b) any other period that may be prescribed.~~

~~(5) Notwithstanding subsections (3) and (4), where a person who, on or after 1 August 1999, being a beneficiary of disability allowance, is subsequently admitted to an institution, that person shall, if at the time of admittance to the institution, he or she would otherwise be entitled to receive disability allowance, continue to be so entitled.~~

~~(6) Subject to subsection (7), a person who would be entitled to disability allowance but for subsection (3) shall be entitled to a weekly payment of €35 (in this Chapter referred to as the “disability allowance personal expenses rate”).~~

~~(7) A payment under subsection (6) shall be payable—~~

~~(a) at the disability allowance personal expenses rate where the rate of disability allowance, calculated in accordance with section 211, that would be payable but for subsection (3), is greater than or equal to the disability allowance personal expenses rate, or~~

~~(b) at a rate equivalent to that rate of disability allowance, calculated in accordance with section 211, that would be payable but for subsection (3), where that rate is less than the disability allowance personal expenses rate.¹⁶³⁹~~

(8) The conditions under which a person shall be regarded for the purposes of this section as being substantially restricted in undertaking suitable employment by reason of a specified disability shall be specified by regulations.

¹⁶³⁸ Subs (2) to (2C) substituted by s. 9(f) SW&PA 2007

¹⁶³⁹ Subsections (3) to (7) deleted by s. 11(1) SWA 2006

(9) A person shall not be entitled to disability allowance under this section unless he or she is habitually resident in the State at the date of the making of the application for that allowance¹⁶⁴⁰

(10) A person shall not be disqualified for receipt of a disability allowance while engaging in a prescribed course of education, training or development.¹⁶⁴¹

Rate of allowance (including increases for qualified adult and qualified children).

211. (1) The rate (in this Chapter referred to as “the scheduled rate”) of disability allowance shall be the weekly rate set out in column (2) of Part 1 of Schedule 4 increased by—

(a) the amount set out in column (3) of that Part for any period during which the claimant or beneficiary has a qualified adult ~~or a spouse referred to in section 210(2)~~^{1642 1643} subject to the restriction that, except where regulations otherwise provide, the claimant or beneficiary shall not be entitled to an increase under this paragraph in respect of more than one person,

~~(b) 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,~~¹⁶⁴⁴

(b) the appropriate amount set out—

(i) in column (4) of that Part in respect of each qualified child who has not attained the age of 12 years who normally resides with the claimant or beneficiary, and

(ii) in column (5) of that Part in respect of each qualified child who has attained the age of 12 years who normally resides with the claimant or beneficiary,¹⁶⁴⁵

(c) the amount set out in column (6) of that Part where the claimant or beneficiary is living alone, and

(d) the amount set out in column (8) of Part 1 of Schedule 4 where the claimant or beneficiary is ordinarily resident on an island.

(2) (a) Disability allowance shall be payable—

(i) where the weekly means of the claimant or beneficiary do not exceed €2.50 ~~€7.60,~~¹⁶⁴⁶ at the scheduled rate, and

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

(ii) where the weekly means 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

¹⁶⁴⁰ Deleted by s.11(13) SW&PA 2014

¹⁶⁴¹ Inserted by s.4(e)(ii) SW(No.2)A 2019

¹⁶⁴² Inserted by s.9(g)(i) SW&PA 2007

¹⁶⁴³ S.(9)(g)(i) of SW&PA 2007 deleted by S.25(a) SW&PA 2008

¹⁶⁴⁴ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁶⁴⁵ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁶⁴⁶ Substituted by S.13(a) SWA 2021

€7.60, any fraction of €2.50 in those weekly means being treated for this purpose as €2.50.¹⁶⁴⁷

~~(b) Where the rate calculated under paragraph (a)(ii) at which, but for this paragraph, the allowance would be payable is less than €2.50, the allowance shall not be payable.~~¹⁶⁴⁸

~~(3) Any increase of disability allowance payable under subsection (1)(b) in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary is not a qualified adult and subsection (1)(b) shall be read and have effect accordingly.~~¹⁶⁴⁹

(3) Any increase of disability allowance payable under subsection (1)(b) in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse, ***civil partner or cohabitant***¹⁶⁵⁰ of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse, ***civil partner or cohabitant***¹⁶⁵¹ of the claimant or beneficiary –

(a) is not a qualified adult, or

(b) is a spouse, ***civil partner or cohabitant***¹⁶⁵² referred to in section 210(2),

and subsection (1)(b) shall be read and have effect accordingly.¹⁶⁵³

Disqualification.

~~212. Regulations may provide for disqualifying a person for receiving disability allowance where that person fails without good cause to attend for or to submit himself or herself to such medical or other examination as may be required in accordance with the regulations, or to observe any prescribed rules of behaviour.~~¹⁶⁵⁴

Disqualification.

212. (1) Regulations may provide for disqualifying a person for receiving disability allowance where the person fails without good cause to comply with such requirements as may be specified by the regulations, including but not necessarily limited to:

(a) attending for or submitting to any medical or other examination or treatment;

(b) complying with instructions relating to his or her incapacity issued by a registered medical practitioner;

(c) refraining from behaviour likely to hinder his or her recovery;

(d) being available to meet with ~~an officer of the Minister~~ ***an officer of the Minister or a medical assessor***¹⁶⁵⁵ regarding his or her claim for disability allowance.

¹⁶⁴⁷ Subparagraph (ii) Substituted by S.13(b) SWA 2021

¹⁶⁴⁸ Deleted by s.12 SW(MP)A 2010

¹⁶⁴⁹ Substituted by s. 9(g)(ii) SW&PA 2007

¹⁶⁵⁰ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁵¹ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁵² Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁵³ Ss (3) substituted by s. 9(g)(ii) SW&PA 2007

¹⁶⁵⁴ S. 212 substituted by s. 26 SW&PA 2007

¹⁶⁵⁵ Substituted by s.3(2)(g) SW(MP)A 2015

(2) A person shall not be disqualified for receipt of disability allowance while engaging in such class or classes of employment or training and subject to such circumstances and conditions as may be prescribed.¹⁶⁵⁶

CHAPTER 11
Farm Assist

Interpretation.

213. (1) In this Chapter and in Schedule 3—

“farming” means farming farm land including commonage, which—

- (a) is owned, and used for the purposes of husbandry,
- (b) is leased, and used for the purposes of husbandry, or
- (c) does not form part of a larger holding and is used for the purposes of husbandry,

by the claimant;

“farmer” means a person engaged in farming;

“husbandry” means the working of the land with the object of extracting the traditional produce of the land;

“weekly means” means, subject to Rule 1(1) of Part 2 of Schedule 3, the yearly means divided by 52 and the amount so calculated shall be rounded up to the nearest €1 where it is a multiple of 50 cent but not also a multiple of €1 and shall be rounded to the nearest €1 where it is not a multiple of 50 cent or €1.

(2) For the purposes of this Chapter, means shall be calculated in accordance with the Rules contained in Part 2 of Schedule 3.

Entitlement to allowance.

214. (1) Subject to this Act and to regulations made under this Act, an allowance (in this Act referred to as “farm assist”) shall be payable to a farmer where—

- (a) he or she has attained the age of 18 years and is under pensionable age, and
- (b) his or her weekly means, subject to subsection (2), do not exceed the amount of farm assist (including any increases of farm assist) that would be payable to the farmer under this Chapter if he or she had no means.

~~(2) Where the spouse of a claimant for farm assist is not the claimant’s qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 297, the means of the claimant shall be taken to be one-half the means.~~¹⁶⁵⁷

(2) Subject to subsection (3), where the spouse, *civil partner or cohabitant*¹⁶⁵⁸ of a claimant for farm assist is a spouse, *civil partner or cohabitant*¹⁶⁵⁹ referred to in any of subparagraphs

¹⁶⁵⁶ S. 212 substituted by s. 26 SW&PA 2007

¹⁶⁵⁷ Substituted by s.9(h) SW&PA 2007

¹⁶⁵⁸ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁵⁹ Inserted by s.26 and Sch. 3 SW&PA 2010

(iii) to (vii) of section 2(2)(a), the means of the claimant shall be taken to be one-half the means.¹⁶⁶⁰

(3) Notwithstanding subsection (2), where, in the 4 weeks immediately before the commencement of *section 9* of the *Social Welfare and Pensions Act 2007* a person was entitled to or in receipt of farm assist and the spouse of the claimant for farm assist is not the claimant's qualified adult, or is a spouse in respect of whom an increase is payable by virtue of regulations made under section 297, the means of the claimant shall be taken to be one-half the means or the means calculated in accordance with subsection (2), whichever is the more favourable.¹⁶⁶¹

(4) Where the means of a claimant are calculated at any time in accordance with subsection (3) and are subsequently calculated in accordance with subsection (2), subsection (3) shall no longer apply to the claimant.¹⁶⁶²

(5) Where, for any period of not less than 4 consecutive weeks after the commencement of *section 9* of the *Social Welfare and Pensions Act 2007*, a claimant whose means were calculated in accordance with subsection (3) ceases to be entitled to or in receipt of farm assist, subsection (2) shall apply to any subsequent claims.¹⁶⁶³

(6) Where the spouse, *civil partner or cohabitant*¹⁶⁶⁴ of a claimant for farm assist is a spouse, *civil partner or cohabitant*¹⁶⁶⁵ referred to in Part 6, and is in receipt of a payment under Part 6, the means of the claimant shall be taken to be one-half the means.¹⁶⁶⁶

Rate of allowance (including increases for qualified adult and qualified children).

215. (1) Subject to this Chapter, the rate (in this Chapter referred to as “the scheduled rate”) of farm assist shall be the weekly rate set out in column (2) at reference 11 in Part 1 of Schedule 4, increased by—

(a) the amount set out in column (3) of that Part opposite that reference for any period during which the claimant or beneficiary has a qualified adult¹⁶⁶⁷, subject to the restriction that, except where regulations otherwise provide, the claimant or beneficiary shall not be entitled for the same period to an increase of the allowance under this subparagraph in respect of more than one person, and

~~(b) the appropriate rate set out in column (4) of that Part opposite that reference in respect of each qualified child who normally resides with the claimant or beneficiary.~~¹⁶⁶⁸

(b) the appropriate amount set out—

(i) in column (4) of that Part opposite that reference in respect of each qualified child who has not attained the age of 12 years who normally resides with the claimant or beneficiary, and

¹⁶⁶⁰ Substituted by s.9(h) SW&PA 2007

¹⁶⁶¹ Substituted by s.9(h) SW&PA 2007

¹⁶⁶² Substituted by s.9(h) SW&PA 2007

¹⁶⁶³ Ss (2-5) substituted by s. 9(h) SW&PA 2007

¹⁶⁶⁴ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁶⁵ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁶⁶ Inserted by s.13 SW(MP)A 2010

¹⁶⁶⁷ Uncommenced provision - Inserted by s.9(i) of the SW&PA 2007 and deleted prior to commencement by s.25(a) SW&PA 2008

¹⁶⁶⁸ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(ii) in column (5) of that Part opposite that reference in respect of each qualified child who has attained the age of 12 years who normally resides with the claimant or beneficiary.¹⁶⁶⁹

(2) Farm assist shall be payable—

- (a) where the weekly means of the claimant or beneficiary are less than €1, at the scheduled rate,
- (b) where the weekly means are equal to €1, at the scheduled rate reduced by €1, and
- (c) where the weekly means exceed €1, at the scheduled rate, reduced by €1 for each amount (if any) of €1 by which those weekly means exceed €1 but, where the weekly means of the claimant or beneficiary are equal to or exceed the scheduled rate, no farm assist shall be payable.

~~**Amount of payment in respect of qualified child in certain cases.**~~

~~216. Any increase of farm assist payable under section 215 in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary is not a qualified adult, and section 215 shall be read and have effect accordingly.¹⁶⁷⁰~~

Amount of increases payable in respect of qualified child in certain cases.

216. Any increase of farm assist payable under section 215(1) in respect of a qualified child who normally resides with the claimant or beneficiary and with the spouse, *civil partner or cohabitant*¹⁶⁷¹ of the claimant or beneficiary shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the claimant or beneficiary –

- (a) is not a qualified adult, or
- (b) is a spouse, *civil partner or cohabitant*¹⁶⁷² referred to in section 214(2),

and section 215(1) shall be read and have effect accordingly.¹⁶⁷³

Total amount payable to a couple.

217. (1) Where one of a couple is entitled to ~~disability benefit~~ *illness benefit*, ~~unemployment benefit~~ *jobseeker's benefit*, *jobseeker's benefit (self-employed)*,¹⁶⁷⁴ injury benefit, disablement pension, ~~old age (contributory) pension~~ *State pension (contributory)*, ~~old age (non-contributory) pension~~ *State pension (non-contributory)*, ~~retirement pension~~ *State pension (transition)* or invalidity pension and the other is entitled to farm assist, the total of the amount payable to them by way of that benefit or pension and farm assist (in this subsection referred to as “the relevant amount”) shall not exceed the total amount of benefit or pension, as the case may be, (including any increases thereof, where appropriate), or the total amount of farm assist (including any increases thereof, where appropriate), whichever is the greater (in this subsection referred to as “the greater amount”) that would be payable if only one of the couple were in receipt of benefit, pension or farm assist, as the case may be, and, if the relevant amount would but for this subsection exceed the greater amount, the

¹⁶⁶⁹ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁶⁷⁰ Substituted by s. 9(j) SW&PA 2007

¹⁶⁷¹ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁷² Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁷³ Substituted by s. 9(j) SW&PA 2007

¹⁶⁷⁴ Inserted by Item 11 of the Schedule of SWA 2019

amount of farm assist payable to the spouse, *civil partner or cohabitant*¹⁶⁷⁵ who is entitled to such farm assist shall be reduced by the amount of the excess.

(2) Where one of a couple is entitled to ~~unemployment assistance~~ *jobseeker's allowance*, pre-retirement allowance or farm assist and the other is entitled to farm assist, the total amount payable to them under this Act shall not exceed the amount which would be payable if only one of them was entitled to be paid ~~unemployment assistance~~ *jobseeker's allowance*, pre-retirement allowance or farm assist, as the case may be, (including any increases thereof, where appropriate), and each of them shall be entitled to be paid one-half of the amount which would be payable to him or her if only one of the couple were in receipt of the assistance or allowance.

~~(3) In this section "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.~~¹⁶⁷⁶

(3) In this section 'couple' means—

- (a) a married couple who are living together,
- (b) both civil partners of a civil partnership who are living together, or
- (c) both cohabitants.¹⁶⁷⁷

Disqualifications.

218. (1) A farmer shall be disqualified for receiving farm assist while he or she is—

(a) employed during any week under a ~~scheme administered by An Foras Áiseanna Saothair and known as Community Employment~~ *scheme provided by the Minister and known as Community Employment*¹⁶⁷⁸,

(b) employed during any week under a ~~scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs~~ *scheme provided by the Minister*¹⁶⁷⁹ and known as the Rural Social Scheme,

(c) participating in a scheme administered by the Minister and known as ~~Back To Work Allowance,~~ *Back to Work Allowance, or*¹⁶⁸⁰

(d) participating in a scheme administered by the Minister and known as ~~Part-Time Job Incentive,~~ or *Part-Time Job Incentive.*¹⁶⁸¹

~~(e) participating in a scheme administered by the Minister and known as Area Enterprise Allowance.~~¹⁶⁸²

(2) A farmer shall not be entitled to receive farm assist while attending a course of study, other than in the circumstances and subject to the conditions and for the periods that may be prescribed.

¹⁶⁷⁵ Inserted by s.26 and Sch3 SW&PA 2010

¹⁶⁷⁶ Substituted by s.19(10) SW&PA 2010

¹⁶⁷⁷ Substituted by s.19(10) SW&PA 2010

¹⁶⁷⁸ Substituted by s.29(2) by SW&PA 2010

¹⁶⁷⁹ Substituted by s.19 SW&P(MP)A 2013

¹⁶⁸⁰ Substituted by s.19 SW&P(MP)A 2013

¹⁶⁸¹ Substituted by s.19 SW&P(MP)A 2013

¹⁶⁸² Deleted by s.19 SW&P(MP)A 2013

(3) In subsections (2) and (4) “academic year”, “a course of study” and “institution of education” have the meanings given by section 148(2).

(4) In this section, a farmer shall be regarded, subject to regulations made under subsection (2), as attending a course of study—

(a) for 3 months immediately following the completion or the leaving by that person of second level education or the completion of the Leaving Certificate Examination of the Department of Education and Science (whichever is the later),

(b) for the duration of an academic year, or

(c) for the period immediately following the completion of one academic year, other than the final academic year of a course of study, up to the beginning of the following academic year.

PART 4

CHILD BENEFIT

Qualified child.

~~219. (1) A child shall be a qualified child (in this Part referred to as “a qualified child”) for the purposes of child benefit where—~~

~~(a) he or she is under the age of 16 years, or~~

~~(b) having attained the age of 16 years he or she is under the age of 19 years and—~~

~~(i) is receiving full-time education, the circumstances of which shall be specified in regulations, or~~

~~(ii) is, by reason of physical or mental infirmity, incapable of self-support and likely to remain so incapable for a prolonged period, and~~

~~(c) he or she is ordinarily resident in the State, and~~

~~(d) he or she is not detained in a reformatory or an industrial school and is not undergoing imprisonment or detention in legal custody.¹⁶⁸³~~

(1) A child shall be a qualified child (in this Part referred to as a “qualified child”) for the purposes of child benefit where -

(a) he or she is under the age of 16 years, or

(b) having attained the age of 16 years, he or she is under the age of 18 years and is –

(i) receiving full-time education, the circumstances of which shall be specified in regulations, or

(ii) by reason of physical or mental infirmity, incapable of self-support and likely to remain so incapable for a prolonged period, and

¹⁶⁸³ Substituted by s.20(1)(a) SW(MP)A 2008

(c) he or she is ordinarily resident in the State, and

(d) he or she is not detained in a children detention school and is not undergoing imprisonment or detention in legal custody.¹⁶⁸⁴

(2) Notwithstanding ~~subsection (1)~~ **subsection 1(c)**¹⁶⁸⁵ a child who resides with a qualified person and that person's spouse, ***civil partner or cohabitant***¹⁶⁸⁶ while the qualified person or that person's spouse, ***civil partner or cohabitant***¹⁶⁸⁷—

(a) being a member of the Defence Forces or a civil servant in the civil service of the Government or the State, is in the service, outside the State, of the Government, the State or an international organisation,

(b) is a volunteer development worker, or

(c) is an insured person employed outside the State in respect of whom employment contributions under Part 2 are payable in accordance with regulations made under section 31,

shall be a qualified child for the purposes of this Part.

Qualified person.

220. (1) Subject to subsection (3), a person with whom a qualified child normally resides shall be qualified for child benefit in respect of that child and is in this Part referred to as “a qualified person”.

(2) For the purpose of subsection (1)—

(a) the Minister may make rules for determining with whom a qualified child shall be regarded as normally residing, ¹⁶⁸⁸

(b) a qualified child shall not be regarded as normally residing with more than one person, and ¹⁶⁸⁹

(c) where a qualified child is resident in an institution and contributions are made towards the cost of his or her maintenance in that institution, that child shall be regarded as normally residing with the person with whom in accordance with the rules made under paragraph (a) he or she would be determined to be normally residing if he or she were not resident in an institution but, where the person with whom the child would thus be regarded as normally residing has abandoned or deserted the child, the child shall be regarded as normally residing with the head of the household of which he or she would normally be a member if he or she were not resident in an institution.

(3) A qualified person, other than a person to whom section 219(2)(a), (b) or (c) applies, shall not be qualified for child benefit under this section unless he or she is habitually resident in the State ~~at the date of the making of the application for child benefit~~ ¹⁶⁹⁰.

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¹⁶⁸⁴ Substituted by s.20(1)(a) SW(MP)A 2008

¹⁶⁸⁵ Substituted by s. 37 + Sch. 7 SWLR&PA 2006

¹⁶⁸⁶ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁸⁷ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁶⁸⁸ Uncommenced provision - see s.14 [SW\(MP\)A 2010](#)

¹⁶⁸⁹ Uncommenced provision - see s.27 [SW&PA 2007](#)

¹⁶⁹⁰ Deleted by s.11(14) SW&PA 2014

Regulations

220A.Regulations may provide for requiring an employer to give such information to the Minister as he or she may require for the purposes of determining entitlement to child benefit.¹⁶⁹²

Amounts of child benefit.

~~221. (1) Subject to this Act, a person who is qualified for child benefit shall, so long as he or she remains so qualified, be paid out of moneys provided by the Oireachtas a monthly benefit of the amount set out in column (1) of Part 6 **Part 4**¹⁶⁹³ of Schedule 4 in respect of each of the first 2 qualified children and, in addition, the amount set out in column (2) of that Part in respect of each qualified child (if any) in excess of 2.¹⁶⁹⁴~~

~~221. (1) Subject to this Act, a qualified person shall be paid a monthly benefit of the amount set out in column (2) of Part 4 of Schedule 4 for a qualified child referred to in column (1) of that Part of that Schedule opposite that amount.^{1695 1696}~~

~~(1) Subject to this Act, a qualified person shall be paid a monthly benefit—~~

~~(a) of the amount set out in column (2) of Part 4 of Schedule 4 for a qualified child referred to in column (1) of that Part of that Schedule opposite that amount for any entitlement to child benefit that occurs during the period beginning on 1 January 2012 and expiring on 31 December 2012, and~~

~~(b) of €140 for each qualified child in respect of any entitlement to child benefit that occurs on or after 1 January 2013.¹⁶⁹⁷~~

~~(1) Subject to this Act, a qualified person shall be paid a monthly benefit—~~

~~(a) of the amount set out in column (2) of Part 4 of Schedule 4 for a qualified child referred to in column (1) of that Part of that Schedule opposite that amount for any entitlement to child benefit that occurs during the period beginning on 1 January 2013 and expiring on 31 December 2013, and~~

~~(b) of €130 for each qualified child in respect of any entitlement to child benefit that occurs on or after 1 January 2014.^{1698 1699}~~

Amounts of child benefit.

221. (1) Subject to this Act, a qualified person shall be paid a monthly benefit of €135 **€140**¹⁷⁰⁰ in respect of each qualified child.¹⁷⁰¹

(1A) Notwithstanding section 219(1)(b), for the purposes of subsection (1B) and section 221A, “qualified child” shall include a child who, having attained the age of 18 years is under the age of 19 years and is –

¹⁶⁹¹ Uncommenced provision - see s.14(b) [SW\(MP\)A 2010](#)

¹⁶⁹² S.220A inserted by s.14 SWA 2016

¹⁶⁹³ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹⁶⁹⁴ Substituted by s.5 (1) SWA 2010

¹⁶⁹⁵ Substituted by s.5 (1) SWA 2010

¹⁶⁹⁶ Substituted by s.8 SWA 2011

¹⁶⁹⁷ Subsection (1) substituted by s.8(1) SWA 2012

¹⁶⁹⁸ Subsection (1) substituted by s.8 (1) SWA 2012

¹⁶⁹⁹ Substituted by s.2 SW&P(No. 2)A 2014

¹⁷⁰⁰ Substituted by s.7(1) SW&PA 2015

¹⁷⁰¹ Substituted by s.2 SW&P(No. 2)A 2014

- (a) receiving full-time education, the circumstances of which shall be specified in regulations, or
- (b) by reason of physical or mental infirmity, incapable of self-support and likely to remain so incapable for a prolonged period, and
- (c) ordinarily resident in the State, and
- (d) not detained in a children detention school and is not undergoing imprisonment or detention in legal custody.

(1B) Payment of child benefit in respect of a child referred to in subsection (1A) shall be made to a person qualified for child benefit at half the appropriate amount set out in column (1) or column (2) of Part 4 of Schedule 4, or at half the appropriate amount as determined in accordance with subsection (2)(a) or (2)(b).

(1C) The payment referred to in subsection (1B) shall cease to be payable on 31 December 2009.¹⁷⁰²

~~(2) Notwithstanding anything in this Part, the monthly benefit payable to a qualified person in respect of a qualified child whose birth was part of—~~

~~(a) a multiple birth of 2 children, of whom 2 remain qualified, shall be 150 per cent of the amount as set out in Part 6 **Part 4**¹⁷⁰³ of Schedule 4, or~~

~~(b) a multiple birth of 3 or more children, of whom—~~

~~(i) not less than 3 remain qualified, shall be 200 per cent of the amount as set out in Part 6 **Part 4**¹⁷⁰⁴ of Schedule 4,~~

~~(ii) not less than 2 remain qualified, shall be 150 per cent of the amount as set out in Part 6 **Part 4**¹⁷⁰⁵ of Schedule 4, and~~

~~(iii) one remains qualified, shall be payable at the amount set out in Part 6 **Part 4**¹⁷⁰⁶ of Schedule 4.¹⁷⁰⁷~~

(2) Notwithstanding anything in this Part, the monthly benefit payable to a qualified person in respect of a qualified child whose birth was part of—

(a) a multiple birth of 2 children, of whom 2 remain qualified, shall be 150 per cent of the amount specified in subsection (1), or

(b) a multiple birth of 3 or more children, of whom—

(i) not less than 3 remain qualified, shall be 200 per cent of the amount specified in subsection (1),

¹⁷⁰² Ss (1), (1A), (1B) and (1C) inserted by s.20(1)(b) SW(MP)A 2008

¹⁷⁰³ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹⁷⁰⁴ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹⁷⁰⁵ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹⁷⁰⁶ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹⁷⁰⁷ Substituted by s.2 SW&P(No. 2)A 2014

(ii) not less than 2 remain qualified, shall be 150 per cent of the amount specified in subsection (1), or

(iii) one remains qualified, shall be payable at the amount specified in subsection (1).¹⁷⁰⁸

~~(3) Subject to this Act, a person who is qualified for child benefit shall be paid a grant in accordance with subsection (4) in respect of 2 or more qualified children where the birth of each child was part of the same multiple birth.~~¹⁷⁰⁹

~~(4) The amount of the grant payable in accordance with subsection (3) shall be €635.~~

~~(5) Subsection (3) applies in the case of any multiple birth occurring on or after 1 July 1993.~~

~~(6) A grant under subsection (3) shall become payable on the date of birth of the last born of the qualified children of the multiple birth.~~

~~(7) Subject to this Act, a person who is qualified for child benefit shall be paid a grant of €635 in respect of a multiple birth of 2 or more qualified children, on the 4th and 12th anniversary of the birth of the last born of that multiple birth.~~

~~(8) Payment of a grant under subsection (3) or (7) shall be in addition to any child benefit payable by way of a monthly benefit under this Part in respect of the children concerned.~~¹⁷¹⁰

Compensatory payment.¹⁷¹¹

221A. (1) Subject to this Act, a person shall be entitled to a payment provided for in subsection (2) where a qualified child referred to in section 221(1A) normally resides with that person and in any week –

(a) an increase in respect of that child is being paid in accordance with section 43(2), 43(3), 56(2), 56(3), 66(2), 66(3), 76(2), 76(3), 76(5), 81(5), 102(1), 102(2), 109(17), 112(2), 112(3), 113(5)(b), 113A(5)(b), 115(8)(a)(ii), 117(2), 117(3), 122(2), 122(3), 127(1), 142(1)(b)(ii), 146, 150(1)(b), 150(3), 156(1), 158, 161B(1), 161D, 174(1), 178A(3)(a), 181(1)(b)(i), 181(4), 197(b), 211(1)(b), 211(3), 215(1)(b) or 216, or

~~(b) family income supplement *working family payment*~~¹⁷¹² in accordance with Part 6 is being paid in respect of a family which includes a child referred to in section 221(1A).

(2) Subject to subsection (5), an amount of €15 shall be payable in respect of a child referred to in subsection (1) for each week or part thereof in which the conditions in –

(a) subsection (1)(a), or

(b) subsection (1)(b),

are satisfied until the date on which that child attains the age of 19 years.

¹⁷⁰⁸ Substituted by s.2 SW&P(No. 2)A 2014

¹⁷⁰⁹ Subsections (3) to (8) deleted by s.8 SWA 2011

¹⁷¹⁰ Subsections (3) to (8) deleted by s.8 SWA 2011

¹⁷¹¹ S 221A inserted by s.20(1)(c) SW(MP)A 2008

¹⁷¹² Substituted by s.8(1) and Sch. 1 SWA 2017

(3) Subject to this Act, a person shall be entitled to a payment provided for in subsection (4) where a qualified child referred to in section 221(1A) normally resides with that person and in any week that child is in receipt of disability allowance in accordance with Chapter 10 of Part 3.

(4) Subject to subsection (5), an amount of €15 shall be payable in respect of a child referred to in subsection (3) for each week or part thereof in which that child is in receipt of disability allowance until the date on which that child attains the age of 19 years.

(5) The amount payable under subsection (2) or subsection (4) in respect of a child whose birth was part of -

(a) a multiple birth of 2 children, of whom 2 remain qualified, shall be €22.50, or

(b) a multiple birth of 3 or more children of whom –

(i) not less than 3 remain qualified, shall be €30,

(ii) not less than 2 remain qualified, shall be €22.50, or

(iii) one remains qualified, shall be €15.

(6) Only one weekly amount shall be payable pursuant to subsection (2)(a), (2)(b) or (4).

(7) For the purposes of this section –

(a) the Minister may make rules for determining with whom a child referred to in section 221(1A) shall be regarded as normally residing,

(b) a child referred to in section 221(1A) shall not be regarded as normally residing with more than one person, and

(c) where a child referred to in section 221(1A) is resident in an institution and contributions are made towards the cost of his or her maintenance in that institution, that child shall be regarded as normally residing with the person with whom in accordance with the rules made under paragraph (a) he or she would be determined to be normally residing if he or she were not resident in an institution but, where the person with whom the child would thus be regarded as normally residing has abandoned or deserted the child, the child shall be regarded as normally residing with the head of the household of which he or she would normally be a member if he or she were not resident in an institution.

(8) Section 221(1A) and this section shall cease to have effect on 31 December 2010.¹⁷¹³

Exclusion of child benefit for superannuation or pension purposes.

222. Income from child benefit shall not be reckoned for the purpose of any abatement provisions in any enactment relating to superannuation or pensions.

Payments to persons absent from State.

223. Where a qualified person is for the time being absent from the State, an application on his or her behalf in respect of child benefit may be accepted from such person as the Minister thinks fit.

¹⁷¹³ S 221A inserted by s.20(1)(c) SW (MP)A 2008

PART 4A¹⁷¹⁴
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.~~¹⁷¹⁵

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~~¹⁷¹⁶ ~~€1,100~~¹⁷¹⁶ ~~in any year, payable in equal quarterly instalments of €250, €275~~¹⁷¹⁷ ~~and only one such supplement shall be payable in any year in respect of a qualified child.~~¹⁷¹⁸

~~(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.~~^{1719/1720}

PART 4A¹⁷²¹
EARLY CHILDCARE SUPPLEMENT
*NB: PART 4A SHALL CEASE TO HAVE EFFECT ON 1 DECEMBER 2009*¹⁷²²

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 monthly 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 5 years and 6 months~~¹⁷²³ ~~5 years.~~¹⁷²⁴

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 €1,104~~¹⁷²⁵ ~~€996~~¹⁷²⁶ ~~€498 in any year, payable in equal monthly instalments of €92~~¹⁷²⁷ ~~€83~~¹⁷²⁸ ~~€41.50.~~

¹⁷¹⁴ Chapter 4A inserted by s. 28 SWLR&PA 2006

¹⁷¹⁵ Substituted by s.21(1) SW(MP) A 2008

¹⁷¹⁶ Substituted by s. 4 SW&PA 2008

¹⁷¹⁷ Substituted by s. 4 SW&PA 2008

¹⁷¹⁸ S. 223B inserted by s. 28 SWLR&PA 2006

¹⁷¹⁹ S. 223B inserted by s. 28 SWLR&PA 2006

¹⁷²⁰ Substituted by s.21(1) SW (MP)A 2008

¹⁷²¹ Substituted by s.21(1) SW(MP)A 2008

¹⁷²² Inserted by s. 8(2) SW&PA 2009

¹⁷²³ Substituted by S. 18 [FEMPPIA 2009](#)

¹⁷²⁴ Deleted by s.24(1)(a) SW(MP)A 2010

¹⁷²⁵ Substituted by s. 18 [FEMPPIA 2009](#)

¹⁷²⁶ Substituted by s. 8(1) SW&PA 2009

~~(2) Early childcare supplement shall be payable in respect of the month following the month of the birth of the child and shall continue to be payable up to and including the month in which the child attains the age of 5 years and 6 months¹⁷²⁹ 5 years.~~

~~(3) Early childcare supplement shall be paid monthly in arrears and the final payment shall be in respect of the month in which the child attains the age of 5 years and 6 months¹⁷³⁰ 5 years.~~

~~(4) 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 consent of the Minister for Finance and the Minister for Health and Children.^{1731 1732}~~

PART 5

RESPIRE CARE GRANT-CARER'S SUPPORT GRANT¹⁷³³

Interpretation.

224. (1) In this Part—

“carer” means a person ordinarily resident in the State who has attained the age of 16 years and—

(a) is in receipt of or entitled to ~~carer's benefit or carer's allowance~~ *carer's benefit, carer's allowance, domiciliary care allowance¹⁷³⁴ or a payment under section 186A,¹⁷³⁵ or*

~~(b) is a prescribed relative within the meaning of section 179 in respect of whom an allowance is payable under section 183, or¹⁷³⁶~~

(c) is providing full-time care and attention to a person who is in receipt of an increase of disablement pension under section 78 in respect of the need for constant attendance, or

(d) resides with and has provided, is providing or is likely to provide full-time care and attention for such periods and on such date as may be prescribed to a relevant person, or

(e) subject to the conditions and in the circumstances that may be prescribed, does not reside with but has provided, is providing or is likely to provide full-time care and attention for such periods and on such date as may be prescribed to a relevant person;

“institution” means a hospital, convalescent home or home for people suffering from physical or mental disability or ancillary accommodation, nursing home for the care and maintenance of dependent elderly people or any other similar establishment providing residence, maintenance or care;

¹⁷²⁷ Substituted by s. 18 [FEMPIA 2009](#)

¹⁷²⁸ Substituted by s. 8(1) SW&PA 2009

¹⁷²⁹ Substituted by s. 18 [FEMPIA 2009](#)

¹⁷³⁰ Substituted by s. 18 [FEMPIA 2009](#)

¹⁷³¹ Substituted by s.21(1) SW(MP)A 2008

¹⁷³² Deleted by s.24(1)(b) SW(MP)A 2010

¹⁷³³ Substituted by s.5(1) SWPA 2015

¹⁷³⁴ Inserted by s.16(b) SW&PA 2008

¹⁷³⁵ Substituted by s. 24(f) SW&PA 2007

¹⁷³⁶ S.224(1)(b) deleted by s.16(f) SWP&CRA 2018

“relevant person” means a person who is ordinarily resident in the State and is so incapacitated that he or she requires full-time care and attention within the meaning of subsection (2).

~~(2) For the purposes of subsection (1), a relevant person shall be regarded as requiring full-time care and attention where—~~

~~(a) the person is so incapacitated that he or she requires from another person~~

~~(i) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or~~

~~(ii) continual supervision in order to avoid danger to himself or herself, and~~

~~(b) the nature and extent of the person’s incapacity has been certified in the prescribed manner by a medical practitioner *registered medical practitioner*.^{1737 1738}~~

(2) For the purposes of the definition of ‘relevant person’ in this Part, a person shall not be regarded as requiring full-time care and attention unless the person is so incapacitated that he or she requires from another person—

(a) continual supervision and frequent assistance throughout the day in connection with normal bodily functions, or

(b) continual supervision in order to avoid danger to himself or herself.¹⁷³⁹

(3) The Minister may make regulations specifying the circumstances and conditions under which a person is to be regarded as providing full-time care and attention to a relevant person.

Entitlement to ~~respite care grant~~ *carer’s support grant*¹⁷⁴⁰

225. (1) Subject to subsections (2) and (5), an annual grant (in this Act referred to as a “~~respite care grant~~ *carer’s support grant*”¹⁷⁴¹) in the amount of ~~€1,000~~ ~~€1,200~~¹⁷⁴² ~~€1,500~~¹⁷⁴³ ~~€1,700~~¹⁷⁴⁴ ~~€1,375~~¹⁷⁴⁵ ~~€1,700~~¹⁷⁴⁶ **€1,850**¹⁷⁴⁷ shall be payable to a carer in respect of each relevant person in his or her care and only one such annual grant shall be payable in respect of a relevant person.

(2) Subject to subsections (3) and (4), a grant shall not be payable to a carer where—

(a) he or she engages in ~~employment or self-employment~~ ***employment, self-employment or any course of education or training***,¹⁷⁴⁸ or

¹⁷³⁷ Substituted by s.10(c) SW(MP)A 2008

¹⁷³⁸ Substituted by s.4(1)(c) SW(MP)A 2015

¹⁷³⁹ Substituted by s.4(1)(c) SW(MP)A 2015

¹⁷⁴⁰ Substituted by s.5(1) SWPA 2015

¹⁷⁴¹ Substituted by s.5(1) SW&PA 2015

¹⁷⁴² Substituted by s. 30 SWLR&PA 2006

¹⁷⁴³ Substituted by s. 28(a) SW&PA 2007

¹⁷⁴⁴ Substituted by s. 9(1) SW&PA 2008

¹⁷⁴⁵ Substituted by s.5(1) SWA 2012 (came into operation on 1 June 2013)

¹⁷⁴⁶ Substituted by s.6(1) SW&PA 2015 (to come into effect from 1 June 2016)

¹⁷⁴⁷ Substituted by Section 11 of the SWA 2020

¹⁷⁴⁸ Substituted by s. 28(b) SW&PA 2007

(b) he or she is entitled to or in receipt of ~~unemployment benefit~~ *jobseeker's benefit*¹⁷⁴⁹, *jobseeker's benefit (self-employed)*¹⁷⁵⁰ or ~~unemployment assistance~~ *jobseeker's allowance*,¹⁷⁵¹ or

(c) he or she is a person to whom article 58 of the Regulations of 1996 applies in respect of proven unemployment, or

~~(d) he or she is entitled to or is in receipt of an allowance for domiciliary care of children under section 61 of the Health Act 1970 (other than where the carer is also in receipt of or entitled to carer's benefit or carer's allowance), or~~¹⁷⁵²

(e) the relevant person is resident in an institution.

(3) The Minister may by regulations provide that a carer may engage in ~~employment or self-employment~~ *employment, self-employment, or any course of education or training*¹⁷⁵³ subject to the limitations in relation to the hours or remuneration that may be prescribed and subject to the conditions and in the circumstances that may be prescribed.

(4) The Minister may by regulations provide for entitling to a ~~respite care grant~~ *carer's support grant*¹⁷⁵⁴ a carer who would be entitled to the grant but for the fact that the relevant person is temporarily resident in an institution or temporarily residing with another person.

(5) Regulations made under this section may provide for the date in each year on which a ~~respite care grant~~ *carer's support grant*¹⁷⁵⁵ shall become payable to a carer.

Medical examination.

226. (1) A relevant person in respect of whose full-time care and attention a carer is entitled to a ~~respite care grant~~ *carer's support grant*¹⁷⁵⁶ shall attend for or submit to any medical or other examination that may be required in accordance with regulations.

(2) Regulations under subsection (1) may provide for disqualifying a person from receiving a ~~respite care grant~~ *carer's support grant*¹⁷⁵⁷ where the relevant person, in respect of whose full-time care and attention the grant is payable, fails without good cause to attend for or to submit to any medical or other examination that may be required in accordance with those regulations.

PART 6

~~FAMILY INCOME SUPPLEMENT~~ WORKING FAMILY PAYMENT¹⁷⁵⁸

Interpretation.¹⁷⁵⁹

227. In this Part—

“civil partner” includes a civil partner whose civil partnership has been dissolved, being a dissolution that is recognized as valid in the State;¹⁷⁶⁰

¹⁷⁴⁹ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

¹⁷⁵⁰ Inserted by Item 12 of the Schedule of SWA 2019

¹⁷⁵¹ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

¹⁷⁵² Deleted by s.16(c) SW&PA 2008

¹⁷⁵³ Substituted by s. 28(b) SW&PA 2007

¹⁷⁵⁴ Substituted by s.5(1) SW&PA 2015

¹⁷⁵⁵ Substituted by s.5(1) SW&PA 2015

¹⁷⁵⁶ Substituted by s.5(1) SW&PA 2015

¹⁷⁵⁷ Substituted by s.5(1) SW&PA 2015

¹⁷⁵⁸ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁷⁵⁹ Uncommenced provisions – see s.9 SW&PA 2014

“child”, in relation to a family, means a qualified child as defined in section 2(3) who normally resides with that family;

“family” means—

- (a) a person who is engaged in remunerative full-time employment as an employee,
- ~~(b) where that person is living with or wholly or mainly maintaining his or her spouse, that spouse, and¹⁷⁶¹~~
- (b) where that person is living with or wholly or mainly maintaining—
 - (i) his or her spouse,
 - (ii) his or her civil partner, or
 - (iii) his or her cohabitant,that spouse, civil partner or cohabitant, and¹⁷⁶²
- (c) a child or children;

~~“family income supplement~~ ***working family payment***¹⁷⁶³” shall be read in accordance with section 228;

“spouse” includes—

- (a) a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, or
- ~~(b) a man and woman who are not married to each other but are cohabiting as husband and wife;¹⁷⁶⁴~~

“weekly family income” means, subject to regulations under section 232, the amount of income received in a week by a family, less—

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),
- (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),¹⁷⁶⁵
- (b) any income tax payable under the Income Tax Acts as defined in section 1 of the Act of 1997 applicable to Schedule E,
- (c) any contributions payable under section 13(2)(b) or regulations under section 14,

¹⁷⁶⁰ Inserted by s.22(a) SW&PA 2010

¹⁷⁶¹ Substituted by s.22(b) SW&PA 2010

¹⁷⁶² Substituted by s.22(b) SW&PA 2010

¹⁷⁶³ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁷⁶⁴ Deleted by s.22(c) SW&PA 2010

¹⁷⁶⁵ Para (aa) inserted by s. 31 SWLR&PA 2006

~~(d) any contributions payable under section 5 of the Health Contributions Act 1979¹⁷⁶⁶,~~

~~(e) any contributions payable under section 16 of the Youth Employment Agency Act 1981, or¹⁷⁶⁷~~

~~(f) any income of a person who in respect of that family is a child.¹⁷⁶⁸~~

(f) any income of a person who in respect of that family is a child, or

~~(g) any contribution payable under the tax known as income levy¹⁷⁶⁹~~

(g) any contribution payable under Part 18D of the Act of 1997 and known as universal social charge.¹⁷⁷⁰

Entitlement to supplement.

~~228. Subject to this Act, an allowance (in this Act referred to as “family income supplement”) shall be payable out of moneys provided by the Oireachtas in respect of a family where the weekly family income is less than—~~

~~(a) in the case of a family which includes only 1 child, €500,~~

~~(b) in the case of a family which includes 2 children, €590,~~

~~(c) in the case of a family which includes 3 children, €685,~~

~~(d) in the case of a family which includes 4 children, €800,~~

~~(e) in the case of a family which includes 5 children, €920,~~

~~(f) in the case of a family which includes 6 children, €1,030,~~

~~(g) in the case of a family which includes 7 children, €1,060, or~~

~~(h) in the case of a family which includes 8 or more children, €1,250.^{1771,1772,1773,1774,1775}~~

~~228. Subject to this Act, an allowance (in this Act referred to as ‘family income supplement’) shall be payable out of moneys provided by the Oireachtas in respect of a family where the weekly family income is less than—~~

~~(a) in the case of a family which includes only 1 child, €506,~~

~~(b) in the case of a family which includes 2 children, €602,~~

~~(c) in the case of a family which includes 3 children, €703,~~

¹⁷⁶⁶ Para (d) deleted by s.11(a) SW&PA 2011

¹⁷⁶⁷ Deleted by s.22(a) SW(MP)A 2008

¹⁷⁶⁸ Substituted by s. 22(b) SW(MP)A 2008

¹⁷⁶⁹ Paras (f) and (g) inserted by s.22(b) SW(MP)A 2008

¹⁷⁷⁰ Substituted by s.11(b) SW&PA 2011

¹⁷⁷¹ s228 substituted by s. 4 SWA 2005

¹⁷⁷² s228 substituted by s. 4 SWA 2006

¹⁷⁷³ Substituted by s. 4(1) SWA 2007

¹⁷⁷⁴ Substituted by s.5(1) SW(MP)A 2008

¹⁷⁷⁵ Substituted by s.5(1) SW (MP)A 2008

- (d) ~~in the case of a family which includes 4 children, €824,~~
- (e) ~~in the case of a family which includes 5 children, €950,~~
- (f) ~~in the case of a family which includes 6 children, €1,066,~~
- (g) ~~in the case of a family which includes 7 children, €1,102, or~~
- (h) ~~in the case of a family which includes 8 or more children, €1,298.~~^{1776 1777}

228. Subject to this Act, an allowance (in this Act referred to as ‘family income supplement **working family payment**¹⁷⁷⁸’) shall be payable out of moneys provided by the Oireachtas in respect of a family where the weekly family income is less than—

- (a) ~~in the case of a family which includes only 1 child, €511 €521¹⁷⁷⁹ €531¹⁷⁸⁰~~
€541¹⁷⁸¹,
- (b) ~~in the case of a family which includes 2 children, €612 €622¹⁷⁸² €632¹⁷⁸³ €642¹⁷⁸⁴,~~
- (c) ~~in the case of a family which includes 3 children, €713 €723¹⁷⁸⁵ €733¹⁷⁸⁶ €743¹⁷⁸⁷,~~
- (d) ~~in the case of a family which includes 4 children, €834,~~
- (e) ~~in the case of a family which includes 5 children, €960,~~
- (f) ~~in the case of a family which includes 6 children, €1,076,~~
- (g) ~~in the case of a family which includes 7 children, €1,212, or~~
- (h) ~~in the case of a family which includes 8 or more children, €1,308.~~¹⁷⁸⁸

Working family payment¹⁷⁸⁹

228. Subject to this Act, an allowance (in this Act referred to as ‘working family payment’) shall be payable out of moneys provided by the Oireachtas in respect of a family where the weekly family income is less than—

- (a) in the case of a family which includes only one child, €551,
- (b) in the case of a family which includes 2 children, €652,
- (c) in the case of a family which includes 3 children, €753,
- (d) in the case of a family which includes 4 children, €844,

¹⁷⁷⁶ Substituted by s.5 SW&P(No. 2)A 2009

¹⁷⁷⁷ S.228 substituted by s.8(1) SW&PA 2015

¹⁷⁷⁸ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁷⁷⁹ Substituted by s.10(1)(a) SWA 2017

¹⁷⁸⁰ Substituted by s.12(1)(a) SW(No.2)A 2019

¹⁷⁸¹ Substituted by Section 12 of the SWA 2020

¹⁷⁸² Substituted by s.10(1)(b) SWA 2017

¹⁷⁸³ Substituted by s.12(1)(b) SW(No.2)A 2019

¹⁷⁸⁴ Substituted by Section 12 of the SWA 2020

¹⁷⁸⁵ Substituted by s.10(1)(c) SWA 2017

¹⁷⁸⁶ Substituted by s.12(1)(c) SW(No.2)A 2019

¹⁷⁸⁷ Substituted by Section 12 of the SWA 2020

¹⁷⁸⁸ S.228 substituted by s.8(1) SW&PA 2015

¹⁷⁸⁹ S.228 substituted by S.14 SWA 2021

- (e) in the case of a family which includes 5 children, €970,
- (f) in the case of a family which includes 6 children, €1,086,
- (g) in the case of a family which includes 7 children, €1,222, or
- (h) in the case of a family which includes 8 or more children, €1,318.

Rate of supplement.

229.(1) Subject to this Part, the weekly rate of ~~family income supplement~~ **working family payment**¹⁷⁹⁰ shall be 60 per cent of the amount by which the weekly family income is less than the amount appropriate in the particular case under section 228.

(2) In calculating the weekly rate of ~~family income supplement~~ **working family payment**¹⁷⁹¹ under subsection (1), any fraction of €1 shall be treated as €1 and where the weekly rate so calculated is below a prescribed amount, the supplement shall be payable at the prescribed amount.

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Period of payment.¹⁷⁹³

230. (1) ~~Family income supplement~~ **working family payment**¹⁷⁹⁴ shall be payable for a period of 52 weeks (or such other period as may be prescribed) beginning on the date on which it is receivable in accordance with regulations and, except where regulations otherwise provide, the weekly rate of ~~family income supplement~~ **working family payment**¹⁷⁹⁵ payable shall not be affected by any change of circumstances during that period.

(2) Where ~~family income supplement~~ **working family payment**¹⁷⁹⁶ is payable in respect of a particular family for any period, no person who was included in that family at the beginning of that period shall be regarded as a member of any other family during that period.

Person to whom supplement is payable.

231. ~~Family income supplement~~ **working family payment**¹⁷⁹⁷ shall be payable to the member of the family (other than a child) who is engaged in remunerative full-time employment as an employee or, where there are 2 members of the family so engaged, to the member whose weekly income as calculated for the purposes of ~~family income supplement~~ **working family payment**¹⁷⁹⁸ forms the greater part of the weekly family income as so calculated.

Regulations.

232. (1) The Minister may make regulations for the purpose of giving effect to this Part.

(2) Regulations under this section may, in particular and without prejudice to the generality of subsection (1):

- (a) provide for the manner of calculation or estimation of weekly family income;

¹⁷⁹⁰ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁷⁹¹ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁷⁹² Uncommenced provision – see [s.10 \(a\) SW&PA 2014](#)

¹⁷⁹³ Uncommenced provision – see [s.10 \(b\) SW&PA 2014](#)

¹⁷⁹⁴ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁷⁹⁵ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁷⁹⁶ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁷⁹⁷ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁷⁹⁸ Substituted by s.8(1) and Sch. 1 SWA 2017

(b) provide, in calculating or estimating weekly family income, for the disregarding in whole or in part of any amount of that income from any source specified in the regulations;

(c) determine the circumstances in which a person shall be regarded as being engaged in remunerative full-time employment as an employee;

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(d) require employers to give such information as the Minister may require for the purpose of determining a claim for ~~family income supplement~~ **working family payment**¹⁸⁰⁰.

(3) The Minister may by regulations vary—

(a) the amounts specified in section 228, and

(b) the percentage rate specified in section 229(1),

but any such variation shall not reduce the amounts or the percentage rate applicable immediately before the commencement of those regulations.

Receipt of claims.

233. (1) Regulations may provide for treating a claim for ~~family income supplement~~ **working family payment**¹⁸⁰¹ as having been made on a date earlier than the date on which it is received, where it appears to the Minister that the claimant would have satisfied the conditions for entitlement to ~~family income supplement~~ **working family payment**¹⁸⁰² during that period, but for the receipt by that person of ~~unemployment benefit~~ **jobseeker's benefit**, **jobseeker's benefit (self-employed)**¹⁸⁰³ or ~~unemployment assistance~~ **jobseeker's allowance**.

(2) Where—

(a) in respect of any period any ~~unemployment benefit~~ **jobseeker's benefit**, **jobseeker's benefit (self-employed)**¹⁸⁰⁴ or ~~unemployment assistance~~ **jobseeker's allowance** has been paid to or in respect of a person who, though entitled to ~~family income supplement~~ **working family payment**¹⁸⁰⁵ by virtue of subsection (1), is not in receipt of that supplement, and

(b) that benefit or ~~assistance~~ **allowance** is in excess of the amount which would have been granted to that person if he or she had been in receipt of ~~family income supplement~~ **working family payment**¹⁸⁰⁶

the Minister may reduce any such supplement which is or may become payable to that person by the amount of the excess and that amount shall be treated as having been paid on account of the ~~family income supplement~~ **working family payment**¹⁸⁰⁷.

¹⁷⁹⁹ Uncommenced provision – see. [S.9\(2\).SW&PA 2014](#)

¹⁸⁰⁰ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸⁰¹ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸⁰² Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸⁰³ Inserted by Item 13 of the Schedule of SWA 2019

¹⁸⁰⁴ Inserted by Item 13 of the Schedule of SWA 2019

¹⁸⁰⁵ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸⁰⁶ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸⁰⁷ Substituted by s.8(1) and Sch. 1 SWA 2017

PART 7

CONTINUED PAYMENT FOR QUALIFIED CHILDREN

Entitlement to payment.

234. (1) Subject to this Act, a continued payment for qualified children (in this Part referred to as a “continued payment”) shall be payable out of moneys provided by the Oireachtas to a person—

(a) (i) other than a person who is engaged in short-time employment, who—

(I) has been in receipt of ~~unemployment benefit~~ *jobseeker’s benefit*, ~~unemployment assistance~~ *jobseeker’s allowance*, or ~~unemployment benefit~~ *jobseeker’s benefit* and ~~unemployment assistance~~ *jobseeker’s allowance* in respect of not less than 312 days of unemployment in—

(A) a period of interruption of employment, within the meaning of section 62(5)(c), where the person is in receipt of ~~unemployment benefit~~ *jobseeker’s benefit*, or

(B) a continuous period of unemployment, within the meaning of section 141(3), where the person is in receipt of ~~unemployment assistance~~ *jobseeker’s allowance*,

in the immediately preceding period, and

(II) is in receipt of ~~unemployment benefit~~ *jobseeker’s benefit* or ~~unemployment assistance~~ *jobseeker’s allowance* which includes an increase in respect of at least one qualified child who normally resides with the person and is not a person to whom section 66(3), 146 or 297 (as the case may require) applies, or

(ii) who is engaged in employment under a ~~scheme administered by an Foras Áiseanna Saothair and known as Community Employment~~ *scheme provided by the Minister and known as Community Employment*¹⁸⁰⁸ and who, if he or she were in receipt of ~~unemployment benefit~~ *jobseeker’s benefit* or ~~unemployment assistance~~ *jobseeker’s allowance* would be entitled to an increase in respect of at least one qualified child who normally resides with the person and would not be a person to whom section 66(3), 146 or 297 (as the case may require) applies, and

(b) who, in the case of a person to whom paragraph (a)(i) or (ii) applies, ceases, by virtue of having become engaged in employment which is expected to continue for a minimum of 4 weeks, to be entitled to ~~unemployment benefit~~ *jobseeker’s benefit* or ~~unemployment assistance~~ *jobseeker’s allowance* or ceases to be engaged in Community Employment.

(1A) Notwithstanding the provisions of this Part, a continued payment shall not be payable to a person for any period on or after the enactment of the Social Welfare (Miscellaneous Provisions) Act 2015.¹⁸⁰⁹

¹⁸⁰⁸ Substituted by s.29(2) SW&PA 2010

¹⁸⁰⁹ Inserted by s.7 SW(MP)A 2015

(2) In this Part, “employment” means insurable employment or insurable self-employment, other than—

(a) employment under a ~~scheme administered by an Foras Áiseanna Saothair and known as Community Employment~~ *scheme provided by the Minister and known as Community Employment*¹⁸¹⁰,

(b) employment under any scheme which is ~~funded by an Foras Áiseanna Saothair~~ *provided by the Minister*¹⁸¹¹, other than a scheme known as the Jobs Initiatives Scheme, or

(c) employment of a seasonal nature.

Weekly rate of payment.

235. (1) Subject to subsection (2), the weekly rate of continued payment shall be the amount payable to the person by way of an increase in ~~unemployment benefit~~ *jobseeker’s benefit* or ~~unemployment assistance~~ *jobseeker’s allowance* (as the case may require) in respect of each qualified child normally residing with the person immediately before that person takes up employment.

(2) In the case of a person who immediately before he or she takes up employment was in receipt of ~~unemployment assistance~~ *jobseeker’s allowance*, where the rate calculated under this section exceeds the rate of ~~unemployment assistance~~ *jobseeker’s allowance* which was payable to the person, the continued payment shall be payable at that rate of ~~unemployment assistance~~ *jobseeker’s allowance*.

Period of payment.

236. A continued payment shall be payable for the period during which the person is engaged in employment, up to a maximum of 13 weeks, beginning on the date on which it is receivable in accordance with regulations and the weekly rate of continued payment shall not be affected by any change of circumstances during that period.

Disqualification.

237. (1) Except as provided for in subsection (2), receipt of a continued payment by a person shall be a disqualification for the receipt by that person of ~~family income supplement~~ *working family payment*¹⁸¹².

(2) Where a person is in receipt of or entitled to a continued payment and would but for subsection (1) be qualified for the receipt of ~~family income supplement~~ *working family payment*¹⁸¹³, the person may be paid the ~~family income supplement~~ *working family payment*¹⁸¹⁴ for any period during which the rate of supplement payable would be greater than the rate of continued payment and the Minister may reduce any such supplement which is or may become payable to that person by the amount of the continued payment which shall be treated as having been paid on account of the ~~family income supplement~~ *working family payment*¹⁸¹⁵.

Regulations.

238. (1) The Minister may make regulations for the purpose of giving effect to this Part.

¹⁸¹⁰ Substituted by s.29(2)/Sch. 1 SW&PA 2010

¹⁸¹¹ Substituted by s.29(2)/Sch. 1 SW&PA 2010

¹⁸¹² Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸¹³ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸¹⁴ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸¹⁵ Substituted by s.8(1) and Sch. 1 SWA 2017

(2) Regulations under this section may, in particular and without prejudice to the generality of subsection (1), require employers to give such information as the Minister may require for the purpose of determining a claim for a continued payment.

PART 7A¹⁸¹⁶

BACK TO WORK FAMILY DIVIDEND

Definitions

238A. In this Part—

‘employment’ means insurable employment but does not include participation in a qualifying scheme;

‘qualifying payment’ means an allowance payable to a person participating in a qualifying scheme where, immediately before such participation commenced, the person was in receipt of—

(a) jobseeker’s benefit, ~~or~~¹⁸¹⁷

(aa) jobseeker’s benefit (self-employed), or¹⁸¹⁸

(b) jobseeker’s allowance, other than jobseeker’s allowance payable in accordance with section 148A;

‘qualifying scheme’ means—

(a) a scheme administered by the Minister and known as—

(i) Community Employment,

(ii) Tús,

(iii) Rural Social Scheme,

(iv) Gateway, or

(v) the national internship scheme,

(b) an approved course of training, or

(c) any other prescribed—

(i) scheme or programme of employment or work experience, or

(ii) course of education, training or development;

‘relevant payment’ means an allowance payable to a person participating in a qualifying scheme where, immediately before such participation commenced, the person was in receipt of—

(a) one-parent family payment, or

¹⁸¹⁶ Inserted by s.8 SW(MP)A 2015

¹⁸¹⁷ Deleted by Item 14 of the Schedule of SWA 2019

¹⁸¹⁸ Inserted by Item 14 of the Schedule of SWA 2019

(b) jobseeker's allowance payable in accordance with section 148A;

'self-employment' means insurable self-employment.

Entitlement to dividend

238B.(1) Subject to this Act, a person who has not attained pensionable age shall be entitled to a dividend (in this Act referred to as 'back to work family dividend') where—

(a) on or after 5 January 2015 ~~and before 1 April 2018~~¹⁸¹⁹, the person ceases to claim or ceases to be entitled to—

(i) jobseeker's benefit, *jobseeker's benefit (self-employed)*,¹⁸²⁰ jobseeker's allowance, a qualifying payment or a relevant payment, by reason of that person or, where appropriate, that person's spouse, civil partner or cohabitant—

(I) being in employment or self-employment, or

(II) commencing employment or self-employment within 4 weeks of the date on which that person ceased to claim or ceased to be entitled to the benefit, allowance or payment concerned, or

(ii) one-parent family payment by reason of—

(I) that person being in employment or self-employment,

(II) that person commencing employment or self-employment within 4 weeks of the date on which he or she ceased to claim or ceased to be entitled to that payment,

(III) the youngest child having attained the age specified in paragraph (b) of the definition of 'relevant age' in section 172(1) and that person being in employment or self-employment at the date on which he or she ceased to claim or ceased to be entitled to that payment, or

(IV) section 178B, 178C or 178D no longer applying to that person and that person being in employment or self-employment on the date on which he or she ceased to claim or ceased to be entitled to that payment,

(b) immediately before the date on which the person ceased to claim or ceased to be entitled to a benefit, allowance or payment specified in paragraph (a), the person was in receipt of—

(i) an increase in jobseeker's benefit, *jobseeker's benefit (self-employed)*,¹⁸²¹ jobseeker's allowance or one-parent family payment in respect of at least one qualified child who normally resides with that person, or

(ii) an increase in a qualifying payment or a relevant payment in respect of a child which corresponds to an increase referred to in subparagraph (i), and

¹⁸¹⁹ Deleted by s.11(a) SWA 2017

¹⁸²⁰ Inserted by Item 15 of the Schedule of SWA 2019

¹⁸²¹ Inserted by Item 15 of the Schedule of SWA 2019

(c) in the case of—

(i) jobseeker's benefit,
(ii) jobseeker's benefit (self-employed),¹⁸²²

(ii) jobseeker's allowance, other than jobseeker's allowance payable in accordance with section 148A, or

(iii) a qualifying payment,

~~the person has, immediately before the date on which he or she ceased to claim or ceased to be entitled to the benefit, allowance or payment concerned, in any continuous period of unemployment been in receipt of such benefit, allowance or payment in respect of not less than 312 days of unemployment, of which not less than 156 days of unemployment have occurred in the 12 month period commencing immediately before that date.~~

the person has, immediately before the date on which he or she ceased to claim or ceased to be entitled to the benefit, allowance or payment concerned, in any continuous period of unemployment been in receipt of such benefit, allowance or payment in respect of—

(i) not less than 312 days of unemployment, of which not less than 156 days of unemployment have occurred in the 12 month period commencing immediately before that date, or

(ii) a number of days such that when combined with days spent in receipt of the Covid-19 pandemic unemployment payment the total shall not be less than 312 days, of which not less than 156 days of unemployment have occurred in the 12 month period commencing immediately before that date.¹⁸²³

(2) Not more than one back to work family dividend shall be paid in respect of a couple.

(3) Subject to subsection (4), a person shall not be entitled to back to work family dividend where that person or, where appropriate, that person's spouse, civil partner or cohabitant—

(a) is in receipt of—

~~(i) any benefit specified in paragraphs (a) to (k) of section 39(1), other than disablement benefit payable in accordance with section 75 and death benefit by way of a grant in respect of funeral expenses;~~

(i) any benefit specified in paragraphs (a) to (k) of section 39(1), other than maternity benefit payable in accordance with Chapter 9 of Part 2, health and safety benefit payable in accordance with Chapter 10 of Part 2, adoptive benefit payable in accordance with Chapter 11 of Part 2, paternity benefit payable in accordance with ~~Chapter 11A of Part 2~~ **Chapter 11A of Part 2**, **parent's benefit payable in accordance with Chapter 11B of Part 2¹⁸²⁴**, disablement benefit payable in accordance with section 75 and death benefit by way of a grant in respect of funeral expenses payable in accordance with section 84,¹⁸²⁵

¹⁸²² Inserted by Item 15 of the Schedule of SWA 2019

¹⁸²³ Substituted by S.15 of SWA 2021

¹⁸²⁴ Substituted by S.30 of PLBA 2019

¹⁸²⁵ Subpara. (i) substituted by s.15 SWA 2016

(ii) any assistance specified in section 139(1), other than guardian's payment (non-contributory) payable in accordance with section 168, widowed or surviving civil partner grant, domiciliary care allowance, a weekly or monthly payment payable in accordance with section 198 and supplementary welfare allowance in so far as it relates to the payment of that allowance in accordance with section 200, 201, 202 or 206, or

(iii) a continued payment for qualified children payable in accordance with Part 7,

(b) participates in a qualifying scheme, or

(c) ceases to be employed or self-employed.

(4) Where, but for subsection (3), back to work family dividend would be payable to a person in a period of incapacity for work in respect of which illness benefit or injury benefit would also be payable to that person or, where appropriate, to his or her spouse, civil partner or cohabitant, the dividend shall be payable to that person for that part of the period of incapacity for work which does not exceed 36 days.

