



AN BILLE LEASA SHÓISIALAIGH (UIMH. 2), 1987
SOCIAL WELFARE (NO. 2) BILL, 1987

Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
 2. Notification by employer of commencement of employment.
 3. Employers to furnish particulars of employees to determine claim to benefit.
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 5. Production of records by employers for inspection.
 6. Payment of contributions and keeping of records.
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 8. Duration of payment of disability benefit.
 9. Contribution conditions for invalidity pension.
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 11. Entitlement to pay-related benefit.
 12. Weekly rate of maternity allowance.
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 14. Adjudications by Social Welfare Tribunal.
 15. Amendment of section 2 of Principal Act (interpretation generally).
 16. Amendment of section 18 of Principal Act (entitlement to disability benefit).
 17. Amendment of section 125 of Principal Act (payments after death).
 18. Amendment to Rule 1 of Third Schedule to Principal Act (rules as to calculation of means).
 19. Short title, construction and collective citation.
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ACTS REFERRED TO

Industrial Training Act, 1967	1967, No. 5
Health Act, 1947	1947, No. 28
Health Act, 1970	1970, No. 1
Social Welfare (Consolidation) Act, 1981	1981, No. 1
Social Welfare (Amendment) Act, 1981	1981, No. 3
Social Welfare (No. 2) Act, 1982	1982, No. 23
Social Welfare Act, 1983	1983, No. 6
Social Welfare Act, 1985	1985, No. 5
Social Welfare (No. 2) Act, 1985	1985, No. 14
Social Welfare Act, 1986	1986, No. 8
Social Welfare Act, 1987	1987, No. 2



AN BILLE LEASA SHÓISIALAIGH (UIMH. 2), 1987
SOCIAL WELFARE (NO. 2) BILL, 1987

BILL

entitled

5 AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE
ACTS, 1981 TO 1987.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“the Act of 1981” means the Social Welfare (Amendment) Act, 1981;

10 “the No. 2 Act of 1982” means the Social Welfare (No. 2) Act, 1982;

“the Act of 1983” means the Social Welfare Act, 1983;

“the Act of 1985” means the Social Welfare Act, 1985;

“the No. 2 Act of 1985” means the Social Welfare (No. 2) Act, 1985;

“the Act of 1986” means the Social Welfare Act, 1986;

15 “the Act of 1987” means the Social Welfare Act, 1987;

“the Principal Act” means the Social Welfare (Consolidation) Act,
1981.

2.—The Principal Act is hereby amended by the insertion after
section 15 of the following section:

Notification by
employer of
commencement of
employment.

20 “15A.—(1) The Minister may require an employer to notify
him of the date of commencement of the employment of any
person in his employment.

25 (2) The circumstances in which notification may be required
under *subsection (1)* and the manner of that notification shall be
prescribed in regulations.

(3) A person who fails to comply with this section or regu-
lations made hereunder shall be guilty of an offence and shall be
liable—

30 (a) on summary conviction to a fine not exceeding £1,000
or (at the discretion of the court) to imprisonment
for a term not exceeding one year, or to both such
fine and such imprisonment, or

- (b) on conviction on indictment, to a fine not exceeding £10,000 or (at the discretion of the court) to imprisonment for a term not exceeding three years, or to both such fine and such imprisonment.”.

Employers to furnish particulars of employees to determine claim to benefit.

3.—The Principal Act is hereby amended by the insertion after section 112 of the following section: 5

“112A.—(1) An employer shall furnish to the Minister in writing in respect of any person who is or was in his employment such details, including periods of employment, as are required by the Minister to enable determination or review of a claim to any benefit by or in respect of that person. 10

(2) Regulations may specify the details which an employer shall furnish under *subsection (1)* and prescribe the manner in which such details shall be so furnished.

(3) A person who fails to comply with this section or regulations made hereunder shall be guilty of an offence and shall be liable— 15

(a) on summary conviction to a fine not exceeding £1,000 or (at the discretion of the court) to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment, or 20

(b) on conviction on indictment, to a fine not exceeding £10,000 or (at the discretion of the court) to imprisonment for a term not exceeding three years, or to both such fine and such imprisonment.”.

