AN BILLE LEASA SHÓISIALAIGH, 1992
SOCIAL WELFARE BILL, 1992

Mar a leasaíodh i gCoiste
As amended in Committee

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section
1. Short title, construction and collective citation.

2. Definitions.

PART II

INCREASES

3. Social insurance benefits (new rates).

4. Social assistance payments (new rates).

5. Invalidity pension (increase where pensioner has attained age of 80 years).

6. Family income supplement (new weekly rates).

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

8. Self-employment contributions (increase in earnings ceiling).

9. Pay-related benefit.

PART III

PENSION SCHEMES

10. Old age (contributory) pension (alternative method of determining yearly average).

11. Retirement pension (alternative method of determining yearly average).

12. Widow's (contributory) pension (extension of automatic entitlement).

13. Proceeds derived from sale of pensioner's principal residence exempt from assessment of means.

[No. 4*a* of 1992]

0260

Section

14. Living alone circumstances to be specified in regulations.

15. Orphan's pension schemes.

16. Increases for qualified children.

17. Definition of "spouse" in relation to certain pensions.

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

PART IV

MATERNITY ALLOWANCE

19. Maternity allowance.

PART V

LIABILITY TO MAINTAIN FAMILY

20. Amendment of section 314 of Principal Act.

21. Amendment of section 316 of Principal Act.

22. Insertion of sections 316A to 316J in Principal Act.

23. Amendment of section 318 of Principal Act.

24. Amendment of section 319 of Principal Act.

PART VI

DESERTED WIFE'S BENEFIT

25. Deserted wife's benefit (title to benefit).

26. Deserted wife's benefit (conditions for receipt).

PART VII

UNEMPLOYMENT PAYMENT SCHEMES

27. Substitution for Chapter 2, Part III of Principal Act.

28. Unemployment benefit (title to benefit).

29. Amendment of section 35 of Principal Act (disqualification for unemployment benefit).

30. Title to pay-related benefit.

31. Unemployment benefit (period of disqualification).

PART VIII

Disability and Occupational Injury Benefit

Section

32. Qualifying conditions for disability benefit.

33. Disability benefit (period of disqualification).

34. Discontinuance of pay-related benefit for periods of incapacity for work.

35. Injury benefit (weekly rates).

PART IX

Miscellaneous

36. Carer's allowance.

37. Integration of single woman's allowance scheme with pre-retirement allowance scheme.

38. Amendment of section 44 of Principal Act.

39. Family income supplement (regulations).

40. Clarification of section 300 (5) (*aa*) of Principal Act (revised decisions).

41. Administration of social welfare schemes.

42. Selection of panels of assessors to sit with appeals officers.

43. Additional increases of lone parent's allowance to certain persons.

44. Disqualification for entitlement to benefit where person is convicted of an offence.

45. Increase of fine under section 227 of Principal Act.

46. Recoupment of supplementary welfare allowance.

47. Amendment of section 209 of Principal Act.

48. Amendment of section 28 of Act of 1991 (information required by Minister).

49. Amendment of section 4 of Social Welfare (No. 2) Act, 1985 (amounts of increases payable in respect of qualified child normally resident with beneficiary).

50. Family income supplement (treating claims as having been made on a date earlier than date of receipt of claim).

51. Sanction of Minister for Finance in relation to certain regulations.

52. Saving for certain instruments and documents.

0261

PART X

Amendments to Pensions Act

Section
53. Amendment of section 2 of Pensions Act.
54. Preserved benefit.
55. Amendment of section 34 of Pensions Act.
56. Amendment of section 46 of Pensions Act.
57. Amendment of section 48 of Pensions Act.
58. Amendment of section 55 of Pensions Act.
59. Amendment of section 56 of Pensions Act.
60. Amendment of section 62 of Pensions Act.
61. Repeals.
62. Amendment of section 71 of Pensions Act.
63. Amendment of Third Schedule to Pensions Act.

SCHEDULE A

SCHEDULE B

Acts Referred to

Agriculture Act, 1931	1931, No. 8
Army Pensions Acts, 1923 to 1980	
Courts (No. 2) Act, 1986	1986, No. 26
Enforcement of Court Orders Act, 1926	1926, No. 18
Enforcement of Court Orders Act, 1940	1940, No. 23
Family Law (Maintenance of Spouses and Children) Act, 1976	1976, No. 11
Finance Act, 1972	1972, No. 19
Harbours Act, 1946	1946, No. 9
Health Act, 1970	1970, No. 1
Insurance Act, 1989	1989, No. 3
Local Government Act, 1941	1941, No. 23
Maternity Protection of Employees Act, 1981	1981, No. 2
Pensions Act, 1990	1990, No. 25
Redundancy Payments Acts, 1967 to 1991	
Social Welfare (Consolidation) Act, 1981	1981, No. 1
Social Welfare (Amendment) Act, 1981	1981, No. 3
Social Welfare Act, 1982	1982, No. 2
Social Welfare Act, 1983	1983, No. 6
Social Welfare Act, 1984	1984, No. 5
Social Welfare (No. 2) Act, 1985	1985, No. 14

Social Welfare Act, 1986	1986, No. 8
Social Welfare (No. 2) Act, 1987	1987, No. 29
Social Welfare Act, 1989	1989, No. 4
Social Welfare (No. 2) Act, 1989	1989, No. 12
Social Welfare Act, 1990	1990, No. 5
Social Welfare Act, 1991	1991, No. 7
Social Welfare Acts, 1981 to 1991	
Status of Children Act, 1987	1987, No. 26
Vocational Education Act, 1930	1930, No. 29

0262

AN BILLE LEASA SHÓISIALAIGH, 1992

SOCIAL WELFARE BILL, 1992

BILL

entitled

AN ACT TO AMEND AND EXTEND THE SOCIAL WELFARE ACTS, 1981 TO 1991, TO AMEND AND EXTEND THE PENSIONS ACT, 1990, AND TO PROVIDE FOR CONNECTED MATTERS.

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, 1992.

(2) The Social Welfare Acts, 1981 to 1991, and this Act, other than *Part X*, shall be construed together as one and may be cited together as the Social Welfare Acts, 1981 to 1992.

Definitions.

2.—In this Act—

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

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

"the Act of 1990" means the Social Welfare Act, 1990;

"the Act of 1991" means the Social Welfare Act, 1991;

"the Pensions Act" means the Pensions Act, 1990.

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 1991 and amended by *subsection (1)* of *section 35*) 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 disability benefit, maternity allowance, injury benefit, disablement gratuity and disablement pension, on the 27th day of July, 1992,

(*b*) in so far as it relates to unemployment benefit, deserted wife's benefit, invalidity pension and retirement pension, on the 30th day of July, 1992,

(*c*) in so far as it relates to death benefit under section 50, 51 or 52 of the Principal Act, old age (contributory) pension, survivor's benefit, widow's (contributory) pension and orphan's (contributory) allowance, on the 31st day of July, 1992.

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 1991) 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 supplementary welfare allowance, on the 27th day of July, 1992,

(*b*) in so far as it relates to unemployment assistance, on the 29th day of July, 1992,

(*c*) in so far as it relates to pre-retirement allowance, deserted wife's allowance, prisoner's wife's allowance, single woman's allowance, lone parent's allowance (other than lone parent's allowance payable in respect of a widow or widower) and carer's allowance, on the 30th day of July, 1992, and

(*d*) in so far as it relates to old age pension, blind pension, widow's (non-contributory) pension, lone parent's allowance payable in respect of a widow or widower and orphan's (non-contributory) pension, on the 31st day of July, 1992.

Invalidity pension (increase where pensioner has attained age of 80 years).

5.—(1) Section 91 of the Principal Act is hereby amended by the insertion after subsection (5) (inserted by section 16 of the Act of 1981) of the following subsection:

"(6) The weekly rate of invalidity pension shall be increased by £4.20 where the beneficiary has attained the age of 80 years.".

(2) *Subsection (1)* shall come into operation on the 9th day of April, 1992.

(3) Section 91 of the Principal Act is hereby further amended by the substitution for subsection (6) (inserted by *subsection (1)*) of the following subsection:

"(6) The weekly rate of invalidity pension shall be increased by the amount set out in column (8) of Part I of the Second Schedule where the beneficiary has attained the age of 80 years.".

0263

(4) *Subsection (3)* shall come into operation on the 30th day of July, 1992.

Family income supplement (new weekly rates).

6.—(1) The Principal Act is hereby amended by the substitution for section 232B (inserted by section 7 of the Act of 1991) of the following section:

"Entitlement to family income supplement.

232B.—Subject to this Part, an allowance (in this Part referred to as 'family income supplement') shall be payable out of moneys provided by the Oireachtas in respect of a family where the weekly family income is less than—

(*a*) in the case of a family which includes only one child, £155, or

(*b*) in the case of a family which includes two children, £175, or

(*c*) in the case of a family which includes three children, £195, or

(*d*) in the case of a family which includes four children, £215, or

(*e*) in the case of a family which includes five children, £240, or

(*f*) in the case of a family which includes six children, £260, or

(*g*) in the case of a family which includes seven children, £277, or

(*h*) in the case of a family which includes eight or more children, £294.".

(2) This section shall come into operation on the 30th day of July, 1992.

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

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

(*a*) the substitution in paragraph (*c*) of "£20,300" for "£19,300" (inserted by section 12 of the Act of 1991), and

(*b*) the substitution in paragraph (*cc*) of "£19,000" for "£18,000" (inserted by section 12 of the Act of 1991).

(2) This section shall come into operation on the 6th day of April, 1992.

Self-employment contributions (increase in earnings ceiling).

8.—(1) Section 17C (inserted by section 13 of the Act of 1991) of the Principal Act is hereby amended by the substitution in paragraph (*d*) of "£19,000" for "£18,000".

(2) This section shall come into operation on the 6th day of April, 1992.

Pay-related benefit.

9.—(1) Section 73 of the Principal Act is hereby amended by the

substitution of "£78" for "£75" (inserted by section 16 of the Act of 1991).

(2) This section shall have effect in relation to any period of interruption of employment commencing on or after the 6th day of April, 1992.

PART III

Pension Schemes

Old age (contributory) pension (alternative method of determining yearly average).

10.—(1) Section 78 of the Principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) In this Chapter—

'yearly average' means , in relation to any claimant, the average per contribution year of contribution weeks in respect of which that claimant has qualifying contributions, voluntary contributions or credited contributions in the period commencing either—

(*a*) on the 5th day of January, 1953, in case the claimant is a man, or on the 6th day of July, 1953, in case the claimant is a woman, or

(*b*) at the beginning of the contribution year in which the claimant's entry into insurance occurred (if after the 5th day of January, 1953, in the case of a man, or the 6th day of July, 1953, in the case of a woman),

(whichever is the later) and ending at the end of the last complete contribution year before the date of his attaining pensionable age;

'alternative yearly average' means, in relation to any claimant, the average per contribution year of contribution weeks in respect of which that claimant has qualifying contributions, voluntary contributions or credited contributions in the period commencing on the 6th day of April, 1979, and ending at the end of the last complete contribution year before the date of his attaining pensionable age.".

(2) Section 79 of the Principal Act is hereby amended by—

(*a*) the substitution for paragraph (*c*) of subsection (1) of the following paragraph:

"(*c*) that the claimant has a yearly average or an alternative yearly average of not less than 48.", and

(*b*) the substitution for subsections (7) and (8) of the following subsections:

"(7) Subject to subsection (8), regulations may provide for entitling to old age (contributory) pension a claimant who would be entitled thereto but for the fact that he has a yearly average of less than 48.

0264

(8) Regulations under subsection (7) shall provide that old age (contributory) pension payable by virtue thereof shall be payable at a rate less than that specified in the Second Schedule, and the rate specified by the regulations may vary by reference to the yearly average so calculated, but any increase of that pension payable under section 81 (1) or section 81 (2) shall be the same as if the claimant had a yearly average of not less than 48.".

(3) This section shall apply only in the case of a person who attains pensionable age on or after the 6th day of April, 1992.

Retirement pension (alternative method of determining yearly average).

11.—(1) Section 83 of the Principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) In this Chapter—

'yearly average' means, in relation to any claimant, the average per contribution year of contribution weeks in respect of which that claimant has qualifying contributions, voluntary contributions or credited contributions in the period commencing either—

(*a*) on the 5th day of January, 1953, in case the claimant is a man, or on the 6th day of July, 1953, in case the claimant is a woman, or

(*b*) at the beginning of the contribution year in which the claimant's entry into insurance occurred (if after the 5th day of January, 1953, in the case of a man, or the 6th day of July, 1953, in the case of a woman),

(whichever is the later) and ending at the end of the last complete contribution year before the date of his attaining the age of 65 years;

'alternative yearly average' means, in relation to any claimant, the average per contribution year of contribution weeks in respect of which that claimant has qualifying contributions, voluntary contributions or credited contributions in the period commencing on the 6th day of April, 1979, and ending at the end of the last complete contribution year before the date of his attaining the age of 65 years.".

(2) Section 84 of the Principal Act is hereby amended by—

(*a*) the substitution for paragraph (*c*) of subsection (1) of the following paragraph:

"(*c*) that the claimant has a yearly average or an alternative yearly average of not less than 48.", and

(*b*) the substitution for subsections (4) and (5) of the following subsections:

"(4) Subject to subsection (5), regulations may provide for entitling to retirement pension a claimant who would be entitled thereto but for the fact that he has a yearly average of less than 48.