(5) A person shall not be entitled to back to work family dividend under this Part unless he or she is habitually resident in the State.

(6) In this section—

'continuous period of unemployment' shall—

(a) in relation to jobseeker's benefit, *jobseeker's benefit (self-employed)*¹⁸²⁶ and jobseeker's allowance, be construed in accordance with section 141(3), and

(b) in relation to a qualifying payment, be construed in accordance with section 141(3), subject to the modification that a reference to unemployment shall be construed as a reference to participation in a qualifying scheme;

'couple' means—

(a) a married couple who are living together,

(b) both civil partners of the same civil partnership who are living together, or

(c) both cohabitants.

Duration of dividend

238C.(1) Subject to this Act, back to work family dividend shall be paid for a maximum period of 104 weeks.

(2) Where back to work family dividend ceases to be paid to a person before the end of the period specified in subsection (1), the dividend may, subject to subsection (3) ~~and section 238F~~¹⁸²⁷, be paid to the person for any part of the unexpired portion of that period where—

(a) that person satisfies the conditions specified in section 238B(1), and

¹⁸²⁶ Inserted by Item 15 of the Schedule of SWA 2019

¹⁸²⁷ Deleted by S.16 of SWA 2021

(b) sections 238B(3) and 238D(3) do not apply.

(3) Back to work family dividend may be paid to a person in accordance with section 238B(1) and subsection (2) in respect of separate periods, subject to—

(a) the aggregate of such periods not exceeding the period specified in subsection (1), and

(b) the dividend being paid in respect of not more than 3 such separate periods.

Rate of dividend

238D.(1) Subject to this Act, the weekly rate of back to work family dividend payable shall—

~~(a) in respect of the first 52 weeks, beginning on the date on which it is receivable in accordance with regulations made under this Act, be an amount corresponding to the amount set out in column (4) of Part 1 of Schedule 4, opposite reference 1(a) in column (1) of that Part in respect of each child to whom section 238B(1)(b) refers, subject to the maximum weekly dividend payable corresponding to the weekly rate payable in respect of 4 such children, and¹⁸²⁸~~

(a) in respect of the first 52 weeks, beginning on the date on which it is receivable in accordance with regulations made under this Act, be an amount corresponding to the amount set out—

(i) in column (4) of Part 1 of Schedule 4, opposite reference 1(a) in column (1) of that Part in respect of each child who has not attained the age of 12 years, and

(ii) in column (5) of Part 1 of Schedule 4, opposite reference 1(a) in column (1) of that Part in respect of each child who has attained the age of 12 years,

to whom section 238B(1)(b) refers, subject to the maximum weekly dividend payable corresponding to the weekly rate payable in respect of 4 such qualified children, and¹⁸²⁹

(b) in respect of any week, occurring after the first 52 weeks, and not exceeding an aggregate of 104 weeks, be half the amount calculated in accordance with paragraph (a), subject to the maximum weekly dividend payable corresponding to half the weekly rate payable in respect of 4 such children.

(2) The weekly rate of back to work family dividend payable shall not include an amount in respect of a child to whom section 238B(1)(b) refers for any period during which that child—

(a) is treated as a qualified child for the purposes of an increase in any benefit specified in section 39(1), an increase in any assistance specified in section 139(1) or a continued payment for qualified children payable in accordance with Part 7,

(b) is treated as a child for the purposes of an increase in any qualifying payment or any relevant payment which corresponds to an increase in benefit or assistance referred to in paragraph (a),

¹⁸²⁸ Para. (a) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

¹⁸²⁹ Para. (a) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(c) is treated as a qualified adult for the purposes of an increase in any benefit specified in section 39(1) or an increase in any assistance specified in section 139(1),

(d) is treated as an adult for the purposes of an increase in any qualifying payment or any relevant payment which corresponds to an increase in benefit or assistance referred to in paragraph (c),

(e) is in receipt of any benefit to which section 238B(3)(a)(i) refers or any assistance to which section 238B(3)(a)(ii) refers in his or her own right, or

(f) participates in a qualifying scheme.

(3) A person shall not be entitled to back to work family dividend during any period in respect of which—

(a) subsection (2) applies, and

(b) there is no child to whom section 238B(1)(b) refers in respect of whom the dividend is payable.

Regulations

238E.(1) The Minister may make regulations in relation to the back to work family dividend.

(2) Regulations under this section may, in particular and without prejudice to the generality of subsection (1)—

(a) require employers to give such information to the Minister as he or she may require for the purposes of determining entitlement to the back to work family dividend, and

(b) prescribe—

(i) schemes or programmes of employment or work experience, and

(ii) courses of education, training or development,

for the purposes of paragraph (c) of the definition of ‘qualifying scheme’ in section 238A and different schemes, programmes or courses may be prescribed for different provisions of this Part.

Cessation of part 7A

~~238F. This Part shall cease to have effect on 1 April 2021.~~^{1830_1831}

PART 8

EU PAYMENTS

Certain EU payments – entitlement to island allowance.

239. Where a person is ordinarily resident on an island and entitled to or in receipt of a payment from another Member State corresponding to a payment under—

¹⁸³⁰ Part 7A inserted by s. 8 SW(MP)A 2015

¹⁸³¹ S.238F deleted by s.11(b) SWA 2017

(a) section 81, 82, 111, 113, 116, 126, 156, 164 or 174 and he or she has attained pensionable age, or

(b) section 77, 121 or 211,

he or she shall be entitled to a weekly allowance of €12.70 or any amount that may be prescribed.

PART 8A¹⁸³²

CERTAIN PAYMENTS - ENTITLEMENT TO ISLAND ALLOWANCE

Certain payments - entitlement to island allowance

239A. Where a person is ordinarily resident on an island and is entitled to or in receipt of a payment from the United Kingdom corresponding to a payment under—

(a) section 81, 111, 113, 116, 126, 156, 164 or 174 and he or she has attained pensionable age, or

(b) section 77, 121 or 211,

he or she shall be entitled to a weekly allowance of €12.70 or any amount that may be prescribed.

PART 9

GENERAL PROVISIONS RELATING TO SOCIAL INSURANCE, SOCIAL ASSISTANCE AND INSURABILITY

Preliminary

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) family income supplement, or~~

~~(e) continued payment for qualified children.~~

Definition.

240. Except where otherwise provided, in this Part-

‘benefit’ means-

(a) any benefit described in section 39(1).

¹⁸³² PART 8A inserted by s.102(c) WUKEU(SP)A 2020

- (aa) the cost of medical care under section 86,¹⁸³³
- (b) any assistance described in section 139(1),
- (c) child benefit,
- ~~(d) early childcare supplement,~~¹⁸³⁴
- (e) ~~respite care grant~~ *carer's support grant*¹⁸³⁵,
- (f) ~~family income supplement~~ *working family payment*¹⁸³⁶,
- (g) continued payment for ~~qualified children,~~ *or qualified children,*¹⁸³⁷
- (ga) back to work family dividend, or¹⁸³⁸
- (h) EU payments within the meaning of Part 8.¹⁸³⁹

CHAPTER 1
Claims and Payments

Claims.

241. (1) It shall be a condition of any person's right to any benefit ~~that he or she makes a claim for that benefit in the prescribed manner.~~ that he or she—

- (a) makes a claim for that benefit in the prescribed manner, and
- (b) satisfies the Minister as to his or her identity.¹⁸⁴⁰

~~(1A) The Minister may prescribe information and the nature and form of the information to be furnished by a person making a claim for benefit where the Minister forms the opinion that the furnishing of the information would assist—~~

- ~~(a) a deciding officer, bureau officer, the Executive or any other person who makes a decision in relation to a claim for benefit as to whether the person making the claim is entitled to make a claim for, or receive any benefit under this Act, or~~
- ~~(b) in assessing the training, education or development needs appropriate to his or her personal circumstances.~~

~~(1B) For the purposes of prescribing information pursuant to subsection (1A) that shall be furnished by a person making a claim for benefit, different types and forms of information may be specified as respects different classes of persons or claims for benefit.~~^{1841 1842}

¹⁸³³ Inserted by s. 10(c) SW&PA 2007

¹⁸³⁴ Deleted by s.24(1)(c) SW(MP)A 2010

¹⁸³⁵ Substituted by s.5(1) SW&PA 2015

¹⁸³⁶ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸³⁷ Substituted by Sch. to SW(MP)A 2015

¹⁸³⁸ Para (ga) inserted by Sch. to SW(MP)A 2015

¹⁸³⁹ S. 240 substituted by s. 29 SWLR&PA 2006

¹⁸⁴⁰ Substituted by s.15 SW&PA 2012

¹⁸⁴¹ Subsections (1A) and (1B) inserted by s.9 SW&PA 2009

¹⁸⁴² Subsections (1A) and (1B) deleted by s.12(1) SW&PA 2011

(1C) For the purposes of satisfying himself or herself as to the identity of a person who makes a claim for benefit, the Minister may, without prejudice to any other method of authenticating the identity of that person, request that person—

(a) to attend at an office of the Minister or such other place as the Minister may designate as appropriate,

(b) to provide to the Minister, at that office or other designated place, such information and to produce any document to the Minister as the Minister may reasonably require for the purposes of authenticating the identity of that person,

(c) to allow a photograph or other record of an image of that person to be taken, at that office or other designated place, in electronic form, for the purposes of the authentication, by the Minister, at any time, of the identity of that person, and

(d) to provide, at that office or other designated place, a sample of his or her signature in electronic form for the purposes of the authentication, by the Minister, at any time, of the identity of that person.

(1D) The Minister shall retain in electronic form—

(a) any photograph or other record of an image of a person taken pursuant to subsection (1C)(c), and

(b) any signature provided pursuant to subsection (1C)(d),

in such manner that allows such photograph, other record or signature to be reproduced by electronic means.¹⁸⁴³

(2) Where a person fails to make a claim for benefit (including any increases of that benefit) within the prescribed time, he or she shall be disqualified for payment—

(a) in the case of ~~old age (contributory) pension~~ *State pension (contributory)* ~~retirement pension~~ *State pension (transition)*, widow's (contributory) pension, widower's (contributory) pension, *surviving civil partner's (contributory) pension*¹⁸⁴⁴ or ~~orphan's (contributory) allowance~~ *guardian's payment (contributory)*, in respect of any period more than ~~12 months~~ *6 months*¹⁸⁴⁵ before the date on which the claim is made,

(aa) in the case of medical care, in respect of any period more than 12 months before the date on which the claim is made,¹⁸⁴⁶

(b) in the case of invalidity pension, in respect of any period more than 6 months before the date on which the claim is made,

(c) in the case of ~~unemployment benefit~~ *jobseeker's benefit, jobseeker's benefit (self-employed)*,¹⁸⁴⁷ *Covid-19 pandemic unemployment payment*,¹⁸⁴⁸ health and safety

¹⁸⁴³ Subsections (1C) and (1D) inserted by s.15 SW&PA 2012

¹⁸⁴⁴ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁸⁴⁵ Substituted by s.9 SWA 2011

¹⁸⁴⁶ Para (aa) inserted by s. 10(d) SW&PA 2007

¹⁸⁴⁷ Inserted by Item 16 of the Schedule of SWA 2019

¹⁸⁴⁸ Inserted by s.12 SWC-19AA 2020

benefit, ~~adoptive benefit~~, *adoptive benefit*, ~~paternity benefit~~,¹⁸⁴⁹ *paternity benefit*, ~~parent's benefit~~¹⁸⁵⁰, occupational injuries benefit (other than disablement benefit under section 75, an increase in disablement benefit under sections 77 and 78 or death benefit by way of pension under sections 81, 82 and 83 *sections 81 and 83*¹⁸⁵¹), carer's benefit, bereavement grant, ~~widowed parent grant~~ *widowed or surviving civil partner grant*,¹⁸⁵² ~~unemployment assistance~~ *jobseeker's allowance*, pre-retirement allowance, ~~old age (non-contributory) pension~~ *State pension (non-contributory)*, blind pension,¹⁸⁵³ widow's (non-contributory) pension, widower's (non-contributory) pension, *surviving civil partner's (non-contributory) pension*,¹⁸⁵⁴ ~~orphan's (non-contributory) pension~~ *guardian's payment (non-contributory)*, one-parent family payment, carer's allowance, ~~farm assist and family income supplement~~, *farm assist*, ~~family income supplement~~ *working family payment*¹⁸⁵⁵ *and back to work family dividend*,¹⁸⁵⁶ in respect of any period before the date on which the claim is made,

(d) in the case of ~~disability benefit~~ *illness benefit*, or disability allowance, in respect of any period more than 7 days before the date on which the claim is made,

(e) in the case of maternity benefit—

(i) where the claim is made before the end of the week of confinement, in respect of any period before the beginning of the week in which the claim is made,

(ii) where the claim is made after the end of the week of confinement, in respect of any period before the beginning of the 7th week before the week in which the claim is made not being earlier than the beginning of the week of confinement, and

(f) in the case of disablement benefit under section 75, an increase in disablement benefit under section 77 or 78 or death benefit by way of pension under ~~section 81, 82 or 83~~ *section 81 or 83*¹⁸⁵⁷, in respect of any period more than 3 months before the date on which the claim is made.

(2A) In the case of a claim for—

(a) State pension (transition) made before 5 April 2012, or

(b) State pension (contributory), widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension and guardian's payment (contributory) made before 6 April 2012,

subsection (2)(a) shall be read as if '12 months' were substituted for '6 months'.¹⁸⁵⁸

¹⁸⁴⁹ Substituted by s.16 SWA 2016

¹⁸⁵⁰ Substituted by S.31 of PLBA 2019

¹⁸⁵¹ Substituted by s.5(3) SW&PA 2011

¹⁸⁵² Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁸⁵³ **Uncommenced provision - See s.13(c) SW&PA 2008**

¹⁸⁵⁴ Inserted by s.26 and Sch3 SW&PA 2010

¹⁸⁵⁵ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸⁵⁶ Substituted by Sch. to SW(MP)A 2015

¹⁸⁵⁷ Substituted by s.5(3) SW&PA 2011

¹⁸⁵⁸ Subsection (2A) inserted by s.9(b) SWA 2011

(3) Notwithstanding paragraphs (c), (d), (e) and (f) of subsection (2), in the case of a benefit to which those paragraphs apply, where a claimant proves to the satisfaction of a deciding officer or an appeals officer that—

(a) on a date earlier than the date on which his or her claim for benefit (including any increase of benefit) was made, apart from satisfying the condition of making a claim, the claimant was entitled to benefit, and

(b) throughout the period between the earlier date and the date on which his or her claim was made there was good cause for the delay in making a claim,

he or she shall not be disqualified for receiving payment in respect of any such period referred to in paragraph (a) which does not exceed 6 months before the date on which the claim is made.

(4) A person who fails to make a claim for child benefit within the prescribed time shall be disqualified for payment in respect of any day before the date on which the claim is made unless a deciding officer or appeals officer is satisfied that there was good cause for delay in making the claim, in which case, child benefit shall be payable from the first day of the month following that in which the claimant became a qualified person within the meaning of section 220.

~~(4A) A person who fails to make a claim for domiciliary care allowance within the prescribed time is disqualified for payment in respect of any day before the date on which the claim is made unless a deciding officer or appeals officer is satisfied that there was good cause for delay in making the claim, in which case, domiciliary care allowance is payable from the specified day (being the day specified in regulations made for the purposes of section 242(1)(a) as the day in each month for the payment of domiciliary care allowance) in the month following that in which the claimant became a qualified person within the meaning of section 186D(1).^{1859/1860}~~

(4A) (a) A person who fails to make a claim for domiciliary care allowance within the prescribed time shall be disqualified for payment in respect of any day before the first day of the month following the day on which the claim is made.

(b) Notwithstanding paragraph (a), where a deciding officer or an appeals officer is satisfied that –

(i) on a date earlier than the first day of the month following the day on which the claim was made, apart from satisfying the condition of making a claim, the person became a qualified person within the meaning of section 186D(1)(inserted by section 15 of the Social Welfare and Pensions Act 2008), and

(ii) throughout the period between the earlier date and the date on which the claim was made there was good cause for the delay in making the claim,

the person shall not be disqualified for receiving payment of domiciliary care allowance in respect of any such period referred to in subparagraph (i) which does not exceed 6 months before the first day of the month following the date on which the claim is made.¹⁸⁶¹

¹⁸⁵⁹ Inserted by S.16(d) SW&PA 2008

¹⁸⁶⁰ Ss (4A) substituted by s.10 SW&PA 2009

¹⁸⁶¹ Ss (4A) substituted by s.10 SW&PA 2009

(5) A claimant for ~~disability benefit~~ *illness benefit* or injury benefit, who fails or neglects for a period exceeding 6 months to submit or to continue to submit medical or other satisfactory evidence of the incapacity, shall be disqualified for receiving benefit in respect of any such period but where a deciding officer or an appeals officer is satisfied that there was good cause for delay in submitting or continuing to submit evidence of incapacity, the deciding officer or appeals officer may extend the period of 6 months to the date on which the evidence is submitted.

(6) Where a person fails to make a claim for ~~respite care grant~~ *carer's support grant*¹⁸⁶² ~~or~~¹⁸⁶³ continued payment for qualified children within the prescribed time, he or she shall be disqualified for receiving that payment.

(7) Notwithstanding subsection (2), the periods specified in that subsection in respect of which payment may be made before the date on which a claim is made may, subject to the conditions and in the circumstances that may be prescribed, be extended by a deciding officer or an appeals officer, as the case may be.

(8) Regulations may provide for provisionally allowing a claim for benefit before the date on which the claimant will actually become entitled to that benefit, in the manner and subject to the conditions that may be prescribed.

(9) For the purposes of this Act, any claim or notice made or sent by post or by any other method is deemed to have been made or given on the date of receipt of the claim or notice by an officer of the Minister.

Payments.

242. (1) Regulations may provide for—

(a) the time and manner of payment of benefit,

~~(b) the information and evidence to be given by a claimant or beneficiary when applying for payment of benefit, and~~

(b) the information and evidence to be given by a claimant or beneficiary –

(i) when applying for payment of benefit, or

(ii) when there has been a change in the circumstances of the claimant or beneficiary which may affect the payment of the benefit concerned, and,¹⁸⁶⁴

~~(c) in consultation with An Post, the payment of specified benefits through An Post.~~

(c) the payment of specified benefits through a payment service provider.¹⁸⁶⁵

(2) Regulations made under this section as to the time of payment of benefit may provide—

(a) notwithstanding anything contained in this Act—

(i) in the case of specified benefits (other than child benefit), for adjusting the commencement and termination of that benefit, or for changes in the rate of

¹⁸⁶² Substituted by s.5(1) SW&PA 2015

¹⁸⁶³ Inserted by s.19 SW&PA 2008

¹⁸⁶⁴ S.242(1)(b) substituted by s.29 SW&PA 2007

¹⁸⁶⁵ S.242(1)(c) Substituted by s.3(c)(i) SW&PA 2014

that benefit, so that payments shall not be made in respect of periods less than a week or at different rates for different parts of a week,

(ii) in the case of child benefit, for adjusting the commencement and termination of that benefit, or for changes in the rate of that benefit, so that payments shall not be made at different rates for different parts of a month,

(b) for extinguishing the right to any sum payable by way of benefit where payment of that benefit is not obtained within 6 months or any shorter period that may be prescribed from the time at which that sum is receivable in accordance with regulations.

(3) Notwithstanding this Act, regulations may provide for payment of benefit, in the circumstances and subject to the conditions and for the periods that may be prescribed, to a claimant or beneficiary who has attained pensionable age.

~~(4) (a) Any person presenting for payment of benefit, on his or her own behalf or on behalf of another person, shall satisfy the Minister, an officer of the Minister or a payment service provider as to his or her identity by furnishing—~~

~~(i) a public services card,~~

~~(ii) a card issued by the Minister under section 264, or~~

~~(iii) such information or document as the Minister, an officer of the Minister or a payment service provider may reasonably require for the purposes of authenticating the identity of that person.~~

~~(b) Where a person fails to comply with paragraph (a), payment of benefit may be withheld until such time as the identity of the person is authenticated.¹⁸⁶⁶~~

(4) Subject to subsection (5), a person presenting for payment of benefit on his or her own behalf shall satisfy the Minister, an officer of the Minister or a payment service provider, as the case may be, as to his or her identity by furnishing—

(a) his or her public services card, or

(b) a card that has been issued to the person by the Minister under section 264 and such other information or documentation as the Minister, an officer of the Minister or a payment service provider, as the case may be, may reasonably require for the purposes of authenticating the identity of that person.¹⁸⁶⁷

~~(5) The information or documentation furnished for the purposes of authenticating identity under subsection (4)(a) may be recorded or retained by the Minister, an officer of the Minister or a payment service provider. ¹⁸⁶⁸ ¹⁸⁶⁹~~

(5) The Minister may make arrangements with a payment service provider in respect of the payment of benefit to such class of persons as the Minister may determine and such arrangements may include the furnishing by the Minister of information or documentation to the payment service provider for the purposes of authenticating the identity of any such persons presenting to the payment service provider pursuant to the arrangement. ¹⁸⁷⁰

¹⁸⁶⁶ Substituted by s.9(a) SW(MP)A 2015

¹⁸⁶⁷ Substituted by s.9(a) SW(MP)A 2015

¹⁸⁶⁸ Subsections (4) and (5) inserted by s.3(c)(ii) SW&PA 2014

¹⁸⁶⁹ Substituted by s.9(b) SW(MP)A 2015

(6) A person presenting for payment of benefit on behalf of another person (in this section referred to as the ‘other person’) shall furnish to the Minister, an officer of the Minister or a payment service provider, as the case may be—

(a) where the person has been nominated in that behalf in accordance with regulations made under section 244(1)(a)—

(i) evidence that he or she has been so nominated by the other person to receive the benefit on behalf of the other person,

(ii) the public services card issued to the other person or a card issued to the other person by the Minister under section 264, and

(iii) such other information or documentation as the Minister, an officer of the Minister or a payment service provider, as the case may be, may reasonably require for the purposes of authenticating the identity of the nominated person, or

(b) where the person has been appointed in that behalf in accordance with regulations made under section 244(1)(b)—

(i) the public services card issued to the other person or a card issued to the other person by the Minister under section 264, and

(ii) such other information or documentation as the Minister, an officer of the Minister or a payment service provider, as the case may be, may reasonably require for the purposes of authenticating the identity of the appointed person.

(7) Where a person fails to comply with subsection (4) or (6), payment of benefit may be withheld until such time as the identity of the person is authenticated.

(8) The information or documentation provided by the Minister under subsection (5) may be recorded or retained by a payment service provider for the purposes of this section.

(9) The information or documentation furnished by a person under subsection (4) or (6) may be recorded or retained by the Minister, an officer of the Minister or a payment service provider.¹⁸⁷¹

Payments in respect of loss of purchasing power.

243. (1) Where a person makes a claim for any benefit in accordance with section 241 and the payment of that claim is delayed for a period exceeding 12 months due solely or mainly to circumstances within the control of the Department of Social and Family Affairs and the person has not contributed to the delay, regulations may provide for a payment to be made in respect of the loss of purchasing power, subject to the conditions and in the circumstances that may be prescribed.

(2) In the case of a person to whom subsection (1) applies, the Minister may make regulations to provide for payment of an amount of costs, subject to the minimum and maximum limits that may be prescribed, actually and necessarily incurred by that person.

¹⁸⁷⁰ Substituted by s.9(b) SW(MP)A 2015

¹⁸⁷¹ Ss (6), (7), (8) and (9) inserted by s.9(c) SW(MP)A 2015

Payment to persons other than claimant or beneficiary.

244. (1) Regulations may provide—

(a) for enabling a person to whom benefit is payable to nominate another person to receive that benefit on his or her behalf, *benefit, subject to such conditions and in such circumstances as are prescribed*,¹⁸⁷²

~~(b) for enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who is under 16 years of age or who may be or become unable for the time being to act, any right or power which the claimant or beneficiary may be entitled to exercise under this Act and for authorising a person so appointed to receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary,~~¹⁸⁷³

(b) for –

(i) enabling a person to be appointed to exercise, on behalf of a claimant or beneficiary who—

(I) is under 16 years of age, or

(II) is certified by a ~~medical practitioner~~ *registered medical practitioner*¹⁸⁷⁴ to be a person who is or is likely soon to become unable for the time being to manage his or her own financial affairs,

any right or power otherwise exercisable under this Act by the claimant or beneficiary, and

(ii) subject to such conditions and in such circumstances as are prescribed for assuring the personal welfare of the claimant or beneficiary, authorising a person so appointed to receive and deal with any sum payable by way of benefit on behalf, and for the benefit, of the claimant or beneficiary,¹⁸⁷⁵

(c) where it appears to the Minister that the circumstances so warrant, for enabling, *subject to such conditions and in such circumstances as are prescribed*,¹⁸⁷⁶ a person to be appointed to receive and deal with on behalf of a claimant or beneficiary—

(i) in respect of ~~disability benefit~~ *illness benefit, unemployment benefit jobseeker's benefit, jobseeker's benefit (self-employed)*,¹⁸⁷⁷ injury benefit, ~~old age (contributory) pension~~ *State pension (contributory)*, ~~retirement pension~~ *State pension (transition)*, invalidity pension, ~~unemployment assistance~~ *jobseeker's allowance, farm assist, pre-retirement allowance, old age (non-contributory) pension* *State pension (non-contributory)*, blind pension or disability allowance, so much of the benefit, pension, assistance or allowance, as the Minister considers reasonable in the circumstances but in no case shall the amount to be received and dealt with as provided for in this subparagraph exceed the total amount payable less the amount payable by virtue of section 43(1), 66(1), 76(1), 112(1), 117(1), 122(1), 142(1)(b)(i), 150(1)(a), 157(1)(a), 211(1)(a) or 215(1)(a), as appropriate,

¹⁸⁷² Substituted by s.17 SWA2016

¹⁸⁷³ S. 244(1)(b) substituted by s. 20(a)(i) SW&PA 2008

¹⁸⁷⁴ Substituted by s.10(d) SW(MP)A 2008

¹⁸⁷⁵ S. 244(1)(b) substituted by s. 20(a)(i) SW&PA 2008

¹⁸⁷⁶ Amended by s.20(a)(ii) SW&PA 2008

¹⁸⁷⁷ Inserted by Item 17 of the Schedule of SWA 2019

(ii) in respect of widow's (contributory) pension ~~or widower's (contributory) pension~~ **widower's (contributory) pension or surviving civil partner's (contributory) pension**¹⁸⁷⁸ so much of the pension as is payable by virtue of section 127(1), or in respect of one-parent family payment, so much of the payment as is payable in respect of a qualified child by virtue of section 174(1),

(iii) in respect of disablement pension,¹⁸⁷⁹ **domiciliary care allowance**,¹⁸⁸⁰ ~~child benefit~~ **child benefit**, ~~early childcare supplement~~¹⁸⁸¹ ~~or family income supplement~~, **child benefit or family income supplement**¹⁸⁸² ~~working family payment~~¹⁸⁸³ so much of the pension, benefit or supplement ~~the pension, allowance, benefit or supplement~~¹⁸⁸⁴ as the Minister considers reasonable in the circumstances,

(iv) in respect of supplementary welfare allowance, so much of the allowance as the Minister considers reasonable ~~in the circumstances~~,¹⁸⁸⁵ **in the circumstances**,

and¹⁸⁸⁶

(d) in connection with the death of any person, for enabling a claim for benefit to be made or proceeded with in the person's name, subject to the conditions that may be prescribed.

(2) Regulations may also provide that probate or other proof of title of the personal representative of any deceased person may be dispensed with in the case of payment of any sum representing benefit, and that in any such case the sum may be paid to or distributed among the persons appearing in the manner provided by the regulations to be entitled to receive that sum or any part of that sum, either as being persons beneficially entitled to that sum under any testamentary instrument or as next of kin, or as being creditors of the deceased person, or to or among any one or more of those persons excluding the others.

(3) Regulations under this section may make provision for the powers exercisable by, and the obligations of, persons appointed to receive and deal with sums payable by way of benefit, including, in particular, an obligation to account for sums so received.¹⁸⁸⁷

Information to be supplied by claimants and beneficiaries for profiling and activation purposes.

244A. (1) The Minister may prescribe information and the nature and form of such information to be furnished by a claimant or beneficiary where the Minister forms the opinion that the furnishing of that information would assist—

(a) a deciding officer, bureau officer, ~~the Executive~~ **a designated person**¹⁸⁸⁸ or any other person who makes a decision in relation to a claim for, or the payment of, benefit in deciding whether—

¹⁸⁷⁸Substituted by s.26 and Sch3 SW&PA 2010

¹⁸⁷⁹ **Uncommenced provision - see s.13(d) SW&PA 2008**

¹⁸⁸⁰ Inserted by s. 16(e) SW & PA 2008

¹⁸⁸¹ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

¹⁸⁸² Substituted by s.24 and Sch. SW(MP)A 2010

¹⁸⁸³ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁸⁸⁴ Substituted by 16(e)(ii) SW&PA 2008

¹⁸⁸⁵ Subpara (iv) inserted by s.18/Sch1 SW&PA 2008

¹⁸⁸⁶ Substituted by s.22(b) SW&PA 2014

¹⁸⁸⁷ S. 244(3) inserted by s. 20(b) SW&PA 2008

¹⁸⁸⁸ Substituted by s.10(2) SW&PA 2011

- (i) a claimant is entitled to make a claim for benefit or to receive any benefit, or
 - (ii) a beneficiary is entitled to continue to receive any benefit, or
- (b) in assessing the training, education or development needs appropriate to the circumstances of the claimant or beneficiary.

(2) For the purposes of the information to be furnished by a claimant or beneficiary under subsection (1), different types and forms of information may be prescribed in relation to—

- (a) different classes of claimants or beneficiaries, or
- (b) different benefits.¹⁸⁸⁹

Statutory declarations.

245. Regulations prescribing a form of application for any purpose may require that all or any of the statements made by the claimant in the form be verified by a statutory declaration and that the statutory declaration may be taken and received by a deciding officer or by any other officer of the Minister or any other person authorised by the Minister in that behalf.

Provisions with respect to habitual residence.

~~246. (1) For the purpose of each provision of this Act specified in subsection (3), it shall be presumed, until the contrary is shown, that a person is not habitually resident in the State at the date of the making of the application concerned unless the person has been present in the State or any other part of the Common Travel Area for a continuous period of 2 years ending on that date.~~¹⁸⁹⁰

(1) A requirement, in any of the provisions specified in subsection (3), for a person to be habitually resident in the State means that—

(a) the person must be habitually resident in the State at the date of the making of the application, and the person must remain habitually resident in the State after the making of that application in order for any entitlement to subsist,

(b) the person is a worker or a self-employed person, residing in the State pursuant to article 7 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 (2 O.J. No. L 158, 30.4.2004, p. 77.), from—

- (i) a Member State, or
- (ii) a member state of the European Economic Area,

(c) the person is a family member of a person referred to in paragraph (b),

(d) where a person referred to in paragraph (b) ceases to be such a worker or such a self-employed person, the person must be habitually resident in the State immediately after the date of such cessation, and must remain habitually resident in the State in order for any entitlement to subsist, or

(e) where a person referred to in paragraph (b) ceases to be such a worker or such a self-employed person, a family member of such a person must be habitually resident

¹⁸⁸⁹ S244A inserted by s.12(2) SW&PA 2011

¹⁸⁹⁰ Subsection (1) substituted by s.11(1)(a) SW&PA 2014

in the State immediately after the date of such cessation, and the family member must remain habitually resident in the State in order for any entitlement to subsist.¹⁸⁹¹

~~(2) In subsection (1) “other part of the Common Travel Area” means the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man.~~¹⁸⁹²

(3) The provisions of this Act referred to in subsection (1) are sections 141(9), ~~154(e) 153(c),~~¹⁸⁹³ ~~1894~~ **161A(d),**¹⁸⁹⁵ 163(3), 168(5), 173(6), ~~180~~¹⁸⁹⁶ **180(2), 186A(2),**¹⁸⁹⁷ ~~186D(3) 186D(1),~~¹⁸⁹⁸ ¹⁸⁹⁹ 192, ~~210(9) and 220(3).~~ **210(9), 220(3) and 238B(5).**¹⁹⁰⁰

~~(4) Notwithstanding the presumption in subsection (1), a A~~¹⁹⁰¹ ~~deciding officer or the Executive~~ **a designated person**¹⁹⁰², when determining whether a person is habitually resident ~~in the State~~¹⁹⁰³ **resident in the State for the purposes of this Act**, shall take into consideration all the circumstances of the case including, in particular, the following –

- (a) the length and continuity of residence in the State or in any other particular country,
- (b) the length and purpose of any absence from the State,
- (c) the nature and pattern of the person’s employment,
- (d) the person’s main centre of interest, and
- (e) the future intentions of the person concerned as they appear from all the circumstances.¹⁹⁰⁴

(5) Notwithstanding subsections (1) to (4) and subject to subsection (9), a person who does not have a right to reside in the State shall not, for the purposes of this Act, be regarded as being habitually resident in the State.

(6) The following persons shall, for the purpose of subsection (5), be taken to have a right to reside in the State:

- (a) an Irish citizen under the Irish Nationality and Citizenship Acts 1956 to 2004;
- ~~(b) a person who has a right to enter and reside in the State under the European Communities (Free Movement of Persons) (No. 2) Regulations 2006 (S.I. No. 656 of 2006), the European Communities (Aliens) Regulations 1977 (S.I. No. 393 of 1977) or the European Communities (Right of Residence for Non-Economically Active Persons) Regulations 1997 (S.I. No. 57 of 1997);~~¹⁹⁰⁵

¹⁸⁹¹ Subsection (1) substituted by s.11(1)(a) SW&PA 2014

¹⁸⁹² Subsection (2) deleted by s.11(1)(b) SW&PA 2014

¹⁸⁹³ Substituted by s. 17 + Sch. 3 SWLR&PA 2006

¹⁸⁹⁴ **Uncommenced provision - see s.13(e) SW&PA 2008**

¹⁸⁹⁵ Inserted by s.11(1)(c)(i) SW&PA 2014

¹⁸⁹⁶ Substituted by s.11(1)(c)(ii) SW&PA 2014

¹⁸⁹⁷ Amended by s. 21 SW&PA 2008

¹⁸⁹⁸ Inserted by s.16(f) SW & PA 2008

¹⁸⁹⁹ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁰⁰ Substituted by Sch. to SW(MP)A 2015

¹⁹⁰¹ Substituted by s.11(1)(d)(i) SW&PA 2014

¹⁹⁰² Substituted by s. 18 and Sch/ 1 SW&PA 2008

¹⁹⁰³ Substituted by s.11(1)(d)(ii) SW&PA 2014

¹⁹⁰⁴ S. 246(4) inserted by s. 30 SW&PA 2007

¹⁹⁰⁵ Para. (b) substituted by s.18(a)(i) SWA 2016

(b) a person who has the right under the European Communities (Free Movement of Persons) Regulations 2015 (S.I. No. 548 of 2015) to enter and reside in the State or is deemed under those Regulations to be lawfully resident in the State;¹⁹⁰⁶

~~(c) a person in respect of whom a declaration within the meaning of section 17 of the Act of 1996 is in force;~~¹⁹⁰⁷

(c) a person in relation to whom a refugee declaration within the meaning of the Act of 2015 is in force, or is deemed under that Act to be in force;¹⁹⁰⁸

(ca) a person in relation to whom a subsidiary protection declaration within the meaning of the Act of 2015 is in force, or is deemed under that Act to be in force;¹⁹⁰⁹

~~(d) a member of the family of a refugee, or a dependent member of the family of a refugee, in respect of whom permission has been granted to enter and reside in the State under, and in accordance with, section 18(3)(a) or, as the case may be, section 18(4)(a) of the Act of 1996;~~¹⁹¹⁰

(d) a person who has been given, or is deemed under the Act of 2015 to have been given, a permission to enter and reside in the State under section 56 of that Act, where the permission concerned is in force;¹⁹¹¹

(da) a person who has been given, or is deemed under the Act of 2015 to have been given, a permission to reside in the State under section 57 of that Act, where the permission concerned is in force;¹⁹¹²

~~(e) a programme refugee within the meaning of section 24 of the Act of 1996;~~¹⁹¹³

(e) a person who is a programme refugee within the meaning of section 59 of the Act of 2015 or is deemed to be a programme refugee under subsection (4) of that section;¹⁹¹⁴

~~(f) a person who has been granted permission to remain in the State under Regulation 4(4) of the Regulations of 2006;~~¹⁹¹⁵

~~(f) a person to whom a permission granted to reside in the State under Regulation 23, 25 or 26 of the Regulations of 2013 is in force;~~¹⁹¹⁶

(f) a person who has been given, or is deemed under the Act of 2015 to have been given, a permission to reside in the State under section 54 of that Act, where the permission concerned is in force;¹⁹¹⁷

¹⁹⁰⁶ Para. (b) substituted by s.18(a)(i) SWA 2016

¹⁹⁰⁷ Para. (c) substituted by s.18(a)(ii) SWA 2016

¹⁹⁰⁸ Para. (c) substituted by s.18(a)(ii) SWA 2016

¹⁹⁰⁹ Para. (ca) inserted by s.18(a)(iii) SWA 2016

¹⁹¹⁰ Para. (d) substituted by s.18(a) (iv) SWA 2016

¹⁹¹¹ Para. (d) substituted by s.18(a) (iv) SWA 2016

¹⁹¹² Para. (da) inserted by s.18(a)(v) SWA 2016

¹⁹¹³ Para. (e) substituted by s.18(a)(vi) SWA 2016

¹⁹¹⁴ Para. (e) substituted by s.18(a)(vi) SWA 2016

¹⁹¹⁵ Para (f) substituted by s.11(1)(e)(i) SW&PA 2014

¹⁹¹⁶ Para. (f) substituted by s.18(a)(vii) SWA 2016

¹⁹¹⁷ Para. (f) substituted by s.18(a)(vii) SWA 2016

~~(g) a person who has been granted permission to enter, and reside in, the State under Regulation 16(3)(a) or 16(4)(a) of the Regulations of 2006 by the Minister for Justice, Equality and Law Reform;~~¹⁹¹⁸

(h) a person whose presence in the State is in accordance with a permission to be in the State given by or on behalf of the Minister for Justice, Equality and Law Reform under and in accordance with section 4 or 5 of ~~the Immigration Act 2004.~~ *the Immigration Act 2004*;¹⁹¹⁹

(i) a person who has been given a permission to reside in the State under section 60(6) of the Act of 2015, where the permission concerned is in force.¹⁹²⁰

(7) The following persons shall not be regarded as being habitually resident in the State for the purpose of this Act:

(a) a person who has made an application under section 8 of the Act of 1996 and where the Minister for Justice, Equality and Law Reform has not yet made a decision as to whether a declaration under section 17 of the Act of 1996 will be given in respect of such application;

(aa) an applicant within the meaning of section 16 of the Act of 2015, or a person deemed to have made an application under that Act;¹⁹²¹

~~(b) a person in respect of whom an application for subsidiary protection has been made under Regulation 4 of the Regulations of 2006 and where a determination under that Regulation has not yet been made in respect of such application;~~¹⁹²²

(b) an applicant within the meaning of the Regulations of 2013, or any other person awaiting a grant of permission to reside in the State under Regulation 23, 25 or 26 of the Regulations of 2013;¹⁹²³

(c) a person who has been notified under section 3(3)(a) of the Immigration Act 1999 that the Minister for Justice, Equality and Law Reform proposes to make a deportation order, whether or not that person has made representations under section 3(3)(b) of that Act, and where the Minister for Justice, Equality and Law Reform has not yet made a decision as to whether a deportation order is to be made in respect of such person;

(d) a person who has made an application under section 8 of the Act of 1996 which has been refused by the Minister for Justice, Equality and Law Reform;

(da) a person who has made, or is deemed under the Act of 2015 to have made, an application under section 15 of that Act which has been refused by the Minister for Justice and Equality;¹⁹²⁴

~~(e) a person in respect of whom an application for subsidiary protection has been made under Regulation 4 of the Regulations of 2006 and a determination has been~~

¹⁹¹⁸ Para (g) deleted by s.11(1)(e)(ii) SW&PA 2014

¹⁹¹⁹ Substituted by s.18(a)(viii) SWA 2016

¹⁹²⁰ Para. (i) inserted by s.18(a)(ix) SWA 2016

¹⁹²¹ Para. (aa) inserted by s.18(b)(i) SWA 2016

¹⁹²² Para (b) substituted by s.11(1)(f)(i) SW&PA 2014

¹⁹²³ Para (b) substituted by s.11(1)(f)(i) SW&PA 2014

¹⁹²⁴ Para. (da) inserted by s.18(b)(ii) SWA 2016

~~made that the person is not eligible for subsidiary protection under the Regulations of 2006;~~¹⁹²⁵

(e) a person—

(i) whose application for subsidiary protection under Regulation 4 or 16 of the Regulations of 2006 has been refused, or whose permission under Regulation 4 or 16 of the Regulations of 2006 has been revoked,

(ii) whose application under Regulation 3 of the Regulations of 2013 for a subsidiary protection declaration has been refused, or whose subsidiary protection declaration has been revoked, under the Regulations of 2013, or

(iii) whose application under Regulation 25 or 26 of the Regulations of 2013 has been refused, or whose permission under Regulation 25 or 26 of the Regulations of 2013 has been revoked;¹⁹²⁶

~~(f) a person in respect of whom a deportation order has been made under section 3(1) of the Immigration Act 1999.~~¹⁹²⁷

(f) a person in relation to whom a deportation order has been made, or has been deemed under section 51 of the Act of 2015 to have been made, under section 3(1) of the Immigration Act 1999.¹⁹²⁸

(8) For the purpose of this Act, where a person—

~~(a) is given a declaration that he or she is a refugee under section 17 of the Act of 1996,~~¹⁹²⁹

(a) is given, or deemed under the Act of 2015 to be given, a refugee declaration under that Act,¹⁹³⁰

~~(b) is granted permission to enter and remain in the State under section 18(3)(a) or 18(4)(a) of the Act of 1996,~~¹⁹³¹

(b) is given, or deemed under the Act of 2015 to be given, a permission to enter and reside in the State under section 56 of that Act,¹⁹³²

(ba) is given, or deemed under the Act of 2015 to be given, a permission to reside in the State under section 57 of that Act,¹⁹³³

~~(c) is granted permission to remain in the State under Regulation 4(4) of the Regulations of 2006,~~¹⁹³⁴

(c) is given, or deemed under the Act of 2015 to be given, a subsidiary protection declaration under that Act, or¹⁹³⁵

¹⁹²⁵ Para (e) substituted by s.11(1)(f)(ii) SW&PA 2014

¹⁹²⁶ Para (e) substituted by s.11(1)(f)(ii) SW&PA 2014

¹⁹²⁷ Para. (f) substituted by s.18(b)(iii) SWA 2016

¹⁹²⁸ Para. (f) substituted by s.18(b)(iii) SWA 2016

¹⁹²⁹ Para. (a) substituted by s.18(c)(i) SWA 2016

¹⁹³⁰ Para. (a) substituted by s.18(c)(i) SWA 2016

¹⁹³¹ Para. (b) substituted by s.18(c)(ii) SWA 2016

¹⁹³² Para. (b) substituted by s.18(c)(ii) SWA 2016

¹⁹³³ Para. (ba) inserted by s.18(c)(iii) SWA 2016

¹⁹³⁴ Para. (c) substituted by s.18(c)(iv) SWA 2016

~~(d) is granted permission to enter and reside in the State under Regulation 16(3)(a) or 16(4)(a) of the Regulations of 2006, or~~¹⁹³⁶

~~(d) is granted permission to reside in the State under Regulation 23, 25 or 26 of the Regulations of 2013, or~~^{1937 1938}

(e) is granted permission to remain in the State under and in accordance with ~~the Immigration Act 1999 or~~¹⁹³⁹ the Immigration Act 2004,

he or she shall not be regarded as being habitually resident in the State for any period before the date on which the ~~declaration referred to in paragraph (a) was given or the permission referred to in paragraph (b), (c), (d) or (e), was granted.~~ **declaration or permission concerned was given or granted as the case may be and, in the case of a declaration or permission deemed to be given, for any period before the date on which the declaration or permission concerned was originally given.**¹⁹⁴⁰

(9) Notwithstanding that a person has, or is taken to have in accordance with subsection (6), a right to reside in the State the determination as to whether that person is habitually resident in the State shall be made in accordance with subsections (1) and (4).

(10) In this section—

‘Act of 1996’ means the Refugee Act 1996;

‘Act of 2015’ means the International Protection Act 2015;¹⁹⁴¹

‘Regulations of 2006’ means the European Communities (Eligibility for Protection) Regulations 2006 (S.I. No. 518 of ~~2006~~ 2006);¹⁹⁴²

‘Regulations of 2013’ means the European Union (Subsidiary Protection) Regulations 2013 (S.I. No. 426 of 2013).^{1943 1944}

CHAPTER 2

Provisions Relating To Entitlement

Avoidance of multiple payments.

247. ~~(1) Where, but for this subsection, more than one of the following would be payable to or in respect of a person in respect of the same period, only one shall be paid—~~

~~(a) any benefit specified in section 39(1) other than death benefit by way of a grant in respect of funeral expenses, bereavement grant or widowed parent grant, **widowed or surviving civil partner grant,**~~¹⁹⁴⁵

¹⁹³⁵ Para. (c) substituted by s.18(c)(iv) SWA 2016

¹⁹³⁶ Para (d) substituted by s.11(1)(g)(i) SW&PA 2014

¹⁹³⁷ Para (d) substituted by s.11(1)(g)(i) SW&PA 2014

¹⁹³⁸ Para. (d) deleted by s.18(c)(v) SWA 2016

¹⁹³⁹ Deleted by s.11(1)(g)(ii) SW&PA 2014

¹⁹⁴⁰ Substituted by s.18(c)(vi) SWA 2016

¹⁹⁴¹ Def. inserted by s.18(d) SWA 2016

¹⁹⁴² Substituted by s.11(1)(h)(i) SW&PA 2014

¹⁹⁴³ Inserted by s.11(1)(h)(ii) SW&PA 2014

¹⁹⁴⁴ Ss (5) to (10) originally inserted by s.15 SW&P(No. 2)A 2009

¹⁹⁴⁵ Inserted by s.26 and Sch. 3 SW&PA 2010

(b) any assistance specified in section 139(1) other than ¹⁹⁴⁶ ~~a payment under section 186A,~~ ¹⁹⁴⁷ ~~domiciliary care allowance,~~ ¹⁹⁴⁸ ~~supplementary welfare allowance or widowed parent grant,~~ ~~widowed or surviving civil partner grant,~~ ¹⁹⁴⁹ ~~or~~
(c) ~~infectious diseases maintenance allowance.~~ ¹⁹⁵⁰

(1) Where, but for this subsection, more than one of the following would be payable to or in respect of a person in respect of the same period, only one shall be paid—

(a) any benefit specified in section 39(1) other than death benefit by way of a grant in respect of funeral expenses, bereavement grant or widowed or surviving civil partner grant, or

(b) any assistance specified in section 139(1) other than a payment under section 186A, domiciliary care allowance, supplementary welfare allowance or widowed or surviving civil partner grant. ¹⁹⁵¹

(2) Where, but for this subsection, more than one of the following would be payable to or in respect of a qualified child in respect of the same period, only one shall be paid—

(a) any benefit specified in section 39(1) other than death benefit by way of a grant in respect of funeral expenses, bereavement grant or ~~widowed parent grant,~~ ~~widowed or surviving civil partner grant,~~ ¹⁹⁵²

(b) ~~any assistance specified in section 139(1) other than,~~ ¹⁹⁵³ ~~supplementary welfare allowance, or widowed parent grant,~~ ~~widowed or surviving civil partner grant,~~ ¹⁹⁵⁴
¹⁹⁵⁵

(b) any assistance specified in section 139(1) other than domiciliary care allowance, supplementary welfare allowance or widowed or surviving civil partner grant, ¹⁹⁵⁶

(c) ~~infectious diseases maintenance allowance,~~ ¹⁹⁵⁷

(d) any increase in a benefit referred to in paragraph (a) in respect of a qualified adult,

(e) any increase in assistance referred to in paragraph (b) in respect of a qualified adult,

(f) any increase in a benefit referred to in paragraph (a) in respect of a qualified child, or

(g) any increase in assistance referred to in paragraph (b) in respect of a qualified child.

(2A) For the purposes of this Act, where—

¹⁹⁴⁶ Uncommenced provision - see s.13(f) SW&PA 2008

¹⁹⁴⁷ Inserted by s. 24(g) SW&PA 2007

¹⁹⁴⁸ Inserted by s.16(g)(i) SW & PA 2008

¹⁹⁴⁹ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁹⁵⁰ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁵¹ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁵² Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁹⁵³ Uncommenced provision - see s.13(f) SW&PA 2008

¹⁹⁵⁴ Inserted by s.26 and Sch. 3 SW&PA 2010

¹⁹⁵⁵ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁵⁶ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁵⁷ Deleted by s.19 SW&P(MP)A 2013

(a) a payment is made to or in respect of a person and in respect of a benefit referred to in subsection (1)(a) or any assistance referred to in subsection (1)(b) (whether subsection (1) applies to the payment of such benefit or assistance or otherwise), and

(b) during the same period, the person referred to in paragraph (a) is a person to whom a payment specified in subsection (2B) would be payable to or in respect of an orphan, nothing in this Act shall prevent the payment of the benefit or assistance referred to in paragraph (a) being paid to a person referred to in that paragraph where, during the same period, that person is a person referred to in paragraph (b) to whom a payment referred to in that paragraph would also be made.

(2B) The payments referred to in subsection (2A)(b) are—

(a) guardian's payment (contributory),

(b) guardian's payment (non-contributory), or

(c) death benefit by way of pension under section 83.¹⁹⁵⁸

~~(3) For the purposes of this section—~~

~~(a) an increase of infectious diseases maintenance allowance may be regarded as a separate payment, and~~

~~(b) any payment specified in subsection (1)(a), (b) or (c) payable in respect of a person may be regarded as such specified payment payable to that person.¹⁹⁵⁹~~

(3) For the purposes of this section any payment specified in subsection (1) (a) or (b) payable in respect of a person shall be regarded as such specified payment payable to that person.¹⁹⁶⁰

(3A) Notwithstanding subsections (1) and (2) and subject to subsection (3B), where disablement benefit and any benefit described in section 39(1) (including any increase thereof) or assistance described in section 139(1) (including any increase thereof) would be payable to or in respect of a person in respect of the same period, both such payments may be paid to or in respect of that person in respect of that period.

(3B) For the purposes of subsection (3A), disablement benefit shall not include an increase —

(a) on account of incapacity by virtue of section 77,

(b) in respect of a qualified adult or a qualified child, by virtue of section 76,

(c) in respect of constant attendance by virtue of section 78, other than where a benefit, as described in section 39(1), is payable.¹⁹⁶¹

(4) Notwithstanding subsections (1) and (2), the Minister may make regulations enabling more than one of the payments specified in those subsections to be paid to or in respect of a person in respect of the same period.

¹⁹⁵⁸ Subsections (2) and (2A) inserted by s.13 SW(No.2)A 2019

¹⁹⁵⁹ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁶⁰ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁶¹ S. 247(3A) and (3B) inserted by s. 24(g)(ii) SW&PA 2007

(5) Regulations made under subsection (4) may provide for reducing the amount of any payments specified in subsections (1) and (2) (including the partial payment of any such payments).

(5A) A payment under section 186A shall not be payable where a person is in receipt of more than one payment by virtue of regulations made under subsection (4).¹⁹⁶²

~~(6) Where, but for this subsection, family income supplement **working family payment**¹⁹⁶³ and—~~

~~(a) unemployment benefit **jobseeker's benefit**,~~

~~(aa) **jobseeker's benefit (self-employed)**,¹⁹⁶⁴~~

~~(b) retirement pension **State pension (transition)**,~~

~~(c) unemployment assistance **jobseeker's allowance**,~~

~~(d) pre-retirement allowance, or~~

~~(e) farm assist,~~

~~would be payable to or in respect of a person in respect of the same period, only one shall be paid.~~

(6) Where, but for this subsection, working family payment and—

(a) partial capacity benefit,

(b) jobseeker's benefit,

(c) jobseeker's benefit (self-employed),

(d) carer's benefit,

(e) jobseeker's allowance,

(f) carer's allowance, or

(g) farm assist,

would be payable to or in respect of a person in respect of the same period, only one shall be paid.¹⁹⁶⁵

(7) Where, but for this subsection, ~~family income supplement~~ **working family payment**¹⁹⁶⁶ would be payable to a person in a period of incapacity for work in respect of which ~~disability benefit~~ **illness benefit** or injury benefit is also payable to that person, ~~family income supplement~~ **working family payment**¹⁹⁶⁷ shall not be payable to that person for that part of the period of incapacity for work which exceeds 6 weeks.

¹⁹⁶² S. 247(5A) inserted by s. 24(g)(iii) SW&PA 2007

¹⁹⁶³ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁹⁶⁴ Inserted by Item 18 of the Schedule of SWA 2019

¹⁹⁶⁵ Subsection (6) substituted by s.14 SW(No.2)A 2019

¹⁹⁶⁶ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁹⁶⁷ Substituted by s.8(1) and Sch. 1 SWA 2017

(8) Where a continued payment for qualified children under Part 7 is payable to a person for any period, any child who is regarded as a qualified child of that person shall not, for that period, be regarded as a qualified child for the purposes of entitling any person to an increase in benefit or assistance under this Act.

(9) In the case of a person who is participating in an initiative administered by the Minister and known as Back to Work Allowance and who is not entitled to, or in receipt of, ~~family income supplement~~ **working family payment**¹⁹⁶⁸, any sums paid by way of a continued payment for qualified children under Part 7 shall be treated as paid on account of the allowance payable under the Back to Work Allowance initiative.

(10) Where in respect of the death of a person, a bereavement grant and death benefit by way of a grant in respect of funeral expenses would, but for this subsection, be payable, only one such grant shall be payable.

(11) Regulations may provide for treating any payment specified in subsection (1) or (2), which it is subsequently decided was not payable, as paid on account of any other payment specified in those subsections which it is decided was payable.

(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.¹⁹⁶⁹

Disqualification for benefit while participating in certain employment programmes¹⁹⁷⁰

247A. A person shall be disqualified for receiving—

(a) any benefit specified in section 39(1), other than death benefit by way of a grant in respect of funeral expenses, bereavement grant or ~~widowed parent grant~~, **widowed parent grant**, or¹⁹⁷¹

(b) any assistance specified in section 139(1), other than a ~~widowed parent grant~~, or **widowed parent grant**,¹⁹⁷²

(c) ~~infectious diseases maintenance allowance~~,¹⁹⁷³

during any week or part of a week¹⁹⁷⁴ while he or she is engaged by another person to carry out work or perform any duty or service pursuant to a placement under ~~the programme referred to in paragraph (b) of subsection (1) of section 298A (inserted by section 27(b) of the Social Welfare and Pensions Act 2010)~~¹⁹⁷⁵ **the scheme referred to in section 298A(1)(b) (inserted by section 16 of the Social Welfare and Pensions Act 2011)**.¹⁹⁷⁷

¹⁹⁶⁸ Substituted by s.8(1) and Sch. 1 SWA 2017

¹⁹⁶⁹ Ss (12) inserted by s. 32 SWLR&PA 2006

¹⁹⁷⁰ Inserted by s.27 SW&PA 2010

¹⁹⁷¹ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁷² Substituted by s.19 SW&P(MP)A 2013

¹⁹⁷³ Deleted by s.19 SW&P(MP)A 2013

¹⁹⁷⁴ Inserted by s.16(2)(a) SW&PA 2011

¹⁹⁷⁵ Inserted by s.27 SW&PA 2010

¹⁹⁷⁶ Substituted by s.16(2)(b) SW&PA 2011

¹⁹⁷⁷ Substituted by s.16(2)(b) SW&PA 2011

Disqualification from certain payments while participating in community employment.

247B. (1) A person shall be disqualified from receiving—

(a) any benefit specified in section 39(1), other than—

- (i) disablement benefit payable in accordance with section 75,
- (ii) death benefit by way of a grant in respect of funeral expenses,
- (iii) bereavement grant, and
- (iv) widowed or surviving civil partner grant,

(b) an increase, payable under section 77, in disablement pension ~~on account of incapacity,~~ **on account of incapacity, and**¹⁹⁷⁸

(c) any assistance specified in section 139(1), other than—

~~(i) supplementary welfare allowance in so far as it relates to the payment of a supplement towards the amount of rent payable by a person in respect of his or her residence in accordance with section 198,~~

(i) a weekly or monthly payment payable in accordance with section 198,¹⁹⁷⁹

(ii) supplementary welfare allowance in so far as it relates to the payment of that allowance in accordance with section 200, 201, 202 or 206, and

~~(iii) a widowed or surviving civil partner grant, and~~ **surviving civil partner grant,**¹⁹⁸⁰

~~(d) infectious diseases maintenance allowance,~~¹⁹⁸¹

for any week or part of a week during which he or she is employed under a scheme provided by the Minister and known as Community Employment.

(2) Subsection (1) shall not apply to a person receiving any benefit, increase, assistance or allowance specified in ~~paragraphs (a) to (d)~~ **paragraphs (a) to (c)**¹⁹⁸² of subsection (1) while he or she is employed under a Community Employment scheme where the period of employment under that Community Employment scheme commenced before 16 January 2012.¹⁹⁸³

Disqualification from receipt of benefit where identity not authenticated

247C. (1) The Minister may give notice to any person receiving a benefit requesting the person, at the time specified in the notice, to satisfy the Minister as to his or her identity.

(2) A person shall be disqualified from receiving any benefit, including any increase in that benefit, for any week or part of a week, commencing after the time specified in the notice under subsection (1), or any time thereafter as may be determined by the Minister and

¹⁹⁷⁸ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁷⁹ Substituted by s.7 SW&PA 2012

¹⁹⁸⁰ Substituted by s.19 SW&P(MP)A 2013

¹⁹⁸¹ Deleted by s.19 SW&P(MP)A 2013

¹⁹⁸² Substituted by s.19 SW&P(MP)A 2013

¹⁹⁸³ Section 247B inserted by s.12 SWA 2011

notified to the person, during which that person fails to satisfy the Minister as to his or her identity.

(3) A notice under subsection (1) may require the person to whom it is given to do one or more than one of the following, as the Minister considers appropriate, at the time specified in the notice, or at any time thereafter as may be determined by the Minister and notified to the person:

(a) attend at an office of the Minister or such other place as the Minister may designate as appropriate;

(b) provide to the Minister, at that office or other designated place, such information and to produce any document to the Minister as the Minister may reasonably require for the purposes of authenticating the identity of that person;

(c) allow a photograph or other record of an image of that person to be taken, at that office or other designated place, in electronic form, for the purposes of the authentication, by the Minister, at any time, of the identity of that person;

(d) provide, at that office or other designated place, a sample of his or her signature in electronic form for the purposes of the authentication, by the Minister, at any time, of the identity of that person.

(4) The Minister shall retain in electronic form—

(a) any photograph or other record of an image of a person taken under subsection (3)(c), and

(b) any signature provided under subsection (3)(d),

in such manner that allows such photograph, other record or signature to be reproduced by electronic means.

(5) This section shall not be construed as preventing the Minister from using a method of authentication of the identity of a person in receipt of benefit, other than a method referred to in this section, which the Minister considers appropriate to use.¹⁹⁸⁴

Payments after death.

248. (1) In this section—

“benefit” means—

(a) ~~disability benefit~~ *illness benefit*,

(b) ~~unemployment benefit~~ *jobseeker’s benefit*,

(ba) jobseeker’s benefit (self-employed),¹⁹⁸⁵

(bb) Covid-19 pandemic unemployment payment,¹⁹⁸⁶

¹⁹⁸⁴ S.247C inserted by s.11 SW&P(MPA) 2013

¹⁹⁸⁵ Inserted by Item 19 of the Schedule of SWA 2019

¹⁹⁸⁶ Inserted by Section 13 of the SWA 2020

- (c) injury benefit,
- (d) carer's benefit,
- (e) ~~old age (contributory) pension~~ *State pension (contributory)*,
- (f) ~~retirement pension~~ *State pension (transition)*,
- (g) invalidity pension,
- (h) ~~unemployment assistance~~ *jobseeker's allowance*,
- (i) ~~old age (non-contributory) pension~~ *State pension (non-contributory)*,
- (j) blind pension,
- (k) ~~unemployability supplement~~ *incapacity supplement*¹⁹⁸⁷,
- (l) supplementary welfare allowance,
- (m) pre-retirement allowance,
- (n) disability allowance,
- (o) farm assist,
- ~~(p) widow's (contributory) pension or widower's (contributory) pension,~~
- (p) widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension,¹⁹⁸⁸
- (q) one-parent family payment,
- (r) death benefit under section 81,
- (s) carer's ~~allowance~~; *allowance*,¹⁹⁸⁹
- (t) working family payment,¹⁹⁹⁰
- (u) back to work family dividend;¹⁹⁹¹

“relevant person” has the meaning given to it by section 99(1) or, as appropriate, section 179(1).

(2) Notwithstanding any provisions to the contrary in this Act—

~~(a) where a person who is in receipt of a benefit which includes an increase in respect of a qualified adult, or where the spouse, *civil partner or cohabitant*¹⁹⁹² is in receipt of any benefit in his or her own right, dies, payment of the benefit shall continue to be~~

¹⁹⁸⁷ Substituted by s.4 SWLR&PA 2006

¹⁹⁸⁸ Substituted by s.23(1) SW&PA 2010

¹⁹⁸⁹ Substituted by s. 15(a)(i) SW(No.2)A 2019

¹⁹⁹⁰ Paras (t) and (u) inserted by s. 15(a)(ii) SW(No.2)A 2019

¹⁹⁹¹ Paras (t) and (u) inserted by s. 15(a)(ii) SW(No.2)A 2019

¹⁹⁹² Inserted by s.26 and Sch3 SW&PA 2010

~~made for 6 weeks after the date of death and shall, during that period, be made to the person and subject to the conditions that may be prescribed,~~

(a) where a person who is in receipt of a benefit dies, and—

(i) he or she was receiving an increase in respect of a qualified adult, or

(ii) his or her spouse, civil partner or cohabitant is in receipt of a benefit in his or her own right,

payment of the deceased person's benefit shall, subject to such conditions as may be prescribed, continue to be made for 6 weeks after his or her death and shall be paid, as the case may be, to the deceased person's qualified adult, spouse, civil partner or cohabitant,¹⁹⁹³

(b) where a qualified child, in respect of whom an increase of a benefit is being paid, dies, the amount of the increase shall continue to be made for 6 weeks after the date of death,

(c) where a person is in receipt of one-parent family payment by virtue of having not more than one qualified child and that qualified child dies, payment of the one-parent family payment including the increase in respect of that child shall continue to be made for 6 weeks after the date of death of the qualified child,

(d) where a qualified adult in respect of whom an increase of benefit is being paid, dies, payment of the increase shall continue to be made for 6 weeks after the date of death,

(e) where a person is in receipt of carer's benefit ~~or carer's allowance~~¹⁹⁹⁴ and the relevant person in respect of whom that carer is providing full-time care and attention dies, payment of the carer's benefit ~~or carer's allowance~~¹⁹⁹⁵ shall continue to be made for 6 weeks after the death of the relevant person,

(ea) where a person is in receipt of carer's allowance and the relevant person in respect of whom that carer is providing full-time care and attention dies, payment of the carer's allowance shall continue to be made for 12 weeks after the death of the relevant person,¹⁹⁹⁶

(eb) where a person is in receipt of domiciliary care allowance and the qualified child for the purpose of the payment of that allowance dies, payment of the domiciliary care allowance shall continue to be made for 3 months after the death of the child,¹⁹⁹⁷

(ec) where a person is in receipt of parent's benefit and the child in respect of whom that person is providing or assisting with his or her care dies, payment of the parent's benefit shall continue to be made,¹⁹⁹⁸

~~(ee) where a person who is in receipt of working family payment dies, that payment shall continue to be paid, as the case may be, to his or her spouse, civil partner or~~

¹⁹⁹³ Substituted by s. 15(b)(i) SW(No.2)A 2019

¹⁹⁹⁴ Deleted by s.9(1)(a) SW&PA 2015

¹⁹⁹⁵ Deleted by s.9(1)(a) SW&PA 2015

¹⁹⁹⁶ Para. (ea) inserted by s.9(1)(b) SW&PA 2015

¹⁹⁹⁷ Para. (eb) inserted by s.13(1) SWP&CRA 2018

¹⁹⁹⁸ Inserted by S.32 of PLBA 2019

~~cohabitant for 6 weeks (or for the remainder of the 52 week period provided for in accordance with section 230, whichever is the lesser) after the date of death of the deceased person,~~^{1999_2000}

~~(ed) where a person who is in receipt of back to work family dividend dies, that payment shall continue to be paid, as the case may be, to his or her spouse, civil partner or cohabitant for 6 weeks (or for the remainder of the 104 week period provided for in accordance with section 238C, whichever is the lesser) after the date of death of the deceased person,~~²⁰⁰¹⁺²⁰⁰²

(ed) where a person who is in receipt of working family payment dies, that payment shall continue to be paid, as the case may be, to his or her spouse, civil partner or cohabitant for 6 weeks (or for the remainder of the 52 week period provided for in accordance with section 230, whichever is the lesser) after the date of death of the deceased person,²⁰⁰³

(ee) where a person who is in receipt of back to work family dividend dies, that payment shall continue to be paid, as the case may be, to his or her spouse, civil partner or cohabitant for 6 weeks (or for the remainder of the 104 week period provided for in accordance with section 238C, whichever is the lesser) after the date of death of the deceased person,²⁰⁰⁴

(f) in any case where payment is made by virtue of paragraph ~~(a) or (d)~~ (a), (d), ~~(ee) or (ed)~~²⁰⁰⁵ **(ed) or (ee)**²⁰⁰⁶ entitlement to widow's (contributory) pension, widower's (contributory) pension, **surviving civil partner's (contributory) pension**²⁰⁰⁷ widow's (non-contributory) pension, widower's (non-contributory) pension, **surviving civil partner's (non-contributory) pension**,²⁰⁰⁸ ~~orphan's (contributory) allowance guardian's payment (contributory), orphan's (non-contributory) pension guardian's payment (non-contributory),~~ death benefit under section 81 or 83 or entitlement to one-parent family payment by virtue of being a widow or widower, shall not begin until after the end of the period of 6 weeks mentioned in paragraph ~~(a) or (d)~~ (a), (d), ~~(ee) or (ed)~~²⁰⁰⁹ **(ed) or (ee)**²⁰¹⁰ except and to the extent that regulations otherwise provide.

