



AN BILLE LEASA SHÓISIALAIGH, 1988
SOCIAL WELFARE BILL, 1988

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As initiated

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AN BILLE LEASA SHÓISIALAIGH, 1988
SOCIAL WELFARE BILL, 1988

BILL

entitled

5 AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE
ACTS, 1981 TO 1987, AND THE EMPLOYERS' EMPLOY-
MENT CONTRIBUTION SCHEME ACT, 1981.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

10 PRELIMINARY

1.—(1) This Act may be cited as the Social Welfare Act, 1988.

Short title,
construction and
collective citation.

(2) The Social Welfare Acts, 1981 to 1987, and this Act (other than
section 27) shall be construed as one.

(3) The Social Welfare Acts 1981 to 1987, and this Act (other than
15 *section 27*) may be cited together as the Social Welfare Acts, 1981 to
1988.

(4) *Section 27* of this Act and the Employers' Employment Con-
tribution Scheme Act, 1981, may be cited together as the Employers'
Employment Contribution Scheme Acts, 1981 and 1988.

20 2.—(1) In this Act—

Definitions.

"the Act of 1985" means the Social Welfare Act, 1985;

"the Act of 1986" means the Social Welfare Act, 1986;

"the Act of 1987" means the Social Welfare Act, 1987;

"the Income Tax Acts" has the meaning assigned to it by section 3
25 of the Income Tax Act, 1967;

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

(2) References in this Act to any enactment shall be construed as
references to that enactment as amended or extended by any sub-
30 sequent enactment.

PART II

INCREASES

Social insurance
benefits (new rates).

3.—(1) The Principal Act is hereby amended by the substitution for Parts I to IV (inserted by section 2 of the Act of 1987) of the Second Schedule thereto of the Parts set out in *Schedule A* to this Act. 5

(2) This section shall come into operation—

- (a) in so far as it relates to unemployment benefit, on the 21st day of July, 1988,
- (b) in so far as it relates to disability benefit, maternity allowance, injury benefit, disablement gratuity and disablement pension, on the 25th day of July, 1988, 10
- (c) in so far as it relates to deserted wife's benefit, invalidity pension and retirement pension, on the 28th day of July, 1988, and 15
- (d) in so far as it relates to death benefit under section 50, 51 or 52 of the Principal Act, old age (contributory) pension, widow's (contributory) pension and orphan's (contributory) allowance, on the 29th day of July, 1988.

Social assistance
payments (new
rates).

4.—(1) The Principal Act is hereby amended by the substitution for Parts I and III (inserted by section 3 of the Act of 1987) of the Fourth Schedule thereto of the Parts set out in *Schedule B* to this Act. 20

(2) This section shall come into operation—

- (a) in so far as it relates to unemployment assistance, on the 20th day of July, 1988, 25
- (b) in so far as it relates to deserted wife's allowance, prisoner's wife's allowance, social assistance allowance and single woman's allowance, on the 28th day of July, 1988,
- (c) in so far as it relates to old age pension, blind pension, widow's (non-contributory) pension and orphan's (non-contributory) pension, on the 29th day of July, 1988, and 30
- (d) in so far as it relates to supplementary welfare allowance, on the 25th day of July, 1988.

Family Income
Supplement.

5.—(1) Section 232B (inserted by section 13 of the Social Welfare Act, 1984) of the Principal Act is hereby amended by— 35

- (a) the substitution in paragraph (a) for "£104" (inserted by section 4 of the Act of 1987) of "£108", and
- (b) the substitution in paragraph (b) for "£104" (inserted by the said section 4) of "£108" and for "£22" (inserted by the said section 4) of "£23". 40

(2) This section shall apply to any claim for family income supplement which is received on or after the 28th day of July, 1988.

6.—(1) Section 10 (1) of the Principal Act is hereby amended by the substitution for paragraph (c) (inserted by section 5 of the Act of 1987) of the following paragraph:

Pay-related social insurance contributions (increase in earnings ceiling).

5 “(c) Where in a particular contribution year an employed contributor’s reckonable earnings have amounted to the sum of £16,200 and contributions under paragraph (b) have been paid in respect of those reckonable earnings, no further such contribution shall be payable in respect of any reckonable earnings of that
10 employed contributor in that contribution year.”.

(2) This section shall come into operation on the 6th day of April, 1988.

7.—(1) Section 65 of the Principal Act is hereby amended by the substitution in paragraphs (a) (ii) and (b) of subsection (2) for “0.43
15 per cent.” (inserted by section 7 of the Act of 1986) of “0.5 per cent.”.

Employment contributions.

(2) This section shall come into operation on the 6th day of April, 1988.

8.—(1) Section 73 (inserted by section 7 of the Act of 1987) of the Principal Act is hereby amended by the substitution for “£62” of
20 “£66”.

Pay-related benefit.

(2) This section shall have effect in relation to any period of interruption of employment commencing on or after the 4th day of April, 1988.

9.—Section 15 (1) of the Principal Act is hereby amended by the
25 insertion after paragraph (c) of the following paragraph:

Amendment of section 15 of Principal Act (regulations for contributions, etc.).

“(cc) the waiving of interest due on arrears of employment contributions.”.

