AN BILLE LEASA SHÓISIALAIGH, 1989
SOCIAL WELFARE BILL, 1989

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

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[No. 9*b* of 1989]

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AN BILLE LEASA SHÓISIALAIGH, 1989
SOCIAL WELFARE BILL, 1989

BILL

entitled

AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE ACTS, 1981 TO 1988, AND THE FAMILY LAW (MAINTENANCE OF SPOUSES AND CHILDREN) ACT, 1976.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY

Short title, construction and collective citation.

1.—(1) This Act may be cited as the Social Welfare Act, 1989.

(2) The Social Welfare Acts, 1981 to 1988, and this Act shall be construed together as one and may be cited together as the Social Welfare Acts, 1981 to 1989.

Definitions.

2.—In this Act—

"the Act of 1988" means the Social Welfare Act, 1988;

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

"the Social Welfare Acts" means the Principal Act and every enactment, whether passed before or after this Act, which is to be construed with it as one Act.

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 3 of the Act of 1988) of the Second Schedule thereto of the Parts set out in *Schedule A* to this Act.

(2) This section shall come into operation—

(*a*) in so far as it relates to unemployment benefit, on the 20th day of July, 1989,

(*b*) in so far as it relates to disability benefit, maternity allowance, injury benefit, disablement gratuity and disablement pension, on the 24th day of July, 1989,

(*c*) in so far as it relates to deserted wife's benefit, invalidity pension and retirement pension, on the 27th day of July, 1989, and

(*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 28th day of July, 1989.

Social assistance payments (new rates).

4.—(1) The Principal Act is hereby amended by the substitution for Parts I and III (inserted by section 4 of the Act of 1988) of the Fourth Schedule thereto of the Parts set out in *Schedule B* to this Act.

(2) This section shall come into operation—

(*a*) in so far as it relates to unemployment assistance, on the 19th day of July, 1989,

(*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 27th day of July, 1989,

(*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 28th day of July, 1989,

(*d*) in so far as it relates to supplementary welfare allowance, on the 24th day of July, 1989,

(*e*) in so far as it relates to pre-retirement allowance, on the commencement of section 28 of the Act of 1988,

(*f*) in so far as it relates to widower's (non-contributory) pension, on the commencement of section 198A (inserted by *section 6 (1) (a)* of this Act) of the Principal Act, and

(*g*) in so far as it relates to deserted husband's allowance, on the commencement of section 198B (inserted by *section 6 (1) (b)* of this Act) of the Principal Act.

Child benefit.

5.—(1) Section 225 of the Principal Act is hereby amended by the substitution for subsection (1) (inserted by section 3 (6) of the Social Welfare Act, 1982, and as amended by section 17 of the Social Welfare Act, 1986) of the following subsection:

"(1) Subject to this Part and the regulations thereunder, a person who is qualified for child benefit shall, so long as he remains so qualified, be paid out of moneys provided by the Oireachtas a monthly benefit of the amount set out in column (1) of Part IV of the Fourth Schedule in respect of each of the first four qualified children and, in addition, the amount set out in column (2) of that Part in respect of each qualified child (if any) in excess of four.".

(2) The Fourth Schedule to the Principal Act is hereby amended

by the substitution for Part IV (inserted by section 17 of the Social Welfare Act, 1986) of the following Part:

"PART IV

AMOUNTS OF CHILD BENEFIT

Amount for each of first four children (1)	Amount for each child in excess of four (2)
£15.05	£21.75

". 5

(3) This section shall come into operation on the 3rd day of October, 1989.

Widower's (non-contributory) pension and deserted husband's allowance.

6.—(1) The Principal Act is hereby amended—

(*a*) by the insertion after section 198 of the following section:

"CHAPTER 5A 10

ALLOWANCES FOR CERTAIN MEN

Widower's (non-contributory) pension.

198A.—(1) A widower's (non-contributory) pension shall, subject to regulations, be paid to a widower who has at least one qualified child residing with him 15 and who satisfies the conditions as to means for entitlement to widow's (non-contributory) pension under Chapter 4 of Part III.

(2) The rate of a widower's (non-contributory) pension payable to a person 20 shall be the same as the rate of a widow's (non-contributory) pension payable to a widow under Chapter 4 of Part III.

(3) A widower who has remarried shall 25 not for the purposes of this section be regarded as the widower of his former wife.

(4) The Minister may make regulations in relation to widower's (non-contributory) pension and the regulations 30 may apply (with or without modification), or make provisions corresponding (with or without modification) to, any provisions of, or regulations under, this 35 Act.",

(*b*) by the insertion after section 198A (inserted by *paragraph (a)* of this subsection) of the following section:

"Deserted husband's allowance.

198B.—(1) A deserted husband's allowance shall, subject to regulations, 40 be paid to a man who—

(*a*) has been deserted by his wife,

(*b*) has at least one qualified child residing with him, and

(*c*) satisfies the conditions as to means for entitlement to a widow's (non-contributory) pension under Chapter 4 of Part III.

(2) The rate of a deserted husband's allowance payable to a person shall be the same as the rate of a widow's (non-contributory) pension payable to a widow under Chapter 4 of Part III.

