

SAORSTÁT EIREANN.

BILLE UM PINSIN DO BHAINTEACHA AGUS DO DHILLEACHTAITHE, 1935.

WIDOWS' AND ORPHANS' PENSIONS BILL, 1935.

*Mar do ritheadh ag dhá Thigh an Oireachtais.
'As passed by both Houses of the Oireachtas.*

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SAORSTÁT ÉIREANN.

BILLE UM PINSIN DO BHAINTEACHA AGUS DO
DHILLEACHTAITHE, 1935.

WIDOWS' AND ORPHANS' PENSIONS BILL, 1935.

BILL

5

entitled

AN ACT TO MAKE PROVISION FOR PENSIONS FOR
CERTAIN WIDOWS AND ORPHANS, AND FOR THE
PAYMENT OF CONTRIBUTIONS TOWARDS SUCH
PENSIONS, AND TO MAKE PROVISION FOR DIVERS
MATTERS CONNECTED WITH THE MATTERS 10
AFORESAID, INCLUDING THE AMENDMENT OF THE
NATIONAL HEALTH INSURANCE ACTS, 1911 TO 1934,
AND THE OLD AGE PENSIONS ACTS, 1908 TO 1932.

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT 15
ÉIREANN AS FOLLOWS:—

PART I.

PRELIMINARY AND GENERAL.

Short title.

1.—This Act may be cited as the Widows' and Orphans' Pen-
sions Act, 1935.

20

Definitions.

2.—(1) In this Act—

the expression "the Minister" means the Minister for Local
Government and Public Health;

the expression "the National Health Insurance Acts" means the
National Health Insurance Acts, 1911 to 1934, as amended by this 25
or any subsequent enactment;

the expression "appointed country" means a country

(a) in which provision is made by legislative enactment for
the establishment therein of any scheme of pensions—

(i) which is certified by the Minister to correspond 30
substantially to the scheme of pensions established
by this Act, and

(ii) which includes provision for the payment of pen-
sions to residents in Saorstát Éireann, and

(b) which is not a country with the proper authority of which 35
the Minister has entered into reciprocal arrange-
ments under the provisions of Part VII of this Act
relating to reciprocal arrangements with other
countries;

the word "pension" when used without qualification means any 40
pension under this Act;

the word "soldier" means a member of the Defence Forces of
Saorstát Éireann (including the Reserve), in respect of whom
contributions under the National Health Insurance Acts are for
the time being payable under those Acts; 45

the expression "contribution year" has the same meaning as it
has in the National Health Insurance Acts;

the expression "the appointed age" when used in relation to a
child means the age of fourteen years, except in the case of a child 50
who on attaining that age is under full-time instruction in a day
school and continues under such full-time instruction after such
attainment, when the said expression means the age (not exceeding
sixteen years) up to which such child remains under such full-time
instruction and except in the case of a child who on attaining
the age of fourteen years is, owing to physical or mental infirmity 55
neither able to receive full-time instruction at a day school nor
to engage in any remunerative occupation, when the said
expression means the age (not exceeding sixteen years) up to
which such physical or mental infirmity continues;

the expression "public assistance authority" means the local 60

authority charged by or in pursuance of any enactment with the administration of the laws relating to the relief of the poor in any area;

the expression "unemployment assistance" means unemployment assistance under the Unemployment Assistance Act, 1933 (No. 46 of 1933);

the expression "the Unified Society" means Cumann an Árachais Náisiúnta ar Shláinte;

the word "prescribed" means prescribed by regulations made by the Minister under this Act.

(2) Where the widow of a man has remarried she shall not for the purposes of this Act be regarded as the widow of her former husband.

3.—(1) In this Act—

the word "child" includes a step-child, and in relation to a man, an illegitimate child, either of himself or his wife, who was living with him at the time of his death and, in relation to a woman, includes an illegitimate child of such woman who was living with her at the time of her death;

the word "orphan" means a child both of whose parents are dead.

(2) Where, during any period, the widow of a man is undergoing a sentence of imprisonment, in pursuance of an order of a court directing her to be imprisoned without the option of a fine, or a sentence of penal servitude, or is maintained in any place as a criminal lunatic or as a non-paying patient in any district or auxiliary mental hospital, within the meaning of section 9 of the Local Government (Ireland) Act, 1898, as amended by section 79 of the Local Government Act, 1925 (No. 5 of 1925), the children (if any) of such man shall, during such period, be treated, for the purposes of the provisions of Part II of this Act relating to orphans' (contributory) pensions and the provisions of Part III of this Act relating to orphans' (non-contributory) pensions, as if they were the orphan children of such man.

(3) Where, during any period, a child of a deceased man is, while the widow of such man is alive—

- (i) detained in a reformatory or industrial school, or
- (ii) in pursuance of an order of a court, in the custody of some person other than such widow, or
- (iii) deserted or abandoned by such widow, or
- (iv) resident in an institution or boarded out by a public assistance authority,

the following provisions shall have effect, that is to say:—

(a) such child shall, during such period, be treated, for the purposes of the provisions of Part II of this Act relating to widows' (contributory) pensions and the provisions of Part III of this Act relating to widows' (non-contributory) pensions and the provisions of the First Schedule to this Act relating to the computation of the means of such widow, as if he were not the child of such man, and

(b) such child shall during such period be treated, for the purposes of the provisions of Part II of this Act relating to orphans' (contributory) pensions, and the provisions of Part III of this Act relating to orphans' (non-contributory) pensions, as if he were the orphan child of such man.

(4) Where during any period a child of a deceased man is, while the widow of such man is alive, resident outside Saorstát Éireann, the following provisions shall have effect, that is to say:—

(a) if such child is not resident in an appointed country such child shall, during such period, be treated, for the purposes of Part II of this Act relating to widows' (contributory) pensions, as if he were not the child of such man;

Children and orphans.

(b) such child shall, during such period, be treated, for the purposes of the provisions of Part III of this Act relating to widows' (non-contributory) pensions and the provisions of the First Schedule to this Act relating to the computation of the means of such widow, as if he were not the child of such man. 5

(5) Where a child born before the marriage of his parents has been legitimised by virtue of the subsequent marriage of his parents, such child shall, for the purposes of this Act, be deemed to be a child born of the marriage. 10

Excepted
employments
to which this
Act applies.

4.—(1) In this Act the expression "excepted employment to which this Act applies" means an employment in respect of which the following conditions are complied with, that is to say:—

(a) either— 15

(i) is an employment which is an excepted employment, within the meaning of the National Health Insurance Acts, by virtue of a certificate given under paragraph (b) or (c) of Part II of the First Schedule to the National Insurance Act, 1911, or 20

(ii) is an employment under any local or other public authority which is excluded from Part I of the said First Schedule in pursuance of paragraph (e) of that Part (being the paragraph inserted by section 6 of the National Insurance Act, 1913), and 25

(b) is not an employment which is an excepted employment, within the meaning of the National Health Insurance Acts, by virtue of paragraph (g) of Part II of the said First Schedule, and 30

(c) is not an employment in respect of which an order is made by the Minister under sub-section (3) of this section.

(2) For the purposes of paragraph (b) of the immediately preceding sub-section, paragraph (g) of Part II of the First Schedule to the National Insurance Act, 1911, as amended by section 1 of the National Health Insurance Act, 1919, shall, in its application to any period before the 30th day of June, 1919, have effect as if in the said paragraph (g), as so amended, the words "one hundred and sixty pounds" were substituted for the words "two hundred and fifty pounds" wherever those words occur. 35 40

(3) Where the Minister is satisfied, as regards any employment in respect of which the conditions mentioned in paragraphs (a) and (b) of sub-section (1) of this section are complied with, that provision is made, by means of any statutory enactment or by other means approved by the Minister, for securing, in respect of the widows and children of men employed in such employment or in respect of the children of women employed in such employment, benefits on the whole not less favourable than the benefits conferred by this Act, the Minister may by order declare that such employment shall not be an excepted employment to which this Act applies. 45 50

(4) Section 66 of the National Insurance Act, 1911, shall, for the purposes of this Act, apply to any question whether any employment or class of employment is an excepted employment to which this Act applies or a particular class of excepted employment to which this Act applies, or whether a person was or is a person employed in such an excepted employment, and to 55

any question as to who is or was the employer of a person employed in any such excepted employment, in like manner as if the question related to an employment within the meaning of the National Health Insurance Acts.

5 5.—(1) Each of the following persons shall be an insured **Insured persons,**
person for the purposes of this Act, that is to say:—

(a) every person who is an insured person within the meaning of the National Health Insurance Acts;

(b) every person who is a soldier;

10 (c) every person employed in an excepted employment to which this Act applies.

(2) Where a person, who is, by virtue of paragraph (c) of the immediately preceding sub-section, an insured person, ceases to be employed in an excepted employment to which this Act applies,
15 such person shall, for a period of twelve months commencing next after the end of the week in which he ceased to be so employed, for the purposes of this Act, remain an insured person.

In calculating for the purposes of this sub-section the said period of twelve months no account shall be taken of any period
20 during which the person who has so ceased to be employed is rendered incapable of work by reason of some specific disease or by bodily or mental disablement of which notice and proof has been given to the Minister within the prescribed time and in the prescribed manner or any period after such person has
25 attained the age of seventy years.