PART III

SOCIAL INSURANCE FOR THE SELF-EMPLOYED

30 10.—Section 2 (1) of the Principal Act is hereby amended—

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

(a) by the deletion of the definition of “qualifying contribution”,
and

(b) by the insertion of the following definitions:

35 “‘insurable self-employment’ means self-employment of such a nature that a person engaged therein would be a self-employed contributor;

40 “‘qualifying contribution’ means the appropriate employment contribution or self-employment contribution which was paid or would have been paid but for section 10 (1) (c) or section 17C (d) in respect of any insured person;

“‘reckonable emoluments’, in relation to a self-employed contributor, means emoluments (other than reckonable earnings, non-pecuniary emoluments and such other emoluments as may

20 be prescribed) to which Chapter IV of Part V of the Income
Tax Act, 1967, applies, reduced by so much of the allowable
contribution referred to in regulations 59 and 60 of the Income
Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960)
(inserted by the Income Tax (Employments) Regulations, 1972 5
(S.I. No. 260 of 1972)) as is deducted on payment of those
emoluments;

25 'reckonable income', in relation to a self-employed con-
tributor, means the aggregate income (excluding reckonable
earnings, reckonable emoluments, non-pecuniary income and 10
such other income as may be prescribed), from all sources for
the contribution year as estimated in accordance with the pro-
visions of the Income Tax Acts, but without regard (save in the
case of a person to whom paragraph 1 of Part IIA of the First
Schedule applies) to Chapter 1 (inserted by the Finance Act, 15
1980) of Part IX of the Income Tax Act, 1967, after deducting
from the income so much of any deduction allowed by virtue of
the provisions referred to in section 33 of the Finance Act, 1975,
as is to be deducted from or set off against that income in charging
it to income tax; 20

'self-employed contributor' has the meaning assigned in section
17A;

'self-employment contribution' has the meaning assigned in
section 17B."

Insertion of
Chapter 1A in Part
II of Principal Act.

11.—The Principal Act is hereby amended by the insertion in Part 25
II after Chapter 1 of the following Chapter:

"Chapter 1A

INSURED PERSONS, SELF- EMPLOYMENT CONTRIBUTIONS

Self-employed
contributors.

17A.—(1) Subject to this Act— 30

- (a) every person who, being over the age of
16 years and under pensionable age
(not being a person included in any of
the classes of person specified in Part
IIA of the First Schedule) who has 35
reckonable income or reckonable
emoluments shall be a self-employed
contributor for the purposes of this
Act, regardless of whether he is also
an employed contributor, 40
- (b) every person becoming for the first time
either an employed contributor or a
self-employed contributor shall ther-
eby become insured under this Act and
shall thereafter continue throughout 45
his life to be so insured, and
- (c) in the case of a person who, not having
been an employed contributor at any
time, becomes for the first time a self-
employed contributor the first day of 50
the contribution year in which he
becomes a self-employed contributor
shall be regarded as the date of entry
into insurance.

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(2) Subject to this Act, where a person ceases to be a self-employed contributor otherwise than by reason of attaining pensionable age and has qualifying contributions in respect of not less than 156 contribution weeks, he shall, on making application in the prescribed manner and within the prescribed period, be entitled to become an insured person paying contributions under this Act voluntarily (in this Act referred to as a voluntary contributor).

(3) A voluntary contributor shall if he becomes a self-employed contributor cease to be a voluntary contributor.

(4) Regulations may provide for—

(a) including among self-employed contributors classes of person or part of any such class of person specified in or included in Part IIA of the First Schedule,

(b) adding to the classes of person specified in Part IIA of the First Schedule,

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

(5) Where regulations are proposed to be made for the purposes of subsection (4), a draft thereof shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.

(6) Subsection (1) shall come into operation on 6th April, 1988.

Payment of contributions into Social Insurance Fund.

17B.—(1) For the purposes of section 9 there shall, in addition to the contributions provided for by that section, be contributions (in this Act referred to as self-employment contributions) in respect of self-employed contributors.

(2) Self-employment contributions shall be paid into the Social Insurance Fund.

Rates of self-employment contributions and related matters.

17C.—Self-employment contributions shall be paid by self-employed contributors in accordance with the following provisions:

(a) Subject to paragraphs (b), (d) and (j), where in any contribution year a self-employed contributor has reckonable income there shall be payable by him a self-employment contribution which shall—

(i) with effect from 6th April, 1988, be of an amount equal to 3 per

cent. of the reckonable income or the amount of £208, whichever is the greater,

(ii) with effect from 6th April, 1989, be of an amount equal to 4 per cent. of the reckonable income or the amount of £208, whichever is the greater, 5

(iii) with effect from 6th April, 1990, be of an amount equal to 5 per cent. of the reckonable income or the amount of £208, whichever is the greater. 10

(b) Where for any contribution year a self-employed contributor is informed by the Revenue Commissioners that he is not required to make a return of income within the meaning of section 48 (1) of the Finance Act, 1986, self-employment contributions shall be paid by the self-employed contributor (whether by instalments or otherwise as may be prescribed) amounting to £104 in respect of that contribution year. 15 20 25

(c) Subject to paragraphs (d) and (j), where in any contribution year a payment is made to a self-employed contributor in respect of reckonable emoluments of that self-employed contributor, there shall be payable by him a self-employment contribution which shall— 30

(i) with effect from 6th April, 1988, be of an amount equal to 3 per cent. of the reckonable emoluments or the amount of £208, whichever is the greater, 35

(ii) with effect from 6th April, 1989, be of an amount equal to 4 per cent. of reckonable emoluments or the amount of £208, whichever is the greater, and 40

(iii) with effect from 6th April, 1990, be of an amount equal to 5 per cent. of reckonable emoluments or the amount of £208, whichever is the greater. 45

(d) Contributions under paragraph (a) or (c) shall not be payable in any contribution year on so much (if any) of the reckonable income or reckonable emoluments for that year of a self-employed contributor as is in excess of £16,200. 50 55

5 (e) During the period of three months beginning on 1st October, 1990, the Minister shall, in consultation with the Minister for Finance, review the provisions of this Chapter and of Chapters 7 and 11 insofar as they relate to self-employed contributors.

10 (f) Subject to regulations under section 17D, where a self-employment contribution has been paid by a self-employed contributor of not less than the amount that he is liable to pay under paragraph (a) or the amount specified in paragraph (b), whichever is appropriate, he shall be regarded as having paid contributions for each contribution week in that contribution year and, where the contribution paid is less than the appropriate amount aforesaid no contribution shall be regarded as having been paid by the self-employed contributor in respect of any week of that contribution year.

25 (g) The Minister may by regulations vary the sum specified in paragraph (d) and such variation shall take effect from the beginning of the contribution year following that in which the regulations are made.