(3) The Minister may make regulations in relation to deserted husband's allowance and the regulations may, in particular and without prejudice to the generality of the foregoing—

(*a*) specify the circumstances in which a man is to be regarded for the purposes of this section as having been deserted by his wife,

(*b*) apply (with or without modification) or make provisions corresponding (with or without modification) to, any provisions of, or regulations under, this Act, and

(*c*) in applying the provisions of section 300, provide, notwithstanding anything contained in that section, that in any case in which a deserted husband's allowance is, by virtue of a revised decision given by a deciding officer or an appeals officer, disallowed or reduced, such amount as the Minister may direct of any of the allowance that has been paid in excess of the rate determined by that decision to have been payable shall be recoverable as a debt due to the State.", and

(*c*) by the insertion in subsection (1) (as amended by section 28 of the Act of 1988) of section 134 (which relates to the description of assistance) after paragraph (*k*) of the following paragraphs:

"(*l*) widower's (non-contributory) pension,

(*m*) deserted husband's allowance.".

(2) This section shall come into operation on such day or days as may be fixed therefor by order or orders of the Minister either

generally or with reference to one or more of the paragraphs of *subsection (1)* and different days may be so fixed for each, or part of each, of those paragraphs.

Definition of "qualified child".

7.—(1) Section 2 (1) of the Principal Act is hereby amended by the substitution for the definition of "qualified child" of the following definition:

"'qualified child' means a person who is ordinarily resident in the State, is not detained in a reformatory or an industrial school, and—

(*a*) for the purposes of—

(i) sections 21 (2), 26A (1) and 32 (2),

(ii) section 44 (2) as it applies to injury benefit, and

(iii) section 139 (*b*) in the case of an applicant for unemployment assistance other than as referred to in paragraph (*b*),

is under the age of 18 years,

(*b*) for the purposes of—

(i) section 44 (2) as it applies to disablement pension,

(ii) sections 81 (2), 86 (2), 91 (2), 156B (1) (*b*) and 161 (1), and

(iii) section 139 (*b*) in the case of an applicant who, in any continuous period of unemployment as construed in accordance with section 135 (2), has been in receipt of unemployment benefit or unemployment assistance for not less than 390 days—

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

(II) is of or over the age of 18 years and under the age of 19 years, and is receiving full-time instruction by day at any university, college, school or other educational establishment,

(*c*) for the purposes of sections 50 (9), 95 (1), 103 (1), 178 (1), 195 (1), 196 (1), 197 (1), 198A and 198B—

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

(ii) is of or over the age of 18 years and under the age of 21 years, and is receiving full-time instruction by day at any university, college, school or other educational establishment;".

(2) The following provisions of the Principal Act are hereby repealed—

(*a*) section 50 (10),

(*b*) the definition of "qualified child" contained in section 92 (5),

(*c*) section 157 (*a*), and

(*d*) the definition of "qualified child" contained in section 176 (1).

(3) This section shall come into operation on the 1st day of September, 1989, except that in so far as it relates to the definition of "qualified child" (inserted by *subsection (1)* of this section) in section 2 (1) of the Principal Act for the purposes of section 139 (*b*) of that Act it shall come into operation on the 30th day of August, 1989.

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

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

(*a*) by the substitution in paragraph (*b*) of subsection (1) of "paragraphs (*c*), (*cc*) and (*d*)" for "paragraphs (*c*) and (*d*)",

(*b*) by the substitution for paragraph (*c*) (inserted by section 6 of the Act of 1988) of subsection (1) of the following paragraphs:

"(*c*) Where in a particular contribution year an employed contributor's reckonable earnings have amounted to the sum of £18,000 and contributions under paragraph (*b*) (ii) have been paid in respect of those reckonable earnings, no further such contribution shall be payable in respect of any reckonable earnings of that employed contributor by his employer in that contribution year.

(*cc*) Where in a particular contribution year an employed contributor's reckonable earnings have amounted to the sum of £16,700 and contributions under paragraph (*b*) (i) have been paid in respect of those reckonable earnings, no further such contribution shall be payable in respect of any reckonable earnings of that employed contributor by the employed contributor in that contribution year.",

(*c*) by the substitution in paragraph (*a*) of subsection (2) of "sums" for "sum" and "paragraphs (*c*) and (*cc*) of subsection (1)" for "subsection (1) (*c*)" and the said paragraph (*a*) as so amended is set out in the Table to this subsection, and

(*d*) by the substitution for paragraph (*b*) of subsection (2) of the following paragraph:

"(*b*) When making regulations under this subsection to vary the sum specified in subsection (1) (*cc*) the Minister shall take into account any changes in the average earnings of workers in the transportable goods industries so recorded by the Central Statistics Office since the date by reference to which the sum specified in subsection (1) (*cc*) was last determined.".

TABLE

(*a*) The Minister may by regulations vary the sums specified in paragraphs (*c*) and (*cc*) of subsection (1) and such variation shall take effect from the beginning of the contribution year following that in which the regulations are made.

(2) Section 11 of the Principal Act is hereby amended by the substitution in paragraph (*c*) of subsection (1) of "section 10 (1) (*cc*)" for "section 10 (1) (*c*)".

(3) Section 2 (1) of the Principal Act is hereby amended by the substitution in the definition of "qualifying contribution" (inserted by section 10 of the Act of 1988) of "section 10 (1) (*c*) or (*cc*)" for "section 10 (1) (*c*)".