Absence from State or imprisonment.

249. (1) Except where regulations otherwise provide, a person shall be disqualified for receiving any benefit under Part 2 (including any increase of benefit) for any period during which that person—

(a) is absent from the State, or

(b) is undergoing ~~penal servitude,~~²⁰¹¹ imprisonment or detention in legal custody.²⁰¹²

¹⁹⁹⁹ Paras (ec) and (ed) inserted by s.15(b)(ii) SW(CNo.2)A 2019.

²⁰⁰⁰ Deleted by Section 13(1)(b)(i) of the SWA 2020

²⁰⁰¹ Paras (ec) and (ed) inserted by s.15(b)(ii) SW(CNo.2)A 2019.

²⁰⁰² Deleted by Section 13(1)(b)(i) of the SWA 2020

²⁰⁰³ Inserted by Section 13 of the SWA 2020

²⁰⁰⁴ Inserted by Section 13 of the SWA 2020

²⁰⁰⁵ Substituted by s.15(b)(iii) SW(No.2)A 2019

²⁰⁰⁶ Substituted by Section 13(1)(b)(iii) of the SWA 2020

²⁰⁰⁷ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁰⁰⁸ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁰⁰⁹ Substituted by s.15(b)(iii) SW(No.2)A 2019

²⁰¹⁰ Substituted by Section 13(1)(b)(iii) of the SWA 2020

²⁰¹¹ Deleted by s. 10(1)(a) SW&PA 2008

²⁰¹² This provision should be read in conjunction with Supreme Court judgment [\[2018\] IESC 57](#), concerning declaration of the provision to be invalid.

(1A) A person shall not be regarded as undergoing detention in legal custody for the purposes of entitlement to disability allowance while the person is detained for treatment pursuant to –

- (a) an admission order or renewal order made under the Mental Health Act 2001,
- (b) an order made under section 38 of the Health Act 1947,
- (c) an order made under section 4 or section 5 of the Criminal Law (Insanity) Act 2006,
- (d) an order made under section 17 of the Lunacy (Ireland) Act 1821, or
- (e) an order made under section 2 of the Trial of Lunatics Act 1883.²⁰¹³

~~(2) Except where regulations otherwise provide, where any benefit to which a person is entitled includes an increase under section 43(1), 66(1), 76(1), 112(1), 117(1) or 122(1) in respect of the husband or wife **husband, wife or civil partner**²⁰¹⁴ of that person, the increase shall not be payable for any period during which the husband or wife **husband, wife or civil partner**²⁰¹⁵—~~

- ~~(a) is absent from the State, or~~
- ~~(b) is undergoing penal servitude,²⁰¹⁶ imprisonment or detention in legal custody.²⁰¹⁷~~

(2) Except where regulations otherwise provide, where any benefit under Part 2 to which a person is entitled includes an increase in respect of a qualified adult, that increase shall not be payable for any period during which the qualified adult—

- (a) is absent from the State, or
- (b) is undergoing imprisonment or detention in legal custody.²⁰¹⁸

(3) Regulations may provide for the suspension of payment to or in respect of any person during any period mentioned in subsection (1) or (2) which is excepted from the operation of that subsection or which is payable otherwise than in respect of that period.

(4) Notwithstanding a disqualification by virtue of subsection (1) for receiving a benefit which includes an increase, the increase shall, in the cases that may be prescribed, be paid to the prescribed person.

(5) Regulations for the purposes of this section may be so framed as to make payment of bereavement grant, invalidity pension, ~~retirement pension~~ **State pension (transition) and widowed parent grant, and widowed or surviving civil partner grant,**²⁰¹⁹ subject to any specified conditions, limitations or restrictions and, in particular, in the case of persons absent from the State, may modify the periods which may be regarded for the purposes of section 114 as periods of retirement.

²⁰¹³ S. 249(1A) inserted by s. 10(1)(b) SW&PA 2008

²⁰¹⁴ Substituted by s.26 and Sch3 SW&PA 2010

²⁰¹⁵ Substituted by s.26 and Sch3 SW&PA 2010

²⁰¹⁶ Deleted by s. 10(a) SW&PA 2008

²⁰¹⁷ Substituted by s.16 SW&PA 2015

²⁰¹⁸ Substituted by s.16 SW&PA 2015

²⁰¹⁹ Inserted by s.26 and Sch. 3 SW&PA 2010

(6) A person shall be disqualified for receipt of ~~unemployment assistance~~ **jobseeker's allowance**, pre-retirement allowance, **supplementary welfare allowance**²⁰²⁰, disability allowance or farm assist (**including any increase in such allowance or assistance**)²⁰²¹ while he or she is—

(a) resident, whether temporarily or permanently, outside the State, or

(b) undergoing ~~penal servitude~~,²⁰²² imprisonment or detention in legal custody.

(6A) Where a person is entitled to jobseeker's allowance, pre-retirement allowance, supplementary welfare allowance, disability allowance or farm assist and such allowance or assistance includes an increase in respect of a qualified adult, that increase shall not be payable for any period during which the qualified adult is—

(a) resident, whether temporarily or permanently, outside the State, or

(b) undergoing imprisonment or detention in legal custody.²⁰²³

(7) Subject to subsection (8), a sum shall not be paid on account of an ~~old age (non-contributory) pension~~ **State pension (non-contributory)** or blind pension to any person while absent from the State.

(8) Where a person who takes up or has taken up residence in Northern Ireland was, immediately before the commencement of that residence, in receipt of ~~old age (non-contributory) pension~~ **State pension (non-contributory)** or blind pension, payment of the pension may, notwithstanding anything contained in subsection (7), be made until the earlier of—

(a) the expiration of 5 years from the beginning of that residence during which the person was continuously resident in Northern Ireland, or

(b) the receipt by the person of a payment by way of old age pension or public assistance from the appropriate authority in Northern Ireland.

(9) Where a person has been convicted of any offence and ordered to be imprisoned without the option of a fine or to suffer any greater punishment, the person shall be disqualified for receiving or continuing to receive ~~old age (non-contributory) pension~~ **State pension (non-contributory)** or blind pension while he or she is detained in prison in consequence of the order.

(10) Except where regulations otherwise provide, a person shall be disqualified for receiving widow's (non-contributory) pension, widower's (non-contributory) pension, **surviving civil partner's (non-contributory) pension**,²⁰²⁴ deserted wife's allowance, prisoner's wife's allowance or one-parent family payment, (including, in the case of one-parent family payment, any increase for a qualified child) for any period during which he or she is undergoing ~~penal servitude~~,²⁰²⁵ imprisonment or detention in legal custody.

²⁰²⁰ Inserted by s.18/Sch. 1 SW&PA 2008

²⁰²¹ Inserted by s.8(2)(a) SW&PA 2014

²⁰²² Deleted by s. 10(1)(a) SW&PA 2008

²⁰²³ Subsection (6A) inserted by s.8(2)(b) SW&PA 2014

²⁰²⁴ Inserted by s.26 and Sch3 SW&PA 2010

²⁰²⁵ Deleted by s. 10(1)(a) SW&PA 2008

(11) Regulations may provide for the suspension of payment of pension or allowance, as the case may be, to or in respect of any beneficiary during any period mentioned in subsection (10) which is excepted from the operation of that subsection or which is payable otherwise than in respect of that period.

(12) Notwithstanding a disqualification by virtue of subsection (10) for receiving a one-parent family payment, an increase in respect of a qualified child, shall, in the cases that may be prescribed, be paid to the prescribed person.

(13) (a) Where during any period a person is resident outside the State:

(i) a pension shall not be granted to or in respect of that person;

(ii) if a pension has been granted to or in respect of that person, no sum shall be payable during that period on account of that pension.

(b) Nothing in paragraph (a) shall operate to prevent, in the case of a person resident for any period outside the State—

(i) a pension being granted to or in respect of that person where a claim for that pension was made before that person became so resident, or

(ii) a pension granted by virtue of paragraph (a) being paid for any period before (but not after) that person became so resident, or

(iii) any arrears of a pension granted to or in respect of that person (being arrears due for a period before that person became so resident) being paid.

(c) In this subsection “pension” means a widow’s (non-contributory) pension, widower’s (non-contributory) pension, ***a surviving civil partner’s (non-contributory) pension***²⁰²⁶ or ~~orphan’s (non-contributory) pension~~ ***guardian’s payment (non-contributory)***.

(14) A person shall be disqualified for receiving one-parent family payment, deserted wife’s allowance and prisoner’s wife’s allowance while he or she is resident, whether temporarily or permanently, outside the State.

(15) Child benefit shall be paid only within the State.

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(17) A person is disqualified for receipt of domiciliary care allowance –

(a) while the person is undergoing a period of imprisonment or detention in legal custody, and

(b) except where regulations otherwise provide, while the person is resident, whether temporarily or permanently, outside the State.²⁰²⁸

²⁰²⁶ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁰²⁷ Uncommenced provision – see S.13(g) SW&PA 2008

²⁰²⁸ Ss (17) inserted by s.16(h) SW & PA 2008

CHAPTER 3
Appointment and Duties of Social Welfare Inspectors

Social welfare inspectors.

250. (1) The Minister, or an officer authorised in that behalf by special or general directions of the Minister, may appoint such and so many officers as is appropriate to be social welfare inspectors for the purposes of those provisions of Parts 2, 3, 4 ~~4, 4A,~~^{2029 2030} 5, 6, ~~7, 7,~~²⁰³¹ 8 and 12 and this Part as he or she may determine in the case of those appointments ***and the Minister may at any time terminate an appointment under this subsection whether or not the appointment was for a fixed period***²⁰³².

(1A) An appointment as a social welfare inspector shall cease—

- (a) if the Minister terminates the appointment,
- (b) if it is made for a fixed period, on the expiry of that period, or
- (c) if the person ceases to be an officer of the Minister.

(1B) A member of the Garda Síochána seconded ~~by the Minister~~ ***to the Minister***²⁰³³ for a purpose referred to in subsection (1) has conferred on him or her all the powers and duties conferred on a social welfare inspector by this section and may exercise those powers and duties under and in accordance with this Act.

(1C) A member of the Garda Síochána exercising a power or duty of a social welfare inspector shall continue to be under the general direction and control of the Commissioner of the Garda Síochána.

(1D) A member of the Garda Síochána exercising a power or duty of a social welfare inspector shall continue to have conferred on him or her and may exercise the powers and duties of a member of the Garda Síochána for purposes other than the purposes of this Act, as well as for the purposes of this Act.²⁰³⁴

(2) Every social welfare inspector shall investigate and report to the Minister on any claim for or in respect of benefit and any question arising on or in relation to that benefit, ***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***²⁰³⁵ which may be referred to him or her by the Minister, and may, for the purpose of the investigation and report require—

- (a) a claimant or a beneficiary,
- (b) the spouse, ***civil partner or cohabitant***²⁰³⁶ or any employer of the claimant or beneficiary,
- (c) in the case of ~~child benefit~~ ***child benefit or early childcare supplement***^{2037 2038} any person in charge of a child in respect of whom the claim is made,

²⁰²⁹ Inserted by s. 29 + Sch. 6 SWLR&PA 2006

²⁰³⁰ Reference to “4A” deleted by s.24 and Schedule SW(MP)A 2010

²⁰³¹ Substituted by Sch. to SW(MP)A 2015

²⁰³² Inserted by s.15(a)(i) SW&PA 2014

²⁰³³ Substituted by s.19(a) SWA 2016

²⁰³⁴ Subsections (1A) to (1D) inserted by s.15(a)(ii) SW&PA 2014

²⁰³⁵ Inserted by s.37 + Sch. 7 SWLR&PA 2006

²⁰³⁶ Inserted by s.26 and Sch. 3 SW&PA 2010

(d) a person liable to contribute under section 346(1) or any employer of that person, *and*²⁰³⁹

(e) the personal representative of a person who was at any time in receipt of any benefit, *and*²⁰⁴⁰

(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,²⁰⁴¹

to give to the social welfare inspector the information and to produce to him or her the documents, within the period that may be prescribed, as he or she may reasonably require.

(2A) A social welfare inspector may, for the purposes of investigating and reporting to the Minister on any claim for, or in respect of, and any question arising on or in relation to, the payment of a supplement referred to in section 198(3) towards the amount of rent payable by a person in respect of his or her residence, request the landlord of such residence to provide, within the prescribed period, to the social welfare inspector—

(a) a statement in writing—

(i) confirming that the person in respect of whom that supplement has been, or is to be, paid is a person from whom the landlord is, under a tenancy, entitled to receive rent in respect of the residence of that person,

(ii) as to whether the landlord is receiving rent solely from the person referred to in subparagraph (i) or from any other person under that tenancy in respect of that residence,

(iii) specifying the period of the tenancy of the person referred to in subparagraph (i), and

(iv) confirming that the person referred to in subparagraph (i) has resided, and where appropriate, continues to reside, at that residence for the period for which that supplement has been, or is to be, paid,

and

(b) such other information, in writing, relating to the tenancy of the person referred to in paragraph (a)(i) as the social welfare inspector may reasonably require for the purposes of the investigation concerned.

(2B) Where a request is to be made to a landlord by a social welfare inspector under subsection (2A), it shall be sent to the landlord in writing and addressed to the person concerned by name and may be sent or given—

(a) by delivering it to the person,

(b) by leaving it at the address at which the person ordinarily resides or, in the case where an address for service has been furnished, at that address, or

²⁰³⁷ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²⁰³⁸ Deleted by s.24(5) and Schedule SW(MP)A 2010

²⁰³⁹ “and” deleted by s. 37 + Sch. 7 SWLR&PA 2006

²⁰⁴⁰ “and” inserted by s. 37 + Sch. 7 SWLR&PA 2006

²⁰⁴¹ Para (f) inserted by s. 37 + Sch. 7 SWLR&PA 2006

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

(2C) In subsections (2A) and (2B)—

‘landlord’ has the meaning assigned to it by section 198C(3); and

‘tenancy’ has the meaning assigned to it by section 198(4D).²⁰⁴²

(3) A social welfare inspector shall, for the purposes of this Act or section 121(1)(a) of the Pensions Act 1990, have power to do all or any of the following:

(a) to enter, without prior notification, at all reasonable times, any premises or place liable to inspection under this section;

(b) in that premises or place—

(i) to make such examination or enquiry,

(ii) to inspect and take copies of or extracts from any records (including, in the case of information in a non-legible form, a copy of or extract from that information in permanent legible form), found there, and

(iii) to remove and retain those records for such period as may be reasonable for further examination,

as may be necessary to ascertain whether this Act is being complied with and while making any examination or enquiry to ascertain whether Chapter 2 of Part 2 is being complied with shall also have power to examine or enquire as to whether section 121(1)(a) of the Pensions Act 1990 is being complied with and to report, where necessary, to the Pensions Board;

(c) to secure for later inspection any such records;

(d) to examine, either alone or in the presence of any other person, as the social welfare inspector thinks fit in relation to any matters on which he or she may reasonably require information for the purposes of this Act, every person whom he or she finds in that premises or place, or whom he or she has reasonable cause to believe to be or to have been an insured person, and to require every such person to be so examined and to sign a declaration of the truth of the matters in respect of which the person is so examined; and

~~(e) for the purposes of answering or clarifying any questions that the social welfare inspector may have consequent on the inspection of the premises or place, to summon the occupier of the premises or place, any person who is or has been employing persons there or such person as may be designated by the occupier or employer as competent to answer or clarify any such questions, to attend at that premises or place (or at an office of the Minister), at any reasonable time specified, by written notice given to him or her at the premises or place or sent there to him or her by registered post.~~²⁰⁴³

²⁰⁴² Subsections 250 (2A), (2B) and (2C) inserted by s.14 SW&PA 2012

²⁰⁴³ Substituted by s.13(a) SW&PA 2011

(e) for the purposes of answering or clarifying any questions that the social welfare inspector may have consequent on the inspection of the premises or place, to summon—

- (i) the occupier of the premises or place,
 - (ii) any person who is or has been employing persons there,
 - (iii) such person as may be designated by the occupier or employer as competent to answer or clarify any such questions,
 - (iv) any employee of a person referred to in subparagraph (i) or (ii), or
 - (v) any person found in the premises or place who the social welfare inspector has reasonable cause to believe to be or to have been an insured person,
- to attend at that premises or place or at an office of the Minister, at any reasonable time specified, by written notice, and sent or given to him or her by

- (I) delivering it to the person,
- (II) leaving it at the said premises or place,
- (III) leaving it at the address at which the person ordinarily resides,
- (IV) sending it by post in a prepaid registered letter to the said premises or place, or
- (V) sending it by post in a prepaid registered letter to the address at which the person ordinarily resides.²⁰⁴⁴

(4) The occupier of any premises or place liable to inspection under this section, and any other person who—

(a) is or has been employing—

- (i) any person in insurable employment or insurable (occupational injuries) employment, or
- (ii) any claimant or beneficiary,

or

(b) engages or has engaged a person under a contract for service to perform a service,

and the employees of, or any other person providing bookkeeping, clerical or other administrative services to, any such occupier or other person and any insured person, claimant or beneficiary, or any person in respect of whom such a benefit is claimed, shall give to a social welfare inspector all such information and produce for inspection all such registers, cards, wages sheets, records of wages and other documents as the social welfare inspector may reasonably require for the purposes of ascertaining whether contributions are or have been payable, or have been duly paid in respect of any person, or whether any benefit

²⁰⁴⁴ Substituted by s.13(a) SW&PA 2011

is or was payable to or in respect of any person or whether section 121(1)(a) of the Pensions Act 1990 is being complied with.

(4A) A social welfare inspector shall—

(a) for the purposes of answering or clarifying any questions that the social welfare inspector may have in relation to the payment of employment contributions by employed contributors for the purposes of section 13(4B), and

(b) for the purposes of estimating the amount due in respect of employment contributions by employed contributors for the purposes of section 13(4B),

have the power to request that employed contributor to—

(i) produce for inspection all records of share-based remuneration realised, acquired or appropriated, as the case may be, by that employed contributor, and

(ii) provide details of the employer who granted the shares (including stock) which gave rise to that share-based remuneration,

at the address at which the person ordinarily resides or at an office of the Minister.²⁰⁴⁵

(5) Any person who holds a certificate of authorisation under Chapter 2 of Part 18 of the Act of 1997 shall, on the request of a social welfare inspector, furnish that certificate for inspection by him or her.

(6) A person who—

(a) willfully delays or obstructs a social welfare inspector in the exercise of any duty or power under this section, or

(b) refuses or neglects to answer any question or to give any information or to produce any record when required to do so under this section, or

(c) conceals or prevents or attempts to conceal or prevent any person from appearing before or being examined by a social welfare inspector or any other person appointed under this section,

is guilty of an offence.

(7) Every social welfare inspector shall be given a certificate of his or her appointment, and on entering any premises or place for the purposes of Parts 2, 3, 4, ~~4A~~,²⁰⁴⁶ ²⁰⁴⁷ 5, 6, ~~7~~, ~~7~~, ~~7A~~,²⁰⁴⁸ 8 and 12 and this Part shall, if so requested, produce that certificate.

(7A) A member of the Garda Síochána seconded ~~by the Minister~~ *to the Minister*²⁰⁴⁹ for a purpose referred to in subsection (1) shall be given a certificate of his or her secondment, and

²⁰⁴⁵ Subsection (4A) inserted by s.13(7) SWA 2011

²⁰⁴⁶ Inserted by s. 29 + Sch. 6 SWLR&PA 2006

²⁰⁴⁷ Deleted by s. 24 and Schedule SW(MP)A 2010

²⁰⁴⁸ Substituted by Sch. to SW(MP)A 2015

²⁰⁴⁹ Substituted by s.19(b) SWA 2016

on entering any premises or place for the purposes of Parts 2, 3, 4, 5, 6, ~~7~~, 7, 7A,²⁰⁵⁰ 8 and 12 and this Part shall, if so requested, produce that certificate.²⁰⁵¹

(8) The premises or places liable to inspection under this section are any premises or places where a social welfare inspector has reasonable grounds for believing that—

(a) persons are, or have been, employed, or

(b) there are, or have been, self-employed persons,

and any premises or place where a social welfare inspector has reasonable grounds for believing that any documents relating to persons in employment or to self-employed persons are kept.

(9) Where any premises or place is liable to be inspected by an inspector or by an officer appointed, employed by, or under the control of, another Minister of the Government, the Minister may make arrangements with that other Minister for any of the powers or duties of a social welfare inspector appointed under this section to be vested in the inspector or officer employed by that other Minister and, where such an arrangement is made, that inspector or officer shall have all the powers of a social welfare inspector appointed under this section for the purposes of the inspection.

(10) A social welfare inspector may exercise any of the powers or duties conferred on him or her by this section to investigate, at the request of the competent authority of another Member State or any other country with which the Minister has made a reciprocal arrangement under the provisions of section 287, any claim, by a person resident in the State, for or in respect of any social security payment under the legislation of another Member State, or under the legislation of any other country with which the Minister has made a reciprocal arrangement under those provisions.

~~(11) Where a person is required by subsection (4) to produce records required under regulations made under section 17(5), he or she shall, on the request of a social welfare inspector, produce those records at his or her registered address or his or her principal place of business.²⁰⁵²~~

(11) Where a person is required by subsection (4) to produce records required under regulations made under section 17(5), he or she shall, on the request of a social welfare inspector, produce those records at—

(a) the person's principal place of business,

(b) the address at which the person ordinarily resides, or

(c) an office of the Minister.²⁰⁵³

~~(12) A person who fails to comply with a request to produce records under subsection (11) within 21 days following the issue of that written request sent by registered post to the person at his or her registered address or his or her principal place of business is guilty of an offence.²⁰⁵⁴~~

²⁰⁵⁰ Substituted by Sch. to SW(MP)A 2015

²⁰⁵¹ Subsection (7A) inserted by s.15(a)(iii) SW&PA 2014

²⁰⁵² Substituted by s.13(b) SW&PA 2011

²⁰⁵³ Substituted by s.13(b) SW&PA 2011

²⁰⁵⁴ Substituted by s.13(b) SW&PA 2011

(12) If a person fails to comply with a request to produce records under subsection (11), a social welfare inspector may issue a written request for those records, addressed to the person concerned, by sending it by post in a prepaid registered letter to—

- (a) the person's principal place of business, or
- (b) the address at which the person ordinarily resides.

(12A) A person who fails to comply with a written request to produce records under subsection (12) within 21 days following the date of issue of that request is guilty of an offence.

(12B) For the purposes of this section, a company registered under the Companies Acts is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body is deemed to be ordinarily resident at its principal office or place of business.²⁰⁵⁵

(13) Records of persons employed which an employer is obliged to maintain under regulations made under section 17(5) which are produced to a social welfare inspector shall be prima facie evidence that those persons were employed by that employer and of the earnings of those persons and of the periods during which those persons were employed by the employer.

(14) Where an employer issues to an employee a statement containing the particulars specified in section 3 of the Terms of Employment (Information) Act 1994, he or she shall retain a copy of the statement for 2 years from the date on which that statement was issued and shall give that copy on demand to a social welfare inspector for inspection under this section.

(15) A social welfare inspector may, where he or she considers it necessary, be accompanied by a member of the Garda Síochána when performing any power conferred on a social welfare inspector under this section.

~~(16) A social welfare inspector may, for the purposes of ensuring compliance with this Act, if accompanied by a member of the Garda Síochána in uniform—~~

- ~~(a) stop any vehicle which he or she reasonably suspects is used in the course of employment or self-employment, and~~
- ~~(b) on production of his or her certificate of appointment, where so requested, question and make enquiries of any person in the vehicle or require that person to give to the social welfare inspector any record relating to his or her employment or self-employment which the person has possession of in the vehicle, and examine it.²⁰⁵⁶~~

~~(16) For the purpose of ensuring compliance with this Act, a social welfare inspector may—~~

- ~~(a) if accompanied by~~
 - ~~(i) a member of the Garda Síochána in uniform, or~~
 - ~~(ii) an officer of Customs and Excise in uniform, and~~

²⁰⁵⁵ Substituted by s.13(b) SW&PA 2011

²⁰⁵⁶ Substituted by s.16 SW&P(No. 2)A 2009

~~(b) on production of his or her certificate of appointment,~~

~~stop any vehicle and, for such purpose, may—~~

~~(i) question and make enquiries of any person in the vehicle or in the vicinity of the vehicle, and~~

~~(ii) require such person, where the social welfare inspector reasonably suspects that the vehicle is being used in the course of employment or self-employment, to give to the social welfare inspector any record relating to the employment or self-employment of such person which such person has possession of in the vehicle. ²⁰⁵⁷~~

(16) For the purposes of ensuring compliance with this Act, a social welfare inspector may, if accompanied by a member of the Garda Síochána ~~in uniform~~ ²⁰⁵⁸, or an officer of the Customs and Excise ~~in uniform~~ ²⁰⁵⁹—

(a) stop any vehicle, and

(b) on production of his or her certificate of appointment where so requested—

(i) question and make enquiries of any person in the vehicle or in the vicinity of the vehicle, and

(ii) require such person, where the social welfare inspector reasonably suspects that the vehicle is being used in the course of employment or self-employment, to give to the social welfare inspector any record relating to the employment or self-employment of such person which such person has possession of in the vehicle. ²⁰⁶⁰

(16A) For the purposes of ensuring compliance with this Act, a social welfare inspector may attend at any port. ²⁰⁶¹

(16B) Where, while attending at any port for the purposes of ensuring compliance with this Act, a social welfare inspector—

(a) has reasonable grounds to believe that there has been a contravention of this Act, and

(b) is accompanied by—

(i) a member of the Garda Síochána,

(ii) an officer of Customs and Excise, or

(iii) an immigration officer,

the social welfare inspector concerned may, on production of his or her certificate of appointment—

²⁰⁵⁷ Substituted by s.13(c) SW&PA 2011

²⁰⁵⁸ Deleted by s.15(a)(iv) SW&PA 2014

²⁰⁵⁹ Deleted by s.15(a)(iv) SW&PA 2014

²⁰⁶⁰ Substituted by s.13(c) SW&PA 2011

²⁰⁶¹ Inserted by s.17 SW&PA 2012

(i) question and make enquiries of a person who is a passenger at the port and is preparing to embark, or is embarking, from, or has landed in, the State in relation to any matter that concerns compliance with this Act, and

(ii) request such person to produce to that inspector any documents or other information as that inspector may reasonably require for the purposes of establishing the identity, and, where appropriate, the habitual residence, of that person.²⁰⁶²

~~(17) In this section ‘officer of Customs and Excise’ has the meaning assigned to it by the Customs Act 1956.~~^{2063 2064}

(17) In this section—

‘immigration officer’ shall be construed in accordance with section 3(1) of the Immigration Act 2004;

‘officer of Customs and Excise’ has the meaning assigned to it by the Customs Act 1956; ‘passenger’ means any person, other than a member of a crew, travelling or seeking to travel on board a ship or aircraft;

‘port’ has the meaning assigned to it by section 1(1) of the Immigration Act 2004.

Information to be furnished by financial institutions.²⁰⁶⁵

250A. (1) In this section -

‘authorised officer’ means an officer appointed by the Minister under section 250B to exercise the powers conferred on him or her by and under this section;

‘books, records or other documents’ includes—

(a) any records used in the business of a financial institution, or used in the transfer department of a financial institution acting as registrar of securities, whether—

(i) comprised in bound volume, loose-leaf binders or other loose-leaf filing system, loose-leaf ledger sheets, pages, folios or cards, or

(ii) kept on microfilm, magnetic tape or in any non-legible form (by the use of electronics or otherwise) which is capable of being reproduced in a legible form,

(b) every electronic or other automatic means, if any, by which any such thing in non-legible form is capable of being reproduced,

(c) documents in manuscript, documents which are typed, printed, stencilled or created by any other mechanical or partly mechanical process in use from time to time and documents which are produced by any photographic or photostatic process, and

(d) correspondence and records of other communications between a financial institution and its customers;

²⁰⁶² Inserted by s.17 SW&PA 2012

²⁰⁶³ Substituted by s.16 SW&P(No. 2)A 2009

²⁰⁶⁴ Substituted by s.17 SW&PA 2012

²⁰⁶⁵ S250A inserted by s.17 SW&P(No. 2)A 2009

‘financial institution’ means—

(a) a person who holds or has held a licence under section 9 of the Central Bank Act 1971, or a person who holds or has held a licence or other similar authorisation under the law of any other Member State which corresponds to a licence granted under that section,

(b) a person referred to in section 7(4) of the Central Bank Act 1971, or

(c) a credit institution (within the meaning of the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992)) which has been authorized by the Central Bank and Financial Services Authority of Ireland to carry on business of a credit institution in accordance with the provisions of the supervisory enactments (within the meaning of those Regulations).

(2) Notwithstanding any obligation as to secrecy or other restriction upon disclosure of information imposed by or under statute or otherwise, and subject to this section, an authorised officer, for the purpose of ensuring compliance with this Act, who has reasonable grounds to believe that there has been a contravention of this Act by a claimant or beneficiary may serve on a financial institution a notice in writing requiring the financial institution, within such period as may be specified in the notice, not being less than 30 days from the date of the service of the notice to do either or both of the following:

(a) to make available for inspection by the authorised officer such books, records, or other documents specified in the notice as are in the power, possession or procurement of the financial institution and as contain, or may, in the opinion of the authorised officer formed on reasonable grounds, contain information relevant to such contravention;

(b) to furnish to the authorised officer, in writing or otherwise, such information, explanations and particulars specified in the notice as the authorised officer may reasonably require, being information, explanations and particulars that are relevant to such contravention.

(3) Where, in compliance with the requirements of a notice under subsection (2), a financial institution makes available for inspection by an authorised officer, books, records or other documents, it shall afford the authorised officer reasonable assistance, including information, explanations and particulars, in relation to the use of all the electronic or other automatic means, if any, by which the books, records or other documents, in so far as they are in a non-legible form, are capable of being reproduced in a legible form and any data equipment or any associated apparatus or material.

(4) An authorised officer shall not serve a notice on a financial institution under subsection (2)—

(a) without the consent in writing of a person designated by the Minister under this section, and

(b) without having reasonable grounds to believe that the financial institution is likely to have information relevant to the claimant or beneficiary concerned and the contravention referred to in subsection (2).

(5) A notice served under subsection (2) shall name the claimant or beneficiary in respect of whom the authorised officer is enquiring.

(6) Where an authorised officer serves a notice under subsection (2), the authorised officer shall give the claimant or beneficiary concerned a copy of the notice.

(7) Where, in compliance with a notice served under subsection (2), a financial institution makes books, records or other documents available for inspection by an authorised officer, the authorised officer may make extracts from or copies of all or any part of the books, records or other documents.

(8) The Minister may designate in writing such and so many officers of the Minister as the Minister considers appropriate to consent to the service of a notice under this section.

(9) Where a notice—

(a) is to be served on a financial institution under this section it may be served—

(i) by leaving it at or sending it by post to the registered office of the body corporate,

(ii) by leaving it at or sending it by post to any place in the State at which the body corporate conducts its business, or

(iii) by sending it by post to any person who is a director, manager, secretary or other officer of the financial institution or is purporting to act in any such capacity, at the place where that person resides, and

(b) is to be given to a claimant or beneficiary it shall be addressed to the person concerned by name and may be sent or given—

(i) by delivering it to the person,

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

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

(10) A person who fails or refuses to comply with a notice under subsection (2) shall be guilty of an offence and shall be liable—

(a) on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both, or

(b) on conviction on indictment, to a fine not exceeding €20,000 or imprisonment for a term not exceeding 2 years or both. ²⁰⁶⁶

Authorised officers. ²⁰⁶⁷

250B. (1) The Minister may appoint such and so many officers of the Minister as the Minister considers appropriate to be authorised officers for the purposes of section 250A.

(2) An authorised officer appointed under this section shall be furnished with a certificate of his or her appointment by the Minister.

²⁰⁶⁶ S250A inserted by s.17 SW&P(No. 2)A 2009

²⁰⁶⁷ S250B inserted by s.17 SW&P(No. 2)A 2009

(3) When exercising a power conferred on him or her by this section, an authorised officer shall, if requested by a person thereby affected, produce the certificate of his or her appointment to that person.

(4) An appointment under this section shall cease when—

- (a) the Minister revokes the appointment,
- (b) the person ceases to be an officer of the Minister, or
- (c) if it is made for a fixed period, on the expiry of that period.²⁰⁶⁸

CHAPTER 4

Offences, Miscellaneous Control Provisions and Proceedings

False statements and offences, including offences relating to bodies corporate.

251. (1) Where, for the purpose of—

- (a) obtaining or establishing entitlement to payment of any benefit for himself or herself or for any other person, or
- (b) obtaining or establishing entitlement to payment of any benefit for himself or herself or for any other person which is in excess of that to which he or she was entitled, or
- (c) avoiding the making by himself or herself or any other person of any repayment under this Act,

or for any other purpose connected with this Act, any person—

- (i) knowingly makes any statement or representation (whether written or verbal) which is to his or her knowledge false or misleading in any material respect, or knowingly conceals any material fact, or
- (ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he or she knows to be false in a material particular,

he or she is guilty of an offence.

(2) An employer or any servant or agent of an employer who aids, abets, counsels or procures an employee in the employment of that employer to commit any offence under subsection (1) is guilty of an offence.

(3) A person convicted of an offence under this section in relation to child benefit shall be disqualified for the receipt of child benefit for 3 months immediately following the date of the conviction.

(4) Where a person is convicted of an offence under subsection (1) or (2) and by reason of that offence any benefit (other than ~~child benefit~~ **child benefit** or ~~early childcare~~)

²⁰⁶⁸ S250B inserted by s.17 SW&P(No. 2)A 2009

~~supplement~~²⁰⁶⁹ ²⁰⁷⁰ was received by the person's employee which he or she was not entitled to receive, that person shall be liable to pay to the Minister on demand a sum not exceeding the amount of that benefit which by reason of that offence was paid to that employee while in his or her employment and that sum, if not so repaid, may be recovered by the Minister as a debt under statute in any court of competent jurisdiction.

(5) Notwithstanding subsection (4) or any other provisions of this Act under which amounts of benefit (other than ~~child benefit~~ **child benefit** or ~~early childcare supplement~~)²⁰⁷¹ ²⁰⁷² may be recovered, the amount recovered by the Minister in any case may not exceed the amount of benefit received by the employee which he or she was not entitled to receive.

(6) Regulations under this Act may provide for offences consisting of contraventions of or failures to comply with those regulations and, where those offences are provided for, a person guilty of any such offence is liable on summary conviction to the penalties provided for in section 257(a).

(7) Where an offence under this Act is committed by a body corporate and, in the case of an offence under subsection (1), where the offence is committed by an employee or officer of the body corporate, and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to any willful neglect on the part of any person, being a director, manager, secretary or any other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(8) It shall be a defence to a prosecution for an offence under subsection (7) for a person to show that the offence was committed without his or her knowledge and that the person exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised, having regard to the nature of his or her position as director, manager, secretary or other officer and to all the circumstances.

(9) Any summons or other document required to be served for the purpose of proceedings under this Act on a body corporate may be served—

(a) by leaving it at or sending it by post to the registered office of the body corporate,

(b) by leaving it at or sending it by post to any place in the State at which the body corporate conducts business, or

(c) by sending it by post to any person who is a director, manager, secretary or other officer of the body corporate, or is purporting to act in any such capacity, at the place where that person resides.

(10) Where a person is in receipt of assistance or has made a claim for assistance which has not been finally determined, and his or her means have increased since the date of latest investigation of those means, or, where no such investigation has taken place, since the date of making the claim, the person shall, within the period that may be prescribed, give or cause to be given to the Minister written notification of the increase.

(11) A person who fails or neglects to comply with subsection (10) is guilty of an offence.

²⁰⁶⁹ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²⁰⁷⁰ Deleted by s.24(5) and Sch. SW(MP)A 2010

²⁰⁷¹ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²⁰⁷² Deleted by s.24(5) and Sch. SW(MP)A 2010

Offences in relation to employment contributions.

252. (1) An employer who—

- (a) fails to pay at or within a prescribed time any employment contribution which he or she is liable to pay under Part 2,
- (b) deducts or attempts to deduct the whole or any part of any employer's contribution in respect of a person from that person's remuneration,
- (c) makes a deduction from the remuneration of a person in respect of any employment contribution which the employer is liable under Part 2 to pay and fails to pay at or within a prescribed time the employment contribution in respect of which the deduction was made,
- (d) adjusts the method of payment of reckonable earnings to an employed contributor who was employed in consecutive weeks in order to ensure that the employed contributor is exempted in any week from the employment contribution payable under section 13(2)(b) and regulations made under section 13(10), or
- (e) adjusts the amount of payment of reckonable earnings to an employed contributor in order to avoid payment of contributions at the rate specified in section 13(2)(d)(ii),

is guilty of an offence.

(2) An employer, or a servant or agent acting on behalf of the employer, who, for the purpose of evading or reducing the amount of his or her liability in respect of employment contributions which the employer is liable to pay under Part 2 and which he or she has not paid—

- (a) knowingly makes any statement or representation (whether written or verbal) which is to his or her knowledge false or misleading in any material respect, or knowingly conceals any material fact, or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he or she knows to be false in a material particular,

is guilty of an offence.

(2A) An employed contributor to whom section 13(4B) applies who—

- (a) fails to pay at or within a prescribed time any employment contribution which he or she is liable to pay under Part 2, or
- (b) for the purposes of evading or reducing the amount of his or her liability in respect of employment contributions which he or she is liable to pay under Part 2 and which he or she has not paid—
 - (i) knowingly makes any statement or representation (whether written or verbal) which is to his or her knowledge false or misleading in any material respect, or knowingly conceals any material fact, or

(ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he or she knows to be false in a material particular,

is guilty of an offence.²⁰⁷³

(3) Where records are required to be kept by employers under regulations made under section 17(5) in so far as they relate to the recording of payment of earnings and the periods to which those earnings refer the records shall be recorded at or before the time of payment of those earnings.

(4) A person who fails to comply with subsection (3) is guilty of an offence.

(5) A person who is guilty of an offence under this section (other than an offence under subsection (1)(d)) is liable—

(a) on summary conviction, to the penalties provided in section 257(a), or

(b) on conviction on indictment, to a fine not exceeding €13,000 or the amount that is equivalent to twice the amount so unpaid or deducted, whichever is the greater, or to imprisonment for a term not exceeding 3 years, or to both.

(6) A person who is guilty of an offence under subsection (1)(d) is liable on summary conviction to a fine not exceeding €1,500 or on conviction on indictment to a fine not exceeding €13,000.

(7) (a) Where an employer has been convicted under this section of the offence of failing to pay any employment contributions which he or she is liable under Part 2 to pay, he or she is liable to pay to the Social Insurance Fund a sum equal to the amount which he or she has failed to pay and, on such conviction, if notice of the intention to do so has been served with the summons or warrant, evidence may be given of the failure on the part of the employer to pay other employment contributions in respect of the same person during the 3 years before the date when the notice was so served, and on proof of that failure the court may order the employer to pay to the Social Insurance Fund a sum equal to the total of all the employment contributions which he or she is so proved to have failed to pay, and the employer's right of appeal against the conviction under the section shall include a right to appeal against that order.

(b) Any sum paid by an employer under this subsection shall be treated as a payment in satisfaction of the unpaid employment contributions, and the insured person's portion of those employment contributions shall not be recoverable by the employer from the insured person.

(8) Nothing in this section or in regulations under this section shall be read as preventing the Minister from recovering by means of civil proceedings any sums due to the Social Insurance Fund.

Notification by employer or other person of commencement of employment.

253. (1) The Minister may require—

(a) an employer or any other person to notify the Minister of the date of the commencement of the employment of—

²⁰⁷³ Subsection (2A) inserted by s.13(8) SWA 2011

(i) any person in his or her employment,

(ii) any person engaged by him or her under a contract for service to perform a service, or

(b) a person engaged under a contract for service to perform a service to notify the Minister of the date on which any person was engaged to perform that service either with him or her or on his or her behalf whether under a contract for service or under any other arrangements made or to be made by him or her.

(2) The circumstances in which notification may be required under subsection (1) and the manner of that notification shall be prescribed in regulations.

(3) A person who fails to comply with this section or regulations made under this section is guilty of an offence.

Records to be maintained.

254. (1) For the purposes of this Act, the Minister may by regulations require—

(a) an employer or any other person to maintain the records that may be prescribed of any person in his or her employment and of any person engaged by him or her under a contract for service to perform a service, or

(b) a person engaged under a contract for service to perform a service to maintain the records that may be prescribed of any person engaged to perform that service either with him or her or on his or her behalf whether under a contract for service or under any other arrangements made or to be made by him or her.

(2) Records required to be maintained under subsection (1) shall be held at the place and for the period that may be prescribed.

(3) A person who fails to comply with this section is guilty of an offence.

Information to be given by employers to Minister.

255. (1) An employer shall give to the Minister in writing in respect of any person who is or was in his or her employment such particulars, including particulars as to periods of employment, as are required by the Minister to enable determination or review of a claim to any benefit by or in respect of that person.

(2) Regulations may specify the particulars which an employer shall give under subsection (1) and prescribe the manner in which those particulars shall be so given.

(3) A person who fails to comply with this section or regulations made under subsection (2) is guilty of an offence.

Application of Probation of Offenders Act 1907.

256. Where—

(a) (i) the employer of an employed contributor is charged with an offence in relation to payment of employment contributions in respect of that contributor, or

(ii) a person is charged under this Act with an offence in relation to the receipt of any benefit,

and

(b) the court proposes to make an order under section 1(1) of the Probation of Offenders Act 1907,

the court shall not make the order until it is satisfied that all arrears in respect of those contributions have been paid by the employer or any amounts due to be repaid in respect of that benefit have been repaid.

Penalties.

257. Except where otherwise provided for, a person guilty of an offence under this Act is liable—

(a) on summary conviction, to a fine not exceeding ~~€1,500~~ ~~€2,500~~²⁰⁷⁴ or imprisonment for a term not exceeding 6 months, or to both, or

(b) on conviction on indictment, to a fine not exceeding €13,000 or imprisonment for a term not exceeding 3 years, or to both.

Failure to keep records.

258. (1) Where—

(a) an employer has failed to keep records under regulations made under section 17(5) or 254 or has failed to make a notification under regulations made under section 253, or

(b) any other person who engages a person (referred to in this section as a “contracted person”) under a contract for service to perform a service, has failed to keep records under regulations made under section 254 or has failed to make a notification under regulations made under section 253,

and an employee or a contracted person (as the case may be) receives payment, due wholly or partly by reason of that failure, of benefit which he or she was not entitled to receive in respect of any day on which he or she was in the employment of that employer or engaged under a contract for service by the other person, the employer or other person (as the case may be) shall be liable to pay to the Minister on demand a sum not exceeding the amount of benefit which was paid to the employee or contracted person (as the case may be) and that sum, where not repaid by the employee or contracted person (as the case may be), may be recovered by the Minister as a simple contract debt in any court of competent jurisdiction.

(2) It shall be presumed until the contrary is shown that any payment referred to in subsection (1) was made wholly or partly by reason of the failure of the employer or other person who engages a person under a contract for service to keep the records or to make the notification referred to in that subsection.

(3) Where there is a material difference between any document issued by or on behalf of an employer or other person who engages a person under a contract for service, to an employee or contracted person (as the case may be) and any other document given to the Minister or to the Collector-General and the employee or contracted person (as the case may be) wholly or partly as a result of that difference, receives benefit to which he or she was not entitled, the employer or other person (as the case may be) shall be liable to pay to the Minister on demand a sum not exceeding the amount of benefit which was paid to the employee or contracted person (as the case may be) and that sum, where not repaid by the employee or

²⁰⁷⁴ Substituted by s.6 [FA 2010](#)

contracted person (as the case may be), may be recovered by the Minister as a simple contract debt in any court of competent jurisdiction.

(4) For the purposes of subsection (3) an employee or contracted person (as the case may be) shall include the employee's or contracted person's spouse *or civil partner*²⁰⁷⁵ and any other member of the employee's or contracted person's household (as the case may be) whose entitlement to benefit is regulated or adjusted by the income of the employee or contracted person (as the case may be).

(5) Notwithstanding subsection (1) or (3) or any other provisions of this Act under which amounts of benefit may be recovered, the amount recovered by the Minister in any case may not exceed the amount of benefit received by the employee or contracted person (as the case may be) which he or she was not entitled to receive.

Loss of benefit due to employer's default.

259. (1) Where an employer has failed or neglected—

(a) to pay any employment contribution which under Part 2 he or she is liable to pay in respect of an employed contributor in his or her employment, or

(b) to comply, in relation to any such employed contributor, with any requirement of Part 2 or regulations which relate to the payment or collection of employment contributions,

and by reason thereof the employed contributor or any other person has lost, in whole or in part, any benefit to which he or she would have been entitled, the contributor or other person shall be entitled to recover from the employer as a simple contract debt in any court of competent jurisdiction a sum equal to the amount of the benefit so lost.

(2) Where an employed contributor or other person has lost benefit in a case referred to in subsection (1) and has not taken proceedings under that subsection, the Minister may, in the name of and on behalf of the contributor or other person, recover from the employer as a simple contract debt in any court of competent jurisdiction a sum equal to the amount of the benefit lost.

(3) Where, by virtue of regulations made under section 17—

(a) employment contributions which have not been paid have been treated as paid, or

(b) employment contributions which have been paid late have been treated as paid on the due dates,

and by reason thereof benefit which would otherwise have been lost was paid, there shall be due to the Social Insurance Fund by the employer the amount of the benefit which would have been so lost.

(4) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of Part 2 or this Part in respect of the same failure or neglect.

(5) In ascertaining, for the purposes of this section, the amount of benefit lost by an employed contributor or other person by reason of a failure or neglect referred to in subsection (1),

²⁰⁷⁵ Inserted by s.26 and Sch3 SW&PA 2010

account shall not be taken of any assistance paid to the contributor or other person during a period when he or she was losing benefit by reason of that failure or neglect.

(6) The amount of assistance paid to an employed contributor or other person during a period when he or she was losing benefit by reason of a failure or neglect referred to in subsection (1) may be recovered by the Minister—

(a) in case the full amount of the benefit which was lost has been recovered by the contributor or other person, from that contributor or other person—

(i) by deduction from any benefit or assistance to which the contributor or other person may be or become entitled, or

(ii) as a simple contract debt in any court of competent jurisdiction,

or

(b) in any other case, from the employer guilty of the failure or neglect as a simple contract debt in any court of competent jurisdiction,

and, where the amount of the assistance is recovered by the Minister from the employer, the sum recoverable by the contributor or other person from the employer under this section shall be reduced by the amount of that assistance.

(7) Any sums recovered by the Minister under subsection (6) shall be paid into the Exchequer.

(8) In this section “benefit” means benefit under Part 2.

Information required by Minister.

260. (1) For the purposes of controlling and investigating entitlement to any benefit, under this Act or under schemes administered by or on behalf of the Minister, the Minister may require the persons that may be prescribed to provide the Minister with the information in relation to those persons or classes of persons that may be prescribed.

(2) A person who fails to comply with a requirement made of him or her under subsection (1) or regulations made under that subsection is guilty of an offence and is liable on summary conviction to a fine not exceeding €2,000.

Exchange of information.

261. ~~(1) Information held by the Minister for the purposes of this Act (including the purpose of collection by the Revenue Commissioners of employment and self-employment contributions) may be transferred by the Minister to the Revenue Commissioners, and information held by the Revenue Commissioners for the purposes of this Act or the Income Tax Acts, relating to employers, the reckonable earnings of employed contributors or reckonable income or reckonable emoluments of self-employed contributors or of any payments made under this Act or such information as is contained in declarations made in accordance with Regulation 3 of the Income Tax (Relevant Contracts) Regulations 2000 (S.I. No. 71 of 2000)~~²⁰⁷⁶ may be transferred by the Revenue Commissioners to the Minister.²⁰⁷⁷

(1) Information held by the Minister for the purposes of this Act (including the purpose of collection by the Revenue Commissioners of employment and self-employment contributions

²⁰⁷⁶ Inserted by s.31(a) SW&PA 2007

²⁰⁷⁷ Substituted by s.6(6) SWP(MP)A 2013

and contributions under Chapter 5A or 5B of Part 2) may be transferred by the Minister to the Revenue Commissioners, and—

(a) information held by the Revenue Commissioners for the purposes of this Act or the Income Tax Acts relating to—

(i) employers,

(ii) reckonable earnings of employed contributors,

(iii) reckonable income or reckonable emoluments of self-employed contributors,

(iv) remuneration of persons to whom Chapter 5A of Part 2 applies,

(v) income of persons to whom Chapter 5B of Part 2 applies, or

(vi) any payments made under this Act,

or

(b) information contained in declarations made in accordance with Regulation 3 of the Income Tax (Relevant Contracts) Regulations 2000 (S.I. No. 71 of 2000),

may be transferred by the Revenue Commissioners to the Minister.²⁰⁷⁸

(2) Information held by the Minister for the purposes of this Act or the control of schemes administered by or on behalf of the Minister or the Department of Social and Family Affairs may be transferred by the Minister to another Minister of the Government or a specified body, and information held by another Minister of the Government or a specified body which is required for those purposes or the control of any such scheme administered by another Minister of the Government or a specified body may be transferred by that Minister of the Government or the specified body to the Minister.

(2A) Information held by the Minister for the purpose of this Act or the control of schemes administered by or on behalf of the Minister or the Department of Social and Family Affairs may be transferred by the Minister to –

(a) the competent authority of a Member State other than the State, or

(b) an international organisation, any other state or government or the proper authority under any other government in respect of which an order has been made under section 287.²⁰⁷⁹

(2B) Information held by the Minister for the purposes of this Act or the control of schemes administered by or on behalf of the Minister or the Department of Social Protection may be transferred by the Minister to a payment service provider, and information held by a payment service provider which is required for those purposes or the control of any such scheme administered by a payment service provider may be transferred by the payment service provider to the Minister.²⁰⁸⁰

²⁰⁷⁸ Substituted by s.6(6) SW&P(MP)A 2013

²⁰⁷⁹ Inserted by s.18 SW&P (No. 2) A 2009

²⁰⁸⁰ Subsection (2B) inserted by s.3(d) SW&PA 2014

(3) In subsection (2) “specified body” means a local authority, the Executive, the Garda Síochána or any other body established—

(a) by or under any enactment (other than the Companies Acts 1963 to 2005), or

(b) under the Companies Acts 1963 to 2005, in pursuance of powers conferred by or under any other enactment,

and financed wholly or partly by means of moneys provided or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government and a subsidiary of any such body.

Disclosure of certain information to Minister for Enterprise, Trade and Employment, etc.

261A. (1) In this section—

‘specified body’ means the body dedicated to employment rights compliance to be established or established (both on an interim and a statutory basis) and referred to in sections 12.3 and 13.1 of Part Two of the publication entitled ‘Ten-Year Framework Social Partnership Agreement 2006 – 2015’, published on behalf of the Department of the Taoiseach in June 2006 by the Stationery Office and known as ‘Towards 2016’.

(2) Notwithstanding any obligation to maintain secrecy or any other restriction on the disclosure or production of information obtained by or furnished to the Minister, the Minister may transfer to the Minister for Enterprise, Trade and Employment or the specified body information held by the Minister in relation to —

(a) the employers of individuals, or

(b) individuals, as to whether or not they are in insurable employment or insurable self-employment,

and information of the type referred to in paragraph (a) or (b) held by the Minister for Enterprise, Trade and Employment or the specified body may be transferred by the Minister for Enterprise, Trade and Employment or the specified body, as the case may be, to the Minister.

(3) Information transferred by the Minister under subsection (2) to the Minister for Enterprise, Trade and Employment or the specified body may be used only by the Minister for Enterprise, Trade and Employment or the specified body, as the case may be, in the exercise of their powers and functions in relation to employment rights compliance and shall not be disclosed by the Minister for Enterprise, Trade and Employment or the specified body to any other person (other than to each other) for any other purpose whatsoever.²⁰⁸¹

Personal public service number.

262. (1) Subject to this section, in this section and sections 263 to 270—

“personal public service number” means a number allocated and issued in accordance with subsection (2);

²⁰⁸¹ S. 261A inserted by s. 31(b) SW&PA 2007

“primary account number”, in relation to a ~~public service card~~ **public services card**²⁰⁸² or a card issued under section 264, means a number consisting of—

- (a) an issuer number, issued under licence from the International Standards Organisation,
- (b) a personal public service number, and
- (c) a card number allocated, in the case of a ~~public service card~~ **public services card**²⁰⁸³, by the Minister or, in any other case, by the person who issued the card;

“public service identity”, in relation to a person, means the information specified in subsection (3) and the person’s personal public service number;

“specified body” shall be read in accordance with Schedule 5;

~~“spouse” means—~~

- ~~(a) each of a married couple, or~~
- ~~(b) a man and woman who are not married to each other but are cohabiting as husband and wife;~~

“spouse” means each person of a married couple;²⁰⁸⁴

“transaction” means—

- (a) an application,
- (b) a claim,
- (c) a communication,
- (d) a payment, or
- (e) a supply of a service,

relating to a public function of a specified body which relates to a natural person.

(2) The Minister may, **subject to subsection (2A)**,²⁰⁸⁵ allocate and issue a personal public service number to each person who is the subject of any transaction with a specified body.

(2A) The Minister shall not allocate and issue a personal public service number to a person unless the Minister is satisfied as to the identity of the person to whom such number is to be allocated and issued.²⁰⁸⁶

(3) (a) For the purposes of allocating and issuing a personal public service number, a person or, in the case of a deceased person, a personal representative, who has any

²⁰⁸² Substituted by s.9(3) SW&PA 2010

²⁰⁸³ Substituted by s.9(3) SW&PA 2010

²⁰⁸⁴ Substituted by s.23(2) SW&PA 2010

²⁰⁸⁵ Inserted by s.15 SW&PA 2012

²⁰⁸⁶ Inserted by s.15 SW&PA 2012

transaction with a specified body shall give to the Minister the following information in relation to the person or the deceased person, as the case may be:

- (i) surname;
- (ii) forename;
- (iii) date of birth;
- (iv) place of birth;
- (v) sex;
- (vi) all former surnames (if any);
- (vii) all former surnames (if any) of his or her mother;
- (viii) address;
- (ix) nationality;
- (x) date of death;
- (xa) certificate of death, where relevant;
- ~~(xb) a photograph of the person, other than in the case of a deceased person;~~
- ~~(xc) the person's signature, other than in the case of a deceased person;^{2087/2088}~~
- (xb) where required, a photograph of the person, except where the person is deceased;
- (xc) where required, the person's signature, except where the person is deceased;²⁰⁸⁹
- (xd) any other information as may be required for authentication purposes that is uniquely linked to or is capable of identifying that person;²⁰⁹⁰
- (xi) any other information that may be prescribed which, in the opinion of the Minister, is relevant to and necessary for the allocation of a personal public service number.

~~(b) Where a person who has a transaction with a specified body is under the age of 18 years, the following information in relation to the person shall be given to the Minister—~~

- ~~(i) the information specified in paragraph (a), and~~
- ~~(ii) the public service identity of his or her mother and father.²⁰⁹¹~~

²⁰⁸⁷ Paras (xa), (xb) and (xc) inserted by s.32(a)(i) SW&PA 2007

²⁰⁸⁸ Substituted by s. 8 SW&PA 2010

²⁰⁸⁹ Substituted by s.8(a) SW&PA 2010

²⁰⁹⁰ Subpara (xd) inserted by s.8(b) SW&PA 2010

²⁰⁹¹ Substituted by s.14(a) SW&PA 2011

(b) Where a person who has a transaction with a specified body is under the age of 18 years, the following information shall be given to the Minister in relation to that person by that person's parent or guardian—

(i) the information specified in paragraph (a), and

(ii) the public service identity of—

(I) his or her mother and father, or

(II) his or her guardian or guardians.²⁰⁹²

(c) Where a person who has a transaction with a specified body is certified by a registered medical practitioner to be a person who is or is likely soon to become unable for the time being to manage his or her own financial affairs, the following information shall be given to the Minister by any person appointed to act on behalf of that person in accordance with regulations made under section 244(1)(b)—

(i) the information specified in paragraph (a) in relation to the person so certified, and

(ii) the public service identity of the person so appointed to act on behalf of that person.²⁰⁹³

(3A) An officer of the Minister may retain any document (including a passport, visa, identity card, driving licence, birth certificate or marriage certificate or any other document establishing a person's nationality or identity), given for any purpose under this Act, for such period as may be reasonable which period shall not in any case exceed 21 days.

(3B) Where a document is retained under subsection (3A) a receipt in the prescribed form shall be issued in respect of it to the person concerned.²⁰⁹⁴

(4) A person shall give to a specified body his or her personal public service number and the personal public service numbers of his or her spouse, *civil partner or cohabitant*²⁰⁹⁵ and children, where relevant, as required by the body for the purposes of the person's transaction.

(5) Where a specified body collects from a person any of the information specified in subsection (3), that information shall also be collected for the purpose of maintaining the person's public service identity.

(6) (a) Where a specified body has a transaction with a person, the Minister may share the person's public service identity with the specified body to the extent necessary *in respect of that transaction*²⁰⁹⁶ for authentication by the specified body of the person's public service identity.

(b) A specified body may use a person's public service identity in performing its public functions insofar as those functions relate to the person concerned.

²⁰⁹² Substituted by s.14(a) SW&PA 2011

²⁰⁹³ Substituted by s.14(a) SW&PA 2011

²⁰⁹⁴ S. 262(3A) and (3B) inserted by s. 32(a)(ii) SW&PA 2007

²⁰⁹⁵ Inserted by s.26 and Sch3 SW&PA 2010

²⁰⁹⁶ Inserted by s. 32(a)(iii) SW&PA 2007

(7) Where an tArd-Chláraitheoir collects information relating to the registration of the birth of a person, the information shall also be collected for the purpose of allocating the person's personal public service number.

(8) In this section a reference to a personal public service number shall be read as including a reference to a number known as a revenue and social insurance number.

~~(9) A person, other than—~~

~~(a) the person to whom the personal public service number concerned refers,~~

~~(b) a specified body,~~

~~(c) a person who has a transaction with a specified body where the personal public service number is relevant to the transaction between the person and the specified body, or~~

~~(d) a person who is required to comply with section 260 or 261 or regulations made under those sections,~~

~~who uses a personal public service number or seeks to have a personal public service number disclosed to him or her is guilty of an offence.²⁰⁹⁷~~

(9) A person, other than—

(a) the person to whom the personal public service number concerned refers,

(b) the parent or guardian of the person under the age of 18 years to whom the personal public service number concerned refers,

(c) a person who has been appointed to act on behalf of a person in accordance with regulations made under section 244(1)(b) to whom the personal public service number concerned refers,

(d) a specified body,

(e) a person who has a transaction with a specified body where the personal public service number is relevant to the transaction between the person and the specified body, or

(f) a person who is required to comply with section 260, 261 or 261A or regulations made under section 260,

who uses a personal public service number or seeks to have a personal public service number disclosed to him or her is guilty of an offence.²⁰⁹⁸

Offence.²⁰⁹⁹

262A. (1) A person is guilty of an offence where, for the purposes of the allocation and issue of a personal public service number to him or her or for any other person (including a deceased person) he or she –

²⁰⁹⁷ Substituted by s.14(b) SW&PA 2011

²⁰⁹⁸ Substituted by s.14(b) SW&PA 2011

²⁰⁹⁹ S. 262A inserted by s. 32(b) SW&PA 2007

(a) knowingly makes any statement or representation, whether oral or written, which he or she knows to be false or misleading in any material respect, or knowingly conceals any material fact, or

(b) gives or causes or knowingly allows to be given any document or other information which the person is required under section 262 or regulations made thereunder to give and which he or she knows to be false or misleading in any material respect.

(2) A person guilty of an offence under this section is liable –

(a) on summary conviction, to a fine not exceeding €1,500 or imprisonment for a term not exceeding 6 months, or to both, or

(b) on conviction on indictment, to a fine not exceeding €25,000 or imprisonment for a term not exceeding 5 years, or to both.²¹⁰⁰

Public service card. Public services card²¹⁰¹

~~263. (1) The Minister may issue a card (in this Act referred to as a “public service card”) to a person in the format that the Minister deems fit, with—~~

~~(a) the person’s name, personal public service number, primary account number and date of issue inscribed, and~~

~~(b) the person’s date of birth, gender, primary account number, expiry date of card and card service code electronically encoded,~~

~~on the card and with any other information that may be prescribed either inscribed or electronically encoded on the card.²¹⁰²~~

~~(1) The Minister may issue a card (in this Act referred to as a ‘public service card’) to a person in the format that the Minister deems fit, with—~~

~~(a) the person’s name, personal public service number, photograph, signature, card issue number and expiry date of the card inscribed, and~~

~~(b) the person’s name, personal public service number, date of birth, sex, all former surnames (if any) of the person’s mother, photograph, signature and expiry date of card electronically encoded,~~

~~on the card and any other information that may be prescribed either inscribed or electronically encoded on the card.^{2103/2104}~~

(1) The Minister may, *subject to subsection (1C)*,²¹⁰⁵ issue a card (in this Act referred to as a ‘public services card’) to a person in such form as the Minister considers fit for the purposes of carrying out a transaction.