Employers to furnish particulars of employees to determine claim to assistance.

4.—The Principal Act is hereby amended by the insertion after section 143A (inserted by section 13 of the Act of 1985 and amended by section 16 of the Act of 1986) of the following section: 25

“143B.—(1) An employer shall furnish to the Minister in writing in respect of any person who is or was in his employment such details, including periods of employment, as are required by the Minister to enable determination or review of a claim to any assistance by or in respect of that person. 30

(2) Regulations may specify the details which an employer shall furnish under *subsection (1)* and prescribe the manner in which such details shall be so furnished. 35

(3) A person who fails to comply with this section or regulations made hereunder shall be guilty of an offence and shall be liable—

(a) on summary conviction to a fine not exceeding £1,000 or (at the discretion of the court) to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment, or 40

(b) on conviction on indictment, to a fine not exceeding

£10,000 or (at the discretion of the court) to imprisonment for a term not exceeding three years, or to both such fine and such imprisonment.”.

5 5.—The Principal Act is hereby amended by the insertion after section 114 of the following section:

Production of records by employers for inspection.

“114A.—(1) Where a person is required by section 114 (3) to produce records required under regulations made under section 15 (5) he shall produce such records at his registered address or his principal place of business as an inspector may require.

10 (2) A person who fails to comply with subsection (1) as soon as may be following the issue of a written demand sent by registered post to him at his registered address or his principal place of business shall be guilty of an offence and shall be liable—

15 (a) on summary conviction to a fine not exceeding £1,000 or (at the discretion of the court) to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment, or

20 (b) on conviction on indictment, to a fine not exceeding £10,000 or (at the discretion of the court) to imprisonment for a term not exceeding three years, or to both such fine and such imprisonment.”.

6.—Section 15 of the Principal Act is hereby amended by the insertion after subsection (6) of the following subsections:

Payment of contributions and keeping of records.

25 “(7) Where records are required to be kept by employers under regulations made under *subsection (5)* in so far as they relate to the recording of payment of earnings and the periods to which such earnings refer such records shall be recorded at or before the time of payment of such earnings.

30 (8) A person who fails to comply with subsection (7) shall be guilty of an offence and shall be liable—

(a) on summary conviction to a fine not exceeding £1,000 or (at the discretion of the court) to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment, or

35 (b) on conviction on indictment, to a fine not exceeding £10,000 or (at the discretion of the court) to imprisonment for a term not exceeding three years, or to both such fine and such imprisonment.”.

40 7.—Section 114 of the Principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

Inspections.

45 “(6) The premises and places liable to inspection under this section are any premises or places where an inspector has reasonable grounds for believing that any persons are or have been employed or self-employed and any premises or places where an inspector has reasonable grounds for believing that any documents relating to employed persons or to self-employed persons are kept.”.

Duration of payment of disability benefit.

8.—(1) Section 22 of the Principal Act is hereby amended by the substitution in subsection (1) (a) for “208 contribution weeks” (inserted by section 8 of the Act of 1987) of “260 contribution weeks”.

(2) *Subsection (1)* of this section shall not apply to any period of entitlement to disability benefit greater than 312 days where such period commenced before the 4th day of January, 1988. 5

(3) *Subsection (2)* of this section and section 8 (6) (b) of the Act of 1987 shall not apply to any claim for disability benefit where the period of incapacity for work commences on or after the 4th day of July, 1988. 10

Contribution conditions for invalidity pension.

9.—(1) Section 89 of the Principal Act is hereby amended by the substitution in subsection (1) (a) for “208 contribution weeks” (inserted by section 8 of the Act of 1987) of “260 contribution weeks”.