(4) This section shall come into operation on the 6th day of April, 1989.

Self-employment contributions (increase in earnings ceiling).

9.—(1) Section 17C (*d*) (inserted by section 11 of the Act of 1988) of the Principal Act is hereby amended by the substitution of "£16,700" for "£16,200".

(2) Section 17D (2) (inserted by section 11 of the Act of 1988) of the Principal Act is hereby amended by the substitution of "the amount specified in section 17C (*d*)" for "£16,200".

(3) *Subsection (1)* of this section shall come into operation on the 6th day of April, 1989.

Pay-related benefit.

10.—(1) Section 73 (as amended by section 8 of the Act of 1988) of the Principal Act is hereby amended by the substitution for "£66" of "£69".

(2) This section shall have effect in relation to any period of incapacity for work and any period of interruption of employment commencing on or after the 3rd day of April, 1989.

Discontinuance of non-urban rates of unemployment assistance.

11.—(1) The following provisions of the Principal Act are hereby repealed—

(*a*) subsections (3) and (4) of section 135,

(*b*) section 155, and

(*c*) section 156.

(2) Section 136 (3) of the Principal Act (which relates to the conditions to be fulfilled by a person applying for a qualification certificate) is hereby amended by the substitution in paragraph (*c*) (inserted by section 9 of the Social Welfare (No. 2) Act 1985) of "reference 1 (*a*)" for "reference 1A (1) (i)" in both places where it occurs.

(3) This section shall come into operation on the 19th day of July, 1989.

PART III

Liability to Maintain Family

Insertion of Part X in Principal Act (Liability to maintain family), repeals.

12.—(1) The Principal Act is hereby amended by the insertion after Part IX of the following Part:

"PART X

LIABILITY TO MAINTAIN FAMILY

Interpretation.

314.—(1) In this Part—

'the Act of 1976' means the Family Law (Maintenance of Spouses and Children) Act, 1976 (as amended or extended by any subsequent enactment whether passed before or after this Act);

'allowance' means deserted wife's allowance under section 195, supplementary welfare allowance under section 200 or deserted husband's allowance under section 198B;

'benefit' means deserted wife's benefit under section 100;

'competent authority' in relation to deserted wife's benefit, deserted wife's allowance, and deserted husband's allowance means the Minister and in relation to supplementary welfare allowance means the health board which granted that allowance to a recipient;

'order of the Court' means a maintenance order, a lump sum order, an attachment of earnings order, a variation order or an interim order, under the Act of 1976.

(2) Every reference in this Part to a person who is liable to maintain another person shall be construed as meaning a person who by virtue of section 315 is liable to maintain such other person.

Liability to maintain family.

315.—For the purposes of sections 100, 195, 200 and 198B and without prejudice to any obligations imposed by law or otherwise, the following provisions shall have effect, that is to say—

(*a*) a man shall be liable to maintain—

(i) his wife, and

(ii) any child of his, being a child who is under the age of 18 years or (save for the purposes of section 200) who is of or over that age and under the age of 21 years and is receiving full time education or instruction by day at any university, college, school or other educational establishment, and

(*b*) a woman shall be liable to maintain—

(i) her husband, and

(ii) any child of hers, being a child who is under the age of 18 years or (save for the purposes of section 200) who is of or over that age and under the age of 21 years and is receiving full time education or instruction by day at any university, college, school or other educational establishment.

Contribution towards benefit or allowance.

316.—(1) Where a benefit or allowance is paid to any recipient, every person who is liable to maintain that recipient or to maintain any child in respect of whom an increase in such benefit or allowance is granted, shall be liable to contribute to the competent authority such amount as that authority may determine to be appropriate towards such benefit or allowance.

(2) Where a person who is liable to contribute under subsection (1) fails or neglects to contribute, the competent authority may apply to the District Court for an order directing the person liable to contribute to make such contribution towards the benefit or allowance.

(3) The competent authority, before making an application to the District Court under subsection (2), shall serve notice of the application on the person liable to contribute.

(4) Where the District Court is satisfied that, at the time of the hearing of an application by the competent authority under subsection (2), the person liable to contribute had failed or neglected to make the contribution required under subsection (1) and was able to contribute to the benefit or allowance granted, the District Court shall fix the amount of the contribution to be made by the person so liable and shall order the payment thereof to the competent authority by way of such payments as the Court shall think proper.

Payments under order of Court to offset contributions.

317.—Where an order of the Court has been granted to a person who is in receipt of a benefit or allowance, the payments made under that order shall offset either in whole or part, as the competent authority may determine, contributions due by the person liable to contribute pursuant to section 316 (1) to such benefit or allowance.

Recipient of benefit or allowance to transfer to competent authority payments under order of Court.

318.—(1) Subject to subsection (2), a person who is in receipt of a benefit or allowance shall be liable to transfer to the competent authority payments made to that person in compliance with an order of the Court.

(2) A person who is in receipt of a benefit or allowance prior to the commencement of this Part (or part thereof) shall not be liable to transfer any payments made to that person in compliance with an order of the Court made prior to such commencement but where an order of the Court made subsequent to the commencement of this Part (or part thereof), varies an order made prior to such commencement the person concerned shall be liable to transfer to the competent authority the sum, if any, by which the amount of the order made subsequent to the commencement of this Part (or part thereof) exceeds the amount of the order made prior to such commencement.