30 (h) Where regulations under paragraph (g) are proposed to be made, a draft of the proposed regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.

35 (i) Subject to subsection (3) of section 17G, self-employment contributions shall be disregarded in determining whether the contribution conditions for any benefit other than old age (contributory) pension, widow's (contributory) pension or orphan's (contributory) allowance are satisfied.

40 (j) A person who but for this paragraph would be liable for contributions of £208 under both paragraph (a) and paragraph (c) shall be liable only for a single contribution of £208.

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Regulations providing for determination of contributions payable.

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17D.—(1) Subject to subsection (2), regulations may provide for the determination of the contributions payable, the amount or rates of such contributions, and the contribution weeks in respect of which such contributions shall be regarded as having been paid, in the case of a person who—

- (a) becomes for the first time a self-employed contributor,
- (b) ceases to be a self-employed contributor,
- (c) is both an employed contributor and a self-employed contributor whether concurrently or not, 5
- (d) in any contribution year has reckonable emoluments but does not have reckonable income,
- (e) in any contribution year has both reckonable emoluments and reckonable income, 10
- (f) in any contribution year has reckonable emoluments which relate to a period less than the full year, or 15
- (g) in respect of the contribution year ended 5th April, 1989, is liable to pay a self-employment contribution of £104.

(2) Regulations made under subsection (1) shall not cause an insured person to pay contributions on the excess over £16,200 of the aggregate of his total reckonable earnings, reckonable emoluments and reckonable income in any contribution year. 20

(3) For the purposes of this section 'contributions' means employment contributions payable under section 10 and self-employment contributions payable under section 17C. 25

Regulations varying rates of payment of self-employment contributions.

17E.—(1) Regulations may alter the rates or amounts of self-employment contributions. 30

(2) Where regulations under subsection (1) are proposed to be made, a draft thereof shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House. 35

Regulations for collection of self-employment contributions, etc.

17F.—(1) For the purposes of self-employment contributions payable under section 17C (b) and (c), regulations may provide for—

- (a) the time and manner of payment of self-employment contributions, 40
- (b) the collection and the recovery of and the furnishing of details in relation to self-employment contributions,
- (c) the charging of interest on arrears of self-employment contributions, 45
- (d) the waiving of interest due on arrears of self-employment contributions,

- (e) the estimation of amounts due in respect of self-employment contributions and appeals in relation to such estimates,
- 5 (f) the furnishing of returns by employers in relation to periods of insurable self-employment,
- 10 (g) the deduction by an employer from the reckonable emoluments of a self-employed contributor of any self-employment contribution reasonably believed by the employer to be due by the contributor, and adjustment in any case of overdeduction, and
- 15 (h) any matter ancillary or incidental to any of the matters referred to in any of the preceding paragraphs of this subsection.

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

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(3) The provisions of any enactment or instrument made under statute relating to the estimation, collection or recovery of income tax or the inspection of records for those purposes or relating to appeals in relation to income tax shall with any necessary modifications apply in relation to self-employment contributions in respect of reckonable emoluments that the Collector-General is obliged to collect as they apply in relation to income tax.

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(4) Self-employment contributions payable by a self-employed contributor under section 17C (a) in respect of reckonable income shall—

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(a) be deemed, for the purposes of collection and recovery of self-employment contributions, the charging and waiving of interest on arrears and the imposition of a surcharge for late submission of returns, to be an amount of income tax charged under Case IV of Schedule D on that self-employed contributor in accordance with the provisions of the Income Tax Acts and may be added to the income tax, if any, payable by him for the year of assessment (within the meaning of the said Income Tax Acts) coinciding with the contribution year in respect of which the said contributions are payable and the contributions and income tax so aggregated may be stated in one sum and collected as if it were a single sum of income tax, and

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(b) the provisions of the Income Tax Acts relating to those purposes shall apply accordingly as if any reference in those Acts to the amount of tax payable by an individual for a year of assessment included a reference to the amount of self-employment contributions and tax as aforesaid collectable in one sum for that year of assessment. 5

(5) Where an election made or deemed to be made under section 195 of the Income Tax Act, 1967, has effect for the year of assessment the self-employment contributions payable by a wife shall be charged, collected and recovered as if they were the contributions of her husband provided that the question as to the amount of the self-employment contributions so payable in respect of the husband or the wife shall not be affected by the provisions of this subsection. 15

(6) In any proceedings instituted by virtue of this Act, a certificate purporting to be signed by the Collector-General or by an officer duly appointed by the Minister in that behalf which certifies that an amount in respect of employment or self-employment contribution is due and payable by the defendant shall be evidence until the contrary is proved that that amount is so due and payable. 25

Voluntary contributions.

17G.—(1) A voluntary contribution in the case of a person who becomes a voluntary contributor under section 17A (2) shall be at the rate of £208 in a contribution year payable at such time or times and in such manner as the Minister may prescribe. 30

(2) Subject to subsection (3), voluntary contributions paid by a person under subsection (1) shall be disregarded for all benefit other than old age (contributory) pension, widow's (contributory) pension and orphan's (contributory) allowance. 35

(3) Self-employment contributions paid by a person who, being a voluntary contributor becomes a self-employed contributor on or after 6th April, 1988, and any subsequent voluntary contributions paid by such persons, shall also be reckonable for— 40

(a) in the case of a person whose rate of voluntary contribution, immediately before ceasing to be a voluntary contributor, was determined under section 11 (1) (b) (i), deserted wife's benefit, 45

(b) in the case of a person whose rate of voluntary contribution, immediately before ceasing to be a voluntary contributor, was determined under section 11 (1) (b) (ii), retirement pension, 50

deserted wife's benefit and death grant, and

5 (c) in the case of a person whose rate of voluntary contribution, immediately before ceasing to be a voluntary contributor, was determined under section 11 (1) (b) (iii), retirement pension and death grant.

10 (4) A voluntary contribution paid under subsection (1) shall be regarded as having been paid for each contribution week in that contribution year.