(5) Regulations under subsection (4) shall provide that retirement pension payable by virtue thereof shall be payable at a rate less than that specified in the Second Schedule, and the rate specified by the regulations may vary by reference to the yearly average so calculated, but any increase of that pension payable under section 86 (1) or section 86 (2) shall be the same as if the claimant had a yearly average of not less than 48.".

(3) This section shall apply only in the case of a person who attains the age of 65 years on or after the 6th day of April, 1992.

Widow's (contributory) pension (extension of automatic entitlement).

12.—Section 92 of the Principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to this Act, a widow shall be entitled to a widow's (contributory) pension—

(*a*) if the contribution conditions set out in section 93 are satisfied by her or by her husband's insurance, or

(*b*) if her husband was entitled to an old age (contributory) pension or a retirement pension at an increased weekly rate by virtue of section 81 (1) or section 86 (1) in respect of a period ending on his death, or

(*c*) if her husband would have been entitled to an old age (contributory) pension or a retirement pension at an increased weekly rate by virtue of section 81 (1) or section 86 (1), but for the receipt by that woman of a pension under Chapter 3 of Part III or a carer's allowance under Chapter 5B of Part III in her own right, in respect of a period ending on his death.".

Proceeds derived from sale of pensioner's principal residence exempt from assessment of means.

13.—(1) The Third Schedule to the Principal Act is hereby amended by the substitution for Rule 1A (inserted by section 35 of the Act of 1990 and in this section referred to as the "existing rule") of the following Rule:

"1A. (1) Notwithstanding the provisions of this Schedule, for the purposes of old age pension, the gross proceeds derived from the sale of the principal residence of the claimant or pensioner, or, in the case of a married couple who are living together, the spouse of the claimant or pensioner where such spouse has attained pensionable age, shall not, subject—

(*a*) to such limit,

(*b*) to such conditions,

(*c*) in such circumstances, and

(*d*) for such periods,

as shall be prescribed, be taken into account in calculating the means of the claimant or pensioner.

0265

(2) Notwithstanding the provisions of this Schedule, for the purposes of—

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

(*b*) deserted wife's allowance,

(*c*) prisoner's wife's allowance, or

(*d*) lone parent's allowance,

where the claimant or recipient has attained pensionable age, the gross proceeds derived from the sale of the principal residence of the claimant or recipient shall not, subject—

(i) to such limit,

(ii) to such conditions,

(iii) in such circumstances, and

(iv) for such periods,

as may be prescribed, be taken into account in calculating the means of the claimant or recipient.

(3) In this Rule 'gross proceeds derived from the sale of the principal residence' means—

(*a*) the agreed sale price of the residence, or

(*b*) where the claimant or pensioner purchases alternative accommodation, the difference between the agreed sale price of the former residence and the agreed purchase price of the replacement residence.

(4) Paragraphs (1) and (2) shall not apply to any sums arising from the investment or profitable use of the gross proceeds derived from the sale of the principal residence.".

(2) *Subsection (1)* shall come into operation on such day or days as the Minister may appoint by order or orders and different days may be so appointed for the coming into operation of the subsection as respects different provisions of the Rule inserted in the Third Schedule to the Principal Act by the subsection and where an order under this subsection relates to part or parts only of that Rule, the order may provide for the repeal of specified provisions of the existing Rule on a specified day or days.

Living alone circumstances to be specified in regulations.

14.—Section 2 (2) of the Principal Act is hereby amended by the insertion after paragraph (*d*) of the following paragraph:

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

Orphan's pension schemes.

15.—(1) Section 2 (1) of the Principal Act is hereby amended by—

(*a*) the substitution for the definition of "orphan" of the following definition:

"'orphan' means a qualified child—

(*a*) both of whose parents are dead, or

(*b*) one of whose parents is dead or unknown, as the case may be, and whose other parent—

(i) is unknown, or

(ii) has abandoned him, or

(iii) has refused or failed to provide for him,

where that child is not normally residing with a step-parent or with a person who is married to and living with that step-parent;", and

(*b*) the substitution for subparagraph (ii) of paragraph (*b*) of the definition of "qualified child" (inserted by section 6 of the Act of 1991) of the following subparagraph:

"(ii) sections 50 (9), 52 (1), 81 (2), 86 (2), 91 (2), 95 (1), 96, 103 (1), 156B (1) (*b*), 161 (1), 178 (1), 182 (1), 198C (1), 198I (1) and 232A, and".

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

(*a*) subsection (4) of section 52, and

(*b*) subsection (3) of section 97.

Increases for qualified children.

16.—(1) Section 50 of the Principal Act is hereby amended by the substitution for subsection (9) (inserted by section 2 of the Social Welfare Act, 1982) of the following subsection:

"(9) The weekly rate of pension under subsection (2) or (6) shall be increased by the appropriate amount set out in column (4) or (5) of Part I of the Second Schedule in respect of each qualified child who normally resides with the beneficiary.".

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

(*a*) subsection (5) of section 81,

(*b*) subsection (5) of section 86,

(*c*) subsection (5) of section 91,

(*d*) subsection (3) of section 100, and

(*e*) the definition of "qualified child" in section 157.

Definition of "spouse" in relation to certain pensions.

17.—The Principal Act is hereby amended by—

(*a*) the insertion in section 157 (as amended by section 7 of the Social Welfare Act, 1989 and *section 16* of this Act) before the definition of "weekly means" of the following definition:

" 'spouse' means each person of a married couple who are living together or a man and woman who are not married to each other but are cohabiting as man and wife;", and

0266

(*b*) the insertion in paragraph (*d*) (inserted by section 15 of the Social Welfare (No. 2) Act, 1985) of section 162 (1) after "or this Part" of ",subject to the restriction that the pensioner shall not be entitled for the same period to an increase of pension under this paragraph in respect of more than one person".

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

18.—The Third Schedule to the Principal Act is hereby amended by—

(*a*) the insertion after paragraph (4) of Rule 1 of the following proviso:

"Provided that, where such income is attributable to a period prior to the year immediately preceding the date of calculation but is received in a subsequent year, it shall be regarded for the purposes of this paragraph as having been received in the year to which it is attributable.",

(*b*) the insertion after paragraph (2) of Rule 2 of the following paragraph:

"(3) In the case of a person to whom paragraph (1) applies, where the income or the yearly value of the property taken to be part of his means for the purposes of that paragraph has reduced since the date of calculation, the calculation may be revised, subject to such conditions and in such circumstances as may be prescribed, but regulations made under this paragraph shall not cause the income or the yearly value of the property taken to be part of his means to be increased.",

(*c*) the substitution for Rule 3 (as amended by section 18 of the Act of 1990) of the following Rule:

"3. (1) In the case of pensions under Chapter 3 or a carer's allowance under Chapter 5B of Part III, the following provisions shall have effect when calculating the means of a person who is one of a couple living together—

(*a*) the means of the person shall be taken to be one-half of the total means of the couple;

(*b*) the person shall be deemed to be entitled to one-half of all property to which the person or the other member of the couple is entitled or to which the person and the other member of the couple are jointly entitled;

(*c*) for the purposes of this Rule, the means of each member of the couple shall first be determined in accordance with these Rules (each being regarded as an applicant for a pension or a pension at a higher rate or carer's allowance, as the case may be) and the total means shall be the sum of the means of each member as so determined;

(*d*) where one member of the couple dies, nothing which was reckoned for the purposes of pension, or would (if such deceased member had been

entitled to receive any pension) have been so reckoned, as means of the deceased member shall be so reckoned as means of the surviving member for the purpose of reducing the pension of the surviving member if any payment in respect of that pension was made before the death of the deceased member or becomes payable in respect of a period previous or part of which was previous to that death.

(2) In paragraph (1) 'couple' means a married couple who are living together or a man and woman who are not married to each other but are cohabiting as man and wife.

(3) In calculating the means of a person who is one of a married couple living apart from his spouse, any sum paid by him to his spouse under a separation order shall be deducted in calculating his means.", and

(*d*) the substitution for Rule 4 (as amended by section 13 of the Act of 1990) of the following Rule:

"4. Notwithstanding these Rules, where—

(*a*) a pension under Chapter 3, 4 or 5A of Part III is in course of payment to or in respect of a person or the spouse of the person or both of them, and

(*b*) a pension or pensions (in this Rule referred to as 'the other pension'), not being a pension or pensions mentioned in paragraph (*a*), is in course of payment to or in respect of the person or the spouse of the person or both of them,

in calculating the means of the person or of the spouse or of both of them for the purposes of Chapter 3, 4 or 5A (as the case may require) of Part III, any portion of the amount of an increase in the other pension or the aggregate increase, where more than one increase in the other pension has occurred, which, if it were reckoned as means, would result in a reduction in the amount of the pension or combined pensions (as the case may be) which would be greater than the amount by which the other pension has been increased, shall not be reckoned as means.".

PART IV

Maternity Allowance

Maternity allowance.

19.—(1) The Principal Act is hereby amended by the substitution for Chapter 3 of Part II of the following Chapter:

"CHAPTER 3

Maternity Allowance

Title to and duration of allowance.

24.—(1) Subject to this Act, a woman shall be entitled to a maternity allowance if—

(*a*) it is certified by a registered medical prac-

0267

titioner or otherwise to the satisfaction of the Minister that it is to be expected that she will be confined in a week specified in the certificate (hereafter in this section referred to as 'the expected week of confinement'), not being more than the prescribed number of weeks after that in which the certificate is given, and

(*b*) she is, immediately before the first day of maternity leave, an employed contributor, or it is certified by her employer that she may resume employment after the end of the period of maternity leave, where such employment is an employment specified in Part I of the First Schedule and is not an employment specified in Part II of that Schedule, and

(*c*) she satisfies the contribution conditions in section 25.

(2) In this Chapter 'maternity leave' means the period for which maternity allowance is payable in accordance with paragraph (*a*) or (*b*) of subsection (3), as the case may be.

(3) Subject to this Chapter, the period for which maternity allowance is payable shall be—

(*a*) the period of maternity leave to which a woman is entitled by virtue of section 8 of the Maternity Protection of Employees Act, 1981 (including any extension of that period by virtue of section 12 of that Act), or

(*b*) in the case of a woman not so entitled to maternity leave, the period of 14 consecutive weeks beginning on such day as she selects, being not later than 4 weeks before the end of the expected week of confinement and shall end on such day as she selects, being not earlier than 4 weeks after the end of the expected week of confinement, but—

(i) if the woman who is entitled to the allowance dies, the allowance shall not be payable for any subsequent week, or

(ii) if the date of confinement occurs after the expected week of confinement, the allowance shall, subject to subparagraph (i), be payable until the expiration of the fourth week after the week in which that date occurs:

Provided that, in any case where

the date of confinement occurs after the expected date of confinement, the period for which maternity allowance is payable shall not exceed 18 weeks.

(4) Regulations may modify subsections (1) and (3) in relation to cases where—

(*a*) it is certified by a registered medical practitioner or otherwise to the satisfaction of the Minister that a woman has been confined, and

(*b*) no such certificate as is referred to in subsection (1) (*a*) has been given.

(5) For the purposes of this section, a Sunday shall not in any week be treated as a day of entitlement to a maternity allowance and, accordingly, the amount payable by way of such allowance for any other day of a week shall be one-sixth of the appropriate weekly rate, subject to the total amount being paid at any time by virtue of this subsection being rounded up to the nearest 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.

(6) For the purposes of subsection (3) (*a*), where the employment ceases (whether due to the death of the employer or otherwise) during the period of maternity leave, the woman shall continue to be treated as if the event which caused the cesser of employment had not occurred.

(7) Regulations may provide for requiring an employer to furnish such information as may be required for the purposes of determining a claim for maternity allowance.

Conditions for receipt.

25.—(1) The contribution conditions for maternity allowance are—

(*a*) (i) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with her entry into insurance and ending immediately before the first day of maternity leave, and

(ii) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the last complete contribution year before the beginning of the benefit year in which the first day of maternity leave occurs or in a subsequent complete contribution year before the first day

6269

of maternity leave, or

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

(2) Regulations may provide for modifications of the contribution conditions set out in subsection (1) but, where such regulations 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.

Rate of allowance.

26.—(1) Subject to this Act, the weekly rate of maternity allowance shall be an amount equal to—

(*a*) 70 per cent. of the reckonable weekly earnings of the woman to whom the allowance is payable in the income tax year prescribed for the purposes of this section, or

(*b*) such amount as shall be prescribed,

whichever is the greater.

(2) The percentage specified in subsection (1) (*a*) may be varied by regulations having regard to—

(*a*) movements in the annual average earnings of women, and

(*b*) the imposition or variation of statutory deductions from or charges on earnings.

(3) In this section 'reckonable weekly earnings' means the average amount, calculated in accordance with regulations, of reckonable earnings received in a week up to such limit as stands prescribed for the purposes of section 73.

Disqualifications.

27.—Regulations may provide for disqualifying a woman for receiving a maternity allowance if—

(*a*) during the period for which the allowance is payable, she engages in any occupation other than domestic duties in her own household, or

(*b*) she fails, without good cause, to attend for or to submit herself to any medical examination that may be required in accordance with the regulations.