(3) Where a person who is in receipt of benefit or allowance fails to comply with the provisions of subsection (1) or (2) the benefit or allowance being paid to that person shall be reduced by the amount which that person is liable under subsections (1) and (2) to transfer to the Minister.

Investigations by social welfare officers or health boards.

319.—(1) A social welfare officer authorised in that behalf by the Minister shall investigate into and report to the Minister upon any question arising on or in relation to any benefit or allowance which may be referred to him by the Minister, and may, for the purpose of such investigation and report, require a person liable to contribute under section 316 (1) or any employer of any such person to furnish him with such information and to produce to him for inspection such documents relating to that person as he may reasonably require.

(2) A health board may investigate into any question arising on or in relation to supplementary welfare allowance granted by the board and may, for the purpose of such investigation, require a person liable to contribute under section 316 (1) or any employer of any such person to furnish the health board with such information and to produce to the health board for inspection such documents relating to that person as the health board may reasonably require.

(3) Where a person liable to contribute under section 316 (1) or the employer of any such person fails to comply with the provisions of subsections (1) and (2), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to a fine not exceeding £10,000.

Commencement of Part X.

320.—This Part shall come into operation on such day or days as may be fixed by order or orders of the Minister either generally or with reference to one or more of the sections of this Part and different days may be so fixed for each, or part of each, of those sections.".

(2) Sections 214 and 215 of the Principal Act are hereby repealed.

(3) *Subsection (2)* of this section shall come into operation on such day as the Minister may appoint by order.

Amendment of Family Law (Maintenance of Spouses and Children) Act, 1976.

13.—(1) The Family Law (Maintenance of Spouses and Children) Act, 1976, is hereby amended by the insertion—

(*a*) in section 3 (1) of the following definitions:

"'allowance' means deserted wife's allowance under section 195, supplementary welfare allowance under section 200 or deserted husband's allowance under section 198B of the Social Welfare (Consolidation) Act, 1981;

'benefit' means deserted wife's benefit under section 100 of the Social Welfare (Consolidation) Act, 1981;

'competent authority' has the meaning assigned to it by section 314 of the Social Welfare (Consolidation) Act, 1981;",

(*b*) in section 5 (4) (*a*) after "under statute" of "with the exception of a benefit or allowance or any increase in such benefit or allowance in respect of any dependent children granted to either parent of such children",

(*c*) in section 5A (inserted by section 18 of the Status of Children Act, 1987) after "under statute" of "with the exception of a benefit or allowance or any increase in such benefit or allowance in respect of any dependent children granted to either parent of such children",

(*d*) in section 9 (4) after "maintenance creditor" of "or, where appropriate, to the competent authority",

(*e*) in section 10 (2) (*a*) after "under the relevant antecedent order" of "or, where appropriate, to the competent authority",

(*f*) in section 10 (2) (*b*) after "transmission to that person" of "or, where appropriate, to the competent authority", and

(*g*) in section 12 after "those payments" of "or, where appropriate, to the competent authority".

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

PART IV

Miscellaneous Amendments

Option of claiming benefit or assistance in certain circumstances.

14.—(1) Section 142 of the Principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

"(1A) Notwithstanding subsection (1), regulations may provide, subject to such conditions as may be prescribed, that a person who is in receipt of or entitled to unemployment benefit under Part II shall not be disqualified for receiving unemployment assistance:

Provided that any such regulations shall not cause a person to receive both unemployment benefit and unemployment assistance or to receive both unemployment assistance and pay-related benefit in respect of the same day or days.".

(2) Section 34 of the Principal Act is hereby amended by the insertion after subsection (9) of the following subsection:

"(10) For the purposes of this section, any day in respect of which a person receives unemployment assistance while he is entitled to unemployment benefit shall be treated as though it were a day in respect of which unemployment benefit was paid.".

Payments by a health board in respect of children boarded out to be exempt from calculation of means.

15.—(1) Section 146 (1) (*b*) (as amended by section 13 of the Social Welfare (No. 2) Act, 1985) of the Principal Act is hereby amended by the insertion after subparagraph (xi) of the following subparagraph:

"(xiA) payments by a health board in respect of a child who is boarded out,".

(2) Section 210 (2) (as amended by section 9 of the Social Welfare Act, 1984, and by section 17 of the Social Welfare (No. 2) Act, 1985) of the Principal Act is hereby amended by the insertion in paragraph (*a*) after subparagraph (i) of the following subparagraph:

"(iA) payments by a health board in respect of a child who is boarded out,".

(3) Rule 1 (4) of the Third Schedule to the Principal Act is hereby amended by the insertion in subparagraph (*e*) (inserted by section 18 of the Social Welfare (No. 2) Act, 1987) after clause (i) of the following clause:

"(iA) payments by a health board in respect of a child who is boarded out,".

Regulations to enable persons to be appointed to receive and deal with benefit or assistance.