(2) *Subsection (1)* of this section shall not apply to persons in receipt of invalidity pension or to persons in receipt of disability benefit for a period greater than 312 days where such period commenced before the 4th day of January, 1988. 15

(3) *Subsection (2)* of this section and section 8 (6) (e) of the Act of 1987 shall not apply to any claim for invalidity pension where the period of incapacity for work commences on or after the 7th day of July, 1988. 20

Contribution conditions for receipt of maternity allowance.

10.—(1) Section 25 of the Principal Act is hereby amended by the substitution for subsection (1) (inserted by section 10 of the Act of 1981 and amended by section 8 of the Act of 1987) of the following subsections: 25

“(1) The contribution conditions for maternity allowance payable under section 24 (2) (a) are—

(a) (i) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with her entry into insurance and ending immediately before the relevant time, and 30

(ii) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the last complete contribution year before the beginning of the benefit year in which the relevant time occurs or in a subsequent complete contribution year before the relevant time; or 35

(b) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the 12 months immediately preceding the first day of the period of maternity leave. 40

In paragraph (a) ‘relevant time’ means the first day of maternity leave. 45

(1A) The contribution conditions for maternity allowance payable under section 24 (2) (b) are—

(a) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period

beginning with her entry into insurance and ending immediately before the relevant time, and

5 (b) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks, of which at least 13 must be qualifying contributions, in the last complete contribution year before the beginning of the benefit year in which the relevant time occurs.

10 In paragraphs (a) and (b) 'relevant time' means the date of commencement of the 6th week before the end of the expected week of confinement."

(2) This section shall not apply to any entitlement to maternity allowance commencing before the 4th day of January, 1988.

15 11.—(1) Section 72 of the Principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) (inserted by section 8 of the Act of 1983 and amended by section 11 of the Act of 1986) of the following paragraph: Entitlement to pay-related benefit.

20 "(a) is a day of incapacity for work which forms part of a period of interruption of employment and in respect of which the person is entitled to disability benefit or in respect of which the person would be entitled to disability benefit but for the fact that injury benefit is payable to the person under Chapter 5 in respect of that day, or".

25 (2) This section shall not apply in respect of any claim for maternity allowance under section 24 (2) (b) (inserted by section 9 of the Act of 1981) of the Principal Act which commences prior to the 4th day of April, 1988.

30 12.—Section 26B (inserted by section 11 of the Act of 1986) of the Principal Act is hereby amended by the substitution for subsection (4) of the following subsection: Weekly rate of maternity allowance.

"(4) In this section 'reckonable weekly earnings' means the average amount of reckonable earnings received in a week up to such limit as stands prescribed for the purpose of section 73."

35 13.—(1) Section 35 of the Principal Act (which relates to disqualification for receiving unemployment benefit) is hereby amended by the substitution for the proviso in subsection (1) of the following proviso: Persons affected by trade disputes.

40 "Provided that the foregoing provisions of this subsection shall not apply to a person who is not participating in or directly interested in the trade dispute which caused the stoppage of work."

45 (2) Section 142 of the Principal Act (which relates to disqualification for receiving unemployment assistance) is hereby amended by the substitution for paragraph (b) of subsection (3) of the following paragraph:

"(b) Paragraph (a) shall not apply to a person who is not participating in or directly interested in the trade dispute which caused the stoppage of work."

50 (3) Section 203 of the Principal Act (which relates to the disregarding of needs for the purposes of ascertaining entitlement to

supplementary welfare allowance) is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) shall not apply to any person who is not participating in or directly interested in the trade dispute which caused the stoppage of work.”

5

(4) This section shall come into operation on the 1st day of January, 1988.

Adjudications by
Social Welfare
Tribunal.

14.—(1) Section 301A (2) (inserted by section 1 of the No. 2 Act of 1982) of the Principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

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“(c) a decision of the Tribunal on an application for an adjudication shall be final and conclusive, but an appeal shall lie to the High Court on a question of law:

· Provided that a person interested (including the Minister) may apply to the Tribunal for a review of its decision and, if the Tribunal is satisfied that a material change has occurred in the circumstances of the stoppage of work or of the trade dispute which caused the stoppage of work, or that there is new evidence or new facts which in the opinion of the Tribunal could have affected its decision, it may review its decision and such a review shall be treated as an adjudication under this section.”