(3) In this Act the expression "insured person" when used without qualification means a person who is an insured person by virtue of this section, and the word "insurance" in relation to any such person shall be construed accordingly.

30 6.—(1) In this Act the expression "agricultural employment" **Agricultural employment.**
when used in relation to any person means employment in agricultural work on land which is in the occupation of some other person and is used wholly for agriculture, but does not include employment as a domestic servant.

35 (2) If any question arises whether any particular employment is agricultural employment within the meaning of this Act, the question shall be referred to the Minister, whose decision shall be final.

40 7.—(1) For the purposes of this Act the Borough of Dun Laoghaire shall be deemed to be a county borough. **County boroughs, urban areas, and rural areas.**

(2) In this Act the expression "urban area" means any urban district (not being a county borough), the population of which (as shown by the census of population which is for the time being the latest such census) exceeds seven thousand.

45 (3) In this Act the expression "rural area" means any area which is neither a county borough nor an urban area.

8.—(1) The Minister may by order appoint a day to be the **Appointed days.**
first appointed day for the purposes of this Act and a day (which may or may not be the same day as the day appointed to be the
50 first appointed day) to be the second appointed day for the purposes of this Act.

(2) In this Act the expressions "the first appointed day" and "the second appointed day" mean the day or days appointed by the Minister under this section to be the first appointed day
55 and the second appointed day respectively.

PART II.

WIDOWS' (CONTRIBUTORY) PENSIONS AND ORPHANS' (CONTRIBUTORY) PENSIONS.

Widows'
(contributory)
pensions.

9.—Subject to the provisions of this Act a pension (in this Act referred to as a widow's (contributory) pension) shall, if the statutory conditions are complied with, be payable to the widow of a man who—

- (a) dies on or after the second appointed day,
- (b) was not over the age of seventy years on the second appointed day, and
- (c) was an insured person at the date of his death.

Composition and
rates of widows'
(contributory)
pensions.

10.—(1) A widow's (contributory) pension payable to the widow of an insured person shall, subject to the provisions of this Act, be as follows, that is to say:—

- (a) if and so long as there are two or more children of such person alive and under the appointed age, such pension shall consist of—
 - (i) an allowance (in this Act referred to as the widow's (contributory) allowance) at the rate of ten shillings per week, and
 - (ii) an allowance (in this Act referred to as a child's (contributory) allowance), in respect of the eldest or elder of such children, at the rate of five shillings per week, and
 - (iii) an allowance (in this Act also referred to as a child's (contributory) allowance), in respect of, in case there are three or more such children, each of such children (other than the eldest) or, in case there are two such children only, the younger of such children, at the rate of three shillings per week;
- (b) if and so long as there is one child only of such person alive and under the appointed age, such pension shall consist of—
 - (i) the widow's (contributory) allowance, and
 - (ii) an allowance (in this Act also referred to as a child's (contributory) allowance), in respect of such child, at the rate of five shillings per week;
- (c) if there is no child of such person alive and under the appointed age, such pension shall consist of the widow's (contributory) allowance.

(2) Where the person in respect of whose insurance a widow's (contributory) pension is payable was during the relevant period normally engaged in agricultural employment, the immediately preceding sub-section shall, during the period of five years commencing on the second appointed day, have effect in relation to the amount of such pension as if there were substituted for the words "ten shillings" "five shillings" and "three shillings" wherever those words respectively occur in the said sub-section the words "eight shillings" "four shillings" and "two shillings and six pence" respectively.

(3) If any question arises under the immediately preceding sub-section whether any person was during the relevant period normally engaged in agricultural employment, the question shall be referred to the Minister whose decision shall be final.

(4) For the purposes of the two immediately preceding sub-sections—

5 (a) the expression "the relevant period" means, in relation to a person who died on or after the date on which he attained the age of seventy years, the period of three years immediately preceding the said date, but in calculating the said period of three years no account shall be taken of any unbroken period ending on the said date during which such person was incapable of work by reason of some specific disease or mental or bodily infirmity; and

15 (b) the expression "the relevant period" means, in relation to a person who died before he attained the age of seventy years, the period of three years immediately preceding the date of his death, but in calculating the said period of three years no account shall be taken of any unbroken period ending on the said date during which such person was incapable of work by reason of some specific disease or mental or bodily infirmity.

20 11.—Subject to the provisions of this Act, a pension (in this Act referred to as an orphan's (contributory) pension) shall, if the statutory conditions are complied with, be payable in respect of every child who complies with the following conditions, that is to say:— Orphans' (contributory) pensions.

25 (a) is the orphan child of a man or woman who—

(i) dies on or after the second appointed day, and

(ii) was not over the age of seventy years on the second appointed day, and

30 (iii) was an insured person at the date of his or her death; and

(b) is for the time being under the appointed age.

12.—(1) An orphan's (contributory) pension shall, subject to the provisions of this Act, be at the rate of seven shillings and six pence per week. Rate of orphans' (contributory) pensions.

35 (2) Where the person in respect of whose insurance an orphan's (contributory) pension is payable was during the relevant period normally engaged in agricultural employment, the immediately preceding sub-section shall, during the period of five years commencing on the second appointed day, have effect in relation to the amount of such pension as if the words "six shillings" were substituted in the said sub-section for the words "seven shillings and six pence."

45 (3) If any question arises under the immediately preceding sub-section whether any person was during the relevant period normally engaged in agricultural employment, the question shall be referred to the Minister whose decision shall be final.

(4) For the purposes of the two immediately preceding sub-sections—

50 (a) the expression "the relevant period" means, in relation to a person who died on or after the date on which he attained the age of seventy years, the period of three years immediately preceding the said date, but in calculating the said period of three years no account shall be taken of any unbroken period ending on the said date during which such person was incapable of work by reason of some specific disease or mental or bodily infirmity; and

Statutory
conditions as to
widows'
(contributory)
pensions and
orphans'
(contributory)
pensions.

- (b) the expression "the relevant period" means, in relation to a person who died before he attained the age of seventy years, the period of three years immediately preceding the date of his death, but in calculating the said period of three years no account shall be taken of any unbroken period ending on the said date during which such person was incapable of work by reason of some specific disease or mental or bodily infirmity. 5

13.—(1) The statutory conditions to be complied with in the case of a person in respect of whose insurance a widow's (contributory) pension or an orphan's (contributory) pension is payable, are:— 10

- (a) that one hundred and four weeks have elapsed since the date of the last entry of such person into insurance, 15
and
(b) that one hundred and four contributions under this Act have been paid by or in respect of such person since the date of the last entry of such person into insurance, 20
and
(c) that, where two hundred and eight weeks or more have elapsed between the date on which that person entered into insurance and the date on which he died or on which contributions under the National Health Insurance Acts ceased to be payable by or in respect of him by reason of his age, whichever was the earlier, the number of contributions under this Act paid or deemed in accordance with regulations made under this Act to have been paid by or in respect of him for the three contribution years immediately prior to, in case he died under the age of seventy years, his death or, in any other case, his attainment of the age of seventy years represents on the average not less than twenty-six contributions under this Act calculated in the prescribed manner in respect of each of those three years. 25 30 35

(2) Where at or within the prescribed time before the second appointed day a person is or was employed in an excepted employment to which this Act applies then for the purposes of sub-section (1) of this section— 40

- (a) contributions under this Act shall be deemed to have been paid in respect of him for every week before the second appointed day during which he was continuously so employed;
(b) every such week shall be deemed to be a week which has elapsed since the date of his last entry into insurance. 45

(3) Contributions paid before the second appointed day under the National Health Insurance Acts shall, for the purposes of this section, be treated as contributions under this Act. 50

(4) Contributions deemed to have been paid before the second appointed day under the National Health Insurance Acts shall, for the purposes of paragraph (c) of sub-section (1) of this section but not further or otherwise, be treated as contributions under this Act. 55

(5) Subject to the provisions of any regulations made by the Minister under the provisions of Part VII of this Act relating to regulations, in determining for the purposes of a claim to a widow's (contributory) pension or an orphan's (contributory) pension whether the statutory conditions mentioned in this section have been complied with, no account shall be taken of contributions under this Act paid after the death of the person in respect of whose insurance the pension is claimed. 60

14.—(1) So much (if any) of a widow's (contributory) pension payable to a widow as consists of the widow's (contributory) allowance shall, subject to the provisions of this Act, continue to be payable until she attains the age of seventy years and shall then cease, unless she previously re-marries, in which case the said widow's (contributory) allowance shall cease as on and from such re-marriage.

Duration of
widows'
(contributory)
pensions.

(2) So much (if any) of a widow's (contributory) pension as consists of a child's (contributory) allowance shall, subject to the provisions of this Act, continue to be payable until the child in respect of whom such allowance is payable attains the appointed age and shall then cease.

PART III.

15 WIDOWS' (NON-CONTRIBUTORY) PENSIONS AND ORPHANS' (NON-CONTRIBUTORY) PENSIONS.

15.—This Part of this Act applies in respect of the following deceased persons, that is to say:—

Deceased persons
in respect of
whom Part III
of this Act
applies.