16.—Section 112 of the Principal Act is hereby amended by the substitution for paragraph (*b*) of subsection (3) of the following paragraph—

"(*b*) where it appears to the Minister that the circumstances so warrant, for enabling a person to be appointed to receive and deal with on behalf of a claimant or beneficiary—

(i) in respect of disability benefit, unemployment benefit, old age (contributory) pension, retirement pension or invalidity pension so much of the benefit or pension

as the Minister considers reasonable in the circumstances:

Provided that in no case shall the amount to be dealt with in this manner exceed the total amount payable less the amount payable by virtue of sections 21 (1), 32 (1), 81 (1), 86 (1) or 91 (1), as appropriate,

(ii) in respect of a widow's (contributory) pension, so much of the pension as is payable by virtue of section 95 (1),

(iii) in respect of injury benefit or disablement pension so much of the benefit or pension as the Minister considers reasonable in the circumstances:

Provided that in no case shall the amount to be dealt with in this manner exceed the total amount payable less the amount payable by virtue of section 44 (1),".

Amendment of Part I of First Schedule to Principal Act (employments for the purposes of section 5 of Principal Act).

17.—Part I of the First Schedule to the Principal Act is hereby amended by the insertion after paragraph 13 (inserted by section 7 of the Social Welfare Act, 1985) of the following paragraph:

"14. Employment by An Post as a sub-postmaster remunerated by scale payment.".

Garda Síochána to be covered under occupational injuries insurance.

18.—(1) Section 38 (3) of the Principal Act is hereby amended by the deletion of paragraph (*e*) (which excluded a member of the Garda Síochána from coverage under occupational injuries insurance).

(2) Section 68 of the Principal Act (which relates to taking of benefit into account in assessing damages) is hereby amended by the insertion after subsection (3) of the following subsections:

"(4) Notwithstanding the Garda Síochána (Compensation) Acts, 1941 and 1945, there shall in assessing compensation be taken into account, against—

(*a*) any loss of earnings or profits which has accrued or probably will accrue to the injured person from the injuries,

(*b*) the detrimental effect which the injuries might reasonably be expected to have on the future earning power generally of the injured person and in particular (if the injuries do not preclude the injured person from continuing to be a member of the Garda Síochána), on his future career in that force, and

(*c*) the pain and suffering occasioned by the injuries to the injured person and also to any disease or tendency to disease caused by the injuries,

the value of any rights which have accrued or will probably accrue to him therefrom in respect of disablement benefit (disregarding any increase thereof under section 46 in respect of constant attendance) for the 5 years beginning with the time when the cause of action accrued.

(5) Notwithstanding the Garda Síochána (Compensation)

Acts, 1941 and 1945, in assessing compensation under those Acts in respect of—

(*a*) a person's death, account may be taken of any death benefit by way of grant under section 53 of this Act in respect of funeral expenses, resulting from that person's death, and

(*b*) any medical or surgical expenses incurred or likely to be incurred by the injured person in respect or in consequence of the injuries, account may be taken of any medical care payment under section 57 of this Act, resulting from those injuries for the 5 years beginning with the time when the cause of action accrued.".

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

(4) Subsections (4) and (5) (inserted by *subsection (2)* of this section) of section 68 of the Principal Act shall not apply to any proceedings instituted for compensation under the Garda Síochána (Compensation) Acts, 1941 and 1945, before the commencement of this section.

Notification by employer etc. of commencement of employment.

19.—Section 15A (inserted by section 2 of the Social Welfare (No. 2) Act, 1987) of the Principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister may require—

(*a*) an employer or any other person to notify him of the date of the commencement of the employment of—

(i) any person in his employment,

(ii) any person engaged by him under a contract for service to perform a service, or

(*b*) a person engaged under a contract for service to perform a service to notify him of the date on which any person was engaged to perform that service either with him or on his behalf whether under a contract for service or under any other arrangements made or to be made by him.".

Evidence of records, computer readouts, photocopies, microfilms and copies of original documents in proceedings.

20.—(1) In this section—

"copy record" means any copy of an original record being a record made for the purposes of or in connection with the Social Welfare Acts or regulations made thereunder or schemes administered by the Department of Social Welfare or a copy of that copy made in accordance with either of the methods referred to in *subsection (2)* of this section and accompanied by the certificate referred to in *subsection (3)* of this section;

"original record" means any document, record, or record of an entry in a document or record or information stored by means of any mechanical or electronic device, whether or not in a legible form, which was made or stored by the Minister or a specified agency for the purposes of or in connection with the Social Welfare Acts or

regulations made thereunder or schemes administered by the Department of Social Welfare at the time of or shortly after the event recorded and which is in the possession of the Minister or a specified agency;

"provable record" means an original record or a copy record;

"specified agency" means An Post or a person authorised to carry on banking business under section 9 of the Central Bank Act, 1971.

(2) The Minister or a specified agency may, where by reason of the deterioration of, or inconvenience in storing, or technical obsolescence in the manner of keeping any original record or any copy record, make a legible copy of the record or store information concerning that record otherwise than in a legible form so that the information is capable of being used to make a legible copy of the record, and the Minister or the specified agency may thereupon destroy the original record or the copy record:

Provided that any authorisation required by the National Archives Act, 1986, for such destruction has been granted.

(3) In any proceedings a certificate signed by an officer of the Minister or a specified agency, as the case may be, stating that a copy record has been made in accordance with the provisions of *subsection (2)* of this section shall be evidence of the fact of the making of such copy record and that it is a true copy, until the contrary is shown.