²¹⁰⁰ S. 262A inserted by s. 32(b) SW&PA 2007

²¹⁰¹ Heading substituted by s. 9(3) SW&PA 2010

²¹⁰² S. 263(1) substituted by s. 32(c) SW&PA 2007

²¹⁰³ S. 263(1) substituted by s. 32(c) SW&PA 2007

²¹⁰⁴ Substituted by s.9(1) SW&PA 2010

²¹⁰⁵ Inserted by s.15 SW&PA 2012

(1A) Where a public services card is issued to a person the following information shall be inscribed on it:

- (a) the name of that person;
- (b) the personal public service number of that person;
- (c) a photograph of that person;
- (d) the signature of that person;
- (e) the issue number of the public services card;
- (f) the expiry date of the public services card;
- (g) such other information (if any) as may be prescribed by the Minister.

(1B) A public services card shall in addition to the information referred to in subsection (1A) contain the following information which shall be in non-legible form and be capable of being recovered by electronic means:

- (a) the name of that person;
- (b) the personal public service number of that person;
- (c) the date of birth of that person;
- (d) the place of birth of that person;
- (e) the sex of that person;
- (f) the nationality of that person;
- (g) all former surnames (if any) of that person;
- (h) all former surnames (if any) of the mother of that person;
- (i) a photograph of that person;
- (j) the signature of that person;
- (k) the issue number of the public services card;
- (l) the expiry date of the public services card;
- (m) such other information (if any) as may be prescribed by the Minister.²¹⁰⁶

(1C) The Minister shall not issue a public services card to a person unless the Minister is satisfied as to the identity of the person to whom such card is to be issued.²¹⁰⁷

²¹⁰⁶ Substituted by s.9(1) SW&PA 2010

²¹⁰⁷ Inserted by s.15 SW&PA 2012

(2) A person may, on request in that behalf to the Minister, obtain within 28 days of that request, where practicable, information which is electronically encoded on his or her ~~public service card~~ *public services card*²¹⁰⁸.

(3) A person shall produce his or her ~~public service card~~ *public services card*²¹⁰⁹ at the request of a specified body for the purposes of a transaction.

(4) A person who uses or attempts to use a ~~public service card~~ *public services card*²¹¹⁰ or seeks to have a ~~public service card~~ *public services card*²¹¹¹ produced to him or her, other than—

(a) the person who is the holder of the card or a person appointed to act on behalf of the cardholder,

(b) a specified body, for the purposes of a transaction, or

(c) a person who has a transaction with a specified body where the personal public service number on the card is relevant to the transaction between that person and the specified body,

is guilty of an offence.

Cancellation and surrender of public services card.²¹¹²

263A. (1) The Minister may cancel a public services card issued to a person under section 263 if—

(a) the Minister becomes aware of a fact or a circumstance, whether occurring before or after the issue of the public services card, that would have required or permitted him or her to refuse to issue the public services card under section 263 to the person had the Minister been aware of the fact or the circumstance before the public services card was issued,

(b) the Minister is notified that the public services card is, without lawful authority or reasonable excuse, in the possession or control of another person, or

(c) the Minister is notified by the person, or by another person who has been appointed to act on behalf of that person in accordance with regulations made under section 244(1)(b), that the public services card has been lost or stolen.

(2) Where a public services card issued to a person is cancelled under subsection (1), the Minister shall inform the person by notice in writing of the cancellation and the grounds for it.

(3) Where a public services card issued to a person is cancelled under subsection (1), the person shall, if he or she is in possession or control of the public services card, surrender it as soon as practicable to the Minister.

²¹⁰⁸ Substituted by s.9(3) SW&PA 2010

²¹⁰⁹ Substituted by s.9(3) SW&PA 2010

²¹¹⁰ Substituted by s.9(3) SW&PA 2010

²¹¹¹ Substituted by s.9(3) SW&PA 2010

²¹¹² S.263A inserted by s.15 SW&PA 2011

(4) Where a public services card is cancelled under subsection (1), the Minister may, if appropriate, require by notice in writing the person who is in possession or control of the public services card to surrender it as soon as practicable to the Minister.

(5) A person who, without lawful authority or reasonable excuse, has a public services card other than a public services card that was issued to him or her in his or her possession or control shall, as soon as practicable, surrender it to the Minister.

(6) A person who is required by subsection (3), (4) or (5) to surrender a public services card to the Minister, but without reasonable excuse, does not do so in accordance with the requirement, is guilty of an offence.²¹¹³

(7) Where a public services card issued to a person is presented to a payment service provider for the purposes of obtaining payment of benefit, the payment service provider may withhold payment, confiscate the card and surrender it as soon as practicable to the Minister if—

(a) the payment service provider becomes aware of a fact or circumstance, whether occurring before or after the issue of the public services card, that would have required or permitted the Minister to refuse to issue the public services card under section 263 to the person had the Minister been aware of the fact or the circumstance before the public services card was issued, or

(b) the payment service provider is notified or becomes aware that the public services card is, without lawful authority or reasonable excuse, in the possession or control of a person other than the person to whom it is allocated and issued under section 263.²¹¹⁴

Authentication of identity.

263B. (1) For the purposes of satisfying himself or herself as to the identity of a person in respect of whom a personal public service number is to be allocated and issued under section 262, or in respect of whom a public services card is to be issued under section 263, the Minister may, without prejudice to any other method of authenticating the identity of that person, request that person—

(a) to attend at an office of the Minister or such other place as the Minister may designate as appropriate,

(b) to provide to the Minister, at that office or other designated place, such information and to produce any document to the Minister as the Minister may reasonably require for the purposes of authenticating the identity of that person,

(c) to allow a photograph or other record of an image of that person to be taken, at that office or other designated place, in electronic form, for the purposes of the authentication, by the Minister, at any time, of the identity of that person, and

(d) to provide, at that office or other designated place, a sample of his or her signature in electronic form for the purposes of the authentication, by the Minister, at any time, of the identity of that person.

(2) The Minister shall retain in electronic form—

²¹¹³ S.263A inserted by s.15 SW&PA 2011

²¹¹⁴ Subsection (7) inserted by s.3(e) SW&PA 2014

(a) any photograph or other record of an image of a person taken pursuant to subsection (1)(c), and

(b) any signature provided pursuant to subsection (1)(d),

in such manner that allows such photograph, other record or signature to be reproduced by electronic means.²¹¹⁵

Payment card.

~~264. (1) The Minister may permit any information, that may be prescribed, to be either inscribed or electronically encoded onto a card, which is capable of being so inscribed or encoded, other than a public service card for the purpose of payment of benefit.²¹¹⁶~~

(1) Without prejudice to section 263, for the purpose of the payment of benefit, the Minister may issue a card, other than a public services card, to a person in such form that the Minister determines.

(1A) A card to which subsection (1) applies shall contain such information (if any) either inscribed on the card or in non-legible form capable of being recovered by electronic means, as may be prescribed by the Minister.²¹¹⁷

(2) A person may, on request in that behalf to the Minister, obtain within 28 days of that request, where practicable, information which is inscribed or electronically encoded on the card to which subsection (1) applies and which relates to the person.

(3) A person who uses or attempts to use a card to which subsection (1) applies, who is not the holder of the card or a person appointed to act on behalf of the cardholder, for the purposes of obtaining payment of benefit is guilty of an offence.

Sharing of information.

265. (1) In this section—

‘Act of 2018’ means the Data Protection Act 2018;²¹¹⁸

‘controller’ means a controller within the meaning of—

(a) the Data Protection Regulation, or

(b) Part 5 of the Act of 2018;²¹¹⁹

~~“data controller” and “personal data” have the meanings given to them by section 1 of the Data Protection Act 1988;~~²¹²⁰

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);²¹²¹

²¹¹⁵ Inserted by s.15 SW&PA 2012

²¹¹⁶ Substituted by s.9(2) SW&PA 2010

²¹¹⁷ Substituted by s.9(2) SW&PA 2010

²¹¹⁸ Inserted by [s.201\(a\)\(ii\) of the DPA 2018](#)

²¹¹⁹ Inserted by [s.201\(a\)\(i\) of the DPA 2018](#)

²¹²⁰ Substituted by [s.201\(a\)\(i\) of the DPA 2018](#)

²¹²¹ Inserted by [s.201\(a\)\(ii\) of the DPA 2018](#)

“information” means any personal data or information extracted from that data, whether collected before or after 5 February 1999;

‘personal data’ means personal data within the meaning of—

(a) the Data Protection Regulation, or

(b) Part 5 of the Act of 2018;²¹²²

“relevant purpose” means—

(a) for the purposes of determining entitlement to or control of—

(i) benefit,

(ii) a service provided by or under sections 45, ~~45A~~²¹²³ 58, 59 and 61 of the Health Act 1970 or regulations made thereunder,

~~(iii) a payment under section 44(3) of the Health Act 1947,~~ ²¹²⁴

(iv) an allowance under the Blind Persons Act 1920, ²¹²⁵

~~(v) a grant awarded in accordance with regulations made under section 2 (as amended by section 3 of the Local Authorities (Higher Education Grants) Act 1992) of the Local Authorities (Higher Education Grants) Act 1968, or~~ ²¹²⁶

(v) a grant—

(I) that—

(A) was awarded in accordance with section 2 (amended by section 3 of the Local Authorities (Higher Education Grants) Act 1992) of the Local Authorities (Higher Education Grants) Act 1968, and

(B) was continued under subsections (2) and (3) of section 6 of the Student Support Act 2011,

(II) that—

(A) was awarded pursuant to a scheme administered by a vocational education committee (within the meaning of section 7 of the Vocational Education Act 1930) whereby grants were provided to students to assist them in attending courses in higher or further education, and

(B) was continued under subsections (2) and (3) of section 6 of the Student Support Act 2011,

(III) that was awarded under a scheme of grants made pursuant to section 16 of the Student Support Act 2011,

or²¹²⁷

²¹²² Inserted by [s.201\(a\)\(i\) of the DPA 2018](#)

²¹²³ Inserted by s. 10 [Health Act 2008](#).

²¹²⁴ Deleted by s.19 SW&P(MP)A 2013

²¹²⁵ [Uncommenced provision – see S.13\(h\) SW&PA 2008](#)

²¹²⁶ Substituted by s.13 SW&PA 2012

(vi) legal aid awarded under the Civil Legal Aid Act 1995,
or

(b) for the purposes of—

~~(i) making an assessment in accordance with section 9 of the Housing Act 1988,~~²¹²⁸

(i) carrying out a social housing assessment under section 20 of the Housing (Miscellaneous Provisions) Act 2009,²¹²⁹

~~(ii) a letting in accordance with section 11 of the Housing Act 1988,~~²¹³⁰

(ii) allocating a dwelling under section 22 of the Housing (Miscellaneous Provisions) Act 2009,²¹³¹

(iii) the determining of rent or other payment in accordance with section 58 of the Housing Act 1966,²¹³²

or the control thereof.

(2) A specified body holding information may share that information with another specified body who has a transaction with a natural person relating to a relevant purpose, where the specified body seeking the information provides the personal public service number of the person who is the subject of the transaction and satisfies the ~~data controller~~ **controller**²¹³³ of the specified body holding the information that the information requested is relevant to the transaction for that purpose between the person and the specified body seeking the information.

(3) A specified body may only seek information for the purposes of a transaction relating to a relevant purpose.

(4) Where information shared between one specified body and another is found to be inaccurate, the specified body on making the discovery shall confirm with the person the correct information and advise the other specified body of the amended information.

(5) A person who knowingly seeks or transfers any information held by a specified body relating to another by using that other's personal public service number, other than where the seeking or transferring of information is provided for under this Act or any other enactment, is guilty of an offence.

Data exchange – provision of education.

266. Notwithstanding anything contained in any other enactment, a specified body may share any information that may be prescribed with—

(a) the Minister for Education and Science, where that Minister requires the information for the purpose of enabling him or her to provide education in accordance with section 6(b) of the Education Act 1998, or

²¹²⁷ Substituted by s.13 SW&PA 2012

²¹²⁸ Substituted by s.8 and Part 9 of Sch2 [H\(MP\)A 2009](#)

²¹²⁹ Substituted by s.8 and Part 9 of Sch2 [H\(MP\)A 2009](#)

²¹³⁰ Substituted by s.8 and Part 9 of Sch2 [H\(MP\)A 2009](#)

²¹³¹ Substituted by s.8 and Part 9 of Sch2 [H\(MP\)A 2009](#)

²¹³² **Uncommenced provision - see s.8 and Part 9 of Sch2 [H\(MP\)A 2009](#)**

²¹³³ Substituted by [s.201\(b\) of the DPA2018](#)

(b) an tÚdarás um Ard-Oideachas, where that body requires the information for the purpose of performing its functions under section 3(a), (b) or (d) of the Higher Education Authority Act 1971.

Data exchange – sharing of personal public service number.

267. (1) Notwithstanding anything contained in any other enactment, a specified body may share any information, that may be prescribed, with the Minister for the purpose of seeking from the Minister the personal public service number for each person in respect of whom the information is shared.

(2) Information received by the Minister under subsection (1) may be used by the Minister for the purpose of identifying the personal public service number for each person in respect of whom such information is received and for updating the Minister’s own records in respect of that person.

(3) Where a specified body has sought a personal public service number under subsection (1) in respect of a person, the Minister may share any information, that may be prescribed, in respect of that person with that specified body for the purpose of giving that specified body the personal public service number relating to the person.

Data exchange – health provisions.

268. Notwithstanding anything contained in any other enactment, a specified body may share with another specified body information relating to a person using that person’s personal public service number, where that information, other than the personal public service number, is being shared in accordance with the Health (Provision of Information) Act 1997.

Data exchange – rented accommodation.

269. (1) Notwithstanding anything contained in any other enactment, the Minister may share any information, that may be prescribed, in relation to—

- (a) a house let for rent,
- (b) a landlord of a house let for rent or his or her agent, or
- (c) a tenant of a house let for rent,

with a local authority for the purposes of—

- (i) assisting a fire authority, within the meaning of the Fire Services Act 1981, in the exercise of its functions under that Act, or
- (ii) assisting a housing authority, within the meaning of section 23 (as amended by section 16 of the Housing (Miscellaneous Provisions) Act 2002) of the Housing (Miscellaneous Provisions) Act 1992, in the exercise of its functions under sections 17, 18 and 20 of that Act,

in relation to that house let for rent, the landlord of a house let for rent or his or her agent or the tenant of a house let for rent.

(2) Information received by a local authority under subsection (1) may be used by that local authority for the purposes specified in subparagraphs (i) and (ii) of that subsection.

(3) In this section “house” has the meaning given to it by section 1 of the Housing (Miscellaneous Provisions) Act 1992.

Data exchange – correction of inaccurate information.

270. Where the information shared between one specified body and another under section 266, 267, 268 or 269 is found to be inaccurate, the specified body on making the discovery shall confirm with the person the correct information and advise the other specified body of the amended information.

Definition of information.

271. (1) In sections 266 to 270 “information” means any personal data or information extracted from that data.

(2) Sections 266 to 271 apply to information used for the purposes of section 266, 267, 268 or 269 whether collected before or after 31 July 2000.

Provisions relating to prosecutions.

~~272. (1) A prosecution for a summary offence may be brought at the suit of—~~

~~(a) the Minister,~~

~~(b) the Executive in any case arising out of the exercise of its functions under this Act, where the offence has occurred within any of its functional areas, or~~

~~(c) the Collector-General in any case arising out of the exercise of his or her functions under this Act.²¹³⁴~~

(1) A prosecution for a summary offence may be brought at the suit of—

(a) the Minister, or

(b) the Collector-General in any case arising out of the exercise of his or her functions under this Act.²¹³⁵

(2) An officer of the Minister shall not institute any summary proceedings for an offence under this Act at the suit of the Minister unless the officer is authorised in that behalf by special or general directions of the Minister or the Minister has consented to the initiation of those proceedings.

(3) Notwithstanding subsection (1) or any provision in any enactment specifying the period within which proceedings may be commenced, a prosecution for a summary offence under this Act may be brought at any time within whichever of the following periods later expires—

(a) 2 years commencing on the date on which the offence was committed, or

(b) 18 months commencing on the date on which evidence sufficient to justify the institution of the prosecution came into the possession of the Minister.

(4) For the purposes of subsection (3), a certificate, sealed with the official seal of the Minister, as to the date on which the evidence referred to in that subsection came into his or her possession shall be sufficient evidence thereof until the contrary is shown.

²¹³⁴ Substituted by s.18 and Sch1 SW&PA 2008

²¹³⁵ Substituted by s.18 and Sch1 SW&PA 2008

(5) Where in a prosecution for an offence under this Act it is shown to the satisfaction of the court—

(a) that an application has been made by a person (in this section referred to as “the defendant”) for any benefit, and

(b) that as a result of that application any such benefit has been paid to any person (whether or not the benefit was that applied for and whether or not it was paid to the defendant),

the defendant shall be presumed to have given any information contained in the application (or to have caused it to be given on his or her behalf) and, where the information is false, with full knowledge of its falsity and with intent that it should deceive; but this presumption may be rebutted.

(6) (a) For the purpose of the institution of proceedings under this Act a certificate, purporting to be given by an officer of the Minister authorised in that behalf by the Minister and to be signed by that officer, certifying the facts set out in paragraph (b), shall be sufficient evidence in any legal proceedings of the matters certified in the certificate, until the contrary is shown.

(b) The facts referred to in paragraph (a) are that a person is an officer of the Minister and that he or she has been authorised under a special or general direction of the Minister to institute the proceedings, or that the Minister has consented to the institution of those proceedings.

(7) (a) In proceedings instituted by virtue of section 17, a certificate purporting to be signed by an officer of the Revenue Commissioners which certifies that a stated amount is due and payable by the defendant shall be evidence until the contrary is proved that that amount is due and payable, and when tendered in evidence is deemed until the contrary is proved to have been signed by that officer.

(b) For the purposes of this subsection, the rules of the court concerned for the time being applicable to civil proceedings applies to proceedings by virtue of section 17.

Civil proceedings – Criminal Assets Bureau.

273. Any proceedings, other than for the prosecution of an offence, arising out of the exercise by an officer of the Minister who is a bureau officer, of his or her powers or duties under this Act may be brought by or against the Criminal Assets Bureau.

Evidence.

274. (1) In this section—

“copy record” means any copy of an original record being a record made for the purposes of or in connection with this Act or schemes administered by the Department of Social and Family Affairs or a copy of that copy made in accordance with either of the methods referred to in subsection (2) and accompanied by the certificate referred to in subsection (3);

“original record” means any document, record, or record of an entry in a document or record or information stored by means of any mechanical or electronic device, whether or not in a legible form, which was made or stored by the Minister or a specified agency for the purposes of or in connection with this Act or schemes administered by the Department of Social and Family Affairs at the time of or shortly after the event recorded and which is in the possession of the Minister or a specified agency;

“provable record” means an original record or a copy record;

~~“specified agency” means An Post or a person authorised to carry on banking business under section 9 of the Central Bank Act 1971.~~²¹³⁶

‘specified agency’ means a payment service provider or a person authorised to carry on banking business under section 9 of the Central Bank Act 1971.²¹³⁷

(2) The Minister or a specified agency may, where by reason of the deterioration of, or inconvenience in storing, or technical obsolescence in the manner of keeping any original record or any copy record, make a legible copy of the record or store information concerning that record otherwise than in a legible form so that the information is capable of being used to make a legible copy of the record, and the Minister or the specified agency may thereupon destroy the original record or the copy record provided that any authorisation required by the National Archives Act 1986 for such destruction has been granted.

(3) In any proceedings a certificate signed by an officer of the Minister or a specified agency, as the case may be, stating that a copy record has been made in accordance with subsection (2) shall be evidence of the fact of the making of the copy record and that it is a true copy, until the contrary is shown.

(4) A document purporting to be a certificate under subsection (3) is deemed to be such a certificate without proof of the signature of the person purporting to sign the certificate or that the person was a proper person to so sign, until the contrary is shown.

(5) In any proceedings any provable record may be given in evidence and shall be prima facie evidence of any fact stated in or event recorded by that record, if the court is satisfied of the reliability of the system used to make or compile, in the case of an original record, that record, and in the case of a copy record, the original on which it was based.

(6) Where information contained in a provable record is in a form which would normally not be comprehensible to a person who has no knowledge of that type of information, an explanation of its meaning by a suitably qualified person shall be admissible.

(7) In any proceedings a certificate signed by an officer of the Minister or a specified agency, as the case may be, stating that a full and detailed search has been made for a provable record of an event in every place where those records are kept by the Minister or the agency, as the case may be, and that no such record has been found shall be prima facie evidence that the event did not happen, if the court is satisfied—

- (a) as to the reliability of the system used to compile or make and keep the records,
- (b) that, if the event had happened, a record would have been made of it, and
- (c) that the system is such that the only reasonable explanation for the absence of a record is that the event did not happen.

(8) This section applies to any original record or to any copy record made before 26 March 1989, in accordance with either of the methods referred to in subsection (2) but the proviso in that subsection shall not have effect in relation to anything deemed to have been done under that subsection before the commencement of section 7 of the National Archives Act 1986.

²¹³⁶ Substituted by s.3(f) SW&PA 2014

²¹³⁷ Substituted by s.3(f) SW&PA 2014

Evidence in proceedings in relation to proving unemployment by electronic communication.

274A. (1) Where a person is required, for the purposes of section 62, **68C**²¹³⁸ or 141, to prove unemployment and make a declaration for that purpose and the person has proved unemployment and made a declaration in the prescribed manner, by means of an electronic communication—

(a) a certificate signed by an officer of the Minister, authorised by the Minister in that behalf, stating—

(i) that he or she has examined the record relating to the proving of unemployment and the making of a declaration for that purpose by the person by means of the electronic communication in the prescribed manner,

(ii) that a record of that electronic communication has been made, and

(iii) the date on which that electronic communication was made,

shall be admissible in evidence in any proceedings (whether civil or criminal) before a court and shall be evidence of those facts unless the contrary is proved in any such proceedings, and

(b) it shall be presumed, unless the contrary is proved in any such proceedings, that—

(i) a declaration that purports to have been made by a person by means of an electronic communication, was made by that person,

(ii) a declaration which purports to have been made by a person by means of an electronic communication in respect of a particular period, was made in respect of that period,

(iii) any equipment used to make the electronic communication operated effectively, and

(iv) the method of electronic communication used for the purpose of making a declaration operated effectively.

(2) Any declaration made by means of an electronic communication in accordance with this Act shall be deemed to be a declaration made in the prescribed manner under section 62, **68C**²¹³⁹ or 141.

(3) Any declaration made by means of an electronic communication in accordance with this Act shall be deemed to be a statement or representation for the purposes of section 251.

(4) A document purporting to be a certificate referred to in subsection (1)(a) shall be deemed to be such a certificate and to have been signed by the person purporting to have signed it and to have been signed in accordance with an authorization referred to in subsection (1)(a) unless the contrary is proved.²¹⁴⁰

²¹³⁸ Inserted by Item 20 of the Schedule of SWA 2019

²¹³⁹ Inserted by Item 20 of the Schedule of SWA 2019

²¹⁴⁰ Inserted by S.4(e) SW&PA 2010

CHAPTER 5
Alienation of Books and Documents

Application.

275. In this Chapter “a document to which this Chapter applies” means every book, card, order, voucher or other document issued to any person and on the delivery or production or in respect of the possession of which by that person on or after a date indicated expressly or by implication in that document and after the issue of that document any benefit is payable to him or her.

Prohibition of alienation of documents.

276. Every person who buys, takes in exchange or takes in pawn any document to which this Chapter applies is guilty of an offence.

Avoidance of alienation of documents.

277. Every alienation or purported alienation of a document to which this Chapter applies, whether made by way of sale, exchange or hypothecation is and is deemed always to have been void and of no effect.

Return of documents on demand.

278. (1) Every person who, by virtue of an alienation or purported alienation declared by this Chapter to be void, has in his or her possession a document to which this Chapter applies shall, in the case of any such document issued in respect of any benefit, on demand by a social welfare inspector immediately deliver the document to the inspector or, where no such demand is made by a social welfare inspector, on demand by the owner of the document or his or her duly authorised agent, immediately deliver the document to the owner or agent.

(2) Every person who, on a demand being made on him or her under this section, fails to deliver in accordance with this section a document which he or she is required by this section so to deliver is guilty of an offence.

(3) Where a person is convicted of an offence under this section the court by which he or she is so convicted may, where the circumstances so require, make such order as the court shall think proper for securing the delivery of the document in respect of which the offence was committed to the owner of the document or, where appropriate, to a social welfare inspector.

CHAPTER 6
Miscellaneous Provisions

Regulations relating to maintenance.

279. Regulations may provide for determining the circumstances in which a person is or is not to be deemed for the purposes of Part 2 to be wholly or mainly maintaining another person.

Free certificates.

280. (1) The Minister may arrange for the issue for the purposes of Part 2 or 3 of medical certificates or certificates of expected or actual confinement free of charge.

(2) The expenses incurred in giving effect to this section shall not exceed such sums as may from time to time be agreed on between the Minister and the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²¹⁴¹.

²¹⁴¹ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

Stamp duty.

281. Stamp duty shall not be chargeable on any document by which any payment, refund, repayment or return under this Act is made.

Birth, marriage and death certificates.

~~282. (1) Where, for the purposes of this Act (other than Chapter 9 of Part 3), the age, marriage or death of any person is required to be proved by the production of a certificate of birth, marriage or death any person shall, on presenting a written requisition in the form and containing the particulars that may be directed by the Minister for Health and Children, be entitled to obtain, on payment of the fee set out therefor—~~

~~(a) a copy of an entry in a register of births—89 cent,~~

~~(b) a copy of an entry in a register of deaths—89 cent,~~

~~(c) a copy of an entry in a register of marriages—89 cent,~~

~~certified under the hand of the registrar or superintendent registrar or other person having the custody thereof.~~

~~(2) Where, for the purposes of Chapter 9 of Part 3 or regulations made under that Chapter, the age, marriage or death of any person is required to be proved by the production of a certificate of birth, marriage or death, any person shall, on presenting a written request in the form and containing the particulars that may be directed by the Minister for Health and Children, be entitled free of charge to obtain a certified copy of the entry of the birth, marriage or death (as the case may be) of that person in the register of births, marriages or deaths (as the case may be) under the hand of the registrar or superintendent registrar or other person having the custody thereof.~~

~~(3) Forms for the purposes of subsections (1) and (2) shall be supplied on request without any charge by every registrar of births and deaths and by every superintendent registrar or other person having the custody of the register.~~

~~(4) The Minister for Health and Children may, with the consent of the Minister and the Minister for Finance **Minister for Public Expenditure and Reform**²¹⁴², by regulations alter the fees set out in subsection (1).²¹⁴³~~

Inalienability.

283. Subject to this Act, every assignment of or charge on, and every agreement to assign or charge, any benefit shall be void and on the bankruptcy of any person entitled to benefit, shall not pass to any trustee or other person acting on behalf of the creditors.

Means for purpose of Debtors (Ireland) Act 1872.

284. Any sum received by any person by way of benefit shall not be included in calculating that person's means for the purposes of section 6 of the Debtors Act (Ireland) 1872.

Exclusion in assessment of damages.

285. (1) In assessing damages in any action under the Fatal Injuries Act 1956, or Part IV of the Civil Liability Act 1961, whether commenced before or after 24 February 1981, there shall not be taken into account any ~~child benefit~~ **child benefit, early childcare**

²¹⁴² Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²¹⁴³ 282 Repealed by s.16 SW(No.2)A 2019

~~supplement,^{2144,2145} widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension²¹⁴⁶ orphan's (contributory) allowance guardian's payment (contributory), one-parent family payment in the case of a person who qualifies for that payment by virtue of being a widow or widower, widow's (non-contributory) pension, widower's (non-contributory) pension by virtue of being a widow, widower or surviving civil partner, widow's (non-contributory) pension, widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension²¹⁴⁷ or orphan's (non-contributory) pension guardian's payment (non-contributory)²¹⁴⁸.~~

(2) Subject to sections 96 and 286, in assessing damages in any action in respect of injury or disease or in computing the amount of compensation under paragraph (1)(a)(ii) of the First Schedule to the Workmen's Compensation Act 1906 or under Rule 2 or 4 of the Second Schedule to the Workmen's Compensation Act 1934, there shall not be taken into account any benefit under Part 2, widow's (non-contributory) pension, widower's (non-contributory) pension, *surviving civil partner's (non-contributory) pension*,²¹⁴⁹ orphan's (non-contributory) pension *guardian's payment (non-contributory)*²¹⁵⁰ or child benefit.

~~**Taking account of disability benefit illness benefit²¹⁵¹ and invalidity pension in assessing certain damages.**~~²¹⁵²

~~286. (1) Notwithstanding section 2 of the Civil Liability (Amendment) Act 1964 and section 285, in assessing damages in any action in respect of liability for personal injuries not causing death relating to the use of a mechanically propelled vehicle, there shall be taken into account the value of any rights arising from those injuries which have accrued, or are likely to accrue, to the injured person in respect of disability benefit *illness benefit* or invalidity pension under Part 2 for 5 years beginning with the time when the cause of action accrued.~~

~~(2) The reference in subsection (1) to damages shall, in a case where the damages are subject to reduction under the law of contributory negligence or are limited by or under any Act, be read as a reference to the total damages which would have been recoverable apart from the reduction or limitation.~~

~~(3) This section applies—~~

~~(a) in assessing damages in any action in respect of liability for personal injuries not causing death relating to the use of a mechanically propelled vehicle, which is required to be covered by an approved policy of insurance, where the action is instituted on or after 30 March 1984, and~~

~~(b) in assessing damages in any other action in respect of liability for personal injuries not causing death relating to the use of a mechanically propelled vehicle, where the action is instituted on or after 4 April 1990.~~

~~(4) In this section—~~

~~“approved policy of insurance” means a policy of insurance which, by virtue of section 62 of the Road Traffic Act 1961 (as amended by the European Communities (Road Traffic) (Compulsory Insurance) Regulations 1975 (S.I. No. 178 of 1975)) is an approved policy of insurance for the purposes of that Act;~~

²¹⁴⁴ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²¹⁴⁵ Deleted by s.24 and Schedule of SW(MP)A 2010

²¹⁴⁶ Inserted by s.26 and Sch. 3 SW&PA 2010

²¹⁴⁷ Substituted by s.23(3) SW&PA 2010

²¹⁴⁸ Substituted by s. 4 + Sch1 SWLR&PA 2006

²¹⁴⁹ Inserted by s.26 and Sch3 SW&PA 2010

²¹⁵⁰ Substituted by s. 4 + Sch1 SWLR&PA 2006

²¹⁵¹ Substituted by s. 4 + Sch 1 SWLR&PA 2006

²¹⁵² Section 286 repealed by s.13(e) SW&PA 2013

“mechanically propelled vehicle” has the meaning given to it by section 3 of the Road Traffic Act 1961.²¹⁵³

Reciprocal arrangements.

287. (1) The Minister may make such orders as may be necessary to carry out any reciprocal or other arrangements made with any international organisation, any other state or government or the proper authority under any other government, in respect of matters relating to insurance and benefits under Part 2, *social assistance under Part 3, child benefit under Part 4, or any other scheme, or payment, under this Act*²¹⁵⁴ ~~old age (non-contributory) State pension (non-contributory)~~²¹⁵⁵ and blind pensions, widow’s (non-contributory) pension, widower’s (non-contributory) pension, *surviving civil partner’s (non-contributory) pension*²¹⁵⁶ or orphan’s (non-contributory) pension ~~guardian’s payment (non-contributory), unemployment assistance jobseeker’s allowance and child benefit~~ *child benefit and early childcare supplement jobseeker’s allowance and child benefit*²¹⁵⁷ ²¹⁵⁸ and may by any such order make any adaptations of and modifications in respect of these matters that he or she considers necessary.

(2) The Minister may by order amend or revoke an order under this section.

(3) Without prejudice to the generality of subsections (1) and (2), the Minister, in an order under this section, may provide for the manner in which—

(a) a reciprocal or other arrangement that is the subject of the order is to apply to persons, or different categories of persons, to whom a different reciprocal or other arrangement, provided for in another order under this section, applies, and

(b) the different reciprocal or other arrangement referred to in paragraph (a) is to apply to persons, or different categories of persons, to whom the reciprocal or other arrangement that is the subject of the order applies.

(4) In this section, a reference to ‘reciprocal or other arrangement’ includes an agreement which is intended to be binding on the State, the Government or the Minister but which has not, at the time of the making of an order under this section, become binding and to which the Minister is satisfied the international organisation, any other state or government or the proper authority under any government, referred to in subsection (1), is giving effect.²¹⁵⁹

Provision of consultancy, training and contract services, etc.

288. (1) The Minister may, with the consent of the ~~Minister for Finance~~ *Minister for Public Expenditure and Reform*²¹⁶⁰, for gain or otherwise, promote and enter into, with a specified body—

(a) a contract or an agreement for the provision by him or her to, or

(b) a contract, agreement or a joint venture for the provision by him or her with,

that body, of consultancy, advisory, training, technical assistance or contract services or the sale or provision of computer products, inside and outside the State.

²¹⁵³ Section 286 repealed by s.13(e) SW&PA 2013

²¹⁵⁴ Inserted by s. 100(a) of WUKfEU(CP)A 2020

²¹⁵⁵ Inserted by s.26 and Sch3 SW&PA 2010

²¹⁵⁶ Inserted by s.26 and Sch3 SW&PA 2010

²¹⁵⁷ Substituted by s.24 and Schedule SW(MP)A 2010

²¹⁵⁸ Deleted by s. 100(a) of WUKfEU(CP)A 2020

²¹⁵⁹ Subsecs (3) and (4) inserted by s. 100(b) of WUKfEU(CP)A 2020

²¹⁶⁰ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

(2) In this section “specified body” means—

- (a) a body established by or under any enactment (other than the Companies Acts 1963 to 2005),
- (b) a body established under the Companies Acts 1963 to 2005,
- (c) a body formed or established under the laws of a state other than the State and corresponding to a body referred to in paragraphs (a) and (b),
- (d) an institution of the European Communities,
- (e) a competent authority of a state other than the State, or
- (f) the United Nations, the World Bank or any other international institution recognised by the State.

Administration of social welfare schemes.

289. (1) The Minister may delegate to those persons that may be prescribed, any function in relation to the administration of any benefit that may be prescribed and any such delegation shall be subject to the conditions and in the circumstances that may be prescribed.

(2) Regulations made under this section may apply to the whole State or to a specified part or parts of the State.

Arrangements with payment service providers²¹⁶¹

289A. The Minister, with the consent of the Minister for Public Expenditure and Reform, may enter into an arrangement with a person, in this section referred to as a ‘payment service provider’ for the provision of services by that payment service provider to the Minister in relation to the functions conferred on the Minister by or under this Act concerning the payment of benefit or assistance.

Budgeting in relation to social welfare payments.

290. (1) The Minister may make regulations to provide that where a beneficiary consents, an amount of his or her benefit, which is determined by consultation and agreement between the Minister and the beneficiary, may be withheld, *subject to section 290B*,²¹⁶² and paid, *subject to subsection (3A)*,²¹⁶³ separately by the Minister to any specified body designated by the beneficiary.

(2) Regulations made under subsection (1) may, in particular and without prejudice to the generality of that subsection, provide for—

- (a) the withdrawal of consent by a beneficiary,
- (b) the time and manner in which the withdrawal shall take place, and
- (c) the adjustment of any amount of benefit as a result of that withdrawal.

(3) In this section “a specified body” means—

²¹⁶¹ S.289A inserted by s.3(g) SW&PA 2014

²¹⁶² Inserted by s.15(1)(a) SWA 2012

²¹⁶³ Inserted by s.20(a) SW&PA 2015

(a) a local authority, *other than any functions performed by a local authority under section 23 (amended by section 8 of the Housing (Miscellaneous Provisions) Act 2009) of the Housing (Miscellaneous Provisions) Act 1992* ²¹⁶⁴

(b) any other body established—

(i) by or under any enactment (other than the Companies Acts 1963 to 2005),
or

(ii) under the Companies Acts 1963 to 2005, in pursuance of powers conferred by or under other enactments, and financed wholly or partly by means of moneys provided or loans made or guaranteed by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government and a subsidiary of any such body,

(ba) an authorized undertaking within the meaning of the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2003 (S.I. No. 306 of 2003),²¹⁶⁵

(bb) a person granted a licence to supply electricity in accordance with section 14 (1) of the Electricity Regulation Act 1999,

(bc) a person granted a licence to supply natural gas in accordance with section 16 (1) of the Gas (Interim) (Regulation) Act 2002, ²¹⁶⁶

(bd) a credit union within the meaning of the Credit Union Act 1997,²¹⁶⁷

or

(c) any other body that may be prescribed.

(3A) For the purposes of subsection (1), a payment to a credit union referred to in subsection (3)(bd) may be made—

(a) in respect of a scheme that—

(i) is approved by the Minister, and

(ii) relates to a class or classes of borrowings from a credit union as may be prescribed,

and

(b) where the beneficiary concerned is a member of the credit union to which the payment is made under this section.

(3B) Without prejudice to subsections (1) or (2), for the purposes of subsection (3A), the Minister may, in regulations made under this section, prescribe—

(a) a class or classes of borrowings by a beneficiary from a credit union in respect of which payments under this section are to be made,

(b) the maximum amount of such borrowings which shall not exceed €2,000,

²¹⁶⁴ Inserted by s.15(1)(b) SWA 2012

²¹⁶⁵ S. 290(3)(ba) inserted by s. 33 SW&PA 2007

²¹⁶⁶ Sections 290(3)(bb) and (bc) inserted by s.19 SW&PA 2012

²¹⁶⁷ Inserted by s.20(b) SW&PA 2015

(c) the interest rate charged in respect of such borrowings, the maximum amount of which shall not exceed 1 per cent for each month, and

(d) the duration of the period for repayment, by the beneficiary concerned, of the borrowings.²¹⁶⁸

(4) On and after the commencement of section 15 of the Social Welfare Act 2012, an amount of benefit under this section shall not be withheld where the purpose of such withholding of benefit is the separate payment, by the Minister, of rent to a local authority pursuant to this section and regulations made under it.

(5) Nothing in subsection (4) shall affect any withholding of benefit under this section where—

(a) the purpose of such withholding of benefit is to provide for the separate payment, by the Minister, of rent to be paid by a beneficiary to a local authority, pursuant to this section and regulations made under it, and

(b) such withholding of benefit and such separate payment has effect immediately before the commencement of section 15 of the Social Welfare Act 2012.

(6) Where—

(a) a beneficiary has consented to the withholding of an amount of benefit under this section before the commencement of section 15 of the Social Welfare Act 2012,

(b) the purpose of such withholding of benefit is to provide for the separate payment, by the Minister, of rent to be paid by a beneficiary to a local authority pursuant to this section and regulations made under it, and

(c) such withholding of benefit and such separate payment has not taken effect before the commencement of section 15 of the Social Welfare Act 2012,

nothing in subsection (4) shall prevent the taking effect of such withholding of benefit and such separate payment.²¹⁶⁹

Budgeting in relation to certain rent payments.²¹⁷⁰

~~290A. (1) This section applies to a beneficiary who is a tenant of a housing body and entitled to a benefit prescribed under this section.~~²¹⁷¹

290A. (1) This section applies to a beneficiary who is—

(a) a tenant of a housing body, or

(b) a tenant of a dwelling that is the subject of housing assistance under section 39 of the Housing (Miscellaneous Provisions) Act 2014,

and who is entitled to a benefit prescribed under this section.²¹⁷²

²¹⁶⁸ Subsections (3A) and (3B) inserted by s.20(c) SW&PA 2015

²¹⁶⁹ Subsection (4), (5) and (6) inserted by s.15(1)(c) SWA 2012

²¹⁷⁰ Sections 290A and 290B inserted by s.15(2) SWA 2012

²¹⁷¹ Subsection (1) substituted by [s.54\(4\)\(a\) H\(MP\)A 2014](#)

²¹⁷² Subsection (1) substituted by [s.54\(4\)\(a\) H\(MP\)A 2014](#)

(2) The Minister may make arrangements for—

- (a) the deduction, subject to section 290B, of a sum of money from a benefit paid to a beneficiary, and
- (b) the payment, on behalf of the beneficiary, of that deducted sum to a housing body for the purpose of the payment of the rent payable to the housing body by that beneficiary.

(3) The Minister—

- (a) may enter into an agreement with a person, for a specified period, for the purpose of carrying out the arrangement referred to in subsection (2), and
- (b) shall, where he or she enters into such agreement, by order specify the person with whom the agreement has been entered into and the period for which that agreement has effect.

~~(4) A deduction and payment made pursuant to this section shall cease—~~

~~(a) where the beneficiary—~~

~~(i) ceases to be entitled to a benefit prescribed under this section,~~

~~(ii) ceases to be a tenant of a housing body, or~~

~~(iii) dies, or~~

~~(b) where such deduction and payment are discontinued in accordance with this section.²¹⁷³~~

(4) A deduction and payment made pursuant to this section shall cease—

(a) where the beneficiary—

(i) ceases, upon his or her death or otherwise, to be a tenant of a housing body,

(ii) ceases, upon his or her death or otherwise, to be a tenant of a dwelling that is the subject of housing assistance under section 39 of the Housing (Miscellaneous Provisions) Act 2014, or

(iii) otherwise ceases to be entitled to a benefit prescribed under this section,

or

(b) where such deduction and payment are discontinued in accordance with this section.²¹⁷⁴

(5) A deduction and payment made pursuant to this section shall be discontinued where the housing body concerned consents to such discontinuance and a housing body shall not unreasonably withhold its consent to such discontinuance.

²¹⁷³ Subsection (4) substituted by [s.54\(4\)\(b\) H\(MP\)A 2014](#)

²¹⁷⁴ Subsection (4) substituted by [s.54\(4\)\(b\) H\(MP\)A 2014](#)

(6) The Minister may, after consultation with the Minister for Environment, Community and Local Government, make regulations in respect of all or any of the following:

- (a) the form and manner of an application for—
 - (i) the deduction and payment pursuant to this section, and
 - (ii) the discontinuance of such deduction and payment pursuant to this section;
- (b) the form and manner of an application for the variation of—
 - (i) an amount, subject to section 290B, to be deducted and paid to a housing body, and
 - (ii) the housing body to which the payment is made;
- (c) the form and manner of an application to a housing body for consent to the discontinuance of a deduction and payment pursuant to this section;
- (d) any documentation relating to an application referred to in paragraphs (a) to (c);
- (e) the benefits from which deductions pursuant to this section are made.

(7) In this section ‘housing body’ means—

- (a) a housing authority within the meaning of section 23 (~~amended by section 8 of the Housing (Miscellaneous Provisions) Act 2009~~ *as amended by the Local Government Reform Act 2014*²¹⁷⁵) of the Housing (Miscellaneous Provisions) Act 1992, or
- (b) a body standing approved of for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992.

Limitations on budgeting under sections 290 and 290A.

290B. (1) Where a sum of money is to be deducted under section 290A from a benefit to which that section applies that is payable to a beneficiary to which that section applies, the deduction shall not exceed 25 per cent of the weekly rate of that benefit.

(2) Where the withholding of an amount of benefit is to be made under section 290 from a benefit under that section payable to a beneficiary under that section, the deduction shall not exceed 25 per cent of the weekly rate of that benefit.

(3) Where an amount of benefit is withheld under section 290 in respect of a beneficiary referred to in that section and—

- (a) that beneficiary and that benefit are, respectively, a beneficiary to whom, and a benefit to which, section 290A also applies, and
- (b) that beneficiary makes an application under section 290A for a deduction from that benefit in respect of the same week,

²¹⁷⁵ Substituted by [s.54\(4\)\(c\) H\(MP\)A 2014](#)

the deduction under section 290A shall, subject to subsection (1), be made in the first instance and the withholding of an amount of benefit under section 290 shall only continue to be made where—

(i) the amount of the deduction under section 290A is less than 25 per cent of the weekly rate of benefit payable to that beneficiary in that week, and

(ii) the combined amount of a deduction under section 290A and a withheld amount under section 290 does not exceed 25 per cent of the weekly rate of benefit payable to that beneficiary in that week.²¹⁷⁶

Regulations in relation to unpaid rent.

291. The Minister may, after consultation with the Minister for the Environment, Heritage and Local Government, make regulations to provide that where rent due to a housing authority by a beneficiary is unpaid for a specified period or where the amount of rent unpaid exceeds a specified amount, an amount of the beneficiary's benefit may, notwithstanding any provision of this Act, on application by the housing authority to the Minister, be withheld without the beneficiary's consent and paid separately by the Minister to the housing authority, provided that the amount so withheld in any week shall not exceed the amount of the weekly rent payable by the beneficiary.

Regulations varying rates of benefit or assistance.

292. (1) Notwithstanding anything in this Act the Minister may by regulations increase temporarily or vary all or any of the rates of benefit (other than ~~child benefit~~ ~~child benefit~~, ~~early childcare supplement~~,²¹⁷⁷ or family income supplement *child benefit or family income supplement*^{2178,2179}).

(2) Regulations under subsection (1) shall not so vary the rate of any benefit as to reduce the amount of the rate payable at the commencement of the regulations.

Effect of means on certain rates of assistance.

293. Notwithstanding the provisions of this Act, in the case of a person who is in receipt of any assistance under Part 3 and whose means exceed a prescribed amount, the Minister may by regulations, where the amount payable is not a multiple of €2.50, increase that amount to the next multiple of €2.50 in respect of the class of person or classes of persons that may be prescribed.

Regulations in relation to benefit or assistance.

294. The Minister may make regulations in relation to any benefit, and the regulations may apply (with or without modification) or make provisions corresponding (with or without modification) to any provisions of this Act.

Application of provisions of this Act, etc., by regulations.

295. (1) In the case of any section of this Act which confers powers on the Minister to apply by regulations any provisions of this Act to matters referred to in that section, those powers are deemed to include powers to apply any provisions of any enactment, whether passed before or after 26 March 1989, which amends or extends this Act.

(2) The powers conferred on the Minister under section 23(3) of the Housing (Private Rented Dwellings) Act 1982 in relation to regulations under subsection (1) of that section (which

²¹⁷⁶ Sections 290A and 290B inserted by s.15(2) SWA 2012

²¹⁷⁷ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²¹⁷⁸ Substituted by s.24 and Schedule SW(MP)A 2010

²¹⁷⁹ Substituted by s.8(1) and Sch. 1 SWA 2017

relates to payments under the rent allowance scheme) to apply (with or without modification), or make provision corresponding (with or without modification) to, any provisions of this Act are deemed to include powers to apply any provisions of, or provisions made under, any enactment, whether passed before or after 26 March 1989, which amends or extends this Act.

Payment of increases in respect of qualified children.

296. The Minister may provide by regulations for the payment of increases in respect of qualified children at the full rate to either parent of the children concerned notwithstanding that each parent is entitled to an increase in benefit in respect of qualified children.

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Regulations in relation to payment of qualified adult increase in certain cases.

297. (1) Subject to subsection (2), regulations may provide for entitling to an increase of benefit or assistance (other than supplementary welfare allowance), as the case may be, payable in respect of a qualified adult, a claimant or beneficiary who would be entitled to an increase but for the fact that his or her spouse, *civil partner or cohabitant*²¹⁸¹ has income in excess of a prescribed amount.

(2) Regulations for the purposes of subsection (1) shall provide that the increase payable by virtue of those regulations shall be payable at a rate less than the appropriate rate specified in Schedule 2 or 4, as the case may be, and the rate specified by the regulations may vary by reference to the amount by which the income of the spouse, *civil partner or cohabitant*²¹⁸² exceeds the amount prescribed for the purposes of subsection (1).

(3) In this section “benefit” means benefit under Part 2.

Qualified adult (administrative schemes).

298.(1) A person who, apart from this section, would be a qualified adult for the purposes of a scheme to which this section applies shall not be a qualified adult for the purposes of that scheme unless the person is a spouse, *civil partner or cohabitant*²¹⁸³ within the meaning of this Act.

(2) Notwithstanding any enactment but without prejudice to subsection (1), the circumstances in which there arises an entitlement to—

- (a) an allowance under a scheme to which this section applies, or
- (b) an increase in the amount of that allowance,

by reference to the status or description of one or both, or all, of 2 or more persons residing or living together are those circumstances expressly set out in the scheme and not otherwise.

(3) This section applies to the following schemes administered by the Minister and known as—

- (a) the Free Travel Scheme,
- (b) the National Fuel Scheme,
- (c) the Part-Time Job Incentive Scheme,

²¹⁸⁰ Uncommenced provision - see S.3(2) [SW\(MP\)A 2010](#)

²¹⁸¹ Inserted by s.26 and Sch 3 SW&PA 2010

²¹⁸² Inserted by s.26 and Sch 3 SW&PA 2010

²¹⁸³ Inserted by s.26 and Sch3 SW&PA 2010

- (d) the Back to Education Allowance,
- (e) the Back to School Clothing and Footwear Allowance,
- (f) the Back to Work Allowance (Employees),
- (g) the Back to Work Enterprise Allowance,
- (h) the Smokeless Fuels Allowance, and
- (i) the Household Benefits Package,

being, in each case, the scheme in the terms as it has effect on 1 April 2004.

PART 9A

Status of Persons Participating in Certain Employment Schemes

Status of persons engaged in work experience pursuant to certain placements.²¹⁸⁴

~~298A. (1) A person who is engaged by another person to carry out work or perform any duty or service pursuant to a placement under—~~

~~(a) the work placement programme within the meaning of subsection (3) of section 142B,~~

~~(b) the programme described as the skills development and internship programme approved by the Government on 18 November 2010, or~~

~~(c) any variation, extension or replacement of a programme referred to in paragraph (a) or (b),~~

~~shall, for the purposes of any enactment or rule of law (other than the Safety, Health and Welfare at Work Act 2005), be deemed not to be an employee of the other person or to carry out such work or perform such duties pursuant to a contract of service.~~²¹⁸⁵

298A. (1) A person who is engaged by another person to carry out work or perform any duty or service pursuant to a placement under—

(a) the work placement programme within the meaning of subsection (3) of section 142B,

(b) the scheme ~~administered by An Foras Áiseanna Saothair~~ *administered by the Minister*²¹⁸⁶ and known as the national internship scheme, or

(c) any variation, extension or replacement of the programme referred to in paragraph (a) or scheme referred to in paragraph (b),

shall, for the purposes of any enactment or rule of law (other than the Tax Acts and the Safety, Health and Welfare at Work Act 2005), be deemed not to be an employee of the other person or to carry out such work or perform such duties pursuant to a contract of service.²¹⁸⁷

²¹⁸⁴ S298A inserted by s.27(b) SW&PA 2010

²¹⁸⁵ Substituted by s.16(3) SW&PA 2011

²¹⁸⁶ Substituted by s.16(6) SW&PA 2011

²¹⁸⁷ Substituted by s.16(3) SW&PA 2011

(2) The Minister shall, for the purposes of any enactment or rule of law, be deemed not to be the employer of the person first-mentioned in subsection (1).²¹⁸⁸

PART 10
DECISIONS, APPEALS AND SOCIAL WELFARE TRIBUNAL

CHAPTER 1
Deciding Officers and Decisions by Deciding Officers

Appointment of deciding officers.

~~299. The Minister may appoint such and so many of his or her officers as the Minister thinks proper to be deciding officers for the purposes of this Act, and every person so appointed shall hold office as a deciding officer during the pleasure of the Minister.~~²¹⁸⁹

Appointment of deciding officers and designated persons.

299. (1) The Minister may appoint such and so many persons as he or she thinks proper to be deciding officers for the purposes of any provision or provisions of this Act, and every person so appointed shall be a deciding officer during the pleasure of the Minister.

(2) The Minister may appoint such and so many persons as he or she thinks proper to be designated persons for the purposes of the determination of the entitlement of any person to supplementary welfare allowance and the amount of any such allowance *and the Minister may at any time terminate an appointment under this subsection whether or not the appointment was for a fixed period*^{2190, 2191}.

(3) An appointment as a designated person under subsection (2) shall cease—

- (a) if the Minister terminates the appointment,
- (b) if it is made for a fixed period, on the expiry of that period, or
- (c) where the person is an officer of the Minister, if that person ceases to be an officer of the Minister.²¹⁹²

Decisions by deciding officers.

300. (1) Subject to this Act, every question to which this section applies shall, save where the context otherwise requires, be decided by a deciding officer.

(2) ~~Subject to subsection (3)~~ *Subject to subsections (3) and (3A)*²¹⁹³, this section applies to every question arising under—

- (a) Part 2 (social insurance) being a question—
 - (i) in relation to a claim for benefit,
 - (ii) as to whether a person is or was disqualified for benefit,

²¹⁸⁸ S298A inserted by s.27(b) SW&PA 2010

²¹⁸⁹ S. 299 substituted by s. 34 SW&PA 2007

²¹⁹⁰ Inserted by s.15(b)(i) SW&PA 2014

²¹⁹¹ S. 299 substituted by s. 34 SW&PA 2007

²¹⁹² Subsection (3) inserted by s.15(b)(ii) SW&PA 2014

²¹⁹³ Substituted by s. 18 and Sch. 1 SW&PA 2008

- (iii) as to the period of any disqualification for benefit,
- (iv) as to whether an employment is or was insurable employment or insurable (occupational injuries) employment,
- (v) as to whether a person is or was employed in an insurable employment or insurable (occupational injuries) employment,
- (vi) as to the rate of employment contribution which is or was payable by an employer in respect of an employed contributor,
- (vii) as to who is or was the employer of an employed contributor,
- (viii) as to whether a person is or was entitled to become a voluntary contributor,
- (ix) on any other matter relating to Part 2 that may be prescribed,
- (x) as to whether an employment is or was an insurable self-employment,
- (xi) as to whether a person is or was in insurable ~~self-employment, or self-employment,~~²¹⁹⁴
- (xii) as to the rate of self-employment contribution which is or was payable by a self-employed contributor,
- (xiii) as to whether a contribution is or was payable in accordance with Chapter 5A or 5B of Part 2, or
- (xiv) as to the rate of contribution which is or was payable in accordance with Chapter 5A or 5B of Part 2,²¹⁹⁵

~~(b) Part 3 (social assistance) other than Chapter 9 (supplementary welfare allowance).~~²¹⁹⁶

(b) Part 3 (social assistance), being a question other than one relating to supplementary welfare allowance (unless it relates to a category of claim specified in subsection (3A)),^{2197 2198}

(c) Part 4 (child benefit),

~~(ca) Part 4A (early childcare supplement),~~^{2199 2200}

(d) Part 5 (~~respite care grant~~ *carer's support grant*²²⁰¹),

(e) Part 6 (~~family income supplement~~ *working family payment*²²⁰²),

²¹⁹⁴ Substituted by s.6(7) SW&P(MP)A 2013

²¹⁹⁵ Subparas. (xiii) and (xiv) inserted by SWP(MP)A 2013

²¹⁹⁶ Substituted by s. 18 and Sch. 1 SW&PA 2008

²¹⁹⁷ Substituted by s. 18 and Sch. 1 SW&PA 2008

²¹⁹⁸ Amendment to 300(2)(b) in SW&PA 2010 repealed by s. 10(5) SW&PA 2011

²¹⁹⁹ Inserted by s. 29(3) SWLR&PA 2006

²²⁰⁰ Deleted by s.24(1)(d) SW(MP)A 2010

²²⁰¹ Substituted by s.5(1) SW&PA 2015

²²⁰² Substituted by s.8(1) and Sch. 1 SWA 2017

(f) Part 7 (continued payment for qualified children),

(fa) Part 7A (back to work family dividend),²²⁰³

(g) Part 8 (EU payments),

(h) Part 9 (general provisions relating to social insurance, social assistance ~~and insurability~~, and *and insurability*),²²⁰⁴

~~(hh) Part 11B (recovery of certain benefits and assistance) being a question as to whether a benefit, or any part of a benefit, specified in a statement of recoverable benefits is a recoverable benefit within the meaning of that Part, and~~^{2205,2206}

(hh) Part 11B (recovery of certain benefits and assistance), being a question as to whether—

(i) a benefit, or any part of a benefit, under Part 2, or

(ii) any assistance, or any part of any assistance, under Part 3,

specified in a statement of recoverable benefits or a revised statement of recoverable benefits is a recoverable benefit within the meaning of Part 11B, and²²⁰⁷

(i) Part 12 (liability to maintain family).

(2A) Nothing in this Act shall prevent the Minister from providing for an application to be made by electronic means in respect of a matter specified in subsection (2) and the entitlement or otherwise to any such matter and any such electronic application is without prejudice to subsection (1).²²⁰⁸

(2B) Without prejudice to the generality of subsection (2A), nothing in this Act shall prevent the Minister from providing for the award of a payment in relation to any matter referred to in subsection (2) pursuant to an electronic application.²²⁰⁹

(2C) Where, pursuant to the making of an electronic application referred to in subsection (2A) or the award of a payment referred to in subsection (2B), any question arises in respect of—

(a) that electronic application, including any question as to whether the person who made the application is or was entitled to an award in respect of a matter specified in subsection (2), or

(b) that payment, including any question in respect of the amount of the payment, or the rate at which the payment is made or the person to whom it is paid,

shall be decided in accordance with subsection (1).²²¹⁰

(3) In the case of a deciding officer who is a bureau officer this section also applies to every question arising under Chapter 9 of Part 3.

²²⁰³ Inserted by Sch. to SW(MP)A 2015

²²⁰⁴ Substituted by s.13(b) SW&PA 2013

²²⁰⁵ Para (hh) inserted by s. 13(b) SW&PA 2013

²²⁰⁶ Substituted by s.12(1)(a) SW(MP)A 2015

²²⁰⁷ Substituted by s.12(1)(a) SW(MP)A 2015

²²⁰⁸ Ss. (2A), (2B) and (2C) inserted by s.15 SWP&CRA 2018

²²⁰⁹ Ss. (2A), (2B) and (2C) inserted by s.15 SWP&CRA 2018

²²¹⁰ Ss. (2A), (2B) and (2C) inserted by s.15 SWP&CRA 2018

(3A) The following categories of claims for supplementary welfare allowance shall be decided by a deciding officer:

(a) a claim made under section 197 in any case where—

(i) a person has made an application for such benefit under Part 2 or such assistance under Part 3, as is prescribed, and

(ii) entitlement to that benefit or assistance has not yet been decided or has been decided and that decision is the subject of an appeal under section 311;

(b) a claim under section 198 for a supplement towards the amount of rent or mortgage interest payable by a person in respect of his or her residence in a case included in such categories of cases as are prescribed.²²¹¹

(4) A reference in subsection (2)(a) to a question arising in relation to a claim for benefit includes a reference to a question whether benefit is or is not or was or was not payable.

(5) Notwithstanding subsections (1) to (4) and subject to subsection (7), where a person is in receipt of child benefit, the Minister may provide for the award of child benefit to that person in respect of a second or subsequent child on receipt of the information that may be prescribed, verified in the manner that may be prescribed, where the Minister is satisfied that the information is adequate to ensure that the award is made in accordance with this Act.

(6) Notwithstanding subsections (1) to (4) and subject to subsection (8), the Minister may provide for the award of a bereavement grant or a payment under section 248, in the circumstances and subject to the conditions that may be prescribed, on receipt of information that may be prescribed, verified in the manner that may be prescribed, where the Minister is satisfied that the information is adequate to ensure that the award is made in accordance with this Act.

(7) In the case of an award made under subsection (5), any question which arises subsequently in relation to whether child benefit is or is not payable, or in relation to who is entitled to receive child benefit, shall be referred to a deciding officer for decision.

(8) In the case of an award made under subsection (6), any question which arises subsequently in relation to whether a bereavement grant or a payment under section 248 is or is not payable, or in relation to who is entitled to receive a bereavement grant or a payment under section 248, shall be referred to a deciding officer for decision.

(9) In the case of an award made under section 113A, any question which arises in relation to whether ~~old age (contributory) pension~~ **State pension (contributory)** is or is not payable, or in relation to who is entitled to receive ~~an old age (contributory) pension~~ a **State pension (contributory)** shall be referred to a deciding officer for decision.²²¹²

(10) In the case of an award made under subsection 113B, any question which arises in relation to whether ~~old age (contributory) pension~~ **State pension (contributory)** is or is not payable, or in relation to who is entitled to receive ~~an old age (contributory) pension~~ a **State pension (contributory)** shall be referred to a deciding officer for decision.²²¹³

²²¹¹ Subsection 3A inserted by s. 18 and Sch. 1 SW&PA 2008

²²¹² Ss (9) inserted by s. 11(b) SWLR&PA 2006

²²¹³ Ss (10) inserted by s. 12(b) SWLR&PA 2006

Opinion of medical assessor

300A.(1) In determining a person's entitlement (whether in respect of a decision under section 300 or a revised decision under section 301) to a benefit, assistance or a ~~respite care grant~~ *carer's support grant*²²¹⁴, as the case may be, the opinion of a medical assessor may be sought in respect of, but not limited to, any of the following questions:

- (a) whether the person is—
 - (i) for the purposes of section 40 or section 74, as the case may be, incapable of work, or
 - (ii) for the purposes of section 118, permanently incapable of work;
- (b) the level of restriction, for the purposes of section 46A, on the person's capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work;
- (c) whether, for the purposes of Chapter 9 or Chapter 10 of Part 2, the woman concerned is expected to be or has been confined within the meaning of section 51;
- (d) whether, for the purposes of section 72—
 - (i) the accident, in respect of which the opinion is sought, could have arisen out of and in the course of the insured person's employment, and
 - (ii) the insured person's injury is consistent with that accident;
- (e) the extent, for the purposes of section 75, of the disablement resulting from the loss of physical or mental faculty suffered by an insured person as a result of personal injury caused on or after 1 May 1967 by accident arising out of and in the course of his or her employment;
- (f) whether, for the purposes of section 77, a person entitled to disablement pension is, as a result of the relevant loss of faculty, incapable of work and likely to remain permanently so incapable;
- (g) whether, for the purposes of section 78, a person entitled to disablement pension in respect of an assessment of 50 per cent or more requires constant attendance as a result of the relevant loss of faculty;
- (h) whether, for the purposes of section 80, the death of an insured person is as a result of personal injury caused on or after 1 May 1967 by accident arising out of and in the course of his or her employment;
- (i) whether, for the purposes of section 85, the person, as a result of the injury or disease arising out of and in the course of his or her employment—
 - (i) is or could be treated as being incapable of work and likely to remain permanently so incapable, or
 - (ii) requires constant attendance;

²²¹⁴ Substituted by s.5(1) SW&PA 2015

(j) whether, for the purposes of section 87, an insured person has a disease or injury prescribed under that section which—

(i) could have arisen out of and in the course of the insured person's employment, and

(ii) developed on or after 1 May 1967;

(k) whether the relevant accident, within the meaning of section 69, was an occupational accident for the purposes of section 90;

(l) whether the person, in respect of whose care a claim has been made or is in payment, is a relevant person for the purposes of Chapter 14 of Part 2, Chapter 8 of Part 3 or Part 5, as the case may be;

(m) whether, for the purposes of section 161A, the person is so blind that he or she—

(i) cannot perform any work for which eyesight is essential, or

(ii) cannot continue his or her ordinary occupation;

(n) whether a child is a qualified child for the purposes of Chapter 8A of Part 3;

(o) whether, for the purposes of section 210, the person, by reason of a specified disability, is substantially restricted in undertaking employment of a kind which, if the person was not suffering from that disability, would be suited to that person's age, experience and qualifications.

(2) Where the opinion of a medical assessor is sought in accordance with subsection (1), the medical assessor shall assess all of the relevant information available to him or her and shall provide an opinion on the question put to him or her.

(3) Where a medical assessor provides an opinion in accordance with subsection (2), a deciding officer shall have regard to that opinion in deciding the question in respect of which the opinion was sought.

(4) In this section 'relevant loss of faculty' has the meaning assigned to it by section 69.²²¹⁵

Revision of decisions by deciding officers.