(5) This section shall come into operation on 6th April, 1988."

15 12.—The First Schedule to the Principal Act is hereby amended by the insertion after Part II of the following Part: Amendment of First Schedule to Principal Act.

"PART IIA

EXCEPTED SELF-EMPLOYED CONTRIBUTORS

20 1. A prescribed relative of a self-employed contributor not being a partner, where he participates in the business of the self-employed contributor and performs the same tasks or ancillary tasks.

2. A self-employed contributor who by virtue of the provisions of sections 137 and 138 is in receipt of unemployment assistance.

25 3. A person, the aggregate of whose total reckonable income, reckonable emoluments or reckonable earnings (if any) before deducting so much of any deduction—

30 (a) allowed by virtue of the provisions referred to in section 33 of the Finance Act, 1975, to be deducted or set off against income in charging it to income tax, or

35 (b) allowed in accordance with regulations 59 and 60 of the Income Tax (Employments) Regulations, 1960 (S.I. No. 28 of 1960) (inserted by the Income Tax (Employments) Regulations, 1972 (S.I. No. 260 of 1972)) to be deducted on payment of emoluments or earnings,

is below a prescribed amount.

40 4. An employed contributor or a person in receipt of a pension arising from a previous employment in the case of either of whom the reckonable income for the contribution year does not include income to which Chapter II or III of Part IV of the Income Tax Act, 1967, applies.

5. A person to whom the provisions of section 7 applies.

6. A self-employed contributor who is in receipt of any of the following—

50 (a) a widow's (contributory) pension,

(b) a widow's (non-contributory) pension,

(c) a deserted wife's benefit,

(d) a deserted wife's allowance,

(e) a death benefit by way of widow's pension under section 50,

(f) a social assistance allowance under section 197,

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(g) a payment corresponding to a pension referred to in paragraph (a) or (e) from the competent authority of a Member State (other than the State) of the European Communities under legislation to which the regulations of the Communities on the application of social security schemes to employed persons and their families moving within the territory of the European Communities apply.

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Amendment of section 78 of Principal Act (old age (contributory) pension).

13.—The Principal Act is hereby amended by the insertion after section 78 of the following section:

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“78A. For the purposes of this Chapter in the case of a person who becomes a self-employed contributor on 6th April, 1988, and who at any time prior to that date was an employed contributor the date on which the person first entered into insurance or 6th April, 1988, whichever is the more favourable to him shall be regarded as the date of entry into insurance:

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Provided that where a date other than that on which the claimant first entered into insurance is so regarded, that date shall be regarded as the date of entry into insurance for the purposes of paragraphs (a) and (c) of section 79 (1).”

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Amendment of section 93 of Principal Act (widow's (contributory) pension).

14.—The Principal Act is hereby amended by the insertion after section 93 of the following section:

“93A. For the purposes of section 93 (1) (b) in the case of a person who becomes a self-employed contributor on 6th April, 1988, and who at any time prior to that date was an employed contributor the date on which the person first entered into insurance or 6th April, 1988, whichever is more favourable shall be regarded as the date of entry into insurance.”

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Decisions.

15.—Any question—

(a) as to whether an employment is or was an insurable self-employment,

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(b) as to whether a person is or was in insurable self-employment, or

(c) as to what rate of self-employment contribution is or was payable by a self-employed contributor,

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shall be decided by a deciding officer in accordance with Part VIII of the Principal Act.

Application of provisions of Principal Act relating to self-employed contributions and calculation of contributions.

16.—(1) The Minister may by regulations apply (with or without modification) to self-employed contributors and self-employment con-

tributions payable under subsections (a), (b) or (c) of section 17C of the Principal Act any provisions of the Principal Act which apply to employed contributors or employment contributions.

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

10 17.—The following shall be subject to the sanction of the Minister for Finance— General Provisions as to Regulations.

- (a) regulations for the purposes of sections 10, 17D and 17F of, and paragraphs 1 and 3 of Part IIA of the Second Schedule to, the Principal Act and *section 16 (1)* of this Act,
- 15 (b) a draft of regulations made under sections 17A (4), 17C (g) and 17E of the Principal Act.

18.—(1) If in any respect any difficulty arises in bringing into operation this Part, the Minister may, with the consent of the Minister for Finance, by order do anything which appears to be necessary or expedient for bringing this Part into operation, and any such order Power to remove difficulties.

20 may modify the provisions of this Part so far as may appear necessary or expedient for carrying the order into effect.

(2) Every order made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution is passed by either House of the Oireachtas

25 within the next twenty-one days on which such House has sat after the order is laid before it annulling such order, such order shall be annulled accordingly, but without prejudice to the validity of anything previously done under such order.

(3) No order may be made under this section after the expiration

30 of one year after the commencement of this section.

PART IV

MISCELLANEOUS AMENDMENTS

19.—Where—

- 35 (a) a person is charged with an offence in relation to the receipt of any benefit, pension, assistance or allowance under the Principal Act or under regulations made under or applying the provisions of the Principal Act, and

(b) the court proposes to make an order under section 1 (1) of the Probation of Offenders Act, 1907,

40 the court shall not make such order until it is satisfied that any amounts due to be repaid in respect of such benefit, pension, assistance or allowance have been repaid.

20.—(1) Proceedings for an offence under the Principal Act or Provisions relating to prosecutions.

under regulations made under or applying the provisions of the Principal Act shall not be instituted except by or with the consent of the Minister or by an officer authorised in that behalf by special or general directions of the Minister.

(2) A prosecution for a summary offence under the Principal Act or under regulations made under or applying the provisions of the Principal Act may be brought at the suit of the Minister. 5

(3) Notwithstanding the provisions of *subsection (1)* of this section or any provision in any enactment specifying the period within which proceedings may be commenced, a prosecution for a summary offence under the Principal Act or under regulations made under or applying the provisions of the Principal Act may be brought at any time within whichever of the following periods later expires— 10

(a) the period of six months commencing on the date on which evidence sufficient to justify the institution of that prosecution came into the possession of the Minister, or 15

(b) the period of two years commencing on the date on which the offence was committed.

