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**AN BILL LEASA SHÓISIALAIGH (FORÁLACHA  
ILGHNÉITHEACHA), 2002**

**SOCIAL WELFARE (MISCELLANEOUS PROVISIONS) BILL,  
2002**

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**EXPLANATORY MEMORANDUM**

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*Introduction*

The Bill provides for increases in the monthly rates of Child Benefit, and in the amounts of the Respite Care and Widowed Parent Grants as announced in Budget 2002. It also extends payment of Child Dependant increases for certain children of recipients of short-term social welfare payments and provides for changes in the linking arrangements for certain claims to Disability Benefit and Pre-Retirement Allowance.

It caters for certain other miscellaneous amendments to the social welfare code and for amendment of the provisions relating to the administration of public service data. It also amends legislation relating to the registration of births, deaths and marriages, primarily to facilitate the initial implementation of the new computerised system of registration of births and deaths.

In addition, the Bill provides for amendments to the Combat Poverty Agency Act, the Health Contributions Act and the Charities Act.

The Bill contains three Parts:

*Part 1 (sections 1 to 14)* provides for amendment of the social welfare code. *Part 2 (section 15)* provides for amendment of other enactments (e.g. the Registration of Births and Deaths Acts, the Combat Poverty Agency Act, the Health Contributions Act and the Charities Act). *Part 3 (section 16)* provides for the short title, construction and commencement of the provisions of the Bill. The amendments effected by *section 15* are detailed in *Parts 1 to 8* of the *Schedule* to the Bill.

**PART 1**

*Section 1* contains the usual provisions for definition of terms used in the Bill.

*Child Benefit*

*Section 2* provides for increases in the monthly rates of Child Benefit with effect from April 2002. The increases amount to €31.80 in the lower rate and €38.10 in the higher rate of payment, resulting in new rates of €117.60 in respect of each of the first two children and €147.30 for the third and each subsequent child.

#### *Respite Care Grant*

*Section 3* provides for increases in the annual Respite Care Grant which is payable in June each year to recipients of Carer's Benefit, Carer's Allowance, and carers providing full-time care and attention to recipients of Constant Attendance Allowance or Prescribed Relatives Allowance at that date. The new rates will come into effect in June 2002 and will amount to €635 for a person caring for one person and €1,270 where the person is caring for more than one person.

#### *Widowed Parent Grant*

The increase of €1,230.60 in the Widowed Parent Grant to €2,500 was brought into effect by Regulation on Budget Day, 5 December 2001. *Section 4* provides for the insertion of the increased rate of the grant in the Principal Act.

#### *Disability Benefit*

*Section 5* provides for the linking of Disability Benefit claims of five years duration or more for up to 13 weeks in relation to periods of incapacity as announced in Budget 2002. At present, claims to benefit which are separated by more than three days of incapacity are not linked. This means, in the case of those in receipt of Disability Benefit for a long period, that the person must again satisfy certain qualifying conditions (i.e. s/he must have the required number of contributions in the governing contribution year or in a number of other specified tax years and have earnings of at least €88.90 per week) to re-qualify for full-rate benefit.

This is considered to be a disincentive to people trying to return to the workforce, for example, in the case of a person who, following a prolonged illness, returns to employment but finds after a short time that he or she is unable to continue and must again claim benefit.

The proposed amendment provides for extending the linking period from 3 days to 13 weeks where a person was receiving benefit for a period of 5 years or more. It will ensure that persons who find themselves unfit to continue working can revert to the original benefit to which they were entitled without the need to re-qualify.

#### *Pre-Retirement Allowance and Unemployment Assistance*

*Section 6* provides for the disregard of periods spent on Pre-Retirement Allowance for the purpose of linking two claims to Unemployment Assistance not separated by more than 52 weeks, and equally for linking two similar claims to Pre-Retirement Allowance which are not separated by more than 52 weeks.

While recipients of Pre-Retirement Allowance have declared themselves retired from employment, some may decide to return to the workforce. Where the resumption of employment proves unsuccessful the person must claim Unemployment Assistance and serve three waiting days before receiving payment.

This section will address this disincentive by allowing people to resume entitlement to Pre-Retirement Allowance where the gap between the two claims is not more than 52 weeks in duration. It further provides for disregarding the period on Pre-Retirement Allowance for the purpose of linking entitlement to Unemployment Assistance where the person commences part-time employment and claims Unemployment Assistance in respect of any days of unemployment.

### *Child Dependant Payments*

At present, an increase for a qualified child payable with certain short-term benefits such as Unemployment Benefit and Disability Benefit, terminates when the child attains 18 years, even if that child is participating in full-time education. *Section 7* provides that the increase will continue to be payable up to the end of June following the child's 18th birthday where s/he is in full-time education as defined. This measure was announced in Budget 2002 and will come into effect in April, 2002.