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(2) This section shall not apply to adjudications made by the Tribunal prior to the 1st day of January, 1988.

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Amendment of
section 2 of
Principal Act
(interpretation
generally).

15.—(1) Section 2 of the Principal Act is hereby amended by the insertion in subsection (1) (inserted by section 3 of the No. 2 Act of 1985) in the definition of “adult dependant” after paragraph (a) (iii) of the following subparagraphs:

“(iv) a spouse who, by virtue of the provisions of section 35 (1) or 142 (3), is or would be disqualified for receiving unemployment benefit payable under Chapter 4 of Part II or unemployment assistance payable under Chapter 2 of Part III in his or her own right with the exception of a spouse who qualifies as an adult dependant by virtue of regulations made under section 3,

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or

(v) a spouse who is entitled to or is in receipt of an allowance the rate of which is related to the rates of unemployment assistance payable under section 139 or unemployment benefit payable under section 31 or 32 in respect of a non-craft full-time training course approved by An Chomhairle Oiliúna under the Industrial Training Act, 1967,

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or”.

(2) This section shall not apply to any entitlement to an increase

in respect of any claim for benefit, pension, assistance or allowance which includes an increase for an adult dependant and which commences prior to the 1st day of January, 1988.

16.—(1) Section 18 of the Principal Act is hereby amended by—

Amendment of section 18 of Principal Act (entitlement to disability benefit).

5 (a) the insertion after subsection (4) (f) (inserted by section 10 of the Act of 1986) of the following paragraph:

10 “(g) any two periods of incapacity for work separated by a period in respect of which an insured person is being paid by his employer in respect of holiday leave shall be treated as one period of incapacity for work.”,

and

(b) the insertion after subsection (6) of the following subsection:

15 “(7) A person who was in receipt of maternity allowance under section 24 on any of the three days prior to the day in respect of which a claim for disability benefit is made shall not be entitled to disability benefit for the first three days of incapacity for work in respect of such claim.”.

20 (2) Subsection (1) (b) of this section shall come into operation on the 4th day of April, 1988.

17.—(1) Section 125 of the Principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

Amendment of section 125 of Principal Act (payments after death).

25 “(a) where a person who is in receipt of benefit which includes an increase in respect of an adult dependant dies, payment of the benefit shall continue to be made for a period of 6 weeks after the date of death and shall during that period be made to such person and subject to such conditions as may be prescribed, and ”.

30 (2) This section shall not apply in any case where the date of death occurs prior to the 1st day of January, 1988.

18.—The Third Schedule to the Principal Act is hereby amended by the substitution for subparagraph (e) of paragraph (4) of rule 1 of the following subparagraph:

Amendment to Rule 1 of Third Schedule to Principal Act (rules as to calculation of means).

35 “(e) any income arising by way of—

(i) payments under section 44 of the Health Act, 1947, by a health board to or in respect of the person or the person’s dependants,

40 (ii) payments on foot of a maintenance allowance under section 69 of the Health Act, 1970, to the person or,