(4) For the purposes of *subsection (3)* of this section, a certificate, sealed with the official seal of the Minister, as to the date on which such evidence as aforesaid came into his possession shall be sufficient evidence thereof until the contrary is shown. 20

(5) Where in a prosecution for an offence under the Principal Act, or under regulations made under or applying the provisions of the Principal Act, it is shown to the satisfaction of the court— 25

(a) that an application has been made by a person (in this section referred to as the defendant) for any benefit, assistance or allowance under Parts II, III, IV or IVA of the Principal Act, and

(b) that as a result of that application any such benefit, assistance or allowance has been paid to any person (whether or not such benefit, assistance or allowance was that applied for and whether or not it was paid to the defendant), 30

the defendant shall be presumed to have given any information contained in the application (or to have caused it to be given on his behalf) and, where such information is false, with full knowledge of such falsity and with intent that it should deceive; but this presumption may be rebutted. 35

(6) For the purpose of the institution of proceedings under the Principal Act, a certificate, purporting to be given by an officer of the Minister authorised in that behalf by the Minister and to be signed by that officer, certifying the following facts, namely, that a person is an officer of the Minister and that he has been authorised under a special or general direction of the Minister to institute such proceedings, or that the Minister has consented to the institution of such proceedings, shall be sufficient evidence in any legal proceedings of the matters certified in the certificate, until the contrary is shown. 40 45

(7) In any proceedings for an offence under Part II, or Chapter 2 of Part III, of the Principal Act or under regulations made under or applying the said provisions, the wife or husband of the person charged with the offence shall, notwithstanding any other enactment, be competent to give evidence, whether for or against that person, but the wife or husband shall not be compellable either to give 50

evidence or, in giving evidence, to disclose any communication made to her or him, as the case may be, during the marriage by that person.

(8) The following provisions are hereby repealed:

(a) in the Principal Act—

- 5 (i) section 116,
- (ii) section 145,
- (iii) section 168,
- (iv) subsections (4) and (5) of section 188, and
- (v) subsections (4) and (5) of section 231;

10 (b) in the Act of 1986, section 20.

21.—A person convicted on indictment of an offence for which a fine or a term of imprisonment is provided in any section of the Principal Act specified in the Table to this section shall be liable—

Increase in penalties on conviction on indictment.

15 (a) in lieu of the fine provided for such conviction in any such section, to a fine not exceeding £10,000, or

(b) in lieu of the term of imprisonment provided for such conviction in any such section, to a term of imprisonment not exceeding three years,

or to both such fine and such imprisonment.

20 TABLE

Section 114 (4) (amended by section 15 of the Act of 1986);

Section 143A (5) (inserted by section 13 of the Act of 1985);

Sections 115 (1), 115 (2), 115 (3), 144 (1), 144 (2), 169 (1), 174 (2), 188 (1), 231 (1) and 294 (amended by section 12 of the Act of 1985).

25 22.—The Principal Act is hereby amended—

Increases of certain fines on summary conviction.

(a) by the substitution in section 185 (3) for “£500” (inserted by section 12 of the Act of 1985) of “£1,000”, and

(b) by the substitution in section 298 (10) for “£100” of “£500”.

30 23.—(1) Section 22 (which relates to duration of payment of disability benefit) of the Principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

Periods of interruption of employment to be taken into account in ascertaining entitlement to benefit.

35 “(b) before that day has been entitled, in respect of any period of interruption of employment (whether including that day or not) during the period beginning on the date six years before the 5th day of April immediately prior to the benefit year in which that day occurs and ending on that day, to disability benefit for 312 days.”.

40 (2) This section shall apply to any claim for disability benefit which is received on or after the 6th day of April, 1988.

Amounts payable
for injury benefit
and unemployment
assistance.

24.—(1) Section 42 of the Principal Act (which relates to entitlement to injury benefit) is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) The amount payable by way of injury benefit for any day of incapacity shall be one-sixth of the appropriate weekly rate subject to the total amount being paid at any time by virtue of this subsection being rounded up to the nearest 10p where it is a multiple of 5p but not also a multiple of 10p and being rounded to the nearest 10p where it is not a multiple of 5p or 10p.”.

(2) Section 150 of the Principal Act (which relates to the payment of unemployment assistance) is hereby amended by the insertion after subsection (2) of the following subsection:

“(3) The amount payable by way of unemployment assistance for any day of unemployment shall be one-sixth of the appropriate weekly rate subject to the total amount being paid at any time by virtue of this subsection being rounded up to the nearest 10p where it is a multiple of 5p but not also a multiple of 10p and being rounded to the nearest 10p where it is not a multiple of 5p or 10p.”.

(3) (a) Subsection (1) of this section shall come into operation on the 25th day of July, 1988, and

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

Effect of means on
rates of
unemployment
assistance.

25.—(1) Section 140 of the Principal Act (which relates to the effect of means on rates at which unemployment assistance is payable) is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) if he has means, at a rate equal to the scheduled rate reduced by 10p per week for every 10p or part of 10p of his means.”.

(2) Section 12 of the Social Welfare (No. 2) Act, 1985 (which relates to the entitlement to unemployment assistance for married couples) is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) where the spouse of an applicant for unemployment assistance is not an adult dependant, the unemployment assistance payable to the applicant shall be at a rate equal to the scheduled rate reduced by 10p for every 20p or part of 20p of his means.”.

(3) This section shall come into operation on the 20th day of July, 1988.

Repeal of
provisions relating
to payments by
local authorities.

26.—(1) Sections 153 (which relates to payments to the Minister by local authorities) and 154 (which relates to certificates of valuation) of the Principal Act are hereby repealed.

(2) This section shall come into operation on the 1st day of January, 1989.

27.—The Employers' Employment Contribution Scheme Act, 1981, is hereby amended—

Amendment of
Employers'
Employment
Contribution
Scheme Act, 1981.