(a) a person who—

(i) dies (whether before or after the passing of this Act) before the second appointed day, and

(ii) was an insured person under the National Health Insurance Acts at the date of his or her death;

(b) a person who—

(i) dies (whether before or after the passing of this Act) before the second appointed day, and

(ii) in case he or she was not over the age of seventy years at the date of his or her death, was engaged in an excepted employment to which this Act applies at the date of his or her death or, in case he or she was over the age of seventy years at the date of his or her death, was engaged in an excepted employment to which this Act applies on his or her seventieth birthday;

(c) a person

(i) who dies on or after the second appointed day, and

(ii) who was not over the age of seventy years at the date of his or her death, and

(iii) who was an insured person under this Act at the date of his or her death, and

(iv) in respect of whom the statutory conditions had not been complied with;

(d) a person who—

(i) dies on or after the second appointed day, and

(ii) is over the age of seventy years on the second appointed day, and

(iii) either was an insured person under the National Health Insurance Acts at the date of his or her death, or was on his or her seventieth birthday engaged in an excepted employment to which this Act applies.

Net weekly means
of widows and
orphans.

16.—For the purposes of this Part of this Act the net weekly means of a widow or an orphan shall be the net weekly means of such widow or orphan as ascertained in accordance with the appropriate provisions of the First Schedule to this Act.

Residence.

17.—For the purposes of this Part of this Act and the First Schedule to this Act, the following provisions shall have effect, that is to say:—

- (a) a person though actually resident in an urban area shall, if such person, immediately prior to taking up residence in such urban area was resident in a rural area, be deemed to continue to be resident in such rural area for a period of twelve months after such person so takes up residence.
- (b) a person though actually resident in a county borough shall, if such person immediately prior to taking up residence in such county borough was resident in an urban area or was resident or was, by virtue of paragraph (a) of this sub-section, deemed to have been resident in a rural area, be deemed to continue to be resident in such urban area or rural area (as the case may be) for a period of twelve months after such person so takes up residence.

Small holder.

18.—(1) In this Part of this Act the expression “small holder” means a person who—

- (a) is the occupier of a holding or holdings of agricultural land the valuation or the total valuations of which does or do not exceed eight pounds, and
- (b) is not the occupier or owner of any rateable hereditament or hereditaments (other than agricultural land) the valuation or the total valuations of which would, if added to the valuation of such holding or the total valuation of such holdings, exceed eight pounds.

(2) In this section—

the expression “agricultural land” means any hereditament or portion thereof which—

- (a) is entered as land in the valuation lists under the Valuation Acts, and
- (b) is not mainly used for purposes other than agricultural or live-stock production;

the expression “valuation” means valuation under the Valuation Acts;

the expression “rateable hereditament” has the same meaning as in the Valuation Acts.

Widows’
(non-contributory)
pensions.

19.—Subject to the provisions of this Act, a pension (in this Act referred to as a widow’s (non-contributory) pension) shall be payable to—

- (a) the widow of a deceased man in respect of whom this Part of this Act applies, or

- (b) the widow of a man who, whether he died before or after the second appointed day, was at the date of his death a small holder, if and so long as such widow is resident on the holding by virtue of the occupation of which such man was a small holder.

20.—(1) A widow's (non-contributory) pension payable to the widow, resident in a county borough, of a man shall, subject to the provisions of this Part of this Act, be as follows, that is to say:—

Composition and rates of widows' (non-contributory) pensions.

- 10 (a) if and so long as there are two or more children of such man alive and under the appointed age, such pension shall consist of—

(i) an allowance in respect of such widow at the rate of seven shillings and six pence per week, and

- 15 (ii) an allowance in respect of the eldest or elder of such children, at the rate of three shillings and six pence per week, and

- (iii) an allowance in respect of, in case there are three or more such children, each of such children (other than the eldest) or, in case there are two such children only, the younger of such children, at the rate of one shilling and six pence per week;

- 25 (b) if and so long as there is one child only of such man alive and under the appointed age, such pension shall consist of—

(i) an allowance in respect of such widow at the rate of seven shillings and six pence per week, and

(ii) an allowance in respect of such child at the rate of three shillings and six pence per week; and

- 30 (c) if there is no child of such man alive and under the appointed age, such pension shall consist of an allowance in respect of such widow at the rate of seven shillings and six pence per week.

35 (2) A widow's (non-contributory) pension payable to the widow, resident in an urban area, of a man shall, subject to the provisions of this Part of this Act, be as follows, that is to say:—

- (a) if and so long as there are two or more children of such man alive and under the appointed age, such pension shall consist of—

40 (i) an allowance in respect of such widow at the rate of six shillings per week, and

(ii) an allowance in respect of the eldest or elder of such children, at the rate of two shillings and six pence per week, and

- 45 (iii) an allowance in respect of, in case there are three or more such children, each of such children (other than the eldest) or, in case there are two such children only, the younger of such children, at the rate of one shilling per week;

- 50 (b) if and so long as there is one child only of such man alive and under the appointed age, such pension shall consist of—

(i) an allowance in respect of such widow at the rate of six shillings per week, and

- 55 (ii) an allowance in respect of such child, at the rate of two shillings and six pence per week; and

- (c) if there is no child of such man alive and under the appointed age, such pension shall consist of an allowance in respect of such widow at the rate of six shillings per week.

(3) A widow's (non-contributory) pension payable to the widow, 5
resident in a rural area, of a man shall, subject to the provisions
of this Part of this Act, be as follows, that is to say:—

- (a) if and so long as there are two or more children of such
man alive and under the appointed age, such pension
shall consist of— 10

(i) an allowance in respect of such widow at the rate
of five shillings per week, and

(ii) an allowance in respect of the eldest or elder of
such children, at the rate of two shillings per
week, and 15

(iii) an allowance in respect of, in case there are three
or more such children, each of such children
(other than the eldest) or, in case there are two
such children only, the younger of such children,
at the rate of one shilling per week; 20

- (b) if and so long as there is one child only of such man
alive and under the appointed age, such pension shall
consist of—

(i) an allowance in respect of such widow at the rate
of five shillings per week, and 25

(ii) an allowance in respect of such child, at the rate
of two shillings per week; and

- (c) if there is no child of such man alive and under the
appointed age, such pension shall consist of an allow-
ance in respect of such widow at the rate of five 30
shillings per week.

(4) References in this Act to the widow's (non-contributory)
allowance shall be construed as references to an allowance in
respect of a widow under sub-sections (1), (2), or (3) of this
section, and references in this Act to a child's (non-contributory) 35
allowance shall be construed as references to an allowance in
respect of a child under sub-sections (1), (2) or (3) of this section.

Classes of widows
to whom widows'
(non-contributory)
pensions may
be granted.

21.—A widow of a man shall not be granted a widow's (non-
contributory) pension unless—

- (a) she has attained the age of sixty years and has not 40
attained the age of seventy years, or

- (b) she is under the age of seventy years and there is at
least one child of such man who is for the time being
alive and under the appointed age.

Duration of
widows'
(non-contributory)
pensions.

22.—(1) A widow's (non-contributory) pension payable to a 45
widow shall, subject to the provisions of this Act, continue to be
payable until she attains the age of seventy years and shall then
cease, unless she previously remarries, in which case the said
pension shall cease as on and from such remarriage.

- (2) Where— 50

- (a) a widow's (non-contributory) pension which includes
any child's (non-contributory) allowance has ceased
to include any child's (non-contributory) allowance,
and

- (b) the widow to whom such pension was granted has not 55
at the date of such cesser attained the age of fifty-nine
years and six months,

such pension shall cease to be payable on the expiration of six months after the date of such cesser, without prejudice however to the regrant of a widow's (non-contributory) pension to her when she attains the age of sixty years.

5 **23.**—(1) A woman shall not be entitled to and shall be disqualified from receiving payment of a widow's (non-contributory) pension if and so long as her net weekly means equal or exceed the appointed sum.

Cesser or
reduction of
widow's
(non-contributory)
pension on
grounds of
means.

10 (2) Where the net weekly means of a widow are less than the appointed sum, any widow's (non-contributory) pension payable to such widow shall be reduced by one shilling for every complete shilling of such net weekly means.

15 (3) In this section the expression "the appointed sum" in relation to a widow means the weekly amount which, if she were in receipt of a widow's (non-contributory) pension and had no net weekly means would, having regard to the provisions of this Part of this Act relating to composition and rates of widows' (non-contributory) pensions, be for the time being payable to her on account of such pension.

20 **24.**—Subject to the provisions of this Act, a pension (in this Act referred to as an orphan's (non-contributory) pension) shall be payable in respect of each child who complies with the following conditions, that is to say:—

Orphans'
(non-contributory)
pensions.

(a) is the orphan child of either—

25 (i) a deceased person in respect of whom this Part of this Act applies, or

(ii) a person who, whether he or she died before, on or after the second appointed day, was at the date of his or her death a small holder, and

30 (b) is for the time being under the appointed age.

25.—An orphan's (non-contributory) pension payable in respect of a child shall, subject to the provisions of this Act, be at the following rates, that is to say:—

Rates of orphans'
(non-contributory)
pensions.

35 (a) in case such child is neither detained in a reformatory or industrial school nor resident in an institution nor boarded out by a public assistance authority—

(i) if such child is resident in a county borough, four shillings per week,

40 (ii) if such child is resident in an urban area, three shillings and sixpence per week,

(iii) if such child is resident in a rural area, two shillings and sixpence per week;

45 (b) in case such child is detained in a reformatory or industrial school or resident in an institution or boarded out by a public assistance authority—

(i) if such reformatory or industrial school or institution is in a county borough or such child is boarded out in a county borough, three shillings per week,

50 (ii) if such reformatory or industrial school or institution is in an urban area or a rural area or such child is boarded out in an urban area or a rural area, two shillings per week.