Supplementary provisions.

28.—(1) In this Chapter—

(*a*) 'confinement' means labour resulting in

the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead, and 'confined' shall be construed accordingly, and

(*b*) references to the date of the confinement shall be taken as referring, where labour begun on one day results in the issue of a child on another day, to the date of the issue of the child or, if a woman is confined of twins or a greater number of children, to the date of the issue of the last of them.

(2) In deciding whether or not to make an order under section 21A of the Family Law (Maintenance of Spouses and Children) Act, 1976 (inserted by the Status of Children Act, 1987), in so far as any such order relates to the payment of expenses incidental to the birth of a child, the Circuit Court or the District Court, as the case may be, shall not take into consideration the fact that the mother of the child is entitled to maternity allowance.".

(2) Notwithstanding *subsection (1)* of this section, a woman who becomes entitled to maternity allowance payable by virtue of section 24 (2) (*a*) of the Principal Act before the commencement of this section, shall continue to be entitled to such allowance until the end of that period of entitlement to maternity allowance.

(3) Section 21 of the Act of 1991 is hereby repealed.

(4) Section 3 (4) (*a*) of the Principal Act is hereby amended by the substitution for "26B" (inserted by section 11 of the Social Welfare Act, 1986) of "26".

(5) This section shall come into operation on such day or days as the Minister may appoint by order or orders and different days may be so appointed for different provisions of this section.

PART V

Liability to Maintain Family

Amendment of section 314 of Principal Act.

20.—Section 314 (1) (inserted by section 12 of the Social Welfare Act, 1989) of the Principal Act is hereby amended by—

(*a*) the insertion after the definition of "allowance" of the following definitions:

"'antecedent order' means—

(*a*) an order under section 316 (4),

(*b*) an order under section 316 (5) (insofar as it is

0269

deemed to be an order under section 17 of the Enforcement of Court Orders Act, 1926), or

(*c*) an order under section 316 (5) (insofar as it is deemed to be an order under section 5 of the Enforcement of Court Orders Act, 1940);

'attachment of earnings order' means an order under section 316A;",

(*b*) the insertion after the definition of "competent authority" of the following definition:

"'earnings' means any sums payable to a person—

(*a*) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service),

(*b*) by way of pension or other like benefit in respect of employment (including an annuity in respect of past services, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment);", and

(*c*) the substitution for the definition of "order of the Court" of the following definition:

"'order of the Court' means a maintenance order, a lump sum order, a variation order or an interim order under the Act of 1976, an order under section 10 of that Act or an order of the Court made on foot of a separation agreement.".

Amendment of section 316 of Principal Act.

21.—Section 316 (inserted by section 12 of the Social Welfare Act, 1989) of the Principal Act is hereby amended by—

(*a*) the insertion in subsection (2) after "subsection (1)" of "(subsequently referred to in this Part as the 'liable relative')",

(*b*) the substitution in subsections (2), (3) and (4) for "the person liable to contribute" of "the liable relative" in each place in which it occurs,

(*c*) the substitution in subsection (4) for "the person so liable" of "the liable relative", and

(*d*) the insertion after subsection (4) of the following subsections:

"(5) An order made by the District Court under subsection (4) shall, for the purposes of its variation or enforcement, be deemed to be an order for payment by instalments made under section 17 of the Enforcement of Court Orders Act, 1926, and the said section 17 shall be construed accordingly.

(6) The District Court may, on the application of either the liable relative or the competent authority, vary in accordance with the provisions of section 5 of the Enforcement of Court Orders Act, 1940, an order made by it under subsection (4) and the said section 5

shall, with any necessary modifications, be construed accordingly:

Provided that any such application made by either party be notified to the other party in advance.

(7) The District Court may, on application by the competent authority in whose favour an order was made under subsection (4) for an order for the arrest and imprisonment of the debtor under section 6 of the Enforcement of Court Orders Act, 1940, proceed in accordance with the provisions of the said section 6.

(8) The provisions of—

(*a*) section 4 (1) (inserted by section 3 (3) of the Courts (No. 2) Act, 1986) of the Enforcement of Court Orders Act, 1940 (which relates to the duration of instalment orders), and

(*b*) section 5 (4) (inserted by section 3 of the Courts (No. 2) Act, 1986) of the Enforcement of Court Orders Act, 1940 (which relates to the duration of variation orders),

shall not apply to orders made under subsection (4) of this section.".

Insertion of sections 316A to 316J in Principal Act.

22.—The Principal Act is hereby amended by the insertion after section 316 (inserted by section 12 of the Social Welfare Act, 1989) of the following sections:

"Attachment of earnings order.

316A.—(1) (*a*) On application to the District Court by a competent authority on whose application the District Court has made an antecedent order, the Court may, to secure payments under the antecedent order, if it is satisfied that the liable relative is a person to whom earnings fall to be paid, make an attachment of earnings order.

(*b*) References in paragraph (*a*) to an antecedent order made by the District Court shall include references to such an order made, varied or affirmed on appeal from that Court.

(2) An attachment of earnings order shall be an order directed to a person who (at the time of the making of the order or at any time thereafter) has the liable relative in his employment and shall operate as a direction to that person to make, at such times as may be specified in the order, periodical deductions of such amounts (specified in the order) as may be appropriate, having regard to the normal deduction rate (within the meaning of subsection (4) (*a*)) and the protected earnings rate (within the meaning of subsection (4) (*b*)), from the liable relative's earnings and to pay the

0270

amounts deducted at such times as the Court may order to the District Court clerk specified by the attachment of earnings order for transmission to the person or competent authority entitled to receive payments made under the relevant antecedent order.

(3) An attachment of earnings order shall not be made without the consent of the liable relative, unless the District Court is satisfied that the liable relative has, without reasonable excuse, defaulted in the making of any payment under the relevant antecedent order.

(4) An attachment of earnings order shall—

(*a*) specify the normal deduction rate, that is to say, the rate at which the District Court considers it reasonable that the earnings to which the order relates should be applied in satisfying the relevant antecedent order, not exceeding the rate appearing to the District Court to be necessary for the purpose of—

(i) securing payment of the sums falling due from time to time under the relevant antecedent order, and

(ii) securing payment within a reasonable period of any sums already due and unpaid under the relevant antecedent order,

(*b*) specify the protected earnings rate, that is to say, the rate below which, having regard to the resources and the needs of the liable relative, the District Court considers it proper that the relevant earnings should not be reduced by a payment made in pursuance of the attachment of earnings order, and

(*c*) contain, so far as they are known to the District Court, such particulars as it considers appropriate for the purpose of enabling the liable relative to be identified by the person to whom the order is directed.

(5) Payments under an attachment of earnings order shall be in lieu of payments of the like total amount under the relevant antecedent order that have not been made and that, but for the attachment of earnings order, would fall to be made under the relevant antecedent order.

Obligations on employer in relation to attachment of earnings order.

316B.—(1) Where an attachment of earnings order or an order varying it is made, the employer for the time being affected by it shall, if it has been served upon him, comply with it; but he shall

be under no liability for non-compliance therewith before ten days have elapsed since the service.

(2) Where an attachment of earnings order is served on any person and the liable relative is not in his employment or the liable relative subsequently ceases to be in his employment, that person shall (in either case) within ten days from the date of service or, as the case may be, the cesser, give notice of that fact to the District Court.

(3) On any occasion when a person makes, in compliance with an attachment of earnings order, a deduction from a liable relative's earnings, he shall give to the liable relative a statement in writing of the total amount of the deduction.

(4) Such court registrar or court clerk as may be specified by an attachment of earnings order shall cause the order to be served on the employer to whom it is directed and on any subsequent employer of the liable relative concerned of whom the registrar or clerk so specified becomes aware and such service may be effected by leaving the order or a copy of the order at, or sending the order or a copy of the order by registered prepaid post to, the residence or place of business in the State of the person to be served.

Payments under attachment of earnings order.

316C.—Any payments made to a District Court clerk under an attachment of earnings order shall, when transmitted by him to the competent authority entitled to receive those payments, be deemed to be payments made by the liable relative so as to discharge any sums payable under the relevant antecedent order.

Powers of District Court.

316D.—(1) In relation to an attachment of earnings order or an application for such an order, the District Court that made the order or to which the application is made may, before or at the hearing or while the order is in force—

(*a*) order the liable relative to give to the District Court, within a specified period, a statement in writing signed by him containing—

(i) the name and address of any person by whom earnings are paid to him,

(ii) specified particulars as to his earnings and expected earnings and as to his resources and needs, and

(iii) specified particulars for enabling the liable relative to be identified by any employer of his, and

(*b*) order that any person appearing to the District Court to have the liable relative in his employment to give to the

0271

Court, within a specified period, a statement signed by that person, or on his behalf, containing specified particulars of the liable relative's earnings and expected earnings.

(2) Notice of an application for an attachment of earnings order served on a liable relative may include a requirement that he shall give to the District Court, within the period and in the manner specified in the notice, a statement in writing of the matters referred to in paragraph (*a*) of subsection (1) and of any other matters which are or may be relevant to the determination of the normal deduction rate and the protected earnings rate to be specified in the order.

(3) In any proceedings in relation to an attachment of earnings order, a statement given to the District Court in compliance with an order under paragraph (*a*) or (*b*) of subsection (1) or with a requirement under subsection (2) shall be admissible as evidence of the facts stated therein, and a document purporting to be such a statement shall be deemed, unless the contrary is shown, to be a statement so given.

Changes in employment.

316E.—Where an attachment of earnings order is in force—

(*a*) the liable relative shall notify in writing the District Court that made the order of every occasion on which he leaves any employment, or becomes employed or re-employed, not later (in each case) than ten days from the date on which he does so,

(*b*) the liable relative shall, on any occasion on which he becomes employed or re-employed, include in his notification under paragraph (*a*) particulars of his earnings and expected earnings from the relevant employment,

(*c*) any person who becomes an employer of the liable relative and knows that the order is in force and by what Court it was made shall, within ten days of his becoming the liable relative's employer or of acquiring that knowledge (whichever is the later), notify the District Court in writing that he is the liable relative's employer, and include in his notification a statement of the liable relative's earnings and expected earnings, and

(*d*) any person who is an employer of the liable relative and knows that the order is in force and by what Court it was made shall, within ten days of such occurence notify the competent auth-

ority and the District Court in writing of any increase in earnings paid to the liable relative.

Determinations by District Court.

316F.—(1) Where an attachment of earnings order is in force, the District Court that made the order shall, on the application of the employer concerned or the liable relative or competent authority to whom payments are being made under the order, determine whether payments (or any portions thereof) to the liable relative of a particular class or description specified by the application are earnings for the purpose of the order, and the employer shall give effect to any determination for the time being in force under this section.

(2) Where an application under this section is made by the employer, he shall not incur any liability for non-compliance with the order as respects any payments (or any portions thereof) of the class or description specified by the application which are made by him to the liable relative while the application or any appeal in consequence thereof or any decision in relation to the application or appeal is pending, but the foregoing provisions of this subsection shall not, unless the District Court otherwise orders, apply as respects such payments (or any portions thereof) if the employer subsequently withdraws the application or, as the case may be, abandons the appeal.

Liable relative in service of State.

316G.—(1) Where a liable relative is in the service of the State, a local authority for the purposes of the Local Government Act, 1941, a harbour authority within the meaning of the Harbours Act, 1946, a health board, a vocational education committee established by the Vocational Education Act, 1930, or a committee of agriculture established by the Agriculture Act, 1931, or is a member of either House of the Oireachtas—

(*a*) in a case where a liable relative in the service of the State is employed in a department, office, organisation, service, undertaking or other body, its chief officer (or such other officer as the Minister of the Government by whom the department, office, organisation, service, undertaking or other body is administered by may from time to time designate) shall, for the purposes of this Act, be regarded as having the liable relative in his employment,

(*b*) in a case where a liable relative is in the service of such an authority, board or committee, its chief officer shall, for the purposes of this Act, be regarded as having the liable relative in his employment,

0272

(*c*) in any other case, where a liable relative is paid out of the Central Fund or out of moneys provided by the Oireachtas, the Secretary of the Department of Finance (or such other officer of the Minister for Finance as that Minister may from time to time designate) shall, for the purposes of this Act, be regarded as having the liable relative in his employment, and

(*d*) any earnings of a liable relative paid out of the Central Fund or out of moneys provided by the Oireachtas shall be regarded as paid by the chief officer referred to in paragraph (*a*) or (*b*), as the case may be, the Secretary of the Department of Finance or such other officer as may be designated under paragraph (*a*) or (*c*), as the case may be, as may be appropriate.

(2) If any question arises in proceedings for or arising out of an attachment of earnings order as to what department, office, organisation, service, undertaking or other body a liable relative in the service of the State is employed in for the purposes of this section, the question may be referred to and determined by the Minister for Finance.

(3) A document purporting to contain a determination of the Minister for Finance under subsection (2) and to be signed by an officer of the Minister for Finance shall, in any such proceedings as are mentioned in that subsection, be admissible in evidence and be deemed, unless the contrary is shown, to contain an accurate statement of that determination.