(4) A document purporting to be a certificate under *subsection (3)* of this section shall be deemed to be such a certificate without proof of the signature of the person purporting to sign the certificate or that such person was a proper person to so sign, until the contrary is shown.

(5) In any proceedings any provable record may be given in evidence and shall be *prima facie* evidence of any fact therein stated or event thereby recorded:

Provided that the court is satisfied of the reliability of the system used to make or compile, in the case of an original record, that record, and in the case of a copy record, the original on which it was based.

(6) Where information contained in a provable record is in a form which would normally not be comprehensible to a person who has no knowledge of that type of information, an explanation of its meaning by a suitably qualified person shall be admissible.

(7) In any proceedings a certificate signed by an officer of the Minister or a specified agency, as the case may be, stating that a full and detailed search has been made for a provable record of an event in every place where such records are kept by the Minister or the agency, as the case may be, and that no such record has been found shall be *prima facie* evidence that the event did not happen:

Provided that the court is satisfied—

(*a*) of the reliability of the system used to compile or make and keep such records,

(*b*) that, if the event had happened, a record would have been made of it, and

(*c*) that the system is such that the only reasonable explanation

for the absence of a record is that the event did not happen.

(8) This section shall apply to any original record or to any copy record made before the passing of this Act in accordance with either of the methods referred to in *subsection (2)* of this section but the proviso to that subsection shall not have effect in relation to anything deemed to have been done under that subsection before the commencement of section 7 of the National Archives Act, 1986.

Records of employees produced to inspectors to be *prima facie* evidence.

21.—Section 114 of the Principal Act (which relates to inspectors) is hereby amended by the insertion after subsection (7) of the following subsection:

"(8) Records of persons employed which an employer is obliged to maintain under regulations made under section 15 (5) which are produced to an inspector shall be *prima facie* evidence that those persons were employed by that employer and of the earnings of such persons and of the periods during which such persons were employed by him.".

Employers to reimburse Minister for benefit etc. falsely obtained through collusion.

22.—(1) Where a person is convicted of an offence under paragraph (*b*) or (*c*) (inserted by section 17 of the Social Welfare Act, 1983) of subsection (1) of section 115 of the Principal Act or under subsection (1) or (2) (inserted by section 19 of the Social Welfare Act, 1983) of section 144 of that Act, and by reason of that offence any benefit, assistance or family income supplement was received by an employee of his which he was not entitled to receive, such person shall be liable to pay to the Minister on demand a sum not exceeding the amount of such benefit, assistance or supplement which by reason of the said offence was paid to that employee while in his employment and that sum, if not so repaid, may be recovered by the Minister as a simple contract debt in any court of competent jurisdiction.

(2) Notwithstanding the provisions of *subsection (1)* of this section or any other provisions of the Social Welfare Acts or regulations made under or applying the provisions of those Acts under which amounts of benefit, assistance or supplement may be recovered, the amount recovered by the Minister in any case may not exceed the amount of benefit, assistance or supplement received by the employee which he was not entitled to receive.

Regulations under section 17D of Principal Act.

23.—Section 17D (inserted by section 11 of the Act of 1988) of the Principal Act is hereby amended by the insertion after subsection (2) of the following subsection:

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

Pre-retirement allowance.

24.—(1) The Principal Act is hereby amended—

(*a*) by the deletion of paragraph (*d*) of section 156A (inserted by section 28 (*b*) of the Act of 1988), and

(*b*) by the substitution for section 156B (inserted by the said section 28 (*b*)) of the following section:

"156B.—(1) Subject to subsection (2) the rate of pre-retirement allowance (in this Chapter referred to as the scheduled rate) shall be the weekly rate set out in column (2) of Part I of the Fourth Schedule increased by—

(*a*) the amount set out in column (3) of that Part for any period during which the applicant or recipient has an adult dependant, subject to the restriction that the applicant or recipient shall not be entitled to an increase under this paragraph in respect of more than one person, and

(*b*) the appropriate amount set out in column (4) or (5) of that Part in respect of each qualified child who normally resides with the applicant or recipient.

(2) Persons entitled under this Chapter to receive a pre-retirement allowance shall be paid such allowance at whichever of the following rates is applicable—

(*a*) for persons with no means, at the scheduled rate, and

(*b*) for persons with means, at rates to be prescribed, which shall be less than the scheduled rate and which shall vary with the amount of their means.".

Amendment of section 79 (12) of Principal Act (conditions for receipt of old age (contributory) pension).

25.—Section 79 (12) (inserted by section 30 (*a*) of the Act of 1988) of the Principal Act is hereby amended by the substitution for "became an employed contributor as a consequence of the coming into operation of section 12 of the Social Welfare Act, 1973." of "became, as a consequence and at the time of the coming into operation of section 12 of the Social Welfare Act, 1973, an employed contributor in respect of whom contributions reckonable for the purposes of the contribution conditions for entitlement to old age (contributory) pension were payable.".

Application of the provisions of the Principal Act, etc. by regulations.

26.—(1) In the case of any section of the Principal Act which confers powers on the Minister to apply by regulations any provisions of that Act to matters referred to in that section, such powers shall be deemed to include powers to apply any provisions of any enactment, whether passed before or after this Act, which amends or extends the Principal Act.