### *Disability Allowance*

*Section 8* changes the rounding provisions for the purposes of the means assessment for Disability Allowance. At present, a person's means are rounded up to the nearest Euro where they contain a cent amount equal to or greater than 50 cent, and rounded down if less than this amount. As Disability Allowance payments are withdrawn in bands of €2.50 for each €2.50 means, some recipients may be disadvantaged by this arrangement. Accordingly, this section provides that where the means include a multiple of 50 cent, the amount will remain unchanged.

### *Maternity Benefit and Adoptive Benefit*

*Section 9* provides for changes in the PRSI contribution conditions used to determine a self-employed person's entitlement to Maternity Benefit and Adoptive Benefit. Existing legislation provides that a self-employed woman (i.e. Class S PRSI) may qualify for either benefit if she has 52 qualifying contributions in the last or second last complete contribution year before the benefit year in which she claims.

Women who are employed contributors (Class A PRSI) may qualify for benefit based on qualifying contributions paid in the same contribution years , but in addition may use a subsequent complete contribution year before the date of claim or the twelve-month period immediately prior to claiming.

Women in insurable self-employment who were previously employed contributors may also qualify under the conditions applicable to employed contributors, using employment contributions (Class A), self-employment contributions (Class S) or a combination of both, paid in the last complete contribution year or the twelve-month period immediately prior to the date of claim. This option is not available to self-employed contributors who were not previously employed contributors.

This section therefore extends to all self-employed contributors the option of using qualifying contributions paid in the last complete contribution year before the date of claim. In the case of previously employed contributors it provides that while they may continue to qualify on the basis of the twelve-month period immediately prior to the date of claim, employment contributions (Class A) only will be taken into account for this purpose.

### *Alignment of Tax Year with the Calendar Year*

*Section 10* provides for a continuation of the transitional arrangements introduced in the Social Welfare Act, 2001 on foot of the alignment of the income tax year with the calendar year with effect from 1 January, 2002 for the purposes of determining entitlement to short-term benefits.

Accordingly, for the benefit year commencing on 6th January, 2003, the second last complete contribution year (i.e. the transitional

contribution year of April 2001 to December, 2001 to which an additional 14 contributions apply) will be used as a basis for qualification to short-term benefits such as Disability and Unemployment Benefits.

#### *PRSI for Personal Pensions*

Payments to occupational pension schemes made through the payroll system by employees or self-employed contributors (e.g. proprietary directors) who are liable for income tax under the PAYE system are not liable to PRSI.

It is proposed that a similar exemption will apply in respect of payments made to the new Personal Retirement Savings Accounts (PRSAs) being introduced under the Pensions Bill 2001 and to other personal pensions paid through the payroll system. These arrangements will be provided for in the Regulations which govern the PAYE system.

However, contributions to PRSAs and other personal pensions may be made in a personal capacity outside the payroll system. *Section 11* therefore provides for Regulations to permit the return, subject to certain conditions, of PRSI contributions paid in respect of payments to such pensions by employees or proprietary directors made outside the payroll system.

#### *Personal Public Service Number*

*Section 12* provides for an amendment of section 223 of the Principal Act which deals with the use of the Personal Public Service (PPS) number as a key identifier by certain specified public service agencies in the delivery of public services. These agencies include Government Departments, the Revenue Commissioners, local authorities, An tArd-Chláraitheoir, health boards and other public service bodies. A person is required to produce his/her (PPS) number to a specified body when accessing its services.

The use of a PPS number may not be sufficient by itself to enable customers access a particular public service. In many cases, customers have, in addition, to provide public service agencies with further personal data such as name, address, date of birth, etc. to authenticate their identity. It is therefore proposed to introduce a new concept of a “Public Service Identity” which will act as a unique and secure identifier for public service customers. The section defines the elements of the Public Service Identity which will include, *inter alia*, the person’s name, address, date of birth, sex, nationality, etc. and his/her PPS Number.

The section provides that where a specified body collects any of the data items which comprise a person’s Public Service Identity, for any purpose, such data items shall also be collected for the purpose of maintaining his/her public service identity. Personal data collected at birth registration shall also be collected for the purpose of establishing the person’s Public Service Identity.

The Minister is currently responsible for the issue and management of PPS numbers and associated data and accordingly, will be responsible for maintaining and managing the Public Services Identity database.

This measure will lead to benefits both for customers and public service agencies due to increased accuracy of information, less form filling, increased efficiency and reduced exposure to fraud.