26.—(1) An orphan shall not be entitled to and shall be disqualified from receiving payment of an orphan's (non-contributory) pension if and so long as the net weekly means of such orphan equal or exceed the appointed sum.

Cesser or
reduction of
orphan's
(non-contributory)
pension on
grounds of
means.

(2) Where the net weekly means of an orphan are less than the appointed sum, any orphan's (non-contributory) pension payable to such orphan shall be reduced by one shilling for every complete shilling of such net weekly means.

(3) In this section the expression "the appointed sum" in relation to an orphan means the weekly amount which, if an orphan's (non-contributory) pension were being paid in respect of such orphan and such orphan had no net weekly means, would, having regard to the provisions of this Part of this Act relating to rates of orphans' (non-contributory) pensions, be payable on account of such pension.

(4) For the purposes of sub-sections (1) and (2) of this section an orphan's (non-contributory) pension in respect of an orphan shall be deemed to be payable to such orphan.

PART IV.

15

DISQUALIFICATIONS FOR PENSIONS AND PROVISIONS IN RELATION TO COMMENCEMENT AND PAYMENT OF PENSIONS.

Definitions for purposes of Part IV.

27.—In this Part of this Act—

the expression "widow's pension" means a pension which is either a widow's (contributory) pension or a widow's (non-contributory) pension;

the expression "orphan's pension" means a pension which is either an orphan's (contributory) pension or an orphan's (non-contributory) pension;

the expression "contributory pension" means a pension which is either a widow's (contributory) pension or an orphan's (contributory) pension;

the expression "non-contributory pension" means a pension which is either a widow's (non-contributory) pension or an orphan's (non-contributory) pension;

the expression "child's allowance" means an allowance which is either a child's (contributory) allowance or a child's (non-contributory) allowance.

Restriction on grant of widow's pension to widow of man over sixty at date of marriage.

28.—The widow of a man who had attained the age of sixty years at the date of the marriage shall not, if the marriage takes place after the 11th day of April, 1935, be entitled to a widow's pension unless either—

(a) there is a child of the marriage; or

(b) at the date of the death of her husband three or more years have elapsed since the date of the marriage; or

(c) she was immediately before the marriage in receipt of a widow's pension; or

(d) she would immediately before the marriage have been in receipt of a widow's pension, but for disqualification by reason of cohabitation.

Disqualification for pensions on residential grounds.

29.—(1) Where during any period a person is resident outside Saorstát Eireann in a country other than an appointed country, the following provisions shall have effect, that is to say:—

(a) a contributory pension shall not be granted to or in respect of such person,

(b) if a contributory pension has been granted to or in respect of such person, no sum shall be payable during such period on account of such pension.

(2) Where during any period a person is resident outside 5 Saorstát Eireann, the following provisions shall have effect, that is to say:—

(a) a non-contributory pension shall not be granted to or in respect of such person,

10 (b) if a non-contributory pension has been granted to or in respect of such person, no sum shall be payable during such period on account of such pension.

(3) A non-contributory pension (other than an orphan's (non-contributory) pension) shall not be granted to or in respect of a person unless such person has, during the period of two years 15 immediately preceding the date on which the claim therefor is made, been resident in Saorstát Eireann.

30.—(1) A widow shall not be entitled to and shall be disqualified from receiving payment of a widow's pension if and so long as—

20 (a) she is undergoing a sentence of imprisonment, in pursuance of an order of a court directing her to be imprisoned without the option of a fine, or a sentence of penal servitude, or

25 (b) she is maintained in any place as a criminal lunatic or as a non-paying patient in any district or auxiliary mental hospital, within the meaning of section 9 of the Local Government (Ireland) Act, 1898, as amended by section 79 of the Local Government Act, 1925 (No. 5 of 1925).

30 (2) A widow shall not, if and so long as she and any person are cohabiting as man and wife, be entitled to and shall be disqualified from receiving payment of—

(a) so much of a widow's (contributory) pension as consists of the widow's (contributory) allowance, or

35 (b) a widow's (non-contributory) pension.

31.—A sum shall not be paid on account of a pension if payment of the sum is not obtained within three months after the date on which it has become payable.

Disqualification for widows' pensions on miscellaneous grounds.

40 32.—(1) Where, under the provisions of this Act, a widow would, but for this sub-section, be entitled to both a widow's (contributory) pension and a widow's (non-contributory) pension, such widow's (non-contributory) pension shall not be payable.

Additional provisions against double pensions in respect of widows and children.

(2) Not more than one widow's (contributory) allowance or 45 widow's (non-contributory) allowance shall be payable to any one widow.

(3) Not more than one child's allowance or one orphan's pension shall be payable in respect of any one child.

(4) An orphan's pension shall not be payable in respect of a child in respect of whom a child's allowance is claimable.

50 33.—(1) Subject to the provisions of this section, a widow's pension shall be paid to the pensioner.

Payment of widows' pensions.

(2) The Minister may, in his discretion, from time to time direct—

(a) in the case of a widow's (contributory) pension, which does not include any child's (contributory) allowance, that such pension shall, in lieu of being paid to the pensioner, be paid to some other person for the pensioner's benefit; 5

(b) in the case of a widow's (contributory) pension which does not include the widow's (contributory) allowance, that any child's (contributory) allowance which is included in such pension shall, in lieu of being paid to the pensioner, be paid to some other person for the benefit of the child in respect of whom such child's (contributory) allowance is payable; 10

(c) in the case of any widow's (contributory) pension which consists of the widow's (contributory) allowance and any child's (contributory) allowance, that either or 15 both of the following things shall be done;

(i) that the widow's (contributory) allowance shall, in lieu of being paid to the pensioner, be paid to some other person for the benefit of the pensioner, and 20

(ii) that any child's (contributory) allowance which is included in such pension shall, in lieu of being paid to the pensioner, be paid to some other person for the benefit of the child in respect of whom such allowance is payable. 25

(3) The Minister may, in his discretion, from time to time, direct either—

(a) that so much of a widow's (non-contributory) pension as is the widow's (non-contributory) allowance shall, in lieu of being paid to the pensioner, be paid to some other person for the benefit of the pensioner, and that every child's (non-contributory) allowance, being part of such pension, shall, in lieu of being paid to the pensioner, be paid to some other person for the benefit of the child in respect of whom such allowance is payable, 30 or 35

(b) that any child's (non-contributory) allowance, part of a widow's (non-contributory) pension, shall, in lieu of being paid to the pensioner, be paid to some other person for the benefit of the child in respect of whom such allowance is payable. 40

Payment of
orphans' pensions.

34.—(1) Subject to the provisions of this section, an orphan's pension shall be paid to the guardian of the child in respect of whom such pension is payable.

(2) The Minister may, if he considers it advisable so to do, 45 direct that an orphan's pension shall, in lieu of being paid to the guardian of the child in respect of whom such pension is payable, be paid to some other person for the benefit of the child.

Date of
commencement
of pensions.

35.—(1) Subject to the provisions of this section, the following provisions shall have effect in relation to the dates on which pensions under this Act shall commence to accrue, that is to 50 say:—

(a) a non-contributory pension shall not in any case commence to accrue on a date earlier than the first appointed day;

(b) a contributory pension shall not in any case commence 55 to accrue on a date earlier than the second appointed day;

- (c) where a person becomes entitled to a non-contributory pension on the first appointed day, the following provisions shall have effect, that is to say:—
- (i) in case a claim thereto is made before the expiration of two months after the first appointed day, such pension shall commence to accrue on the first appointed day,
 - (ii) in any other case, such pension shall commence to accrue on the date on which the claim thereto is made;
- (d) where a person becomes entitled to a non-contributory pension on a date after the first appointed day, the following provisions shall have effect, that is to say:—
- (i) in case a claim thereto is made before the expiration of one month after such date, such pension shall commence to accrue on such date,
 - (ii) in any other case, such pension shall commence to accrue on the date on which the claim is made;
- (e) where a person becomes entitled to a contributory pension, the following provisions shall have effect, that is to say:—
- (i) in case a claim thereto is made before the expiration of one month after the date on which such person became entitled to such pension, such pension shall commence to accrue on such date,
 - (ii) where it is shown in any prescribed case that the failure to make a claim for a contributory pension, within the time limited by the immediately preceding clause, was due to circumstances over which the claimant had no control, such pension shall commence to accrue on the date on which the claimant became entitled thereto,
 - (iii) in any other case, such pension shall commence to accrue on the date on which the claim is made.
- (2) Where the date on which a pension would begin to accrue under the immediately preceding sub-section is a day of the week other than a day prescribed as the day in the week on which the weekly payments on account of pensions of that class are to be made, the pension shall not begin to accrue until such prescribed day in the week occurring next after the first-mentioned date.