(a) by the substitution for section 4 of the following section:

5 “4. The moneys standing to the credit of the scheme shall be transferred to the account of the Occupational Injuries Fund to which section 67 of the Social Welfare (Consolidation) Act, 1981, relates.”.

(b) by the substitution for subsection (6) of section 6 of the following subsection:

10 “(6) All moneys paid in respect of the employer's employment contribution shall be paid by the Revenue Commissioners to the Minister for Social Welfare and shall be transferred by that Minister to the account of the Occupational Injuries Fund referred to in section 4
15 of this Act.”.

28.—(1) The Principal Act is hereby amended by—

Pre-retirement
allowance.

(a) the insertion in subsection (1) of section 134 (which relates to description of assistance) of the following additional paragraph:

20 “(k) pre-retirement allowance.”.

(b) the insertion in Part III after Chapter 2 of the following Chapter:

“Chapter 2A

PRE-RETIREMENT ALLOWANCE

25 Entitlement to pre-
retirement
allowance.

156A.—Subject to this Chapter, an allowance (in this Chapter referred to as ‘pre-retirement allowance’) shall, subject to regulations, be payable in respect of any period of retirement to a person—

30 (a) who has attained the age specified by regulations but has not attained pensionable age,

35 (b) who has been in receipt of unemployment benefit or unemployment assistance for not less than 390 days for any continuous period of unemployment in the immediately preceding period as construed in accordance with section 135 (2),

40 (c) who satisfies the conditions as to means prescribed for the purposes of this Chapter, and

45 (d) who would otherwise be entitled to unemployment assistance at the scheduled rate determined in accordance with section 140 (1) (a) or at such other rates as may be prescribed.

Rate of pre-retirement allowance.

156B.—Subject to regulations under section 156C the weekly rate of pre-retirement allowance shall be at the rate that would apply if the person was entitled to unemployment assistance under Chapter 2 of Part III.

5

Regulations.

156C.—(1) The Minister may, subject to the sanction of the Minister for Finance, make regulations for the purpose of giving effect to this Chapter.

(2) Regulations under this section may, in particular and without prejudice to the generality of subsection (1)—

10

(a) specify the age for the purposes of section 156A (a),

(b) prescribe the conditions as to means to be satisfied for the purposes of section 156A (c),

15

(c) specify the periods which shall be regarded as periods of retirement for the purposes of this Chapter, and

20

(d) apply (with or without modification), or make provisions corresponding (with or without modification) to, any provisions of, or regulations under, this Act.

25

(3) The Minister may, subject to the sanction of the Minister for Finance, by regulations vary the weekly rate of pre-retirement allowance under section 156B but any such variation shall not reduce the weekly rates applicable immediately before the commencement of such regulations."

30

(2) This section shall come into operation on such day as the Minister may appoint by order.

Insurable (occupational injuries) employment (extension).

29.—Section 38 of the Principal Act is hereby amended by the substitution for subsection (11) (inserted by section 16 of the Social Welfare Act, 1983) of the following subsection:

35

"(11) A person who is unemployed shall, while in attendance at a course of training provided or approved of by An Foras Áiseanna Saothair, An Comhairle Oiliúna Talmhaíochta or C.E.R.T. Limited, be deemed for the purposes of this Part to be in insurable (occupational injuries) employment and to be employed by An Foras Áiseanna Saothair, An Chomhairle Oilíúna Talmhaíochta or C.E.R.T. Limited (as the case may be)."

40

Conditions for receipt of old age and widow's (contributory) pensions and deserted wife's benefit.

30.—The Principal Act is hereby amended—

(a) by the insertion after subsection (11) of section 79 (which relates to the conditions for the receipt of old age (contributory) pensions) of the following subsections:

45

"(12) Subject to subsection (13), regulations may, subject to

the sanction of the Minister for Finance, provide for entitling to old age (contributory) pension a person who would be entitled thereto but for the fact that the contribution condition set out in subsection (1) (c) is not satisfied where that person, having earlier
5 ceased to be an employed contributor became an employed contributor as a consequence of the coming into operation of section 12 of the Social Welfare Act, 1973.

(13) Regulations for the purposes of subsection (12) shall provide that old age (contributory) pension payable by virtue
10 thereof shall be payable at a rate less than that specified in the Second Schedule, and the rate specified by the regulations may vary with the extent to which the contribution condition set out in subsection (1) (c) is satisfied.”,

(b) by the insertion after subsection (9) of section 93 (which
15 relates to the conditions for the receipt of widow's (contributory) pension) of the following subsections:

“(10) Subject to subsection (11), regulations may, subject to the sanction of the Minister for Finance, provide for entitling to widow's (contributory) pension a person who would be entitled
20 thereto but for the fact that the contribution condition set out in subsection (1) (b) is not satisfied by reference to the insurance record of a person where that person, having earlier ceased to be an employed contributor became an employed contributor as a consequence of the coming into operation of section 12 of the
25 Social Welfare Act, 1973.

(11) Regulations for the purposes of subsection (10) shall provide that widow's (contributory) pension payable by virtue
30 thereof shall be payable at a rate less than that specified in the Second Schedule, and the rate specified by the regulations may vary with the extent to which the contribution condition set out in subsection (1) (b) is satisfied.”, and

(c) by the insertion after subsection (8) of section 101 (which
relates to the condition for the receipt of deserted wife's benefit) of the following subsections:

“(9) Subject to subsection (10), regulations may, subject to the sanction of the Minister for Finance, provide for entitling to deserted wife's benefit a person who would be entitled thereto
35 but for the fact that the contribution condition set out in subsection (1) (b) is not satisfied by reference to the insurance record of a person where that person, having earlier ceased to be an employed contributor became an employed contributor as a consequence of the coming into operation of section 12 of the
40 Social Welfare Act, 1973.

(10) Regulations for the purposes of subsection (9) shall provide that deserted wife's benefit payable by virtue thereof shall
45 be payable at a rate less than that specified in the Second Schedule, and the rate specified by the regulations may vary with the extent to which the contribution condition set out in subsection (1) (b) (ii) is satisfied.”.