(4) In this section references to a liable relative in the service of the State shall include references to a liable relative to whom earnings are paid directly out of moneys provided by the Oireachtas.

Discharge, variation or lapse of attachment of earnings order.

316H.—(1) The District Court that made an attachment of earnings order may, if it thinks fit, on the application of the competent authority, the liable relative, or the District Court clerk on whose application the order was made, make an order discharging or varying that order.

(2) Where an order varying an attachment of earnings order is made under this section, the employer shall, if it has been served upon him, comply with it, but he shall be under no liability for non-compliance before ten days have elapsed since the service.

(3) Where an employer affected by an attachment of earnings order ceases to have the liable relative in his employment, the order shall, in so far as that employer is concerned, lapse (except

as respects deductions from earnings paid after the cesser by that employer and payment to the person in whose favour the order was made of deductions from earnings made at any time by that employer).

(4) The lapse of an order under subsection (3) shall not prevent its remaining in force for other purposes.

Cesser.

316I.—(1) An attachment of earnings order shall cease to have effect upon the discharge of the relevant antecedent order, except as regards payments under the attachment of earnings order in respect of any time before the date of the discharge.

(2) Where an attachment of earnings order ceases to have effect, the clerk or registrar of the court that made the order shall give notice of the cesser to the employer.

Offences.

316J.—(1) When, without reasonable excuse, a person—

(*a*) fails to comply with subsection (1) or (2) of section 316B or section 316E or an order under section 316D or section 316H (2), or

(*b*) gives to a court a statement pursuant to section 316D (1), or a notification under section 316E, that is false or misleading, or fails to give any statement,

and the competent authority as a result fails to obtain a sum of money due under an attachment of earnings order, that sum may be sued for as a simple contract debt in any court of competent jurisdiction by the competent authority or the District Court clerk to whom such sum falls to be paid, and that court may order the person to pay to the competent authority or the District Court clerk, as appropriate, such amount (not exceeding the sum aforesaid) as in all the circumstances the court considers proper for distribution in such manner and in such amounts as the court may specify to the competent authority for whose benefit the attachment of earnings order was made.

(2) Where a person gives to a court—

(*a*) a statement pursuant to section 316D, or

(*b*) a notification under section 316E,

that is to his knowledge false or misleading, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months or to both.

0273

(3) A person who contravenes section 316B (3) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.".

Amendment of section 318 of Principal Act.

23.—Section 318 (inserted by section 12 of the Social Welfare Act, 1989) is hereby amended by—

(*a*) the deletion in subsection (1) of "Subject to subsection (2),",

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

"(2) A person who claims a benefit or allowance may be required by the competent authority to consent to the transfer to the competent authority of payments made to that person in compliance with an order of the court, such transfer to be conditional on the award of benefit or allowance to that person.", and

(*c*) the substitution in subsection (3) for "subsections (1) and (2)" of "subsection (1)".

Amendment of section 319 of Principal Act.

24.—Section 319 (inserted by section 12 of the Social Welfare Act, 1989) of the Principal Act is hereby amended by the substitution in subsections (1), (2) and (3) for "a person liable to contribute under section 316 (1)" of "a liable relative" in each place in which it occurs.

PART VI

Deserted Wife's Benefit

Deserted wife's benefit (title to benefit).

25.—(1) Section 100 of the Principal Act is hereby amended by—

(*a*) the insertion in subsection (1) after paragraph (*b*) of the following paragraph:

"(*bb*) does not have an aggregate of reckonable income and reckonable earnings in excess of a prescribed amount in the last complete income tax year or in such subsequent period as a deciding officer or an appeals officer may consider appropriate,", and

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

"(2) The circumstances in which a woman is to be regarded for the purposes of this section as having been deserted by her husband shall be specified in regulations.".

(2) *Paragraph (a)* of *subsection (1)* shall not apply to any claim for deserted wife's benefit made before the commencement of this section.

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

Deserted wife's benefit (conditions for receipt).

26.—(1) Section 101 of the Principal Act is hereby amended by—

(*a*) the substitution for subsection (2) of the following subsection:

"(2) In this section 'relevant time' means—

(*a*) the date on which the husband attained pensionable age or the date before he attained that age on which he and his spouse are determined to have commenced living apart from one another, or

(*b*) if the conditions are being satisfied on the woman's insurance record—

(i) if she attained pensionable age before the date on which she is determined to have commenced living apart from her husband, the date on which she attained that age, or

(ii) the date on which she is determined to have commenced living apart from her husband.", and

(*b*) the substitution for subsections (4) and (5) of the following subsections:

"(4) Subject to subsection (5), regulations may provide for entitling to deserted wife's benefit a woman who would be entitled thereto but for the fact that—

(*a*) she has an aggregate of reckonable income and reckonable earnings, in excess of an amount prescribed for the purposes of section 100 (1) (*bb*) in the last complete income tax year or in such subsequent period as a deciding officer or an appeals officer may consider appropriate, or

(*b*) the contribution condition set out in subsection (1) (*b*) is not satisfied.

(5) Regulations under subsection (4) shall provide that deserted wife's benefit payable by virtue 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—

(*a*) the claimant has an aggregate of reckonable income and reckonable earnings in excess of the amount prescribed for the purposes of section 100 (1) (*bb*) but not in excess of the amount prescribed for the purposes of this subsection, in the last complete income tax year or in such subsequent period as a deciding officer or an appeals officer may consider appropriate, and

0274

(*b*) the contribution condition set out in subsection (1) (*b*) is satisfied,

but any increase of the benefit payable under section 103 (1) shall be the same as if the conditions set out in section 100 (1) (*bb*) and in subsection (1) (*b*) of this section had been fully satisfied.".

(2) This section shall come into operation on such day or days as the Minister may appoint by order or orders and different days may be so appointed for different provisions of this section.

PART VII

Unemployment Payment Schemes

Substitution for Chapter 2, Part III of Principal Act.

27.—(1) The Principal Act is hereby amended by the substitution for Chapter 2 (in this section referred to as "the existing Chapter") of Part III of the following Chapter:

"CHAPTER 2

Unemployment Assistance

Interpretation.

135.—(1) In this Chapter—

'recipient' means a person entitled to unemployment assistance;

'social welfare officer' means a person appointed by the Minister under section 141 (1) to be a social welfare officer for the purposes of this Chapter;

'trade dispute' has the meaning assigned to it by section 35 (6);

'weekly means' shall be the yearly means divided by 52:

Provided that the amount so calculated shall be rounded up to the nearest £1 where it is a multiple of 50p but not also a multiple of £1 and shall be rounded to the nearest £1 where it is not a multiple of 50p or £1.

(2) In this Chapter references to means shall be construed as references to means as calculated in accordance with section 146.

Entitlement to unemployment assistance.

136.—(1) Subject to this Act, a person shall be entitled to unemployment assistance in respect of any day of unemployment in a continuous period of unemployment if—

(*a*) he has attained the age of 18 years and has not attained pensionable age,

(*b*) he has made application for unemployment assistance in the prescribed manner and within the prescribed time,

(*c*) he proves unemployment in the prescribed manner,

(*d*) he is capable of work,

(*e*) 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,

(*f*) 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, and

(*g*) he satisfies the conditions as to means specified for the purposes of this Chapter.

(2) (*a*) A person shall not be entitled to unemployment assistance for the first 3 days of unemployment in any continuous period of unemployment.

(*b*) No unemployment assistance shall be paid for any period less than one day.

(*c*) For the purposes of this section, any period prior to the relevant date of application for unemployment assistance shall not be reckoned as, or as part of, a continuous period of unemployment.

(*d*) Any period during which a person is disqualified for receiving unemployment assistance shall not be reckoned in the computation of any continuous period of unemployment of such person.

(3) For the purposes of this Chapter, any 3 days of unemployment, whether consecutive or not, within a period of 6 consecutive days shall be treated as a continuous period of unemployment, and any two such periods not separated by more than 52 weeks shall be treated as one continuous period of unemployment, and references in this

0275

Chapter to being continuously unemployed or continuous unemployment shall be construed accordingly.

(4) Sunday shall not be treated as a day of unemployment and shall be disregarded in computing any period of consecutive days.

(5) Notwithstanding subsection (3), any period of continuous—

(*a*) employment under a scheme administered by an Foras Áiseanna Saothair and known as the Social Employment Scheme, or

(*b*) participation in a scheme administered by an Foras Áiseanna Saothair and known as the Enterprise Allowance Scheme, or

(*c*) participation in a scheme administered by an Foras Áiseanna Saothair and known as the Alternance Scheme, or

(*d*) attendance at a training course provided or approved by an Foras Áiseanna Saothair, or

(*e*) employment under a scheme administered by an Foras Áiseanna Saothair and known as Teamwork, or

(*f*) participation in a scheme administered by the Minister for Social Welfare and known as the Part-Time Job Incentive Scheme, or

(*g*) participation in a scheme administered by the Minister for Education and known as the Vocational Training Opportunities Scheme, or

(*h*) participation in, employment under or attendance at a prescribed scheme or course,

shall be disregarded in treating, pursuant to subsection (3) of this section, any two continuous periods of unemployment not separated by more than 52 weeks as one continuous period of unemployment.

(6) Regulations may make provision as to the days which are or are not to be treated for the purposes of unemployment assistance as days of unemployment.

(7) Subsection (2) (*a*) shall not apply in relation to the payment of unemployment assistance to a person who ceased, not earlier than 52 weeks before the day in respect of which his application for unemployment assistance is made, to be entitled to unemployment benefit—

(*a*) by reason of having, by virtue of section 34, exhausted his entitlement to such benefit, or

(*b*) if the person is of or over 65 years of age, by reason of having failed to satisfy the contribution condition set out in section 30 (1) (*b*).

(8) Subject to section 125, payment of unemployment assistance shall continue to be made for a period of 6 weeks after the date of death of a recipient who had an adult dependant.

(9) 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.

Rates of unemployment assistance and effect of means on rates.

137.—(1) Subject to this section and to sections 138 and 139, the rate (in this Chapter referred to as 'the scheduled rate') of unemployment assistance shall be—

(*a*) in the case of a person who, in any continuous period of unemployment as construed in accordance with section 136 (3), has been in receipt of unemployment benefit or unemployment assistance for not less than 390 days, the weekly rate set out in column (2) at reference 1 (*a*) in Part I of the Fourth Schedule,

(*b*) in any other case, the weekly rate set out in column (2) at reference 1 (*b*) in Part I of the Fourth Schedule,

increased by—

(i) the amount set out in column (3) of that Part opposite that reference 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 for the same period to an increase of assistance under this subparagraph in respect of more than one person, and

(ii) the appropriate amount set out in column (4) or (5) of that Part opposite that reference in respect

0 276

of each qualified child who normally resides with the applicant or recipient.

(2) Unemployment assistance shall be payable—

(*a*) where the weekly means of the applicant or recipient are less than £1, at the scheduled rate,

(*b*) where such weekly means are equal to £1, at the scheduled rate reduced by £1, and

(*c*) where such weekly means exceed £1, at the scheduled rate, reduced by £1 for each amount (if any) of £1 by which those weekly means exceed £1:

Provided that, if the weekly means of the applicant or recipient are equal to or exceed the scheduled rate, no unemployment assistance shall be payable.

(3) Notwithstanding paragraph (*c*) of subsection (2), where the sole means of an applicant for unemployment assistance, who is not one of a couple, are assessed under paragraph (*e*) of subsection (1) of section 146 and where the rate of assistance payable to or in respect of such applicant, as calculated in accordance with paragraph (*c*) of subsection (2), would be a weekly amount which is 10p or more, but less than £5, such person shall be entitled to payment of unemployment assistance at the weekly rate of £5.

(4) (*a*) In subsection (3) 'couple' means a married couple who are living together or a man and a woman who are not married to each other but are cohabiting as man and wife.

(*b*) For the purposes of paragraph (*e*) of subsection (1) of section 146, when applied to subsection (3) of this section, 'spouse' means each person of a couple in relation to the other.

(5) In the application of the provisions of subsection (2) in the case of such persons or classes of persons as may be prescribed, regulations may provide for disregarding, in such manner as may be prescribed, any part of the weekly means of an applicant or recipient, up to an amount not exceeding £2.

(6) The Minister may, notwithstanding the provisions of regulations made pursuant to subsection (5) providing for weekly means of up to £2 in the case of certain persons or classes of persons to be disregarded, apply the provisions of subsection (2) to such persons or classes of persons at any time.

(7) Any regulations made under subsection (5) may apply to the whole State or to a specified part or parts of the State.

Total amount payable to couple.

138.—(1) In the case of a couple, both of whom are entitled to be paid unemployment assistance, the total amount payable to them pursuant to this Chapter shall not exceed the amount which would be payable if only one of them was entitled to be paid unemployment assistance and the other was an adult dependant, and each of them shall be entitled to be paid one-half of the amount which would be payable to him if the other were his adult dependant.

(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 £1 for every £2 or part of £2 of his means.

(3) Subsection (2) shall not apply in any case where the spouse is living apart from the applicant.