36.—The following provisions shall have effect in relation to the continuance of payment of every widow's pension, that is to say:—

Provisions in relation to final payments of pensions

- (a) in case—
- (i) such pension ceases to be payable by reason of the person entitled thereto attaining the age of seventy years, and
 - (ii) the day in the week on which such person attains the said age is not the day in the week on which payments on account of old age pensions are payable,
- such pension shall continue to be payable in respect of the days in the week up to, but not including, the day in the week on which such payments are payable;
- (b) in any other case, where the date on which such pension would cease to be payable is a day of the week other

than that immediately preceding the day in the week prescribed as the day in the week on which the weekly payments on account of such pension are to be made, such pension shall continue payable in respect of the days in the week up to but not including such prescribed day. 5

Method of paying pensions.

37.—A pension under this Act shall, subject to any directions of the Minister in special cases, be paid weekly in advance in such manner and subject to such conditions as to identification or otherwise as the Minister may direct. 10

PART V.

CONTRIBUTIONS AND FINANCIAL PROVISIONS.

Rates of contributions.

38.—(1) For the purpose of making provision towards the costs of pensions payable under this Act, the following provisions shall on and after the second appointed day have effect, that is to say:— 15

(a) subject to the provisions of paragraph (b) of this subsection, contributions shall be paid, in respect of every person who is an employed contributor or who is employed in an excepted employment to which this Act applies, and by every person who is a voluntary contributor, at the rates specified in Part I of the Second Schedule to this Act, and 20

(b) during the period of five years commencing on the second appointed day contributions shall be paid in respect of every person who is an employed contributor and who is employed in agricultural employment, at the rates specified in Part II of the Second Schedule to this Act in lieu of the rates specified in Part I of the said Schedule. 25 30

(2) No contributions under this section shall be payable by a person who is a voluntary contributor and has attained the age of seventy or in respect of any other person who has attained the age of seventy.

(3) Where contributions under this section are payable in respect of a person who is an employed contributor or who is employed in an employment which is an excepted employment to which this Act applies, such contributions shall be payable partly by the employer and partly by such person, or wholly by the employer as provided in the Part of the Second Schedule to this Act applicable to the case, and where contributions under this Act are payable by a voluntary contributor, such contributions shall be payable wholly by such voluntary contributor. 35 40

(4) In this section the expressions "employed contributor" and "voluntary contributor" have the meanings respectively assigned to them by the National Health Insurance Acts. 45

(5) This section shall not apply in respect of soldiers.

Collection of contributions.

39.—(1) The contributions by or in respect of an insured person payable under the immediately preceding section and contributions by or in respect of such person payable under the National Health Insurance Acts shall be paid as one contribution 50

under the National Health Insurance Acts, and (subject to such modifications and adaptations as may be prescribed) the contributions payable under the immediately preceding section in respect of a person in an excepted employment to which this
5 Act applies shall be paid as if they were contributions under the National Health Insurance Acts, and (subject as afore-said) all statutory provisions relating to the payment and collection of contributions under the National Health Insurance Acts, including (but without prejudice to the
10 generality of the foregoing enactment) the provisions with respect to offences and civil proceedings in relation to contributions, with respect to priority of the claims for contributions, and with respect to the powers of inspectors, and the provisions of section 31 of the Unemployment Insurance Act, 1920, shall
15 have effect accordingly.

(2) This section shall not apply in respect of soldiers.

40.—(1) On and after the second appointed day there shall be paid by the Minister for Defence out of moneys provided by the Oireachtas in respect of every soldier a contribution for the
20 purposes of this Act at the rate of eightpence per week.

Contributions in respect of soldiers.

(2) The amounts to be paid by the Minister for Defence under this section shall be ascertained in such manner and shall be paid into the Widows' and Orphans' Pensions Fund in such manner and at such dates in each year as shall be agreed upon by the
25 Minister and the Minister for Defence.

(3) There shall be recovered by deduction from the pay of each soldier part of the contributions paid under this section to such amount, not exceeding one half thereof, as the Minister for Defence, with the concurrence of the Minister for Finance, shall
30 direct.

(4) Any moneys recovered by the Minister for Defence under the immediately preceding sub-section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

35 41.—(1) The Minister shall keep a separate fund (in this Act referred to as the Fund) to be called and known as the Widows' and Orphans' Pensions Fund, and shall maintain and manage the Fund in accordance with this Act.

Widows' and Orphans' Pensions Fund.

40 (2) There shall be paid into the Fund all moneys collected as contributions under this Part of this Act.

(3) All pensions payable under this Act shall be paid out of the Fund.

45 42.—(1) Any sums standing to the credit of the Fund which are not required to meet current expenditure shall be transferred to the Minister for Finance and by him credited to an account (in this Act referred to as the Account) to be called the "Pensions Investment Account."

Pensions Investment Account.

(2) There shall be paid into the Account, out of moneys provided by the Oireachtas, in respect of the financial year ending
50 on the 31st day of March, 1936, and in respect of each of the next nine succeeding financial years, the annual sum of two hundred and fifty thousand pounds, and thereafter such sums as the Oireachtas may determine.

(3) Any sums standing to the credit of the Account shall be invested and kept invested at the discretion of the Minister for Finance on behalf of the Fund in all or any of the following ways, that is to say, in the purchase of any stock, fund or security in which trustees are authorised by section 18 of the Adaptation of Enactments Act, 1922 (No. 2 of 1922) to invest trust funds or in the purchase of any stock, shares or security the principal and interest of which is guaranteed under statutory authority by the Government of Saorstát Eireann, and any interest received from such investment shall be credited to the Account. 10

(4) Moneys liable to investment under the immediately preceding sub-section of this section shall be Government money within the meaning of the Approved Investments Act, 1933 (No. 34 of 1933), and that Act shall apply in regard thereto accordingly.

(5) If at any time the moneys in the Fund are insufficient to meet current liabilities the Minister for Finance shall, out of the Account, issue to the Fund such sums as may be required for the purpose of discharging those liabilities. 15

Administrative
Expenses.

43.—(1) Subject to the provisions of this section, all expenses incurred in the administration of this Act, shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 20

(2) Such sums as the Minister for Finance may direct shall be paid out of the Fund and shall, in accordance with regulations to be made by him, be applied as an appropriation-in-aid of moneys provided by the Oireachtas for the said expenses. 25

Accounts.

44.—(1) Accounts of the Fund and the Account shall be kept in such form as the Minister for Finance may approve or direct.

(2) Within one year after the expiration of every year of account, the accounts kept in pursuance of this section for that year shall be submitted for audit to the Comptroller and Auditor-General, and when examined and certified shall be laid before each House of the Oireachtas. 30

Actuarial
inquiries.

45.—The Minister for Finance may, whenever and so often as he thinks fit, cause an actuarial inquiry to be made into the general financial operation of this Act, including an estimate of the value of contributions payable under this Act and the value of the benefits conferred by this Act and shall cause the report of the actuary to be laid before each House of the Oireachtas. 35

PART VI

40

PROVISIONS IN RELATION TO CLAIMS AND APPEALS AGAINST AWARDS
AND DECISIONS.

Establishment of
panel of referees.

46.—(1) There shall be established and maintained for the purposes of this Act a panel of such number of referees as the Minister for Finance may from time to time appoint. 45

(2) Every member of the panel of referees shall be appointed by the Minister for Finance and shall hold office during the pleasure of the said Minister.

(3) Members of the panel of referees shall be persons serving in the Civil Service of the Government of Saorstát Éireann.

47.—(1) The Minister may, with the sanction of the Minister for Finance, appoint such and so many persons as he thinks proper to be investigation officers for the purposes of this Act. Investigation officers.

(2) In this Act the expression " investigation officer " means an investigation officer appointed under this section.

48.—(1) Every investigation officer shall investigate into and report to the Minister upon any claim for or in respect of a pension and any question arising on or in relation to a pension which may be referred to him by the Minister, and may, for the purpose of such investigation and report, require any claimant for a pension or any pensioner or any employer of such claimant or pensioner to furnish him with such information and to produce to him for inspection such documents relative to such claimant or pensioner as such investigation officer may reasonably require. Duties and powers of investigation officers.

(2) If any person, being a claimant for a pension or a pensioner, or the employer of a claimant for a pension or a pensioner, fails to furnish to an investigation officer such information as he is required by this section to furnish to such officer or to produce to an investigation officer for inspection such documents as he is required by this section to produce to such officer, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

49.—(1) The Minister may appoint such and so many persons as he thinks proper to be deciding officers for the purposes of this Act, and every person so appointed shall hold office as such officer during the pleasure of the Minister. Deciding officers.

(2) In this Act the expression " deciding officer " means a deciding officer appointed under this section.

50.—(1) Subject to the provisions of this Act and in accordance with regulations made thereunder, every claim for or in respect of a pension shall be made to the Minister, and every question (other than any matter as to which the decision of the Minister is by this Act made final and conclusive, or any matter which by this Act is a matter within the discretion of the Minister, or any matter which the Minister has power to determine under section 66 of the National Insurance Act, 1911, or under the said section as applied by this Act) arising thereon or in relation thereto shall be determined by a deciding officer. Claims for pension and appeals.

(2) If any claimant is dissatisfied by the award or decision of a deciding officer in respect of any pension, the question shall, on application being made within the prescribed time, be referred to one or more referees selected by the Minister from the panel of referees.

(3) A deciding officer may, if he so thinks proper, instead of determining it himself, refer in the prescribed manner any question which falls to be determined by him under this section to one or more referees selected by the Minister from the panel of referees for the purpose.