301. ~~(1) A deciding officer may, at any time—~~

~~(a) revise any decision of a deciding officer, where it appears to him or her that the decision was erroneous in the light of new evidence or of new facts which have been brought to the notice of the deciding officer since the date on which it was given or by reason of some mistake having been made in relation to the law or the facts, or where it appears to the deciding officer that there has been any relevant change of circumstances since the decision was given, or~~

~~(b) revise any decision of an appeals officer where it appears to him or her that there has been any relevant change of circumstances which has come to notice since the decision was given,~~

²²¹⁵ S.300A inserted by s.10 SW(MP)A 2015

~~and the provisions of this Part as to appeals apply to the revised decision in the same manner as they apply to an original decision of a deciding officer.~~²²¹⁶

(1) A deciding officer may at any time—

(a) revise any decision of a deciding officer—

(i) where it appears to him or her that the decision was erroneous—

(I) in the light of new evidence or new facts which have been brought to his or her notice since the date on which the decision was given, or

(II) by reason of some mistake having been made in relation to the law or the facts,

or

(ii) where—

(I) the effect of the decision was to entitle a person to any benefit within the meaning of section 240, and

(II) it appears to the deciding officer that there has been any relevant change of circumstances which has come to notice since that decision was given,

or

(b) revise any decision of an appeals officer where—

(i) the effect of the decision of the appeals officer was to entitle a person to any benefit within the meaning of section 240, and

(ii) it appears to the deciding officer that there has been any relevant change of circumstances which has come to notice since the decision of the appeals officer was given,

and the provisions of this Part as to appeals apply to a revised decision under this subsection in the same manner as they apply to an original decision of a deciding officer.²²¹⁷

(2) A deciding officer who is a bureau officer may at any time make a decision revising a determination of ~~an employee of the Executive, including an employee of the Executive designated under section 323~~ **a designated person in relation**²²¹⁸, to entitlement to supplementary welfare allowance where it appears to the deciding officer that the determination ought to be revised having regard to the facts as they are established to the satisfaction of the deciding officer and the application of this Act to those facts and the provisions of this Part as to appeals shall apply to the revised decision in the same manner as they apply to an original decision of a deciding officer.

~~(2A) A deciding officer may at any time revise any determination of a designated person, where—~~

~~(a) it appears to the deciding officer that the determination was erroneous—~~

²²¹⁶ Subsection (1) substituted by s.3(1)(a) SW&P(No. 2)A 2013

²²¹⁷ Subsection (1) substituted by s.3(1)(a) SW&P(No. 2)A 2013

²²¹⁸ Substituted by s.18/Sch1 SW&PA 2008

~~(i) in the light of new evidence or of new facts which have been brought to the notice of the deciding officer since the date on which it was made, or~~

~~(ii) by reason of some mistake having been made in relation to the law or the facts, or~~

~~(b) where it appears to the deciding officer that there has been any relevant change of circumstances since the determination was made,~~

~~and the provisions of this Part as to appeals shall apply to a decision of a deciding officer under this subsection in the same manner as they apply to an original decision of a deciding officer.~~²²¹⁹ ²²²⁰

(2A) A deciding officer may at any time revise any determination of a designated person—

(a) where it appears to him or her that the determination was erroneous—

(i) in the light of new evidence or new facts which have been brought to his or her notice since the date on which the determination was made, or

(ii) by reason of some mistake having been made in relation to the law or the facts,

Or

(b) where—

(i) the effect of the determination was to entitle a person to supplementary welfare allowance, and

(ii) it appears to the deciding officer that there has been any relevant change of circumstances which has come to notice since that determination was made,

and the provisions of this Part as to appeals shall apply to a decision of a deciding officer under this subsection in the same manner as they apply to an original decision of a deciding officer.²²²¹

(3) Subsection (1)(a) shall not apply to a decision relating to a matter which is on appeal or reference under section 303 or 311 unless the revised decision would be in favour of a claimant.

~~(4) Subsection (2) shall not apply to a determination relating to a matter which is on appeal under section 312 or 323, as the case may require, unless the revised decision would be in favour of the claimant.~~²²²²

(4) Subsection (2) or (2A) does not apply to a determination relating to a matter which is on appeal under section 311 unless the decision of a deciding officer under subsection (2A) or the revised decision under subsection (1), as the case may be, would be in favour of the claimant.²²²³

(5) In subsections (1)(a)(ii)(II), (1)(b)(ii) and (2A)(b)(ii), the reference to any relevant change

²²¹⁹ S.s (2A) inserted by s.18/Sch1 SW&PA 2008

²²²⁰ Subsection (2A) substituted by s.(3)(1)(b) SW&P(No. 2)A 2013

²²²¹ Subsection (2A) substituted by s.3(1)(b) SW&P(No. 2)A 2013

²²²² Substituted by s.18/Sch1 SW&PA 2008

²²²³ Substituted by s.18/Sch1 SW&PA 2008

of circumstances means any relevant change of circumstances that occurred before, or occurs on or after, the coming into operation of the Social Welfare and Pensions (No. 2) Act 2013.²²²⁴

Effect of revised decisions by deciding officers.

302. A revised decision given by a deciding officer shall take effect as follows:

(a) where any benefit, assistance, ~~child benefit~~ **child benefit**, ~~early childcare supplement~~,^{2225 2226} ~~family income supplement or continued payment for qualified children~~ **family income supplement working family payment**²²²⁷, **continued payment for qualified children or back to work family dividend**²²²⁸ will, by virtue of the revised decision be disallowed or reduced and the revised decision is given owing to the original decision or determination having been given, or having continued in effect, by reason of any statement or representation (whether written or verbal) which was to the knowledge of the person making it false or misleading in a material respect or by reason of the wilful concealment of any material fact, it shall take effect from the date on which the original decision or determination took effect, but the original decision or determination may, in the discretion of the deciding officer, continue to apply to any period covered by the original decision or determination to which the false or misleading statement or representation or the willful concealment of any material fact does not relate;

(b) where any benefit, assistance, ~~child benefit~~ **child benefit**, ~~early childcare supplement~~,^{2229 2230} ~~family income supplement or continued payment for qualified children~~ **family income supplement working family payment**²²³¹, **continued payment for qualified children or back to work family dividend**²²³² will, by virtue of the revised decision be disallowed or reduced and the revised decision is given in the light of new evidence or new facts (relating to periods before and after the commencement of this Act) which have been brought to the notice of the deciding officer since the original decision or determination was given, it shall take effect from the date that the deciding officer shall determine having regard to the new facts or new evidence and the circumstances of the case;

(c) in any other case, it shall take effect as from the date considered appropriate by the deciding officer having regard to the circumstances of the case.

Reference by deciding officer to appeals officer.

303. A deciding officer may, where he or she thinks proper, instead of deciding it himself or herself, refer in the prescribed manner any question to be decided by the deciding officer to an appeals officer.

CHAPTER 2

Appeals Officers, Chief Appeals Officer and Decisions by Appeals Officers

Appointment of appeals officers.

²²²⁴ Subsection (5) inserted by s.3(1)(c) SW&P(No. 2)A 2013

²²²⁵ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²²²⁶ Deleted by s.24 and Schedule SW(MP)A 2010

²²²⁷ Substituted by s.8(1) and Sch. 1 SWA 2017

²²²⁸ Substituted by Sch. to SW(MP)A 2015

²²²⁹ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²²³⁰ Deleted by s.19 SW&P(MP)A 2013

²²³¹ Substituted by s.8(1) and Sch. 1 SWA 2017

²²³² Substituted by Sch. to SW(MP)A 2015

~~304. The Minister may appoint such and so many of his or her officers as he or she thinks proper to be appeals officers for the purposes of this Act, and every person so appointed shall hold office as an appeals officer during the pleasure of the Minister.²²³³~~

304. The Minister may appoint such and so many persons as he or she thinks proper to be appeals officers for the purposes of any provision or provisions of this Act, and every person so appointed shall be an appeals officer during the pleasure of the Minister.²²³⁴

Chief Appeals Officer.

~~305. One of the appeals officers *who is an officer of the Minister*²²³⁵ shall be designated by the Minister to be the Chief Appeals Officer and another of them *who is an officer of the Minister*²²³⁶ shall be designated by the Minister to act as the deputy for the Chief Appeals Officer when that Officer is not available.~~

305. (1) The Minister shall designate—

(a) one of the appeals officers who is an officer of the Minister to be the Chief Appeals Officer, and

(b) one or more of the other appeals officers (not being an officer designated under paragraph (a)) who are officers of the Minister to act as the deputies for the Chief Appeals Officer when the Chief Appeals Officer is not available.

(2) An appeals officer who is designated by the Minister under subsection (1) to act as deputy for the Chief Appeals Officer shall, when so acting be referred to as the Deputy Chief Appeals Officer.²²³⁷

Reference to High Court.

306. The Chief Appeals Officer may, where he or she considers it appropriate, refer any question which has been referred to an appeals officer, other than a question to which section 320 applies, for the decision of the High Court.

Appeals to Circuit Court.

307. (1) Whenever a person has appealed a decision of a deciding officer (*other than a decision of a deciding officer who is a bureau officer*)²²³⁸ then, where the Chief Appeals Officer certifies that the ordinary appeals procedures set out in this Chapter are inadequate to secure the effective processing of that appeal, the Chief Appeals Officer shall cause a direction to be issued to the person who has submitted the appeal directing the person to submit the appeal not later than 21 days from receipt of the direction to the Circuit Court and the Circuit Court may, on hearing the appeal as it thinks proper, affirm the decision or substitute the decision of the deciding officer in accordance with this Act and on the same evidence as would otherwise be available to the Appeals Officer.

(1A) Whenever a person has, on or after the coming into operation of *section 7* of the *Social Welfare Act 2019*, appealed a decision of a deciding officer who is a bureau officer, the Chief Appeals Officer shall cause a direction to be issued to the person who has submitted the appeal directing the person to submit the appeal not later than 21 days from receipt of the

²²³³ Substituted by s.22 SW(MP)A 2010

²²³⁴ Substituted by s.22 SW(MP)A 2010

²²³⁵ Inserted by s.23(a) SW(MP)A 2010

²²³⁶ Inserted by s.23(b) SW(MP)A 2010

²²³⁷ Art 305 substituted by s.17 SWA 2021

²²³⁸ Inserted by S7 of SWA 2019

direction to the Circuit Court and the Circuit Court may, on hearing the appeal as it thinks proper, affirm the decision or substitute the decision of the deciding officer in accordance with this Act and on the same evidence as would otherwise be available to the Appeals Officer.²²³⁹

(1B) The jurisdiction conferred on the Circuit Court by subsection (1A) shall be exercised—

(a) where a person who appealed the decision concerned is not resident in the State, by the judge of the circuit where the decision was made, and

(b) in any other case, by the judge of the circuit in which the person who appealed the decision concerned resides or carries on any profession, business or occupation.²²⁴⁰

(2) The appellant shall give notice of the appeal as submitted to the Circuit Court to the deciding officer.

(3) No appeal shall lie from a decision of the Circuit Court on an appeal under this section.

Annual report.

308.(1) As soon as may be after the end of each year, but not later than 6 months thereafter, the Chief Appeals Officer shall make a report to the Minister of his or her activities and the activities of the appeals officers under this Part during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

(2) A report under subsection (1) shall be in such form and shall include information in regard to such matters (if any) other than those referred to in that subsection as the Minister may direct.

(3) The Chief Appeals Officer shall, whenever so requested by the Minister, give to the Minister information in relation to the matters that the Minister may specify concerning his or her activities or the activities of appeals officers under this Part.

Appointment of assessors.

309. (1) The Chief Appeals Officer may appoint any person whom he or she considers suitable to sit as an assessor with an appeals officer when any question, which appears to the Chief Appeals Officer to require the assistance of assessors, is heard.

(2) The Chief Appeals Officer may constitute, on the basis of districts or otherwise as he or she considers appropriate, panels of persons to sit as assessors with appeals officers and members may be selected in the manner that he or she may determine from those panels to sit when any question, which in the opinion of the Chief Appeals Officer is appropriate for the assistance of assessors, is heard.

Other functions of Chief Appeals Officer.

310. (1) The Chief Appeals Officer shall have any other functions in relation to appeals under this Part that may be prescribed.

(2) In this section “functions” includes powers, duties and obligations.

²²³⁹ Inserted by S7 of SWA 2019

²²⁴⁰ Inserted by S7 of SWA 2019

Appeals and references to appeals officers.

311. (1) ~~Where any person~~ *Subject to subsection (4), where any person* ²²⁴¹ is dissatisfied with the decision given by a deciding officer *or the determination of a designated person in relation to a claim under section 196, 197 or 198*²²⁴², the question shall, on notice of appeal being given to the Chief Appeals Officer within the prescribed time, be referred to an appeals officer.

(2) Regulations may provide for the procedure to be followed on appeals and references under this Part.

~~(3) An appeals officer, when deciding a question referred under subsection (1) or section 312, shall not be confined to the grounds on which the decision of the deciding officer, or the determination of the employee of the Executive, as the case may require, was based, but may decide the question as if it were being decided for the first time.~~²²⁴³

(3) An appeals officer, when deciding a question referred under subsection (1), shall not be confined to the grounds on which the decision of the deciding officer or the determination of the designated person, as the case requires, was based, but may decide the question as if it were being decided for the first time.²²⁴⁴

~~(4) No appeal may be made under subsection (1) by any person against the decision given by a deciding officer on a question under paragraph (hh) (inserted by section 13(b) of the Social Welfare and Pensions Act 2013) of section 300(2) until the recoverable benefits specified in the statement of recoverable benefits have been paid to the Minister in accordance with section 343R (inserted by section 13(d) of the Social Welfare and Pensions Act 2013).~~^{2245 2246}

(4) No appeal may be made under subsection (1) by any person against the decision given by a deciding officer on a question under paragraph (hh) of section 300(2) until the recoverable benefits specified in the relevant statement of recoverable benefits, within the meaning of Part 11B, have been paid to the Minister in accordance with section 343R.²²⁴⁷

Supplementary welfare allowance — appeals.

~~312. Where a person is dissatisfied with the determination of an appeal by the person under section 323 in relation to a claim for supplementary welfare allowance *under section 196, 197 or 198*,²²⁴⁸ the question shall, on notice of appeal being given to the Executive within the prescribed time, be forwarded by it to the Chief Appeals Officer for referral to an appeals officer.~~²²⁴⁹

Power to take evidence on oath.

313. An appeals officer shall, on the hearing of any matter referred to him or her under this Part have power to take evidence on oath and for that purpose may administer oaths to persons attending as witnesses at that hearing.

Notification to persons to attend and give evidence or produce documents at appeal hearing.

314. (1) An appeals officer may, by giving written notice in that behalf to any person, require the person to attend at the time and place specified in the notice to give evidence in relation

²²⁴¹ Substituted by s.13(c)SW&PA 2013

²²⁴² Inserted by s.18/Sch1 SW&PA 2008

²²⁴³ Substituted by s. 18 and Sch. 1 SW&PA 2008

²²⁴⁴ Substituted by s. 18 and Sch. 1SW&PA 2008

²²⁴⁵ Subsection (4) inserted by s.13(c) SW&PA 2013

²²⁴⁶ Substituted by s.12(1)(b) SW(MP)A 2015

²²⁴⁷ Substituted by s.12(1)(b) SW(MP)A 2015

²²⁴⁸ Amended by s.18(1) SW&PA 2008

²²⁴⁹ Repealed by s. 18 and Schedule 1 SW&PA 2008

to any matter referred to the appeals officer under this Part or to produce any documents in the person's possession, custody or control which relate to any such matter.

(2) A notice under subsection (1) may be given either by delivering it to the person to whom it relates or by sending it by post in a prepaid registered letter addressed to that person at the address at which he or she ordinarily resides or at his or her place of business.

(3) A person to whom a notice under subsection (1) has been given and who refuses or wilfully neglects to attend in accordance with the notice or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any document to which the notice relates is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500.

(4) Where a person required to attend to give evidence or to produce documents under subsection (1) fails to attend or to produce those documents, an appeals officer may, on serving notice on that person, apply to the District Court for an order directing that person to attend or to produce those documents as required.

Procedure where assessor appointed.

315. Any matter referred to an appeals officer under this Part and to be heard by the appeals officer sitting with an assessor appointed under section 309 may, with the consent of the parties appearing at the hearing, but not otherwise, be proceeded with in the absence of the assessor.

Award of expenses.

316. (1) In relation to any matter referred to an appeals officer under this Part the following apply:

(a) subject to paragraph (b), an award shall not be made in respect of any costs (whether in respect of the representation of the appellant or otherwise in relation to the matter) incurred by a person;

(b) an appeals officer may make an award to a person appearing before the officer towards the person's expenses, which shall be payable by the Minister.

(2) In subsection (1)(b), "expenses" means—

(a) expenses necessarily incurred by the appellant or a witness in respect of his or her travel and subsistence or loss of remuneration, and

(b) in the case of a person appearing before an appeals officer in a representative capacity, an amount only in respect of that person's actual attendance.

(3) The Minister may pay to assessors referred to in section 309 the amounts in respect of expenses (including expenses representing loss of remunerative time) as the Minister, with the sanction of the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²²⁵⁰, determines.

~~Revision by appeals officer of decision of appeals officer.~~

~~317. An appeals officer may, at any time revise any decision of an appeals officer, where it appears to the appeals officer that the decision was erroneous in the light of new evidence or of new facts brought to his or her notice since the date on which it was given, or where it~~

²²⁵⁰ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

~~appears to the appeals officer that there has been any relevant change of circumstances since the decision was given.~~²²⁵¹

Revision by appeals officer of decision of appeals officer²²⁵²

317. (1) An appeals officer may at any time revise any decision of an appeals officer—

(a) where it appears to him or her that the decision was erroneous in the light of new evidence or new facts which have been brought to his or her notice since the date on which it was given, or

(b) where—

(i) the effect of the decision was to entitle a person to any benefit within the meaning of section 240, and

(ii) it appears to the appeals officer that there has been any relevant change of circumstances which has come to notice since that decision was given.

(2) In subsection (1)(b)(ii), the reference to any relevant change of circumstances means any relevant change of circumstances that occurred before, or occurs on or after, the coming into operation of the Social Welfare and Pensions (No. 2) Act 2013.

Revision by Chief Appeals Officer of decision of appeals officer.

318. The Chief Appeals Officer may, at any time, revise any decision of an appeals officer, where it appears to the Chief Appeals Officer that the decision was erroneous by reason of some mistake having been made in relation to the law or the facts.

Effect of revised decision by appeals officer.

319. A revised decision given by an appeals officer shall take effect as follows:

(a) where any benefit, assistance, ~~child benefit~~ **child benefit, early childcare supplement**,^{2253 2254} family income supplement or continued payment for qualified children ~~family income supplement working family payment~~²²⁵⁵, **continued payment for qualified children or back to work family dividend**²²⁵⁶ will, by virtue of the revised decision be disallowed or reduced and the revised decision is given owing to the original decision having been given, or having continued in effect, by reason of any statement or representation (whether written or verbal) which was to the knowledge of the person making it false or misleading in a material respect or by reason of the wilful concealment of any material fact, it shall take effect from the date on which the original decision took effect, but the original decision may, in the discretion of the appeals officer, continue to apply to any period covered by the original decision to which the false or misleading statement or representation or the wilful concealment of any material fact does not relate;

(b) where any benefit, assistance, ~~child benefit~~ **child benefit, early childcare supplement**^{2257 2258} family income supplement or continued payment for qualified

²²⁵¹ Section 317 substituted by s.4(1) SW&P(No. 2)A 2013

²²⁵² Section 317 substituted by s.4(1) SW&P(No. 2)A 2013

²²⁵³ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²²⁵⁴ Deleted by s.24 and Schedule SW(MP)A 2010

²²⁵⁵ Substituted by s.8(1) and Sch. 1 SWA 2017

²²⁵⁶ Substituted by Sch. to SW(MP)A 2015

²²⁵⁷ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²²⁵⁸ Deleted by s.19 SW&P(MP)A 2013

children ~~family income supplement~~ ~~working family payment~~²²⁵⁹, ~~continued payment for qualified children or back to work family dividend~~²²⁶⁰ will, by virtue of the revised decision, be disallowed or reduced and the revised decision is given in the light of new evidence or new facts (relating to periods before and after the commencement of this Act) which have been brought to the notice of the appeals officer since the original decision was given, it shall take effect from the date the appeals officer shall determine having regard to the new facts or new evidence and the circumstances of the case;

(c) in any other case, it shall take effect from the date considered appropriate by the appeals officer having regard to the circumstances of the case.

Decision of appeals officer to be final and conclusive.

~~320. The decision of an appeals officer on any question—~~

~~(a) specified in section 300(2)(a)(i), (ii) or (iii), other than a question arising under Chapter 13 of Part 2 as to whether an accident arose out of and in the course of employment, and~~

~~(b) arising under Part 3, 4, 4A,^{2261 2262} 5, 6, 7, 8, 9 or 11 or this Part, shall, subject to sections 301(1)(b), 317, 318, 324(1)(e) and 327, be final and conclusive.²²⁶³~~

320. The decision of an appeals officer on any question shall, subject to sections 301(1)(b), 317, 318, ~~324(1)(e)~~, **324(1)(b)**²²⁶⁴ and 327, be final and conclusive.²²⁶⁵

Supplementary welfare allowance.

321. For the purposes of supplementary welfare allowance, every reference in this Part to a decision shall be read as a reference to a determination *of a designated person*.²²⁶⁶

CHAPTER 3

Supplementary Welfare Allowance — Determinations and Appeals

~~Determination of entitlement to supplementary welfare allowance.~~

~~322. Any function in relation to the determination of the entitlement of any person to supplementary welfare allowance and the amount of any such allowance shall, subject to section 300, 312 or 323, be a function of the chief executive officer of the Executive.²²⁶⁷~~

~~Appeals.~~

~~323. Where a person is dissatisfied with the determination by an employee of the Executive of a claim by him or her for supplementary welfare allowance, an appeal shall lie against the determination to another employee of the Executive appointed or designated by the Minister.²²⁶⁸~~

²²⁵⁹ Substituted by s.8(1) and Sch. 1 SWA 2017

²²⁶⁰ Substituted by Sch. to SW(MP)A 2015

²²⁶¹ Inserted by s. 29 / Sch. 6 SWLR&PA 2006

²²⁶² Deleted by s.24 and Schedule SW(MP)A 2010

²²⁶³ Substituted by s.15 SW(MP)A 2010

²²⁶⁴ Substituted by s.13 SW&PA 2014

²²⁶⁵ Substituted by s.15 SW(MP)A 2010

²²⁶⁶ Inserted by s.18/Sch1 SW&PA 2008

²²⁶⁷ Section repealed by s. 18 and Sch. 1 SW&PA 2008

²²⁶⁸ Substituted by s.18 and Sch. 1 SW&PA 2008

Appeals from certain determinations.

323. Where a person is dissatisfied with the determination of a designated person of a claim by him or her under section 200, 201 or 202, an appeal lies against the determination to another person appointed or designated by the Minister.²²⁶⁹

Revision of determination of entitlement to supplementary welfare allowance.

~~324. (1) An employee of the Executive (in this subsection referred to as the “first named employee”) who is duly authorised to determine entitlement to a supplementary welfare allowance may, at any time —~~

~~(a) revise a determination of another employee of the Executive, other than an employee appointed or designated under section 323, of entitlement to such allowance if it appears to the first named employee that the determination was erroneous in the light of new evidence or of new facts which have been brought to the notice of the first named employee since the date on which the determination was given or by reason of some mistake having been made in relation to the law or the facts, or if it appears to the first named employee that there has been any relevant change of circumstances since the determination was given,~~

~~(b) revise the determination of another employee of the Executive appointed or designated under section 323, if it appears to the first named employee that there has been any relevant change of circumstances which has come to notice since the determination was given, or~~

~~(c) revise the decision of an appeals officer, if it appears to the first named employee that there has been any relevant change of circumstances which has come to notice since the decision was given,~~

~~and the provisions of this Part as to appeals shall apply to the revised determination in the same manner as they apply to an original determination of an employee of the Executive.~~

~~(2) Subsection (1)(a) and (b) shall not apply to a determination relating to a matter which is on appeal under section 312 or 323, as the case may require, unless the revised determination would be in favour of a claimant.²²⁷⁰~~

Revision of determination of entitlement to supplementary welfare allowance.

~~324. (1) A designated person (in this subsection referred to as the ‘first named designated person’) may at any time —~~

~~(a) revise a determination of another designated person of entitlement to supplementary welfare allowance where —~~

~~(i) it appears to the first named designated person that the determination was erroneous~~

~~(I) in the light of new evidence or of new facts which have been brought to the notice of the first named designated person since the date on which the determination was made, or~~

~~(II) by reason of some mistake having been made in relation to the law or the facts, or~~

²²⁶⁹ Substituted by s.18 and Sch. 1 SW&PA 2008

²²⁷⁰ Substituted by s.18 and Sch. 1 SW&PA 2008

~~(ii) if it appears to the first named designated person that there has been any relevant change of circumstances since the determination was made, or~~

~~(b) revise the decision of an appeals officer, if it appears to the designated person that there has been any relevant change of circumstances which has come to notice since the decision was given,~~

~~and the provisions of this Part as to appeals shall apply to the revised determination or the revised decision, as the case may be, in the same manner as they apply to an original determination of a designated person.~~²²⁷¹

324 (1) A designated person may at any time—

(a) revise a determination of a designated person in relation to entitlement to supplementary welfare allowance—

(i) where it appears to him or her that the determination was erroneous—

(I) in the light of new evidence or new facts which have been brought to his or her notice since the date on which the determination was made, or

(II) by reason of some mistake having been made in relation to the law or the facts,

or

(ii) where—

(I) the effect of the determination was to entitle a person to supplementary welfare allowance, and

(II) it appears to the designated person that there has been any relevant change of circumstances since that determination was made,

or

(b) revise the decision of an appeals officer where—

(i) the effect of the decision of the appeals officer was to entitle a person to supplementary welfare allowance, and

(ii) it appears to the designated person that there has been any relevant change of circumstances which has come to notice since that decision was given,

and the provisions of this Part as to appeals apply to a revised determination or a revised decision under this subsection, as the case may be, in the same manner as they apply to an original determination of a designated person.²²⁷²

(2) Subsection (1) shall not apply to a determination relating to a matter which is on appeal under section 311 or 323 unless the revised determination would be in favour of the claimant.²²⁷³

²²⁷¹ Subsection (1) substituted by s.5(1) SW&P(No. 2)A 2013

²²⁷² Subsection (1) substituted by s.5(1) SW&P(No. 2)A 2013

²²⁷³ Substituted by s.18 and Sch. 1 SW&PA 2008

(3) In subsections (1)(a)(ii)(II) and (1)(b)(ii), the reference to any relevant change of circumstances means any relevant change of circumstances that occurred before, or occurs on or after, the coming into operation of the Social Welfare and Pensions (No. 2) Act 2013.²²⁷⁴

Effect of revised determination by employee of Health Service Executive.

325. A revised determination of entitlement to a supplementary welfare allowance ~~given by an employee of the Executive~~ *made by a designated person*²²⁷⁵ shall take effect as follows:

(a) where any supplementary welfare allowance will, by virtue of the revised determination be disallowed or reduced and the revised determination is given owing to the original determination having been given, or having continued in effect, by reason of any statement or representation (whether written or verbal) which was to the knowledge of the person making it false or misleading in a material respect or by reason of the wilful concealment of any material fact, it shall take effect from the date on which the original determination took effect, but the original determination may, in the discretion of ~~the employee of the Executive~~ *the designated person*²²⁷⁶, continue to apply to any period covered by the original determination to which the false or misleading statement or representation or the wilful concealment of any material fact does not relate;

(b) where any supplementary welfare allowance will, by virtue of the revised determination, be disallowed or reduced and the revised determination is given in the light of new evidence or new facts (relating to periods before and after the commencement of this Act) which have been brought to the notice of ~~the employee of the Executive~~ *the designated person*²²⁷⁷ since the original determination was given, it shall take effect from the date that ~~the employee of the Executive~~ *the designated person*²²⁷⁸ shall determine having regard to the new facts or new evidence and the circumstances of the case;

(c) in any other case, it shall take effect from the date considered appropriate by ~~the employee of the Executive~~ *the designated person*²²⁷⁹ having regard to the circumstances of the case.

CHAPTER 4

General Provisions Relating to Decisions and Appeals

Appeals – oral hearings.

326. Notwithstanding section 311(2), where the Minister or a person designated by the Minister considers that the circumstances of a particular case warrant an oral hearing of the appeal, the Minister or any person so designated by him or her may direct the Chief Appeals Officer that the appeal be determined by way of an oral hearing.

Appeals to High Court.

327. Any person who is dissatisfied with—

(a) the decision of an appeals officer, or

²²⁷⁴ Subsection (3) inserted by s.5(2) SW&P(No. 2)A 2013

²²⁷⁵ Substituted by s.18/Sch1 SW&PA 2008.

²²⁷⁶ Substituted by s.18/Sch1 SW&PA 2008.

²²⁷⁷ Substituted by s.18/Sch1 SW&PA 2008.

²²⁷⁸ Substituted by s.18/Sch1 SW&PA 2008.

²²⁷⁹ Substituted by s.18/Sch1 SW&PA 2008.

(b) the revised decision of the Chief Appeals Officer,

~~on any question, other than a question to which section 320 applies,~~²²⁸⁰ may appeal that decision or revised decision, as the case may be, to the High Court on any question of law.

Appeal to High Court by Minister.²²⁸¹

327A. (1) Where pursuant to section 318 the Chief Appeals Officer—

(a) revises a decision of an appeals officer, the Minister may appeal that revised decision to the High Court on any question of law, or

(b) does not revise a decision of an appeals officer, the Minister may appeal the decision of the Chief Appeals Officer not to revise the first-mentioned decision to the High Court on any question of law.

(2) An appeal by the Minister under subsection (1) shall not operate as a stay on the payment of benefit or assistance to a person pursuant to a decision of an appeals officer or, as the case may be, the Chief Appeals Officer, until that appeal is determined.²²⁸²

~~**Certificate by deciding officer or appeals officer.**~~

~~328. A document purporting to be a certificate of a decision made under this Act by a deciding officer or an appeals officer and to be signed by him or her shall be prima facie evidence of the making of the decision and of the terms of that decision, without proof of the signature of the officer or of his or her official capacity.~~

~~**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.~~^{2283 2284}

Certificate by deciding officer, appeals officer or designated person.

328. A document purporting to be—

(a) a certificate of a decision made under this Act by a deciding officer or an appeals officer, or

(b) a certificate of a determination made under this Act by a designated person,

and to be signed by him or her, is *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, without proof of the signature of the officer or person concerned or of his or her official capacity.²²⁸⁵

²²⁸⁰ Deleted by s.16(1) SW(MP)A 2010

²²⁸¹ S327A inserted by s.16(2) SW(MP)A 2010

²²⁸² S327A inserted by s.16(2) SW(MP)A 2010

²²⁸³ S, 328 substituted by s. 37 + Sch. 7 SWLR&PA 2006

²²⁸⁴ Substituted by s.18 and Sch. 1 SW&PA 2008

²²⁸⁵ Substituted by s.18 and Sch. 1 SW&PA 2008

Revision to include revision consisting of reversal.

329. A reference in this Part to a revised decision given by a deciding officer or an appeals officer or a revised determination given by ~~an employee of the Executive~~ **a designated person** ²²⁸⁶ includes a reference to a revised decision or determination which reverses the original decision or determination.

Regulations.

330. The Minister may make regulations specifying the procedures to be followed by—

- (a) a deciding officer, when deciding questions under sections 300 and 301,
- (b) an appeals officer, when deciding questions under ~~sections 303, 311 and 312~~ **sections 303 and 311**²²⁸⁷, and
- ~~(c) an employee of the Executive in making determinations in relation to supplementary welfare allowance including determinations under section 323.~~²²⁸⁸
- (c) a designated person, when making determinations in relation to supplementary welfare allowance.²²⁸⁹

CHAPTER 5

Social Welfare Tribunal

Application for adjudication by Social Welfare Tribunal.

331. Where, in relation to a stoppage of work or a trade dispute, a deciding officer or an appeals officer has decided that a person is disqualified under section 68(1) for receipt of ~~unemployment benefit~~ **jobseeker's benefit** or under section 147(2) for receipt of ~~unemployment assistance~~ **jobseeker's allowance**, that person may, notwithstanding any other provision of this Act, apply to the Social Welfare Tribunal (in this Chapter referred to as "the Tribunal") for an adjudication under this Chapter.

Adjudications by Social Welfare Tribunal.

332. (1) The following provisions apply in relation to an adjudication under this Chapter:

- (a) the Tribunal shall, before making the adjudication, take into account all the circumstances of the stoppage of work concerned and of the trade dispute which caused the stoppage of work, including (without prejudice to the generality of the foregoing)—
 - (i) the question whether the applicant is or was available for work and willing to work, but is or was deprived of his or her employment through some act or omission on the part of the employer concerned which amounted to unfair or unjust treatment of the applicant,
 - (ii) the question whether the applicant is or was prevented by the employer from attending for work at his or her place of employment or was temporarily laid off by the employer, without (in either such case) any reasonable or adequate consultation by the employer with the applicant or with a trade union acting on his or her behalf, or without (in either case) the use by the employer

²²⁸⁶ Substituted by s.18 and Sch. 1 SW&PA 2008

²²⁸⁷ Substituted by s.18/Sch. 1 SW&PA 2008.

²²⁸⁸ Substituted by s.18 and Sch. 1 SW&PA 2008

²²⁸⁹ Substituted by s.18 and Sch. 1 SW&PA 2008

or by any body acting on his or her behalf of the services normally availed of by employers in the interests of good industrial relations,

(iii) the question whether any action or decision by the employer, amounting to a worsening of the terms or conditions of employment of the applicant and taken without any or any adequate consultation with, or any or any adequate notice to, the applicant, was a cause of the stoppage of work or of the trade dispute which caused the stoppage of work and was material grounds for the stoppage or the trade dispute,

(iv) the question whether the conduct of the applicant or of a trade union acting on his or her behalf was reasonable;

(b) the Tribunal shall, having heard the evidence adduced before it, and the representations made to it, by the applicant and the employer and having considered whether the conduct of the applicant or of a trade union acting on his or her behalf was reasonable and whether the employer or a body acting on his or her behalf was willing to avail of the services normally availed of in the interests of good industrial relations, decide whether the applicant is or was unreasonably deprived of his or her employment and whether (if it decides that he or she is or was so deprived) the applicant shall, notwithstanding the decision under section 68(1) or under section 147(2) of the deciding officer or appeals officer, subject to the other conditions for the receipt of such benefit or ~~assistance~~ *allowance*²²⁹⁰ being satisfied, be qualified to receive ~~unemployment benefit~~ *jobseeker's benefit* or ~~unemployment assistance~~ *jobseeker's allowance* and (where appropriate) the period during which he or she shall be so qualified;

(c) subject to subsection (2), a decision of the Tribunal on an application for an adjudication shall be final and conclusive, but an appeal shall lie to the High Court on a question of law.

(2) A person interested (including the Minister) may apply to the Tribunal for a review of its decision and, where the Tribunal is satisfied that a material change has occurred in the circumstances of the stoppage of work or of the trade dispute which caused the stoppage of work, or that there is new evidence or new facts which in the opinion of the Tribunal could have affected its decision, it may review its decision and such a review shall be treated as an adjudication under this section.

Social welfare tribunal.

333. (1) There shall be a Tribunal, which shall be known as the Social Welfare Tribunal, to hear and decide applications for adjudications under this Chapter.

(2) The Tribunal shall consist of a chairman and 4 ordinary members.

(3) The members of the Tribunal shall be appointed by the Minister and shall be eligible for re-appointment.

(4) (a) 2 ordinary members of the Tribunal shall be persons representative of workers and nominated for appointment as such members by the body known as the Irish Congress of Trade Unions.

²²⁹⁰ Substituted by s. 4 /Sch. 1 SWLR&PA 2006

- (b) The 2 other ordinary members of the Tribunal shall be persons representative of employers and nominated for appointment as such members by an organisation representative of employers.
- (5) The term of office of a member of the Tribunal shall be the period specified by the Minister when appointing the member.
- (6) (a) A member of the Tribunal may, by letter addressed to the Minister, resign his or her membership.
- (b) A member of the Tribunal may be removed from office by the Minister.
- (7) (a) Whenever a vacancy occurs in the membership of the Tribunal and is caused by the resignation, removal from office or death of an ordinary member mentioned in sub section (4)(a), the vacancy shall be filled by the Minister by appointment in the manner specified in that subsection.
- (b) Whenever a vacancy occurs in the membership of the Tribunal and is caused by the resignation, removal from office or death of an ordinary member mentioned in subsection (4)(b), the vacancy shall be filled by the Minister by appointment in the manner specified in that subsection.
- (8) In the case of a member of the Tribunal filling a vacancy caused by the resignation, removal from office or death of a member before the completion of the term of office of the last-mentioned member, the member filling that vacancy shall hold office for the remainder of the term of office of the person who resigned, died or was removed from office.
- (9) A member of the Tribunal shall be paid the remuneration (if any) and allowances that may be determined by the Minister with the consent of the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²²⁹¹.
- (10) The Minister may, with the consent of the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²²⁹², appoint such employees of the Tribunal as he or she considers necessary to assist the Tribunal in the performance of its functions, and those employees shall hold office on such terms and receive such remuneration as the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²²⁹³ determines.
- (11) (a) The Tribunal, on the hearing of an application under this Chapter, shall have power to take evidence on oath and for that purpose may cause oaths to be administered to persons attending as witnesses at the hearing.
- (b) Where a person gives false evidence before the Tribunal in such circumstances that, if the person had given the evidence before a court, he or she would be guilty of perjury, he or she is guilty of that offence.
- (c) The Tribunal may, by giving written notice in that behalf to any person, require the person to attend at the time and place specified in the notice to give evidence in relation to any matter referred to the Tribunal under this Chapter or to produce any documents in his or her possession, custody or control which relate to any such matter.

²²⁹¹ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²²⁹² Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

²²⁹³ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

(d) A notice under paragraph (c) may be given either by delivering it to the person to whom it relates or by sending it by post in a prepaid registered letter addressed to the person at the address at which he or she ordinarily resides.

(e) A person to whom a notice under paragraph (c) has been given and who refuses or wilfully neglects to attend in accordance with the notice or who, having so attended, refuses to give evidence or refuses or wilfully fails to produce any document to which the notice relates is guilty of an offence and is liable on summary conviction to a fine not exceeding €150.

(12) The Minister may make regulations giving effect to this section and those regulations may, in particular but without prejudice to the generality of the foregoing, provide for all or any of the following matters:

- (a) the procedure to be followed regarding the making of applications to the Tribunal;
- (b) the times and places of hearings by the Tribunal;
- (c) the representation of parties attending hearings by the Tribunal;
- (d) the procedure regarding the hearing of applications by the Tribunal;
- (e) the publication and notification of decisions of the Tribunal;
- (f) notices relating to applications or hearings by the Tribunal;
- (g) the award by the Tribunal of costs and expenses and the payment of those awards;
- (h) an official seal of the Tribunal.

PART 11

OVERPAYMENTS, REPAYMENTS, SUSPENSION OF PAYMENT, ETC.

Interpretation (Part 11).²²⁹⁴

~~333A.(1) In this section ‘relevant sections’ means sections 334(1)(a), 335, 336, 337, 338, 339, 341(9) and 342.~~²²⁹⁵

(1) In this section ‘relevant sections’ means sections 334(1)(a), 335, 336, 337, 338, 339, 341(9), 341(10) and 342.²²⁹⁶

(2) For the purposes of this Part –

(a) references in the relevant sections to ‘benefit’ shall be read as including a payment under section 112(1A), 113(6) or 117(1A), as appropriate, and

(b) references in the relevant sections to ‘assistance’ shall be read as including a payment under section 157(3).²²⁹⁷

²²⁹⁴ S. 333A inserted by s.14(e) SW&PA 2007

²²⁹⁵ Subsection (1) substituted by s.14 SW&PA 2014

²²⁹⁶ Subsection (1) substituted by s.14 SW&PA 2014

²²⁹⁷ S. 333A inserted by s.14(e) SW&PA 2007

Interim payments and suspension of payment.

334. (1) Regulations may make provision in relation to matters arising—

(a) pending the decision or determination under Part 2, 3, 4, ~~4, 4A~~,^{2298 2299} 5, 6, 7, 7, 7A,²³⁰⁰ 8, 9 or 10 or this Part (whether in the first instance or on an appeal or reference, and whether originally or on revision) of any claim for benefit, assistance, ~~child benefit~~ *child benefit, early childcare supplement*,^{2301 2302} family income supplement or continued payment for qualified children ~~family income supplement working family payment~~²³⁰³, *continued payment for qualified children or back to work family dividend*²³⁰⁴ or of any question affecting any person's right to any such benefit, assistance, ~~child benefit~~ *child benefit, early childcare supplement*^{2305 2306} family income supplement or continued payment for qualified children ~~family income supplement working family payment~~²³⁰⁷, *continued payment for qualified children or back to work family dividend*²³⁰⁸ or to receipt thereof or any person's liability for contributions, or

(b) out of the effect of any appeal or revision of any decision or determination under Part 2, 3, 4, ~~4, 4A~~,^{2309 2310} 5, 6, 7, 7, 7A,²³¹¹ 8, 9 or 10 or this Part on any such claim or question.

(2) Where it appears to the Minister that a question has arisen or may arise as to whether—

(a) the conditions for the receipt of benefit, assistance (~~other than supplementary welfare allowance determined by the Executive~~)²³¹², ~~child benefit~~ *child benefit, early childcare supplement*,^{2313 2314} family income supplement or continued payment for qualified children ~~family income supplement working family payment~~²³¹⁵, *continued payment for qualified children or back to work family dividend*²³¹⁶ payable under a decision are or were fulfilled, or

(b) a decision that any such benefit, assistance, ~~child benefit~~ *child benefit, early childcare supplement*,^{2317 2318} family income supplement or continued payment for qualified children ~~family income supplement working family payment~~²³¹⁹, *continued payment for qualified children or back to work family dividend*²³²⁰ is payable ought to be revised under this section *be revised under this Act*²³²¹,

²²⁹⁸ Inserted by s. 29 / Sch. 6 SWLR&PA 2006

²²⁹⁹ Reference to "4A" deleted by s.24(5) and Sch. SW(MP)A 2010

²³⁰⁰ Substituted by Sch. to SW(MP)A 2015

²³⁰¹ Substituted by s. 29 / Sch. 6 SWLR&PA 2006

²³⁰² Deleted by s.24 / Sch. SW(MP)A 2010

²³⁰³ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁰⁴ Substituted by Sch. to SW(MP)A 2015

²³⁰⁵ Substituted by s. 29 / Sch. 6 SWLR&PA 2006

²³⁰⁶ Deleted by s.24 / Sch. SW(MP)A 2010

²³⁰⁷ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁰⁸ Substituted by Sch. to SW(MP)A 2015

²³⁰⁹ Inserted by s. 29 / Sch. 6 SWLR&PA 2006

²³¹⁰ Reference to "4A" deleted by S 24/ Sch. SW(MP)A 2010

²³¹¹ Substituted by Sch. to SW(MP)A 2015

²³¹² Deleted by s.18/Sch. 1 SW&PA 2008.

²³¹³ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²³¹⁴ Deleted by s. 24/ Sch. SW(MP)A 2010

²³¹⁵ Substituted by s.8(1) and Sch. 1 SWA 2017

²³¹⁶ Substituted by Sch. to SW(MP)A 2015

²³¹⁷ Substituted by s. 29 /Sch. 6 SWLR&PA 2006

²³¹⁸ Deleted by s.24/ Sch. SW(MP)A 2010

²³¹⁹ Substituted by s.8(1) and Sch. 1 SWA 2017

²³²⁰ Substituted by Sch. to SW(MP)A 2015

²³²¹ Substituted by s.22(c) SW&PA 2014

the Minister may direct that payment of that benefit, assistance, ~~child benefit~~ *child benefit*, *early childcare supplement*,²³²² ²³²³ family income supplement or continued payment for qualified children ~~family income supplement working family payment~~²³²⁴, *continued payment for qualified children or back to work family dividend*²³²⁵ shall be suspended in whole or in part until the question has been decided.

~~(3) Where it appears to an employee of the Executive who is duly authorised to determine entitlement to supplementary welfare allowance that a question has arisen or may arise as to whether—~~

~~(a) the conditions for the receipt of an allowance payable under a determination are or were fulfilled, or~~

~~(b) a determination of entitlement ought to be revised under this section, payment of the supplementary welfare allowance may be suspended in whole or in part until that question has been determined.~~²³²⁶

Overpayments.

335. Where, in accordance with section 302, 319 or 325, a decision or determination is varied or reversed by a deciding officer, an appeals officer or ~~an employee of the Executive~~ *a designated person*²³²⁷ (as the case may be) so as to disallow or reduce any benefit, assistance, ~~child benefit~~, *child benefit*, *early childcare supplement*,²³²⁸ ²³²⁹ family income supplement or continued payment for qualified children ~~family income supplement working family payment~~²³³⁰, *continued payment for qualified children or back to work family dividend*²³³¹ paid or payable to a person—

(a) any benefit paid in pursuance of the original decision shall be repayable to the Social Insurance Fund to the extent to which it would not have been payable if the decision on the appeal or revision had been given in the first instance and the person and any other person to whom the benefit was paid on behalf of that person, or the personal representative of that person, shall be liable to pay to the Fund, on demand made in that behalf by an officer of the Minister, the sum so repayable,

(b) any assistance ~~(other than supplementary welfare allowance determined by the Executive under Part 3)~~²³³², ~~child benefit~~ *child benefit*, *early childcare supplement*,²³³³ ²³³⁴ family income supplement or continued payment for qualified children ~~family income supplement working family payment~~²³³⁵, *continued payment for qualified children or back to work family dividend*²³³⁶ paid in pursuance of the original decision shall be repayable to the Minister to the extent to which it would not have been payable if the decision on the appeal or revision had been given in the first instance and the person and any other person to whom that assistance, ~~child benefit~~

²³²² Substituted by s. 29 /Sch. 6 SWLR&PA 2006

²³²³ Deleted by S24 and Sch. SW(MP)A 2010

²³²⁴ Substituted by s.8(1) and Sch. 1 SWA 2017

²³²⁵ Substituted by Sch. to SW(MP)A 2015

²³²⁶ Deleted by s.18/ Sch. 1 SW&PA 2008

²³²⁷ Substituted by s.18/Sch. 1 SW&PA 2008.

²³²⁸ Substituted by s. 29 /Sch. 6 SWLR&PA 2006

²³²⁹ Deleted by s.24 / Sch. SW(MP)A 2010

²³³⁰ Substituted by s.8(1) and Sch. 1 SWA 2017

²³³¹ Substituted by Sch. to SW(MP)A 2015

²³³² Deleted by s.18/Sch. 1 SW&PA 2008.

²³³³ Substituted by s. 29 / Sch. 6 SWLR&PA 2006

²³³⁴ Deleted by s.24 /Sch. SW(MP)A 2010

²³³⁵ Substituted by s.8(1) and Sch. 1 SWA 2017

²³³⁶ Substituted by Sch. to SW(MP)A 2015

child benefit, early childcare supplement,^{2337 2338} family income supplement or continued payment for qualified children *family income supplement working family payment*²³³⁹, *continued payment for qualified children or back to work family dividend*²³⁴⁰ (as the case may be) was paid on behalf of that person, or the personal representative of that person, shall be liable to pay to the Minister, on demand made in that behalf by an officer of the Minister, the sum so repayable,

(c) ~~any supplementary welfare allowance determined by the Executive paid in pursuance of the original determination shall be repayable to the Executive to the extent to which it would not have been payable if the revised determination had been given in the first instance and the person and any other person to whom the supplementary welfare allowance was paid on behalf of that person, or the personal representative of that person, shall be liable to pay on demand by the Executive the sum so repayable,~~²³⁴¹

(d) any supplementary welfare allowance paid in pursuance of the original determination shall be repayable to the Minister to the extent to which it would not have been payable if the revised decision made in accordance with section 301(2) had been given in the first instance and the person and any other person to whom the supplementary welfare allowance was paid on behalf of that person, or the personal representative of that person, shall be liable to pay on demand by the Minister the sum so repayable.

Repayment of benefit, assistance, etc., overpaid.

336. Where, in any case, other than a case involving a revised decision or determination in accordance with section 302, 319 or 325, a person has been—

(a) in receipt of any benefit, assistance, ~~child benefit~~ *child benefit, early childcare supplement*^{2342 2343}, family income supplement or continued payment for qualified children ~~family income supplement working family payment~~²³⁴⁴, *continued payment for qualified children or back to work family dividend*²³⁴⁵ for any period during which that person was not entitled thereto, or

(b) in receipt of that benefit, assistance, ~~child benefit~~ *child benefit, early childcare supplement*^{2346 2347}, ~~supplement or payment~~ *supplement, payment or dividend*²³⁴⁸ at a rate higher than that to which he or she was entitled,

then that person and any other person to whom that benefit, assistance, ~~child benefit~~ *child benefit, early childcare supplement*^{2349 2350}, ~~supplement or payment~~ *supplement, payment or dividend*²³⁵¹ was paid on behalf of that person, or the personal representative of that person, shall be liable to pay—

²³³⁷ Substituted by s. 29 /Sch. 6 SWLR&PA 2006

²³³⁸ Deleted by s.24 /Sch. SW(MP)A 2010

²³³⁹ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁴⁰ Substituted by Sch. to SW(MP)A 2015

²³⁴¹ Deleted by s.18/ Sch1 SW&PA 2008

²³⁴² Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²³⁴³ Deleted by s.24 and Sch. SW(MP)A 2010

²³⁴⁴ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁴⁵ Substituted by Sch. to SW(MP)A 2015

²³⁴⁶ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²³⁴⁷ Deleted by s.24 and Sch. SW(MP)A 2010

²³⁴⁸ Substituted by Sch. to SW(MP)A 2015

²³⁴⁹ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²³⁵⁰ Deleted by s.24 and Sch. SW(MP)A 2010

²³⁵¹ Substituted by Sch. to SW(MP)A 2015

(i) to the Social Insurance Fund, in the case of benefit, *and*²³⁵²

~~(ii) to the Minister, in the case of assistance (other than supplementary welfare allowance determined by the Executive), child benefit **child benefit, early childcare supplement**,^{2353, 2354} family income supplement or continued payment for qualified children, and²³⁵⁵~~

(ii) to the Minister, in the case of assistance, child benefit, ~~early childcare supplement~~²³⁵⁶, ~~family income supplement or continued payment for qualified children~~²³⁵⁷ **family income supplement-working family payment**²³⁵⁸, **continued payment for qualified children or back to work family dividend**²³⁵⁹,

~~(iii) to the Executive, in the case of supplementary welfare allowance determined by the Executive,~~²³⁶⁰

on demand, any sums paid to that person in respect of that benefit, assistance, ~~child benefit~~ **child benefit, early childcare supplement**^{2361 2362}, ~~supplement or payment~~ **supplement, payment or dividend**²³⁶³ during that period or, as the case may be, a sum representing the difference between that benefit, assistance, ~~child benefit~~ **child benefit, early childcare supplement**^{2364, 2365} ~~supplement or payment~~ **supplement, payment or dividend**²³⁶⁶ at the rate actually paid and benefit, assistance, ~~child benefit~~ **child benefit, early childcare supplement**^{2367, 2368}, ~~supplement or payment~~ **supplement, payment or dividend**²³⁶⁹ at the rate to which the person was entitled.

Liability to repay where person convicted of offence.

337. Where a person is convicted of an offence under section 32 of the Larceny Act 1916 or Part 2 of the Criminal Justice (Theft and Fraud Offences) Act 2001, by virtue of having received any benefit, assistance, ~~child benefit~~ **child benefit, early childcare supplement**²³⁷⁰ or family income supplement, **child benefit or family income supplement**²³⁷¹ **child benefit, family income supplement-working family payment**²³⁷², **continued payment for qualified children or back to work family dividend**²³⁷³, which he or she was not entitled to receive, that person is liable to pay—

(a) to the Social Insurance Fund, in the case of benefit, *and*²³⁷⁴

~~(b) to the Minister, in the case of assistance (other than supplementary welfare~~

²³⁵² Inserted by s.18/Sch1 SW&PA 2008.

²³⁵³ Substituted by s. 29 / Sch. 6 SWLR&PA 2006

²³⁵⁴ Deleted by s.24 /Sch. SW(MP)A 2010

²³⁵⁵ Sub para (ii) substituted by s.18 /Sch1 SW&PA 2008

²³⁵⁶ Deleted by s.24 /Sch. SW(MP)A 2010

²³⁵⁷ Substituted by s.18 a/Sch. 1 SW&PA 2008

²³⁵⁸ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁵⁹ Substituted by Sch. to SW(MP)A 2015

²³⁶⁰ Sub para (iii) deleted by s.18 /Sch. 1 SW&PA 2008

²³⁶¹ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²³⁶² Deleted by s.24 /Sch. SW(MP)A 2010

²³⁶³ Substituted by Sch. to SW(MP)A 2015

²³⁶⁴ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²³⁶⁵ Deleted by s.24 /Sch. SW(MP)A 2010

²³⁶⁶ Substituted by Sch. to SW(MP)A 2015

²³⁶⁷ Substituted by s. 29 + Sch. 6 SWLR&PA 2006

²³⁶⁸ Deleted by s.24 /Sch. SW(MP)A 2010

²³⁶⁹ Substituted by Sch. to SW(MP)A 2015

²³⁷⁰ Substituted by s. 29 /Sch. 6 SWLR&PA 2006

²³⁷¹ Substituted by s.24 and Sch. SW(MP)A 2010

²³⁷² Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁷³ Substituted by Sch. to SW(MP)A 2015

²³⁷⁴ Inserted by s.18/Sch. 1 SW&PA 2008

allowance determined by the Executive), child benefit ~~child benefit, early childcare supplement~~²³⁷⁵—or family income supplement, ~~child benefit or family income supplement~~²³⁷⁶, and²³⁷⁷

(b) to the Minister, in the case of assistance, child benefit, ~~early childcare supplement, family income supplement or continued payment for qualified children~~²³⁷⁸ **family income supplement working family payment**²³⁷⁹, **continued payment for qualified children or back to work family dividend**²³⁸⁰,

(c) to the Executive, in the case of supplementary welfare allowance determined by the Executive,²³⁸¹

on demand, a sum not exceeding the amount of the benefit, assistance, ~~child benefit~~ **child benefit, early childcare supplement**²³⁸²—or family income supplement, ~~child benefit or family income supplement~~²³⁸³ **child benefit, family income supplement working family payment**²³⁸⁴, **continued payment for qualified children or back to work family dividend**²³⁸⁵, to which that conviction applies.

Recovery of debts.

338. Where a person has received moneys from the Department of Social and Family Affairs, which he or she was not entitled to receive, the person shall be liable to repay—

(a) to the Social Insurance Fund, in the case of benefit, **and**²³⁸⁶

(b) to the Minister, in the case of assistance (other than supplementary welfare allowance determined by the Executive), child benefit ~~child benefit, early childcare supplement,~~²³⁸⁷ family income supplement or continued payment for qualified children,²³⁸⁸

(b) to the Minister, in the case of assistance, child benefit, ~~early childcare supplement,~~²³⁸⁹ family income supplement or continued payment for qualified children²³⁹⁰ **family income supplement working family payment**²³⁹¹, **continued payment for qualified children or back to work family dividend**²³⁹²,

(c) to the Executive, in the case of supplementary welfare allowance determined by the Executive,²³⁹³

on demand a sum not exceeding the amount of the money received.

²³⁷⁵ Substituted by s. 29 / Sch. 6 SWLR&PA 2006

²³⁷⁶ Substituted by s.24 /Sch. SW(MP)A 2010

²³⁷⁷ Paragraph (b) substituted by s.18 / Sch. 1 SW&PA 2008

²³⁷⁸ Paragraph (b) substituted by s.18 / Sch. 1 SW&PA 2008

²³⁷⁹ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁸⁰ Substituted by Sch. to SW(MP)A 2015

²³⁸¹ Deleted by s.18/Sch. 1 SW&PA 2008

²³⁸² Substituted by s. 29 /Sch. 6 SWLR&PA 2006

²³⁸³ Substituted by s.24 and Sch. SW(MP)A 2010

²³⁸⁴ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁸⁵ Substituted by Sch. to SW(MP)A 2015

²³⁸⁶ Inserted by s.18/Sch1 SW&PA 2008

²³⁸⁷ Substituted by s. 29 / Sch. 6 SWLR&PA 2006

²³⁸⁸ Substituted by s.18/Sch. 1 SW&PA 2008

²³⁸⁹ Deleted by s.24 and Sch. SW(MP)A 2010

²³⁹⁰ Substituted by s.18/Sch. 1 SW&PA 2008

²³⁹¹ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁹² Substituted by Sch. to SW(MP)A 2015

²³⁹³ Deleted by s.18/Sch. 1 SW&PA 2008

Distribution of assets.

339. (1) The personal representative of a person who was at any time in receipt of assistance shall, not less than 3 months before beginning to distribute the assets of that person—

(a) inform the Minister, by written notice delivered to the Minister, of his or her intention to distribute the assets, and provide the Minister with a schedule of the assets of the estate, and

(b) where requested in writing by the Minister within 3 months of giving the notice and schedule of assets referred to in paragraph (a), ensure that sufficient assets are retained, to the extent (if any) appropriate, to repay any sum which may be determined to be due to the Minister or the State (as the case may be) in respect of—

(i) payment of assistance to the person at a time when the person was not entitled to receive assistance, or

(ii) payment of assistance to the person of an amount in excess of the amount which the person was entitled to receive.

(2) Notwithstanding any other provision of this Act, for the purposes of determining the sum which is due to the Minister under subsection (1), the means of the deceased person for the period in respect of which assistance was paid to him or her shall, in the absence of evidence to the contrary, be calculated on the basis that the deceased person's assets at the time of his or her death belonged to him or her for that entire period.

(3) A personal representative who contravenes subsection (1) and who distributes the assets of the person whose estate he or she represents without payment of any sum which is due to the Minister in respect of—

(a) payments of assistance to the person at a time when the person was not entitled to receive assistance, or

(b) payments of assistance to the person of amounts in excess of the amounts which the person was entitled to receive,

shall be personally liable to repay to the Minister an amount equal to the amount (if any) which the Minister would have received if, in the administration of the estate of the person, that sum had been duly taken into account and repaid to the Minister to the extent (if any) appropriate, having regard to the assets of the person, and that amount shall be a debt due by the personal representative to the Minister.

(4) Any proceedings to recover assistance due to the Minister as a debt due to the State under section 341(3) shall be maintainable against the estate of a deceased person if brought at any time within the 6 years beginning on the later of the date on which the notice or the date on which the schedule of assets under subsection (1)(a) is received by the Minister.

Recovery of payments from financial institutions.

340. (1) Notwithstanding any enactment or rule of law, where sums are due to the Minister or the Social Insurance Fund in accordance with section 336 or 338 because ~~benefit or assistance~~ *benefit, assistance, child benefit, family income supplement-working family payment*²³⁹⁴, *continued payment for qualified children or back to work family dividend*²³⁹⁵

²³⁹⁴ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁹⁵ Substituted by Sch. to SW(MP)A 2015

which was intended for a beneficiary was paid to a financial institution for the credit of an account kept with that institution by the beneficiary and he or she dies before the payment or payments were made, the ~~benefit or assistance~~ **benefit, assistance, child benefit, family income supplement-working family payment²³⁹⁶, continued payment for qualified children or back to work family dividend²³⁹⁷** may be recovered from the financial institution in accordance with subsection (2).

(2) The Minister may give written notice to a financial institution requiring the institution to pay to the Minister, within the period specified in the notice, the lesser of the following amounts:

(a) the amount specified in the notice, being the amount of ~~benefit or assistance~~ **benefit, assistance, child benefit, family income supplement-working family payment²³⁹⁸, continued payment for qualified children or back to work family dividend²³⁹⁹** recoverable in accordance with subsection (1); or

(b) the amount standing to the credit of the account when the notice is received by the institution;

and the financial institution shall comply with such a direction.

(3) In this section “financial institution” means—

(a) a bank which is the holder of a licence under section 9 of the Central Bank Act 1971,

(b) a trustee savings bank within the meaning of the Trustee Savings Banks Act 1989,

(c) a building society within the meaning of the Building Societies Act 1989,

(ca) a credit union within the meaning of the Credit Union Act 1997,²⁴⁰⁰

(d) a post office savings bank established under the Post Office Savings Bank Acts 1861 to 1958, or

(e) any other body that may be prescribed.

Recovery of sums due by civil proceedings or by deduction from other payments.

~~341.(1) All sums due to the Social Insurance Fund, other than in accordance with section 336, shall be recoverable as debts due to the State and, without prejudice to any other remedy (notwithstanding the assignment by any regulations under section 17(2) to the Collector-General or any other person of any function referred to in that section in relation to employment contributions or the assignment by any regulations under section 23(2) to the Collector-General of any function referred to in that section in relation to self-employment contributions), may be recovered by the Minister as a debt under statute or simple contract debt in any court of competent jurisdiction.~~

~~(2) Notwithstanding section 272, or any provision in any other enactment specifying the period within which proceedings may be commenced to recover a debt under statute or~~

²³⁹⁶ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁹⁷ Substituted by Sch. to SW(MP)A 2015

²³⁹⁸ Substituted by s.8(1) and Sch. 1 SWA 2017

²³⁹⁹ Substituted by Sch. to SW(MP)A 2015

²⁴⁰⁰ Para (ca) inserted by s. 36 SWLR&PA 2006

~~simple contract debt, any proceedings for the recovery of any sums due to the Social Insurance Fund by way of employment contributions under section 13(1) or self-employment contributions under section 21(1) may be brought and shall be maintainable at any time.~~²⁴⁰¹

341 (1) Notwithstanding the assignment by—

(a) any regulations under section 17(1) to the Collector-General or any other person of any function referred to in that section in relation to employment contributions,

(b) any regulations under section 23(1) to the Collector-General or any other person of any function referred to in that section in relation to self-employment contributions, or

(c) any regulations under section 30G(1) to the Collector-General or any other person of any function referred to in that section in relation to contributions under Chapter 5B of Part 2,

all sums due to the Social Insurance Fund, other than in accordance with section 336, shall be recoverable as debts due to the State and, without prejudice to any other remedy, may be recovered by the Minister as a debt under statute or simple contract debt in any court of competent jurisdiction.

(2) Notwithstanding section 272, or any provision in any other enactment specifying the period within which proceedings may be commenced to recover a debt under statute or simple contract debt, any proceedings for the recovery of any sums due to the Social Insurance Fund by way of—

(a) employment contributions under section 13(1),

(b) self-employment contributions under section 21(1),

(c) contributions under Chapter 5A of Part 2, or

(d) contributions under Chapter 5B of Part 2,

may be brought and shall be maintainable at any time.²⁴⁰²

(3) All sums due to the Minister, other than in accordance with section 336, under this Act shall be recoverable as debts due to the State and, without prejudice to any other remedy, may be recovered by the Minister as a debt under statute or simple contract debt in any court of competent jurisdiction.

(4) Section 9 of the Civil Liability Act 1961 shall not apply to an action for the recovery of a debt due to the Minister or to the State under this Act.

(5) Every sum repaid to or recovered by the Minister under this Act shall be paid into or disposed of for the benefit of the Exchequer or the Social Insurance Fund, as appropriate, in the manner that the ~~Minister for Finance~~ **Minister for Public Expenditure and Reform**²⁴⁰³ shall direct.