(4) Where one of a couple is entitled to disability benefit, unemployment benefit, injury benefit, disablement pension, old age (contributory) pension, old age pension, retirement pension or invalidity pension and the other is entitled to unemployment assistance, the total of the amount payable to them by way of such benefit or pension, as the case may be, and such unemployment assistance (in this subsection referred to as 'the relevant amount') shall not exceed the total amount of benefit or pension, as the case may be, or the total amount of unemployment assistance, whichever is the greater (in this subsection referred to as 'the greater amount'), that would be payable if only one of the couple were in receipt of benefit, pension or unemployment assistance, as the case may be, and the benefit, pension or unemployment assistance included an increase in respect of the other as his adult dependant; and, if the relevant amount would but for this subsection exceed the greater amount, the amount of unemployment assistance payable to the spouse who is entitled to such unemployment assistance shall be reduced by the amount of the excess.

(5) In this section 'couple' means a married couple who are living together or a man and woman who are not married to each other but are cohabiting as man and wife.

(6) In subsection (4) 'spouse' means each person of a couple in relation to the other.

Amount of increases payable in respect of qualified child normally resident with applicant in certain cases.

139.—(1) Any increase of unemployment assistance payable pursuant to subparagraph (ii) of section 137 (1) in respect of a qualified child who normally resides with the applicant or recipient and with the spouse of the applicant or recipient

0277

shall be payable at the rate of one-half of the appropriate amount in any case where the spouse of the applicant or recipient is not an adult dependent, and subparagraph (ii) of section 137 (1) shall be construed and have effect accordingly.

(2) In this section 'spouse' means—

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

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

(3) In calculating the amount of unemployment assistance which, pursuant to this section, is payable at one-half of the appropriate amount, the amount so payable shall be rounded up to the nearest 10p where it is a multiple of 5p but not also a multiple of 10p and shall be rounded to the nearest 10p where it is not a multiple of 5p or 10p.

Disqualifications.

140.—(1) A person shall be disqualified for receiving unemployment assistance while he is—

(*a*) resident, whether temporarily or permanently, outside the State, or

(*b*) undergoing penal servitude, imprisonment or detention in legal custody, or

(*c*) an inmate of an institution maintained wholly or partly out of public moneys or by a local authority, or

(*d*) in receipt of or entitled to disability benefit, maternity allowance, unemployment benefit, retirement pension or invalidity pension under Part II or pre-retirement allowance, blind pension or carer's allowance under Part III, or

(*e*) employed during any week under a scheme administered by an Foras Áiseanna Saothair and known as the Social Employment Scheme.

(2) Notwithstanding subsection (1), regulations may provide, subject to such conditions as may be prescribed, that a person who is entitled to or in receipt of 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.

(3) A person who has lost employment by reason of a stoppage of work which was due to a trade dispute at the factory, workshop, farm or other premises or place at which he was employed, shall be disqualified for receiving unemployment assistance so long as the stoppage of work continues, except in the case where he has, during the stoppage of work, become *bona fide* employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation:

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

(4) Where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments of the same premises or at the same place, each of those departments shall, for the purposes of subsection (3), be deemed to be a separate factory, workshop or farm or separate premises or a separate place, as the case may be.

(5) A person shall be disqualified for receiving unemployment assistance for such period as may be determined by a deciding officer, but in any case not exceeding 9 weeks, if he—

(*a*) has lost his employment through his own misconduct or has voluntarily left his employment without just cause, or

(*b*) has refused an offer of suitable employment, or

(*c*) has without good cause refused or failed to avail himself of any reasonable opportunity of receiving training provided or approved of by an Foras Aiseanna Saothair as suitable in his case, or

(*d*) has failed or neglected to avail himself of any reasonable opportunity of obtaining suitable employment,

and the period of disqualification shall commence on the day on which the loss or leaving of employment, refusal, failure or neglect (as the case may be) occurred.

(6) For the purpose of this section, employment shall not be deemed to be suitable employment in the case of any person if it is employment in a situation vacant in consequence of a stoppage of work due to a trade dispute.

(7) Unemployment assistance and unem-

0278

ployment benefit shall not both be payable in respect of the same day or days.

Appointment of social welfare officers.

141.—(1) The Minister may, with the sanction of the Minister for Finance, appoint such and so many persons as he thinks proper to be social welfare officers for the purpose of this Chapter.

(2) Every social welfare officer shall investigate into and report to the Minister upon any application for or in respect of unemployment assistance and any question arising on or in relation to such unemployment assistance which may be referred to him by the Minister, and may, for the purpose of such investigation and report require an applicant for unemployment assistance or the spouse or any employer of the applicant to furnish him with such information and to produce to him such documents as he may reasonably require.

(3) A social welfare officer shall, for the purposes of this Chapter, have power to do all or any of the following things—

(*a*) to enter at all reasonable times any premises or place liable to inspection under this section,

(*b*) to make such examination and enquiry as may be necessary for the purposes of this Chapter,

(*c*) to examine either alone or in the presence of any other person, as he thinks fit, in relation to any matters on which he may reasonably require information for the purposes of this Chapter, every person he finds in any such premises or place and to require every such person to sign a declaration of the truth of the matters in respect of which he is so examined.

(4) The occupier of any premises or place liable to inspection under this section, and any other person who is or has been employing any applicant for unemployment assistance, and the servants and agents of such occupier or other person, and any applicant for unemployment assistance shall furnish to a social welfare officer all such information and produce for inspection all such registers, cards, wages sheets, records of wages and other documents as the social welfare officer may reasonably require for the purposes of this Chapter.

(5) If any person—

(*a*) wilfully delays or obstructs a social welfare officer in the exercise of any duty or power under this section, or

(*b*) refuses or neglects to answer any question

or to furnish any information or to produce any document when required to do so under this section, or

(*c*) conceals or prevents or attempts to conceal or prevent any person from appearing before or being examined by a social welfare officer appointed under this section,

he shall be guilty of an offence under this section and shall be liable—

(i) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding one year or to both, or

(ii) on conviction on indictment, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 3 years or to both.

(6) A person shall not be required under subsection (5) to answer any question or to give any evidence tending to incriminate himself.

(7) Every social welfare officer shall be furnished with a certificate of his appointment, and on applying for admission to any premises or place for the purposes of this section shall, if so requested, produce the said certificate.

(8) The premises or places liable to inspection under this section are any premises or places where a social welfare officer has reasonable grounds for believing that—

(*a*) persons are, or have been, employed, or

(*b*) there are, or have been, self-employed persons,

and any premises or place where a social welfare officer has reasonable grounds for believing that any documents relating to persons in employment or to self-employed persons are kept.

False statements and offences.

142.—(1) If, for the purpose of obtaining or establishing entitlement to any payment of unemployment assistance for himself or for any other person, or of avoiding the making by himself or any other person of any repayment under this Chapter, any person makes any statement or representation (whether written or verbal) which is to his knowledge false or misleading in any material respect or conceals any material fact, he shall be guilty of an offence under this section and shall be liable—

(*a*) on summary conviction, to a fine not exceeding £1,000 or to imprisonment

0279

for a term not exceeding one year or to both, or

(*b*) on conviction on indictment, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) An employer or servant or agent of an employer who aids, abets, counsels or procures an employee in the employment of that employer to commit any offence under subsection (1) shall be guilty of an offence under this section and shall be liable—

(*a*) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding one year or to both, or

(*b*) on conviction on indictment, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 3 years or to both.

(3) A person convicted of an offence under this section shall be disqualified for receipt of any benefit, or any assistance (other than supplementary welfare allowance), or family income supplement for a period of 3 months immediately following the date of the conviction and such period of disqualification shall be treated as if it were a period in respect of which any such benefit, assistance or supplement was paid.

(4) Where a person is convicted of an offence under subsection (1) or (2) and by reason of that offence any unemployment assistance 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 assistance 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.

(5) Notwithstanding the provisions of subsection (4) or any other provisions of the Social Welfare Acts or regulations made under or applying the provisions of those Acts under which amounts of unemployment assistance may be recovered, the amount recovered by the Minister in any case may not exceed the amount of unemployment assistance received by the employee which he was not entitled to receive.

(6) Regulations under this Chapter may provide for offences consisting of contraventions of or failures to comply with such regulations and for the imposition, at the discretion of the court on summary conviction of such offences, of fines not

exceeding £1,000 or of imprisonment for a term not exceeding one year, or of both.

(7) Where an offence under this Chapter or under regulations made under this Chapter is committed by a body corporate and, in the case of an offence under subsection (1), where the offence is committed by an employee or officer of the body corporate, every person who at the time of the commission of the offence was a director, manager, secretary or other officer of the body corporate or was purporting to act in any such capacity shall also be guilty of that offence.

(8) It shall be a good defence to a prosecution for an offence under subsection (7) for a person to show that the offence was committed without his knowledge and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his position as director, manager, secretary or other officer and to all the circumstances.

(9) Any summons or other document required to be served for the purpose of proceedings under this Chapter on a body corporate may be served—

(*a*) by leaving it at or sending it by post to the registered office of the body corporate,

(*b*) by leaving it at or sending it by post to any place in the State at which the body corporate conducts business, or

(*c*) by sending it by post to any person who is a director, manager, secretary or other officer of the body corporate or is purporting to act in any such capacity at the place where that person resides.

Information to be furnished by employers to Minister.

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

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

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

(*a*) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding one year or to both, or

0280

(*b*) on conviction on indictment, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 3 years or to both.

Notification of increase in means.

144.—(1) Where a person is in receipt of unemployment assistance or has made an application for unemployment assistance which has not been finally determined, and his means have increased since the date of latest investigation thereof, or if no such investigation has taken place since the date of making the claim, the person shall, within 7 days of such increase in means, give or cause to be given to the Minister notification of the increase.

(2) A person who fails or neglects to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

Overpayments.

145.—(1) Every payment of unemployment assistance received by any person while he was disqualified for receiving unemployment assistance or while the statutory conditions relating to such a payment were not complied with by him or which he was otherwise disentitled to receive or any amount received which was in excess of that which he was entitled to shall be repayable by such person to the Minister on demand made in that behalf by a deciding officer and, if not so repaid, may be recovered by the Minister as a simple contract debt in any court of competent jurisdiction or by deduction from any payment or payments of unemployment assistance to which such person subsequently becomes entitled.

(2) Every sum repaid to or recovered by the Minister under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

Calculation of means.

146.—(1) In the calculation of the means of a person for the purposes of this Chapter, the following things and no other things shall be deemed to constitute the means of a person—

(*a*) the yearly value ascertained in the prescribed manner of all property belonging to him or to his spouse (not being property personally used or enjoyed by him or by his spouse or a farm of land leased either by him or by his spouse under a lease which was certified by the Irish Land Commission to be *bona fide* and in accordance with sound land use practice) which is invested or otherwise put to profitable use or is capable of being, but is not, invested or put to profitable use;

(*b*) all income which he or his spouse may reasonably expect to receive during the succeeding year in cash, whether as contributions to the expenses of the household or otherwise, but excluding—

(i) all moneys earned by his spouse from insurable employment and insurable self-employment,

(ii) any moneys received by way of disability benefit, maternity allowance, unemployment benefit, unemployment assistance, supplementary welfare allowance, child benefit or family income supplement,

(iii) any income arising from a bonus under a scheme administered by the Minister for the Gaeltacht for the making of special grants to parents or guardians resident in the Gaeltacht or Breac-Ghaeltacht (as defined in such scheme) of children attending primary schools,

(iv) in the case of a qualified applicant under a scheme administered by the Minister for the Gaeltacht and known as Scéim na bhFoghlaimeoirí Gaeilge, any income received under that scheme in respect of a person who is temporarily resident with the qualified applicant, together with any other income received in respect of such temporary resident,

(v) an amount of an allowance, dependent's allowance, disability pension or wound pension under the Army Pensions Acts, 1923 to 1980, or a combination of such allowances and such pensions so far as such amount does not exceed £80 per year,

(vi) any moneys received from a charitable organisation, being a body whose activities are carried on otherwise than for profit (but excluding any public or local authority) and one of whose functions is to assist persons in need by making grants of money to them,

(vii) any income arising from employment of a casual nature by a health board as a home help,

0281

(viii) any moneys received by way of training allowance from an organisation while undergoing a course of rehabilitation training provided by the organisation (being an organisation approved of by the Minister for Health for the purposes of the provision of such training),

(ix) any moneys, except so far as they exceed £104 per year, received by such person or by the spouse of such person in respect of work as an outworker under a scheme that is, in the opinion of the Minister, charitable in character and purpose,

(x) where he or his spouse is engaged on a seasonal basis in the occupation of fishing, one-half of so much of the income derived therefrom as does not exceed £120 per year and one-third of so much of such income as exceeds £120 per year but does not exceed £300 per year,

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

(xii) any moneys received under a statutory scheme administered by the Minister for Labour in respect of redundancy or by way of financial assistance to unemployed persons changing residence;

(*c*) the yearly value ascertained in the prescribed manner of any advantage accruing to him or to his spouse from—

(i) the use of property (other than a domestic dwelling or farm building owned and occupied, furniture and personal effects) which is personally used or enjoyed by him or by his spouse, and

(ii) the leasing by him or by his spouse of a farm of land under a lease which was certified by the Irish Land Commission to be *bona fide* and in accordance with sound land use practice;

(*d*) all income and the yearly value ascertained in the prescribed manner of all

property of which he or his spouse have directly or indirectly deprived themselves in order to qualify for the receipt of unemployment assistance, but where such income or the yearly value of the property so ascertained has reduced since the date of calculation, the calculation may be revised, subject to such conditions and in such circumstances as may be prescribed:

Provided that any such regulations shall not cause the income or yearly value of the property taken to be part of the means to be increased;

(*e*) the yearly value of any benefit or privilege enjoyed by him or by his spouse, including the estimated value to the household in the succeeding year deriving from all income earned by his spouse from insurable employment and insurable self-employment; and

(*f*) all moneys earned by him from insurable employment and insurable self-employment.