(4) The decision of a referee or referees on any matter referred to him or them under this section shall be final and conclusive.

51.—(1) Subject to the provisions of this section, a deciding officer may, at any time and from time to time, revise any award made or decision given under the immediately preceding section if it appears to him that the award or decision was erroneous either in view of new facts which have been brought to his notice 5 since the date on which it was made or given or by reason of some mistake having been made with respect to the law or the facts, and the provisions of this Act as to reference shall apply to such revised award or decision in the same manner as they apply as respects an original award or decision. 10

(2) The provisions of the immediately preceding sub-section shall not apply—

(a) to an award or decision relating to a matter which has been referred to a referee or referees under the immediately preceding section; 15

(b) if the time for making an application to have the matter to which the award or decision relates referred to a referee or referees has not expired; or

(c) to an award made by a deciding officer for the purpose of giving effect to a decision given by a referee or 20 referees,

unless, in a case falling within paragraph (a) or paragraph (b) of this sub-section, the person on whose application the reference was made or who is entitled to apply to have the matter referred, as the case may be, consents. 25

(3) If, in any case in which a decision has been given by a referee or referees with respect to the matter referred to him or them under the immediately preceding section, it appears to the Minister that the referee or referees might properly be asked to reconsider the decision in view either of new facts which have 30 been brought to his notice since the date on which the decision was given or any apparent inconsistency between the decision and any other decision subsequently given by a referee or referees, the Minister may direct that the matter shall be referred to the referee or referees for reconsideration. 35

(4) A revised award made or a revised decision given by a deciding officer under this section shall take effect as follows:—

(a) where by virtue of the revised award or decision a pension will become payable to any person or a pension will be increased, it shall take effect— 40

(i) if made or given by reason of a new fact having been brought to the notice of a deciding officer, as from the date on which the application for revision was made,

(ii) in any other case, as from the date on which the 45 original award or the original decision took effect;

(b) where by virtue of the revised award or decision a pension will cease to be payable or be reduced, it shall take effect as from the date on which notice of the revised award or decision is given to the person concerned. 50

(5) Where a decision is revised under this section by a referee or referees, the revised decision and any award made for the purpose of giving effect thereto shall have effect from such date as the referee or referees may determine.

(6) The foregoing provisions of this section with respect to the 55 date as from which a revised award or revised decision is to take effect shall not be construed as affecting the operation of the provisions of this Act relating to repayment of pensions overpaid.

52.—A referee or referees shall on the hearing of any matter referred to him or them under this Act have power to take evidence on oath, and for that purpose such referee or, where there are two or more referees, any one of such referees may administer oaths to persons attending as witnesses at such hearing.

Powers of referees to take evidence on oath.

PART VII.

MISCELLANEOUS PROVISIONS.

53.—The Minister may, after consultation with the Minister for Industry and Commerce, make an order modifying in such manner as he thinks proper the provisions of this Act (but not so as to increase the rates of contributions or to decrease the rate of pensions) in their application to masters and seamen.

Provisions as to seamen.

54.—In granting relief, otherwise than in an institution, to a person in receipt of or entitled to receive a pension, a public assistance authority shall not take into consideration any such pension, except so far as such pension exceeds five shillings a week.

Provisions in respect of outdoor relief to pensioners.

55.—(1) Where—

Provisions where pension granted to person in receipt of outdoor relief.

(a) in respect of any period a public assistance authority has granted relief, otherwise than in an institution, to or on account of a person who, though entitled to a pension, is not at that time receiving payments on account thereof, and

(b) that relief is in excess of the amount which would have been granted to that person if he had been receiving payment on account of a pension, and

(c) any sum (in this sub-section referred to as the arrears) accruing in respect of any part of the said period on account of a pension subsequently becomes payable to that person, and

(d) such public assistance authority has, before the arrears are paid to that person, certified to the Minister the amount (in this sub-section referred to as the excess) so paid by such public assistance authority in excess in respect of the period in respect of which the arrears accrued,

the Minister may reduce the arrears by an amount not exceeding the amount of the excess and shall, in such case, pay to such public assistance authority out of the Widows' and Orphans' Pensions Fund a sum equal to the amount by which the arrears are so reduced.

(2) This section shall extend to a case where any sum becomes subsequently payable on account of a child's (contributory) allowance, a child's (non-contributory) allowance, an orphan's (contributory) pension or orphan's (non-contributory) pension payable in respect of a child on account of whom any such relief as is mentioned in the immediately preceding sub-section has been granted in like manner as to a case where a sum on account of a pension becomes subsequently payable to a person to or on account of whom such relief as aforesaid has been granted, and shall apply in such a case subject to the necessary modifications.

56.—(1) Where—

Provisions where pension granted to person in receipt of unemployment assistance.

(a) in respect of any period unemployment assistance has been paid to a person who, though entitled to a pension, is not at that time receiving payments on account thereof, and

(b) such unemployment assistance would not have been paid if that person had then been receiving payment on account of a pension, and

(c) any sum (in this sub-section referred to as the arrears) accruing in respect of any part of the said period on

account of a pension subsequently becomes payable to that person, and

- (d) the Minister for Industry and Commerce has, before the the arrears are paid to that person, certified to the Minister the amount (in this sub-section referred to as the excess) so paid by the Minister for Industry and Commerce in respect of the period in respect of which the arrears accrued, 5

the Minister may reduce the arrears by an amount not exceeding the amount of the excess and shall, in such case, pay to the Minister for Industry and Commerce out of the Widows' and Orphans' Pensions Fund a sum equal to the amount by which the arrears are so reduced. 10

(2) Any moneys paid to the Minister for Industry and Commerce under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct. 15

Repayment of pensions overpaid.

57.—(1) If it is found at any time that a person has been in receipt of a pension during any period during which such person was not entitled thereto, or has been in receipt of a pension at a higher rate than that appropriate to the case, then such person or, in case such person is dead, the personal representative of such person, shall be liable to pay to the Minister on demand any sums paid to such person in respect of the pension during such period or, as the case may be, a sum representing the difference between a pension at the rate actually paid and a pension at the rate appropriate to the case. 20 25

(2) Any sum payable by a person to the Minister under this section shall be a debt due by such person to the Minister and may be recovered by the Minister as a simple contract debt in a court of competent jurisdiction or by deduction from any payment or payments on account of a pension to which such person subsequently becomes entitled. 30

(3) Every sum repaid or recovered by the Minister under this section shall be paid into the Widows' and Orphans' Pensions Fund. 35

(4) The provisions of this section shall apply with the necessary modifications in the case of a person to whom a pension or a child's allowance is paid under any of the provisions of this Act for or for the benefit of any person. 40

Penalty for false statements.

58.—(1) Every person—

(a) who, for the purpose of obtaining or continuing a pension, either for himself or for any other person, or for the purpose of obtaining or continuing a pension for himself or for any other person at a rate higher than that appropriate to the case, knowingly makes any statement or representation (whether written or verbal) which is to his knowledge false or misleading in any material respect, or 45

(b) who knowingly obtains payment of, or continues to receive, a pension which he is disqualified from receiving or to which he is not entitled, or 50

(c) who knowingly obtains or receives any payment as on account of a pension which for any reason whatsoever is not payable to him, 55

shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds or to imprisonment for any term not exceeding three months.

(2) The provisions of this section shall apply with the necessary modification in the case of a person to whom a pension or a child's allowance is paid under any of the provisions of this Act for or for the benefit of any person.

5 **59.**—Where, for the purposes of this Act, the age, marriage, Birth, marriage
or death of any person is required to be proved by the production and death
of a certificate of birth, marriage, or death, any person shall, on certificates.
presenting a written requisition in such form and containing such
particulars as may be prescribed and, on payment of a fee in
10 the case of a birth certificate of sixpence, and in the case of a
marriage or death certificate, of one shilling, be entitled 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
15 or superintendent registrar or other person having the custody
thereof, and forms for such requisition shall on request be
supplied without any charge by every registrar of births and
deaths, and by every superintendent registrar or other person
having the custody of the register.

20 **60.**—(1) In assessing damages in any action under the Fatal Accidents Acts, 1846 to 1908, whether commenced before or after
the passing of this Act, there shall not be taken into account
any pension or child's allowance* payable under this Act. Exclusion of
pensions in
assessment of
damages under
the Fatal
Accidents Acts
and compensation
under the
Workmen's
Compensation
Acts.
(2) In computing the amount of compensation under sub-clause
25 (ii) of clause (a) of paragraph (1) of the First Schedule to the
Workmen's Compensation Act, 1906, or under Rules 2 or 4 of
the Second Schedule to the Workmen's Compensation Act, 1934
(No. 9 of 1934), whether proceedings to recover such compensa-
tion have been commenced before or after the passing of this
30 Act, there shall not be taken into account any pension or child's
allowance payable under this Act.