50 31.—(1) Notwithstanding anything contained in any enactment, information which is electronically held (whether on a computer or otherwise) by the Minister for the purposes of the Principal Act (including the purpose of collection by the Revenue Commissioners of employment and self-employment contributions) may be transferred by the Minister to the Revenue Commissioners, and information which is electronically held (whether on a computer or
55 Exchange of information.

otherwise) by the Revenue Commissioners for the purposes of the Principal Act or the Income Tax Acts, relating to employers, the reckonable earnings of employed contributors or reckonable income or reckonable emoluments of self-employed contributors or of any payments made under the Principal Act, may be transferred by the Revenue Commissioners to the Minister. 5

(2) Notwithstanding anything contained in any enactment information which is electronically held (whether on a computer or otherwise) by the Minister for the purposes of the Principal Act or the control of schemes administered by or on behalf of the Minister or the Department of Social Welfare or the control of other schemes administered by a specified body may be transferred by the Minister to such a specified body, and information which is electronically held (whether on a computer or otherwise) by a specified body for the said purposes may be transferred by that specified body to the Minister. 10 15

(3) In *subsection (2)* of this section "a specified body" means a local authority (for the purposes of the Local Government Act, 1941), a health board, the Garda Síochána or any other body established—

(a) by or under any enactment (other than the Companies Acts, 1963 to 1986), or 20

(b) under the Companies Acts, 1963 to 1986, in pursuance of powers conferred by or under any other enactment,

and financed wholly or partly by means of moneys provided or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government; and 25 a subsidiary of any such body.

SCHEDULE A

Section 3.

"SECOND SCHEDULE RATES OF BENEFITS

made under the Principal Act, may be

PART I

RATES OF PERIODICAL BENEFITS AND INCREASES THEREOF

Description of benefit	Weekly rate	Increase for adult dependant (where payable)	Increase for each of first and second qualified children (where payable)	Increase for each qualified child in excess of two (where payable)	Increase for prescribed relative under section 50 (11), 51 (2), 81 (3), 86 (3), 91 (3), 95 (2) or 103 (2) (where payable)	Increase where the person has attained pensionable age and is living alone (where payable)
(1)	(2) *	(3)	(4)	(5)	(6)	(7)
	£	£	£	£	£	£
1. (A) Disability Benefit and Unemployment Benefit ...	43.60	28.20	10.60	9.30	—	—
(B) Reduced rates of Unemployment Benefit ...	39.00	26.10	9.50	8.00	—	—
2. Maternity Allowance...	43.60	—	10.60	9.30	—	—
3. Injury Benefit ...	59.90	28.20	10.60	9.30	—	—
4. Death Benefit:						
(a) pension payable to a widow (section 50 (2)) or widower (section 50 (6))—						
(i) aged under 66 years	64.70	—	13.90	14.50	—	—
(ii) aged over 66 years	66.10	—	14.10	14.60	27.20	3.80
(b) pension payable to a parent, the deceased having been at death a married person, where the parent is—						
(i) aged under 66 years	28.80	—	—	—	—	—
(ii) aged over 66 years	29.50	—	—	—	27.20	3.80
(c) pension payable to a parent, the deceased having been at death a widower, a widow or a single person—						
(i) where the parent is the father and was, at the death of the deceased, incapable of self-support by reason of some physical or mental infirmity and likely to remain permanently so incapable and is—						
(a) aged under 66 years ...	64.70	—	—	—	—	—
(b) aged over 66 years ...	66.10	—	—	—	27.20	3.80

(1) Description of benefit	Weekly rate	Increase for adult dependant (where payable) (3)	Increase for each of first and second qualified children (where payable) (4)	Increase for each qualified child in excess of two (where payable) (5)	Increase for prescribed relative under section 50 (11), 51 (2), 81 (3), 86 (3), 91 (3), 95 (2) or 103 (2) (where payable) (6)	Increase where the person has attained pension- able age and is living alone (where payable) (7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	£	£	£	£	£	£
(ii) where the parent is the mother, having been, at the death of the deceased, a widow or having thereafter become a widow and is—						
(a) aged under 66 years ...	64.70	—	—	—	—	—
(b) aged over 66 years ...	66.10	—	—	—	27.20	3.80
(iii) where the parent is the mother, not being a widow, and a pension at the rate set out at (i) above is not payable to her husband and she is—						
(a) aged under 66 years ...	64.70	—	—	—	—	—
(b) aged over 66 years ...	66.10	—	—	—	27.20	3.80
(iv) in any other case where the parent is—						
(a) aged under 66 years ...	28.80	—	—	—	—	—
(b) aged over 66 years ...	29.50	—	—	—	27.20	3.80
(d) pension payable to an orphan ...	34.10	—	—	—	—	—
5. Old Age (Contributory) Pension and Retirement Pension:						
(a) in the case of persons under the age of 80 years	56.80	36.20	11.80	10.30	27.20	3.80
(b) in any other case ...	60.60	36.20	11.80	10.30	27.20	3.80
(c) additional increase for an adult dependant who has attained pensionable age	—	6.20	—	—	—	—
6. Invalidity Pension:						
(a) where the person is aged under 66 years ...	50.00	32.40	11.60	10.10	27.20	—
(b) where the person is aged over 66 years ...	51.00	33.10	11.80	10.30	27.20	3.80
7. Widow's (Contributory) Pension and Deserted Wife's Benefit in the case of persons:						
(a) aged under 66 years	51.00	—	13.90	14.50	—	—

Description of benefit	Weekly rate	Increase for adult dependant (where payable)	Increase for each of first and second qualified children (where payable)	Increase for each qualified child in excess of two (where payable)	Increase for prescribed relative under section 50 (11), 51 (2), 81 (3), 86 (3), 91 (3), 95 (2) or 103 (2) (where payable)	Increase where the person has attained pensionable age and is living alone (where payable)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	£	£	£	£	£	£
(b) aged between 66 and 80 years...	52.10	—	14.10	14.60	27.20	3.80
(c) aged over 80 years	55.50	—	14.10	14.60	27.20	3.80
8. Orphan's (Contributory) Allowance	32.20	—	—	—	—	—