²⁴⁰¹ Subsections (1) and (2) substituted by s.6(8) SW&P(MP)A 2013

²⁴⁰² Subsections (1) and (2) substituted by s.6(8) SW&P(MP)A 2013

²⁴⁰³ Substituted by Regulation 3 and Sch. 1 of [S.I. 418 of 2011](#)

~~(6) All sums due to the Executive under this Act shall be recoverable as debts due to the State and may, without prejudice to any other remedy, be recovered by the Executive as a debt under statute or simple contract debt in any court of competent jurisdiction.²⁴⁰⁴~~

(7) ~~Any benefit, *Subject to subsection (7A), any benefit,*~~²⁴⁰⁵ assistance, ~~supplement or payment supplement, payment or dividend~~²⁴⁰⁶ repayable in accordance with section 335, 336, 337 or 338 may, without prejudice to any other method of recovery, be recovered by deduction, subject to the conditions and in the circumstances that shall be prescribed, from any benefit, assistance, ~~supplement or payment~~ *supplement, payment or dividend*²⁴⁰⁷ to which the person concerned is or becomes entitled.

(7A) The weekly amount of any benefit or assistance to be deducted for the purposes of the recovery of any benefit, assistance, ~~supplement or payment~~ *supplement, payment or dividend*²⁴⁰⁸ in accordance with subsection (7) shall not, without the prior written consent of the person liable to repay the overpayment, exceed 15 per cent of the weekly rate of benefit or assistance to which the person concerned is or becomes entitled.

(7B) In subsection (7A) ‘weekly rate’ means the appropriate weekly rate of benefit or assistance payable to a person under Part 2 or Part 3, but does not include any increases under Part 2 or Part 3 of such benefit or assistance as the case may be.

(7C) A person who is in receipt of any benefit or assistance, other than supplementary welfare allowance, from which a deduction is being made for the repayment of any benefit, assistance, ~~supplement or payment~~ *supplement, payment or dividend*²⁴⁰⁹ in accordance with subsection (7), shall not be entitled to claim for supplementary welfare allowance under section 196.²⁴¹⁰

(8) ~~Any child benefit~~ **Any child benefit or early childcare supplement**^{2411 2412} repayable in accordance with section 335, 336, 337 or 338 may, without prejudice to any other method of recovery, be recovered by deduction from any payment or payments on account of child benefit ~~or early childcare supplement~~^{2413 2414} to which such person then is or becomes entitled.

~~(9) The power conferred on the Minister by this section to deduct from any payments on account of benefit, assistance, child benefit *child benefit, early childcare supplement,*~~^{2415 2416} or family income supplement to which a person becomes entitled any sums payable by the person to the Minister or the Executive²⁴¹⁷ under this section, may be exercised, notwithstanding that proceedings have been instituted in a court for the recovery of the sums which the person is liable to repay to the Minister or the Executive²⁴¹⁸ as aforesaid or that an order has been made by a court requiring the payment by the person of the sums which he or she is liable to pay to the Minister or the Executive²⁴¹⁹ under this section, and any costs

²⁴⁰⁴ Subsection (6) deleted by s.18/Sch. 1 SW&PA 2008

²⁴⁰⁵ Substituted by s.13(1)(a) SWA 2012

²⁴⁰⁶ Substituted by Sch. to SW(MP)A 2015

²⁴⁰⁷ Substituted by Sch. to SW(MP)A 2015

²⁴⁰⁸ Substituted by Sch. to SW(MP)A 2015

²⁴⁰⁹ Substituted by Sch. to SW(MP)A 2015

²⁴¹⁰ Subsections (7A), (7B) and (7C) inserted by s.13(1)(b) SWA 2012

²⁴¹¹ Substituted by s. 29 / Sch. 6 SWLR&PA 2006

²⁴¹² Deleted by s.24(5) / Sch. SW(MP)A 2010

²⁴¹³ Inserted by s. 29 / Sch. 6 SWLR&PA 2006

²⁴¹⁴ Deleted by s.24(5) / Sch. SW(MP)A 2010

²⁴¹⁵ Substituted by s. 29 / Sch. 6 SWLR&PA 2006

²⁴¹⁶ Deleted by s.24(5) and Sch. SW(MP)A 2010

²⁴¹⁷ Deleted by s.18/Sch. 1 SW&PA 2008

²⁴¹⁸ Deleted by s.18/Sch. 1 SW&PA 2008

²⁴¹⁹ Deleted by s.18/Sch. 1 SW&PA 2008

required by that order to be paid to the Minister or the Executive²⁴²⁰ are deemed, for the purposes of this section, to be sums payable by the person to the Minister or the Executive²⁴²¹ (as the case may be)²⁴²² under this section.²⁴²³

(9) Any benefit, assistance, ~~supplement or payment~~ *supplement, payment or dividend*²⁴²⁴ repayable by a person in accordance with section 335, 336, 337 or 338 may, without prejudice to any other method of recovery, be recovered by deduction, subject to the conditions and in the circumstances that shall be prescribed, from—

- (a) any payment under section 34A or 36,
- (b) any payment made in accordance with regulations made under section 34, 34A, 35 or 37,
- (c) any payment under section 32 of the Redundancy Payments Act 1967, and
- (d) any payment under section 6 of the Protection of Employees (Employers' Insolvency) Act 1984,

being or to be made to the person concerned.²⁴²⁵

(10) The powers conferred on the Minister by this section to deduct any sums repayable in accordance with section 335, 336, 337 or 338 may be exercised, notwithstanding that proceedings have been instituted in a court for the recovery of the sums which the person is liable to repay to the Minister as aforesaid or that an order has been made by a court requiring the payment by the person of the sums which he or she is liable to pay to the Minister under this section, and any costs required by that order to be paid to the Minister are deemed, for the purposes of this section, to be sums repayable by the person to the Minister in accordance with those sections.²⁴²⁶

~~Repayment of amounts due to be deferred, suspended, reduced or cancelled.~~

~~342. Notwithstanding anything to the contrary, where a person is required to repay an amount of any benefit, assistance, child benefit, **child benefit, early childcare supplement,**^{2427 2428} family income supplement or continued payment for qualified children in accordance with this Act, an officer of the Minister authorised by him or her for this purpose, or in the case of supplementary welfare allowance determined by an employee of the Executive,²⁴²⁹ may, subject to the conditions and in the circumstances that shall be prescribed, defer, suspend, reduce or cancel repayment of any such amount.²⁴³⁰~~

~~Repayment of amounts due to be deferred, suspended, reduced or cancelled.~~

~~342. Notwithstanding anything to the contrary and subject to section 342A, where a person is required to repay an amount of any—~~

- ~~(a) benefit described in section 39(1),~~
- ~~(b) assistance described in section 139(1),~~

²⁴²⁰ Deleted by s.18/Sch. 1 SW&PA 2008

²⁴²¹ Deleted by s.18/Sch. 1 SW&PA 2008

²⁴²² Deleted by s.18/Sch. 1 SW&PA 2008

²⁴²³ Subsection (9) substituted by s.16(a) SW&PA 2014

²⁴²⁴ Substituted by Sch. to SW(MP)A 2015

²⁴²⁵ Subsection (9) substituted by s.16(a) SW&PA 2014

²⁴²⁶ Subsection (10) inserted by s.16(b) SW&PA 2014

²⁴²⁷ Substituted by s. 29 / Sch. 6 SWLR&PA 2006

²⁴²⁸ Deleted by s.24 and Sch. SW(MP)A 2010

²⁴²⁹ Deleted by s.18/Sch. 1 SW&PA 2008

²⁴³⁰ Substituted by s.17 SW&PA 2011

- ~~(c) child benefit,~~
- ~~(d) respite care grant,~~
- ~~(e) family income supplement,~~
- ~~(f) continued payment for qualified children, or~~
- ~~(g) payment pursuant to section 239,~~

~~in accordance with this Act—~~

- ~~(i) an officer of the Minister authorised by him or her for this purpose, or~~
- ~~(ii) the Executive, in the case of supplementary welfare allowance,~~

~~may, subject to the conditions and in the circumstances that shall be prescribed, defer, suspend, reduce or cancel repayment of any such amount.~~ ²⁴³¹

Repayment of amounts due to be deferred, suspended, reduced or cancelled.

342. Notwithstanding anything to the contrary and subject to section 342A, where a person is required to repay an amount of any—

- (a) benefit described in section 39(1),
- (b) assistance described in section 139(1),
- (c) child benefit,
- (d) ~~respite care grant~~ *carer's support grant*²⁴³²,
- (e) ~~family income supplement~~ *working family payment*²⁴³³,
- (f) continued payment for ~~qualified children, or~~ *qualified children*,²⁴³⁴
- (fa) back to work family dividend, or²⁴³⁵
- (g) payment pursuant to section 239,

in accordance with this Act, an officer of the Minister authorised by him or her for this purpose may, subject to the conditions and in the circumstances that shall be prescribed, defer, suspend, reduce or cancel repayment of any such amount.

Repayment of amounts due arising from false or misleading statements or willful concealment of facts.

342A. **(1)**²⁴³⁶ Where a person is required to repay an amount of any payment referred to in paragraphs (a) to (g) of ~~section 342(1)~~ **section 342** ²⁴³⁷ by virtue of—

- (a) a revised decision given by a deciding officer under section 302(a),

²⁴³¹ Substituted by s.10(3) SW&PA 2011

²⁴³² Substituted by s.5(1) SW&PA 2015

²⁴³³ Substituted by s.8(1) and Sch. 1 SWA 2017

²⁴³⁴ Substituted by Sch. to SW(MP)A 2015

²⁴³⁵ Para (f) Inserted by Sch. to SW(MP)A 2015

²⁴³⁶ Inserted by s.11(a) SW(MP)A 2015

²⁴³⁷ Substituted by s.11(b) SW(MP)A 2015

(b) a revised decision given by an appeals officer under section 319(a), or

(c) a revised determination given under section 325(a),

the amount to be repaid in such circumstances shall not be reduced by the amount of any other payment referred to in paragraphs (a) to (g) of section 342 to which the person would otherwise have been entitled in the period to which the overpayment relates had he or she not been in receipt of the payment which gave rise to the overpayment.²⁴³⁸

(2) Subsection (1) shall apply to amounts required to be repaid by virtue of—

(a) a revised decision referred to in subsection (1)(a) or (1)(b), or

(b) a revised determination referred to in subsection (1)(c),

given on or after 29 June 2011, whether or not the amount so repayable is in respect of a period commencing before, or on or after, that date.²⁴³⁹

Effect of decision for purposes of proceedings.

343. In any proceedings for an offence under this Act, or in any proceedings involving any issue related to the payment of contributions, or for the recovery of any sums due to the Minister or the Social Insurance Fund, a decision on any question relevant to the proceedings given in accordance with this Act shall, unless an appeal or reference in respect of the decision is pending or the prescribed time for appealing against the decision has not expired, be ~~conclusive~~ *admissible as evidence*²⁴⁴⁰ for the purpose of those proceedings and—

(a) if any such decision which might be so given has not been obtained and the decision is necessary for the determination of the proceedings, the question ~~shall~~ *may*²⁴⁴¹ be submitted for decision in accordance with this Act, and

(b) where any such appeal or reference is pending or the time for so appealing has not expired or any question has been submitted under paragraph (a), the court dealing with the case ~~shall~~ *may*²⁴⁴² adjourn the proceedings until such time as a final decision on the question has been obtained.

Part 11A²⁴⁴³

ATTACHMENT

Interpretation

343A. In this Part—

“additional debt” in relation to a relevant person who has received a notice of attachment in respect of an overpaid person, means any amount which, at any time after the time of the receipt by the relevant person of the notice of attachment but before the end of the relevant period in relation to the notice, would be a debt due by the relevant person to the overpaid person if a notice of attachment were received by the relevant person at that time;

²⁴³⁸ S342A inserted by s.18 SW&PA 2011

²⁴³⁹ SS (2) inserted by s.11 (c) SW(MP)A 2015

²⁴⁴⁰ Amended by s.22(a) SW&PA 2008

²⁴⁴¹ Amended by s. 22(b) SW&PA 2008

²⁴⁴² Amended by s. 22(b) SW&PA 2008

²⁴⁴³ Inserted by s.15 SW&P(MP)A 2013

“debt” in relation to a notice of attachment given to a relevant person in respect of an overpaid person and in relation to that relevant person and overpaid person, means the amount of any money which, at the time the notice of attachment is received by the relevant person, is due by the relevant person (whether on that person’s own account or as an agent or trustee) to the overpaid person, irrespective of whether the overpaid person has applied for the payment (to the overpaid person or any other person) or for the withdrawal of all or part of the money;

“deposit” means an amount of money paid to a financial institution on terms under which it will be repaid with or without interest and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the financial institution to which it is made;

“emoluments” has the same meaning as section 983 of the Act of 1997;

“financial institution” has the same meaning as section 250A and includes a branch of a financial institution which records deposits in its books as liabilities of the branch;

“notice of attachment” means a notice under section 343H;

“notice of revocation” means a notice under section 343I;

“overpaid person” shall be construed in accordance with section 343B;

‘public body’ means—

- (a) a Department of State,
- (b) a local authority, or
- (c) a body established by any enactment. ²⁴⁴⁴

“relevant amount” shall be construed in accordance with section 343B;

“relevant period” in relation to a notice of attachment, means, as respects the relevant person to whom the notice of attachment is given, the period commencing at the time at which the notice is received by the relevant person and ending on the earliest of—

- (a) the date on which the relevant person completes the payment to the Minister out of the debt, or the aggregate of the debt and any additional debt, due by the relevant person to the overpaid person named in the notice, of an amount equal to the relevant amount in relation to the overpaid person,
- (b) the date on which the relevant person receives a notice of revocation of the notice of attachment, and
- (c) where the relevant person or the overpaid person named in the notice—
 - (i) is declared bankrupt, the date on which the relevant person or the overpaid person is so declared, or

²⁴⁴⁴ Inserted by s.17(a) SW&PA 2014

(ii) is a company which commences to be wound up, the relevant date within the meaning of section 285 of the Companies Act 1963, in relation to the winding up;

“relevant person” in relation to an overpaid person, means a person in respect of whom the Minister has reason to believe may have, at the time a notice of attachment is received by such person in respect of an overpaid person, a debt due to the overpaid person.

Person to whom notice of attachment may be given

343B.(1) For the purposes of this Part, a person who is liable under section 335, 336, 337 or 338 to pay to the Social Insurance Fund or the Minister, on demand, a sum referred to in one or more than one of those sections shall be referred to as the ‘overpaid person’ and the sum which the overpaid person is so liable to pay shall be referred to as the ‘relevant amount’.

(2) Notwithstanding that the Minister may recover the relevant amount by other methods, subject to this Part, the Minister may give a notice of attachment to an overpaid person—

(a) who fails to—

~~(i) repay the relevant amount, and~~

(i) repay the relevant amount, or ²⁴⁴⁵

(ii) respond, to the satisfaction of the Minister, to a notice under section 343D(1), and

(b) to whom the Minister has given a notice under section 343D(3).

Circumstances of overpaid person

343C. Prior to giving a notice under section 343D(1), the Minister, in determining the circumstances of the overpaid person shall take into account the following matters:

(a) his or her personal and family circumstances;

(b) any statutory deductions that may affect his or her earnings or income;

(c) the amount of the overpayment;

(d) the period of time for which the overpayment is outstanding;

(e) the amount of net income or earnings of the overpaid person;

(f) the employment circumstances of the overpaid person;

(g) the amount of debt due to the overpaid person.

Proposal to give a notice of attachment

343D.(1) Before giving a notice of attachment to an overpaid person, the Minister shall give notice in writing to the overpaid person—

(a) requesting him or her to make arrangements to repay the relevant amount,

²⁴⁴⁵ Subpara (i) substituted by s.17(b) SW&PA 2014

(b) requesting him or her to respond furnishing any representations that he or she wishes to make in relation to the matter for consideration by the Minister, and

(c) stating that if the overpaid person fails to make arrangements to repay or respond to the satisfaction of the Minister within 14 days of the date of the notice under this subsection, the Minister intends to proceed with a notice of attachment relating to the overpaid person.

(2) The Minister shall give due consideration to any response received from the overpaid person under subsection (1) before he or she decides to give a notice under subsection (3).

(3) Having considered any response under subsection (2) the Minister shall give a notice in writing to the overpaid person (whether or not the document containing the notice also contains other information being communicated by the Minister to the overpaid person), not later than 28 days before the receipt by the relevant person or relevant persons concerned of a notice of attachment, stating that if the relevant amount is not paid it may be specified in a notice of attachment or notices of attachment and recovered under this Part from a relevant person or relevant persons in relation to the overpaid person.

Attachment of earnings

343E.(1) A notice of attachment may relate to any amount of money due by the relevant person to the overpaid person as emoluments under a contract of service.

(2) A notice of attachment referred to in subsection (1) may provide, as the Minister considers appropriate, for the payment by the relevant person of an amount out of the emoluments, over a period specified in the notice, by the periodical deductions of such amounts as are specified in the notice.

(3) The Minister, in determining the rate of periodical deductions under subsection (2), and in addition to considering the matters under section 343C shall not—

(a) without the prior written agreement of the overpaid person, determine a rate that exceeds 15 per cent of the net weekly emoluments to which the person concerned is or becomes entitled, or

(b) determine a rate that exceeds an amount that will cause the overpaid person to become entitled to claim for supplementary welfare allowance under section 196.

(4) Where the Minister gives a notice of attachment referred to in subsection (1) to a relevant person—

(a) the relevant person shall not be liable for failure to comply with it before 10 days have elapsed since the giving of the notice,

(b) if the overpaid person to whom it refers is not in the employment of the relevant person or ceases to be in the employment of the relevant person after it is given, that relevant person shall (in either case) within 10 days from the date of receipt of the notice, make a return of that fact to the Minister, and

(c) on any occasion when a relevant person makes, in compliance with a notice of attachment, a deduction from an overpaid person's earnings, the relevant person shall give, in such manner and form as directed in the notice of attachment, to the overpaid person a written statement of the total amount of the deduction.

(5) Where the Minister gives a notice of attachment referred to in subsection (1)—

(a) the overpaid person shall—

(i) notify the Minister in writing of every occasion on which he or she leaves any employment, or becomes employed or reemployed, not later (in each case) than 10 days from the date on which he or she does so, and

(ii) include in the notice referred to in subparagraph (i) particulars of his or her earnings and expected earnings from the relevant employment,

and

(b) any relevant person who is an employer of the overpaid person and knows that the notice of attachment has been given, within 10 days of the occurrence of a matter referred to in paragraph (a) and in such manner and form as directed in the notice of attachment, shall notify the Minister in writing of any change in earnings paid to the overpaid person.

Attachment of money in financial institution

343F. (1) For the purposes of a notice of attachment, where a relevant person is a financial institution, any amount of money, including interest on that money, which at the time the notice of attachment is received by the relevant person is a deposit held by the relevant person—

(a) to the credit of the overpaid person for the overpaid person's sole benefit, or

(b) to the credit of the overpaid person and any other person or persons for their joint benefit,

shall be regarded as a debt due by the relevant person to the overpaid person at that time.

(2) Subject to subsection (3), where subsection (1) applies, a deposit held by a relevant person which is a financial institution to the credit of the overpaid person and any other person or persons (in this subsection referred to as the 'other party or parties') for their joint benefit shall be deemed to be held for the benefit of the overpaid person and the other party or parties to the deposit equally, and accordingly only the portion of the deposit so deemed shall be regarded as a debt due by the relevant person to the overpaid person.

(3) Where evidence of the amount of the deposit referred to in subsection (2) that is held to the benefit of the overpaid person is produced to the satisfaction of the relevant person within 10 days of the giving of the notice under section 343H(5), only so much of the deposit as is shown to be held to the benefit of the overpaid person shall be regarded as a debt due by the relevant person to the overpaid person at that time.

(4) Where a notice of attachment is given to a relevant person which is a financial institution, the Minister, in addition to considering the matters under section 343C, shall not specify an amount in the notice that exceeds an amount that will cause the overpaid person to become entitled to claim for supplementary welfare allowance under section 196.

(5) Where, under section 343H any amount is paid to the Minister by a relevant person which is a financial institution in accordance with a notice of attachment, that relevant person, within 10 days and in such manner and form as directed in the notice of attachment, shall give the overpaid person concerned a notice in writing informing him or her of the payment and its amount.

Attachment of money from State ²⁴⁴⁶

343FA. (1) For the purposes of a notice of attachment, where a relevant person is a Minister of the Government (including the Minister) or a public body, any amount of money, including interest on that money, which at the time the notice of attachment is received by the relevant person is—

(a) to be paid to the overpaid person for the overpaid person's sole benefit, or

(b) to be paid to the overpaid person and any other person or persons for their joint benefit, under any enactment that may be prescribed, shall be regarded as a debt due by the relevant person to the overpaid person at that time.

(2) Subject to subsection (3), where subsection (1) applies, the amount due to the overpaid person and any other person or persons (in this subsection referred to as the 'other party or parties') for their joint benefit shall be deemed to be due to the overpaid person and the other party or parties in equal shares, and accordingly only the portion of the amount due so deemed shall be regarded as a debt due by the relevant person to the overpaid person.

(3) Where evidence of the amount referred to in subsection (2) that is due to the overpaid person is produced to the satisfaction of the relevant person within 10 days of the giving of the notice under section 343H(5A), only so much of the amount as is shown to be due to the overpaid person shall be regarded as a debt due by the relevant person to the overpaid person at that time.

(4) Where a notice of attachment is given to a relevant person who is a Minister of the Government (including the Minister) or a public body, the Minister, in addition to considering the matters under section 343C, shall not specify an amount in the notice that exceeds an amount that will cause the overpaid person to become entitled to claim for supplementary welfare allowance under section 196.

(5) Where, under section 343H any amount is paid to the Minister by a relevant person who is a Minister of the Government (including the Minister) or a public body in accordance with a notice of attachment, that relevant person, within 10 days and in such manner and form as directed in the notice of attachment, shall give the overpaid person concerned a notice in writing informing him or her of the payment and its amount. ²⁴⁴⁷

Dispute

343G. Where there is a dispute as to an amount of money which is due by the relevant person to the overpaid person, the amount in dispute shall be disregarded by the relevant person for the purposes of determining the amount of the debt and specifying the debt in the reply delivered to the Minister under section 343H(1)(c)(i).

Notice of attachment

343H. (1) Where an overpaid person fails to repay the relevant amount, the Minister may give to a relevant person, in relation to the overpaid person, a notice in writing (in this section referred to as the 'notice of attachment') in which is entered—

(a) the overpaid person's name and address,

²⁴⁴⁶ Section 343FA inserted by s.17(c) SW&PA 2014

²⁴⁴⁷ Section 343FA inserted by s.17(c) SW&PA 2014

(b) the relevant amount, or, in a case where a notice of attachment is given to more than one relevant person in respect of an overpaid person, a portion of the relevant amount as determined appropriate by the Minister, and

(c) a direction to the relevant person—

(i) subject to subsections (2) and (3), to deliver to the Minister, within the period of 10 days from the date on which the notice of attachment is received by the relevant person, a reply in writing specifying whether or not any debt is due by the relevant person to the overpaid person on the date that the notice is received by the relevant person and, if any debt is so due, specifying the amount of the debt, and

(ii) if the amount of any debt is so specified, to pay to the Minister within the period referred to in subparagraph (i), an amount equal to the amount of the debt so specified.

(2) Where the amount of the debt due by the relevant person to the overpaid person is equal to or greater than the relevant amount, the amount of the debt specified in the reply shall be an amount equal to the relevant amount.

(3) A relevant person to whom a notice of attachment has been given shall comply with the direction in the notice.

(4) Where the relevant person is a financial institution and the debt due by the relevant person to the overpaid person is part of a deposit held to the credit of the overpaid person and any other person or persons for their joint benefit, a reply shall be made within a period of 10 days from—

(a) the expiry of the period specified in the notice to be given under subsection (5), or

(b) the production of the evidence referred to in subsection (5)(ii).

(5) Where a relevant person which is a financial institution is given a notice of attachment and the debt due by the relevant person to the overpaid person is part of a deposit held by the relevant person to the credit of the overpaid person and any other person or persons (in this subsection referred to as the ‘other party or parties’) for their joint benefit, the relevant person shall on receipt of the notice of attachment give to the overpaid person and the other party or parties to the deposit a notice in writing in which is entered—

(a) the overpaid person’s name and address,

(b) the name and address of the other party or parties to whom a notice under this paragraph is given,

(c) the name and address of the relevant person, and

(d) the specified relevant amount, and which states that—

(i) a notice of attachment under this section has been received in respect of the overpaid person,

(ii) under section 343F(2) a deposit is deemed, subject to section 343F(3), to be held to the benefit of the overpaid person and the other party or parties to the deposit equally, and

(iii) unless such evidence, referred to in section 343F(3) is produced within 10 days of the giving of the notice under this subsection—

(I) an amount equal to the amount of the deposit so deemed to be held to the benefit of the overpaid person (and accordingly regarded as a debt due to the overpaid person by the relevant person) shall be paid to the Minister, where that amount is equal to or less than the relevant amount, and

(II) where the amount of the deposit so deemed to be held to the benefit of the overpaid person (and accordingly regarded as a debt due to the overpaid person by the relevant person) is greater than the relevant amount an amount equal to the relevant amount shall be paid to the Minister.

(5A) Where a relevant person who is a Minister of the Government (including the Minister) or a public body is given a notice of attachment and the debt due by the relevant person to the overpaid person is part of an amount due to the overpaid person and any other person or persons (in this subsection referred to as the ‘other party or parties’) for their joint benefit, the relevant person shall on receipt of the notice of attachment give to the overpaid person and the other party or parties a notice in writing in which is entered—

(a) the overpaid person’s name and address,

(b) the name and address of the other party or parties to whom a notice under this subsection is given,

(c) the name and address of the relevant person, and

(d) the specified relevant amount, and which states that—

(i) a notice of attachment under this section has been received in respect of the overpaid person,

(ii) under section 343FA(2) an amount is deemed, subject to section 343FA(3), to be due to the overpaid person and the other party or parties equally, and

(iii) unless such evidence, referred to in section 343FA(3) is produced within 10 days of the giving of the notice under this subsection—

(I) an amount equal to the amount deemed due to the overpaid person (and accordingly regarded as a debt due to the overpaid person by the relevant person) shall be paid to the Minister, where that amount is equal to or less than the relevant amount, and

(II) where the amount so deemed to be due to the overpaid person (and accordingly regarded as a debt due to the overpaid person by the

relevant person) is greater than the relevant amount an amount equal to the relevant amount shall be paid to the Minister.²⁴⁴⁸

(6) If, when a relevant person receives a notice of attachment, the amount of the debt due by the relevant person to the overpaid person named in the notice is less than the relevant amount in relation to the overpaid person or no debt is so due and, at any time after the receipt of the notice and before the end of the relevant period in relation to the notice, an additional debt becomes due by the relevant person to the overpaid person, the relevant person shall within 10 days of that time—

(a) if the aggregate of the amount of any debt so due and the additional debt so due is equal to or less than the relevant amount in relation to the overpaid person—

(i) send a further statement to the Minister specifying the additional debt, and

(ii) pay to the Minister the amount of the additional debt,

and so on for each subsequent occasion during the relevant period in relation to the notice of attachment on which an additional debt becomes due by the relevant person to the overpaid person until—

(I) the aggregate amount of the debt and the additional debt or debts so due equals the relevant amount in relation to the overpaid person, or

(II) paragraph (b) applies in relation to an additional debt,

and

(b) if the aggregate amount of any debt and the additional debt or debts so due to the overpaid person is greater than the relevant amount in relation to the overpaid person—

(i) send a further statement to the Minister specifying such portion of the latest additional debt as when added to the aggregate of the debt and any earlier additional debts is equal to the relevant amount in relation to the overpaid person, and

(ii) pay to the Minister that portion of the additional debt.

(7) Where a notice of attachment has been given to a relevant person in respect of an overpaid person, the relevant person shall not, during the relevant period in relation to the notice, make any disbursements out of the debt, or out of any additional debt, due by the relevant person to the overpaid person except to the extent that any such disbursement—

(a) will not reduce the debt or the aggregate of the debt and any additional debt so due to an amount that is less than the relevant amount specified in the notice of attachment concerned, or

(b) is made pursuant to an order of a court.

(8) For the purposes of this section, a disbursement made by a relevant person contrary to subsection (7) shall be deemed not to reduce the amount of the debt or any additional debts due by the relevant person to the overpaid person.

²⁴⁴⁸ Subsection (5A) inserted by s.17(d) SW&PA 2014

(9) Any reply, notice, statement or further statement required to be given by the relevant person to the Minister or the overpaid person under this section shall be in such manner and form as directed in the notice of attachment.

(10) A reference to the relevant amount in this section shall, as appropriate, be construed as including a reference to the relevant amount or the portion of the relevant amount, as the case may be, specified in a notice of attachment.

Revocation of notice of attachment

343I. A notice of attachment given to a relevant person in respect of an overpaid person may be revoked by the Minister at any time by notice in writing given to the relevant person and shall be revoked within 10 days if the overpaid person has paid the relevant amount to the Minister.

Supplemental matters relating to notices of attachment

343J. (1) Where in pursuance of this Part a relevant person pays any amount to the Minister under a notice of attachment out of a debt or an additional debt due by the relevant person to the overpaid person and, at the time of the receipt by the Minister of that amount, the overpaid person has paid to the Minister the amount or aggregate amount of the overpayments, in respect of which the overpaid person is in default at the time of the giving of the notice or notices of attachment, the first-mentioned amount shall be refunded by the Minister within 10 days to the overpaid person.

(2) On the receipt by the Minister of an amount paid under section 343H in accordance with a notice of attachment, the Minister shall within 10 days notify the overpaid person and the relevant person in writing of such receipt.

(3) Where, under section 343H and in accordance with a notice of attachment, a relevant person pays to the Minister the whole or part of the amount of a debt or an additional debt due by the relevant person to an overpaid person, or any part of such an amount, the overpaid person shall allow such payment and the relevant person shall be acquitted and discharged of the amount of the payment as if it had been paid to the overpaid person.

(4) Where under section 343H a relevant person is prohibited from making any disbursement out of a debt or an additional debt due to an overpaid person, no action shall lie against the relevant person in any court by reason of a failure to make any such disbursement.

(5) Any obligation on the Minister to maintain secrecy or any other restriction on the disclosure of information by the Minister shall not apply in relation to information contained in a notice of attachment.

(6) A notice of attachment in respect of an overpaid person shall not be given to a relevant person at a time when—

(a) the relevant person concerned is an undischarged bankrupt or a company being wound up, or

(b) the overpaid person concerned is an undischarged bankrupt.

(7) The Minister may appoint one or more than one of his or her officers to perform any acts and discharge any functions to be performed or discharged by the Minister under this Part.

(8) Where a relevant person to whom a notice of attachment in respect of an overpaid person has been given—

(a) delivers a reply under subparagraph (i) of section 343H(1)(c) but fails to pay to the Minister, within the period referred to in that subparagraph, the amount specified in the reply or any part of that amount, or

(b) delivers a further statement under subsection (6) of section 343H but fails to pay to the Minister within the time specified in that subsection the amount specified in the further statement or any part of that amount,

the amount specified in the reply or further statement, or the part of that amount, as the case may be, which the relevant person has failed to pay to the Minister, may, if the notice of attachment has not been revoked by a notice of revocation, be sued for and recovered by action or other appropriate proceedings by the Minister in any court of competent jurisdiction.

Offences

343K. Where a relevant person fails to comply with a direction under subparagraph (i) or (ii) of section 343H(1)(c)—

(a) within the period specified in subparagraph (i) of section 343H(1)(c), or

(b) if subsection (3) of section 343H applies, within the period referred to in that subsection,

he or she is guilty of an offence. ²⁴⁴⁹

PART 11B ²⁴⁵⁰

RECOVERY OF CERTAIN BENEFITS

Interpretation

343L. (1) In this Part—

“Act of 2003” means the Personal Injuries Assessment Board Act 2003;

“Board” means the Personal Injuries Assessment Board;

“compensation payment” has the meaning assigned to it by section 343M;

“compensator” has the meaning assigned to it by section 343M;

“court” means, in relation to a personal injury action, the court in which that action has been brought, being the High Court, Circuit Court or District Court, as the case may be;

“injured person” has the meaning assigned to it by section 343M and includes any person acting on his or her behalf or his or her personal representative;

“personal injury” includes any disease and any impairment of a person’s physical or mental condition;

“recoverable benefits” has the meaning assigned to it by subsection (2);

²⁴⁴⁹ Part 11A inserted by s.15 SW&P(MP)A 2013

²⁴⁵⁰ Part 11B (sections 343L to 343W) inserted by s.13 SW&PA 2013 and commenced by S.I. No. 308 of 2014

“relevant compensation payment” means any part of a compensation payment that is attributable to loss of earnings or profits of an injured person;

“relevant statement of recoverable benefits” means a statement of recoverable benefits or, where a revised statement of recoverable benefits has been issued, the revised statement of recoverable benefits;²⁴⁵¹

“revised statement of recoverable benefits” means a statement issued by the Minister under subsection 343PA(2) specifying the amount of recoverable benefits in respect of an injured person;²⁴⁵²

“specified benefits” has the meaning assigned to it by section 343O;

“specified period” shall be construed in accordance with section 343N;

~~‘statement of recoverable benefits’ means a statement issued by the Minister under section 343P.²⁴⁵³~~

“statement of recoverable benefits” means a statement issued by the Minister under section 343P(3) or 343PA(1) specifying the amount of recoverable benefits in respect of an injured person.²⁴⁵⁴

~~(2) In this Part ‘recoverable benefits’ means—~~

~~(a) the specified benefits paid to an injured person as a result of the personal injury up to the date of the issuing of a statement of recoverable benefits, and~~

~~(b) any specified benefits that may be paid to the injured person as a result of the personal injury on or after the date referred to in paragraph (a) until the end of the specified period.²⁴⁵⁵~~

(2) In this Part ‘recoverable benefits’ means—

(a) in the case of a statement of recoverable benefits issued under section 343P(3) or 343PA(1)—

(i) the specified benefits paid to an injured person as a result of the personal injury before the date of the issuing of the statement of recoverable benefits, and

(ii) the specified benefits that may be paid to an injured person as a result of the personal injury on or after the date referred to in subparagraph (i) until the end of the specified period,

and

(b) in the case of a revised statement of recoverable benefits issued under section 343PA(2)

²⁴⁵¹ Inserted by s.12(1)(c)(i) SW(MP)A 2015

²⁴⁵² Inserted by s.12(1)(c)(i) SW(MP)A 2015

²⁴⁵³ Substituted by s.12(1)(c)(ii) SW(MP)A 2015

²⁴⁵⁴ Substituted by s.12(1)(c)(ii) SW(MP)A 2015

²⁴⁵⁵ Substituted by s.12(1)(c)(iii) SW(MP)A 2015

(i) the specified benefits paid to an injured person as a result of the personal injury before the date of the issuing of the revised statement of recoverable benefits, and

(ii) the specified benefits that may be paid to an injured person as a result of the personal injury on or after the date referred to in subparagraph (i) until the end of the specified period.²⁴⁵⁶

Application of Part

343M. (1) Subject to subsection (2), this Part applies where—

(a) a payment (in this Part referred to as a ‘compensation payment’) is made by or on behalf of a person (in this Part referred to as the ‘compensator’) who is, or is alleged to be, liable to any extent in respect of a personal injury, not causing death, suffered by any other person (in this Part referred to as the ‘injured person’),

(b) the injured person has received, is receiving, or may receive, a specified benefit as a result of that personal injury during the specified period, and

(c) the compensation payment is made on or after the commencement of this Part unless that payment is made pursuant to a court order, an order of the Board in accordance with the Act of 2003 or a settlement and that order or settlement is made before the commencement of this Part.

(2) This Part does not apply where compensation payments are made to an injured person—

(a) by the Hepatitis C and HIV Compensation Tribunal,

(b) by a court of competent jurisdiction to compensate certain persons who have contracted Hepatitis C or Human Immunodeficiency Virus within the State from the use of Human Immunoglobulin Anti-D, whole blood or other blood products,

(c) by the Residential Institutions Redress Board,

(d) by the Residential Institutions Statutory Fund Board,

(e) under the provisions of the Health (Repayment Scheme) Act 2006 to a relevant person within the meaning of that Act,

(f) by the Criminal Injuries Compensation Tribunal,

(g) in relation to disability caused by Thalidomide,

(h) in accordance with the Garda Síochána (Compensation) Acts 1941 to 2003, or

(i) by a tribunal, redress board or under a scheme of compensation where that tribunal, scheme or redress board is prescribed under subsection (3).

(3) The Minister may prescribe a compensation tribunal, redress board or scheme of compensation for the purposes of subsection (2) where—

²⁴⁵⁶ Substituted by s.12(1)(c)(iii) SW(MP)A 2015

(a) compensation payments by the tribunal, redress board or under the scheme are made from moneys provided by the Oireachtas, or

(b) the tribunal or redress board is performing functions conferred on it by or under an enactment, or

(c) the scheme is administered by the Minister or a Minister of the Government other than the Minister,

and the Minister is satisfied that such prescribing will assist in securing beneficial, effective and efficient use of funds available to that tribunal, redress board or scheme.

(4) This Part applies notwithstanding section 2 of the Civil Liability (Amendment) Act 1964.

Specified period

343N. The specified period in respect of which specified benefits are recoverable is the period beginning on the date on which the injured person first becomes entitled to a specified benefit as a result of the personal injury and ending on the earliest of the following—

(a) the expiration of the period of 5 years from that date,

(b) the date on which a compensator makes a compensation payment in final discharge of any claim made by or in respect of the injured person as a result of the personal injury, or

(c) the date on which an agreement is made under which agreement an earlier payment is treated as having been made in final discharge of any such claim.

Specified benefits

343O. The specified benefits are:

(a) illness benefit under Chapter 8 of Part 2;

(b) partial capacity benefit under Chapter 8A of Part 2;

(c) injury benefit under section 74;

(d) an increase of disablement pension in accordance with section 77 or 77A, where the person is incapable of work and likely to remain permanently so incapable;

(e) invalidity pension under Chapter 17 of Part 2;

(f) disability allowance under Chapter 10 of ~~Part 3~~. **Part 3**; ²⁴⁵⁷

(g) supplementary welfare allowance paid under Chapter 9 of Part 3. ²⁴⁵⁸

Application for statement of recoverable benefits

343P. (1) Subject to subsection (2), a compensator shall apply to the Minister for a statement of recoverable benefits before making any compensation payment to, or in respect of, an injured person.

²⁴⁵⁷ Substituted by s.17(a)(i) SW(No.2)A 2019

²⁴⁵⁸ Inserted by s.17(a)(ii) SW(No.2)A 2019

(2) The Board shall apply to the Minister for a statement of recoverable benefits before issuing an order to pay under section 38 of the Act of 2003.

(3) The Minister shall, ~~within 4 weeks~~ **within 25 working days** ²⁴⁵⁹ from the date of receipt of an application under subsection (1) or (2), issue a statement of recoverable benefits to the compensator or the Board, as the case may be.

(4) The Minister shall, at the same time as issuing a statement of recoverable benefits to a compensator or the Board under subsection (3), issue a copy of the statement to the injured person.

(5) The Minister may by regulations prescribe—

(a) the information required by him or her relating to the identity of the injured person and benefits received by that person for the purposes of an application for a statement of recoverable benefits, and

(b) the form in which the application shall be made.

Issuing of statements and revised statements of recoverable benefits by Minister

343PA.(1) The Minister may issue a statement of recoverable benefits to a compensator or the Board, as the case may be, where—

(a) a compensator has made a compensation payment to, or in respect of, an injured person but has not applied for a statement of recoverable benefits under section 343P(1), or

(b) the Board has issued an order to pay under section 38 of the Act of 2003 but has not applied for a statement of recoverable benefits under section 343P(2).

(2) The Minister may issue a revised statement of recoverable benefits to a compensator or the Board, as the case may be, where, subsequent to the issue of a statement of recoverable benefits under subsection (1) or section 343P(3), a decision or a revised decision, within the meaning of section 343Q(4), is given to—

(a) award a specified benefit to an injured person, or

(b) vary a specified benefit payable to an injured person.

(3) The Minister shall, at the same time as issuing a statement of recoverable benefits under subsection (1) or a revised statement of recoverable benefits under subsection (2) to a compensator or the Board, as the case may be, issue a copy of the statement to the injured person.

(4) The Minister may by regulations prescribe the information to be provided by a compensator or an injured person which is required by the Minister in relation to the identity of the injured person and benefits received by that person for the purposes of issuing a statement of recoverable benefits under subsection (1) or a revised statement of recoverable benefits under subsection (2), as the case may be. ²⁴⁶⁰

²⁴⁵⁹ Substituted by s.17(b) SW(No.2)A 2019

²⁴⁶⁰ Section 343PA inserted by s.12(1)(d) SW(MP)A 2015

Transfer of personal data, under Part 11B, to compensator in United Kingdom²⁴⁶¹

343PB. (1) Where—

(a) a compensator is subject to the laws, regulations and administrative procedures of the United Kingdom, and

(b) an injured person has received, is receiving, or may receive, a specified benefit, the Minister shall, for the purposes of this Part and subsection (2), transfer to a compensator referred to in paragraph (a) personal data specified in subsection (3) in respect of an injured person referred to in paragraph (b) in all or any of the following:

(i) a statement of recoverable benefits issued by the Minister under section 343P(3) or section 343PA(1);

(ii) a revised statement of recoverable benefits issued by the Minister under section 343PA(2);

(iii) a refund made by the Minister under section 343U.

(2) The personal data referred to in subsection (1) in respect of an injured person referred to in subsection (1)(b), that are transferred in a statement, or refund, referred to in subsection (1), are necessary for the payment to the Minister, by a compensator referred to in subsection (1)(a), of any specified benefit received by, or which may be received by, an injured person referred to in subsection (1)(b) to whom, or in respect of whom, a compensation payment is made by that compensator.

(3) The personal data referred to in subsection (1) are personal data within the meaning of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹⁹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC that are—

(a) required for the purposes and effective operation of this Part and subsection (2), and

(b) held by the Minister for those purposes and that operation.²⁴⁶²

OJ No. L 119, 4.5.2016, p.1

Statement of recoverable benefits

~~343Q. (1) A statement of recoverable benefits shall, in respect of the injured person concerned, specify the amount of recoverable benefits.~~

~~(2) A statement of recoverable benefits shall be valid for 3 months from the date that it is issued.~~

~~(3) A person to whom a statement of recoverable benefits is issued may request the Minister to furnish particulars of the manner in which the amount of recoverable benefits specified in the statement of recoverable benefits was calculated.~~

~~(4) The Minister shall furnish the particulars requested under subsection (3) within 4 weeks of the receipt of such a request.²⁴⁶³~~

²⁴⁶¹ Section.343PB inserted by s.101 WUKEU(CP)A 2020

²⁴⁶² S.343PB inserted by s.101 WUKEU(CP)A 2020

²⁴⁶³ Substituted by s.12(1)(e) SW(MP)A 2015

Period of validity of statements and revised statements of recoverable benefits²⁴⁶⁴

343Q.(1) A statement of recoverable benefits or a revised statement of recoverable benefits shall be valid—

(a) in a case where, at the time of issuing the statement, no recoverable benefits have been identified—

(i) for 12 months from the date of issue of the statement of recoverable benefits or revised statement of recoverable benefits, as the case may be, or

(ii) until such time as a decision or a revised decision is given to award a specified benefit to an injured person,

whichever is the earlier,

(b) in a case where, at the time of issuing the statement, recoverable benefits have been identified and no specified benefit is being paid—

(i) for 12 months from the date of issue of the statement of recoverable benefits or revised statement of recoverable benefits, as the case may be, or

(ii) until such time as a decision or a revised decision is given to award a specified benefit to an injured person or to vary a specified benefit payable to an injured person,

whichever is the earlier, and

(c) in any other case—

(i) for 3 months from the date of issue of the statement of recoverable benefits or the revised statement of recoverable benefits, as the case may be, or

(ii) until such time as a decision or a revised decision is given to vary a specified benefit payable to an injured person,

whichever is the earlier.

(2) A person to whom a statement of recoverable benefits or a revised statement of recoverable benefits has been issued may request the Minister to furnish particulars of the manner in which the amount of recoverable benefits specified in the statement was calculated.

(3) The Minister shall furnish the particulars requested under subsection (2) within 4 weeks of the receipt of such a request.

(4) In this section—

‘decision’ means—

(a) a decision that is given by a deciding officer under section 300, or

(b) a decision that is given by an appeals officer under section 311;

²⁴⁶⁴ S 343Q substituted by s.12(1)(e) SW(MP)A 2015

‘revised decision’ means—

- (a) a revised decision that is given by a deciding officer under section 301, or
- (b) a revised decision that is given by an appeals officer under section 317.

Obligation to pay recoverable benefits

343R. (1) Subject to subsection (2), a compensator shall pay to the Minister the amount of recoverable benefits specified in the ~~statement of recoverable benefits~~ **relevant statement of recoverable benefits** ²⁴⁶⁵ before making any compensation payment to, or in respect of, an injured person.

(2) Where the recoverable benefits specified in the ~~statement of recoverable benefits~~ **relevant statement of recoverable benefits** ²⁴⁶⁶ exceed the amount of the relevant compensation payment and that relevant compensation payment was the subject of an order of a court or assessment by the Board in accordance with the Act of 2003, the compensator is liable only to the extent of that amount so ordered or assessed.

(3) A compensator who fails to comply with subsection (1) or otherwise fails to pay the amount of recoverable benefits due to the Minister is liable to pay on demand to the Minister that amount of recoverable benefits so due.

Reduction of compensation payment to injured person

343S. (1) A compensator who pays an amount equal to the total amount of the recoverable benefits to the Minister in accordance with section 343R may reduce the relevant compensation payment payable to the injured person by that amount and shall notify the injured person accordingly.

(2) The compensation payment, other than the relevant compensation payment, payable by a compensator to an injured person shall not be reduced by the compensator where the total amount of the recoverable benefits exceeds the amount of the relevant compensation payment payable to an injured person.

Discharge of liability to injured person

343T. Where this Part applies to a claim for a compensation payment by or on behalf of an injured person, that claim, in so far as it relates to a relevant compensation payment, shall be treated as discharged to the extent that the compensator has made a payment. to the Minister in respect of that claim in accordance with section 343R.

Refund to compensator where specified benefit not paid

343U. (1) Where a compensator has made a payment to the Minister in accordance with section 343R and any part of that payment includes specified benefits referred to in subsection (2), the Minister shall refund to the compensator the amount of that payment which represents those benefits.

(2) The specified benefits referred to in subsection (1) are those benefits, within the meaning of ~~paragraph (b)~~ **paragraph (a)(ii) or (b)(ii)** ²⁴⁶⁷ of the definition of recoverable benefits, not paid by the Minister to the injured person at the end of the specified period.

²⁴⁶⁵ Substituted by s.12(1)(f)(i) SW(MP)A 2015

²⁴⁶⁶ Substituted by s.12(1)(f)(ii) SW(MP)A 2015

²⁴⁶⁷ Substituted by s.12(1)(g) SW(MP)A 2015

Appeal under section 311

343V. (1) This section applies where an appeal is brought under section 311 (amended by section 13 (c) of the Social Welfare and Pensions Act 2013) against a decision given by a deciding officer on a question under paragraph (hh) (inserted by section 13 (b) of the Social Welfare and Pensions Act 2013) of section 300(2).

(2) Where on the determination of an appeal referred to in subsection (1) an appeals officer decides that the amount of recoverable benefits specified in the ~~statement of recoverable benefits~~ *relevant statement of recoverable benefits*²⁴⁶⁸ exceeds the amount of recoverable benefits due to the Minister, the Minister shall refund the amount of that excess to the compensator.

(3) Where on the determination of an appeal referred to in subsection (1) an appeals officer decides that the amount of recoverable benefits specified in the ~~statement of recoverable benefits~~ *relevant statement of recoverable benefits*²⁴⁶⁹ is less than the amount of recoverable benefits due to the Minister, the compensator is liable to pay the Minister the difference between the amount paid to the Minister in accordance with section 343R and the amount of recoverable benefits due to the Minister as decided by the appeals officer.

More than one compensator making compensation payment

343W. Where two or more compensators are liable by virtue of this Part for recoverable benefits for the same personal injury, they shall be liable jointly and severally to the Minister in relation to those benefits and Part III of the Civil Liability Act 1961 shall be read as applying to that liability with all necessary modifications.²⁴⁷⁰

Transitional Arrangements

343X. Any statement of recoverable benefits issued prior to the coming into operation of section 12 of the Social Welfare (Miscellaneous Provisions) Act 2015 shall be valid for the period specified in that statement or until a decision or a revised decision, within the meaning of section 343Q(4), is given to award a specified benefit to an injured person or to vary a specified benefit payable to an injured person, whichever is the earlier.²⁴⁷¹

PART 12

LIABILITY TO MAINTAIN FAMILY

Interpretation.

344. (1) In this Part—

“allowance” means one-parent family payment, supplementary welfare allowance or a relevant payment by virtue of section 178(1)(a) or (b);

“antecedent order” means—

(a) an order under section 346(5),

(b) an order under section 346(6) (insofar as it is deemed to be an order under section 17 of the Enforcement of Court Orders Act 1926), or

²⁴⁶⁸ Substituted by s.12(1)(h)(i) SW(MP)A 2015

²⁴⁶⁹ Substituted by s.12(1)(h)(ii) SW(MP)A 2015

²⁴⁷⁰ Part 11B (sections 343L to 343W) inserted by s.13(d) SW&PA 2013 and commenced by S.I. No.308 of 2014

²⁴⁷¹ Inserted by s.12(1)(i) SW(MP)A 2015

(c) an order under section 346(6) (insofar as it is deemed to be an order under section 5 of the Enforcement of Court Orders Act 1940);

“attachment of earnings order” means an order under section 347;

“civil partner” in relation to a civil partner who has entered into a civil partnership more than once, refers only to his or her last civil partner and for this purpose that last civil partner shall be read as including the civil partner with whom, but for the fact the civil partnership has been dissolved, being a dissolution recognised as valid in the State, he or she entered into that civil partnership;²⁴⁷²

~~“competent authority”, in relation to one-parent family payment, means the Minister, and, in relation to supplementary welfare allowance, means the Executive which granted that allowance to a recipient, or the Minister where the allowance was granted by a deciding officer;~~²⁴⁷³

“competent authority” in relation to one-parent family payment and supplementary welfare allowance means the Minister;²⁴⁷⁴

“earnings” means any sums payable to a person—

(a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service),

(b) by way of pension or other like benefit in respect of employment (including an annuity in respect of past services, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment);

~~“husband” in relation to a woman who has been married more than once, refers only to her last husband and for this purpose that last husband shall be read as including the man to whom, but for the fact the marriage has been dissolved, being a dissolution recognised as valid in the State, she would be married;~~²⁴⁷⁵

“order of the Court” means a maintenance order (including maintenance specified in the order to be in respect of a child), including a lump sum order, a variation order or an interim order, made by a court under the Guardianship of Infants Act 1964, the Family Law (Maintenance of Spouses and Children) Act 1976, the Status of Children Act 1987, the Judicial Separation and Family Law Reform Act 1989, the Family Law Act 1995 or under any other enactment relating to maintenance, as the case may be, or an order of the court made on foot of a separation agreement;

‘spouse’ in relation to a person who has been married more than once, refers only to the last spouse of that person and for this purpose that last spouse shall be read as including the person to whom, but for the fact that the marriage has been dissolved, being a dissolution recognised as valid in the State, that person would be married.²⁴⁷⁶

²⁴⁷² Inserted by s.24(1) SW&PA 2010

²⁴⁷³ Substituted by s.18/Sch. 1 SW&PA 2008

²⁴⁷⁴ Substituted by s.18/Sch. 1 SW&PA 2008

²⁴⁷⁵ Deleted by s.11(b)(i) SW&PA 2015

²⁴⁷⁶ Inserted by s.11(b)(ii) SW&PA 2015

~~“wife” in relation to a man who has been married more than once, refers only to his last wife and for this purpose that last wife shall be read as including the woman to whom, but for the fact that the marriage has been dissolved, being a dissolution recognised as valid in the State, he would be married.~~²⁴⁷⁷

(2) Every reference in this Part to a person who is liable to maintain another person shall be read as meaning a person who by virtue of section 345 is liable to maintain that other person.

Liability to maintain family.

345. For the purposes of sections 173 and 189 and without prejudice to any obligations imposed by law or otherwise, the following provisions apply—

(a) a man shall be liable to maintain—

~~(i) his wife, and~~

(i) his ~~wife~~ *spouse*²⁴⁷⁸ or civil partner, and²⁴⁷⁹

(ii) any child of his, being a child who is under the age of 18 years or (save for the purposes of section 189) who is of or over that age and under the age of ~~21~~ ²²²⁴⁸⁰ years, and is receiving full-time education or instruction by day at any university, college, school or other educational establishment, and

(b) a woman shall be liable to maintain—

~~(i) her husband, and~~

(i) her ~~husband~~ *spouse*²⁴⁸¹ or civil partner, and²⁴⁸²

(ii) any child of hers, being a child who is under the age of 18 years or (save for the purposes of section 189) who is of or over that age and under the age of ~~21~~ ²²²⁴⁸³ years, and is receiving full-time education or instruction by day at any university, college, school or other educational establishment.

Contribution towards benefit or allowance.

346. (1) Where an allowance is paid to any recipient, every person who is liable to maintain that recipient or to maintain any child in respect of whom an increase in that allowance is granted, shall be liable to contribute to the competent authority the amount that may be determined to be appropriate towards that allowance.

(2) Subject to subsection (1), the Minister may make regulations, in particular and without prejudice to the generality of this Part to provide for the basis on which the amount which a liable relative, within the meaning of subsection (3), is liable to contribute by virtue of subsection (1) is determined, and for this purpose the regulations may—

(a) disregard in whole or in part any amount of the income of a liable relative from any source specified in the regulations, and

²⁴⁷⁷ Deleted by s.11(b)(i) SW&PA 2015

²⁴⁷⁸ Substituted by s.11(c)(i) SW&PA 2015

²⁴⁷⁹ Substituted by s.24(2)(a) SW&PA 2010

²⁴⁸⁰ Substituted by s. 37 / Sch. 7 SWLR&PA 2006

²⁴⁸¹ Substituted by s.11(c)(ii) SW&PA 2015

²⁴⁸² Substituted by s.24(2)(B) SW&PA 2010

²⁴⁸³ Substituted by s. 37 / Sch. 7 SWLR&PA 2006

(b) require an employer or any other person to give the information that may be required for the purposes of determining the amount which a liable relative is required to contribute.

(3) Where a person who is liable to contribute under subsection(1) (subsequently referred to in this Part as “the liable relative”) fails or neglects to contribute, the competent authority may apply to the District Court for an order directing the liable relative to make that contribution towards the allowance.

(4) The competent authority, before making an application to the District Court under subsection (3), shall serve notice of the application on the liable relative.

(5) Where a judge of the District Court is satisfied that, at the time of the hearing of an application by the competent authority under subsection (3), the liable relative had failed or neglected to make the contribution required under this section and was able to contribute to the allowance granted, the judge shall order the payment of that contribution to the competent authority in the manner he or she considers proper.

(6) An order made by the District Court under subsection (5) is, for the purposes of its variation or enforcement, deemed to be an order for payment by instalments made under section 17 of the Enforcement of Court Orders Act 1926, and that section shall be read accordingly.

(7) The District Court may, on the application of either the liable relative or the competent authority, vary in accordance with section 5 of the Enforcement of Court Orders Act 1940, an order made by it under subsection (5) and that section shall, with any necessary modifications, be read accordingly but any such application made by either party shall be notified to the other party in advance.

(8) The District Court may, on application by the competent authority in whose favour an order was made under subsection (5) for an order for the arrest and imprisonment of the debtor under section 6 of the Enforcement of Court Orders Act 1940, proceed in accordance with that section.

(9) The following provisions shall not apply to orders made under subsection (5):

(a) section 4(1) (inserted by section 3(3) of the Courts (No. 2) Act 1986) of the Enforcement of Court Orders Act 1940 (duration of instalment orders); and

(b) section 5(4) (inserted by section 3 of the Courts (No. 2) Act 1986) of the Enforcement of Court Orders Act 1940 (duration of variation orders).

Attachment of earnings order.

347.(1)(a) On application to the District Court by a competent authority on whose application the District Court has made an antecedent order, the Court may, to secure payments under the antecedent order, if it is satisfied that the liable relative is a person to whom earnings are to be paid, make an attachment of earnings order.

(b) References in paragraph (a) to an antecedent order made by the District Court shall include references to such an order made, varied or affirmed on appeal from that Court.

(2) An attachment of earnings order shall be an order directed to a person who (at the time of the making of the order or at any time after the making of the order) has the liable relative in

his or her employment and shall operate as a direction to that person to make, at the times that may be specified in the order, periodical deductions of the amounts (specified in the order) that may be appropriate, having regard to the normal deduction rate (within the meaning of subsection (4)(a)) and the protected earnings rate (within the meaning of subsection (4)(b)), from the liable relative's earnings and to pay the amounts deducted at the times the Court may order to the District Court clerk specified by the attachment of earnings order for transmission to the person or competent authority entitled to receive payments made under the relevant antecedent order.

(3) An attachment of earnings order shall not be made without the consent of the liable relative, unless the District Court is satisfied that the liable relative has, without reasonable excuse, defaulted in the making of any payment under the relevant antecedent order.

(4) An attachment of earnings order shall—

(a) specify the normal deduction rate, being the rate at which the District Court considers it reasonable that the earnings to which the order relates should be applied in satisfying the relevant antecedent order, not exceeding the rate appearing to the District Court to be necessary for the purpose of—

(i) securing payment of the sums that are due from time to time under the relevant antecedent order, and

(ii) securing payment within a reasonable period of any sums already due and unpaid under the relevant antecedent order,

(b) specify the protected earnings rate, being the rate below which, having regard to the resources and the needs of the liable relative, the District Court considers it proper that the relevant earnings should not be reduced by a payment made in pursuance of the attachment of earnings order, and

(c) contain, so far as they are known to the District Court, the particulars it considers appropriate for the purpose of enabling the liable relative to be identified by the person to whom the order is directed.

(5) Payments under an attachment of earnings order shall be in lieu of payments of the like total amount under the relevant antecedent order that have not been made and that, but for the attachment of earnings order, would be required to be made under the relevant antecedent order.

Employer's obligation in relation to attachment of earnings order.

348. (1) Where an attachment of earnings order or an order varying it is made, the employer for the time being affected by it shall, where it has been served on him or her, comply with it but the employer shall be under no liability for non-compliance with the order before 10 days have elapsed since the service.

(2) Where an attachment of earnings order is served on any person and the liable relative is not in his or her employment or the liable relative subsequently ceases to be in his or her employment, that person shall (in either case) within 10 days from the date of service or, as the case may be, the cesser, give notice of that fact to the District Court.

(3) On any occasion when a person makes, in compliance with an attachment of earnings order, a deduction from a liable relative's earnings, the person shall give to the liable relative a written statement of the total amount of the deduction.

(4) The court registrar or court clerk specified by an attachment of earnings order shall cause the order to be served on the employer to whom it is directed and on any subsequent employer of the liable relative concerned of whom the registrar or clerk so specified becomes aware and service may be effected by leaving the order or a copy of the order at, or sending the order or a copy of the order by registered prepaid post to, the residence or place of business in the State of the person to be served.

Payments under attachment of earnings order.

349. Any payments made to a District Court clerk under an attachment of earnings order, when transmitted by the District Court clerk to the competent authority entitled to receive those payments, are deemed to be payments made by the liable relative so as to discharge any sums payable under the relevant antecedent order.

Powers of District Court.

350. (1) In relation to an attachment of earnings order or an application for such an order, the District Court that made the order or to which the application is made may, before or at the hearing or while the order is in force—

(a) order the liable relative to give to the District Court, within a specified period, a written statement signed by the liable relative containing—

(i) the name and address of any person by whom earnings are paid to him or her,

(ii) specified particulars as to his or her earnings and expected earnings and as to his or her resources and needs, and

(iii) specified particulars for enabling the liable relative to be identified by any employer of his or hers,

and

(b) order that any person appearing to the District Court to have the liable relative in his or her employment to give to the Court, within a specified period, a statement signed by that person, or on his or her behalf, containing specified particulars of the liable relative's earnings and expected earnings.

(2) Notice of an application for an attachment of earnings order served on a liable relative may include a requirement that he or she shall give to the District Court, within the period and in the manner specified in the notice, a written statement of the matters referred to in subsection (1)(a) and of any other matters which are or may be relevant to the determination of the normal deduction rate and the protected earnings rate to be specified in the order.

(3) In any proceedings in relation to an attachment of earnings order, a statement given to the District Court in compliance with an order under subsection (1)(a) or (b) or with a requirement under subsection (2) shall be admissible as evidence of the facts stated therein, and a document purporting to be such a statement is deemed, unless the contrary is shown, to be a statement so given.

Changes in employment.

351. Where an attachment of earnings order is in force—

(a) the liable relative shall notify in writing the District Court that made the order of every occasion on which he or she leaves any employment, or becomes employed or

reemployed, not later (in each case) than 10 days from the date on which he or she does so,

(b) the liable relative shall, on any occasion on which he or she becomes employed or re-employed, include in his or her notification under paragraph (a) particulars of his or her earnings and expected earnings from the relevant employment,

(c) any person who becomes an employer of the liable relative and knows that the order is in force and by what court it was made shall, within 10 days of him or her becoming the liable relative's employer or of acquiring that knowledge (whichever is the later), notify the District Court in writing that he or she is the liable relative's employer, and include in his or her notification a statement of the liable relative's earnings and expected earnings, and

(d) any person who is an employer of the liable relative and knows that the order is in force and by what court it was made shall, within 10 days of such occurrence notify the competent authority and the District Court in writing of any increase in earnings paid to the liable relative.

Determinations by District Court.

352. (1) Where an attachment of earnings order is in force, the District Court that made the order shall, on the application of the employer concerned or the liable relative or competent authority to whom payments are being made under the order, determine whether payments (or any portions of those payments) to the liable relative of a particular class or description specified by the application are earnings for the purpose of the order, and the employer shall give effect to any determination for the time being in force under this section.

(2) Where an application under this section is made by the employer, he or she shall not incur any liability for non-compliance with the order in relation to any payments (or any portions of those payments) of the class or description specified by the application which are made by the employer to the liable relative while the application or any appeal in consequence thereof or any decision in relation to the application or appeal is pending, but this subsection shall not, unless the District Court otherwise orders, apply in relation to those payments (or any portions of those payments) where the employer subsequently withdraws the application or, as the case may be, abandons the appeal.

Liable relative in service of State.

353. (1) Where a liable relative is in the service of the State, a local authority, a harbour authority within the meaning of the Harbours Act 1946, the Executive, ~~a vocational education committee established by the Vocational Education Act 1930~~ ***an education and training board***²⁴⁸⁴, or a committee of agriculture established by the Agriculture Act 1931 or is a member of either House of the Oireachtas—

(a) in a case where a liable relative in the service of the State is employed in a department, office, organisation, service, undertaking or other body, its chief officer (or such other officer as the Minister of the Government by whom the department, office, organisation, service, undertaking or other body is administered may from time to time designate) shall, for the purposes of this Act, be regarded as having the liable relative in his or her employment,

²⁴⁸⁴ Substituted by s.72 and Sch. 6 [ETBA 2013](#)

(b) in a case where a liable relative is in the service of such an authority or committee or the Executive, its chief officer shall, for the purposes of this Act, be regarded as having the liable relative in his or her employment,

(c) in any other case, where a liable relative is paid out of the Central Fund or out of moneys provided by the Oireachtas, the Secretary-General of the Department of Finance (or such other officer of the Minister for Finance as that Minister may from time to time designate) shall, for the purposes of this Act, be regarded as having the liable relative in his or her employment, and

(d) any earnings of a liable relative paid out of the Central Fund or out of moneys provided by the Oireachtas shall be regarded as paid by the chief officer referred to in paragraph (a) or (b), as the case may be, the Secretary-General of the Department of Finance or such other officer as may be designated under paragraph (a) or (c), as the case may be, as may be appropriate.