(2) For the purposes of subsections (1) (*b*) and (1) (*e*), the income of a person shall, in the absence of other means of ascertaining it, be taken to be the income actually received during the year immediately preceding the date of calculation.

(3) In this section, 'spouse', in relation to a person, means a spouse who is living with, and not apart from, that person.

Administration of unemployment assistance.

147.—(1) Provision may be made by regulations as to the time and manner of payment of unemployment assistance, and as to the information and evidence to be furnished by applicants and recipients when applying for payment of unemployment assistance.

(2) Regulations made under this section as to the time of payment of unemployment assistance may provide for extinguishing the right to any sum payable by way of unemployment assistance where payment thereof is not obtained within 6 months or such shorter period as may be prescribed from the time at which that sum is receivable in accordance with the regulations.

(3) Regulations may also provide—

(*a*) for enabling a person to be appointed to exercise, on behalf of an applicant for or recipient of unemployment assistance who may be or become unable for the time being to act, any right or

0282

power which the applicant or recipient may be entitled to exercise under this Chapter and for authorising a person so appointed to receive and deal with any sum payable by way of unemployment assistance on behalf of the applicant or recipient,

(*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 an applicant for or recipient of unemployment assistance so much of the assistance 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 137 (1) (i),

(*c*) for the appointment of a person to receive on behalf of an applicant for or a recipient of unemployment assistance who dies any sums payable by way of unemployment assistance to or in respect of such applicant or recipient.

(4) Regulations may also provide that probate or other proof of title of the personal representative of any deceased person may be dispensed with in the case of payment of any sum representing unemployment assistance, and that in any such case the sum may be paid or distributed to or among the persons appearing in the manner provided by the regulations to be entitled to receive the said sum or any part thereof, either as being persons beneficially entitled thereto under any testamentary instrument or as next of kin, or as being creditors of the deceased person, or to or among any one or more of such persons exclusive of the others.

(5) Notwithstanding section 136 (1) (*b*), regulations may provide for extending, subject to any prescribed conditions, the time within which application for unemployment assistance must be made.

(6) Regulations made under this Chapter prescribing a form of application for any purpose may require that all or any of the statements made by the applicant in such form be verified by statutory declaration and that such statutory declaration may be taken and received by a deciding officer or by any other officer of the Minister or such other person authorised by the Minister in that behalf.".

(2) The following are hereby repealed—

(*a*) sections 11 and 12 of the Social Welfare (No. 2) Act, 1985,

(*b*) section 1 of the Social Welfare (No. 2) Act, 1989, and

(*c*) subsection (2) of section 50 of the Act of 1991.

(3) Section 21 of the Social Welfare (No. 2) Act, 1985 and section 22 of the Social Welfare Act, 1989, in so far as they relate to unemployment assistance, shall cease to have effect.

(4) Section 2 (1) of the Principal Act is hereby amended by the substitution for the definition of "day of unemployment" of the following definition:

"'day of unemployment', in relation to Part II, has the meaning assigned in section 29, and in relation to Chapter 2 of Part III, has the meaning assigned in section 136 (6);".

(5) Section 300 (5) of the Principal Act is hereby amended by—

(*a*) the deletion in paragraph (*a*) (as amended by section 17 of the Social Welfare Act, 1986) of "or a qualification certificate under Chapter 2 of Part III is revoked", and

(*b*) the deletion in paragraph (*aa*) (inserted by section 35 of the Act of 1991) of "or a qualification certificate under Chapter 2 of Part III is revoked".

(6) Where, immediately before the day appointed for the commencement of this section, a person is entitled to or in receipt of unemployment assistance, any decision by a deciding officer or an appeals officer in relation to the means of that person for the purposes of his qualifying for a qualification certificate shall be deemed to be a decision under section 136 (1) (*g*).

(7) (*a*) *Subsection (1)* shall come into operation on such day or days as the Minister may appoint by order or orders and different days may be so appointed for the coming into operation of the subsection as respects different provisions of the Chapter inserted in the Principal Act by the subsection and where an order under this paragraph relates to part or parts only of that Chapter, the order may provide for the repeal of specified provisions of the existing Chapter on a specified day or days.

(*b*) *Subsections (2)* to *(6)* shall come into operation on such day or days as the Minister may appoint by order or orders and different days may be so appointed for different provisions of those subsections.

Unemployment benefit (title to benefit).

28.—(1) Section 29 of the Principal Act is hereby amended by the substitution for subsection (1) (as amended by section 50 of the Act of 1991 and in this section referred to as the "existing subsection") of the following subsections:

"(1) Subject to this Act, a person shall be entitled to unemployment benefit in respect of any day of unemployment (in this Part referred to as a 'day of unemployment') which forms part of a period of interruption of employment, if—

(*a*) he is under pensionable age on the day for which the benefit is claimed, and

0283

(*b*) he proves unemployment in the prescribed manner, and

(*c*) he satisfies the contribution conditions in section 30, and

(*d*) he has sustained a substantial loss of employment in any period of 6 consecutive days.

(1A) The circumstances in which a person is to be regarded, for the purposes of this Chapter, as having sustained a substantial loss of employment shall be specified in regulations, and different circumstances may be specified for different provisions of this Chapter.".

(2) *Subsection (1)* shall come into operation on such day or days as the Minister may appoint by order or orders and different days may be so appointed for the coming into operation of the subsection as respects different provisions of the subsections inserted in section 29 of the Principal Act by the subsection and where an order under this subsection relates to part or parts only of the said subsections, the order may provide for the repeal of specified provisions of the existing subsection on a specified day or days.

(3) Section 50 (1) of the Act of 1991 is hereby repealed.

Amendment of section 35 of Principal Act (disqualification for unemployment benefit).

29.—(1) Subsection (3) (as amended by *section 31*) of section 35 of the Principal Act is hereby amended by—

(*a*) the insertion after paragraph (*d*) of the following paragraph:

"(*e*) being a person under the age of 55 years who, in accordance with the Redundancy Payments Acts, 1967 to 1991, has been dismissed by his employer by reason of redundancy, has received or is entitled to receive any moneys, in excess of a prescribed amount, in respect of that redundancy under the said Acts or under an agreement with his employer,", and

(*b*) the substitution for "failure or neglect" of "failure, neglect or redundancy".

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

Title to pay-related benefit.

30.—Section 72 of the Principal Act is hereby amended by the substitution for subsection (3) (inserted by section 7 of the Social Welfare Act, 1983) of the following subsection:

"(3) Notwithstanding subsection (1), a person engaged in—

(*a*) short-time employment, or

(*b*) employment in a period of interruption of employment, in which for the time being, a number of days is systematically worked in a period of 4 consecutive weeks, which is less than the number of days which was normal in the employment concerned prior to the reduction in the number of days of employment:

Provided that the number of days worked is equal to, or exceeds half of, the number of days which

would have been normally worked in that four week period,

shall not be entitled to pay-related benefit for any day in respect of which he is entitled to unemployment benefit.".

Unemployment benefit (period of disqualification).

31.—(1) Section 34 of the Principal Act is hereby amended by the insertion after subsection (10) (inserted by section 14 of the Social Welfare Act, 1989) of the following subsection:

"(11) For the purposes of this section, any period in respect of which a person is disqualified for receiving unemployment benefit by virtue of subsection (3) of section 35 shall be treated as though it were a period in respect of which unemployment benefit was paid.".

(2) Section 35 of the Principal Act is hereby amended by the substitution in subsection (3) of "9 weeks" for "6 weeks".

PART VIII

Disability and Occupational Injury Benefit

Qualifying conditions for disability benefit.

32.—(1) Section 19 of the Principal Act is hereby amended by the substitution for subsection (1) (as amended by section 17 of the Act of 1991) of the following subsections:

"(1) The contribution conditions for disability benefit are—

(*a*) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period between his entry into insurance and the day for which the benefit is claimed, and

(*b*) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks, of which at least 13 must be qualifying contributions, in the last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed.

(1A) Regulations may provide for entitling to disability benefit, subject to such conditions as may be prescribed, such class or classes of persons as would be entitled thereto but for the fact that the requirement in paragraph (*b*) of subsection (1) that there must be qualifying contributions in respect of at least 13 contribution weeks in the last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed is not satisfied.".

(2) *Subsection (1)* of this section shall come into operation on such day as the Minister may appoint by order.

(3) *Subsection (1)* of this section shall not apply to any claim for disability benefit where the period of incapacity for work commences before the day appointed for the commencement of that subsection.

(4) Section 19 of the Principal Act is hereby further amended—

(*a*) by the substitution for subsection (1) (inserted by *subsection*

0284

(1) and in this section referred to as an "existing subsection") of the following subsection:

"(1) The contribution conditions for disability benefit are—

(*a*) that the claimant has qualifying contributions in respect of not less than 39 contribution weeks in the period between his entry into insurance and the day for which the benefit is claimed, and

(*b*) that the claimant has qualifying contributions or credited contributions in respect of not less than 39 contribution weeks, of which at least 13 must be qualifying contributions, in the last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed, and

(*c*) that the claimant has prescribed reckonable weekly earnings in excess of a prescribed amount in the prescribed period.", and

(*b*) by the substitution for subsections (4) and (5) (each of which is referred to in this section as an "existing subsection") of the following subsections:

"(4) Subject to subsection (5), regulations may provide for entitling to disability benefit persons who would be entitled thereto but for the fact that the condition set out in subsection (1) (*c*) is not satisfied.

(5) Regulations for the purposes of subsection (4) shall provide that benefit payable by virtue 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 condition set out in subsection (1) (*c*) is satisfied.".

(5) *Subsection (4)* shall come into operation on such day or days as the Minister may appoint by order or orders and different days may be so appointed for the coming into operation of the subsection as respects different provisions of the subsections inserted in section 19 of the Principal Act by the subsection and where an order under this subsection relates to part or parts only of the said subsections, the order may provide for the repeal of specified provisions of an existing subsection on a specified day or days.

(6) Section 18 of the Act of 1991 is hereby repealed.

Disability benefit (period of disqualification).

33.—Section 22 of the Principal Act is hereby amended by the insertion after subsection (2) of the following subsection:

"(2A) For the purposes of this section, any period in respect of which a person is disqualified for receiving disability benefit by virtue of subsection (1) of section 23 shall be treated as though it were a period in respect of which disability benefit was paid.".

Discontinuance of pay-related benefit for periods of incapacity for work.

34.—(1) Section 72 of the Principal Act is hereby amended by—

(*a*) the substitution for subsection (1) (as amended by section 11 of the Social Welfare (No. 2) Act, 1987) of the following subsection:

"(1) Subject to this Chapter, a person who had reckonable earnings in the relevant income tax year shall be entitled to pay-related benefit in respect of any day which is a day of unemployment which forms part of a period of interruption of employment and in respect of which the person is entitled to unemployment benefit and which is not earlier than the 19th day of unemployment in the period of interruption of employment.", and

(*b*) the deletion of subsection (2).

(2) Section 73 (as amended by section 16 of the Act of 1991 and *section 9*) of the Principal Act is hereby amended by the deletion of ", for any part of that period up to the 393rd day of incapacity for work or".

(3) The Principal Act is hereby amended by the substitution for section 74 of the following section:

"74. (1) In any period of interruption of employment a person shall not be entitled to pay-related benefit in respect of any day of unemployment after the 393rd day of unemployment in that period.

(2) In calculating for the purposes of section 73 and this section whether, in a period of interruption of employment, a person has had a specified number of days of unemployment, account shall be taken of only the first 18 days of unemployment in that period and any day of unemployment in that period in respect of which that person was entitled to pay-related benefit or would have been so entitled but for any condition prescribed for the purposes of section 73.".

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

(5) This section shall not apply to any period of interruption of employment in respect of incapacity for work in respect of which a person is in receipt of disability benefit (or would be in receipt of disability benefit but for the fact that injury benefit is payable to the person) and which commences before the date appointed for the commencement of this section.

Injury benefit (weekly rates).

35.—(1) Part I (inserted by section 3 of the Act of 1991) of the Second Schedule to the Principal Act is hereby amended by the substitution for "£65" of "£50" in column (2) at reference 3.

(2) *Subsection (1)* shall come into operation on the 6th day of April, 1992.

(3) Notwithstanding *subsection (1)* of this section or *section 3*, in the case of a person who is entitled to or in receipt of injury benefit immediately before the 6th day of April, 1992, the weekly rate of injury benefit (exclusive of any increase thereof) shall be £65 for the injury benefit period.

0285

PART IX

MISCELLANEOUS

Carer's allowance.