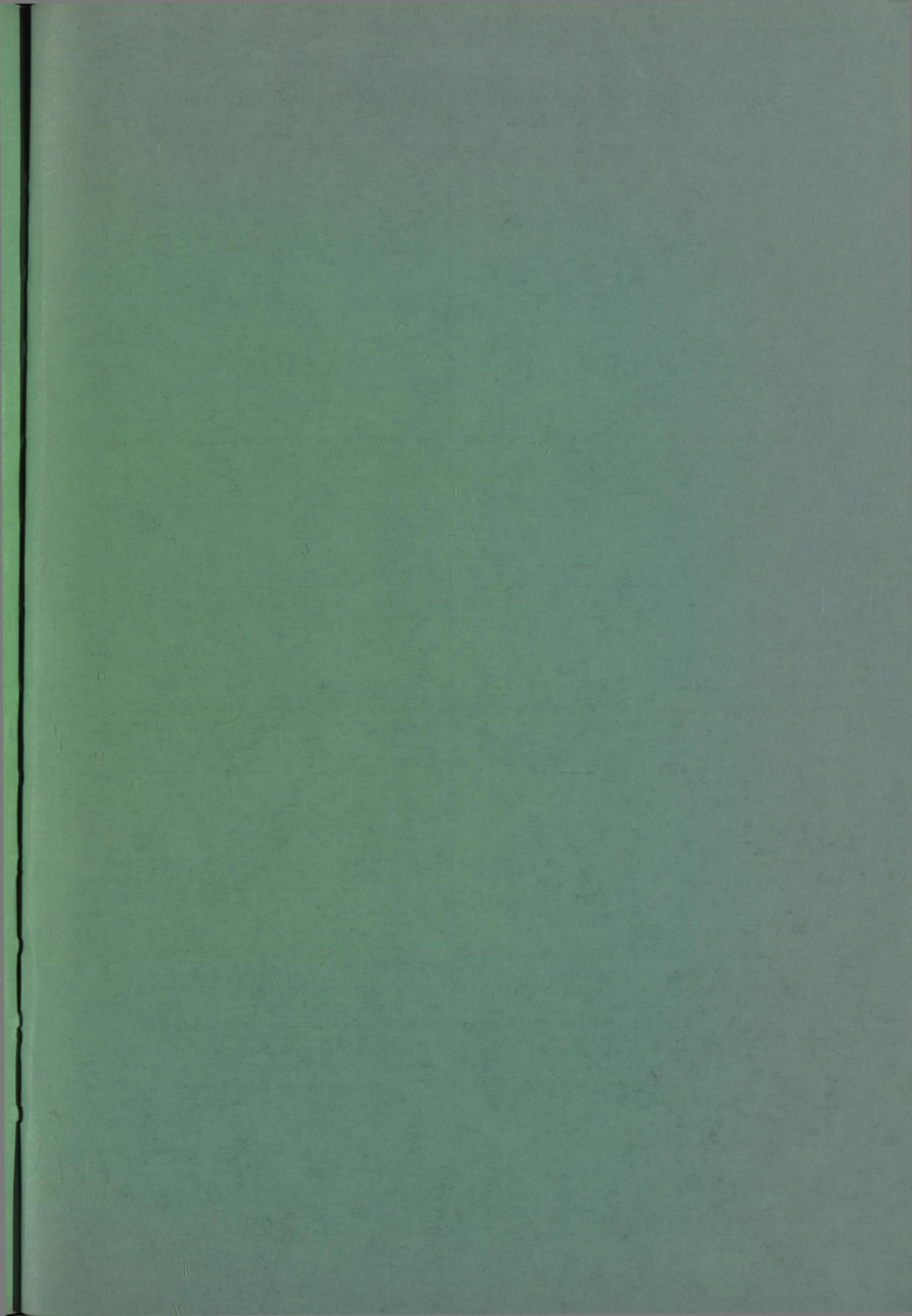
(iii) a mobility allowance payable under section 61 of the Health Act, 1970, to the person.”.

Short title,
construction and
collective citation.

19.—(1) This Act may be cited as the Social Welfare (No. 2) Act, 1987.

(2) The Social Welfare Acts, 1981 to 1987, and this Act shall be construed as one.

(3) The collective citation "the Social Welfare Acts, 1981 to 1987" shall include this Act.



AN BILLE LEASA SHÓISIALAIGH
(UIMH. 2), 1987

SOCIAL WELFARE (NO. 2) BILL, 1987

BILLE

dá ngairtear

Acht do leasú agus do leathnú na nAchtanna
Leasa Shóisialaigh, 1981 go 1987.

BILL

entitled

An Act to amend and extend the Social Welfare
Acts, 1981 to 1987.

*Ritheadh ag dhá Theach on Oireachtais,
17 Nollaig, 1987*

*Passed by both Houses of the Oireachtas,
17th December, 1987*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN ISOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
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