61.—(1) Where provision is made by legislative enactment in Reciprocal
any other country for the establishment therein of any scheme of arrangements
pensions substantially corresponding to that established by this with other
35 Act, the Minister may, with the consent of the Minister for countries.
Finance, make reciprocal arrangements with the authority
administering such scheme in such country, whereby periods of
insurance, contributions paid, and residence in such country
under such scheme shall, for the purposes of qualifications for
40 pensions under this Act, be treated as periods of insurance, con-
tributions paid, and residence in Saorstát Eireann and whereby
pensions payable under such scheme shall be payable to persons
whilst in Saorstát Eireann, and whereby periods of insurance,
contributions paid, and residence in Saorstát Eireann for the
45 purposes of qualification for pensions under this Act shall, for
the purposes of such scheme be treated as periods of insurance,
contributions paid and residence in such country and whereby
pensions payable under this Act shall be payable to persons whilst
in such country.

50 (2) Provision may, with the consent of the Minister for
Finance, be made by regulations under this Act for directing
that this Act shall, in relation to or in connection with any
persons affected by any arrangements made under this section,
apply subject to such modifications and adaptations as may be
55 prescribed, and provision may be made by such regulations for
any necessary financial adjustments.

62.—(1) Every assignment of or charge on, and every agree- Pensions to be
ment to assign or charge a pension shall be void and on the inalienable.
bankruptcy of any person entitled to a pension the pension shall
60 not pass to any trustee or other person acting on account of the
creditors.

(2) Any sums received by any person by way of a pension
shall not be included in calculating her means for the purposes
of section 6 of the Debtors Act (Ireland), 1872.

63.—Every book, card, order, voucher or other document issued to any person and upon the delivery or production or in respect of the possession of which by such person on or after a date indicated expressly or by implication in such document and subsequent to the issue of such document any pension under this Act is payable to such person shall be deemed, for the purposes of the Pension Books (Prohibition of Alienation) Act, 1932 (No. 1 of 1932), to be a document to which the said last-mentioned Act applies, and the said last-mentioned Act shall be construed and have effect accordingly.

10

64.—(1) If in any respect any difficulty arises in bringing into operation this Act, the Minister, with the consent of the Minister for Finance, may by order do anything which appears to be necessary or expedient for bringing this Act into operation, and any such order may modify the provisions of this Act so far as may appear necessary or expedient for carrying the order into effect.

(2) No order may be made under this section after the 31st day of December, 1936.

65.—(1) The Minister may by order make regulations generally for carrying this Act into effect, and, without prejudice to the generality of the foregoing, in particular—

- (a) for prescribing the manner in which claims to pensions may be made, and the manner in which pensions are to be paid; 25
- (b) for prescribing the procedure to be followed on references under this Act, and for applying for the purposes of any such reference any of the provisions of the Common Law Procedure Amendment Act (Ireland), 1856, and for excluding the application of any of the other provisions of that Act; 30
- (c) for authorising in such cases as may be prescribed the payment of any sum by way of pension during any period intervening between the making of any claim or the referring of any question and the final determination of the claim or question; 35
- (d) for providing for the apportionment as between the National Health Insurance Fund and the Widows' and Orphans' Pensions Fund of sums received on account of contributions; 40
- (e) for enabling in such cases as may be prescribed, contributions in respect of employed persons which have not been paid on the due dates to be treated as having been so paid for the purposes of pensions under this Act; 45
- (f) for enabling a person to be appointed to exercise on behalf of any claimant or person entitled to or in receipt of a pension who is, by reason of any mental or other incapacity, unable to act, any right to which that claimant or person may be entitled under this Act, and to authorise any person so appointed to receive on behalf and for the benefit of the claimant or person any pension; 50

(g) for providing that, notwithstanding anything contained in the provisions of Part IV of this Act relating to time limit for obtaining payments on account of pensions, but subject to the regulations—

5 (i) in the case of the death of a person who was in receipt of a pension, payment may be made of any sum which became payable within three months before the date of his death on account of the pension, but has not been paid; and

10 (ii) in the case of the death of a person who being entitled to a pension had made a claim thereto, payment may be made of any sum which, if his claim had been allowed immediately before his death, would have become payable on account of the pension up to the date of his death; and

15 (iii) in the case of the death of any person who was entitled to a contributory pension but had made no claim thereto, payment may be made of any sum which, if a claim had been made immediately before his death, would have become payable on account of the pension up to the date of his death;

20 (h) for providing that, subject to the regulations, probate or other proof of the title of the personal representatives of the deceased person may be dispensed with in the case of any such sum as is mentioned in the immediately preceding paragraph, and that any such sum may be paid or distributed to or among the persons appearing in manner provided by the regulations to be entitled to receive the said sum or any part thereof, either as being persons beneficially entitled thereto 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 such persons exclusive of the others, or, in the case of any illegitimacy of the deceased person or any child of his, to or among such person or persons as may be directed by the regulations;

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

40 (2) Regulations under this section for prescribing the manner in which pensions are to be paid shall be made with the consent of the Minister for Posts and Telegraphs.

45 (3) Regulations under this section for providing for the apportionment as between the National Health Insurance Fund and the Widows' and Orphans' Pensions Fund of sums received on account of contributions shall be made with the consent of the Minister for Finance.

PART VIII.

AMENDMENTS OF NATIONAL HEALTH INSURANCE ACTS AND OLD AGE PENSIONS ACTS.

50 66.—(1) This Part of this Act shall, in so far as it amends the National Health Insurance Acts, 1911 to 1934, be read with and deemed to be part of those Acts.

Construction and citation of Part VIII.

(2) This Part of this Act shall, in so far as it amends the Old Age Pensions Acts, 1908 to 1932, be read with and deemed to be part of those Acts.

Amendment of section 13 of the National Health Insurance Act, 1918.

67.—(1) Section 13 of the National Health Insurance Act 1918, is hereby amended by the insertion at the end of sub-section (4) thereof of the words "or any period after a person has attained the age of seventy years," and the said section shall be construed and have effect accordingly. 5

(2) This section shall have and be deemed to have had effect as from the coming into force of section 13 of the National Health Insurance Act, 1918. 10

Limited amendment of section 13 of the National Health Insurance Act, 1918.

68.—For the purposes of this Act, but no further or otherwise, the provisions of sub-section (1) of section 13 of the National Health Insurance Act, 1918, as amended by this Act, shall apply and be deemed always to have applied to an insured person under the National Health Insurance Acts, who at the date on which he ceased to be employed was not a member of an approved society or the Unified Society. 15

Further amendment of section 13 of the National Health Insurance Act, 1918.

69.—For the purposes of the National Health Insurance Acts, the provisions of sub-section (1) of section 13 of the National Health Insurance Act, 1918, as amended by this Act, shall apply and be deemed always to have applied to an insured person, within the meaning of the National Health Insurance Acts, who was not a member of an approved society or of the Unified Society, and who at the time of joining the Unified Society proves to the satisfaction of the Unified Society that his normal occupation is employment within the meaning of the National Health Insurance Acts. 20 25

Option to existing voluntary contributors.

70.—(1) Any person who is at the date of the passing of this Act insured under the National Health Insurance Acts as a voluntary contributor, unless before the second appointed day and in the prescribed manner he gives notice to the Minister that he elects to become an insured person under this Act, shall cease as from the second appointed day to be entitled to pay contributions under the National Health Insurance Acts as a voluntary contributor, and as from the second appointed day shall be deemed not to be an insured person for the purposes of this Act. 30 35

(2) Sub-sections (3) and (4) of section 13 of the National Health Insurance Act, 1918, shall, in relation to any person who by virtue of sub-section (1) of this section ceases to be entitled to pay contributions under the National Health Insurance Acts as a voluntary contributor, have effect as if for references therein to twelve months there were substituted references to twenty-four months. 40

Extension of class of persons who may become voluntary contributors.

71.—(1) Where any person who has been employed in an excepted employment to which this Act applies (not being a married woman) ceases after the date of the passing of this Act to be so employed, such person may, subject to the prescribed conditions, become a voluntary contributor under the National Health Insurance Acts. 45 50

(2) Where a man who is not an insured person marries a woman who is an insured person by or in respect of whom one hundred and four contributions have been paid under this Act, he may, if he gives notice within the prescribed time after the marriage and in the prescribed manner, become a voluntary contributor under the National Health Insurance Acts. 55

72.—Where the number of contributions calculated in the prescribed manner paid or deemed in accordance with regulations made under this Act to have been paid for any contribution year (whether paid within that year or within such period after the expiration of that year as may be prescribed) by a person insured as a voluntary contributor under the National Health Insurance Acts is less than thirty-nine, or where the number of contributions so paid or deemed to have been paid for any two consecutive contribution years represent on the average less than forty-five contributions in respect of each of those years, that person shall as from the expiration of the prescribed period cease to be entitled to pay contributions as a voluntary contributor and as from that date shall be deemed not to be an insured person for the purposes of this Act.

Cesser of right to pay contributions as a voluntary contributor.

73.—There shall be included amongst the returns which the Unified Society may be required to make under sub-section (1) of section 35 of the National Insurance Act, 1911, such particulars with respect to the insurance under the National Health Insurance Acts of any person who was a member of an approved society or who is or was a member of the Unified Society as the Minister may require for the purposes of this Act, and the provisions of the said section shall apply accordingly, and there shall be paid to the Unified Society such sums as may, subject to the consent of the Minister for Finance, be prescribed, and the sums so paid shall be treated as part of the administrative expenses of this Act.

Returns by the Unified Society.

74.—Where—

(a) the employer of an insured person, within the meaning of the National Health Insurance Acts or this Act, is charged with an offence in relation to payment of contributions due by him under the said Acts or this Act, and

Application of Probation of Offenders' Act, 1907.