The section also includes a change to the definition of “transaction” in section 223 to clarify its use by agencies in relation to public service business.

#### *Social Insurance Fund*

*Section 13* provides that expenditure incurred under the Health Services Medical Card system for optical treatment and appliances for insured persons, who qualify under the Treatment Benefit scheme by virtue of their PRSI contributions, will be borne by the Social Insurance Fund. A similar arrangement already applies in relation to dental treatment since 2000.

#### *Contributions — Application of Taxes Consolidation Act, 1997*

*Section 14* provides for amendments to section 14(4) and section 20(3) of the Principal Act. Firstly, it will allow the Revenue Commissioners to off-set repayment of taxes against outstanding liabilities for PRSI. At present, under the Taxes Acts, a repayment of a particular tax is offset in the first instance against liabilities of the same tax and then against the other taxes in a specified order of priority. Similar arrangements will now apply in relation to PRSI contributions.

Secondly, it will allow the Revenue Commissioners to publish details of tax defaulters on whom a fine or penalty has been imposed by the Courts, or where a settlement offer (in excess of €12,700 to include tax, interest and penalties) has been accepted. The scope of the current arrangements does not extend to PRSI and the levies, and even where such liability is significant, it cannot be taken into account or published.

## PART 2

*Section 15* of this Bill provides for amendments to the Combat Poverty Agency Act, 1986, the Charities Act, 1961, the Health Contributions Act, 1979, the Births and Deaths Registration Acts, 1863 to 1996, the Marriages (Ireland) Act, 1844 and the Registration of Marriages (Ireland) Act, 1863. The amendments are set out in the *Schedule* to the Bill and provide as follows:

#### *Amendment of Combat Poverty Agency Act, 1986*

*Part 1* of the *Schedule* provides for the payment of fees and certain expenses to members of the Combat Poverty Agency. It amends the Combat Poverty Agency Act, 1986 to provide that members of the Agency may be remunerated by such an amount as may be determined by the Minister for Social, Community and Family Affairs with the consent of the Minister for Finance.

#### *Charities Act, 1961*

*Part 2* of the *Schedule* to the Bill provides for amendment of the Charities legislation. Section 29 of the Charities Act, 1961 allows the Commissioners of Charitable Donations and Bequests to frame schemes for the application of a gift cy-près. Cy-près applies where the intention of a testator in a charitable trust is substituted by another mode because the original intention cannot be executed.

The limit for application by the Commissioners of Charitable Donations and Bequests of cy-près was set at £5,000 in the above section of the 1961 Act. This was increased in 1973 to £25,000 and further increased to its current level of £250,000 in 1995. *Section 15* of this Bill provides for the abolition of that financial limit.

Abolition of the limit will be of considerable financial benefit to those charities, which would otherwise have to fund a High Court action, as it will provide a low-cost means of applying a gift to an alternative charitable purpose.

*Health Contributions Act, 1979*

*Part 3* of the *Schedule* provides that contributions made by employees or proprietary directors to PRSAs or other personal pensions will be exempt from payment of a health contribution in line with the arrangements which will apply in respect of PRSI. Existing regulations will be amended to provide for these arrangements where contributions are made through the payroll system.

This section provides that Regulations may be made to enable the return, subject to certain conditions, of health contributions made outside the payroll system in respect of payments to such pensions by employees or proprietary directors. A contribution will be refunded to the extent that relief from income tax is allowable in respect of those payments.

*Amendment of the Births, Deaths and Marriages Acts.*

*Parts 4 to 8* of the *Schedule* provide for amendments to the Births, Deaths and Marriages Acts to facilitate the implementation of an electronic register of births and deaths and the electronic issue of births, marriages and deaths certificates by Registrars. The new system is being introduced as part of the modernisation programme of the Civil Registration Service. The Schedule provides for:

- (a) the implementation of an electronic register of births and deaths. It is intended that the new system will eventually replace the existing paper-based register (i.e. register books) currently operated by local registrars. Provision is also made for the appointment of more than one Assistant Registrar in registration districts;
- (b) technical amendments to the Births and Deaths Registration Acts, 1863 and 1880 to facilitate the registration of births and deaths via an electronic register, and to provide for searches of the indexes to the registers and for correction of entries in the registers, and
- (c) amendments to the Marriages Acts, 1844 and 1863 to facilitate the electronic issue of marriage certificates by registrars.

## PART 3

*Section 16* contains the usual provisions for the short title, construction and commencement of the provisions of the Bill.

*Roinn Gnótháí Sóisialacha, Pobail agus Teaghlaigh,  
Feabhra, 2002.*