PART II

OCCUPATIONAL INJURIES BENEFITS—GRATUITIES AND GRANT

	£
1. Disablement Benefit:	
Maximum gratuity in the case of persons—	
(i) aged under 66 years	4,640
(ii) aged over 66 years	4,720
2. Death Benefit:	
(i) Widower's gratuity in the case of persons—	
(a) aged under 66 years	3,380
(b) aged over 66 years	3,440
(ii) Grant in respect of funeral expenses	230

PART III

DISABLEMENT PENSION

Degree of disablement	Weekly rate	
(1)	(2)	
	Persons under the age of 66 years	Persons over the age of 66 years
	£	£
100 per cent	66.70	68.20
90	60.03	61.38
80	53.36	54.56
70	46.69	47.74
60	40.02	40.92
50	33.35	34.10
40	26.68	27.28
30	20.01	20.46
20	13.34	13.64

PART IV

INCREASES OF DISABLEMENT PENSION

	£
1. Increase where the person is permanently incapable of work: in the case of persons—	
(a) aged under 66 years	43.60
(b) aged over 66 years	44.50
2. Increase where the beneficiary requires constant attendance:	
(a) limit of increase except in cases of exceptionally severe dis- ablement where the person is—	
(i) aged under 66 years	26.70
(ii) aged over 66 years	27.20
(b) limit in any case where the person is—	
(i) aged under 66 years	53.40
(ii) aged over 66 years	54.30

”

SCHEDULE B
"FOURTH SCHEDULE
RATES OF ASSISTANCE

Section 4.

PART I

RATES OF PERIODICAL SOCIAL ASSISTANCE AND INCREASES THEREOF

Description of assistance, pension or allowance (1)	Weekly rate or amount (2)	Increase for adult dependant (where payable) (3)	Increase for each of first and second qualified children (where payable) (4)	Increase for each qualified child in excess of two (where payable) (5)	Increase for prescribed relative under section 162(1)(a), 179(a), 195(2), 196(2) or 197(2) (where payable) (6)	Increase where the person has attained pensionable age and is living alone (where payable) (7)	Increase where the person has attained the age of 80 years (where payable) (8)
	£	£	£	£	£	£	£
1. Unemployment Assistance:							
(1) in the case of persons who in any continuous period of unemployment as construed in accordance with section 135 (2), have been in receipt of unemployment benefit or unemployment assistance for not less than 390 days:							
(i) for persons resident in any urban area...	42.00	28.00	10.20	8.40	—	—	—
(ii) for persons resident in any other place...	40.70	27.40	10.20	8.40	—	—	—
(2) in the case of persons other than those at (1):							
(i) for persons resident in any urban area...	39.00	26.10	9.50	8.00	—	—	—
(ii) for persons resident in any other place...	37.80	25.40	9.50	8.00	—	—	—
2. Old Age Pension and Blind Pension	48.50	—	10.50	8.70	27.20	3.80	3.60
3. Widow's (Non-Contributory) Pension, Deserted Wife's Allowance, Prisoner's Wife's Allowance and Social Assistance Allowance for persons—							

Description of assistance, pension or allowance (1)	Weekly rate or amount (2)	Increase for adult dependant (where payable) (3)	Increase for each of first and second qualified children (where payable) (4)	Increase for each qualified child in excess of two (where payable) (5)	Increase for prescribed relative under section 162(1)(a), 179(a), 195(2), 196(2) or 197(2) (where payable) (6)	Increase where the person has attained pensionable age and is living alone (where payable) (7)	Increase where the person has attained the age of 80 years (where payable) (8)
	£	£	£	£	£	£	£
(a) aged under 66 years...	47.60	—	12.50	13.10	—	—	—
(b) aged over 66 years...	48.50	—	12.80	13.40	27.20	3.80	3.60
4. Orphan's (Non-Contributory) Pension...	27.10	—	—	—	—	—	—
5. Single Woman's Allowance...	42.00	—	—	—	—	—	—
6. Supplementary Welfare Allowance...	37.80	25.40	9.50	8.00	—	—	—

PART III

INCREASE OF OLD AGE PENSION FOR A SPOUSE

Means of claimant or pensioner	Weekly rate of increase
	£
Where the weekly means of the claimant or pensioner do not exceed £6	24.40
exceed £6 but do not exceed £8	23.40
exceed £8 but do not exceed £10	22.40
exceed £10 but do not exceed £12	21.40
exceed £12 but do not exceed £14	20.40
exceed £14 but do not exceed £16	19.40
exceed £16 but do not exceed £18	18.40
exceed £18 but do not exceed £20	17.40
exceed £20 but do not exceed £22	16.40
exceed £22 but do not exceed £24	15.40
exceed £24 but do not exceed £26	14.40
exceed £26 but do not exceed £28	13.40
exceed £28 but do not exceed £30	12.40
exceed £30 but do not exceed £32	11.40
exceed £32 but do not exceed £34	10.40
exceed £34 but do not exceed £36	9.40
exceed £36 but do not exceed £38	8.40
exceed £38 but do not exceed £40	7.40
exceed £40 but do not exceed £42	6.40
exceed £42 but do not exceed £44	5.40
exceed £44 but do not exceed £46	4.40
exceed £46 but do not exceed £48	3.40
exceed £48 but do not exceed £50	2.40
exceed £50 but do not exceed £52	1.40
exceed £52	Nil

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*An tAire Leasa Shóisialaigh a thólaic,
3 Márta, 1988*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath
2, nó trí aon díoltóir leabhar.

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entitled

An Act to amend and extend the Social Welfare Acts, 1981 to 1987, and the Employers' Employment Contribution Scheme Act, 1981.

*Presented by the Minister for Social Welfare,
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