36.—Section 198G (1) of the Principal Act is hereby amended by the substitution for the definition of "relevant pensioner" (inserted by section 8 of the Act of 1991) of the following definition:

"'relevant pensioner' means a person (other than a person in receipt of a payment in respect of need for constant attendance under section 46) who is so incapacitated as to require full-time care and attention, and who—

(*a*) is in receipt of—

(i) old age (contributory) pension,

(ii) invalidity pension,

(iii) old age (non-contributory) pension,

(iv) blind pension,

(v) a maintenance allowance under section 69 of the Health Act, 1970, or

(vi) a payment corresponding to a pension referred to in subparagraph (i) to a person who has attained pensionable age, or in subparagraph (ii) from another Member State of the European Communities, or under the legislation of any other State with which the Minister has made a reciprocal arrangement under the provisions of section 307, or

(*b*) is in receipt of a retirement pension or who has attained the age of 65 years and is in receipt of a payment corresponding to a retirement pension from another Member State of the European Communities, or under the legislation of any other State with which the Minister has made a reciprocal arrangement under the provisions of section 307, where such person was, immediately prior to the receipt of such pension, in receipt of invalidity pension or a payment corresponding to an invalidity pension from another Member State of the European Communities or under such a reciprocal arrangement, or

(*c*) who has attained pensionable age and is in receipt of—

(i) death benefit by way of widow's or widower's pension,

(ii) death benefit by way of parent's pension,

(iii) retirement pension,

(iv) widow's (contributory) pension,

(v) deserted wife's benefit,

(vi) widow's (non-contributory) pension,

(vii) deserted wife's allowance,

(viii) prisoner's wife's allowance,

(ix) lone parent's allowance, or

(x) a payment corresponding to a pension referred to in subparagraph (i), (ii), (iii) or (iv) from another Member State of the European Communities, or under the legislation of any other State with which the Minister has made a reciprocal arrangement under the provisions of section 307;".

Integration of single woman's allowance scheme with pre-retirement allowance scheme.

37.—(1) The Principal Act is hereby amended by the repeal of—

(*a*) paragraph (i) of section 134 (1), and

(*b*) section 198.

(2) Notwithstanding Chapter 2A of Part III of the Principal Act and regulations made thereunder, where, immediately before the day appointed for the commencement of this section, a woman, who has not attained pensionable age, is in receipt of single woman's allowance by virtue of section 198 of the Principal Act, pre-retirement allowance shall be payable to her from the day so appointed at the same rate as the said single woman's allowance which is payable to her immediately before the day so appointed:

Provided that she continues to satisfy the conditions as to means prescribed for the purposes of Chapter 2A of Part III of that Act.

(3) For the purposes of *subsection (2)* a woman who is in receipt of single woman's allowance immediately before the day appointed for the commencement of this section shall be deemed—

(*a*) to be retired within the meaning of regulations made for the purposes of section 156C (2) (*c*) of the Principal Act, and

(*b*) to have complied with the requirement contained in section 156A (*b*) of that Act.

(4) Any decision made by a deciding officer or by an appeals officer in relation to the award of a single woman's allowance to a woman prior to the day appointed for the commencement of this section shall be deemed to be a decision to award pre-retirement allowance to such person on and from such appointed day.

(5) Where, immediately before the day appointed for the commencement of this section, a woman has applied for a single woman's allowance, and that application has not been finally determined, pre-retirement allowance shall be payable to her at the same rate as the single woman's allowance which, but for this section, would have been payable to her.

(6) Where, on the commencement of this section, a single woman is of or over the age of 56 years and under the age of 58 years, she shall, if she has not already qualified for pre-retirement allowance, be deemed for the purposes of the pre-retirement allowance—

0286

(*a*) to be retired within the meaning of regulations made for the purposes of section 156C (2) (*c*) of the Principal Act, and

(*b*) to have complied with the requirement contained in section 156A (*b*) of that Act,

when she attains the age of 58 years.

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

Amendment of section 44 of Principal Act.

38.—Section 44 of the Principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Subsections (1) and (2) shall, for any period for which the beneficiary is entitled to unemployability supplement, apply to a disablement pension as they apply to injury benefit.".

Family income supplement (regulations).

39.—Section 232F (inserted by section 13 of the Social Welfare Act, 1984) of the Principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The Minister may by regulations vary—

(*a*) the amounts specified in section 232B, and

(*b*) the percentage rate specified in section 232C (1),

but any such variation shall not reduce the amounts or the percentage rate applicable immediately before the commencement of such regulations.".

Clarification of section 300 (5) (*aa*) of Principal Act (revised decisions).

40.—For the avoidance of doubt, the provisions of paragraph (*aa*) (inserted by section 35 of the Act of 1991) of section 300 (5) of the Principal Act shall apply to new facts or new evidence relating to periods prior to and subsequent to the commencement of that paragraph.

Administration of social welfare schemes.

41.—(1) The Minister may delegate to such persons as may be prescribed, any function in relation to the administration of any benefit, pension, assistance, allowance or supplement payable under the Principal Act as may be prescribed and any such delegation shall be subject to such conditions and in such circumstances as may be prescribed.

(2) Regulations made under this section may apply to the whole State or to a specified part or parts of the State.

Selection of panels of assessors to sit with appeals officers.

42.—Section 298 of the Principal Act is hereby amended by the substitution for paragraph (*b*) (as amended by section 19 of the Act of 1990) of subsection (12) of the following paragraph:

"(*b*) The Chief Appeals Officer may constitute, on the basis of districts or otherwise as he considers appropriate, panels of persons to sit as assessors with appeals officers and members may be selected in such manner as he may determine from such panels to so sit when any question

which, in the opinion of the Chief Appeals Officer, is appropriate for the assistance of assessors is heard.".

Additional increases of lone parent's allowance to certain persons.

43.—Section 198C (inserted by section 12 of the Act of 1990) of the Principal Act is hereby amended by the insertion after subsection (2) of the following subsection:

"(3) The weekly rate of lone parent's allowance shall be increased—

(*a*) by the amount set out in column (7) of Part I of the Fourth Schedule where the person entitled to the allowance has attained pensionable age and is living alone, and

(*b*) by the amount set out in column (8) of Part I of the Fourth Schedule where the person entitled to the allowance has attained the age of 80 years.".

Disqualification for entitlement to benefit where person is convicted of an offence.

44.—(1) Section 115 (1) of the Principal Act is hereby amended by the substitution for subparagraph (i) (as amended by section 31 of the Social Welfare Act, 1989) of paragraph (*f*) of the following subparagraph:

"(i) A person convicted of an offence under this subsection in relation to a benefit shall be disqualified for the receipt of any benefit, or any assistance (other than supplementary welfare allowance), or family income supplement for a period of 3 months immediately following the date of the conviction and such period of disqualification shall be treated as if it were a period in respect of which any such benefit, assistance or supplement was paid.".

(2) This section shall not apply where the date of conviction occurs before the commencement of this Act.

Increase of fine under section 227 of Principal Act.

45.—Section 227 of the Principal Act is hereby amended by the substitution in subsection (3) (as amended by section 17 of the Social Welfare Act, 1986) of "£1,000" for "£5".

Recoupment of supplementary welfare allowance.

46.—The Principal Act is hereby amended by the substitution for section 215B (inserted by section 44 of the Act of 1991) of the following section:

"Recoupment of supplementary welfare allowance.

215B.—Where—

(*a*) in respect of any period a health board has granted supplementary welfare allowance to or in respect of a person who, though entitled to any other benefit, pension, assistance, allowance or supplement under this Act (in this section referred to as 'relevant payment'), is not in receipt of such relevant payment, and

(*b*) such supplementary welfare allowance is in excess of the amount which would have been granted to that person if he

0287

had been in receipt of such relevant payment, and

(*c*) the health board has certified to the Minister the amount (in this section referred to as 'the excess') so paid in excess in respect of the said period by such health board,

the Minister may reduce any such benefit, pension, assistance, allowance or supplement, which is or may become payable to such person during the relevant continuous period of entitlement to the said benefit, pension, assistance, allowance or supplement, by the amount of the excess and such amount shall be treated as having been paid on account of the relevant payment.".

Amendment of section 209 of Principal Act.

47.—(1) The Principal Act is hereby amended by the substitution for section 209 of the following section:

"Weekly or monthly supplements.

209.—(1) Subject to this Chapter, in the case of a person whose means are insufficient to meet his needs, regulations may provide for a weekly or monthly payment to supplement that person's income.

(2) Regulations under subsection (1) may prescribe the class or classes of persons to whom and the conditions and circumstances under which a payment under subsection (1) may be made and the amount of such a payment (either generally or in relation to a particular class or classes of persons).".

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

Amendment of section 28 of Act of 1991 (information required by Minister).

48.—Section 28 of the Act of 1991 is hereby amended by the insertion after "For the purpose of" of "controlling and" and the said section, as so amended, is set out in the Table to this section.

TABLE

28.—For the purposes of controlling and investigating entitlement to any benefit, pension, assistance, allowance or supplement under the Principal Act or under schemes administered by or on behalf of the Minister for Social Welfare, the Minister may require such persons as may be prescribed to provide him with such information in relation to such persons or classes of persons as the Minister may determine and any person so prescribed shall be required to provide such information as may be required.

Amendment of section 4 of Social Welfare (No. 2) Act, 1985 (amounts of increases payable in respect of qualified child normally resident with beneficiary).

49.—Section 4 of the Social Welfare (No. 2) Act, 1985, is hereby amended by—

(*a*) the deletion in subsection (1) of "Subject to subsection (2),", and

(*b*) the deletion of subsection (2).

Family income supplement (treating claims as having been made on a date earlier than date of receipt of claim).

50.—(1) The Principal Act is hereby amended by the insertion after section 232F (inserted by section 13 of the Social Welfare Act, 1984, and amended by *section 39*) of the following section:

"Receipt of claims.

232G.—(1) Regulations may provide for treating a claim for family income supplement as having been made on a date earlier than the date on which it is received, where it appears to the Minister that the claimant would have satisfied the conditions for entitlement to family income supplement during that period, but for the receipt by that person of unemployment benefit or unemployment assistance.

(2) Where—

(*a*) in respect of any period any unemployment benefit or unemployment assistance has been paid to or in respect of a person who, though entitled to family income supplement by virtue of subsection (1), is not in receipt of such supplement, and

(*b*) such benefit or assistance is in excess of the amount which would have been granted to that person if he had been in receipt of family income supplement,

the Minister may reduce any such supplement which is or may become payable to such person by the amount of the excess and such amount shall be treated as having been paid on account of the family income supplement.".

(2) Section 130 (inserted by section 43 of the Act of 1991) of the Principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) Where, but for this subsection, family income supplement and—

(*a*) unemployment benefit, or

(*b*) retirement pension, or

(*c*) unemployment assistance, or

(*d*) pre-retirement allowance,

would be payable to or in respect of a person in respect of the same period, only one shall be paid.".

0288

Sanction of Minister for Finance in relation to certain regulations.

51.—The following shall be subject to the sanction of the Minister for Finance—

(*a*) regulations for the purposes of section 19 (1A), 29 (1A), 100 (1) (*bb*), 100 (5), 136 (1), 137 (5) or 232G (1) of the Principal Act or Rule 2 (3) of the Third Schedule to that Act,

(*b*) regulations for the purposes of *section 41*.

Saving for certain instruments and documents.

52.—An instrument or document—

(*a*) that—

(i) is made or issued under a provision of the Principal Act that is amended by this Act, or

(ii) relates to such a provision and is continued in force by section 312 of the Principal Act as if made or issued under that Act,

and

(*b*) that is in force immediately before the commencement of the amendment,

shall continue in force as if made or issued under the provision as so amended.

PART X

Amendments to Pensions Act

Amendment of section 2 of Pensions Act.

53.—Section 2 of the Pensions Act is hereby amended—

(*a*) by the substitution for the definition of "member" of the following definition:

"'member', in relation to a scheme, means, subject to section 62, any person who, having been admitted to membership under the rules of the scheme, remains entitled to any benefit under the scheme in respect of a period of service whilst employed within the State;",

(*b*) by the substitution for the definition of "occupational pension scheme" of the following definition:

"'occupational pension scheme' means any scheme or arrangement—

(*a*) which is comprised in one or more instruments or agreements, and

(*b*) which provides or is capable of providing in relation to employees in any description of employment within the State, benefits, and

(*c*) (i) which has been approved of by the Revenue Commissioners for the purpose of Chapter II of Part I of the Finance Act, 1972, or

(ii) the application for approval of which under Chapter II of Part I of the Finance Act, 1972, is being considered, or

(iii) which is a statutory scheme to which section 17 of the Finance Act, 1972, applies, or

(iv) which is a scheme other than a scheme specified in subparagraph (i), (ii) or (iii) and where the benefits are paid in whole or in part out of moneys provided from the Central Fund or moneys provided by the Oireachtas;", and

(*c*) the substitution for the definition of "reckonable service" of the following definition:

"'reckonable service' means the aggregate of every period of service in the relevant employment during membership of—

(*a*) the scheme,

(*b*) every other scheme relating to the same employment where accrued rights from such other scheme have been transferred to the scheme,

but does not include service as a member of a scheme where either—

(i) the only benefit thereunder is in respect of death prior to normal pensionable age, or

(ii) the member has been notified in writing by the trustees that such service does not entitle him to long service benefit:

Provided that no such period, or part thereof, shall be counted more than once;".