(2) Where any question arises in proceedings for or arising out of an attachment of earnings order as to what department, office, organisation, service, undertaking or other body a liable relative in the service of the State is employed in for the purposes of this section, the question may be referred to and determined by the Minister for Finance.

(3) A document purporting to contain a determination of the Minister for Finance under subsection (2) and to be signed by an officer of the Minister for Finance shall, in any proceedings mentioned in that subsection, be admissible in evidence and be deemed, unless the contrary is shown, to contain an accurate statement of that determination.

(4) In this section references to a liable relative in the service of the State shall include references to a liable relative to whom earnings are paid directly out of moneys provided by the Oireachtas.

Discharge, variation or lapse or attachment of earnings order.

354. (1) The District Court that made an attachment of earnings order may, where it thinks fit, on the application of the competent authority, the liable relative, or the District Court clerk on whose application the order was made, make an order discharging or varying that order.

(2) Where an order varying an attachment of earnings order is made under this section, the employer shall, where it has been served on the employer, comply with it, but he or she shall be under no liability for non-compliance before 10 days have elapsed since the service.

(3) Where an employer affected by an attachment of earnings order ceases to have the liable relative in his or her employment, the order shall, in so far as that employer is concerned, lapse (except in relation to deductions from earnings paid after the cesser by that employer and payment to the person in whose favour the order was made of deductions from earnings made at any time by that employer).

(4) The lapse of an order under subsection (3) shall not prevent its remaining in force for other purposes.

Cesser.

355. (1) An attachment of earnings order shall cease to have effect on the discharge of the relevant antecedent order, except as regards payments under the attachment of earnings order in respect of any time before the date of the discharge.

(2) Where an attachment of earnings order ceases to have effect, the clerk or registrar of the Court that made the order shall give notice of the cesser to the employer.

Offences.

356. (1) Where, without reasonable excuse, a person—

(a) fails to comply with section 348(1) or (2) or 351 or an order under section 350 or 354(2), or

(b) gives to a court a statement under section 350(1), or a notification under section 351, that is false or misleading, or fails to give any statement,

and the competent authority as a result fails to obtain a sum of money due under an attachment of earnings order, that sum may be sued for as a simple contract debt in any court of competent jurisdiction by the competent authority or the District Court clerk to whom that sum is to be paid, and that court may order the person to pay to the competent authority or the District Court clerk, as appropriate, the amount (not exceeding the sum aforesaid) that in all the circumstances the court considers proper for distribution in the manner and in the amounts that the court may specify to the competent authority for whose benefit the attachment of earnings order was made.

(2) Where a person gives to a District Court—

(a) a statement under section 350, or

(b) a notification under section 351,

that is to his or her knowledge false or misleading, the person is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500 or to imprisonment for a term not exceeding 6 months or to both.

(3) A person who contravenes section 348(3) is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500.

Payments under order of court to offset contributions.

357. Where an order of the court has been granted to a person who is in receipt of an allowance, the payments made under that order shall offset either in whole or part, as the competent authority may determine, contributions due by the person liable to contribute under section 346(1) to that allowance.

Recipient of benefit or allowance to transfer to competent authority payments under order of court.

358. (1) Subject to regulations, a person who is in receipt of an allowance shall be liable to transfer to the competent authority payments made to that person in compliance with an order of the court.

(2) Subject to regulations, a person who claims an allowance may be required by the competent authority to consent to the transfer to the competent authority of payments made to that person in compliance with an order of the court, such transfer to be conditional on the award of an allowance to that person.

(3) Where a person who is in receipt of an allowance fails to comply with subsection (1) the allowance being paid to that person shall be reduced by the amount which that person is liable under subsection (1) to transfer to the Minister.

Investigations by Health Service Executive.

~~359.(1) The Executive may investigate into any question arising on or in relation to supplementary welfare allowance granted by the Executive and may, for the purpose of the investigation, require a liable relative or any employer of any such person to give to the Executive the information and to produce to the Executive for inspection the documents relating to that person that the Executive may reasonably require.~~

~~(2) Where a liable relative or the employer of any such person fails to comply with subsection (1) he or she is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500 or on conviction on indictment to a fine not exceeding €13,000. ²⁴⁸⁵~~

PART 12A²⁴⁸⁶

EMPLOYMENT SCHEMES AND OTHER SCHEMES AND PROGRAMMES

Functions of Minister in relation to employment schemes and related schemes and programmes.

359A. (1) The Minister may—

(a) provide, or arrange for and co-ordinate the provision of—

(i) employment schemes,

(ii) assistance in obtaining employment,

(iii) assistance in obtaining work experience,

(iv) job placement schemes that facilitate persons seeking employment in obtaining employment, including the provision of—

(I) guidance, advice and information in respect of choice of career and employment, and

(II) services, whereby persons seeking employment are introduced to persons offering employment, and

(b) assist, whether financially or otherwise, in the provision of schemes and programmes referred to in paragraph (a).

(1A) For the purposes of subsection (1), a reference to employment includes a reference to self-employment.²⁴⁸⁷

(2) Without prejudice to the generality of subsection(1), the Minister may provide for any employment scheme or other scheme or programme provided, immediately before the coming into operation of section 30 of the Social Welfare and Pensions Act 2010, by An Foras Áiseanna Saothair, pursuant to paragraphs (b) to (g) of section 4(1) of the Labour Services Act 1987 including the following schemes and programme provided by An Foras Áiseanna Saothair immediately before the coming into operation of section 30 of the Social Welfare and Pensions Act 2010:

²⁴⁸⁵ S.359 repealed by s.10(7) SW&PA 2011

²⁴⁸⁶ S359A inserted by s.29 SW&PA 2010

²⁴⁸⁷ Subsection (1A) inserted by s.18(1) SW&PA 2014

- (a) the scheme known as Community Employment;
- (b) the programme commonly known as the work placement programme referred to in section 142B(4);
- (c) the scheme known as the Jobs Initiatives Scheme referred to in section 234.

(3) The Minister may amend or terminate, at any time, a scheme or programme referred to in subsection (2).

(4) The Minister shall not be, or be deemed to be, an employer, within the meaning of the Terms of Employment (Information) Acts 1994 and 2001 by reason only of the provision of funding by him or her to a person pursuant to a scheme or programme provided under this section.²⁴⁸⁸

Discrimination on grounds of age in relation to employment schemes and other schemes and programmes

359B. (1) The Minister, in respect of a class of persons prescribed by the Minister under subsection (2), may discriminate on the grounds of age in—

- (a) providing, or arranging for and co-ordinating the provision of, a scheme, programme or assistance under section 359A(1)(a),
- (b) assisting, whether financially or otherwise, in the provision of a scheme, programme or assistance referred to in section 359A(1)(a), or
- (c) providing for any scheme or programme under section 359A(2).

(2) The Minister may prescribe a class or classes of persons for the purposes of subsection (1) where, on the basis of the information relating to the unemployment rate, the participation rate, or the average duration of unemployment compiled by the Central Statistics Office under section 10 of the Statistics Act 1993 and contained in the most recently published survey for the time being known as the Quarterly National Household Survey—

- (a) the unemployment rate for the class of persons is higher than the national unemployment rate,
- (b) the participation rate for the class of persons is lower than the national participation rate, or
- (c) the average duration of unemployment of unemployed persons in the class of persons is higher than the average national duration of unemployment.

(3) Before 1 August 2016 and every 2 years after 2016, the Minister shall—

- (a) carry out a review of the operation, effectiveness and impact of this section,
- (b) consider whether the prescribing of a class or classes of persons under subsection (2) continues to be necessary, having regard to the matters referred to in paragraph (a), (b) or (c) of that subsection,

²⁴⁸⁸ S359A inserted by s.29 SW&PA 2010

(c) make such findings as he or she thinks appropriate consequent on the review and consideration, and

(d) cause a written report of his or her findings resulting from the review and consideration to be prepared and laid before each House of the Oireachtas.

(4) Section 11 of the Employment Equality Act 1998 shall not apply in relation to the performance by the Minister of his or her functions under this section. ²⁴⁸⁹

PART 13

COMMENCEMENT, REPEALS AND CONTINUANCE

Repeals.

360. (1) Subject to subsection (2), the enactments specified in column (2) of Schedule 7 (referred to in this Part as “the repealed enactments”) are repealed to the extent specified in column (3) of that Schedule.

(2) Without prejudice to the Interpretation Act 1937, the repealed enactments shall continue to apply to benefit, assistance, child benefit or ~~family income supplement~~ *working family payment*²⁴⁹⁰ before the commencement of this Act to the same extent as if this Act had not been passed.

Continuity of repealed enactments.

361. The continuity of the operation of the law relating to the matters provided for in the repealed enactments shall not be affected by the substitution of this Act for those enactments, and—

(a) so much of any enactment or document (including enactments contained in this Act) as refers, whether expressly or by implication, to, or to things done or to be done under or for the purposes of, any provision of this Act, shall, if and so far as the nature of the subject matter of the enactment or document permits, be read as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or, as the case may be, to things done or to be done under or for the purposes of, that corresponding provision,

(b) so much of any enactment or document (including repealed enactments and enactments and documents passed or made after the commencement of this Act) as refers, whether expressly or by implication, to, or to things done or to be done under or for the purposes of, any provision of the repealed enactments shall, if and so far as the nature of the subject matter of the enactment or document permits, be read as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or, as the case may be, to things done or deemed to be done or to be done under or for the purposes of, that corresponding provision.

Continuance of officers, instruments and documents.

362. (1) All officers appointed under the repealed enactments or any enactments repealed by the Social Welfare (Consolidation) Act 1993 and holding office immediately before the commencement of this Act shall continue in office as if appointed under this Act.

²⁴⁸⁹ Section 359B inserted by s.18(2) SW&PA 2014

²⁴⁹⁰ Substituted by s.8(1) and Sch. 1 SWA 2017

(2) All instruments made and documents issued under the repealed enactments or any enactments repealed by the Social Welfare (Consolidation) Act 1993 and in force immediately before the commencement of this Act (other than the provisions of any instruments which are incorporated in this Act) shall continue in force as if made or issued under this Act.

Continuity of insurance under old codes.

363. (1) Regulations may be made, subject to such modifications, additions and exceptions as may be specified, for the purpose of ensuring that persons insured or deemed to be or treated as insured within the prescribed period before 5 January 1953, under the National Insurance Act 1911, the Unemployment Insurance Act 1920 (or any scheme under that Act) or the Widows' and Orphans' Pensions Act 1935, may continue to be insured under Part 2 or otherwise to preserve the rights conferred on them by virtue of those enactments.

(2) Regulations under subsection (1) shall, in the manner and subject to the conditions that may be specified, in particular, provide in relation to persons so insured, for modifying the contribution conditions for receipt of benefit under Part 2 to take account of contributions paid or deemed to be paid or treated as paid under those enactments and periods of insurance under those enactments.

(3) Without prejudice to any specific power conferred by subsections (1) and (2), regulations may be made for facilitating their operation or the introduction of the system of insurance established by the Social Welfare Act 1952 including, in particular, regulations providing—

(a) for modifying, in relation to the period before 5 January 1953, any provisions of or made under any enactment repealed or amended by Part V of that Act, or

(b) for making any savings or additional savings from the effect of any repeal or amendment effected by that Act.

Commencement.

364. (1) Subject to this Part, this Act shall come into operation on such day as the Minister shall appoint by order.

(2) The provisions of Schedule 6 shall come into operation—

(a) in respect of paragraph 1, on such day as the Minister may appoint by order,

(b) in respect of paragraph 2, 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 and different provisions,

(c) in respect of paragraph 3, on 6 April 2012, and

(d) in respect of paragraph 4, on such day as the Minister may appoint by order.

SCHEDULE 1

EMPLOYMENTS, EXCEPTED EMPLOYMENTS AND EXCEPTED SELF-EMPLOYED CONTRIBUTORS

PART 1

EMPLOYMENTS

1. Employment in the State under a contract of service or apprenticeship, written or oral, whether expressed or implied, and whether the employed person is paid by the employer or some other person, and whether under one or more employers and whether paid by time or by the piece or partly by time and partly by the piece, or otherwise or without any money payment.

2. Employment under such a contract referred to in paragraph 1—

(a) as master or a member of the crew of—

(i) any ship registered in the State, or

(ii) any other ship or vessel of which the owner or, where there is more than one owner, the managing owner or manager, resides or has his or her principal place of business in the State, or

(b) as captain or a member of the crew of—

(i) any aircraft registered in the State, or

(ii) any other aircraft of which the owner or, where there is more than one owner, the managing owner or manager, resides or has his or her principal place of business in the State.

2A. (a) Employment, between 1 January 2007 and 31 December 2011, under a contract referred to in paragraph 1 by—

(i) a national of the Republic of Bulgaria or Romania, or

(ii) a permitted family member or qualifying family member of a national of the Republic of Bulgaria or Romania, whether or not such employment was in accordance with an employment permit referred to in section 2(1) of the Employment Permits Act 2003.

(b) In this paragraph—

‘permitted family member’ has the same meaning as it has in the Regulations of 2015 and includes a person deemed to be a permitted family member under Regulation 31(2) of those Regulations;

‘qualifying family member’ has the same meaning as it has in the Regulations of 2015 and includes a person considered to be a qualifying family member under Regulation 31(1) of those Regulations;

‘Regulations of 2015’ means the European Communities (Free Movement of Persons)

Regulations 2015 (S.I. No. 548 of 2015).²⁴⁹¹

3. Employment in the civil service of the Government or the civil service of the State and employment such that the service of the employed person is, or is capable of being, deemed under section 24 of the Superannuation Act 1936 to be service in the civil service of the Government or the civil service of the State.
4. Employment as a member of the Defence Forces.
5. Employment under any local or other public authority.
6. Employment as a court messenger under section 4 of the Enforcement of Court Orders Act 1926.
7. (a) Employment as a trainee midwife, student midwife, pupil midwife, probationary midwife, trainee nurse, student nurse, pupil nurse or probationary nurse.

(b) In this paragraph “nurse” includes a nursery or children’s nurse.
8. Employment by the Minister as manager of an employment office.
9. Employment as a member of the Garda Síochána.
10. Employment where the employed person is a person in Holy Orders or other minister of religion or a person living in a religious community as a member of that community.
11. Employment by An Post as a sub-postmaster remunerated by scale payment.
12. Employment under a ~~scheme administered by an Foras Áiseanna Saothair and known as Community Employment~~ **scheme provided by the Minister and known As Community Employment** ²⁴⁹² or employment under a programme known as the Part-Time Job Opportunities Programme administered by or on behalf of the Conference of Religious of Ireland, where—
 - (a) that employment begins on or after 6 April 1996, or
 - (b) in any other case, where, subject to the conditions and in the circumstances that may be prescribed, the person employed in either of those employments, elects to be an employed contributor within the meaning of section 12(1)(a).
13. Employment whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract and whether or not the third person pays the wages or salary of the individual in respect of the work or service).

²⁴⁹¹ Para. 2A inserted by s.20 SWA 2016

²⁴⁹² Substituted by s.29(2) and Sch. 1 SW&PA 2010

SCHEDULE 1

PART 2

EXCEPTED Employments

1. Employment in the service of the ~~husband or wife~~ **husband, wife spouse²⁴⁹³ or civil partner²⁴⁹⁴** of the employed person.
2. Employment of a casual nature otherwise than for the purposes of the employer's trade or business, and otherwise than for the purposes of any game or recreation where the persons employed are engaged or paid through a club.
3. Employment by a prescribed relative of the employed person, being either employment in the common home of the employer and the employed person or employment specified by regulations as corresponding to employment in the common home of the employer and the employed person.
4. Employment specified in regulations as being of such a nature that it is ordinarily adopted as subsidiary employment only and not as the principal means of livelihood.
5. Employment specified in regulations as being of inconsiderable extent.
6. Employment under a ~~scheme administered by an Foras Áiseanna Saothair and known as Community Employment~~ **scheme provided by the Minister and known as Community Employment²⁴⁹⁵**, where that employment began before 6 April 1996.
7. Employment in the State in a company under a written or an oral contract of service, whether expressed or implied, where the employed person is—
 - (a) the beneficial owner of that company, or
 - (b) able to control 50 per cent or more of the ordinary share capital of that company, either directly or through the medium of other companies or by any indirect means.²⁴⁹⁶

SCHEDULE 1

PART 3

EXCEPTED SELF-EMPLOYED CONTRIBUTORS

- ~~1. A prescribed relative of a self-employed contributor not being a partner, where he or she participates in the business of the self-employed contributor and performs the same tasks or ancillary tasks.²⁴⁹⁷~~
1. A prescribed relative of a self-employed contributor who—
 - (a) participates in the business of the self-employed contributor, and
 - (b) performs the same tasks or ancillary tasks to those performed by the self-employed contributor,

²⁴⁹³ Substituted by s.17(a) SW&PA 2015

²⁴⁹⁴ Substituted by s.26 and Sch3 SW&PA 2010

²⁴⁹⁵ Substituted by s.29(2) and Sch. 1 SW&PA 2010

²⁴⁹⁶ Inserted by s.16 SW&P(MP)A 2013

²⁴⁹⁷ Para 1 substituted by s.19(1) SW&PA 2014

other than a person—

(i) who is a partner in the business of the self-employed contributor, or

(ii) to whom subparagraphs (a) and (b) apply and who is the ~~husband, wife~~ *spouse*²⁴⁹⁸ or civil partner of the self-employed contributor.²⁴⁹⁹

2. ~~A self-employed contributor who by virtue of—~~

~~(a) Chapter 2 of Part 3 is in receipt of unemployment assistance jobseeker's allowance,²⁵⁰⁰~~

~~(b) Chapter 3 of Part 3 is in receipt of pre-retirement allowance, or~~

~~(c) Chapter 11 of Part 3 is in receipt of farm assist.~~

A self-employed contributor who by virtue of Chapter 3 of Part 3 is in receipt of pre-retirement allowance.²⁵⁰¹

3. A person, the aggregate of whose total reckonable income, reckonable emoluments or reckonable earnings (if any) before deducting so much of any deduction—

(a) allowed by virtue of the provisions referred to in the definition of “capital allowance” in section 2(1) of the Act of 1997 to be deducted or set off against income in charging it to income tax, or

(b) allowed in accordance with Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001) to be deducted on payment of emoluments or earnings,

is below a prescribed amount.

4. An employed contributor or a person who is in receipt of a pension arising from a previous employment of his or hers or of his or her spouse *or civil partner*²⁵⁰², in the case of either of whom the income for the contribution year does not include reckonable emoluments or in the case of reckonable income, income to which Chapter 3 of Part 4, or Part 43, of the Act of 1997 applies.

~~5. A person employed in any one or more of the employments specified in regulations under section 14, being employments in respect of which the contribution payable under those regulations are reckoned only in relation to the grant of widow's (contributory) pension, widower's (contributory) pension, *surviving civil partner's (contributory) pension*²⁵⁰³ or orphan's (contributory) allowance *guardian's payment (contributory)*²⁵⁰⁴ and are not reckoned in relation to the grant of any other benefit.²⁵⁰⁵~~

5. A person who is employed in any one or more of the employments specified in Article 81, 82, 83 or 84 of the Regulations of 1996.²⁵⁰⁶

6. A person who is regarded as not resident or not ordinarily resident in the State in accordance with the Income Tax Acts and whose reckonable income for that year does not include income to which Chapter 3 of Part 4, or Part 43, of the Act of 1997 applies.

²⁴⁹⁸ Substituted by s.17(b) SW&PA 2015

²⁴⁹⁹ Para 1 substituted by s.19(1) SW&PA 2014

²⁵⁰⁰ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

²⁵⁰¹ Substituted by s. 12(1) SWA 2006

²⁵⁰² Inserted by s.26 and Sch3 SW&PA 2010

²⁵⁰³ Inserted by s.26 and Sch3 SW&PA 2010

²⁵⁰⁴ Substituted by s. 4 + Sch. 1 SWLR&PA 2006

²⁵⁰⁵ Para. 5 substituted by s.6(9) SW&P(MP)A 2013

²⁵⁰⁶ Para. 5 substituted by s.6(9) SW&P(MP)A 2013

SCHEDULE 2 ²⁵⁰⁷

PART 1 ^{2508 2509 2510 2511 2512 2513 2514 2515 2516 2517 2518 2519 2520 2521}

RATES OF PERIODICAL BENEFITS AND INCREASES

Description of benefit (1)	Weekly rate (2)	Increase for qualified adult (where payable) (3)	Increase for each qualified Child who has not attained the age of 12 years (where payable) (4)	Increase for each qualified Child who has attained the age of 12 years (where payable) (5)	Increase where the person is living alone (where payable) (6)	Increase where the person has attained the age of 80 years (where payable) (7)	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable) (8)
1. Illness Benefit, Jobseeker's Benefit and Jobseeker's Benefit (self-employed), Injury Benefit and Health and Safety Benefit:	€ 208.00	€ 138.00	€ 40.00	€ 48.00	€ -	€ -	€ -
2. Death Benefit: (a) pension payable to a widow, widower or surviving civil partner (section 81)	238.50	-	40.00	48.00	22.00	10.00	20.00

²⁵⁰⁷ Amended by: s.2(1) SWA 2005 s.2(1) SWA 2006 & s.2(1) SWA 2007 & s.3(1) SW(MP)A 2008 & s.3(1) SW&P(No. 2)A 2009

²⁵⁰⁸ Amended by s.3(1) SWA 2010 & s.12(1) SW&PA 2013

²⁵⁰⁹ Varied by Art. 3 S.I. No. 568 of 2014

²⁵¹⁰ Reference 2(a) substituted by s.3(1)(a)(1) SW&PA 2015

²⁵¹¹ Inserted & varied by s.3(1)(a) (i) (ii) (iii) & (iv) by SW&PA 2015

²⁵¹² Ref 4 & 5 substituted by s.3(1)(a)(iii) (iv) SW&PA 2015

²⁵¹³ Part 1 substituted by s.21 and Sch. 1 SWA 2016 and came into operation in March 2017

²⁵¹⁴ Part 1 substituted by s.12 and Sch. 2 SWA 2017 and came into operation in March 2018

²⁵¹⁵ Part 1 substituted by s.18 of and Sch. 2 to the SWP&CRA 2018

²⁵¹⁶ JBSE Inserted by Item 21 of the Schedule of SWA 2019

²⁵¹⁷ Columns (4) (5) (6) amounts varied by s.18(1)(a)(b) & (c) SW(No.2)A 2019

²⁵¹⁸ Columns (5) (6) amounts varied by s.14(1)(b) & (c) SWA 2020

²⁵¹⁹ Column (8) amounts varied by s.15(1)(a)(i) SWA 2020

²⁵²⁰ Column (4) (5) (6) amounts varied by s.18(1)(a)(b) & (c) SWA 2021

²⁵²¹ Column (2) (3) (8) amounts varied by s.19(1) SWA 2021

additional increase for widow, widower or surviving civil partner (under section 81) who has attained pensionable age	19.20	-	-	-	-	-	-
(b) pension payable to a parent	-	-	-	-	-	-	-
(i) reduced rate	-	-	-	-	-	-	-
(ii) maximum rate	-	-	-	-	-	-	-
(c) pension payable To an orphan	194.80	-	-	-	-	-	-
3. State Pension (Contributory):	253.30	168.70	40.00	48.00	22.00	10.00	20.00
additional increase for a qualified adult who has attained pensionable age	-	58.30	-	-	-	-	-
3A. State Pension (Transition):	-	-	-	-	-	-	-
additional increase where a qualified adult has attained pensionable age before 2 January 2014	-	-	-	-	-	-	-
4. Invalidity Pension:	213.50	152.50	40.00	48.00	22.00	10.00	20.00
additional increase where a qualified adult has attained pensionable age before 2 January 2014	-	74.50	-	-	-	-	-
5. Widow's (Contributory) Pension, Widower's (Contributory) Pension and Surviving Civil Partner's (Contributory) Pension and a payment referred to in paragraph (a) of the definition of "relevant payment" In section 178(1):	213.50	-	40.00	48.00	22.00	10.00	20.00

additional increase for a beneficiary who has attained pensionable age	39.80	-	-	-	-	-	-
6. Guardian's Payment (Contributory)	191.00	-	-	-	-	-	-
7. Carer's Benefit:							
(a) in the case of a person to whom section 102(1)(b) applies	225.00	-	40.00	48.00	-	-	-
(b) in the case of a person to whom section 102(1)(a) applies	337.50	-	40.00	48.00	-	-	-

SCHEDULE 2

PART 2 ²⁵²² ²⁵²³ ²⁵²⁴ ²⁵²⁵ ²⁵²⁶

OCCUPATIONAL INJURIES BENEFITS - GRATUITIES AND GRANT

Description of Grant (1)	Amount (2)
	€
1. Disablement Benefit:	
Maximum gratuity	16,720
2. Death Benefit	850

²⁵²² Amended by: s.2(1) SWA 2006, s.2(1) SWA 2007, s.3(1) SW(MP)A 2008, s.3(1) SW&P(No. 2)A 2009, s.3(1) SWA 2010

²⁵²³ Part 2 substituted by s.21 and Sch. 1 SWA 2016

²⁵²⁴ Part 2 substituted by s.12 and Sch. 2 SWA 2017

²⁵²⁵ Part 2 substituted by s.18 of and Sch. 2 to the SWP&CRA 2018

²⁵²⁶ Part 2 substituted by s.19(1) SWA 2021

SCHEDULE 2

PART 3 ^{2527 2528 2529 2530}

DISABLEMENT PENSION

Degree of disablement (1)	Weekly rate (2)
	€
100 per cent	239.00
90 per cent	215.60
80 per cent	191.20
70 per cent	167.30
60 per cent	143.40
50 per cent	119.50
40 per cent	95.60
30 per cent	71.70
20 per cent	47.80

SCHEDULE 2

PART 4 ^{2531 2532 2533 2534 2535 2536 2537 2538 2539 2540 2541 2542 2543}

INCREASES OF DISABLEMENT PENSION

Description of Increase (1)	Weekly rate (2)	Increase for qualified adult (where payable) (3)	Increase for each qualified child who has not attained the age of 12 years (where payable) (4)	Increase for each qualified child who has attained the age of 12 years (where payable) (5)	Increase where the person is living alone (6)	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable) (7)
	€	€	€	€	€	€

²⁵²⁷ Amended by: s.2(1) SWA 2006 s.2(1) SWA 2007 s.3(1) SW(MP)A 2008 s.3(1) SW&P (No. 2)A 2009 s.3(1) SWA 2010

²⁵²⁸ Part 3 substituted by s.21 and Sch. 1 SWA 2016 & by s.12 and Sch. 2 SWA 2017

²⁵²⁹ Part 3 substituted by s.18 of and Sch. 2 to the SWP&CRA 2018

²⁵³⁰ Part 3 substituted by s.19(1) SWA 2021

²⁵³¹ Amended by: s.(3) SW&P(No. 2)A 2009 s.8(3) SW(MP)A 2010

²⁵³² Amended by: s.2(1) SWA 2006 s.2(1) SWA 2007 s.3(1) SW(MP)A 2008 s.8(3) SW(MP)A 2010 s.3(1) SWA 2010

²⁵³³ Varied by Art. 3 S.I. No. 568 of 2014

²⁵³⁴ Varied by s.3(1)(b) SW&PA 2015

²⁵³⁵ Ref 1 substituted by s.3(1)(b) SW&PA 2015

²⁵³⁶ Varied by s.3(1)(b) SW&PA 2015

²⁵³⁷ Part 4 substituted by s. 21 and Sch. 1 SWA 2016 & by s. 12 and Sch. 2 SWA 2017

²⁵³⁸ Part 4 substituted by s.18 of and Sch. 2 to the SWP&CRA 2018

²⁵³⁹ Columns (4), (5) and (6) varied by paras (d), (e) and (f) of s.18(1) SW(No.2)A 2019

²⁵⁴⁰ Column (4)(5) (6) amounts varied by s.14(1)(d) (e) & (f) SWA 2020

²⁵⁴¹ Column (7) amounts varied by s.15(1)(a)(ii) SWA 2020

²⁵⁴² Column (4) (5) (6) amounts varied by s.18(1)(d)(e) & (f) SWA 2021

²⁵⁴³ Column (2) (3) amounts varied by s.19(1) SWA 2021

1. Increase where the person is permanently incapable of work	208.00	138.00	40.00	48.00	22.00	20.00
additional increase for a beneficiary who has attained the age of 66 years	19.30	-	-	-	-	-
additional increase where the qualified adult has attained the age of 66 years	-	12.80	-	-	-	-
2. Increase where the person requires constant attendance	225.00	-	-	-	-	-

PART 5²⁵⁴⁴
Bereavement Grant

Description of Grant (1)	Amount (2)
Bereavement Grant:	€ 850

Part 6²⁵⁴⁵
COVID-19 PANDEMIC UNEMPLOYMENT PAYMENT

The weekly rates of Covid-19 pandemic unemployment payments, subject to any such rate specified in regulations under section 68O, are:

- (a) Band A: €203 in the case of a person whose average reckonable weekly income was less than €200, or
- (b) Band B: €350 in the case of a person whose average weekly reckonable income was €200 or more.

In this Part, ‘average reckonable weekly income’ means the average reckonable weekly income calculated in accordance with regulations made by the Minister under section 68O.

SCHEDULE 3

RULES AS TO CALCULATION OF MEANS

PART 1
DEFINITIONS

In this Schedule—

“blind person” means a person who-

²⁵⁴⁴ Substituted by s. 2(1) SWA 2006

²⁵⁴⁵ Part 6 inserted by s.13 SWC-19AA 2020

(a) has attained the age of a 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;²⁵⁴⁶

“civil partner” means each civil partner of a couple who are civil partners of the same civil partnership and who are living together;²⁵⁴⁷

“fisherman” means a person engaged in sea fishing as a self-employed person—

(a) on a fishing boat entered in the Register of Fishing Boats, or

(b) on a fishing boat and in a place in respect of which a fishing licence (within the meaning of section 3 of the Fisheries (Consolidation) Act 1959) for fishing for salmon at sea has been issued;

“gross proceeds derived from the sale of the principal residence” means—

(a) the agreed sale price of the residence, or

(b) where the claimant or beneficiary purchases alternative accommodation, the difference between the agreed sale price of the former residence and the agreed purchase price of the replacement residence;

“housing costs” means rent or repayment of a loan entered into solely for the purpose of defraying money employed in the purchase, repair or essential improvement of the residence in which the person is, for the time being, residing;

‘incentive payment’ means an incentive payment made under the special incentive career break scheme;²⁵⁴⁸

~~“maintenance grant” means a grant issued under—~~

~~(a) a scheme administered by the Minister for Education and Science under the Local Authorities (Higher Education Grants) Acts 1968 to 1992, or~~

~~(b) a scheme administered under the aegis of the Minister for Education and Science and known as the—~~

~~(i) Maintenance Grants Scheme for Students attending Post Leaving Certificate Courses;~~

~~(ii) Vocational Education Committees *education and training boards* ²⁵⁴⁹ Scholarship Scheme, or~~

~~(iii) Third Level Maintenance Grants Scheme for Trainees;²⁵⁵⁰~~

‘maintenance grant’ means a grant—

(a) that—

²⁵⁴⁶ Definition of ‘blind person’ inserted by s. 33 SWLR&PA 2006

²⁵⁴⁷ Inserted by s.25(1)(a) SW&PA 2010

²⁵⁴⁸ Inserted by s.19(a) SW&P (No. 2)A 2009

²⁵⁴⁹ Substituted by s. 72 and Sch. 6 [ETBA 2013](#)

²⁵⁵⁰ Substituted by s.15(2)(a) SW(MP)A 2015

(i) was awarded in accordance with section 2 (amended by section 3 of the Local Authorities (Higher Education Grants) Act 1992) of the Local Authorities (Higher Education Grants) Act 1968, and

(ii) was continued under subsections (2) and (3) of section 6 of the Student Support Act 2011,

(b) that—

(i) was awarded pursuant to a scheme administered by a vocational education committee (within the meaning of section 7 of the Vocational Education Act 1930) whereby grants were provided to students to assist them in attending courses in higher or further education, and

(ii) was continued under subsections (2) and (3) of section 6 of the Student Support Act 2011,

or

(c) that was awarded under a scheme of grants made pursuant to section 16 of the Student Support Act 2011;²⁵⁵¹

“maintenance payments” means any payment received under or pursuant to any maintenance arrangement that may be prescribed;

“special incentive career break scheme” means the scheme commonly known by that name announced on the direction of the Minister for Finance on 30 April 2009 entitling civil servants of a certain class to apply for not less than 3 years special leave without pay and an incentive payment;²⁵⁵²

~~“spouse” means—~~

~~(a) each person of a married couple who are living together, or~~

~~(b) a man and woman who are not married to each other but are cohabiting as husband and wife.~~

“spouse” means each person of a married couple who are living together.²⁵⁵³

SCHEDULE 3

PART 2

UNEMPLOYMENT ASSISTANCE *JOBSEEKER’S ALLOWANCE*, *PRE-RETIREMENT ALLOWANCE*, *DISABILITY ALLOWANCE* AND *FARM ASSIST*

1. In the calculation of the means of a person for the purposes of Chapters 2, 3, 10 and 11 of Part 3, 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 or to his or her spouse, *civil partner or cohabitant*²⁵⁵⁴ (not being property personally used or enjoyed by the person or his or her spouse, *civil partner or cohabitant*²⁵⁵⁵ or a farm of land leased either by the

²⁵⁵¹ Substituted by s.15(2)(a) SW(MP)A 2015

²⁵⁵² Inserted by s.19(a) SW&P (No. 2) A 2009

²⁵⁵³ Substituted by s.25(1)(b) SW&PA 2010

²⁵⁵⁴ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁵⁵ Inserted by s.26 and Sch. 3 SW&PA 2010

person or his or her spouse, *civil partner or cohabitant*²⁵⁵⁶) which is invested or otherwise put to profitable use or is capable of being, but is not, invested or put to profitable use and the weekly value, ~~calculated in accordance with Table 1 to this Schedule,~~ constitutes *calculated*

- (a) *for the purposes of jobseeker's allowance, pre-retirement allowance or farm assist, in accordance with reference 1 of Table 1 to this Schedule, or*
(b) *for the purposes of disability allowance, in accordance with reference 2 of Table 1 to this Schedule,*

*constitutes*²⁵⁵⁷ the weekly means of a person from that property but, in the case of farm assist, 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 and any non-cash benefits that may be prescribed which the person or his or her spouse, *civil partner or cohabitant*²⁵⁵⁸ may reasonably expect to receive during the succeeding year, whether as contributions to the expenses of the household or otherwise, but—

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

(b) excluding—

(i) in the cases that may be prescribed, any moneys received by way of a maintenance grant,

(ii) any moneys received by way of maintenance payments (including maintenance payments made to or in respect of a qualified child) in so far as those payments 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~~²⁵⁵⁹ ~~unemployment assistance~~ *jobseeker's allowance*,²⁵⁶⁰ 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—

(I) ~~unemployment assistance~~ *jobseeker's allowance* and pre-retirement allowance and subject to paragraph (5) all moneys earned by the person in respect of current personal employment under a contract of service,

(II) farm assist and subject to paragraph (8), all moneys earned by the person or his or her spouse, *civil partner or cohabitant*²⁵⁶¹ in respect of current personal employment under a contract of service,

(v) in the case of ~~unemployment assistance~~ *jobseeker's allowance*, pre-retirement allowance and farm assist and subject to paragraphs (6), (7) and (8), any

²⁵⁵⁶ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁵⁷ Amended by s. 23 SW&PA 2008

²⁵⁵⁸ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁵⁹ Deleted by S. 35(a)(ii) SW&PA 2007

²⁵⁶⁰ Deleted by s. 35(ii) SW&PA 2007

²⁵⁶¹ Inserted by s.26 and Sch. 3 SW&PA 2010

moneys earned by the person or his or her spouse, *civil partner or cohabitant*²⁵⁶² from insurable employment of a seasonal nature,

(vi) the amount that may be prescribed of all moneys earned by the person's spouse, *civil partner or cohabitant*²⁵⁶³ from insurable employment,

~~(vii) any moneys, except in so far as they exceed €134 per year, received by the person or by his or her spouse in respect of work as an outworker under a scheme that is, in the opinion of the Minister, charitable in character and purpose,~~²⁵⁶⁴

(viii) in the case of disability allowance, the amount that may be prescribed of earnings from employment or self-employment of a ~~rehabilitative nature~~²⁵⁶⁵,

(ix) in the case of ~~unemployment assistance~~ *jobseeker's allowance*, pre-retirement allowance and farm assist, all income 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,~~²⁵⁶⁶

~~(I) the Rural Environment Protection Scheme and the Agri-Environment Options Scheme administered by the Minister for Agriculture, Food and the Marine;~~²⁵⁶⁷

~~(I) the Rural Environment Protection Scheme, the Agri-Environment Options Scheme and the Green, Low-Carbon, Agri-Environment Scheme administered by the Minister for Agriculture, Food and the Marine;~~²⁵⁶⁸

(I) the following schemes administered by the Minister for Agriculture, Food and the Marine, namely the Schemes commonly known and referred to as:

(A) the Rural Environment Protection Scheme;

(B) the Agri-Environment Options Scheme;

(C) the Green, Low-Carbon, Agri-Environment Scheme;

(D) the Beef Exceptional Aid Measure;

(E) the Beef Data and Genomics Programme (2015 – 2020) (2017 – 2022) (2021);

²⁵⁶² Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁶³ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁶⁴ Rule 1(2)(b)(vii) deleted by s. 35(a)(iii) SW&PA 2007

²⁵⁶⁵ Deleted by s.20(a) SWP&CRA 2018

²⁵⁶⁶ Subclauses (I) and (II) substituted by s.15(2)(b) SW(MP)A 2015

²⁵⁶⁷ Subcl. (I) substituted by s.22(a) SWA 2016

²⁵⁶⁸ Subcl. (I) substituted by s.22(a) SWA 2016

- (F) the Beef Environmental Efficiency Plan (BEEP-S) as part of the Beef Sector Efficiency Programme;
- (G) the Dairy Beef Calf Programme as part of the Beef Sector Efficiency Programme;
- (H) the Results Based Environment Agri-Pilot Programme;
- (I) the Sheep Welfare Scheme;
- (J) the Afforestation Grant and Premium Scheme (2000 – 2006) (2007 – 2013) (2014 – 2020);
- (K) the Ash Dieback Replanting Scheme;
- (L) the Creation of Woodland on Public Lands Scheme;
- (M) the Deer Tree Shelter and Deer/Hare Fencing Scheme;
- (N) the Forestry Grants and Premium Schemes (2014 – 2020);
- (O) the Forest Genetic Resources Reproductive Material Scheme;
- (P) the Forest Road Scheme;
- (Q) the Forestry Knowledge Transfer Group Scheme;
- (R) the Innovative Forestry Forest Technology: Central tyre inflation scheme module;
- (S) the Native Woodland Conservation Scheme;
- (T) the NeighbourWood Scheme;
- (U) the Reconstitution and Underplanting Scheme (Ash Dieback);
- (V) the Woodland Improvement Scheme including Continuous Forestry Cover;
- (W) such additional Schemes administered by the Minister for Agriculture, Food and the Marine relating to agri-environmental schemes as may, following consultation with that Minister, be prescribed.²⁵⁶⁹

(II) the National Parks and Wildlife Service Farm Plan Scheme Administered by the Minister for Arts, Heritage and the Gaeltacht,²⁵⁷⁰

except in so far as that income exceeds the sum of—

²⁵⁶⁹Rule 1(2)(b)(ix) subclause (I) substituted by s..20(a) SWA 2021

²⁵⁷⁰ Subclauses (I) and (II) substituted by s.15(2)(b) SW(MP)A 2015

- (A) €2,540, plus
- (B) one-half of any amount in excess of €2,540 and
- (C) any expenses necessarily incurred;

(x) in the case of ~~unemployment assistance~~ **jobseeker's allowance** and pre-retirement allowance, and subject to paragraph (9), any income derived by a fisherman from any form of self-employment,

(xi) where the person or his or her spouse, **civil partner or cohabitant**²⁵⁷¹ is engaged on a seasonal basis in the occupation of fishing, one-half of so much of the income derived from that occupation as does not exceed €153 per year and one-third of so much of the income as exceeds €153 per year but does not exceed €381 ~~per year, and~~ **per year**,²⁵⁷²

(xii) in the case of farm assist, an amount of €1,270 per annum from the harvesting of ~~seaweed;~~ **of seaweed, and**²⁵⁷³

(xiii) 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;²⁵⁷⁴

(3) the yearly value ascertained in the prescribed manner of any advantage accruing to the person or to his or her spouse, **civil partner or cohabitant**²⁵⁷⁵ from—

(a) the use of property (other than a domestic dwelling or farm building owned and occupied, furniture and personal effects) which is personally used or enjoyed by the person or by his or her spouse, **civil partner or cohabitant**²⁵⁷⁶, and

(b) the leasing by the person or by his or her spouse, **civil partner or cohabitant**²⁵⁷⁷ of a farm of land;

(4) all income and the value of all property of which the person or his or her spouse, **civil partner or cohabitant**²⁵⁷⁸ has directly or indirectly deprived himself or herself in order to qualify for the receipt of ~~unemployment assistance~~ **jobseeker's allowance**, pre-retirement allowance, disability allowance or farm assist, but where the income or the value of the property 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 any such regulations shall not cause the income or value of the property taken to be part of the means to be increased;

(5) in the case of a person engaged in employment under a contract of service, the value, ascertained in the prescribed manner of any moneys derived from that employment and the value so calculated constitutes the weekly means of that person from that employment for the purposes of Chapter 2 of Part 3;

²⁵⁷¹ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁷² Substituted by s. 19(1)(a) SW(No.2)A 2019

²⁵⁷³ Substituted by s. 19(1)(b) SW(No.2)A 2019

²⁵⁷⁴ Subparagraph (xiii) inserted by s. 19(1)(c) SW(No.2)A 2019

²⁵⁷⁵ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁷⁶ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁷⁷ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁷⁸ Inserted by s.26 and Sch. 3 SW&PA 2010

(6) in the case of a person who makes a claim for ~~unemployment assistance~~ **jobseeker's allowance** during a period in which he or she is engaged in insurable employment of a seasonal nature, the value, ascertained in the prescribed manner, of any moneys derived from that employment and the value so calculated constitutes the weekly means of that person from that employment for the purposes of Chapter 2 of Part 3;

(7) in the case of ~~unemployment assistance~~ **jobseeker's allowance** and pre-retirement allowance, the value of all moneys derived by his or her spouse, **civil partner or cohabitant**²⁵⁷⁹ from insurable employment of a seasonal nature, ascertained in the prescribed manner, during the period in which his or her spouse, **civil partner or cohabitant**²⁵⁸⁰ is engaged in that employment, and the value so calculated constitutes the weekly means of that person from such employment;

(8) in the case of a farmer or his or her spouse, **civil partner or cohabitant**²⁵⁸¹ engaged in current personal or seasonal employment, the value, ascertained in the prescribed manner, of any moneys derived from that employment and the value so calculated constitutes the weekly means of that person from that employment;

(9) (a) ~~in the case of a fisherman, the gross income derived from any form of self employment, or~~

~~(b) in the case of a farmer entitled to or in receipt of farm assist, the gross yearly income which the farmer or his or her spouse, **civil partner or cohabitant**²⁵⁸² may reasonably be expected to receive from farming or any other form of self employment,~~

~~less —~~

~~(i) any expenses necessarily incurred in carrying on any form of self employment, and~~

~~(ii) where the fisherman or farmer has a qualified child, who normally resides with him or her, an amount of —~~

~~(I) €254 €127²⁵⁸³ per annum in respect of each of the first 2 qualified children, and~~

~~(II) €381 €190.50²⁵⁸⁴ per annum in respect of each subsequent qualified child,~~

~~calculated at the rate of 70 per cent **85 per cent**²⁵⁸⁵; ²⁵⁸⁶~~

~~(9) in the case of —~~

~~(a) a fisherman, the gross income derived from any form of self employment, or~~

~~(b) a farmer entitled to or in receipt of farm assist, the gross yearly income which the farmer or his or her spouse, **civil partner or cohabitant** may reasonably be expected to receive from farming or any other form of self employment,~~

~~less any expenses necessarily incurred in carrying on any form of self employment;²⁵⁸⁷ ²⁵⁸⁸~~

²⁵⁷⁹ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁸⁰ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁸¹ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁸² Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁸³ Substituted by s.10(1)(a)(i) SWA 2011

²⁵⁸⁴ Substituted by s.10(1)(a)(ii) SWA 2011

²⁵⁸⁵ Substituted by s.10(1)(a)(iii) SWA 2011

²⁵⁸⁶ Para. (9) substituted by s.7(1) SWA 2012

(9) in the case of—

(a) a fisherman, the gross income derived from any form of self-employment, or

(b) a farmer entitled to or in receipt of farm assist, the gross yearly income which the farmer or his or her spouse, civil partner or cohabitant may reasonably be expected to receive from farming or any other form of self-employment, less—

(i) any expenses necessarily incurred in carrying on any form of self-employment, and

(ii) where the fisherman or farmer has a qualified child, who normally resides with him or her, an amount of—

(I) €254 per annum in respect of each of the first 2 qualified children, and

(II) €381 per annum in respect of each subsequent qualified child,

calculated at the rate of 70 per cent;²⁵⁸⁹

(10) in the case of a person entitled to or in receipt of ~~unemployment assistance~~ **jobseeker's allowance** and who has not attained the age that may be prescribed, the yearly value of any benefit or privilege enjoyed by that person by virtue of residing with a parent or step-parent, and the Minister may prescribe by regulations the manner in which the value of the benefit and privilege may be calculated.

1A. In the calculation of the means of a person for the purposes of Chapters 2, 3, 10 and 11 of Part 3, notwithstanding any exclusion under Rule 1(2)(b), account shall be taken of any incentive payments made to a person or the spouse, **civil partner or cohabitant**²⁵⁹⁰ of such person under the special incentive career break scheme and without prejudice to the generality of the foregoing—

(a) the exclusion under Rule 1(2)(b)(iv)(II) of moneys earned by the person or his or her spouse, **civil partner or cohabitant**²⁵⁹¹ shall not apply to any incentive payment made to the person or his or her spouse, **civil partner or cohabitant**²⁵⁹² under such scheme, and

(b) the exclusion under Rule 1(2)(b)(vi) of moneys earned by the spouse, **civil partner or cohabitant**²⁵⁹³ concerned shall not apply to any incentive payment made to such spouse, **civil partner or cohabitant**²⁵⁹⁴ under such scheme.²⁵⁹⁵

~~2. (1) Notwithstanding this Schedule and subject to paragraph (2), for the purposes of disability allowance, 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 shall not, subject to the limit and under the conditions and~~

²⁵⁸⁷ Para. (9) substituted by s.7(1) SWA 2012

²⁵⁸⁸ Para. (9) substituted by s.23(1) SWA 2016

²⁵⁸⁹ Para. (9) substituted by s.23(1) SWA 2016

²⁵⁹⁰ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁹¹ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁹² Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁹³ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁹⁴ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁵⁹⁵ Rule 1A inserted by s.19(b) SW&P (No. 2)A 2009

~~circumstances and for the periods that shall be prescribed, be taken into account in calculating the means of the claimant or beneficiary.~~²⁵⁹⁶

2. (1) Notwithstanding this Schedule and subject to paragraph (2), for the purposes of disability allowance, 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 or both civil partners of the same civil partnership who are living together, the spouse or civil partner of the claimant or beneficiary 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 or beneficiary.²⁵⁹⁷

(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.

3. For the purposes of Rule 1(2) and (10), the income of a person shall, in the absence of other means of ascertaining it, be taken to be the income actually received during the year immediately before the date of calculation.

4. The Minister may by regulations vary—

(a) Rule 1(1) and Table 1 to this Schedule in relation to the calculation of the weekly value of property belonging to a person, and

(b) Rules 1(2) to (10), in the case of farm assist.

SCHEDULE 3

PART 3

~~OLD AGE (NON-CONTRIBUTORY) PENSION, 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~~

~~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 or 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—~~

²⁵⁹⁶ Substituted by s.25(2) SW&PA 2010

²⁵⁹⁷ Substituted by s.25(2) SW&PA 2010

~~(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 old age (non-contributory) pension, blind pension, widow's or 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) in the case of a person who has attained pensionable age, 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 1992²⁵⁹⁸, or Council Regulation (EC) No. 1257/99²⁵⁹⁹ of 17 May 1999,~~

~~(vi) for the purposes of old age (non-contributory) pension and widow's 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,~~

~~(vii) 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),~~

~~(viii) in the case of old age (non-contributory) pension, widow's or widower's (non-contributory) pension, orphan's (non-contributory) pension, one-parent family payment or carer's allowance, any moneys, except in so far as they exceed €67 per year, received by the person in respect of employment as an outworker under a scheme that is, in the opinion of the Minister, charitable in character and purpose,~~

~~(ix) in the case of a recipient 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),~~

²⁵⁹⁸ OJ No. L215, 30.7.92, p. 91

²⁵⁹⁹ OJ No. L160, 26.6.99, p. 80

~~(x) 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,~~

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

~~(xii) in the case of a person who is in receipt of old age (non-contributory) pension, 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,~~

~~(xiii) in the case of old age (non-contributory) pension, 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,~~

~~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 a recipient of one parent family payment who has earnings (including wages and profit from any form of self-employment), the gross weekly earnings *calculated or estimated in the manner that may be*~~

~~prescribed~~²⁶⁰⁰ 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 of a recipient of one parent family payment, 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 —~~

~~(a) old age (non contributory) pension or blind pension, or~~

~~(b) widow's (non contributory) pension or widower's (non contributory) pension, or one parent family payment, where the claimant or beneficiary has attained pensionable age,~~

~~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~~

²⁶⁰⁰ Inserted by s. 9 SWA 2005

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 an old age (non-contributory) pension, blind pension or a carer's allowance, 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 which 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) an old age (non-contributory) pension, 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 old age (non-contributory) pension, 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 4 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.

SCHEDULE 3

PART 3²⁶⁰¹

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~~ *reference 1 of Table 1*²⁶⁰² to this Schedule, constitutes the weekly means of a person from that property, but no account shall be taken under any

²⁶⁰¹ Substituted by s. 24 /Sch. 4 SWLR&PA 2006

²⁶⁰² Substituted by s. 35(b)(i) SW&PA 2007

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,

²⁶⁰³

(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 1992,²⁶⁰⁴ or Council Regulation (EC) No.1257/99 of 17 May 1999,²⁶⁰⁵

(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 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~~

²⁶⁰³ Uncommenced provision - see s.13(i) [SW&PA 2008](#)

²⁶⁰⁴ OJ No. L215, 30.7.92, p.91

²⁶⁰⁵ OJ No. L160, 26.6.99, p.80

~~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;~~²⁶⁰⁶

~~(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;~~²⁶⁰⁷

(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;~~²⁶⁰⁸

~~(I) the Rural Environment Protection Scheme and the Agri-Environment Options Scheme administered by the Minister for Agriculture, Food and the Marine;~~²⁶⁰⁹

~~(I) the Rural Environment Protection Scheme, the Agri-Environment Options Scheme and the Green, Low-Carbon, Agri-Environment Scheme administered by the Minister for Agriculture, Food and the Marine;~~²⁶¹⁰

(I) the following schemes administered by the Minister for Agriculture, Food and the Marine, namely the Schemes commonly known and referred to as:

(A) the Rural Environment Protection Scheme;

(B) the Agri-Environment Options Scheme;

(C) the Green, Low-Carbon, Agri-Environment Scheme;

(D) the Beef Exceptional Aid Measure;

(E) the Beef Data and Genomics Programme (2015 – 2020) (2017 – 2022) (2021);

(F) the Beef Environmental Efficiency Plan (BEEP-S) as part of the Beef Sector Efficiency Programme;

(G) the Dairy Beef Calf Programme as part of the Beef Sector Efficiency Programme;

²⁶⁰⁶ Rule 1(2)(b)(vii and viii) deleted by s.35(b)(ii) SW&PA 2007

²⁶⁰⁷ Substituted by s.10(1)(b) SWA 2011

²⁶⁰⁸ Subclauses (I) and (II) substituted by s.15(2)(c) SW(MP)A 2015

²⁶⁰⁹ Subcl. (I) substituted by s22(b) SWA 2016

²⁶¹⁰ Subcl. (I) substituted by s22(b) SWA 2016

- (H) the Results Based Environment Agri-Pilot Programme;
- (I) the Sheep Welfare Scheme;
- (J) the Afforestation Grant and Premium Scheme (2000 – 2006) (2007 – 2013) (2014 – 2020); (K) the Ash Dieback Replanting Scheme;
- (L) the Creation of Woodland on Public Lands Scheme;
- (M) the Deer Tree Shelter and Deer/Hare Fencing Scheme;
- (N) the Forestry Grants and Premium Schemes (2014 – 2020);
- (O) the Forest Genetic Resources Reproductive Material Scheme;
- (P) the Forest Road Scheme;
- (Q) the Forestry Knowledge Transfer Group Scheme;
- (R) the Innovative Forestry Forest Technology: Central tyre inflation scheme module;
- (S) the Native Woodland Conservation Scheme;
- (T) the NeighbourWood Scheme;
- (U) the Reconstitution and Underplanting Scheme (Ash Dieback);
- (V) the Woodland Improvement Scheme including Continuous Forestry Cover;
- (W) such additional Schemes administered by the Minister for Agriculture, Food and the Marine relating to agri-environmental schemes as may, following consultation with that Minister, be prescribed.²⁶¹¹

(II) the National Parks and Wildlife Service Farm Plan Scheme Administered by the Minister for Arts, Heritage and the Gaeltacht,²⁶¹²

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—

²⁶¹¹ Rule 1(2)(b)(x) Subclause (I) substituted by s. 20(b) SWA 2021

²⁶¹² Subclauses (I) and (II) substituted by s.15(2)(c) SW(MP)A 2015

(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.²⁶¹³~~

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 or civil partners of the same civil partnership who are living together, the spouse or civil partner of the claimant or beneficiary where the spouse or civil partner 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.²⁶¹⁴

(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:

²⁶¹³ Substituted by s.25(3) SW&PA 2010

²⁶¹⁴ Substituted by s.25(3) SW&PA 2010

(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.²⁶¹⁵~~

4.(2) In this Rule ‘couple’ means—

(a) a married couple who are living together,

(b) both civil partners who are parties to the same civil partnership and who are living together, or

(c) both cohabitants.²⁶¹⁶

(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, *civil partner or cohabitant*²⁶¹⁷ 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, *civil partner or cohabitant*²⁶¹⁸ of the person or both of them,

in calculating the means of the person or of the spouse, *civil partner or cohabitant*²⁶¹⁹ 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

²⁶¹⁵ Substituted by s.25(3)(b) SW&PA 2010

²⁶¹⁶ Substituted by s.25(3)(b) SW&PA 2010

²⁶¹⁷ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁶¹⁸ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁶¹⁹ Inserted by s.26 and Sch. 3 SW&PA 2010

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.

SCHEDULE 3

PART 4 ²⁶²⁰

SUPPLEMENTARY WELFARE ALLOWANCE

1. In calculating the weekly means of a person for supplementary welfare allowance account shall be taken of the following—

~~(1) the value of any 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 or which, though capable of investment or profitable use, is not invested or put to profitable use, the yearly value of the first €520 of the property being taken to be one twentieth part of the capital value and the yearly value of so much of the capital value of the property as exceeds the sum of €520 being taken to be one tenth part of the capital value; and the weekly value of the property being calculated as one fifty second part of the yearly value so calculated;~~²⁶²¹

(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 reference 3 of Table 1 to this Schedule, constitutes the weekly means of a person from that property;²⁶²²

(2) all income in cash, including the net cash value of any non-cash earnings derived from personal exertions and the non-cash benefits that may be prescribed and the actual or estimated amount of any household income, whether as contributions to the expenses of the household or otherwise, but—

(a) excluding the amounts at references 2 to 11, **18A**²⁶²³ and 19 in Table 2 to this Schedule, and

²⁶²⁰ Uncommenced provision – see s.12(b) SW&PA 2008 (Relates to the proposed transfer of the administration of the Blind Welfare Allowance scheme from the Department of Health to the Department of Social Protection)

²⁶²¹ Rule 1(1) substituted by s. 36 (a)(i) SW&PA 2007

²⁶²² Rule 1(1) substituted by s. 36(a)(i) SW&PA 2007

²⁶²³ Inserted by s. 24(a) SW&PA 2008. Note: Reference No. 18A in Table 2 subsequently deleted by s.6 SW&P(MP)A 2013

(b) excluding—

(i) in the cases that may be prescribed, any moneys received by way of a maintenance grant,

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

(iv) the amount that may be prescribed of ~~earnings from employment of a rehabilitative nature~~ **earnings referred to in Rule 1(2)(b)(viii) of Part 2 and Rule 1(2)(b)(x) of Part 5**²⁶²⁴, and²⁶²⁵

~~(iva) any moneys received by way of guardian's payment (contributory), guardian's payment (non-contributory) or respite care grant, and~~²⁶²⁶

(iva) any moneys received by way of guardian's payment (contributory), guardian's payment (non-contributory), domiciliary care allowance or ~~respite care grant~~ **carer's support grant**²⁶²⁷, and²⁶²⁸

~~(v) in the case of a person in receipt of a supplement under section 198 towards the amount of mortgage interest or rent payable by him or her in respect of his or her residence:~~

~~(I) €60 or any higher amount that may be prescribed, from the amount of income derived when gross earnings from any employment that may be prescribed, have been reduced by the aggregate of—~~

~~(I) an amount of €60 together with half the gross weekly earnings in excess of that amount where those earnings are not in excess of €90, from the amount of income derived when gross earnings from any employment that may be prescribed have been reduced by the aggregate of—~~

~~(A) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),~~

~~(AA) any allowable pension payment within the meaning of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) (No. 1) (Refunds) Regulations 2003,²⁶²⁹~~

~~(B) any amount deducted from reckonable earnings under section 13 and regulations made under section 14,~~

²⁶²⁴ Substituted by s.20(b) SWP&CRA 2018

²⁶²⁵ Deleted by s. 36(a)(ii) SW&PA 2007

²⁶²⁶ Rule 1(2)(b)(iva) inserted by s. 36(a)(ii) SW&PA 2007

²⁶²⁷ Substituted by s.5(1) SW&PA 2015

²⁶²⁸ Substituted by s.19 SW&PA 2011

²⁶²⁹ Para (AA) inserted by s. 33(b) SWLR&PA 2006

~~(C) any amount deducted from reckonable earnings under section 5 of the Health Contributions Act 1979, and~~

~~(D) an amount equal to the amount of reduction, if any, in the rate of unemployment assistance jobseeker's allowance or one-parent family payment under Part 3 consequent on receipt of those earnings from employment;~~

~~(II) the amount by which carer's allowance exceeds the amount of supplementary welfare allowance set out in column (3) at reference 10 of Schedule 4, in the case of a claimant, or his or her spouse, who is in receipt of carer's allowance under Part 3,~~

~~(III) the amount by which carer's allowance exceeds the amount of supplementary welfare allowance set out in column (2) at reference 10 of Schedule 4, in the case of a claimant who, not being one of a couple, is in receipt of carer's allowance under Part 3,~~

~~(IV) the amount that may be prescribed from attendance at any training course that may be prescribed;²⁶³⁰~~

~~(i) in the case of a person in receipt of a supplement under section 198 towards the amount of mortgage interest or rent payable by the person in respect of his or her residence:~~

~~(I) an amount equal to any additional income, where that income arises from any employment or training that may be prescribed and is not in excess of €75, or an amount equal to 25 per cent of any such additional income where that income is not in excess of €75 and subject to a minimum disregard of €75, when such additional income has been reduced by the aggregate of—~~

~~(A) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),~~

~~(B) any amount deducted from reckonable earnings under section 13 and regulations made under section 14,~~

~~(C) any amount deducted from reckonable earnings under section 5 of the Health Contributions Act 1979, and~~

~~(D) an amount equal to the amount of reduction, if any, in the rate of jobseeker's allowance or one-parent family payment under Part 3 consequent on receipt of those earnings from employment;~~

~~(II) the amount by which carer's allowance exceeds the amount of supplementary welfare allowance set out in column (3) at reference 10 of Part 1 of Schedule 4, in the case of a claimant, or his or her spouse, who is in receipt of carer's allowance under Part 3;~~

²⁶³⁰ Substituted by S. 36(a)(ii) SW&PA 2007

~~(III) the amount by which carer's allowance exceeds the amount of supplementary welfare allowance set out in column (2) at reference 10 of Part 1 of Schedule 4, in the case of a claimant who, not being one of a couple, is in receipt of carer's allowance under Part 3;~~

~~(IV) the amount payable under section 186A;²⁶³¹~~

(v) in the case of a person in receipt of a supplement under section 198 towards the amount of mortgage interest or rent payable by the person in respect of his or her residence –

(I) an amount equal to the sum of the first €75 of any additional income (within the meaning of Rule 2) and 25 per cent of so much of that additional income as exceeds €75, when that additional income has been reduced by the aggregate of –

~~(A) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),~~

~~(B) any amount deducted from reckonable earnings under section 13 and regulations made under section 14, and~~

~~(C) any amount deducted from reckonable earnings under section 5 of the Health Contributions Act 1979, and²⁶³²~~

(A) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001), and

(B) any amount deducted from reckonable earnings under section 13 and regulations made under section 14, and²⁶³³

(II) the amount by which carer's allowance as set out in column (2) at reference 8(a) or 8(b), as appropriate, of Part 1 of Schedule 4 exceeds –

(A) the amount of supplementary welfare allowance set out in column (3) at reference 10 of Part 1 of Schedule 4, where the person, or the person's spouse, *civil partner or cohabitant*,²⁶³⁴ is in receipt of carer's allowance under Part 3; or

(B) the amount of supplementary welfare allowance set out in column (2) at reference 10 of Part 1 of Schedule 4, where the person, not being one of a couple *or not being one of a civil partnership*²⁶³⁵, is in receipt of carer's allowance under Part 3;

(III) the amount by which carer's benefit as set out in column (2) at reference 7(a) or 7(b), as appropriate, of Part 1 of Schedule 2 exceeds –

²⁶³¹ Rule 1(2)(b)(v) substituted by s. 36(a)(ii) SW&PA 2007

²⁶³² Substituted by s.11(2) SW&PA 2011

²⁶³³ Substituted by s.11(2) SW&PA 2011

²⁶³⁴ Inserted by s.26 and Sch3 SW&PA 2010

²⁶³⁵ Inserted by s.26 and Sch3 SW&PA 2010

(A) the amount of supplementary welfare allowance set out in column (3) at reference 10 of Part 1 of Schedule 4, where the person, or the person's spouse, *civil partner or cohabitant*,²⁶³⁶ is in receipt of carer's benefit under Part 2; or

(B) the amount of supplementary welfare allowance set out in column (2) at reference 10 of Part 1 of Schedule 4, where the person, not being one of a couple *or not being one of a civil partnership*²⁶³⁷, is in receipt of carer's benefit under ~~Part 2~~; **Part 2**; and²⁶³⁸

(IV) the amount payable under section ~~186A~~;²⁶³⁹ **186A**; and²⁶⁴⁰

(V) any moneys received by way of back to work family dividend under Part 7A;²⁶⁴¹

(3) the 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, or furniture and personal effects) which is personally used or enjoyed by him or her, and

(b) the leasing by the person of a farm of land;

(4) all income and the value of all property of which the person has directly or indirectly deprived himself or herself in order to qualify himself or herself for the receipt of supplementary welfare allowance;

~~(5) the value of any benefit or privilege enjoyed by the person.~~

(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.²⁶⁴²

~~1A. (1) For the purposes of determining non-cash benefits referred to in Rule 1(2) in determining entitlement to rent or mortgage interest supplement payable under section 198, the weekly net cash value to the person of his or her annual housing costs actually incurred and paid by a liable relative shall be calculated as follows:~~

~~(a) the weekly value of €4,952 per annum shall be assessed in full;~~

~~(b) the weekly value of so much of the housing costs actually incurred and paid by a liable relative as exceeds €4,952 per annum but does not exceed €8,852 per annum, shall be disregarded;~~

~~(c) the weekly value of so much of the housing costs actually incurred and paid by the liable relative as exceeds €8,852 per annum shall be assessed at 75 cent per each €1.²⁶⁴³~~

²⁶³⁶ Inserted by s.26 and Sch3 SW&PA 2010

²⁶³⁷ Inserted by s.26 and Sch3 SW&PA 2010

²⁶³⁸ Substituted by Sch. to SW(MP)A 2015

²⁶³⁹ Rule 1(2)(b)(v) substituted by s.24(b) SW&PA 2008

²⁶⁴⁰ Substituted by Sch. to SW(MP)A 2015

²⁶⁴¹ Inserted by Sch. to SW(MP)A 2015

²⁶⁴² Rule 1(5) substituted by s. 34 SWLR&PA 2006

²⁶⁴³ Rule 1A(1) substituted by s. 24(c) SW&PA 2008

(1) In determining entitlement to rent or mortgage interest supplement payable under section 198, the non-cash benefits referred to in Rule 1(2) shall include the weekly net cash value to the person of his or her annual housing costs actually incurred and paid by a liable relative.²⁶⁴⁴

(2) In assessing the means of a person for the purpose of a rent or mortgage interest supplement payable under section 198, where a claimant has attained the age of 65 years, and his or her combined household income is greater than the rate of supplementary welfare allowance appropriate to his or her circumstances, an amount equal to the difference between the maximum rate of State pension (contributory) appropriate to his or her circumstances and the said rate of supplementary welfare allowance shall be disregarded.