(2) The powers conferred on the Minister under subsection (3) of section 23 of the Housing (Private Rented Dwellings) Act, 1982, in relation to regulations under subsection (1) of that section (which relates to payments under the rent allowance scheme) to apply (with or without modification), or make provision corresponding (with or without modification) to, any provisions of, or any provisions made under, the Principal Act shall be deemed to include powers to apply any provisions of, or provisions made under, any enactment, whether passed before or after this Act, which amends or extends the Principal Act.

Overlapping benefits.

27.—(1) Section 130 of the Principal Act is hereby amended by the insertion after subsection (4) (inserted by section 15 of the Social Welfare Act, 1984) of the following subsection:

"(5) Where a woman who has attained pensionable age would, but for this subsection, be entitled in respect of any period to—

(*a*) a widow's (non-contributory) pension under section 177,

(*b*) a deserted wife's allowance under section 195,

(*c*) a prisoner's wife's allowance under section 196, or

(*d*) a social assistance allowance under section 197,

and either an old age (contributory) pension under section 78 or an old age (non-contributory) pension under section 158, only one such pension or allowance shall be payable.".

(2) The Social Welfare (Overlapping Benefits) (Amendment) Regulations, 1979 (S.I. No. 118 of 1979), are hereby revoked.

Amendment of section 29 (4) (title to benefit) and section 138 (1) (*b*) (statutory conditions for assistance) of Principal Act.

28.—(1) Section 29 (4) of the Principal Act is hereby amended by the substitution for paragraph (*a*) of the following paragraph:

"(*a*) a day shall not be treated in relation to an insured person as a day of unemployment unless on that day—

(i) he is capable of work,

(ii) he is, or by reason of his participation in an activity prescribed for the purposes of this subsection and subject to such conditions as may be prescribed, is deemed to be, or is exempted from being required to be, available for employment, and

(iii) he is genuinely seeking, but is unable to obtain, employment suitable for him having regard to his age, sex, physique, education, normal occupation, place of residence and family circumstances,".

(2) Section 138 (1) of the Principal Act is hereby amended by the substitution for paragraph (*b*) of the following paragraph:

"(*b*) (i) that he is capable of work,

(ii) that he is, or by reason of his participation in an activity prescribed for the purposes of this subsection and subject to such conditions as may be prescribed, is deemed to be, or is exempted from being required to be, available for employment, and

(iii) that he is genuinely seeking but is unable to obtain employment suitable for him having regard to his age, sex, physique, education, normal occupation, place of residence and family circumstances;".

Sanction of Minister for Finance in relation to certain regulations.

29.—Section 3 (4) (*a*) of the Principal Act is hereby amended by the insertion of "29 (4)," after "19 (4)," and of "138 (1), 142 (1A)," after "133,".

Prescribed relative allowance may by regulations be paid directly to prescribed relative.

30.—Section 112 of the Principal Act (which relates to the administration of benefit) is hereby amended by the insertion in subsection (3) after paragraph (*c*) of the following paragraph:

"(*d*) notwithstanding any other provision of this Act, or regulations made thereunder, for enabling the increase for a prescribed relative payable under section 50 (11), 51 (2), 81 (3), 86 (3), 91 (3), 95 (2) or 103 (2), subject to such conditions and in such circumstances as may be prescribed, to be paid directly to the prescribed relative.".

Disqualification for receipt of benefit.

31.—Section 115 (1) (as amended by section 21 of the Act of 1988) of the Principal Act is hereby amended by the substitution in subparagraph (i) of paragraph (*f*) of "3 months" for "6 months".

SCHEDULE A

Section 3.

"SECOND SCHEDULE
RATES OF BENEFITS

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 ...	45.00	29.00	10.90	10.00	—	—
(B) Reduced rates of Unemployment Benefit	42.00	26.90	10.00	10.00	—	—
2. Maternity Allowance... ...	45.00	—	10.90	10.00	—	—
3. Injury Benefit	61.70	29.00	10.90	10.00	—	—
4. Death Benefit:						
(*a*) pension payable to a widow (section 50 (2)) or widower (section 50 (6))—						
(i) aged under 66 years	66.60	—	14.30	14.90	—	—
(ii) aged over 66 years	68.10	—	14.30	14.90	28.00	3.90
(*b*) pension payable to a parent, the deceased having been at death a married person, where the parent is—						
(i) aged under 66 years	29.70	—	—	—	—	—
(ii) aged over 66 years	30.40	—	—	—	28.00	3.90
(*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 ...	66.60	—	—	—	—	—
(*b*) aged over 66 years ...	68.10	—	—	—	28.00	3.90

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)
	£	£	£	£	£	£
(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 ...	66.60	—	—	—	—	—
(*b*) aged over 66 years ...	68.10	—	—	—	28.00	3.90
(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 ...	66.60	—	—	—	—	—
(*b*) aged over 66 years ...	68.10	—	—	—	28.00	3.90
(iv) in any other case where the parent is—						
(*a*) aged under 66 years ...	29.70	—	—	—	—	—
(*b*) aged over 66 years ...	30.40	—	—	—	28.00	3.90
(*d*) pension payable to an orphan	35.10	—	—	—	—	—
5. Old Age (Contributory) Pension and Retirement Pension:						
(*a*) in the case of persons under the age of 80 years	58.50	37.30	12.20	10.60	28.00	3.90
(*b*) in any other case ...	62.40	37.30	12.20	10.60	28.00	3.90
(c) additional increase for an adult dependant who has attained pensionable age	—	6.40	—	—	—	—
6. Invalidity Pension:						
(*a*) where the person is aged under 66 years ...	51.50	34.10	11.90	10.40	28.00	—
(*b*) where the person is aged over 66 years ...	52.50	34.10	11.90	10.40	28.00	3.90
7. Widow's (Contributory) Pension and Deserted Wife's Benefit in the case of persons:						
(*a*) aged under 66 years	52.50	—	14.30	14.90	—	—