Preserved benefit.

54.—(1) Section 29 (7) of the Pensions Act is hereby amended by the insertion after "another scheme," of the following:

"where such accrued rights result from the termination of the employment to which that scheme applies,".

(2) Section 30 (6) of the Pensions Act is hereby amended by the insertion after "another scheme," of the following:

"where such accrued rights result from the termination of the employment to which that scheme applies,".

(3) Section 37 (3) of the Pensions Act is hereby amended by the insertion after paragraph (*b*) of the following paragraph:

"(*c*) a member's service in relevant employment may be treated as terminated or not terminated.".

(4) Section 38 (2) of the Pensions Act is hereby amended by the insertion in paragraph (*b*) after "Part," of the following:

"or

0289

(*c*) whether a member's service in relevant employment may be treated as terminated for the purposes of this Part.".

Amendment of section 34 of Pensions Act.

55.—Section 34 (2) of the Pensions Act is hereby amended by the substitution for paragraph (*b*) of the following paragraph:

"(*b*) in the case of a defined contribution scheme, to the accumulated value of the appropriate contributions under the scheme in respect of the member, such value to be determined on a date not later than 3 months following the date of the receipt of the application:

Provided that where benefits under such a scheme are secured under one or more policies of assurance, the accumulated value of the appropriate contributions shall be the proportion of the proceeds of every such policy applicable to those contributions.".

Amendment of section 46 of Pensions Act.

56.—Section 46 of the Pensions Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) In completing an actuarial funding certificate, the actuary—

(*a*) in addition to complying with the other provisions of this Part, shall have regard to such financial or other assumptions as he considers to be appropriate on the effective date of the certificate, and

(*b*) notwithstanding anything contained in the rules of a relevant scheme, may assume that the liabilities of the scheme on winding up could have been provided by applying all or part of the resources of the scheme in the making of—

(i) a payment to another scheme, or

(ii) one or more payments falling to be made under policies or contracts of assurance that are effected on behalf of the member with one or more undertakings (within the meaning of the Insurance Act, 1989) and that are approved of by the Revenue Commissioners under Chapter II of Part I of the Finance Act, 1972,

such payment or payments to be equal to the actuarial value of the benefits specified in subparagraphs (i), (ii) and (iii) of section 44 (*a*), and the percentage of the benefits specified in section 44 (*a*) (iv).".

Amendment of section 48 of Pensions Act.

57.—The Pensions Act is hereby amended by the substitution for section 48 of the following section:

"Priorities on winding up of relevant scheme.

48.—Notwithstanding anything contained in the rules of a relevant scheme that is being wound up—

(*a*) the resources of the scheme being wound up shall be applied on the winding up to secure—

(i) firstly, the continued payment of the benefits specified in paragraph 1 of the Third Schedule to or in respect of those persons who, at the date of the winding up, were in receipt of such benefits, and

(ii) secondly, the benefits specified in paragraphs 2 and 3 of the Third Schedule to or in respect of those members of the scheme who, at the date of the winding up, were within the categories referred to in those paragraphs,

before discharging any other liabilities of the scheme:

Provided that the expenses, fees and costs relating to and associated with the winding up of the scheme shall be payable in priority to any other claims on the scheme, and

(*b*) the trustees may apply, without the consent of the member concerned, all or part of the resources of the scheme—

(i) in the making of a payment to another scheme, or

(ii) in the making of one or more payments falling to be made under policies or contracts of assurance that are effected on behalf of the member with one or more undertakings (within the meaning of the Insurance Act, 1989) and that are approved by the Revenue Commissioners under Chapter II of Part I of the Finance Act, 1972,

such payment or payments to be equal to the actuarial value of the benefits payable under the rules of the scheme on the winding up, subject always to paragraph (*a*).".

Amendment of section 55 of Pensions Act.

58.—Section 55 of the Pensions Act (as amended by section 62 of the Act of 1991) is hereby amended by the insertion after subsection (1) of the following proviso:

"Provided that where the period selected by the trustees is altered, a report prepared for a period other than a year, such period not to exceed 23 months, shall, with the approval of the Board, be regarded as an annual report for the purposes of this section.".

0290

Amendment of section 56 of Pensions Act.

59.—Section 56 of the Pensions Act (as amended by section 63 of the Act of 1991) is hereby amended by the insertion after subsection (4) of the following subsection:

"(4A) For the purposes of subsection (4) a firm appointed by its firm name to be the auditor of a scheme shall be deemed to be an appointment of a person who shall from time to time during the currency of the appointment be a partner in that firm as from time to time constituted and who is qualified to be an auditor of that scheme.".

Amendment of section 62 of Pensions Act.

60.—Section 62 of the Pensions Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Regulations under this section—

(*a*) shall determine the circumstances in which a person, or category of persons, who, having been admitted to membership of the scheme and remaining entitled to any benefit under the scheme, is or are to be regarded for the purposes of this section as being a member or members of the scheme,

(*b*) may specify the manner in which decisions of members of schemes, and the selection of persons for appointment as trustees of schemes by the members of schemes, for the purpose of subsection (1) shall be made,

(*c*) may make such other provision as the Minister considers necessary or expedient for the purpose of this section and for enabling it to have full effect.".

Repeals.

61.—The following provisions of section 69 of the Pensions Act are hereby repealed—

(*a*) paragraph (*d*) of subsection (1), and

(*b*) subsection (3).

Amendment of section 71 of Pensions Act.

62.—Section 71 of the Pensions Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Where, on commencement of this Part, any rule of a scheme is rendered null and void by subsection (1), then, during such period as may be prescribed, beginning on such commencement and not being longer than 6 years (or in the case of retirement ages, a period not being longer than 25 years) nothing in this Part shall preclude rights or obligations, relating to a period of membership in that scheme prior to the 17th day of May, 1990, from remaining subject to the provisions of the scheme in force during that period of membership.".

Amendment of Third Schedule to Pensions Act.

63.—The Third Schedule to the Pensions Act is hereby amended by—

(*a*) the substitution for paragraph 1 of the following paragraph:

"1. The benefits for the purposes of this paragraph shall be all future benefits payable under the rules of the scheme

to or in respect of a person in receipt of such benefits as at the effective date of the certificate, but excluding all future increases in such benefits which are not of a contractual nature.",

(*b*) the substitution for subparagraph (*b*) of paragraph 3 of the following paragraph:

"(*b*) in the case of a member of that scheme then in relevant employment, the greater of—

(i) preserved benefits (including future revaluations thereof and those benefits payable on the death of the member entitled to preserved benefit) calculated in accordance with the provisions of Part III, and

(ii) the long service benefits payable under the rules of the scheme in respect of reckonable service completed after the commencement of Part IV but prior to the effective date of the certificate,

calculated as if the member's service in relevant employment has terminated on the effective date of the certificate but disregarding any provision requiring the completion of a minimum period of qualifying service which may prevent the member concerned from acquiring an entitlement to benefit on termination of such employment.", and

(*c*) the substitution in clause (i) (II) of paragraph 4 (*b*) (as amended by section 64 of the Act of 1991) for "the benefits" of "the long service benefits".

0291

Section 3.

SCHEDULE A

"SECOND SCHEDULE
RATES OF BENEFITS

PART I

RATES OF PERIODICAL BENEFITS AND INCREASES THEREOF

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)	Increase where the person has attained the age of 80 years (where payable) (8)
	£	£	£	£	£	£	£
1. Disability Benefit, Unemployment Benefit and Injury Benefit	53.00	34.30	12.50	12.50	—	—	—
2. Maternity Allowance... ...	53.00	—	12.50	12.50	—	—	—
3. Death Benefit:							
(*a*) pension payable to a widow (section 50 (2)) or widower (section 50 (6)) ...	76.80	—	16.20	16.20	31.80	4.50	—
(*b*) pension payable to a parent							
(i) reduced rate ...	34.50	—	—	—	31.80	4.50	—
(ii) maximum rate ...	76.80	—	—	—	31.80	4.50	—
(*c*) pension payable to an orphan	39.90	—	—	—	—	—	—
4. Old Age (Contributory) Pension and Retirement Pension:	66.60	42.40	14.60	12.50	31.80	4.50	4.40
additional increase for an adult dependant who has attained pensionable age	—	5.40	—	—	—	—	—
5. Invalidity Pension	58.70	38.70	14.60	12.50	31.80	4.50	4.40
6. Widow's (Contributory) Pension and Deserted Wife's Benefit ...	60.50	—	16.20	16.20	31.80	4.50	4.40
7. Orphan's (Contributory) Allowance	37.90	—	—	—	—	—	—

PART II

OCCUPATIONAL INJURIES BENEFITS—GRATUITIES AND GRANT

	£
1. Disablement Benefit: Maximum gratuity	5,470
2. Death Benefit: (i) Widower's gratuity	3,990
(ii) Grant in respect of funeral expenses	270

PART III

Disablement Pension

Degree of disablement (1)	Weekly rate (2)
	£
100 per cent	78.40
90 ,, ,, ...	70.60
80 ,, ,, ...	62.70
70 ,, ,, ...	54.90
60 ,, ,, ...	47.00
50 ,, ,, ...	39.20
40 ,, ,, ...	31.40
30 ,, ,, ...	23.50
20 ,, ,, ...	15.70

PART IV

Increases of Disablement Pension

	£
1. Increase where the person is permanently incapable of work ...	53.00
2. Increase where the beneficiary requires constant attendance:	
(*a*) limit of increase except in cases of exceptionally severe disablement	31.80
(*b*) limit in any case	63.60

",

D292

Section 4.

SCHEDULE B

"FOURTH SCHEDULE

RATES OF ASSISTANCE

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) or 196(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 a person to whom section 137 (1) (*a*) applies ...	57.20	34.30	12.50	12.50	—	—	—
(b) in the case of a person to whom section 137 (1) (*b*) applies ...	53.00	34.30	12.50	12.50	—	—	—
2. Pre-Retirement Allowance ...	57.20	34.30	12.50	12.50	—	—	—
3. Old Age Pension and Blind Pension	57.20	—	12.50	12.50	31.80	4.50	4.40
4. Widow's (Non-Contributory) Pension, Deserted Wife's Allowance and Prisoner's Wife's Allowance	57.20	—	—	—	31.80	4.50	4.40
5. Lone Parent's Allowance ...	57.20	—	14.60	14.60	—	4.50	4.40
6. Carer's Allowance ...	53.00	—	12.50	12.50	—	—	—
7. Orphan's (Non-Contributory) Pension ...	32.50	—	—	—	—	—	—
8. Single Woman's Allowance ...	57.20	—	—	—	—	—	—
9. Supplementary Welfare Allowance ...	53.00	34.30	12.50	12.50	—	—	—

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	34.30
exceed £6 but do not exceed £8	33.30
exceed £8 but do not exceed £10	32.30
exceed £10 but do not exceed £12	31.30
exceed £12 but do not exceed £14	30.30
exceed £14 but do not exceed £16	29.30
exceed £16 but do not exceed £18	28.30
exceed £18 but do not exceed £20	27.30
exceed £20 but do not exceed £22	26.30
exceed £22 but do not exceed £24	25.30
exceed £24 but do not exceed £26	24.30
exceed £26 but do not exceed £28	23.30
exceed £28 but do not exceed £30	22.30
exceed £30 but do not exceed £32	21.30
exceed £32 but do not exceed £34	20.30
exceed £34 but do not exceed £36	19.30
exceed £36 but do not exceed £38	18.30
exceed £38 but do not exceed £40	17.30
exceed £40 but do not exceed £42	16.30
exceed £42 but do not exceed £44	15.30
exceed £44 but do not exceed £46	14.30
exceed £46 but do not exceed £48	13.30
exceed £48 but do not exceed £50	12.30
exceed £50 but do not exceed £52	11.30
exceed £52 but do not exceed £54	10.30
exceed £54 but do not exceed £56	9.30
exceed £56 but do not exceed £58	8.30
exceed £58 but do not exceed £60	7.30
exceed £60	nil

".

0293

AN BILLE LEASA SHÓISIALAIGH, 1992

BILLE

(mar a leasaíodh i gCoiste)

dá ngairtear

Acht do leasú agus do leathnú na nAchtanna Leasa Shóisialaigh, 1981 go 1991, do leasú agus do leathnú Acht na bPinsean, 1990, agus do dhéanamh socrú i dtaobh nithe comhghaolmhara.

An tAire Leasa Shóisialaigh a thíolaic

Ordaíodh ag Dáil Éireann *a chlóbhualadh,*
26 *Márta,* 1992

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.

Clóbhuailte ag CAHILL PRINTERS LIMITED.

£3.75

Wt. P29451/B/3. 1,000. 3/92. Cahill. (X25362). G.16.

SOCIAL WELFARE BILL, 1992

BILL

(as amended in Committee)

entitled

An Act to amend and extend the Social Welfare Acts, 1981 to 1991, to amend and extend the Pensions Act, 1990, and to provide for connected matters.

Presented by the Minister for Social Welfare

Ordered by Dáil Éireann *to be printed,*
26*th March,* 1992

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through any bookseller, or directly from the Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2.

Printed by CAHILL PRINTERS LIMITED.

£3.75