~~(3) Where a person or his or her spouse has any additional income to which Rule 1(2)(b)(iv), Rule 1(2)(b)(v)(I) or Rule 1A(1) may apply, only one such rule shall apply, being whichever is the more favourable.~~²⁶⁴⁵

(3) Where a person or his or her spouse, *civil partner or cohabitant*,²⁶⁴⁶ has any additional income to which Rule 1(2)(b)(iv) or Rule 1(2)(b)(v)(I) may apply, only one such Rule shall apply, being whichever is the more favourable to the person.²⁶⁴⁷

(4) Subject to paragraph (5), Rules 1(1), 1(2)(b)(iva), 1(2)(b)(v) and 1A shall not have the effect of reducing the rate of supplementary welfare allowance below the rate payable immediately before the commencement of section 36 of the Social Welfare and Pensions Act 2007.

(5) Paragraph (4) shall cease to apply to any person where his or her means have increased.²⁶⁴⁸

2. The Minister may by regulations vary—

~~(a) Rule 1(1) in relation to the calculation of the yearly value of property belonging to a person, and~~

~~(b) Rule 1(2), (3), (4) and (5).~~²⁶⁴⁹

2. In Rule 1(2)(b)(v)(I), “additional income” means the amount by which the aggregate of—

~~(a) income arising from such employment or training as is prescribed,~~²⁶⁵⁰

~~(a) income arising from such employment or training or participation or placement in such scheme or programme as is prescribed,~~²⁶⁵¹

~~(aa) any income paid by the person second mentioned in subsection (1) of section 298A,~~^{2652 2653}

²⁶⁴⁴ Rule 1A(1) substituted by s. 24(c) SW&PA 2008

²⁶⁴⁵ Rule 1A(3) substituted by s. 24(c)(ii) SW&PA 2008

²⁶⁴⁶ Inserted by s.26 and Sch3 SW&PA 2010

²⁶⁴⁷ Rule 1A(3) substituted by s. 24(c)(ii) SW&PA 2008

²⁶⁴⁸ Rule 1A(1) to (5) inserted by s. 36(b) SW&PA 2007

²⁶⁴⁹ Rule 2 substituted by s. 24(d) SW&PA 2008

²⁶⁵⁰ Substituted by s.16(4) SW&PA 2011

²⁶⁵¹ Substituted by s.16(4) SW&PA 2011

²⁶⁵² Inserted by s.27(c) SW&PA 2010

²⁶⁵³ Deleted by s.16(4)(b) SW&PA 2011

~~(a) income arising from receipt by the person of family income supplement under Part 6, and~~

~~(b) the aggregate of—~~

~~(i) any maintenance payments made by a liable relative, and~~

~~(ii) the net cash value of the non-cash benefits referred to in Rule 1A(1), in so far as it exceeds €4,952,~~

~~which, when aggregated with the assessable weekly means of the person from all other sources under this Part, is in excess of—~~

~~(i) the rate of supplementary welfare allowance set out in column (2) of Part 1 of Schedule 4, increased by~~

~~(b) the amount set out in column (3) of that Part, where the person has a spouse, *civil partner or cohabitant*,²⁶⁵⁴ and~~

~~(c) the amount set out in column (4) of that Part multiplied by the number of qualified children.^{2655 2656}~~

2. (1) Where Rule 1(2)(b)(v)(I) applies to a person, ‘additional income’ in relation to that person means an amount determined, subject to paragraph (2), by the formula—

$$(A+B) - C$$

where—

A is the sum of—

(i) any weekly income arising which that person receives from such employment or training or participation or placement in such scheme or programme as is prescribed,

(ii) any weekly income which that person receives by way of ~~family income supplement~~ *working family payment*²⁶⁵⁷ under Part 6, and

(iii) in so far as it exceeds €4,952 per annum, the aggregate of—

(I) any maintenance payments made by a liable relative, and

(II) the net cash value of the non-cash benefits referred to in Rule 1A(1),

B is the amount of the assessable weekly means of the person from all other sources under Part 4 of Schedule 3, and

C is the weekly rate of supplementary welfare allowance set out in column (2) of Part 1 of Schedule 4, increased by—

(i) the amount set out in column (3) of that Part, where the person has a qualified adult, and

~~(ii) the amount set out in column (4) of that Part in respect of each qualified child of that person.²⁶⁵⁸~~

²⁶⁵⁴ Inserted by s.26 and Sch3 SW&PA 2010

²⁶⁵⁵ Rule 2 substituted by s. 24(d) SW&PA 2008

²⁶⁵⁶ Substituted by s.17 SW&P(MP)A 2013

²⁶⁵⁷ Substituted by a.8 and Sch 1 SWA 2017

(ii) the amount set out—

(I) in column (4) of that Part in respect of each qualified child of that person who has not attained the age of 12 years, and

(II) in column (5) of that Part in respect of each qualified child of that person who has attained the age of 12 years²⁶⁵⁹

(2) The amount determined by the formula in paragraph (1) shall not exceed the sum represented by A in that formula. ²⁶⁶⁰

2A. (1) In the calculation of the weekly means of a person for supplementary welfare allowance, notwithstanding any exclusion under Rule 1(2)(b), account shall be taken of any incentive payment made to a person or the spouse, *civil partner or cohabitant*,²⁶⁶¹ of such person under the special incentive career break scheme.

(2) Without prejudice to the generality of paragraph (1), for the purposes of Rule 2, additional income does not include income arising from any incentive payment under such scheme which is made to a person referred to in Rule 1(2)(b)(v).²⁶⁶²

SCHEDULE 3

PART 5²⁶⁶³

Sections 161A, 168, 172 and 179.

BLIND PENSION, WIDOW'S (NON-CONTRIBUTORY) PENSION, WIDOWER'S (NON-CONTRIBUTORY) PENSION, ~~ORPHAN'S (NON-CONTRIBUTORY) PENSION~~ **GUARDIAN'S PAYMENT (NON-CONTRIBUTORY)**, 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 reference 1 of Table 1²⁶⁶⁴ 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;~~

(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

²⁶⁵⁸ Subpara. (ii) substituted by s.17 of and Sch. 1 to the SWP&CRA2918

²⁶⁵⁹ Subpara. (ii) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

²⁶⁶⁰ Substituted by s.17 SW&P(MP)A 2013

²⁶⁶¹ Inserted by s.26 and Sch3 SW&PA 2010

²⁶⁶² Rule 2A inserted by s.19(c) SW&P (No. 2)A 2009

²⁶⁶³ Inserted by s. 25 + Sch. 5 SWLR&PA 2006

²⁶⁶⁴ Substituted by s. 35(c)(i) SW&PA 2007

investment or profitable use is not invested or put to profitable use and the weekly value, calculated—

(a) for the purposes of blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, guardian's payment (non-contributory) or one-parent family payment, in accordance with reference 1 of Table 1 to this Schedule, or

(b) for the purposes of carer's allowance, in accordance with reference 4 of 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;²⁶⁶⁵

(2) all income in cash (including, in the case of widow's (non-contributory) pension, widower's (non-contributory) pension, **surviving civil partner's (non-contributory) pension**,²⁶⁶⁶ ~~orphan's (non-contributory) pension~~ **guardian's payment (non-contributory)** 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, **surviving civil partner's (non-contributory) pension**²⁶⁶⁷ 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,~~²⁶⁶⁸ 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, ²⁶⁶⁹

(v) for the purposes of widow's (non-contributory) pension ~~or widower's (non-contributory) pension~~, **widower's (non-contributory) pension or surviving**

²⁶⁶⁵ Paragraph 1 substituted by S. 21(a) SWA2021

²⁶⁶⁶ Inserted by s.26 and Sch3 SW&PA 2010

²⁶⁶⁷ Inserted by s.26 and Sch3 SW&PA 2010

²⁶⁶⁸ Deleted by s. 35(c)(ii) SW&PA 2007

²⁶⁶⁹ Uncommenced provision - see s.13(j) [SW&PA 2008](#)

civil partner's (non-contributory) pension,²⁶⁷⁰ 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, *a surviving civil partner's (non-contributory) pension*²⁶⁷¹ 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, *civil partner or cohabitant*²⁶⁷² 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,~~²⁶⁷³

(x) in the case of a blind person, the amount that may be prescribed of his or her earnings from employment of a rehabilitative nature²⁶⁷⁴,

~~(xi) in the case of a person who is in receipt of orphan's (non-contributory) pension guardian's payment (non-contributory) 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,~~²⁶⁷⁵

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

²⁶⁷⁰ Substituted by s.26 and Sch3 SW&PA 2010

²⁶⁷¹ Inserted by s.26 and Sch. 3 SW&PA 2010

²⁶⁷² Inserted by s.26 and Sch3 SW&PA 2010

²⁶⁷³ Subpara. *ix) deleted by s.20(c) SWP&CRA 2018

²⁶⁷⁴ Deleted by s.20(d) SWP&CRA 2018

²⁶⁷⁵ Rule 1(2)(b)(xi) deleted by s. 35(c)(iii) SW&PA 2007

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;²⁶⁷⁶~~

(4) (a) ~~subject to subparagraph (b),~~ **subject to this paragraph,**²⁶⁷⁷ in the case of one-parent family payment, the weekly earnings (including wages and profit from any form of self-employment), calculated or estimated as prescribed, constitute the weekly means of that parent from earnings for the purposes of Chapter 7 of Part 3,

~~(b) in calculating the weekly earnings for the purposes of sub-paragraph (a), an amount of €146.50 together with half the weekly earnings in excess of that amount shall be disregarded;^{2678 2679}~~

(b) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 1 January 2012 but before 1 January 2013, an amount of €130 together with half the weekly earnings in excess of that amount shall be disregarded,

(c) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 1 January 2013 but before 1 January 2014, an amount of €110 together with half the weekly earnings in excess of that amount ~~shall be disregarded,~~ **shall be disregarded, and**²⁶⁸⁰

~~(d) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 1 January 2014 but before 1 January 2015, an amount of €90 together with half the weekly earnings in excess of that amount shall be disregarded,²⁶⁸¹~~

~~(d) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 1 January 2014, an amount of €90 together with half the weekly earnings in excess of that amount shall be disregarded;²⁶⁸²⁻²⁶⁸³~~

²⁶⁷⁶ Rule 1(4) substituted by s. 8(2) SW&PA 2008

²⁶⁷⁷ Substituted by s.3 SW&P(No. 2)A 2014

²⁶⁷⁸ Rule 1(4) substituted by s. 8(2) SW&PA 2008

²⁶⁷⁹ Substituted by s.11 SWA 2011

²⁶⁸⁰ Substituted by s.3 SW&P(No. 2)A 2014

²⁶⁸¹ Substituted by s.3 SW&P(No. 2)A 2014

²⁶⁸² Substituted by s.3 SW&P(No. 2)A 2014

²⁶⁸³ Subpara. (d) substituted by s.24(a) SWA 2016

(d) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 1 January 2014 but before 5 January 2017, an amount of €90 together with half the weekly earnings in excess of that amount shall be disregarded;²⁶⁸⁴

~~(da) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 5 January 2017, an amount of €110 together with half the weekly earnings in excess of that amount shall be disregarded;~~^{2685_ 2686}

(da) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 5 January 2017 but before 29 March 2018, an amount of €110 together with half the weekly earnings in excess of that amount shall be disregarded.²⁶⁸⁷

~~(db) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 29 March 2018, an amount of €130 together with half the weekly earnings in excess of that amount shall be disregarded.~~^{2688_2689}

(db) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 29 March 2018 but before 28 March 2019, an amount of €130 together with half the weekly earnings in excess of that amount shall be disregarded;²⁶⁹⁰

~~(dc) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 28 March 2019, an amount of €150 together with half the weekly earnings in excess of that amount shall be disregarded.~~²⁶⁹¹

(dc) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 28 March 2019, but before 9 January 2020, an amount of €150, together with half the weekly earnings in excess of that amount shall be disregarded;²⁶⁹²

(dd) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 9 January 2020, an amount of €165, together with half the weekly earnings in excess of that amount, shall be disregarded.²⁶⁹³

~~(e) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 1 January 2015 but before 1 January 2016, an amount of €75 together with half the weekly earnings in excess of that amount shall be disregarded, and~~²⁶⁹⁴

~~(f) in calculating the weekly earnings for the purposes of subparagraph (a) for any period commencing on or after 1 January 2016, an amount of €60 together with half the weekly earnings in excess of that amount shall be disregarded;~~^{2695_2696}

²⁶⁸⁴ Subpara. (d) substituted by s.24(a) SWA 2016

²⁶⁸⁵ Subpara. (da) inserted by s.24(b) SWA 2016

²⁶⁸⁶ Subpara (da) substituted by s.13(a) SWA 2017

²⁶⁸⁷ Subpara (da) substituted by s.13(a) SWA 2017

²⁶⁸⁸ Sub para (db) inserted by s.13(b) SWA 2017

²⁶⁸⁹ Subpara. (db) substituted by s.22(1)(a) of the SWP&CRA 2018

²⁶⁹⁰ Subpara. (db) substituted by s.22(1)(a) of the SWP&CRA 2018

²⁶⁹¹ Subpara. (dc) inserted by s.22(1)(b) of the SWP&CRA 2018

²⁶⁹² Subpara (dc) substituted by s. 20(1)(a) of SW(No.2)A 2019

²⁶⁹³ Subpara (dd) inserted by s. 20(1)(b) of SW(No.2)A 2019

²⁶⁹⁴ Deleted by s.3 SW&P(No. 2)A 2014

²⁶⁹⁵ Substituted by s.11 SWA 2011

²⁶⁹⁶ Deleted by s.3 SW&P(No. 2)A 2014

(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 *any benefit, pension, assistance, allowance or supplement under this Act or*²⁶⁹⁷ 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.

1A. In the case of carer's allowance, in calculating the weekly means of a carer who is not one of a couple the following shall be disregarded—

(a) an amount, not exceeding the maximum amount set out in column (2) at 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 the maximum amount set out in column (4) at 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).~~²⁶⁹⁸

(b) an amount, not exceeding the maximum amount set out—

(i) in column (4) at 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 who has not attained the age of 12 years for whom an increase is granted under section 181(1),

and

(ii) in column (5) at 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 who has attained the age of 12 years for whom an increase is granted under section 181(1).²⁶⁹⁹

~~1B. In Rules 1, 1A and 4, '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.~~^{2700/2701}

1B. In Rules 1, 1A and 4, 'couple' means—

(a) a married couple who are living together,

(b) both civil partners who are parties to the same civil partnership and who are living together, or

(c) both cohabitants.²⁷⁰²

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

²⁶⁹⁷ Inserted by s.10(a) SW&PA 2010

²⁶⁹⁸ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

²⁶⁹⁹ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

²⁷⁰⁰ Rules 1A and 1B inserted by s.10(b) SW&PA 2010

²⁷⁰¹ Substituted by s.25(4)(a) SW&PA 2010

²⁷⁰² Substituted by s.25(4)(a) SW&PA 2010

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.²⁷⁰³~~

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, or both civil partners of the same civil partnership who are living together, the spouse or civil partner of the claimant or beneficiary where the spouse or civil partner 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.²⁷⁰⁴

(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 an blind pension or a carer's allowance, 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;

²⁷⁰³ Substituted by s.25(4)(b) SW&PA 2010

²⁷⁰⁴ Substituted by s.25(4)(b) SW&PA 2010

(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).²⁷⁰⁵~~

(2) In the case of carer's allowance, in calculating the weekly means of a couple the following shall be disregarded—

(a) an amount, not exceeding the maximum amount set out in column (2) at 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) at 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).^{2706, 2707}~~

(b) an amount, not exceeding half the amount set out—

(i) in column (4) at 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 who has not attained the age of 12 years for whom an increase is granted under section 181(1), and

(ii) in column (5) at 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 who has attained the age of 12 years for whom an increase is granted under section 181(1).²⁷⁰⁸

²⁷⁰⁵ Rule 4(2) substituted by s.10(c) SW&PA 2010

²⁷⁰⁶ Rule 4(2) substituted by s.10(c) SW&PA 2010

²⁷⁰⁷ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

²⁷⁰⁸ Para. (b) substituted by s.17 of and Sch. 1 to the SWP&CRA 2018

(3) In the case of carer's allowance, in calculating the weekly means of the couple (other than means derived from **any benefit, pension, assistance, allowance or supplement under this Act or**²⁷⁰⁹ 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.~~²⁷¹⁰

(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, **surviving civil partner's (non-contributory) pension**²⁷¹¹, ~~orphan's (non-contributory) pension~~ **guardian's payment (non-contributory)**, one-parent family payment or carer's allowance is in course of payment to or in respect of a person or the spouse, **civil partner or cohabitant**²⁷¹² 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, **civil partner or cohabitant**²⁷¹³ of the person or both of them,

in calculating the means of the person or of the spouse, **civil partner or cohabitant**²⁷¹⁴ or of both of them for the purposes of blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, **surviving civil partner's (non-contributory) pension**,²⁷¹⁵ ~~orphan's (non-contributory) pension~~ **guardian's payment (non-contributory)**, 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.

²⁷⁰⁹ Rule 4(3) amended by s.10(d) SW&PA 2010

²⁷¹⁰ Rule 4(4) deleted by s.10(e) SW&PA 2010

²⁷¹¹ Inserted by s.26 and Sch 3 SW&PA 2010

²⁷¹² Inserted by s.26 and Sch3 SW&PA 2010

²⁷¹³ Inserted by s.26 and Sch3 SW&PA 2010

²⁷¹⁴ Inserted by s.26 and Sch3 SW&PA 2010

²⁷¹⁵ Inserted by s.26 and Sch3 SW&PA 2010

6A. (1) In the calculation of the means of a person, notwithstanding any exclusion under Rule 1(2)(b), account shall be taken of any incentive payment made to a person or the spouse, *civil partner or cohabitant*²⁷¹⁶ of a person under the special incentive career break scheme.

(2) Without prejudice to the generality of paragraph (1), for the purposes of Rule 1(2)(b)(viii), the exclusion for one-parent family payment, of any moneys received by way of earnings referred to in that Rule shall not apply to any incentive payment made to a person under the special incentive career break scheme.²⁷¹⁷

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.

Schedule 3 -Table 1²⁷¹⁸

The weekly value of the property referred to in Rule 1(1)(a) of Part 2 and Rule 1(1)(a) of Part 3 ~~Rule 1(1)(a) of Part 2, Rule 1(1)(a) of Part 3 and Rule 1(1)(a) of Part 5~~²⁷¹⁹ shall be calculated as follows:

- ~~(a) the first €20,000 of the capital value of the property shall be excluded;~~
- ~~(b) the weekly value of so much of the capital value of the property as exceeds €20,000 but does not exceed €30,000 shall be assessed at €1 per each €1,000;~~
- ~~(c) the weekly value of so much of the capital value of the property as exceeds €30,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000, and~~
- ~~(d) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000.~~

SCHEDULE 3

Table 1²⁷²⁰

Reference No.	Calculation of Weekly Value
1.	<p>The weekly value of the property referred to in Rule 1(1) of Part 2 (for the purposes of jobseeker's allowance, pre-retirement allowance and farm assist), Rule 1(1) of Part 3 and Rule 1(1) of Part 5 shall be calculated as follows:</p> <p>The weekly value of property referred to in Rule 1(1)(a) of Part 2 (for the purposes of jobseeker's allowance, pre-retirement allowance and farm assist), Rule 1(1) of Part 3 and Rule 1(1)(a) of Part 5 (for the purposes of blind pension, widow's (non-contributory) pension, widower's (non-</p>

²⁷¹⁶ Inserted by s.26 and Sch3 SW&PA 2010

²⁷¹⁷ Rule 6A inserted by s.19(d) SW&P (No. 2)A 2009

²⁷¹⁸ Table 1 substituted by s. 35(d) SW&PA 2007

²⁷¹⁹ Substituted by s. 17 /Sch. 3 SWLR&PA 2006

²⁷²⁰ Table 1 substituted by s. 35(d) SW&PA 2007

	<p>contributory) pension, guardian's payment (non-contributory) and one-parent family payment), shall be calculated as follows: ²⁷²¹</p> <p>(a) the first €20,000 of the capital value of the property shall be excluded;</p> <p>(b) the weekly value of so much of the capital value of the property as exceeds €20,000 but does not exceed €30,000 shall be assessed at €1 per each €1,000;</p> <p>(c) the weekly value of so much of the capital value of the property as exceeds €30,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000; and</p> <p>(d) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000.</p>
2.	<p>The weekly value of the property referred to in Rule 1(1) of Part 2, for the purposes of disability allowance, shall be calculated as follows:</p> <p>(a) the first €50,000 of the capital value of the property shall be excluded;</p> <p>(b) the weekly value of so much of the capital value of the property as exceeds €50,000 but does not exceed €60,000 shall be assessed at €1 per each €1,000;</p> <p>(c) the weekly value of so much of the capital value of the property as exceeds €60,000 but does not exceed €70,000 shall be assessed at €2 per each €1,000, and</p> <p>(d) the weekly value of so much of the capital value of the property as exceeds €70,000 shall be assessed at €4 per each €1,000.</p>
3.	<p>The weekly value of the property referred to in Rule 1(1) of Part 4 ²⁷²² shall be calculated as follows:</p> <p>(a) the first €5,000 of the capital value of the property shall be excluded;</p> <p>(b) the weekly value of so much of the capital value of the property as exceeds €5,000 but does not exceed €15,000 shall be assessed at €1 per each €1,000;</p> <p>(c) the weekly value of so much of the capital value of the property as exceeds €15,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000, and</p> <p>(d) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000.</p>
4. ²⁷²³	<p>The weekly value of the property referred to in Rule 1(1)(b) of Part 5, for</p>

²⁷²¹ Text of introduction substituted S.21(b)(i) SWA 2021

²⁷²² Uncommenced amendment – see S.12 of SW&PA 2008

the purposes of carer's allowance, shall be calculated as follows:

(a) the first €50,000 of the capital value of the property shall be excluded;

(b) the weekly value of so much of the capital value of the property as exceeds €50,000 but does not exceed €60,000 shall be assessed at €1 per each €1,000;

(c) the weekly value of so much of the capital value of the property as exceeds €60,000 but does not exceed €70,000 shall be assessed at €2 per each €1,000; and

(d) the weekly value of so much of the capital value of the property as exceeds €70,000 shall be assessed at €4 per each €1,000.

Schedule 3 Table 2

Reference No.	Amount
4	<p>any moneys received by way of benefit, pension, assistance, allowance, supplement or continued payment for qualified children under Part 2, 3, 4, 4A,²⁷²⁴ 5, 6, 7 or 8;²⁷²⁵</p> <p>any moneys received by way of benefit, pension, assistance, allowance, supplement, or continued payment for qualified children under Part 2, 3, 4, 5, 6, 7, 8, or 8A; 7 or 8;^{2726 2727}</p>
1.	any moneys received by way of benefit, pension, assistance, allowance, supplement, continued payment for qualified children or back to work family dividend under Part 2, 3, 4, 5, 6, 7, 7A or 8; ²⁷²⁸
2.	<p>any moneys received by way of child benefit under Part 4 or a payment corresponding to that benefit from another Member State;</p> <p>any moneys received—</p> <p>(a) by way of child benefit under Part 4 or a payment corresponding to that benefit from another member State, or</p> <p>(b) by way of early childcare supplement under Part 4A;²⁷²⁹</p> <p>any moneys received by way of child benefit under Part 4 or a payment corresponding to that benefit from another Member State²⁷³⁰ or the United Kingdom;²⁷³¹</p>
3.	any allowance received under section 61 of the Health Act 1970 and known

²⁷²³ Ref 4 inserted by S.21(b)(ii) SWA 2021
²⁷²⁴ Inserted by s. 29 / Sch. 6 SWLR&PA 2006
²⁷²⁵ Substituted by s.17(a) SW(MP)A 2010
²⁷²⁶ Substituted by s.6 SW&P(No. 2)A 2013
²⁷²⁷ Substituted by Sch. to SW(MP)A 2015
²⁷²⁸ Substituted by Sch. to SW(MP)A 2015
²⁷²⁹ Substituted by s. 33(c) SWLR&PA 2006
²⁷³⁰ Substituted by s.17(b) SW(MP)A 2010
²⁷³¹ Inserted by s.102(d) WUKEU(CP)A 2020

as domiciliary care allowance ~~or home care grant~~;²⁷³²

any moneys received from the Health Service Executive by way of a home care grant;²⁷³³

- 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;²⁷³⁴
4. any moneys received by way of a mobility allowance payable under section 61 of the Health Act 1970;
5. any moneys received by way of training allowance from an organisation while undergoing a course of rehabilitation training provided by the organisation (being an organisation approved of by the Minister for Health and Children for the purposes of the provision of such training);
6. ~~payments by the Health Service Executive in respect of a child who is boarded out;~~
- payments—
- (a) of the amounts specified in accordance with article 14 of the Child Care (Placement of Children in Foster Care) Regulations 1995 (S.I. No. 260 of 1995),
- (b) of the amounts specified in accordance with article 14 of the Child Care (Placement of Children with Relatives) Regulations 1995 (S.I. No. 261 of 1995),
- (c) made in accordance with an aftercare plan within the meaning of the Child Care Act 1991;²⁷³⁵
7. payments by the Health Service Executive in respect of the provision of accommodation for a child under section 5 of the Child Care Act 1991;
8. ~~payments in respect of not more than 2 persons boarded out under section 10 of the Health (Nursing Homes) Act 1990, received from the Health Service Executive or a person boarded out, in so far as the aggregate amount of payment received in respect of each person boarded out does not exceed an amount equivalent to the rate set out in column (2) at reference 4 of Part 1 of Schedule 4;~~
- payments in respect of not more than 2 persons boarded out under section 10 of the Health (Nursing Homes) Act 1990 in so far as the aggregate amount of payment received in respect of each such person does not exceed an amount equivalent to the rate set out in column (2) at reference 4 of Part 1 of Schedule 4;²⁷³⁶

²⁷³² Inserted by s. 33(c) SWLR&PA 2006

²⁷³³ Substituted by s.17(c) SW(MP)A 2010

²⁷³⁴ Reference 3A inserted by s. 33(c) SWLR&PA 2006

²⁷³⁵ Reference 6 substituted by s. 21(a) SW(No.2)A 2019

²⁷³⁶ Reference 8 substituted by s. 21(b) SW(No.2)A 2019

9. ~~the amount that may be prescribed of income from employment by the Health Service Executive or by a person approved by the Health Service Executive, as a home help;~~²⁷³⁷
10. in the case of a qualified applicant under a scheme administered by the Minister for Community, Rural and Gaeltacht Affairs and known as Scéim na bhFoghlaimoirí Gaeilge, any income received under that scheme in respect of a person who is temporarily resident with the qualified applicant, together with any other income received in respect of that temporary resident;
11. any moneys received from a charitable organisation, being a body whose activities are carried on otherwise than for profit (but excluding any public or local authority) and one of whose functions is to assist persons in need by making grants of money to them;
12. any moneys received by the person's spouse, *civil partner or cohabitant*²⁷³⁸ in respect of participation in a scheme administered by the Minister and known as:
- (a) Back to Education Allowance, or
 - (b) Back to Work Allowance, or
 - (c) Back to Work Enterprise Allowance, or
 - ~~(d) Part-Time Job Incentive;~~²⁷³⁹
 - (d) Part-Time Job Incentive, or²⁷⁴⁰
 - (e) the national internship scheme;²⁷⁴¹
13. any moneys received by the person's spouse, *civil partner or cohabitant*²⁷⁴² in respect of participation in ~~a course approved by An Foras Áiseanna Saothair under the Industrial Training Act 1967~~ *an approved course of training,*²⁷⁴³ ~~or the scheme administered by An Foras Áiseanna Saothair and known as the national internship scheme~~^{2744 2745};
14. any moneys received by the person's spouse, *civil partner or cohabitant*²⁷⁴⁶ in respect of participation in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme;
15. any income arising from a bonus under a scheme administered by the Minister for Community, Rural and Gaeltacht Affairs for the making of special grants to parents or guardians resident in the Gaeltacht or Breac Ghaeltacht (as defined in such scheme) of children attending primary

²⁷³⁷ Deleted by s.10(1)(c) SWA 2011

²⁷³⁸ Inserted by s.26 and Sch3 SW&PA 2010

²⁷³⁹ Substituted by s.16(6) SW&PA 2011

²⁷⁴⁰ Substituted by s.16(6) SW&PA 2011

²⁷⁴¹ Inserted by s.16(6) SW&PA 2011

²⁷⁴² Inserted by s.26 and Sch. 3 SW&PA 2010

²⁷⁴³ Substituted by s. 3(4)SW&P(MP)A 2013

²⁷⁴⁴ Inserted by s.16(5) SW&PA 2011

²⁷⁴⁵ Deleted by s.16(6) SW&PA 2011

²⁷⁴⁶ Inserted by s.26 and Sch. 3 SW&PA 2010

schools;

16. an amount of an allowance, dependant's allowance, disability pension or wounds pension under the Army Pensions Acts 1923 to 1980 (including, for the purposes of this subparagraph, a British War Pension), or of a combination of those allowances and pensions, except in so far as the amount exceeds €104 per year;
17. any expenses necessarily incurred in carrying on any form of self-employment;
18. ~~any income arising by way of an infectious diseases maintenance allowance to or in respect of the person or a qualified adult or any qualified children;~~²⁷⁴⁷
- 18A. ~~any allowable pension payment within the meaning of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) (No. 1) (Refunds) Regulations 2003;~~^{2748 2749}
19. any other income that may be prescribed received by a person or his or her spouse, *civil partner or cohabitant*²⁷⁵⁰ and in the circumstances that may be prescribed.

²⁷⁴⁷ Deleted by s.19 SW&P(MP)A 2013

²⁷⁴⁸ Reference 18A inserted by s. 33(c) SWLR&PA 2006

²⁷⁴⁹ Reference 18A deleted by s.6 SW&P(No. 2)A 2013

²⁷⁵⁰ Inserted by s.26 and Sch. 3 SW&PA 2010

SCHEDULE 4²⁷⁵¹

RATES OF ASSISTANCE

PART 1^{2752 2753 2754 2755 2756 2757 2758 2759 2760 2761 2762 2763 2764}

RATES OF PERIODICAL SOCIAL ASSISTANCE AND INCREASES

Description of benefit (1)	Weekly rate (2)	Increase for qualified adult (where payable) (3)	Increase for each qualified child who has not attained 12 years (where payable) (4)	Increase for each qualified child who has attained 12 years (where payable) (5)	Increase where the person is living alone (where payable) (6)	Increase where the person has attained the age of 80 years (where payable) (7)	Increase where the person is ordinarily resident on an island off the coast of Ireland (where payable) (8)
1. Jobseeker's Allowance:	€	€	€	€	€	€	€
(a) in the case of a person to whom Section 142(1)(a) applies	208.00	138.00	40.00	48.00	-	-	-

²⁷⁵¹ Schedule 4 substituted by s.16 / Sch. 2 SWLR&PA 2006

²⁷⁵² Substituted by s. 3(1) SWA 2005 & SWA 2006 & SWA 2007 & 4(1) SW(MP)A 2008

²⁷⁵³ 1(c) inserted and 10(b) amended by s.11 SW&PA 2009

²⁷⁵⁴ Substituted by s.4(1) SW&P (No. 2)A 2009 & s.4 and Sch. 2 SWA 2010

²⁷⁵⁵ Varied by Art. 3 S.I. No. 568 of 2014

²⁷⁵⁶ Ref 4 substituted by s.4(1)(a)(i) SW&PA 2015 and varied amounts by s.4(1)(a)(i) SW&PA 2015

²⁷⁵⁷ **Uncommenced provision – inserted by s.12(d) SW&PA 2008 but repealed prior to commencement by s.23(2) SW(MP)A 2008**

²⁷⁵⁸ Substituted by s.23(2) SW(MP)A 2008

²⁷⁵⁹ Varied by s.4(1)(a)(ii) SW&PA 2015 & Ref 8 substituted by s.4(1)(a)(ii) SW&PA 2015

²⁷⁶⁰ Part 1 substituted by s.25 and Sch. 2 SWA 2016 and s.14 and Sch. 3 SWA 2017

²⁷⁶¹ Part 1 substituted by s.23 of and Sch. 3 to the SWP&CRA 2018

²⁷⁶² Amount in column (4) (5) (6) varied by s. 22(1)(a) (b) (c) SW(No.2)A 2019

²⁷⁶³ Column (8) amounts varied by s.15(1)(b) & Columns (4) (5) (6) amounts varied by s.16(1)(a) (b) & (c) SWA 2020

²⁷⁶⁴ Column (2) (3) (4) (5) (6) amounts varied by s.22 (1)(a) (b) & (c) & S23 SWA 2021

(b) in the case of a person to whom Section 142(1)(b) applies	208.00	138.00	40.00	48.00	-	-	-
(c) in the case of a person to whom Section 142A	117.70	117.70	-	-	-	-	-
(d) in the case of a person to whom Section 142B applies ²⁷⁶⁵	157.80	134.70				-	-
2. Pre-Retirement Allowance	-	-	-	-	-	-	-
3. Disability Allowance	208.00	138.00	40.00	48.00	22.00	-	20.00

²⁷⁶⁵ Reference 1(d) deleted by s.8(1)(f) SW(No.2)A 2019

4. State Pension (Non-Contributory):	242.00	159.90	40.00	48.00	22.00	10.00	20.00
5. Blind Pension	208.00	138.00	40.00	48.00	22.00	-	20.00
6. Widow's (Non-Contributory) Pension, Widower's (Non-Contributory) Pension, Surviving Civil Partner's (Non-Contributory) Pension and a payment referred to in paragraph (b) or (c) of the definition of "relevant payment" in section 178(1)	208.00	-	-	-	-	-	-
7. One-Parent Family Payment	208.00	-	40.00	48.00	-	-	-
8. Carer's Allowance:	-	-	-	-	-	-	-
(a) in the case of a person to whom section 181(1)(a) applied	336.00	-	40.00	48.00	-	10.00	20.00

additional increase for a Beneficiary who Has attained Pensionable age	57.00	-	-	-	-	-	-
(b) in the case of a Person to whom Section 181(1)(b) applies	224.00	-	40.00	48.00	-	10.00	20.00
Additional increase for a Beneficiary who Has attained Pensionable age	38.00	-	-	-	-	-	-
9. Guardian's Payment (Non-Contributory)	191.00	-	-	-	-	-	-
10. Supplementary Welfare Allowance:							
(a) in the case of a Person to whom Section 197(1) applies	206.00	138.00	40.00	48.00	-	-	-
(b) in the case of a Person to whom Section 197(2) applies	117.70	117.70	-	-	-	-	-
(c) in the case of a Person to whom Section 197(4) applies²⁷⁶⁶	157.80	134.70	-	-	-	-	-
11. Farm Assist	208.00	134.70	40.00	48.00	-	-	-

SCHEDULE 4

PART 2^{2767 2768 2769 2770 2771 2772}

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

²⁷⁶⁶ Reference 10(c) deleted by section 10(1)(e) SW(No.2)A 2019

²⁷⁶⁷ Amended by: s.3(1) SWA 2006, s.3(1) SWA 2007, s.4(1) SW(MP)A 2008

²⁷⁶⁸ Part 2 substituted by s.4(1)(b) SW&PA 2015

²⁷⁶⁹ Part 2 substituted by s.25 and Sch. 2 SWA 2016

²⁷⁷⁰ Substituted by s.14 and Sch. 3 SWA 2017

²⁷⁷¹ Part 2 substituted by s.23 of and Sch. 3 to the SWP&CRA 2018

²⁷⁷² Part 2 substituted by s.23 SWA 2021

Means of claimant or pensioner (1)	Weekly rate of increase (2)
	€
Where the weekly means of the claimant or pensioner do not exceed €30.00	159.90
exceed €30.00 but do not exceed €32.50	158.20
exceed €32.50 but do not exceed €35.00	156.60
exceed €35.00 but do not exceed €37.50	154.90
exceed €37.50 but do not exceed €40.00	153.30
exceed €40.00 but do not exceed €42.50	151.60
exceed €42.50 but do not exceed €45.00	150.00
exceed €45.00 but do not exceed €47.50	148.30
exceed €47.50 but do not exceed €50.00	146.70
exceed €50.00 but do not exceed €52.50	145.00
exceed €52.50 but do not exceed €55.00	143.40
exceed €55.00 but do not exceed €57.50	141.70
exceed €57.50 but do not exceed €60.00	140.10
exceed €60.00 but do not exceed €62.50	138.40
exceed €62.50 but do not exceed €65.00	136.80
exceed €65.00 but do not exceed €67.50	135.10
exceed €67.50 but do not exceed €70.00	133.50

exceed €70.00 but do not exceed €72.50	131.80
exceed €72.50 but do not exceed €75.00	130.20
exceed €75.00 but do not exceed €77.50	128.50
exceed €77.50 but do not exceed €80.00	126.90
exceed €80.00 but do not exceed €82.50	125.20
exceed €82.50 but do not exceed €85.00	123.60
exceed €85.00 but do not exceed €87.50	121.90
exceed €87.50 but do not exceed €90.00	120.30
exceed €90.00 but do not exceed €92.50	118.60
exceed €92.50 but do not exceed €95.00	117.00
exceed €95.00 but do not exceed €97.50	115.30
exceed €97.50 but do not exceed €100.00	113.60
exceed €100.00 but do not exceed €102.50	112.00
exceed €102.50 but do not exceed €105.00	110.30
exceed €105.00 but do not exceed €107.50	108.70
exceed €107.50 but do not exceed €110.00	107.00
exceed €110.00 but do not exceed €112.50	105.40
exceed €112.50 but do not exceed €115.00	103.70
exceed €115.00 but do not exceed €117.50	102.10
exceed €117.50 but do not exceed €120.00	100.40
exceed €120.00 but do not exceed €122.50	98.80
exceed €122.50 but do not exceed €125.00	97.10
exceed €125.00 but do not exceed €127.50	95.50
exceed €127.50 but do not exceed €130.00	93.80
exceed €130.00 but do not exceed €132.50	92.20
exceed €132.50 but do not exceed €135.00	90.50
exceed €135.00 but do not exceed €137.50	88.90
exceed €137.50 but do not exceed €140.00	87.20
exceed €140.00 but do not exceed €142.50	85.60
exceed €142.50 but do not exceed €145.00	83.90
exceed €145.00 but do not exceed €147.50	82.30
exceed €147.50 but do not exceed €150.00	80.60
exceed €150.00 but do not exceed €152.50	79.00
exceed €152.50 but do not exceed €155.00	77.30
exceed €155.00 but do not exceed €157.50	75.70
exceed €157.50 but do not exceed €160.00	74.00

exceed €160.00 but do not exceed €162.50	72.40
exceed €162.50 but do not exceed €165.00	70.70
exceed €165.00 but do not exceed €167.50	69.00
exceed €167.50 but do not exceed €170.00	67.40
exceed €170.00 but do not exceed €172.50	65.70
exceed €172.50 but do not exceed €175.00	64.10
exceed €175.00 but do not exceed €177.50	62.40
exceed €177.50 but do not exceed €180.00	60.80
exceed €180.00 but do not exceed €182.50	59.10
exceed €182.50 but do not exceed €185.00	57.50
exceed €185.00 but do not exceed €187.50	55.80
exceed €187.50 but do not exceed €190.00	54.20
exceed €190.00 but do not exceed €192.50	52.50
exceed €192.50 but do not exceed €195.00	50.90
exceed €195.00 but do not exceed €197.50	49.20
exceed €197.50 but do not exceed €200.00	47.60
exceed €200.00 but do not exceed €202.50	45.90
exceed €202.50 but do not exceed €205.00	44.30
exceed €205.00 but do not exceed €207.50	42.60
exceed €207.50 but do not exceed €210.00	41.00
exceed €210.00 but do not exceed €212.50	39.30
exceed €212.50 but do not exceed €215.00	37.70
exceed €215.00 but do not exceed €217.50	36.00
exceed €217.50 but do not exceed €220.00	34.40
exceed €220.00 but do not exceed €222.50	32.70
exceed €222.50 but do not exceed €225.00	31.10
exceed €225.00 but do not exceed €227.50	29.40
exceed €227.50 but do not exceed €230.00	27.80
exceed €230.00 but do not exceed €232.50	26.10
exceed €232.50 but do not exceed €235.00	24.40
exceed €235.00 but do not exceed €237.50	22.80
exceed €237.50 but do not exceed €240.00	21.10
exceed €240.00 but do not exceed €242.50	19.50
exceed €242.50 but do not exceed €245.00	17.80
exceed €245.00 but do not exceed €247.50	16.10
exceed €247.50 but do not exceed €250.00	14.50

exceed €250.00 but do not exceed €252.50	12.90
exceed €252.50 but do not exceed €255.00	11.20
exceed €255.00 but do not exceed €257.50	9.60
	7.90
	6.30
	4.60
	3.00
exceed €257.50 but do not exceed €260.00	Nil
exceed €260.00 but do not exceed €262.50	
exceed €262.50 but do not exceed €265.00	
exceed €265.00 but do not exceed €267.50	
Exceed €267.50	

SCHEDULE 4

PART 3 ^{2773 2774 2775 2776 2777}

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
(1)	(2)
	€
Where the weekly means of the claimant or pensioner do not exceed €7.60	138.00
exceed €7.60 but do not exceed €10.10	136.30
exceed €10.10 but do not exceed €12.60	134.70
exceed €12.60 but do not exceed €15.10	133.00
exceed €15.10 but do not exceed €17.60	131.40
exceed €17.60 but do not exceed €20.10	129.70
exceed €20.10 but do not exceed €22.60	128.00
exceed €22.60 but do not exceed €25.10	126.40
exceed €25.10 but do not exceed €27.60	124.70
exceed €27.60 but do not exceed €30.10	123.10

²⁷⁷³ Amended by: s.3(1) SWA 2006, s.3(1) SWA 2007, s.4(1) SW(MP)A 2008, s.4(1) SW&P (No. 2)A 2009 & s.4 and Sch. 3 SWA 2010

²⁷⁷⁴ Part 3 substituted by s.25 and Sch. 2 SWA 2016

²⁷⁷⁵ Substituted by s.14 and Sch. 3 SWA 2017

²⁷⁷⁶ Part 3 substituted by s..23 of and Sch. 3 to the SWP&CRA 2018

²⁷⁷⁷ Part 3 substituted by s.23 SWA 2021

exceed €30.10 but do not exceed €32.60	121.40
exceed €32.60 but do not exceed €35.10	119.80
exceed €35.10 but do not exceed €37.60	118.10
exceed €37.60 but do not exceed €40.10	116.40
exceed €40.10 but do not exceed €42.60	114.80
exceed €42.60 but do not exceed €45.10	113.10
exceed €45.10 but do not exceed €47.60	111.50
exceed €47.60 but do not exceed €50.10	109.80
exceed €50.10 but do not exceed €52.60	108.10
exceed €52.60 but do not exceed €55.10	106.50
exceed €55.10 but do not exceed €57.60	104.80
exceed €57.60 but do not exceed €60.10	103.20
exceed €60.10 but do not exceed €62.60	101.50
exceed €62.60 but do not exceed €65.10	99.90
exceed €65.10 but do not exceed €67.60	98.20
exceed €67.60 but do not exceed €70.10	96.50
exceed €70.10 but do not exceed €72.60	94.90
exceed €72.60 but do not exceed €75.10	93.20
exceed €75.10 but do not exceed €77.60	91.60
exceed €77.60 but do not exceed €80.10	89.90
exceed €80.10 but do not exceed €82.60	88.20
exceed €82.60 but do not exceed €85.10	86.60
exceed €85.10 but do not exceed €87.60	84.90
exceed €87.60 but do not exceed €90.10	83.30
exceed €90.10 but do not exceed €92.60	81.60
exceed €92.60 but do not exceed €95.10	79.90
exceed €95.10 but do not exceed €97.60	78.30
exceed €97.60 but do not exceed €100.10	76.60
exceed €100.10 but do not exceed €102.60	75.00
exceed €102.60 but do not exceed €105.10	73.30
exceed €105.10 but do not exceed €107.60	71.70
exceed €107.60 but do not exceed €110.10	70.00
exceed €110.10 but do not exceed €112.60	68.30
exceed €112.60 but do not exceed €115.10	66.70
exceed €115.10 but do not exceed €117.60	65.00
exceed €117.60 but do not exceed €120.10	63.40

exceed €120.10 but do not exceed €122.60	61.70
exceed €122.60 but do not exceed €125.10	60.00
exceed €125.10 but do not exceed €127.60	58.40
exceed €127.60 but do not exceed €130.10	56.70
exceed €130.10 but do not exceed €132.60	55.10
exceed €132.60 but do not exceed €135.10	53.40
exceed €135.10 but do not exceed €137.60	51.80
exceed €137.60 but do not exceed €140.10	50.10
exceed €140.10 but do not exceed €142.60	48.40
exceed €142.60 but do not exceed €145.10	46.80
exceed €145.10 but do not exceed €147.60	45.10
exceed €147.60 but do not exceed €150.10	43.50
exceed €150.10 but do not exceed €152.60	41.80
exceed €152.60 but do not exceed €155.10	40.10
exceed €155.10 but do not exceed €157.60	38.50
exceed €157.60 but do not exceed €160.10	36.80
exceed €160.10 but do not exceed €162.60	35.20
exceed €162.60 but do not exceed €165.10	33.50
exceed €165.10 but do not exceed €167.60	31.80
exceed €167.60 but do not exceed €170.10	30.20
exceed €170.10 but do not exceed €172.60	28.50
exceed €172.60 but do not exceed €175.10	26.90
exceed €175.10 but do not exceed €177.60	25.20
exceed €177.60 but do not exceed €180.10	23.60
exceed €180.10 but do not exceed €182.60	21.90
exceed €182.60 but do not exceed €185.10	20.20
exceed €185.10 but do not exceed €187.60	18.60
exceed €187.60 but do not exceed €190.10	16.90
exceed €190.10 but do not exceed €192.60	15.30
exceed €192.60 but do not exceed €195.10	13.60
exceed €195.10 but do not exceed €197.60	11.90
exceed €197.60 but do not exceed €200.10	10.30
exceed €200.10 but do not exceed €202.60	8.60
exceed €202.60 but do not exceed €205.10	7.00
exceed €205.10 but do not exceed €207.60	5.30
exceed €207.60 but do not exceed €210.10	3.60
exceed €210.10 but do not exceed €212.60	2.00
Exceed €212.60	Nil

PART 4²⁷⁷⁸

AMOUNTS OF CHILD BENEFIT

Child in respect of whom —child benefit is payable ———(1)	Monthly rate of child benefit payable per child (2)
	€
1. Each of the first 2 —qualified children	140.00
2. Third qualified child	167.00
3. Each qualified child in —excess of 3 qualified —children	177.00

Part 4²⁷⁷⁹

**Amounts of Child Benefit during the period beginning on 1 January 2012
and expiring on 31 December 2012**

Qualified child in respect of whom child benefit is payable (1)	Monthly rate of child benefit payable per qualified child during the period beginning on 1 January 2012 and expiring on 31 December 2012 (2)
	€
1. Each of the first 2 qualified children	140.00
2. Third qualified child	148.00
3. Each qualified child in excess of 3 qualified children	160.00

PART 4^{2780, 2781}

AMOUNTS OF CHILD BENEFIT DURING THE

²⁷⁷⁸ Amended by: s.3(1) SWLR&PA 2006, s.4 SW&PA 2007, s.3(i) SW&PA 2008, s.7(1) SW&P(No. 2)A 2009, s.5 SWA 2010, s.8(2) SWA 2011

²⁷⁷⁹ Substituted by s.8 SWA 2011

²⁷⁸⁰ Part 4 substituted by s.8(2) SWA 2012

²⁷⁸¹ Part 4 repealed by s.2 SW&P(No. 2)A 2014

**PERIOD BEGINNING ON 1 JANUARY 2013 AND EXPIRING ON 31 DECEMBER
2013**

Qualified child in respect of whom child benefit is payable (1)	Monthly rate of child benefit payable per qualified child during the period beginning on 1 January 2013 and expiring on 31 December 2013 (2)
	€
1. Each of the first 3 qualified children	130.00
2. Each qualified child in excess of 3 — qualified children	140.00

PART 5 ²⁷⁸²

Section 186F.

AMOUNT OF DOMICILIARY CARE ALLOWANCE

~~The monthly amount of domiciliary care allowance, per child, is €299.60.~~

The monthly amount of domiciliary care allowance, per child, is €309.50.

SCHEDULE 5

SPECIFIED BODIES

1. Each of the following shall be a specified body for the purposes of this Schedule and sections 262 to 270:

(1) a Minister of the Government,
the Commission for Public Service Appointments,
the Public Appointments Service, the Revenue Commissioners;

(2) a local authority (for the purposes of the Local Government Act 2001);

~~(2A) a vocational education committee (within the meaning of section 7 of the Vocational Education Act 1930);^{2783, 2784}~~

(2A) an education and training board,²⁷⁸⁵

(3) the Health Service Executive;

²⁷⁸² Inserted by S.16(j) SW&PA 2008 and amended by s.19(1)(b) SW(MP)A 2008

²⁷⁸³ Inserted by s.6 SW&PA 2012

²⁷⁸⁴ Substituted by s. 72 and Sch. 6 [ETBA 2013](#)

²⁷⁸⁵ Substituted by s. 72 and Sch. 6 [ETBA 2013](#)

(4) a body established by the Mguinster for Education and Science under section 54 of the Education Act 1998,

a payment service provider (within the meaning of section 122(1) of the Finance (Local Property Tax) Act 2012) in relation to the purpose specified in that section of that Act, ²⁷⁸⁶

payment service provider, ²⁷⁸⁷

~~An Foras Áiseanna Saothair~~ An tSeirbhís Oideachais Leanúnaigh Agus Scileanna ²⁷⁸⁸,
An Garda Síochána and the Defence Forces in respect of their own members,

~~An Post,~~ ²⁷⁸⁹

An tArd-Chláraitheoir,

An tÚdaras um Ard-Oideachas,

the Central Bank of Ireland, when carrying out its functions in relation to the Central Credit Register, ²⁷⁹⁰

Central Applications Office,

Coillte Teoranta,

Companies Registration Office,

Enterprise Ireland,

Health and Social Care Professionals Council, ²⁷⁹¹

~~Irish Water,~~ ^{2792 2793}

Legal Aid Board,

Mental Health Commission,

National Breast Screening Board,

National Educational Welfare Board [Child and Family Agency] ²⁷⁹⁴,

Quality and Qualifications Ireland, ²⁷⁹⁵

Registrar of Beneficial Ownership of Investment Limited Partnerships,

Registrar of Beneficial Ownership of Irish Collective Asset-management Vehicles, Credit Unions and Unit Trusts,

Registrar of Beneficial Ownership of Common Contractual Funds, ²⁷⁹⁶

Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies, ²⁷⁹⁷

the Central Statistics Office,

the Commission for Taxi Regulation, ²⁷⁹⁸

the General Medical Services (Payments) Board,

the Insolvency Service of Ireland, ²⁷⁹⁹

the National Cancer Registry Board,

the National Council for Special Education, ²⁸⁰⁰

the National Shared Services Office, ²⁸⁰¹

²⁷⁸⁶ Inserted by s.18 SW&P(MP)A 2013

²⁷⁸⁷ Inserted by s.3(h) SW&PA 2014

²⁷⁸⁸ Substituted by s. 38 [FETA 2013](#)

²⁷⁸⁹ Deleted by s. 32(d) SW&PA 2007

²⁷⁹⁰ Inserted by s.16 CP(RRC&CSF)A 2022

²⁷⁹¹ Inserted by s.20 SW&P (No.2)A 2009

²⁷⁹² Inserted by s.20 SW&PA 2014

²⁷⁹³ Deleted by s. 11 [WSA 2014](#) following commencement of s.11 by S.I. No. 611 of 2017

²⁷⁹⁴ Dissolved body (NEWB) to be construed as CFA as per [s. 78 CFAA 2013](#)

²⁷⁹⁵ Inserted by s.18 SW&P(MP)A 2013

²⁷⁹⁶ Inserted by Art.2 of S.I. No. 19 of 2021

²⁷⁹⁷ Inserted by Art.3 of S.I. No. 344 of 2019

²⁷⁹⁸ Inserted by s. 35(a) SWLR&PA 2006

²⁷⁹⁹ Inserted by s.18 SW&P(MP)A 2013

²⁸⁰⁰ Inserted by s. 35(b) SWLR&PA 2006

the National Treasury Management Agency,²⁸⁰²
~~the Pensions Board~~ *the Pensions Authority*²⁸⁰³,
 the Pensions Ombudsman,²⁸⁰⁴
 the Personal Injuries Assessment Board,
~~the Private Residential Tenancies Board;~~
 the Private Residential Tenancies Board,²⁸⁰⁵
 the Private Security Authority,²⁸⁰⁶
~~the Probate Office~~²⁸⁰⁷
the Probate Office,²⁸⁰⁸
the Property Services Regulatory Authority,²⁸⁰⁹
the Pyrite Resolution Board,²⁸¹⁰
the Road Safety Authority,²⁸¹¹
*Sustainable Energy Ireland – The Sustainable Energy Authority of Ireland*²⁸¹²,
 the Teaching Council;²⁸¹³
*the Workplace Relations Commission*²⁸¹⁴

(5) the following Voluntary Hospitals:

Beaumont Hospital, Dublin,
 Cappagh National Orthopaedic Hospital, Dublin,
 Coombe Women’s Hospital, Dublin,
 Dublin Dental Hospital,
 Hume Street Hospital, Dublin,
 Incorporated Orthopaedic Hospital of Ireland, Clontarf, Dublin,
 Leopardstown Park Hospital,
 Mater Misericordiae University Hospital, Dublin,
 Mercy Hospital, Cork,
 National Maternity Hospital, Dublin,
 National Rehabilitation Hospital, Dun Laoghaire,
 Our Lady’s Hospice, Dublin,
 Our Lady’s Hospital for Sick Children, Crumlin, Dublin,
 Portiuncula Hospital, Ballinasloe, Co. Galway,
 Rotunda Hospital, Dublin,
 Royal Victoria Eye and Ear Hospital, Dublin,
 South Infirmary/Victoria Hospital, Cork,
 St. James’s Hospital, Dublin,
 St. John’s Hospital, Limerick,
 St. Luke’s Hospital, Dublin,

²⁸⁰¹ Inserted by [s.74 DS&GA 2019](#)

²⁸⁰² Inserted by s.56 [NTMA\(A\)A 2014](#) (commenced by [S.I. No. 189 of 2019](#))

²⁸⁰³ Substituted by s. 26 [SW&P\(MP\)A 2013](#)

²⁸⁰⁴ Inserted by s.6 [SW&PA 2012](#)

²⁸⁰⁵ Amended by s. 35 [SWLR&PA 2006](#)

²⁸⁰⁶ Inserted by s. 35 [SWLR&PA 2006](#)

²⁸⁰⁷ Inserted by s.20 [SW&PA 2011](#)

²⁸⁰⁸ Substituted by Schedule 8 [PSRA 2011](#)

²⁸⁰⁹ Substituted by Schedule 8 [PSRA 2011](#)

²⁸¹⁰ Inserted by s.13 [SW\(MP\)A 2015](#)

²⁸¹¹ Inserted by s.20 [SW&P \(No. 2\)A 2009](#)

²⁸¹² Inserted by s.20(b) [SW&PA 2011](#)

²⁸¹³ Substituted by s. 35(c) [SWLR&PA 2006](#)

²⁸¹⁴ inserted by [s.31\(1\) WRA 2015](#) – commenced by [S.I. No. 410 of 2015](#)

St. Mary's Hospital and Residential School, Baldoyle, Dublin,
St. Michael's Hospital, Dun Laoghaire,
St. Vincent's University Hospital, Elm Park, Dublin,
St. Vincent's Hospital, Fairview, Dublin,
The Adelaide and Meath Hospital, Dublin incorporating the National Children's Hospital,
The Children's Hospital, Temple Street, Dublin,
The Royal Hospital, Donnybrook,
University Dental School and Hospital, Cork.

2. Each of the following shall be a specified body for the purposes of this Schedule and section 266:

a person who provides, organises or procures a programme of education or training,
a recognised school or centre for education (within the meaning of section 2 of the Education Act 1998),
~~a vocational education committee (within the meaning of section 7 of the Vocational Education Act 1930),~~²⁸¹⁵
a university to which the Universities Acts 1997 and 1999 apply,
an educational institution to which the Regional Technical Colleges Acts 1992 to 2001 apply,
~~the Dublin Institute of Technology,~~
the Dublin Institute of Technology.²⁸¹⁶
~~the Further Education and Training Awards Council,~~²⁸¹⁷
~~the Higher Education and Training Awards Council,~~²⁸¹⁸
~~the National Qualifications Authority of Ireland.~~²⁸¹⁹

3. The Minister may by regulations amend paragraph 1 or 2 by adding a specified body to, deleting a specified body from, or amending a reference to a specified body in, those paragraphs.

SCHEDULE 6

Section 364.

COMMENCEMENT OF CERTAIN PROVISIONS

~~Disqualification from benefit while absent from State or undergoing imprisonment, etc. [1995 s.22]~~²⁸²⁰

1. (1) This Act is amended by substituting the following for section 249:²⁸²¹

~~“249.—(1) Subject to section 219, a person shall be disqualified from receiving—
(a) any benefit (including any increase of that benefit) while that person is absent from the State or is undergoing penal servitude, imprisonment or detention in legal~~

²⁸¹⁵ Deleted by s.6 SW&PA 2012

²⁸¹⁶ Substituted by s.18 SW&P(MP)A 2013

²⁸¹⁷ Deleted by s.18 SW&P(MP)A 2013

²⁸¹⁸ Deleted by s.18 SW&P(MP)A 2013

²⁸¹⁹ Deleted by s.18 SW&P(MP)A 2013

²⁸²⁰ Para 1 of Sch. 6 repealed by s.21 SW&PA 2014

²⁸²¹ Uncommenced provision – deleted prior to commencement by s.21 SW&PA 2014

eustody, or

~~(b) any increase of benefit payable in respect of that person's spouse for any period during which that spouse is absent from the State or is undergoing penal servitude, imprisonment or detention in legal custody.~~

~~(2) Notwithstanding subsection (1), the Minister may make regulations enabling payment of any benefit or assistance to be made, subject to the conditions and in the circumstances that may be prescribed, to or in respect of any person who is absent from the State or is undergoing penal servitude, imprisonment or detention in legal custody.”.~~

Miscellaneous amendments.[1995 (No. 2) s10(4)]²⁸²²

~~2. Each provision of this Act mentioned in column (1) of the Table to this section is amended in the manner specified in column (2) of that Table opposite the mention of that provision in column (1).~~

Table

Provisions affected (1)	Amendment (2)
Sections 43(1), 66(1), 76(1), 112(1), 117(1), 122(1), 142(1), 150(1)(a) and 157(1)(a).	The insertion after “subject to the restriction that” of “, except where regulations otherwise provide.”.

~~3. Old age (contributory) and retirement pension – extension of entitlement to reduced rate pension and changes to contribution conditions~~²⁸²³

~~4. Supplementary Welfare Allowance – transfer of functions~~²⁸²⁴

SCHEDULE 7

ENACTMENTS REPEALED

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 27 of 1993	Social Welfare (Consolidation) Act 1993	The whole Act.
No. 32 of 1993	Social Welfare (No. 2) Act 1993	The whole Act (other than sections 1(1) and 15).
No. 4 of 1994	Social Welfare Act 1994	The whole Act (other than section 1(1) and Part VII).
No. 3 of 1995	Social Welfare Act 1995	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definition of “the Act of 1994”) and Part V).

²⁸²² Para 2 of Sch. 6 repealed by s.21 SW&PA 2014

²⁸²³ Para. 3 commenced by S.I. No. 102/2012

²⁸²⁴ S.194 repealed by S.18 and Sch. 1 SW&PA 2008

No. 23 of 1995	Social Welfare (No. 2) Act 1995	The whole Act.
No. 7 of 1996	Social Welfare Act 1996	The whole Act (other than sections 1(1) and 2 (insofar as it relates to the definition of “the Act of 1995”) and Parts X and XI).
No. 10 of 1997	Social Welfare Act 1997	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definition of “the Act of 1996”) and Parts VIII, IX and X).
No. 6 of 1998	Social Welfare Act 1998	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definition of “the Act of 1997”) and Parts VI and VII).
No. 3 of 1999	Social Welfare Act 1999	The whole Act (other than sections 1(1) and 2 (insofar as it relates to the definition of “the Act of 1998”) and Parts VII and VIII).
No. 4 of 2000	Social Welfare Act 2000	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definition of “the Act of 1999”), 34 and 35).
No. 5 of 2001	Social Welfare Act 2001	The whole Act (other than sections 1(1), 2 (insofar as it relates to the definitions of “Act of 1995”, “Act of 1997”, “Act of 1999”, “Act of 2000”, “No. 2 Act of 1993” and “Principal Act”), 29 and 30 and Part 7).
No. 51 of 2001	Social Welfare (No. 2) Act 2001	The whole Act.
No. 8 of 2002	Social Welfare (Miscellaneous Provisions) Act 2002	The whole Act (other than sections 1 (insofar as it relates to the definitions of “Act of 1997”, “Act of 1999”, “Act of 2000”, “Act of 2001” and “Principal Act”), 10, 16, 17(1) and (3) and the Schedule).
No. 31 of 2002	Social Welfare Act 2002	The whole Act.

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 4 of 2003	Social Welfare (Miscellaneous Provisions) Act 2003	The whole Act (other than sections 1(1), (3) and (4), 2 (insofar as it relates to the definition of “Principal Act”), 8(2), 12, 20 to 24 and Schedule).
No. 41 of 2003	Social Welfare Act 2003	The whole Act (other than sections 14, 15 and 16(1)).

No. 9 of 2004	Social Welfare (Miscellaneous Provisions) Act 2004	The whole Act (other than sections 1(1), (3) and (4), 10, Part 3 and Schedule 2).
No. 41 of 2004	Social Welfare Act 2004	The whole Act (other than sections 8 and 9(1)).
No. 4 of 2005	Social Welfare and Pensions Act 2005	The whole Act (other than sections 1(1), (3), (4) and (6) and Part 3).