Description of benefit (1)	Weekly rate (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 50 (11), 51 (2), 81 (3), 86 (3), 91 (3), 95 (2) or 103 (2) (where payable) (6)	Increase where the person has attained pensionable age and is living alone (where payable) (7)
	£	£	£	£	£	£
(*b*) aged between 66 and 80 years...	53.70	—	14.30	14.90	28.00	3.90
(*c*) aged over 80 years	57.20	—	14.30	14.90	28.00	3.90
8. Orphan's (Contributory) Allowance	33.20	—	—	—	—	—

PART II

OCCUPATIONAL INJURIES BENEFITS—GRATUITIES AND GRANT

	£
1. Disablement Benefit:	
Maximum gratuity in the case of persons—	
(i) aged under 66 years	4,780
(ii) aged over 66 years	4,860
2. Death Benefit:	
(i) Widower's gratuity in the case of persons—	
(*a*) aged under 66 years	3,480
(*b*) aged over 66 years	3,540
(ii) Grant in respect of funeral expenses	240

PART III

DISABLEMENT PENSION

Degree of disablement (1)	Weekly rate (2)	
	Persons under the age of 66 years	Persons over the age of 66 years
	£	£
100 per cent	68.75	70.25
90 ,, ,, ...	61.88	63.23
80 ,, ,, ...	55.00	56.20
70 ,, ,, ...	48.13	49.18
60 ,, ,, ...	41.25	42.15
50 ,, ,, ...	34.38	35.13
40 ,, ,, ...	27.50	28.10
30 ,, ,, ...	20.63	21.08
20 ,, ,, ...	13.75	14.05

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	45.00
(*b*) aged over 66 years	45.80
2. Increase where the beneficiary requires constant attendance:	
(*a*) limit of increase except in cases of exceptionally severe disablement where the person is—	
(i) aged under 66 years	27.50
(ii) aged over 66 years	28.00
(*b*) limit in any case where the person is—	
(i) aged under 66 years	55.00
(ii) aged over 66 years	56.00

".

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:								
(a) 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	47.00	29.00	10.50	10.00	—	—	—	
(b) in the case of persons other than those at (a) ...	42.00	26.90	10.00	10.00	—	—	—	
2. Pre-Retirement Allowance ...	47.00	29.00	10.50	10.00	—	—	—	
3. Old Age Pension and Blind Pension	50.00	—	10.80	10.00	28.00	3.90	3.70	
4. Widow's (Non-Contributory) Pension, Deserted Wife's Allowance, Prisoner's Wife's Allowance, Social Assistance Allowance, Widower's (Non-Contributory) Pension and Deserted Husband's Allowance for persons—								
(*a*) aged under 66 years ...	49.00	—	12.90	13.50	—	—	—	
(*b*) aged over 66 years ...	50.00	—	12.90	13.50	28.00	3.90	3.70	
5. Orphan's (Non-Contributory) Pension ...	27.90	—	—	—	—	—	—	
6. Single Woman's Allowance ...	47.00	—	—	—	—	—	—	
7. Supplementary Welfare Allowance ...	42.00	26.90	10.00	10.00	—	—	—	

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	25.10
exceed £6 but do not exceed £8	24.10
exceed £8 but do not exceed £10	23.10
exceed £10 but do not exceed £12	22.10
exceed £12 but do not exceed £14	21.10
exceed £14 but do not exceed £16	20.10
exceed £16 but do not exceed £18	19.10
exceed £18 but do not exceed £20	18.10
exceed £20 but do not exceed £22	17.10
exceed £22 but do not exceed £24	16.10
exceed £24 but do not exceed £26	15.10
exceed £26 but do not exceed £28	14.10
exceed £28 but do not exceed £30	13.10
exceed £30 but do not exceed £32	12.10
exceed £32 but do not exceed £34	11.10
exceed £34 but do not exceed £36	10.10
exceed £36 but do not exceed £38	9.10
exceed £38 but do not exceed £40	8.10
exceed £40 but do not exceed £42	7.10
exceed £42 but do not exceed £44	6.10
exceed £44 but do not exceed £46	5.10
exceed £46 but do not exceed £48	4.10
exceed £48 but do not exceed £50	3.10
exceed £50 but do not exceed £52	2.10
exceed £52 but do not exceed £54	1.10
exceed £54	Nil

"

AN BILLE LEASA SHÓISIALAIGH, 1989

BILLE

dá ngairtear

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Ritheadh ag dhá Theach an Oireachtais,
16 *Márta,* 1989

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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BILL

entitled

An Act to amend and extend the Social Welfare Acts, 1981 to 1988, and the Family Law (Maintenance of Spouses and Children) Act, 1976.

Passed by both Houses of the Oireachtas,
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