(b) The Court proposes to make an order under sub-section (1) of section 1 of the Probation of Offenders' Act, 1907,

the Court shall not make such Order until it is satisfied that all arrears in respect of such contributions have been paid by such employer.

75.—Where—

(a) a woman is in receipt of a widow's (contributory) pension at the date on which she attains the age of seventy years, or

Amendment of Old Age Pensions Acts, 1908 to 1932, in relation to certain widows.

(b) a woman, who is over the age of seventy years at the date of the death of her husband, would, if she had been under the said age at the said date, have become entitled to a widow's (contributory) pension,

such woman shall be entitled to an old age pension under the Old Age Pensions Acts, 1908 to 1932, at the rate of ten shillings per week notwithstanding that her yearly means exceed the amount entitling her to a pension at that rate.

FIRST SCHEDULE.

RULES FOR DETERMINING NET WEEKLY MEANS OF WIDOWS AND ORPHANS FOR THE PURPOSES OF PART III OF THIS ACT.

1.—(1) In the calculation of the annual means of a person for the purpose of this Schedule the following things and no others shall be deemed to constitute the means of such person, that is to say:—

Annual means.

(a) the yearly value ascertained in the prescribed manner of all property belonging to such person (not being property personally used or enjoyed by him) which is invested or is otherwise put to profitable use or is capable of being but is not invested or put to profitable use;

- (b) all income (in this Schedule referred to as annual earned income) which such person received during the year immediately preceding the date of calculation under the following heads:—
- (i) the net cash value of any income derived from the personal exertions of such person, 5
 - (ii) any moneys received by way of sickness or disablement benefit under the National Health Insurance Acts or from a friendly society or a trade union, 10
 - (iii) any moneys received by way of unemployment benefit under the Unemployment Insurance Acts, 1920 to 1933;

(c) all income which such person may reasonably expect to receive during the succeeding year in cash, but 15 excluding—

- (i) any income or money coming under any other paragraph of this Rule,
- (ii) the net cash value of any income derived from the personal exertions of such person, 20
- (iii) any moneys received by way of sickness or disablement benefit under the National Health Insurance Acts, or from a friendly society or a trade union,
- (iv) any moneys received by way of unemployment benefit under the Unemployment Insurance Acts, 1920 to 1933, 25
- (v) any moneys received by way of pension under this Act;

(d) the yearly value ascertained in the prescribed manner of any advantage accruing to such person from the use of property (other than furniture and personal effects) which is personally used or enjoyed by such person; 30

(e) all income and the yearly value ascertained in the prescribed manner of all property of which such person has directly or indirectly deprived herself in order to qualify herself for the receipt of a widow's (non-contributory) pension. 35

(2) For the purposes of paragraph (c) of the immediately preceding sub-rule, the income of a person shall, in the absence of other means for ascertaining it, be taken to be the income actually received during the year immediately preceding the date of calculation. 40

Weekly means
and weekly
earned means.

2.—(1) For the purposes of these Rules— 45

(a) the weekly means of a person shall be the annual means of such persons calculated under Rule 1 of this Schedule divided by fifty-two;

(b) the weekly earned means of a person shall be the annual earned income of such person divided by fifty-two. 50

(2) For the purposes of this Rule—

(a) the annual means of a widow who has any child or children under the appointed age shall be deemed to include the annual means (if any) of such child or children; 55

(b) the earned means of a widow who has any child or children under the appointed age shall be deemed to include the annual earned income (if any) of such child or children.

(3) References in this and the next following Rule to the child or children of a widow shall be construed as references to the child or children (as the case may be) of the man who was the husband of such widow. 60

3.—In this Schedule the expression “ the appropriate sum ” means— The appropriate sum in relation to a widow.

- 5 (1) in relation to a widow who has no children under the appointed age or a widow whose weekly means are neither wholly nor partly earned weekly means—
 - (a) if she resides in a county borough ... 5s. 0d.
 - (b) if she resides in an urban area ... 4s. 0d.
 - (c) if she resides in a rural area ... 3s. 0d.
- 10 (2) in relation to a widow whose weekly means are wholly earned weekly means and who has three or more children under the appointed age—
 - (a) if she resides in a county borough ... 12s. 6d.
 - (b) if she resides in an urban area ... 10s. 9d.
 - (c) if she resides in a rural area ... 9s. 0d.
- 15 (3) in relation to a widow whose weekly means are wholly earned weekly means and who has two children only under the appointed age—
 - (a) if she resides in a county borough ... 10s. 0d.
 - (b) if she resides in an urban area ... 8s. 6d.
 - 20 (c) if she resides in a rural area ... 7s. 0d.
- (4) in relation to a widow whose weekly means are wholly earned weekly means and who has one child only under the appointed age—
 - (a) if she resides in a county borough ... 7s. 6d.
 - 25 (b) if she resides in an urban area ... 6s. 3d.
 - (c) if she resides in a rural area ... 5s. 0d.
- (5) in relation to a widow whose weekly means are partly earned weekly means and who has three or more children under the appointed age—
 - 30 (a) if she resides in a county borough—
 - (i) 5s. and
 - (ii) in case her said earned weekly means are less than 7s. 6d. her said earned weekly means or, in any other case, 7s. 6d.,
 - 35 (b) if she resides in an urban area—
 - (i) 4s. and
 - (ii) in case her said weekly earned means are less than 6s. 9d. her said earned weekly means or, in any other case, 6s. 9d.,
 - 40 (c) if she resides in a rural area—
 - (i) 3s. and
 - (ii) in case her said earned weekly means are less than 6s. her said earned weekly means or, in any other case, 6s.,

(6) in relation to a widow whose weekly means are partly earned weekly means and who has two children only under the appointed age—

(a) if she resides in a county borough—

(i) 5s. and

5

(ii) in case her said earned weekly means are less than 5s. her said earned weekly means or, in any other case, 5s.,

(b) if she resides in an urban area—

(i) 4s. and

10

(ii) in case her said earned weekly means are less than 4s. 6d. her said earned weekly means or, in any other case, 4s. 6d.,

(c) if she resides in a rural area—

(i) 3s. and

15

(ii) in case her said earned weekly means are less than 4s. her said earned weekly means or, in any other case, 4s.,

(7) in relation to a widow whose weekly means are partly earned weekly means and who has one child only under the appointed age—

(a) if she resides in a county borough—

(i) 5s. and

(ii) in case her said earned weekly means are less than 2s. 6d. her said earned weekly means or, in any other case, 2s. 6d.,

(b) if she resides in an urban area—

(i) 4s. and

(ii) in case her said earned weekly means are less than 2s. 3d. her said earned weekly means or, in any other case, 2s. 3d.,

(c) if she resides in a rural area—

(i) 3s. and

(ii) in case her said earned weekly means are less than 2s. her said earned weekly means or, in any other case, 2s.

The appropriate sum in relation to an orphan child.

Net weekly means.

4.—In this Schedule the expression “ the appropriate sum ” in relation to an orphan child means three shillings.

5.—(1) Where the weekly means of a person are equal to or less than the appropriate sum, the net weekly means of such person shall for the purposes of this Act be nil.

(2) Where the weekly means of a person exceed the appropriate sum, the net weekly means of such person shall for the purposes of this Act be the excess.

SECOND SCHEDULE.

RATES OF CONTRIBUTIONS.

PART I.

ORDINARY RATES.

	Rate of Contribution per Week	Payable in Case of Employed Persons	
		By the Employer	By the Employed Person
Contributions in case of men	8d.	4d.	4d.
Contributions in case of women 	4d.	4d.	Nil.

PART II.

RATES APPLICABLE IN THE CASE OF PERSONS ENGAGED IN AGRICULTURAL EMPLOYMENT DURING THE PERIOD OF FIVE YEARS COMMENCING ON THE SECOND APPOINTED DAY.

	Rate of Contribution per Week	Payable in Case of Employed Persons	
		By the Employer	By the Employed Person
Contributions in case of men	4d.	2d.	2d.
Contributions in case of women 	2d.	2d.	Nil.

BILLE UM PINSIN DO BHAINTREACHA
AGUS DO DHILLEACHTAITHE, 1935.

WIDOWS' AND ORPHANS' PENSIONS
BILL, 1935.

BILLE

dá ngairmtear

Acht chun socruithe do dhéanamh i dtaobh pinsean do bhaintreacha agus dílleachtaithe áirithe agus i dtaobh síntiúisí d'íoc mar chabhair chun na bpinsean san, agus chun socruithe do dhéanamh i dtaobh nithe iomdha bhaineas leis na nithe roimhraithe agus ar a n-áirmhítear na hAchtanna um Arachas Sláinte Náisiúnta, 1911 go 1934, agus Achtanna na bPinsean Sean-Aoise, 1908 go 1932, do leasú.

An Act to make provision for pensions for certain widows and orphans, and for the payment of contributions towards such pensions, and to make provision for divers matters connected with the matters aforesaid, including the amendment of the National Health Insurance Acts, 1911 to 1934, and the Old Age Pensions Acts, 1908 to 1932.

*Rithte ag dhá Thigh an Oireachtais,
31adh Iúl, 1935.*

*Passed by both Houses of the Oireachtas,
31st July, 1935.*

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